



Tuesday, August 9, 2022
Civic Center, Memorial Hall 5:30 PM
Independence Planning Commission/Board of Zoning Appeals
To join by Conference Call dial:1-785-289-4727 Conference ID: 101 666 378#

- I. CALL TO ORDER
- II. BOARD OF ZONING APPEALS (DOES NOT INCLUDE OUTSIDE CITY APPOINTMENTS)
 - a. Public Hearing to receive comments on a request for a variance to reduce the minimum tenant space square footage requirement for three tenants in a C-4 highway commercial district at 102-106 South Peter Pan Road adjourned from August 2, 2022.
- III. ADJOURNMENT



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
AUGUST 9, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a request for a variance to reduce the minimum tenant space square footage requirement for three tenants in a C-4 highway commercial district at 102-106 South Peter Pan Road adjourned from August 2, 2022.

SUMMARY RECOMMENDATION

BACKGROUND The Public Hearing was adjourned from the August 2, 2022 meeting to a Special Meeting of the Board of Zoning Appeals on August 9, 2022. The applicant has provided a plan to divide the space into two tenant spaces rather than three tenant spaces, as requested by the Board of Zoning Appeals.

SUPPORTING DOCUMENTS

1. Revised Variance Request for August 9, 2022 Adjourned Hearing
2. August 2, 2022 Public Hearing Variance Request
3. August 2, 2022 Draft Unapproved PZ Minutes

From: [John Cusumano](#)
To: [Kelly Passauer](#); [Matt Hoffman](#)
Cc: [David Cowan](#); [Paul Redel](#); [Jessica Jaimes](#)
Subject: RE: Independence, KS Zoning
Date: Thursday, August 04, 2022 3:40:30 PM
Attachments: [Independence, KS - 2022-08-03.pdf](#)
Importance: High

Kelly,

Based on the proposed new division of the Property into two tenant spaces as opposed to three, the following sections of our existing variance application should be revised:

1. The second paragraph of Section 6 of our application should be deleted and replaced with the following: "Property Owner has determined that the best, most marketable use of this space is to convert the 6,992-square foot premises into 2 separate premises totaling 6,850 square feet of rentable space, consisting of two 3,425-square foot premises."
2. The final sentence of Section 11 of our application should be deleted and replaced with the following: "Property Owner has no need or desire to convert all or even the majority of the large retail spaces at the Property into smaller spaces; instead, we just want the flexibility, in recognition of the unique features of the Property and the general retail environment, to utilize 4 tenant spaces at the Property as opposed to 3."

I've also attached the new plans showing the space split into half. US Cellular expects to have their full architectural plans on their side by our meeting on 8/9.

John

John Cusumano | Director of Leasing

MRP Capital Group

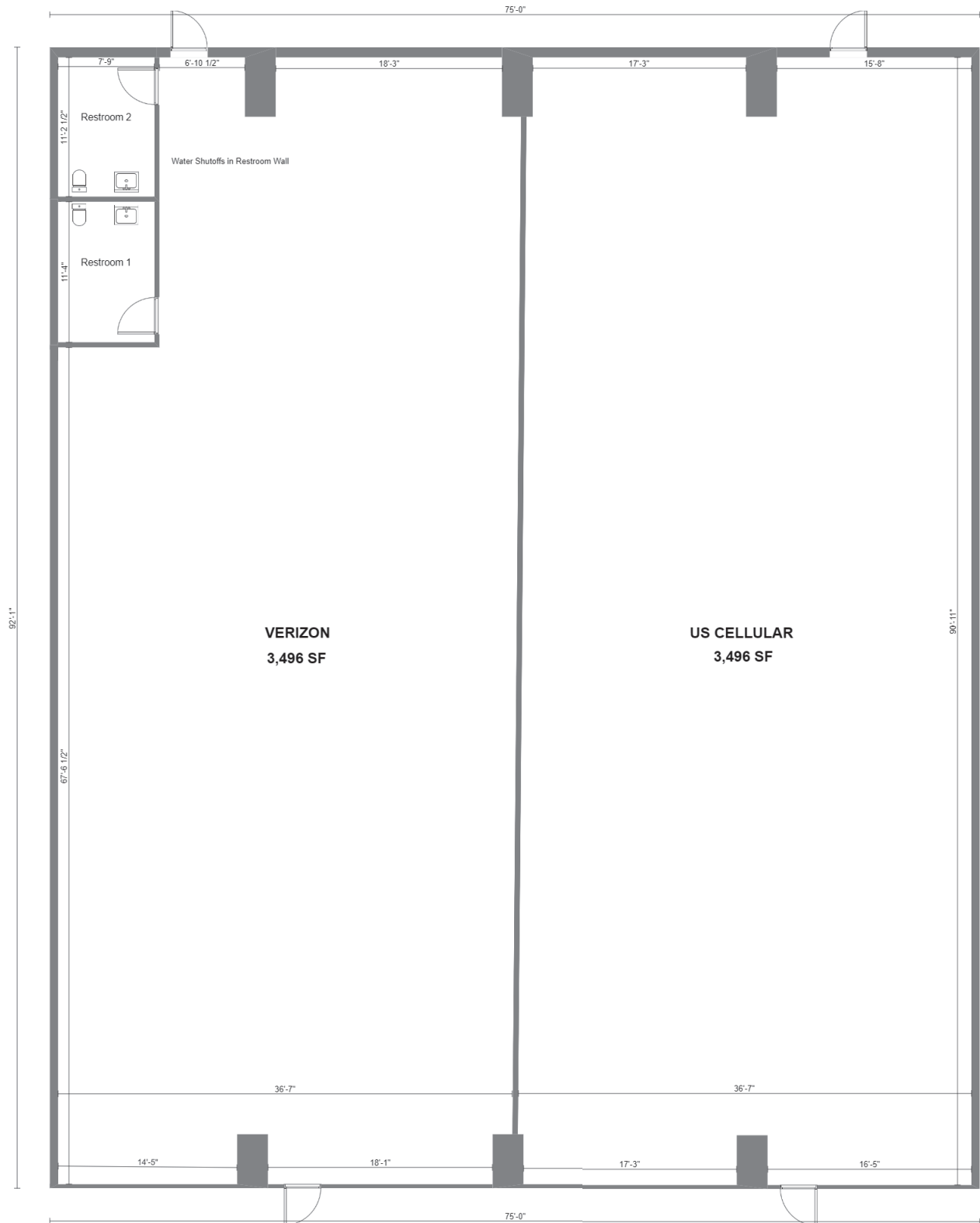
7777 Bonhomme Ave., Suite 1700, St. Louis, MO 63105

Phone 314.628.8499 **Fax** 314-667-1550



[Website](#) | [Facebook](#) | [LinkedIn](#)

INDEPENDENCE SHOPPING CENTER
104 Peterpan Road
Independence, KS 67301



Front Grid Height: 11'
Rear Grid Height: NO GRID
Front Beam Height: 11' 2"
Back Joist Height: 15'
Back Deck Height: 15' 8 1/2"

MRP CAPITAL GROUP

7777 Bonhomme, Suite 1700
St. Louis, MO 63105

Drawing Date: 8/3/2022

Independence, KS	2022-08-03T19:12
Ground Floor	Adjusted - ArchPage 4 of 23



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
AUGUST 2, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a request for a variance to reduce the minimum tenant space square footage requirement for three tenants in a C-4 highway commercial district at 102-106 South Peter Pan Road.

SUMMARY RECOMMENDATION Deny the request for a variance.

BACKGROUND Below is the timeline regarding the establishment of the Minimum Tenant Space Requirements and any subsequent amendments:

- May 13, 2000 – The City Commission adopted Ordinance No. 3824 establishing a minimum tenant space requirement of 7,000 square feet in the existing C-2 zone, with businesses catering to the motoring public being exempt.
- August 31, 2000 – The City Commission adopted Ordinance No. 3838 creating the C-4 zone with the minimum tenant space requirement of 7,000 square feet.
- November 27, 2000 – The City Commission adopted Ordinance No. 3845 removing the minimum tenant space requirement from the C-2 District (because the new C-4 district had been created that included it).
- June 3, 2003 -- The Planning commission denied a request from the developers to rezone 102 - 106 South Peter Pan Road to C-2, commercial services district.
- June 19, 2003 -- The Governing Body also denied the request to rezone this parcel.
- May 2, 2006 – The Board of Zoning Appeals conducted a public hearing to consider a variance request to establish a retail space less than the 7,000 square foot minimum required in a C-4 zone at an existing commercial structure at 102 – 106 South Peter Pan Road.
- June 6, 2006 – The Board of Zoning Appeals continued the public hearing from May 2, 2006. The Board of Zoning Appeals approved the variance on a 3-2 vote.
- July 11, 2006 – The Board of Zoning Appeals amended the June 6, 2006 minutes, and were advised of a letter from the developer regarding a lawsuit filed by the City Commission regarding the Board of Zoning Appeal's decision to grant the variance.
- January 25, 2007 – The City Commission adopted Ordinance No. 3981 reducing the minimum tenant space requirement from 7,000 square feet to 5,000 square feet.
- May 12, 2011 – The City Commission adopted Ordinance No. 4091 to modify the minimum tenant space requirement in the C-4, highway commercial district to allow such space to be non-contiguous.

Below is the timeline regarding current events:

- June 1, 2022 – The Assistant City Manager/Building Official issued Building permit 2022-032 for 104 S. Peter Pan to perform interior demolition and construct a demising wall within a 6,850 square foot space with a project valuation of \$32,000. The

demising wall created approximately a 1,380 square foot tenant space with a plan to remodel the remaining space for two additional tenants.

- June 28, 2022 – The City Manager/Zoning Administrator became aware that the tenant space was being subdivided into portions that were less than the minimum tenant space requirement of 5,000 square feet. The Assistant City Manager/Building Official was immediately contacted, and the contractor and subsequently the owner were notified. The business identified as US Cellular had indicated that they were required to relocate from their current location and asked for a temporary occupancy permit until the variance request could be considered.
- June 29, 2022 – After consulting with the City Attorney, a temporary occupancy permit was issued for 90 days for 106 S. Peter Pan, which expires on September 30, 2022, and a Stop Work Order was issued and posted at the job site at 104 - 106 S. Peter Pan.
- July 8, 2022 – A variance application was filed, and the \$100 fee was paid to alter one 6,992 square foot tenant space into three tenant spaces that do not meet the minimum 5,000 square foot requirement. The application information states; “Property Owner has determined that the best, most marketable use of this space is to convert the 6,992-square foot premises into three separate premises totaling 6,850 square feet of rentable space and consisting of a 1,380-square foot premises, a 2,024-square foot premises, and a 3,446-square foot premises.”
- August 2, 2022 – A public hearing is scheduled before the Board of Zoning Appeals to consider the variance. The outcome of the variance decision can only be contested in District Court.

Currently, Section 511A.4.b of the Zoning Code relating to the C-4, highway commercial district Intensity of use regulations states:

Minimum tenant space: 5,000 square feet, which may be non-contiguous as long as it is within the same building. Each commercial space intended to be occupied by a single commercial user or each commercial space which has separate doorway access from the exterior of the building or from an interior corridor of an enclosed mall shall be considered to be a tenant space. Exception: Businesses catering to the motoring public shall be exempt from the minimum tenant space requirement. Automobile service stations, convenience stores, restaurants, and financial institutions with drive-up or drive-through facilities shall be deemed to be "businesses catering to the motoring public." The determination whether any business constitutes a "business catering to the motoring public" shall be made by the city planner, whose determination shall be appealable to the board of zoning appeals.

The following staff review and recommendation are consistent with what was provided when this issue was before the Board of Zoning Appeals in 2006. Except in that case, the variance request was to reduce the 7,000 square foot minimum tenant space requirement to allow a 5,088 square foot tenant space. As stated in the timeline, the variance was approved on a 3 - 2 vote, and the City Commission filed suit regarding this decision in district court. In 2007 the Governing Body approved a text amendment that reduced the 7,000 square foot minimum tenant space to 5,000 and ultimately allowed the 5,088 square foot tenant space to be utilized. The matter that is coming before you today is to alter a 6,992 tenant space that previously met the 5,000 minimum tenant space square footage requirement into three tenant spaces that do not meet this requirement, consisting of a 1,380-square foot tenant space, a 2,024-square foot tenant space, and a 3,446-square foot tenant space. This variance request represents a reduction of the 5,000 minimum tenant space square footage requirement by 72.4%, 59.5%, and 31.1%, respectively.

The criteria that must be used when considering any variance is as follows:

- a. *That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant;* The conditions causing the applicant to seek the variance is not unique to the property and is a condition created by the actions of the developer.
- b. *That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents;* City staff believes that this may create an unfair advantage to adjoining property owners who would have to meet C-4 zoning restrictions in their use of their property and future developments.
- c. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;* If the variance is not granted, any hardship upon the applicant will be due to the failure of the developer to follow the requirements established for the C-4 zone, where the structure was constructed.
- d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;* The granting of the variance will not affect public safety, health, morals, etc.
- e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.* The granting of the variance does oppose the general spirit and intent of the C-4 zoning regulations. The establishment of the C-4 district was based on the City's Comprehensive Plan. More specifically:
 1. Objective C1 -- Encourage the development of businesses downtown.'
 2. Policy C11 -- The Central Business District (CBD) shall be the primary regional retail center in the City.
 3. Objective C2 -- Provide areas away from downtown for clustered and coordinated commercial development to serve businesses with acreage requirements that cannot be accommodated in downtown.
 4. Policy C21 -- Planned Commercial areas shall be provided for large lot users (i.e., lumber yards, auto and farm implement dealers). These uses shall be clustered along U.S. 75 west of the Missouri-Pacific right-of-way but no further than 1/2 mile west of Peter Pan Road to minimize their impact on surrounding uses and traffic patterns rather than being allowed to form a long commercial strip and be limited to properties having direct vehicular access to the highway.
 5. Objective C4 -- Limit strip commercial development along the major streets to businesses directly serving the motoring public.
 6. Policy C41 -- Strip commercial development, single commercial uses stringing out along a street, shall be limited to those uses directly serving the motoring public, such as motels, service stations and fast-food restaurants.
 7. Policy C43 -- The Zoning Ordinance should be updated to limit the types of businesses located on the highway outside of the Central Business District.

Staff Recommendation

At the time of the passage of the C-4 classification, the Planning Commission attempted to establish a retail district on West Main Street that would create an economic balance that benefits the community between the central business district and the West Main Street area. This decision was based on conformance with the Comprehensive Plan. Although the minimum tenant space square footage requirement was reduced from 7,000 to 5,000 in 2007, the justification and reasoning behind that decision are still valid today.

The Comprehensive Plan indicates the importance of maintaining a strong central business district, and strip commercial development has a long-term effect of weakening the downtown commercial area. It further states that all businesses cannot be accommodated in the central business district and indicates that on West Main Street, only certain types of retail development should occur, which in staff's opinion are compatible with the C-4 zoning. City staff recommends denial of the variance request for the following reasons:

1. The granting of the variance goes against the intent of C-4 regulations.
2. The granting of the variance goes against the intent of the Comprehensive Plan.
3. The applicant's request meets only one of the five criteria for allowing the consideration of a variance.
4. Approving the request would set a precedent for consideration of other variance requests for any other strip mall that chooses not to comply with the C-4 regulations.
5. It is not the purpose of the Board of Zoning Appeals to consider the validity of the adopted zoning ordinance in making variance requests.

Suggested Motion

I move to deny the variance request based on staff's recommendation that it does not comply with the Comprehensive Plan and would set a precedent.

SUPPORTING DOCUMENTS

1. Public Hearing Notice VAR 102 Peter Pan Road
2. Aerial
3. Independence - Variance Application
4. Site Plan

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Board of Zoning Appeals will conduct a public hearing on:

Tuesday, August 2, 2022 at 5:30 p.m.

To receive comments on a variance request to reduce the minimum tenant space square footage requirement for three tenants in a C-4 highway commercial district.

Common Address:

102 - 106 South Peter Pan Road

Legal Description:

Lot 1 E of Peter Pan Rd, Christina Comm Sub Addition to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Pool 6 Properties, LLC

Case Number:

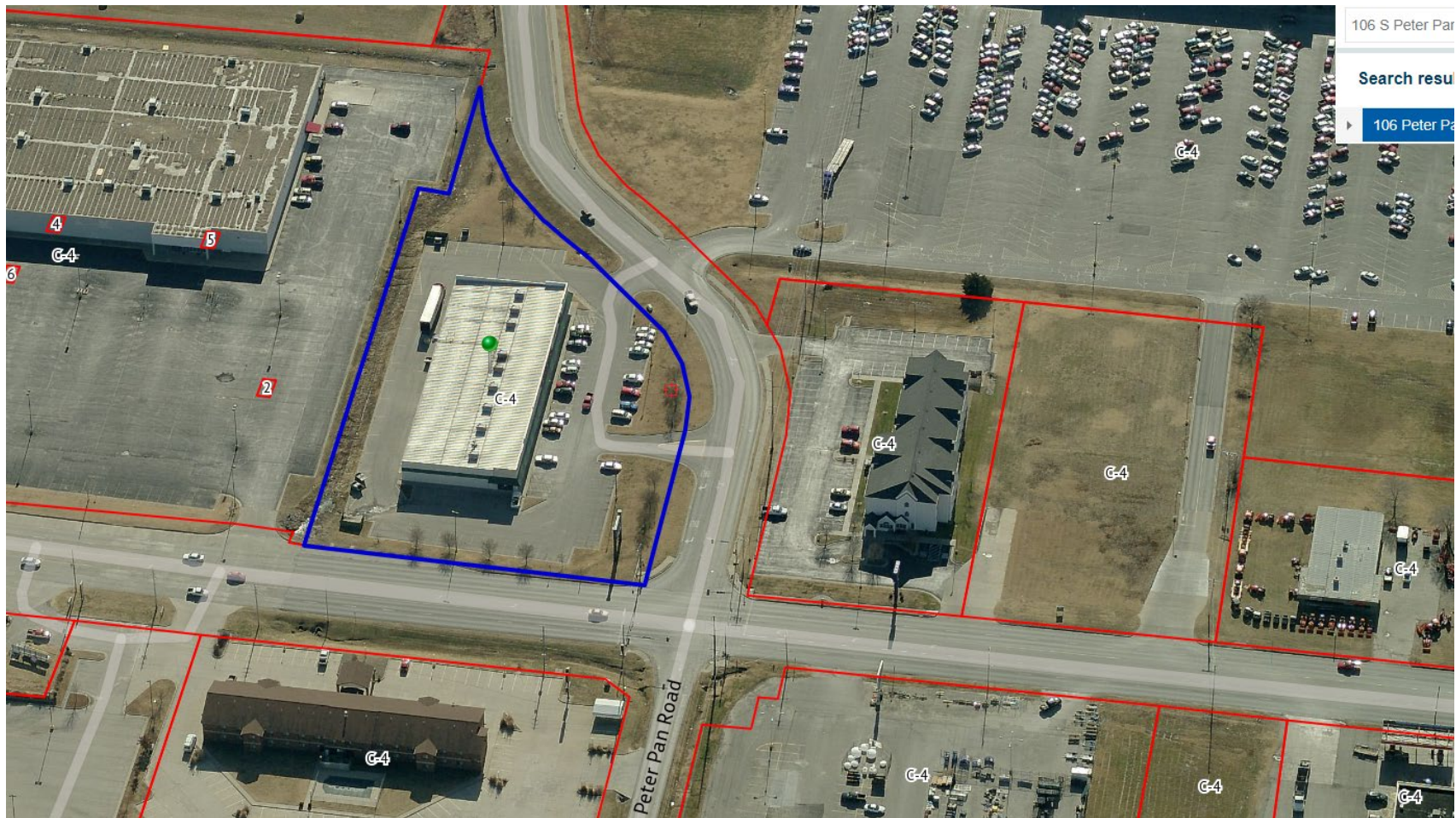
2022/VAR/03

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator



APPLICATION TO BOARD OF ZONING APPEALS**CITY OF INDEPENDENCE, KANSAS**

1. Date:

2. Name, Address and Telephone Number of Property Owner:

Pool 6 Properties, LLC c/o MRP Capital Group, LLC
7777 Bonhomme Avenue, Suite 1700
St. Louis, MO 63105

3. I appoint the following person as my agent during consideration of my request:

Name:
Address:
Telephone:

4. Common Address of Land Involved:

5. Legal Description of Land Involved:

6. Describe what you wish to do which the zoning code prohibits:

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

Please see attached Supplement

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

As mentioned, the Property will remain commercial and retail in nature, with national credit tenants. The variance, if granted, will actually enhance the Property and the benefit to the community by offering new retail establishments and filling a long-term vacancy.

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

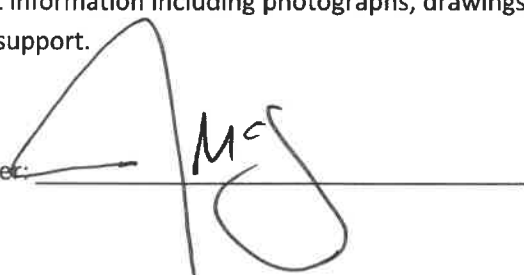
Please see attached Supplement

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

Please see attached

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner: _____



Case Number: _____
Date Filed: _____
Fee Received: _____
Present Zoning: _____

Supplement to Application to Board of Zoning Appeals – City of Independence, Kansas

6. Describe what you wish to do which the zoning code prohibits:

The commercial retail building located on the Property is 22,080 rentable square feet, currently consisting of 3 separate premises totaling approximately 10,000, 5,088, and 6,992 square feet, respectively. The 6,992-square foot premises has been vacant since December of 2021.

Property Owner has determined that the best, most marketable use of this space is to convert the 6,992-square foot premises into 3 separate premises totaling 6,850 square feet of rentable space and consisting of a 1,380-square foot premises, a 2,024-square foot premises, and a 3,446-square foot premises.

The C-4 zoning district regulations prohibit tenant spaces below 5,000 square feet. Property Owner seeks a variance from this minimum tenant space requirement to allow Property Owner to demise and lease the 3 tenant spaces outlined above at the Property.

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

The Property is significantly smaller by square footage than the few surrounding commercial properties in the C-4 district. This makes the Property less conducive to tenant spaces exceeding 5,000 square feet.

Additionally, the Property is the only attractive or realistic option in the surrounding area for non-big box retail uses. The Property's size and proximity to Wal-Mart makes it a desirable destination for smaller retail uses below 5,000 square feet.

Property Owner owns over 100 properties near Wal-Marts across the country and can confirm from its experience that properties similar to the Property primarily attract smaller retail tenants, particularly in a post-Covid environment where all retail tenants need less square footage. Property Owner also invests in its local markets and believes that tenant mixes like the one proposed here are an enhancement to the community.

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

As mentioned, there is not a high volume of commercial, retail properties in the area surrounding the Property, and those that do exist are significantly larger and therefore conducive to having larger tenant spaces. This variance should have no adverse impact on those properties.

Similarly, this variance would not materially or adversely affect the nature or character of the tenant mix and use of the Property - the tenants will still be national, retail tenants, just like they are now. Property Owner knows from extensive experience that Wal-Mart, one of the adjacent property owners, welcomes the type of tenants that Property Owner will be able to place at the Property in the event the variance is granted.

Property Owner plans to fill two of the newly-created tenant spaces with US Cellular and Verizon, respectively, with the third space to be occupied by another to-be-determined national retail tenant. Letters of support from US Cellular and Verizon are attached to this application.

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

Unfortunately, Property Owner only became aware of the 5,000 square foot minimum limitation after leases had already been fully negotiated with both US Cellular and Verizon and these tenants were ready to relocate into the Property. As outlined in the attached letters, both of these tenants will likely have to vacate the market in the event this variance is not granted.

Additionally, if this variance is not granted, Property Owner will experience continued difficulty in marketing the Property and identifying tenants. Due to the size and location of the Property and the post-Covid retail environment, it is going to be very difficult for Property Owner to find a tenant willing to lease close to 7,000 square feet. This reality is confirmed by the vacancy at the Property for the last 6 months. A long-term vacancy in this space also increases the risk of further vacancies at the Property in the future.

11. The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

The proposed variance is not contrary to the general spirit and intent of the C-4 district regulations because Property Owner has no desire for the Property to move away from large retail uses generally. Instead, the variance request simply reflects the current reality in 2022 that small retail properties like this one are best and most effectively utilized by featuring a tenant mix of large and small retail uses. This is a demand that we have seen coming from the retailers themselves.

In recognition of the C-4 district's general spirit and intent, Property Owner's variance request is intentionally appropriately limited in scope. Property Owner has no need or desire to convert all or even the majority of the large retail spaces at the Property into smaller spaces; instead, we just want the flexibility, in recognition of the unique features of the Property and the general retail environment, to utilize 5 tenant spaces at the Property as opposed to 3.



30 June 2022

Board of Zoning Appeals
City of Independence, KS

Dear Recipient,

Today, we learned of the C-4 Zoning at 106 Peter Pan Road that may affect our business. We have entered in to a fully executed lease agreement for a new corporate store location with our Landlord, MRP Capital Group. This is our first corporate owned and staffed store in Independence. This site was chosen based upon our need for a smaller, more economical location than that of our, then authorized agent. It will also serve us best with its ample parking and the regional draw of Walmart.

Should our plans be interrupted, and we are not able to open at 106 Peter Pan Road we will have no representation in the City of Independence. Our former agent will no longer be representing UScellular as of today, 30 June 2022.

We request you allow us to continue our work and give us the ability to open and service our customers in the Independence trade area. We plan a large investment in the community with our commitment to the new store that will help to bring the latest state-of-art UScellular 5G experience to the City of Independence and the surrounding area.

I believe it's important to mention that our hiring efforts have gone well. We have hired and trained 6 local associates for positions at this location. These are well paying, high benefit positions filled by individuals who likely have left other positions for a new career with UScellular.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "William J. Briggs".

William J. Briggs
Real Estate Services
United States Cellular Corporation

CC:

Travis Toliver
Jose Cabrera
Gerry O'Brien
John Stevenson
Ruth Bowers



4125 Wilson Creek Marketplace Rd. – Battlefield, MO 65619

Office: 417-886-7542 Fax: 417-888-5011

www.russellcellular.com

To Whom It May Concern:

Russell Cellular has been in business in the city of Independence since July 2011. While we have appreciated and performed well in our location downtown, the space is small and the condition of the building does not have an appearance that meet the brand standards of Verizon and Russell Cellular.

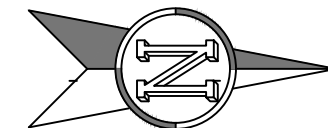
Additionally, our business model generally performs better in a more retail-oriented area of town, particular those near a Walmart or other large retailer. In order to ensure the success of Verizon and Russell Cellular in Independence for many years to come, we wish to relocate to the Independence Shopping Center at 104 Peter Pan Rd.

Thank you,

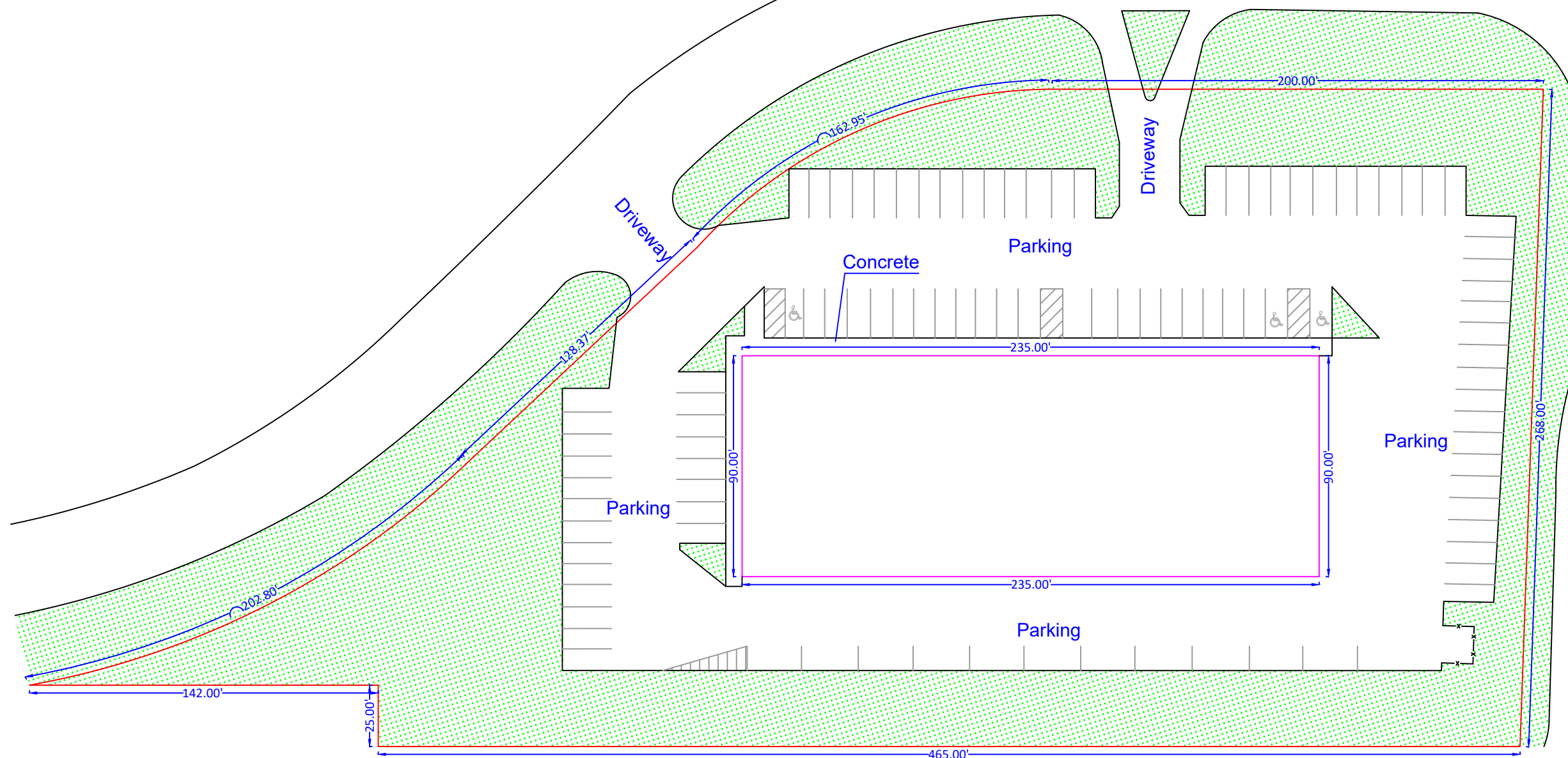
A handwritten signature in blue ink, appearing to read "JR", is written over a horizontal line.

Jeff Russell

Russell Cellular | President and CEO



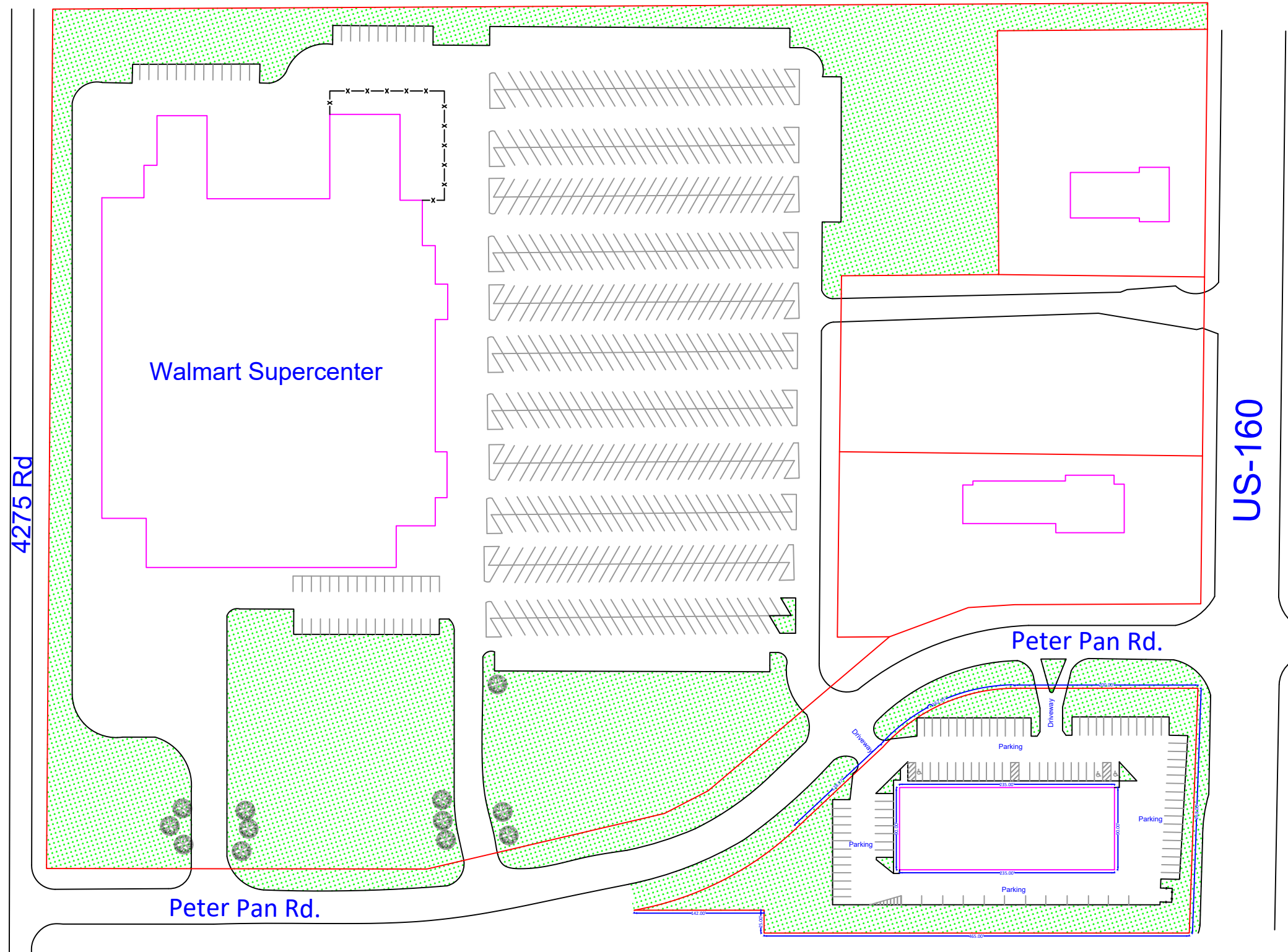
Peter Pan Rd.



Impervious Surface Table

BUILDING -	21150.00	sqft	+/-
ASPHALT -	49584.04	sqft	+/-
CONCRETE -	2559.81	sqft	+/-
TOTAL -	73293.75	sqft	@ 66.58%

104 Peter Pan Rd.
Independence KS 67301
Scale: 1"=50'



CITY OF INDEPENDENCE

REC#: 01191733 7/08/2022 11:31 AM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-3518
AUTH #: 01202G
TRAN #: 000000037640
TYPE: PURCHASE
ENTRY MODE: MANUAL

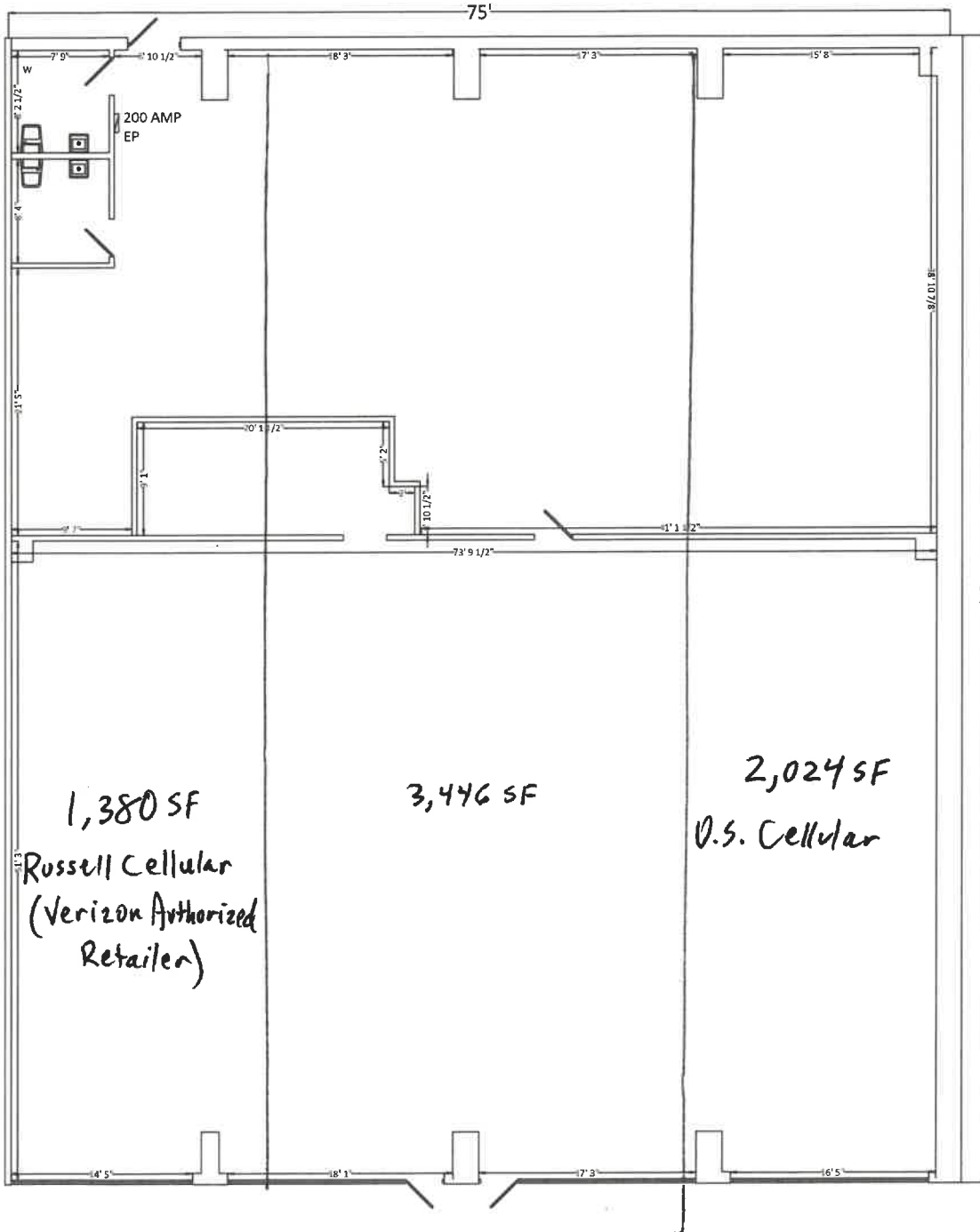
TRAN: 1.9000 VARIANCE
102-106 PETER PAN VARIANCE
MISC FEES 100.00CR

TENDERED: 100.00 CREDIT CARD
APPLIED: 100.00-

CHANGE: 0.00

FRONT GRID HEIGHT 11'
 REAR GRID HEIGHT NO GRID
 FRONT BEAM HEIGHT 11' 2"
 BACK JOIST HEIGHT 15'
 BACK DECK HEIGHT 15' 8 1/2"

WATER SHUTOFF IN RESTROOM WALL.



INDEPENDENCE SHOPPING CENTER
 104 PETERPAN ROAD
 INDEPENDENCE, KS 67301

6,850 SQUARE FEET



MRP CAPITAL GROUP

DRAWING DATE:
 4-8-22

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's August 2, 2022 Meeting

I. Call to Order

Present: Mary Jo Meier, Brent Littleton, Anthony (Tony) Royse, Kendall Neill, Tim Haynes, Michelle Anderson

Absent: Rachel Lyon, Lisa Richard, Andy McLenon

Excused:

Guests: Ruth Bowers, Kaitlyn Casillas, Paul Redel, William Briggs, Joe Cabrera, John Cusumano, Randy Shurtz, Miranda Bruening, Tabatha Snodgrass, Lisa Wilson

II. Minutes

- a. Consider approving minutes of the July 5, 2022 meeting.

Motion:

On the motion of Tim Haynes, seconded by Brent Littleton the Commission Approved the Minutes of the July 5, 2022 Meeting.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Mary Jo Meier, Kendall Neill, Anthony (Tony) Royse

Nay: None

III. Board of Zoning Appeals (Does not include outside City appointments)

- a. Public Hearing to receive comments on a request for a variance to reduce the minimum tenant space square footage requirement for three tenants in a C-4 highway commercial district at 102-106 South Peter Pan Road.

John Cusumano presented his request to the board and stated that his company was willing to work with the City on a new plan to reduce to two tenant spaces rather than three tenant spaces.

William Briggs explained the importance of the request as it pertains to the businesses going in and the time constraints in getting the building finished.

Tabatha Snodgrass discussed the importance of a strong downtown and having businesses go into the downtown buildings

Joe Cabrera stated that his company purposely chose to go into the building at 104 S Peter Pan Rd and that they usually will put their businesses close to Walmart stores.

Ruth Bowers stated that US Cellular had looked into the downtown buildings

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's August 2, 2022 Meeting

and found they were not ADA compliant.

Anthony (Tony) Royse moved to approve the variance. There was no second.

Motion:

On the motion of Anthony (Tony) Royse to Approve the Variance, seconded by None the Motion Failed.

Aye: None

Nay: None

Kendall Neill stated that he would like some more time to look over the information and would entertain a motion to adjourn the public hearing.

Motion:

On the motion of Tim Haynes, seconded by Anthony (Tony) Royse, the Board of Zoning Appeals Adjourned the Hearing to August 9, 2022.

Aye:Michelle Anderson, Mary Jo Meier, Kendall Neill, Tim Haynes, Anthony (Tony) Royse

Nay: None

IV. Planning Commission

- a. Public Hearing to receive comments on a request for a conditional use permit for single-family and multi-family dwellings in the C-3, Central Business District at 103 North Pennsylvania Avenue, adjourned from the June 7, 2022 meeting.

Miranda Bruening explained the new plans put into place for this project that would fit what the City requires.

Motion:

On the motion of Tim Haynes, seconded by Anthony (Tony) Royse the Commission approved the conditional use permit for single-family and multi-family dwellings in the C-3 central business district at 103 N Penn Ave based on the City staff recommendation and conditions.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Kendall Neill, Anthony (Tony) Royse

Nay: Mary Jo Meier

- b. Public hearing to consider adopting text amendments to Appendix B-Zoning of the City Code relating to recreational vehicles.

City Attorney Jeff Chubb put together wording for the Ordinance, taking out the time constraints that the Planning Commission/Board of Zoning Appeals

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's August 2, 2022
Meeting**

wanted removed.

Motion:

On the motion of Tim Haynes, seconded by Brent Littleton the Commission approved adopting text amendments to Appendix B-Zoning of the City Code relating to recreational vehicles.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Mary Jo Meier, Kendall Neill, Anthony (Tony) Royse

Nay: None

V. Discussion

Kelly Passauer stated that the September 6 meeting will be on the day after a City holiday but encouraged the board to go ahead and meet as there are items on the Agenda with time constraints.

Kendall Neill asked whether money for the new Comp Plan was still in the budget and Kelly Passauer stated that it is at present.

VI. Adjournment

Motion:

On the motion of Tim Haynes, seconded by Anthony (Tony) Royse the Commission adjourned the meeting.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Mary Jo Meier, Kendall Neill, Anthony (Tony) Royse

Nay: None

Chairperson

Secretary