



I. CALL TO ORDER

a. Reorganization

1. Election of Chair
2. Election of Vice Chair
3. Election of Secretary

II. MINUTES

- a. Consider approving the minutes of the December 12, 2023 Planning Commission/Board of Zoning Appeals meeting.

III. BOARD OF ZONING APPEALS (DOES NOT INCLUDE OUTSIDE CITY APPOINTMENTS)

- a. Public hearing to consider a variance regarding a lot split of City-owned property at 203 - 207 West Laurel Street (City Parking Lot).

IV. PLANNING COMMISSION

- a. Public Hearing to receive comments on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street.

V. DISCUSSION

VI. ADJOURNMENT



REQUEST FOR PLANNING COMMISSION ACTION REORGANIZATION CITY OF INDEPENDENCE FEBRUARY 6, 2024

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Reorganization

1. Election of Chair
2. Election of Vice Chair
3. Election of Secretary

SUMMARY RECOMMENDATION Fill the office of Chair, Vice-Chair and Secretary.

BACKGROUND A Reorganization of Officers is held at the January meeting of each year.

PLANNING & ZONING COMMISSION (3 year terms -- 9 members)			
Members	Term	Expires	Appointed
Mary Jo (Dancer) Meier	2nd term*	January 1, 2025	
Butch Holum	Unexpired	January 1, 2026	January 11, 2024
Kym Kays**	Unexpired	January 1, 2025	January 11, 2024
Rita Ortolani	Unexpired	January 1, 2025	January 11, 2024
Gary Hogsett**	1st term	January 1, 2027	January 11, 2024
Michelle Avery	2nd term*	January 1, 2027	June 28, 2018 January 11, 2024
Tim Haynes Chair	1st term*	January 1, 2027	February 24, 2022 January 11, 2024
Lisa Richard	2nd term*	January 1, 2026	August 8, 2019 December 19, 2019
Rachel Lyon Vice Chair	2nd term	January 1, 2026	May 14, 2020
*Served an unexpired term.			
**Outside City Appointment. Not on Board of Zoning Appeals.			
Meeting Place: Veterans Room, Memorial Hall Meeting Date: First Tuesday Meeting Time: 5:30 p.m.			

SUPPORTING DOCUMENTS



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
February 6, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Consider approving the minutes of the December 12, 2023 Planning Commission/Board of Zoning Appeals meeting.

SUMMARY RECOMMENDATION Approve the minutes.

Suggested motion: I move to approve the minutes of the December 12, 2023 Planning Commission/Board of Zoning Appeals meeting.

SUPPORTING DOCUMENTS

1. December 12, 2023 Planning Commission Board of Zoning Appeals Minutes - Draft

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 12,
2023 Meeting**

I. Call to Order

Tim Haynes, Chairperson, called the meeting to order.

Present: Scott Smith, Andy McLenon, Lisa Richard, Tim Haynes, Michelle Anderson, Rachel Lyon, Mary Jo Meier

Absent: Brent Littleton

Guests: Toby Lawless, Butch Holum

Rachel Lyon and Mary Jo Meier came in after the motion to accept the Minutes.

II. Minutes

- a. Consider approving minutes of the November 14, 2023 Planning Commission/Board of Zoning Appeals meeting.

Motion:

On the motion of Andy McLenon, seconded by Scott Smith the Commission approved the minutes of the November 14, 2023 Planning Commission/Board of Zoning Appeals meeting.

Aye: Michelle Anderson, Tim Haynes, Andy McLenon, Lisa Richard, Scott Smith

Nay: None

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

IV. Planning Commission

- a. Public Hearing to receive comments on a request for a conditional use permit for "Storage and warehousing of household goods" and "Storage and warehousing of nonhazardous products" in a C-2, commercial services district at 1635 West Main Street.

Toby Lawless explained that he was requesting a conditional use permit for "Storage and warehousing of household goods" and "Storage and warehousing of nonhazardous products" in a C-2, commercial services district at 1635 West Main Street to build new storage units.

Tim Haynes, Chairperson, opened the hearing.

Andy McLenon asked if the lot would have to be hard-surfaced. David Cowan said yes, that there are several types of hard-surfacing and Toby Lawless said

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 12,
2023 Meeting**

that yes, the lanes between the units would be hard-surfaced.

Tim Haynes, Chairperson, closed the hearing.

Motion:

On the motion of Scott Smith, seconded by Lisa Richard the Commission recommended the City Commission approve the conditional use permit for "Storage and warehousing of household goods" and "Storage and warehousing of nonhazardous products" in a C-2, commercial services district at 1635 West Main Street with the following conditions:

1. The conditional use permit is not transferable to another location.
2. Off-street parking, loading areas, and entrance and exit drives must be installed per code and properly maintained.
3. Drainage shall be designed to a minimum ten-year storm event and properly maintained.
4. The property shall be kept free of debris and trash.
5. Any additional exterior lighting on site will need to be approved by City staff.
6. The property owner must ensure the property is in compliance and remains in compliance with the City code.

Any non-conformance with any of the above conditions may result in revocation of the conditional use permit upon reasonable notice and opportunity to cure by the applicant.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Mary Jo Meier, Lisa Richard, Scott Smith

Nay: None

- b. Public Hearing to consider a text amendment to modify the permitted and conditional use table relating to the retail sale of aircraft parts.

David Cowan explained that Philip Fienen has outgrown his business location and this store will provide the square footage he needs. By relocating he can get moved in faster. This will be similar to an autoparts store, but selling aircraft parts.

Tim Haynes, Chairperson, opened the public hearing.

Lisa Richard asked if the parts would be very large and if trucks would deliver.

Rachel Lyon said that trucks go down the alley to deliver.

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 12, 2023 Meeting

David Cowan said that no, the parts would be small, not large like engines.

Tim Haynes, Chairperson, closed the public hearing.

Motion:

On the motion of Rachel Lyon, seconded by Lisa Richard the Commission moved to recommend modifying the permitted and conditional use table as follows:

1. "Aircraft and accessories - retail" be modified to "Aircraft - Retail" with the same permitted and conditional uses.
2. "Aircraft parts and supplies - retail" be added with the same requirements as "Automobile parts and supplies - retail."

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Mary Jo Meier, Lisa Richard, Scott Smith

Nay: None

- c. Public Hearing to receive comments on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street.

Tim Haynes, Chairperson, opened the public hearing.

Staff recommended adjourning the hearing until the February meeting.

Motion:

On the motion of Tim Haynes, seconded by Scott Smith the Commission adjourned the hearing until February 6, 2024 at 5:30 PM.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Mary Jo Meier, Lisa Richard, Scott Smith

Nay: None

V. Discussion

Scott Smith submitted his resignation as of December 31, 2023 to become a City Commissioner.

Tim Haynes discussed the meetings for the new comprehensive plan and encouraged the other commissioners to attend.

VI. Adjournment

Motion:

On the motion of Andy McLenon, seconded by Scott Smith the Commission adjourned the meeting.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's December 12,
2023 Meeting**

**Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Andy McLenon, Mary Jo
Meier, Lisa Richard, Scott Smith**
Nay: None

Tim Haynes, Chairperson

Rachel Lyon, Vice-Chairperson



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
FEBRUARY 6, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing to consider a variance regarding a lot split of City-owned property at 203 - 207 West Laurel Street (City Parking Lot).

SUMMARY RECOMMENDATION Approve variance.

BACKGROUND City staff has been working with Cox to install a utility substation to facilitate providing broadband to the downtown businesses. The original location was at 10th and Chestnut, however, at the Public Hearing one property owner within the 200' notification area and several of their acquaintances spoke against granting the conditional use permit. Cox has found another location in a portion of a City parking lot located behind Appletree Inn.

The subdivisions regulations state in Article II, Section 3. - Replatting of prior subdivisions; "In the event that any tract of land has previously been lawfully subdivided into lots, said lots may be divided into not more than two tracts without having to replat said lots, provided that the resulting tracts shall not again be divided without replatting." The area that Cox needs for their utility substation is 30' X 46.6" and is part of a previous split of Lot 8. Since this is a unique circumstance that is not typical to a Subdivision, we will need to request a variance before the Board of Zoning Appeals to allow this lot to be split again without having to replat. City staff does not see any benefit or purpose of replatting this area for a 30' X 46.6' lot split that will only be utilized for utility purposes.

BOARD OF ZONING APPEALS CONSIDERATIONS The five considerations that must be considered when reviewing a variance include:

- 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 area that Cox needs for their utility substation is 30' x 46.6' and is part of a previous split of Lot 8. Since this is a unique circumstance that is not typical to a Subdivision, the City is requesting a variance to allow this lot to be split again without having to replat.*
- b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; *The proposed development would not adversely affect the right of the adjacent property owners or residents because the area is relatively small and will be on an existing City parking lot.*
- 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; *The literal enforcement of the zoning regulations will result in the City having to replat a small area. City staff does not see any benefit or purpose of replatting this area for a 30' x 46.6' lot split that will only be utilized for utility purposes.*

- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; *It does not appear that the proposed development will be contrary to the public health, safety, morals, or general welfare because it will be on an existing City parking lot.*
- e. That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations. *The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because it is a unique circumstance that can assist area businesses with their internet needs.*

STAFF RECOMMENDATION Staff recommends approving the variance.

SUGGESTED MOTION I move to approve a variance regarding a lot split of City-owned property at 203 - 207 W. Laurel Street (City Parking Lot).

SUPPORTING DOCUMENTS

- 1. Variance Lot Split Public Notice
- 2. Variance Application for Utility Substation-Signed

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, February 6, 2024 at 5:30 p.m.

To receive comments on a variance regarding a lot split of City-owned property.

Common Address:

Approximately 203 – 207 West Laurel Street, City parking lot.

Legal Description:

Block 32, E 46.6' Lots 8-10, Blk 32, Original Plat to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

City of Independence

Case Number:

2024/VAR/01

The hearing will be conducted in the City Commission/Municipal Court Room, City Hall, 120 North Sixth Street, 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
120 N. 6th 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:

City of Independence
120 North Sixth Street
Independence, KS 67301
620-332-2506

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

Name: Kelly Passauer, Zoning Administrator
Address: 120 North Sixth Street
Telephone: 620-332-2506

4. Common Address of Land Involved:

W. Laurel Street

5. Legal Description of Land Involved:

Block 32, E 46.6' Lots 8-10, Blk 32, Original Plat to the City of Independence, Montgomery County, Kansas.

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

Cox has found a location in a portion of a City parking lot located behind Appletree Inn. This lot was previously split and the subdivisions regulations require a lot which has been previously split to be replatted.

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 area that Cox needs for their utility substation is 30' x 46.6' and is part of a previous split of Lot 8. Since this is a unique circumstance that is not typical to a Subdivision, the City is requesting a variance to allow this lot to be split again without having to replat.

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

The proposed development would not adversely affect the right of the adjacent property owners or residents because the area is relatively small and will be on an existing City parking lot.

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

The literal enforcement of the zoning regulations will result in the City having to replat a small area. City staff does not see any benefit or purpose of replatting this area for a 30' x 46.6' lot split that will only be utilized for utility purposes.

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

It does not appear that the proposed development will be contrary to the public health, safety, morals, or general welfare because it will be on an existing City parking lot.

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

The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because it is a unique circumstance that can assist area businesses with their internet needs.

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.

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: Kelly Passauer, CPM Digitally signed by Kelly Passauer, CPM
Date: 2024.02.02 10:17:20 -06'00'

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



**REQUEST FOR PLANNING COMMISSION ACTION
CONDITIONAL USE PERMIT
CITY OF INDEPENDENCE
FEBRUARY 6, 2024**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street.

SUMMARY RECOMMENDATION Authorize withdrawing the item.

BACKGROUND At the initial Public Hearing one property owner within the 200' notification area and several of their acquaintances spoke against granting the conditional use permit. This item has been tabled multiple times as Cox has tried to find another location for their utility substation, which has now been identified in a portion of a City parking lot located behind Appletree Inn. Cox has requested that this item be withdrawn.

Suggested Motion: I move to authorize Cox Communications' request to withdraw its conditional use permit application for "utility substations not elsewhere listed" in an R-4, medium-density multifamily dwelling district at 401 North 10th Street.

SUPPORTING DOCUMENTS

1. Cox-Withdrawal

Feb 6th - Planning Commission Meeting

Dickehut, Kari (CCI-Central Region) <Kari.Dickehut@cox.com>

Thu 2/1/2024 1:50 PM

To: Kelly Passauer <kellyp@independenceks.gov>

Cc: Bottenberg, Megan (CCI-Central Region) <Megan.Bottenberg@cox.com>; Wilson, Pete (CCI-Central Region) <Pete.Wilson@cox.com>; Taylor, Whit (CCI-Central Region) <Whit.Taylor@cox.com>; Taylor, Travis (CCI-Central Region) <travis.taylor@cox.com>

Hi Kelly,

Hope you are having a great week so far!

At this time, Cox Communications would like our original request for the utility substation at the lot at 10th and Chestnut to be withdrawn from the Planning Commission's agenda. Cox does not plan to pursue that location.

Please let me know if you need anything else from Cox at this time.

Thank you,

Kari Dickehut

**Sr. Manager, Kansas Infrastructure, Planning & Enablement
Outside Plant Construction**

O 316.260.7289

C 316.640.5624

901 S. George Washington Blvd, Wichita KS 67211



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