



5. The BZA serves as the Board of Zoning Appeals for the City of Bloomington, and the BZA is organized and existing under the laws of the State of Indiana.

6. The BZA is responsible for, among other things, hearing appeals of administrators and approving or denying applications for variances.

7. The BZA conducts its meetings at 401 N. Morton Street, Room 115 in Bloomington, and its mailing address is 401 N. Morton Street, Suite 130, Bloomington, IN 47404.

### **JURISDICTION**

8. This Court has jurisdiction over this dispute pursuant to Ind. Code § 36-7-4-1602.

### **FACTUAL BACKGROUND**

9. In July of 2007, the City of Bloomington and Hoosier Outdoor Advertising Corporation (“Hoosier Outdoor”) entered into an Agreement Regarding Signs and Billboards (the “Agreement”). A true and accurate copy of the Agreement is attached hereto as Exhibit A.

10. Pursuant to the terms of the Agreement, Hoosier Outdoor agreed to remove a four panel outdoor advertising sign from South College Avenue and, in exchange, the City of Bloomington agreed to support Hoosier Outdoor’s variance petition to construct a two panel outdoor advertising sign at a location acceptable to both Hoosier Outdoor and the City of Bloomington.

11. Sometime after 2007, Lamar acquired certain assets from Hoosier Outdoor, including Hoosier Outdoor’s rights under the Agreement.

12. On October 19, 2010, Lamar filed an Application to the BZA for a variance to construct a two panel outdoor advertising sign at 1800 N. Kinser Pike in Bloomington, Indiana. A true and accurate copy of the Application is attached hereto as Exhibit B.

13. As part of the Application, Lamar provided with BZA with a visual depiction of the two panel outdoor advertising sign. A true and accurate copy of the visual depiction is attached hereto as Exhibit C.

14. On December 16, 2010, with the City of Bloomington's support, the BZA heard Case No. V-42-10 and approved Lamar's Application.

15. On January 31, 2011, the BZA issued a Notice of Approval to Lamar. The Notice of Approval stated that Lamar's Application was approved with only two conditions: (1) Lamar "must receive a sign permit prior to sign installation," and (2) the "sign shall be permitted to be lit within the standards of the Unified Development Ordinance (UDO)." A true and accurate copy of the Notice of Approval is attached hereto as Exhibit D.

16. On July 13, 2011, the City of Bloomington issued a permit to Lamar to construct a two panel outdoor advertising sign at 1800 N. Kinser Pike in Bloomington, Indiana and, thereafter, Lamar constructed the two panel outdoor advertising sign.

17. Over the course of the next several years, technological advances in outdoor advertising made it both possible and feasible to equip the two panel outdoor advertising sign with digital faces instead of advertisements printed on vinyl and stretched across a metal frame.

18. On November 15, 2021, Lamar obtained an Electrical Permit from the City of Bloomington to convert the two panel outdoor advertising sign to a two panel digital outdoor advertising sign and, thereafter, Lamar converted the two panel outdoor advertising sign into a two panel digital sign (the "Digital Sign").

19. In converting the two panel outdoor advertising sign to a Digital Sign, Lamar utilized the same foundation, the same pole, and the same frame.

20. In a letter dated April 25, 2022, the City of Bloomington issued a Notice of Violation (the “First Notice of Violation”) to Lamar and alleged that the Digital Sign was a “lawful non-conforming sign” that needed to be removed or restored. The City of Bloomington also threatened Lamar with a variety of fines. A true and accurate copy of the letter dated April 25, 2022 is attached hereto as Exhibit E.

21. In a letter dated May 2, 2022, counsel for Lamar responded to the City of Bloomington and explained that the First Notice of Violation was issued in error because, among other things, the BZA had approved the Digital Sign and the Notice of Approval specifically allowed for lighting within the standards of the Unified Development Ordinance. A true and accurate copy of the letter dated May 2, 2022 is attached hereto as Exhibit F.

22. In an email dated May 13, 2022, Mike Rouker, the City Attorney for the City of Bloomington, advised Lamar that the City of Bloomington was withdrawing its First Notice of Violation. Mr. Rouker also specifically stated that “the matter is considered closed.” A true and accurate copy of the email dated May 13, 2022 is attached hereto as Exhibit G.

23. In a letter dated June 10, 2022, however, the City of Bloomington issued another Notice of Violation (the “Second Notice of Violation”) to Lamar and, this time, alleged that the Digital Sign was an “electronic reader board” that violated the Unified Development Ordinance (the “UDO”) and needed to be reworked or restored. The City of Bloomington also threatened Lamar with a variety of fines. A true and accurate copy of the letter dated June 10, 2022 is attached hereto as Exhibit H.

24. In a letter dated June 17, 2022, counsel for Lamar responded to the City of Bloomington, appealed the Second Notice of Violation, and explained that the Second Notice of Violation was issued in error because, among other things, the electronic reader board provision

of the UDO was not applicable to the Digital Sign **and** the Notice of Approval specifically allowed for lighting. A true and accurate copy of the letter dated June 17, 2022 is attached hereto as Exhibit I.

25. The City of Bloomington did not respond to the letter dated June 17, 2022 and, instead, docketed Lamar's appeal for a hearing before the BZA.

26. On September 22, 2022, Lamar's appeal was heard before the BZA (the "September 22 Hearing").

27. Alan Townsend and Jason Graham participated in the September 22 Hearing and presented evidence on behalf of Lamar.

28. At the September 22 Hearing, Lamar demonstrated, among other things, that the City of Bloomington, by and through its legal counsel, resolved any disputes concerning the Digital Sign by advising Lamar, in an email dated May 13, 2022, that "the matter is considered closed."

29. At the September 22 Hearing, Lamar demonstrated, among other things, that the Notice of Approval issued by the BZA on January 31, 2011 imposed only two conditions:

**The Board of Zoning Appeals heard case V-42-10 on December 16, 2010, in the Council Chambers of Showers Center City Hall - Bloomington, Indiana. The petition for a variance to allow an off-premise sign (billboard relocation) was approved with the following conditions:**

- 1. The petitioner must receive a sign permit prior to sign installation.**
- 2. This sign shall be permitted to be lit within the standards of the Unified Development Ordinance (UDO).**

30. At the September 22 Hearing, Lamar provided the BZA with a Light Study demonstrating that the Digital Sign complied with the lighting requirements of the UDO. A true and accurate copy of the Light Study is attached hereto as Exhibit I.

31. At the September 22 Hearing, Lamar demonstrated, among other things, that the City of Bloomington, for more than a decade, had never taken the position the UDO applied to the two panel outdoor advertising sign in any manner except for lighting.

32. At the conclusion of the September 22 Hearing, the BZA denied Lamar's appeal by a vote of 3-2 (the "Determination").

33. Lamar has standing to appeal the BZA's Determination because, among other things, (i) the Determination was specifically directed at Lamar, (ii) Lamar has an interest in the Digital Sign, and (iii) Lamar was aggrieved or adversely affected by the Determination.

34. For one or more of the following reasons, the BZA's Determination was (i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law, (ii) in excess of the BZA's statutory authority, or (iii) unsupported by substantial evidence:

- a. The City of Bloomington, by and through its legal counsel, resolved any disputes concerning the Digital Sign by advising Lamar, in an email dated May 13, 2022, that "the matter is considered closed" but then reversed course even though there was no change in circumstances;
- b. The Digital Sign complies with all of the requirements of the Notice of Approval;
- c. The Digital Sign complies with all of the applicable requirements of the UDO;
- d. The City of Bloomington and the BZA, over the course of a decade, never claimed or asserted that the UDO was applicable to the two panel outdoor advertising sign and cannot do so now; and

- e. With the City of Bloomington's encouragement, the BZA approved Lamar's Application for a two panel outdoor advertising sign and, in doing so, confirmed that the UDO was not applicable to the two panel outdoor advertising sign.

35. Under the circumstances and pursuant to Ind. Code § 36-7-4-1003, Lamar respectfully requests that this Court reverse the BZA's Determination.

WHEREFORE, the Plaintiff, Lamar Advantage GP Company, LLC a/k/a Lamar Outdoor Advertising, by counsel, respectfully requests a judgment in its favor and against the BZA (a) reversing the BZA's Determination and instructing the BZA to approve Lamar's Appeal, thereby leaving the Digital Sign intact, (b) awarding Lamar its recoverable costs and expenses incurred as a result of this lawsuit, and (c) providing all other appropriate relief.

I swear or affirm under the penalties of perjury that the foregoing factual allegations are true and accurate.

Dated: 10-17, 2022

A handwritten signature in black ink, appearing to be 'JG' with a horizontal line extending from the end.

---

Jason Graham, for Lamar GP Company, LLC a/k/a  
Lamar Outdoor Advertising

Respectfully submitted,

/s/ Alan S. Townsend

Alan S. Townsend  
Attorney No. 16887-49  
Bradley M. Dick  
Attorney No. 29647-49

Bose McKinney & Evans LLP  
111 Monument Circle, Suite 2700  
Indianapolis, Indiana 46204  
(317) 684-5000 | (317) 684-5173 (FAX)

*Attorney for Plaintiff, Lamar Advantage GP  
Company, LLC a/k/a Lamar Outdoor Advertising*

4448228\_1

# **EXHIBIT A**

**CITY OF BLOOMINGTON, INDIANA**

**AND**

**HOOSIER OUTDOOR ADVERTISING CORPORATION**

**AGREEMENT REGARDING SIGNS AND BILLBOARDS**

**THIS AGREEMENT** is made and entered into by and between the City of Bloomington, Indiana ("City") and Hoosier Outdoor Advertising Corporation ("Hoosier").

**WITNESSETH**

**WHEREAS**, the City and Hoosier have engaged in discussions regarding numerous signs and billboards located within the City of Bloomington; and

**WHEREAS**, these discussions have included issues of the placement, maintenance and/or removal of particular signs and billboards; and

**WHEREAS**, the City and Hoosier have now concluded those discussions and wish to memorialize the terms to which they have agreed.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and conditions set forth herein, and in consideration of the mutual benefits which will accrue to each of the parties to this Agreement, the City and Hoosier have agreed, and do hereby agree, as follows:

**I. DUTIES AND RESPONSIBILITIES OF THE PARTIES**

**A. Hoosier Outdoor Advertising Corporation's duties and responsibilities**

hereunder shall be as follows:

1. Hoosier shall modernize the existing Cascades Park sign located approximately 200 feet north of the intersection of Old State Road 37 and

North Walnut Street. This modernization shall include the installation of a steel structure upon which the sign will be placed, and the sign modernization shall be performed according to conditions upon which the parties have mutually agreed. If modernization of the sign includes the installation of lighting, the City shall be responsible for obtaining a variance from the Board of Zoning Appeals.

2. Hoosier shall be responsible for timely performance of all maintenance and repair of the Cascades Park sign, including the structure, and shall solely bear all expense regarding such construction, maintenance and repair.
  3. Hoosier shall maintain line-of-sight to the Cascades Park sign.
  4. Hoosier shall remove the four (4) panel billboard located along the west property line at 216 South College Avenue. This removal shall be accomplished on or before the earlier of: (a) the beginning of construction of Phase I of the B-Line Trail anticipated in the spring of 2008; or (b) the installation of the lighted two (2) panel billboard discussed below.
  5. Upon selection of a proposed site which must be approved by the City Planning and Legal Departments, Hoosier may apply to the Board of Zoning Appeals for approval to place a lighted two (2) panel billboard at that location.
- B. The City of Bloomington's duties and responsibilities hereunder shall be as follows:

1. The City shall not seek removal of the two (2) panel billboard located approximately 600 feet north of the intersection of State Road 37 and North Walnut Street on the grounds that it is located on City property without the appropriate permission of the City; however, this billboard remains subject to any and all laws and regulations of Monroe County and the City that may now or hereafter apply. Specifically, the City reserves the right to enforce any and all City regulations including but not limited to provisions of the Unified Development Ordinance concerning lawful nonconforming billboards, at such time as this billboard comes under the City's zoning jurisdiction.
2. The City shall not charge Hoosier lease fees for the continued placement of this billboard in consideration of the responsibilities and costs incurred by Hoosier under the terms and conditions of this Agreement.
3. The City shall support Hoosier's petition before the BZA for placement of the aforementioned lighted two (2) panel billboard in a mutually acceptable location.

## II. NOTICE TO THE PARTIES

Whenever any notice, statement or other communication shall be sent to the City or Hoosier, it shall be sent to the following addresses, unless otherwise specifically advised:

A. Notice to the City shall be sent to:

Corporation Counsel  
City of Bloomington  
401 N. Morton Street  
Bloomington, IN 47404

B. Notice to Hoosier shall be sent to:

Jeff Brawley, General Manager  
Hoosier Outdoor Advertising Corporation  
900 S. Walnut Street  
Bloomington, IN 47403

### **III. AUTHORITY TO BIND**

Notwithstanding anything in the Agreement to the contrary, the signatory for Hoosier represents that he has been duly authorized to execute this Agreement on its behalf.

### **IV. AGREEMENT TERM**

The term of this Agreement shall be for five (5) years and may be extended by mutual written agreement of the parties. This Agreement may be modified only by written amendment executed by the City and Hoosier.

### **V. WAIVER OF DAMAGES**

Hoosier, by its execution of this Agreement, expressly waives any and all right to and ~~receipt of damages pursuant to Ind. Code Sections 22-13-2-1.5 and 36-7-2-5.5 regarding~~ any sign or billboard referenced in this Agreement.

### **VI. GOVERNING LAWS**

This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana. Any judicial proceedings shall be filed within Monroe County, Indiana, Circuit Court.

### **VII. ENTIRE AGREEMENT**

This Agreement contains the entire understanding of the parties, and this Agreement supersedes all prior agreements and understandings, oral and written, with respect to this subject matter.

**VIII. SUBSTANTIAL PERFORMANCE**

This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

**IX. TERMINATION**

If either party fails to fulfill, in a timely and proper manner, its obligations under this Agreement, or violates any of the terms or conditions contained herein, then the other party shall have the right to terminate this Agreement. Any such termination shall occur only after written notification to the other party of the alleged breach and the allowance of thirty (30) days to cure such breach.

**X. JOINT ANNOUNCEMENT**

Hoosier and the City agree to develop a joint press release announcing the approval by the BZA for the placement of the lighted two (2) panel billboard. Should the BZA fail to approve Hoosier's request for the placement of this billboard, the terms and conditions of this Agreement shall be null and void.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed this Agreement on the dates entered below.

**CITY OF BLOOMINGTON**

**HOOSIER OUTDOOR ADVERTISING CORPORATION**

By: \_\_\_\_\_

Mark Kruzan, Mayor

By: \_\_\_\_\_

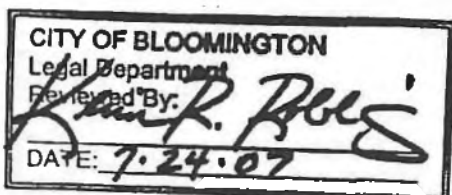
Jeff Brawley, General Manager

Date: \_\_\_\_\_

7.24.07

Date: \_\_\_\_\_

July 17, 2007



# **EXHIBIT B**



City of Bloomington  
Planning Department



- PLAN COMMISSION
- PLAT COMMITTEE
- BOARD OF ZONING APPEALS
- HEARING OFFICER

NOV 30 2010

CASE# V-42-10  
 FILING DATE 10/22/10 cl#  
 FILING FEE \$ 200.00 1350  
 HEARING DATE 12/16/10  
 HT ACCT# 16803  
 PLANNER: TM/PS

Project Name Lamar Advertising Billboard Replacement  
 Address of Property 1800 N. Kinser Pk.  
 Applicant's Name Lamar Advertising Co. Phone (317) 484-0896  
 Address 5711 W. Minnesota, Indianapolis, IN 46241 Fax (317) 460-1945  
 Applicant's Email Address civerson@lamar.com  
 Owner's Name Royers Group, Inc. Phone \_\_\_\_\_  
 Address P.O. Box 25250, Nashville, TN 37202 Fax \_\_\_\_\_  
 Counsel or Consultant \_\_\_\_\_ Phone \_\_\_\_\_  
 Address \_\_\_\_\_ Fax \_\_\_\_\_  
 Consultant's Email Address \_\_\_\_\_

**Application Type (Office Use Only):**

Plan Commission/Plat Committee

- Change of Zone (ZO)
- Site Plan Review (SP)
- Planned Unit Development (preliminary plan) (PUD)
- Planned Unit Development (final plan) (PUD)
- Preliminary Plat Review (DP)
- Final Plat Review (DP)

BZA/Hearing Officer

- Appeal from Administrative Decision (AA)
- Conditional Use (CU)
- Variance (V)
- Use Variance (UV)

Description of Request: Variance to allow an off-premise sign (billboard relocation)

This application must be accompanied by all required submittals and plan elements, as indicated for the requested approval. Submittal of plans for review by City of Bloomington Utilities is required at or prior to time of application. Present CBU verification of receipt of plans at time of filing. Applicants are required to meet with a planner to review their request prior to filing an application. No applications will be accepted without prior Staff consultation. Staff reserves the right to schedule hearing dates for petitions subject to complete submittals and previously filed cases. Notices to adjacent property owners should not be mailed until hearing dates have been confirmed.

I (we) agree that the applicant will notify all adjacent property owners at the applicant's expense.  
 I (we) further agree that the Planning Department will cause a legal notice of this application to be published in a paper having general circulation in Bloomington at the applicant's expense.  
 I (we) certify that all foregoing information is correct and that I (we) are the owners (legal agents for owners) of property subject to this application and authorize Staff to inspect the site as needed.  
 If applicant is other than recorded owner, an affidavit designating authority to act on owner's behalf, must accompany this application.

Applicant Signature: [Signature] Date: 10/22/10 Staff Initial: TM

401 N. Morton Street · Bloomington, IN 47404 **City Hall** Phone: (812) 349-3423 · Fax: (812) 349-3535  
 www.bloomington.in.gov  
 e-mail: [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov)

# EXHIBIT C

- REVISED SITE PLAN -



**LAMAR**

**OUTDOOR ADVERTISING**

Proposed 10' 6" x 36' Bulletin with Top Mounted Light Fixtures

St. Road 46 - Front View Panel Facing

# EXHIBIT D



City of Bloomington

FILE COPY

January 31, 2011

**NOTICE OF APPROVAL**

**Petitioner: Lamar Advertising Co.**

**Location: 1800 N. Kinser Pike**

The Board of Zoning Appeals heard case V-42-10 on December 16, 2010, in the Council Chambers of Showers Center City Hall - Bloomington, Indiana. The petition for a variance to allow an off-premise sign (billboard relocation) was approved with the following conditions:

1. The petitioner must receive a sign permit prior to sign installation.
2. This sign shall be permitted to be lit within the standards of the Unified Development Ordinance (UDO).

Unless otherwise specified by the Board at the time of approval, any order or variance granted by the Board of Zoning Appeals shall expire:

- A. In the case of new construction or modifications to an existing structure:
  1. Two years after the date granted by the Board, unless a building permit has been obtained and construction of the structure or structures has commenced; or,
  2. At the date of termination established by the Board as a condition or commitment if different from (1) above.
- B. In the case of occupancy of land which does not involve new construction:
  1. Two years after the date granted by the Board, unless an occupancy permit has been obtained and the use has commenced; or

FILE COPY  
1/17 11:03

2. At the date of termination established by the Board as a condition or commitment if different from (1) above.
- C. If an Appeal by writ of certiorari is taken from an order granting a variance, the time during which such Appeal is pending shall not be counted in determining whether the variance or order has expired under Subsections A and B of this Section.
- D. The Board may provide by rule for the granting of extensions of variances.

Planning Staff

# **EXHIBIT E**



**City of Bloomington  
Planning and Transportation Department**

**BY:** .....

April 25, 2022

Rogers Group, Inc.  
P.O. Box 25250  
Nashville, TN 37202

Lamar Advertising Company  
Indianapolis Billboard Office  
5711 West Minnesota Street  
Indianapolis, IN 46241

Irving Materials, Inc.  
1800 North Kinser Pike  
Bloomington, IN 47404

**Re: Notice of Violation (warning)**  
Nonconforming Signs  
Failure to Obtain a Certificate of Zoning Compliance (CZC)

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) Section 20.06.090(g) [Nonconformities; Nonconforming Signs] and Section 20.06.050(f) [Development Permits and Procedures; Certificate of Zoning Compliance] at **1800 North Kinser Pike**. Records show that you are the owner or lessee at this property.

The City of Bloomington Planning and Transportation Department received multiple complaints on 3/30/2022 that the existing billboard on the north side of State Road 45 and 46 Bypass between North Kinser Pike and North Walnut Street had been modified to become a digital billboard. On 4/1/2022, staff observed a digital billboard in operation at this location with digital content that changed approximately every eight seconds. The billboard is located on property with the address of 1800 North Kinser Pike, which is a quarry operated by Irving Materials Inc. (IMI) and is owned by Rogers Group, Inc. Records indicate that the billboard itself is owned by Lamar Advertising Company, and is currently operated as Panel #6033 classified as a "Permanent Bulletin – Digital." See the attached screenshot from the Lamar website.

The City of Bloomington Unified Development Ordinance (UDO) lists off-premises signs as a Prohibited Sign Type, including billboards such as the billboard at 1800 North Kinser Pike. In addition, the allowed maximum area of a freestanding sign varies by zoning district and property use, but in no case is greater than 125 square feet. Existing billboards that predate the adoption of these provisions in the UDO are deemed lawful nonconforming signs and are subject to the provisions of UDO 20.06.090 [Nonconformities].

According to Unified Development Ordinance (UDO) **Section 20.06.090 (g) [Nonconforming Signs];**

(1) Generally

(A) Notwithstanding any other provision of this chapter or this UDO, a lawful nonconforming sign may not be altered, relocated or expanded, which includes any increase in height or area, except as expressly provided in this Section 20.06.090(g).

(B) Ordinary maintenance is permitted and shall include replacement of supports with different materials or design from the previous supports but shall not include any increase in the dimensions or numbers of supports.

...

(3) Repair

Minor changes to a lawfully nonconforming sign shall be permitted only where necessary in order to keep the sign in good and safe repair and operating condition; such changes may include replacement of supports with different materials or design, but shall not include any enlargement to the dimensions of such supports or any increase in the number of such supports.

Per UDO section 20.06.090(g) cited above, an alteration, relocation, or expansion of the existing lawful nonconforming sign at 1800 North Kinser Pike cannot obtain a permit. However, staff has observed that a new sign has been installed. This constitutes work without a permit, which is also a violation of the UDO.

According to Unified Development Ordinance (UDO) **Section 20.06.050(f) [Development Permits and Procedures; Certificate of Zoning Compliance];**

- (1) Purpose: The Certificate of Zoning Compliance procedure is intended to provide a mechanism for City staff to ensure that the establishment of and alterations to uses, sites, and structures conform to the standards of this UDO.
- (2) Applicability
  - (A) Generally
    - i. A Certificate of Zoning Compliance shall be required for any of the following activities:
      1. Alteration, erection, construction, reconstruction, division, enlargement, demolition, partial demolition or moving of any building, structure, sign, or mobile home;

In accordance with UDO Section 20.06.100, a violation of the requirements for nonconforming signs may result in a fine of up to two thousand five hundred dollars (\$2,500), and a violation for failure to obtain a Certificate of Zoning Compliance (CZC) may result in a fine of five hundred dollars (\$500). Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

**No fines have been issued at this time. You have the following options to remedy the situation.**

1. Remove the billboard: submit an application to the Planning and Transportation Department by 5/2/2022 for a CZC to perform demolition of the sign, **AND** completely remove the billboard sign and support structure by 5/16/2022, **OR;**
2. Restore the billboard: submit an application to the Planning and Transportation Department by 5/2/2022 for a CZC to perform work that restores the billboard to its former status as a non-digital billboard, **AND** completely restore the billboard to its former status by 5/16/2022.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,



Gabriel Holbrow  
Zoning Compliance Planner, Planning and Transportation

CC: Scott Robinson, AICP, Director, Planning and Transportation  
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation  
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation

Enclosures: (3)  
2 Photographs  
Panel #6033, screenshot from apps.lamar.com



*Photo 1: Digital billboard at 1800 North Kinser Pike, viewed from the east on 4/1/2022*



*Photo 2: Digital billboard at 1800 North Kinser Pike, viewed from the west on 4/8/2022*

# PANEL #6033

## SR 45/46 BYPASS W; 300FT E/O KINSER PIKE F/W LHR



LOCATION #1

WEEKLY IMPRESSIONS: Pending Audit\*

MEDIA TYPE/STYLE: Permanent Bulletin - Digital

LAT/LONG: [39.1867 / -86.536442](#)

MARKET: MONROE CO

GEOPATH ID: Pending Audit

PANEL SIZE: 10' 6" x 36' 0" [View Spec Sheet](#)

FACING/READ: West / Left

SLOTS/DWELL: 8 slots / 8 seconds



Map data ©2022

# **EXHIBIT F**

**BOSE  
McKINNEY  
& EVANS LLP**

ATTORNEYS AT LAW

**Alan S. Townsend**

Direct Dial: (317) 684-5225  
Fax: (317) 223-0225  
E-Mail: ATownsend@boselaw.com

91 7108 2133 3933 0948 8628

May 2, 2022

**Via Certified Mail and Electronic Mail**

Gabriel Holbrow  
Zoning Compliance Planner, Planning and Transportation  
City of Bloomington, Planning and Transportation Department  
401 N. Morton Street  
Bloomington, IN 47404

*Re: Appeal Petition from Notice of Violation (warning)*

Dear Mr. Holbrow:

This law firm represents Lamar Advertising Company (“Lamar”).

On April 27, 2022, Lamar received a Notice of Violation (warning) (the “Notice”) regarding an outdoor advertising sign located at 1800 North Kinser Pike (the “Billboard”). Please be advised that Lamar is appealing the Notice and is timely filing this appeal petition (“Appeal”).

Lamar only received the Notice three business days ago and is still investigating the Notice. As a result, the Appeal is based on the facts as known today. Lamar reserves the right to amend its Appeal as its investigation and discovery continues.

The Notice begins by stating that off-premises signs and signs larger than 125 feet are not allowed under the current Unified Development Ordinance (“UDO”), and the Notice then states that “[e]xisting billboards that predate the adoption of these provisions in the UDO are deemed lawful nonconforming signs and are subject to the provisions of UDO 20.06.090.” The statement that the Billboard is non-conforming is not accurate.

Years ago, Lamar acquired certain assets from Hoosier Outdoor. Hoosier Outdoor owned and maintained an outdoor advertising sign along the B-Line, and the City of Bloomington and Hoosier Outdoor reached an agreement in 2007 that Hoosier would remove that particular outdoor advertising sign then replace it with another outdoor advertising sign at an agreed upon location. In 2010, Lamar and Bloomington then agreed on the Billboard’s location.

In 2010, UDO § 20.05(h) did not permit off-premises signs or pole signs. On December 16, 2010, however, Bloomington’s Board of Zoning Appeals (“BZA”) approved a variance for Lamar to build the Billboard. Two conditions were imposed on the Billboard: (1) a sign permit had to be acquired; and (2) the Billboard had to comply with lighting standards of the UDO. The lighting

Lamar Appeal Petition  
May 2, 2022  
Page Two

standards prohibited “laser, strobe, and/or flashing source light or any similar high intensity light.” UDO 20.05.060(d)(1)(A).

On July 13, 2011, Bloomington’s Planning Department issued a Certificate of Zoning Compliance (“Certificate”) for the Billboard. A true and accurate copy of the Certificate is attached as Exhibit A. The Billboard was approved with 378 square feet per side at 40 feet high. The Billboard was then constructed as approved. As a result, the statement in the Notice that the Billboard is non-conforming is not accurate. The Billboard was approved by Bloomington and the BZA, and it was per an agreement to remove an outdoor advertising sign along the B-Line.

Significantly, there was no restriction on how frequently Lamar could change the advertising on the Billboard. Since that time, Lamar has frequently changed the advertisement without obtaining Bloomington’s approval because no such approval is required:

2013



Lamar Appeal Petition  
May 2, 2022  
Page Three

2015



2019



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May 2, 2022  
Page Four

Over the years, the technology for changing sign faces has evolved. Sign faces were originally painted directly onto the outdoor advertising sign. Later, they were glued. More recently, vinyl faces were pre-printed and then attached. As can be seen in the examples above, the Billboard has been used for high-quality advertisements by the pillars of this community. Today, the most up to date—and safest manner—for changing sign faces is through digital displays, which does not involve workers climbing high into the air to change sign faces. This is safer for the workers and also leads to higher quality images.

In 2022, because the Billboard is more than a decade old, Lamar upgraded the lighting on the Billboard. Today, UDO § 20.04.090(c)(3)(A) provides that the “use of laser, strobe, and/or flashing source light or any similar high intensity light for outdoor advertising is prohibited.” The Billboard does not use laser, strobe, or high intensity light. The Billboard was permitted to use lighting, and the lighting on the Billboard complies with the UDO. Further, the Billboard is authorized by the State of Indiana.

Lamar is not aware of any requirement in the UDO that requires a permit to change the advertising on an outdoor advertising sign or to change the lighting on the Billboard. UDO § 20.06.090(g), which is for non-conforming signs (which the Billboard is *not*) is nonetheless instructive because it permits maintenance on non-conforming signs, and ordinary maintenance “include[s] replacement of supports with different materials or designs.” To be clear, the Billboard is *not* non-conforming, but if this type of maintenance can be done on a non-conforming sign, it certainly can be done on the Billboard (a conforming sign that Bloomington and the BZA approved).

Based on our review to date, it is clear that Bloomington and the BZA approved the Billboard. It is conforming, not non-conforming. Consequently, it is not subject to the prohibition on off-premises advertising signs. Further, the lighting on the Billboard complies with the UDO. As a result, the determination in the Notice is not well reasoned and respectfully should be reversed. Please let me know if we can schedule a time to discuss this matter in more detail.

Sincerely,



Alan S. Townsend

AST/dyc  
4362970



City of Bloomington  
Planning Department

**Certificate of Zoning Compliance**

Application #: C11-066 (Revised)

Date: Wednesday, July 13, 2011

Property Address: 1800 N. Kinser Pike Bloomington 28NW  
Township Section #

Zoning: QY

Proposed Use: Signage - Permanent

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning Department finds the plans to be in compliance:

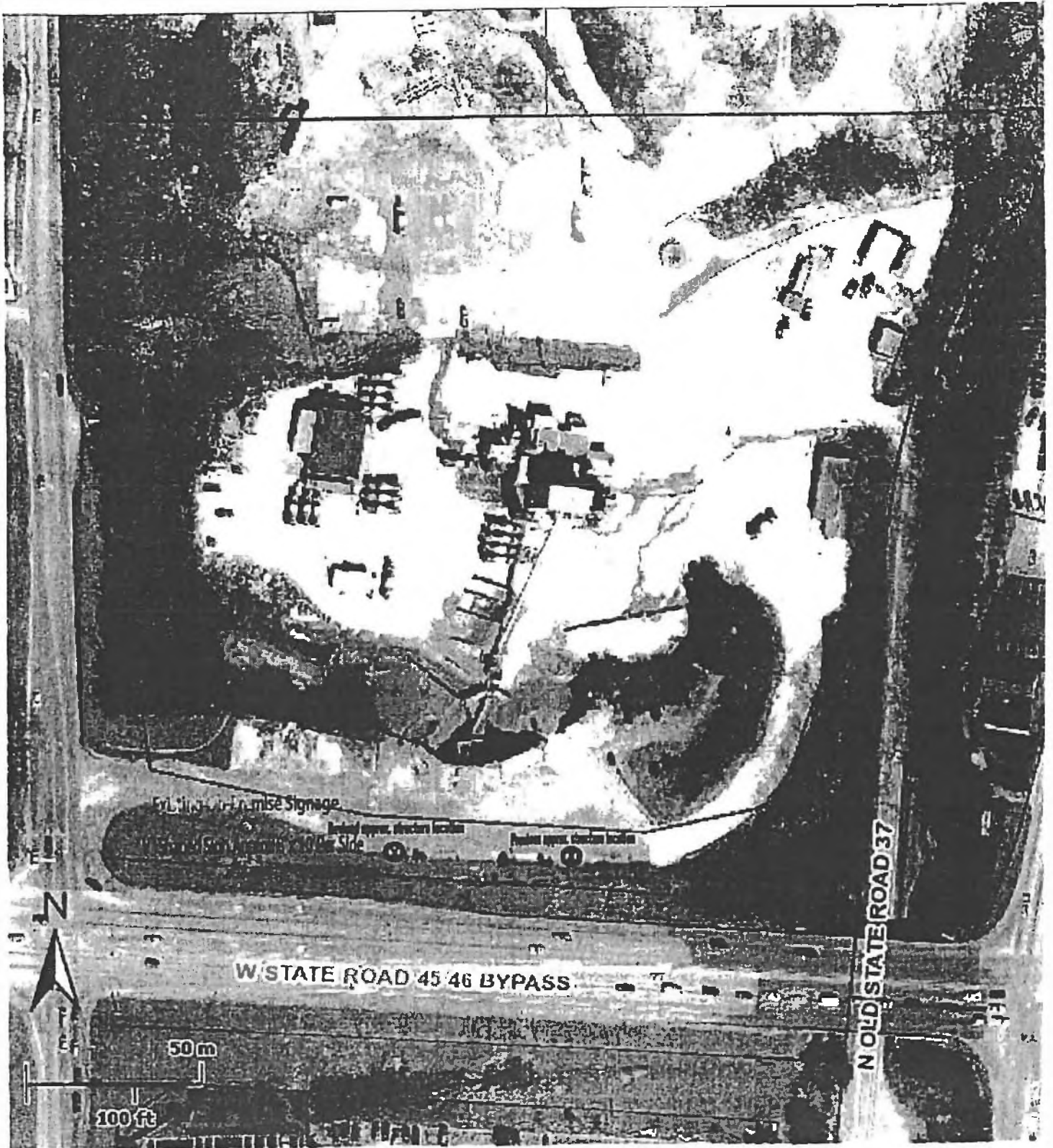
- As submitted
- With modifications or conditions as follows:

1. This permit is approved per terms and conditions of Board of Zoning Appeals case #V-42-10.
2. This permit approves a two-sided sign of 378 square feet per side and 40 feet tall. No other signage is approved with this permit.
3. Lighting fixtures must be installed and shielded to restrict glare toward any traffic.
4. Light trespass must be limited to a maximum 30 lucas measured at adjacent property lines.
5. This permit is approved per revised site plan and elevations submitted by Kevin Robling on 7/12/11.

This Certificate of Zoning Compliance pertains only to the attached plans and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any required permit nor exempt the property from compliance with any other requirements.

Patrick A. Shay, AICP  
Development Review Manager  
City of Bloomington  
Planning Department





Ex: High Rise Signage

Proposed approx. structure location

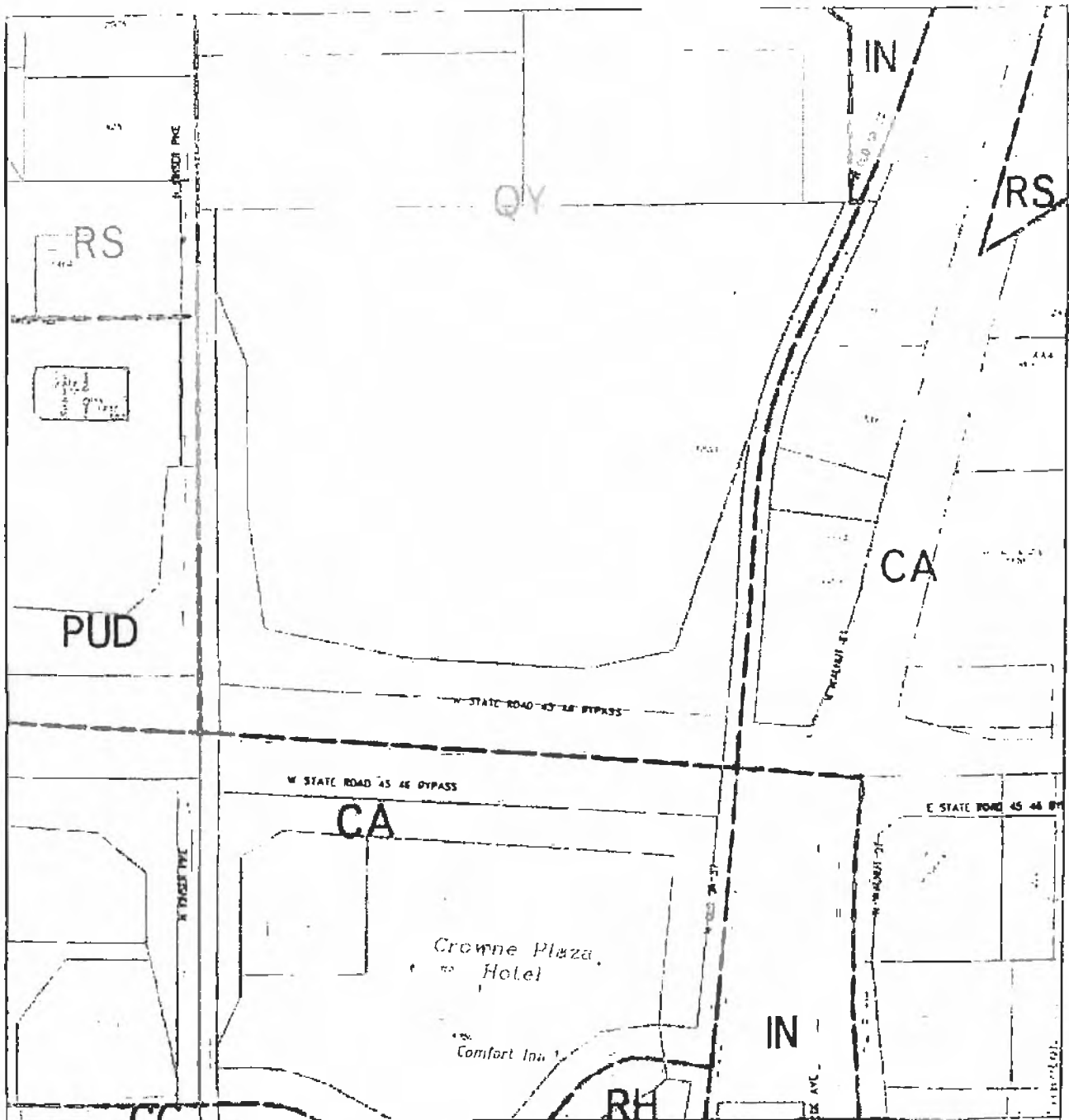
Proposed approx. structure location

W STATE ROAD 45 46 BYPASS

N OLD STATE ROAD 37

50 m

100 ft



By: shoyp  
30 Mar 11



For reference only, map information NOT warranted.

City of Bloomington  
Planning



Scale: 1" = 200'

# EXHIBIT G

## Townsend, Alan

---

**From:** Mike Rouker <roukerm@bloomington.in.gov>  
**Sent:** Friday, May 13, 2022 10:54 AM  
**To:** Townsend, Alan  
**Cc:** Jacqueline Scanlan; Gabriel Holbrow; Dick, Bradley M  
**Subject:** Administrative Appeal - Lamar

Alan:

Per our conversation a few minutes ago, I am sending this email to confirm that the City is withdrawing its NOV related to the billboard at 1800 N. Kinser Pike. The appeal will not be heard by the BZA as it is not necessary, at this time no fines or violations will be attributed to your client related to the billboard, and the matter is considered closed. Thanks.

--

Michael Rouker  
City Attorney  
City of Bloomington  
(812) 349-3556

### CONFIDENTIALITY NOTICE

This transmission (including any attachments) may contain information which is confidential, attorney work product and/or subject to the attorney-client privilege, and is intended solely for the recipient(s) named above. If you are not a named recipient, any interception, copying, distribution, disclosure or use of this transmission or any information contained in it is strictly prohibited, and may be subject to criminal and civil penalties. If you have received this transmission in error, please immediately call us at (812) 349-3426, delete the transmission from all forms of electronic or other storage, and destroy all hard copies. Do NOT forward this transmission. Thank you.

# EXHIBIT H



**City of Bloomington  
Planning and Transportation Department**

June 10, 2022

Rogers Group, Inc.  
P.O. Box 25250  
Nashville, TN 37202

Lamar Advertising Company  
Indianapolis Billboard Office  
5711 West Minnesota Street  
Indianapolis, IN 46241

Irving Materials, Inc.  
1800 North Kinser Pike  
Bloomington, IN 47404

**Re: Notice of Violation**  
Failure to Comply with Development Standards

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) **Section 20.04.100(g) [Development Standards & Incentives; Signs; General Design Standards]** at 1800 North Kinser Pike. Records show that you are the owner or lessee at this property.

The City of Bloomington Planning and Transportation Department received multiple complaints on 3/30/2022 that the existing billboard on the north side of State Road 45 and 46 Bypass between North Kinser Pike and North Walnut Street had been modified to become a digital billboard. On 4/1/2022, staff observed a digital billboard in operation at this location with digital content that changed approximately every eight seconds. The billboard is located on property with the address of 1800 North Kinser Pike, which is a quarry operated by Irving Materials Inc. (IMI) and is owned by Rogers Group, Inc. Records indicate that the billboard itself is owned by Lamar Advertising Company, and is currently operated as Panel #6033 classified as a "Permanent Bulletin – Digital." See the attached screenshot from the Lamar website.

According to Unified Development Ordinance (UDO) **Section 20.04.100(g) [Development Standards & Incentives; Signs; General Design Standards]**:

(3) Electronic Reader Boards

Unless otherwise provided in this UDO, electronic reader boards may only be utilized when incorporated into permanent signage, provided that they do not exceed more than 40 percent of the total area of any sign face, and that information is displayed in increments of no less than 20 seconds.

The sign at 1800 N. Kinser Pike contains an electronic reader board that is in excess of 40 percent of the total area of the sign face. Additionally, the information displayed is changed in increments of less than 20 seconds.

In accordance with UDO Section 20.06.100, a violation of Failure to Comply with Development Standards may result in a fine of up to one hundred dollars (\$100). Each day a violation is allowed to continue is considered a

distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

**If the violation remains unresolved, fines will be accruing daily on 06/25/2022 in accordance with above referenced UDO Section 20.06.100 [Enforcement and Penalties] until such a time as the violation is remedied. You have the following options to remedy the situation.**


1. Rework the billboard so that the electronic reader board portion of the sign is 40% of the sign face or less and so that the sign face changes every 20 seconds or less by 06/24/2022, **OR**;
2. Completely restore the billboard to its former status by 06/24/2022, **OR**;
3. Make a phone appointment with a Planner to occur on or before 06/24/2022 to discuss filing a variance request, **AND** file for a variance by 07/28/2022 for the 08/25/2022 Board of Zoning Appeals hearing.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at [planning@bloomington.in.gov](mailto:planning@bloomington.in.gov) or 812-349-3423 with any questions or concerns.

Sincerely,



Elizabeth Carter  
Senior Zoning Compliance Planner, Planning and Transportation

CC: Scott Robinson, AICP, Director, Planning and Transportation  
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation  
Jackie Scanlan, AICP, Development Services Manager, Planning and Transportation  
Mike Rouker, City Attorney

Enclosures: (2)  
2 Photographs

# EXHIBIT I



ATTORNEYS AT LAW

Alan S. Townsend

Direct Dial: (317) 684-5225

Fax: (317) 223-0225

E-Mail: ATownsend@boselaw.com

June 17, 2022

Via Certified Mail and Electronic Mail

Elizabeth Carter  
Senior Zoning Compliance Planner, Planning and Transportation  
City of Bloomington, Planning and Transportation Department  
401 N. Morton Street  
Bloomington, IN 47404

*Re: Appeal Petition from Second Notice of Violation (warning)*

Dear Ms. Carter:

As you are aware, this law firm represents Lamar Advertising Company (“Lamar”) because it was only a little over a month ago, on April 27, 2022, that Lamar received the first Notice of Violation (warning) (the “First Notice”) regarding an outdoor advertising sign located at 1800 North Kinser Pike (the “Billboard”).

The First Notice mistakenly claimed that the Billboard was “an existing lawful nonconforming sign.” The First Notice, however, made no mention of electronic reader boards. Lamar responded that the City of Bloomington had actually agreed to the construction of the Billboard as part of a settlement that removed another billboard, and the Bloomington Board of Zoning Appeals (“BZA”) granted a variance for Lamar to build the Billboard. Lamar also demonstrated that the Billboard fully complied with Bloomington’s lighting requirements, which is what the variance required.

Lamar was encouraged when the City of Bloomington revoked the First Notice and, in doing so, seemingly agreed that because the BZA had expressly approved construction of the Billboard that it was **not** a nonconforming sign. Lamar reasonably and sincerely believed that the matter was fully resolved. So it was disappointing that on Monday, June 13, 2022, Lamar received a second Notice of Violation (warning) (the “Second Notice”), now claiming—for the first time—that the Billboard was allegedly an electronic reader board. This letter constitutes an appeal of the Second Notice (“Appeal”). Lamar only received the Second Notice on June 13, 2022 and is still investigating the Second Notice. As a result, the Appeal is based on the facts as known today. Lamar reserves the right to amend its Appeal as its investigation continues.

The Second Notice fails as a matter of law for at least three (3) reasons. First, any dispute concerning the Billboard was fully resolved when the First Notice was resolved in favor of Lamar. The law does not provide the City of Bloomington with multiple attempts to invalidate the Billboard, especially when there has been no change in circumstances between the First Notice

Lamar Appeal Petition of Second Notice  
June 17, 2022  
Page Two

and the Second Notice. For that reason alone, the City of Bloomington should withdraw the Second Notice.

Second, in approving the Billboard, the BZA did not require it to comply with the electronic reader board design standard and, therefore, the Billboard is not required to do so. Instead, the BZA only required the Billboard to comply with lighting design standard, and it does so. In 2010, when the BZA approved the Billboard, Bloomington Uniform Development Ordinance (“UDO”) § 20.05.079(j) contained design standards for signs. At least two of the design standards have never been applicable to the Billboard. One standard prohibited changeable copy (i.e., the advertisement) unless “the changeable copy area does not exceed forty percent of the total sign area.” The BZA did not require the Billboard to comply with this design standard because billboards inherently involve changing the entirety of the advertisement on a regular basis. Consistent with this practice, the Billboard’s entire surface is changeable and has changed many times, as detailed in the response to the First Notice (and as depicted below).

2013



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June 17, 2022  
Page Three

2015



The other design standard (also in effect in 2010) required that “[s]ign bases shall have an aggregate width of at least forty percent of the total horizontal width of the sign; or have supports that are less than twenty five percent of the vertical height of the sign.” The BZA did not require the Billboard to comply with this design requirement.

In fact, the BZA only required the Billboard to comply with one sign design standard and that is that the Billboard had to comply with the lighting standards of the UDO. As Lamar explained in response to the First Notice, the Billboard complies with these requirements, and the City of Bloomington has not challenged that conclusion in either the First Notice or the Second Notice.

Instead, the Second Notice claims that the Billboard does not comply with electronic reader board design standard. In both 2010 and today, the City of Bloomington’s design standards provide that for electronic reader boards “[i]nformation may be displayed in increments of no less than twenty seconds. Electronic reader boards shall not comprise more than forty percent of the total area of any sign face.” Bloomington Ordinance § 20.05.079(j) (2010).

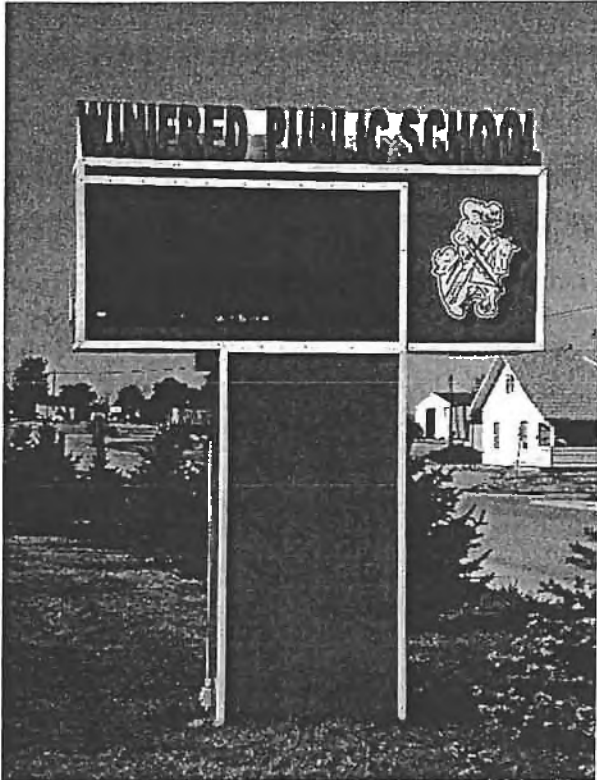
Lamar Appeal Petition of Second Notice  
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The problem with the Second Notice is that when the BZA approved the Billboard it did *not* require the Billboard to comply with this standard. As previously discussed, the BZA only required the Billboard to comply with one design standard (Bloomington’s lighting standards), and it does so. Stated differently, the Billboard complies with the one design standard the BZA required it to comply with, and the other design standards (including the electronic reader board standard) are inapplicable.

Third, the Billboard is not an electronic reader board. It must be remembered that in both 2010 and today, the City of Bloomington’s UDO does not allow billboards. It simply does not contemplate them. Specifically, the UDO prohibits “[p]ole signs.” Bloomington Ordinance § 20.05.079(h)(7) (2010). Further, the UDO capped the height of signs at “fifteen feet,” which the Billboard clearly exceeds. Bloomington Ordinance § 20.05.083(b)(2)(A)(iii) (2010).

It is significant that an ordinance that does not authorize billboards (at all) nevertheless discusses “electronic reader boards.” That is because the Billboard is not an electronic reader board. By way of example, Mid-State Wholesale Signs sells the prototypical electronic reader board:

Lamar Appeal Petition of Second Notice  
June 17, 2022  
Page Five



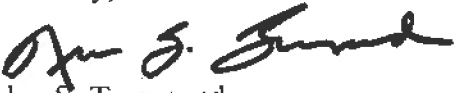
Available at: <https://midstatesigns.com/electronic-reader-boards/>. The electronic reader board portion of this sign may slightly exceed Bloomington's UDO's design standard for electronic reader boards, but the sign as a whole would appear to conform to requirements such as height, size, and width of the column. None of these requirements apply to the Billboard because the Billboard is something different.

In conclusion, the Second Notice is invalid as a matter of law because Indiana law and the UDO do not contemplate or authorize serial complaints on the same topic. Even if one or the other did, the Second Notice is still misguided. Specifically, the electronic reader board design standard does not apply to the Billboard because the BZA did not impose this requirement when it approved the Billboard. It only required the Billboard to comply with the lighting standards, and it does so. Further, the Billboard simply is not an electronic reader board. As a result, the Second Notice is not well reasoned and respectfully should be reversed.

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June 17, 2022  
Page Six

Please let me know if we can schedule a time to discuss this matter in more detail.

Sincerely,



Alan S. Townsend

AST/dyc

4389249\_1

# **EXHIBIT J**

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5/4/2022

## LIGHTING STUDY

Watchfire Signs has been manufacturing outdoor electric signs since 1932 and LED signs since 1996. Currently, we have more than 60,000 LED signs in operation worldwide.

### History of Optical Measurements and Calculations

Outdoor signs using incandescent light bulbs commonly measured illuminance using meters that report brightness in foot-candles. This unit is the standard measurement partly because a light bulb is a source of light that illuminates equally in all directions. LED signs are measured with the same meter even though its light does not illuminate equally in all directions. LED signs are designed to be highly directional, which is an advantage. LEDs allow light to be directed toward an intended audience, rather than dispersed in a wider arc out from the face of the sign.

In the LED industry luminance, or the intensity of visible light, is measured by nits, where one candela per square meter is equal to one nit. However, luminance meters are expensive, difficult to use in the field, and are not ideal for lighting studies commonly used for meeting local permitting requirements. As a result, LED signs are often evaluated using foot-candle measurements.

A foot-candle is the amount of light produced by a single candle when measured from one foot away. For reference, a 100-watt light bulb produces 137 foot-candles from 1 foot away, .0548 foot-candles from 50 feet away, and .0137 foot-candles from 100 feet away.

### Watchfire Signs is Compliant with National Lighting Requirements

Watchfire Signs has adopted brightness standards endorsed by both the International Sign Association (ISA) and Outdoor Advertising Association of America (OAAA). These standards were the result of ~~detailed analysis and recommendations for lighting control completed by Dr. Ian Lewin of Lighting Sciences Inc.~~ The studies are based on accepted practices by the Illuminating Engineering Society of North America (IESNA) for evaluating and controlling "light trespass". Watchfire Signs' products meet the requirements set forth by both associations, based on these studies and recommendations, which results in lighting impact of no more than 0.3 foot-candles above existing ambient light levels. Total foot-candles are dependent on size and distance and can be adjusted as needed. Please see below for the site-specific lighting study and Exhibit A for details surrounding the OAAA lighting standards and practices

### Automatic Brightness Adjustment:

Watchfire's billboard displays are set to have a maximum daytime brightness level of 7,500 nits and a maximum nighttime brightness level of 300 nits. All Watchfire signs automatically adjust brightness levels using a primary 100-step hardware photocell, with a software photocell backup. The hardware photocell will automatically adjust the sign's brightness relative to changes in ambient light levels. If the software photocell is used, the sign will automatically adjust brightness based on the longitude and latitude location of the sign. The sign is appropriately dimmed or brightened based around daily sunrise and sunset. For both options, a sign operator can manually decrease the brightness from standard

**Night Skies:**

All Watchfire signs are designed with night skies in mind. To achieve the best image quality and power efficiency, we are interested in having light reach only the audience. We have implemented technology into our products that prevent them from being brightened in the field after installation and allow for downward adjustment when the impact is too great for a specific area or application. Watchfire has developed specially designed louver panels that not only protect the LEDs from damage but limit the vertical impact of the light output. This technology, coupled with the automated brightness adjustments, limits impact to vertical ambient lighting.

**Title 24 Compliance:**

Watchfire displays was the first in the industry to meet the requirements for UL Greenleaf certifications set forth by Title 24 of the California Code of Regulations. A copy of the Certificate of Conformance is available upon request

**Redundancy:**

All Watchfire displays have intelligent control with Automated Diagnostics down to individual LED level. In the unlikely event that a lighting control fails, or a sign malfunction, the operator and Watchfire are immediately notified. If necessary, there are protocols in place to have the sign go dark along with hardware installed in each display to allow for remote power control.

**Equipment used by Watchfire Signs to Measure Luminance**

Foot-candles/Lux - Minolta Illuminance Meter T-10

Nits/candela/sq. m – Minolta Luminance Meter LS-100

Sign Calibration – Minolta CS-1000 Spectra radiometer

*The proceeding study uses actual lab measurements made on modules using an illuminance meter. These measurements and extrapolations were then scaled up to the size of the billboard and distance corrections were made using the inverse square law.*

**SIGN LIGHTING STUDY**

**Billboard Details**

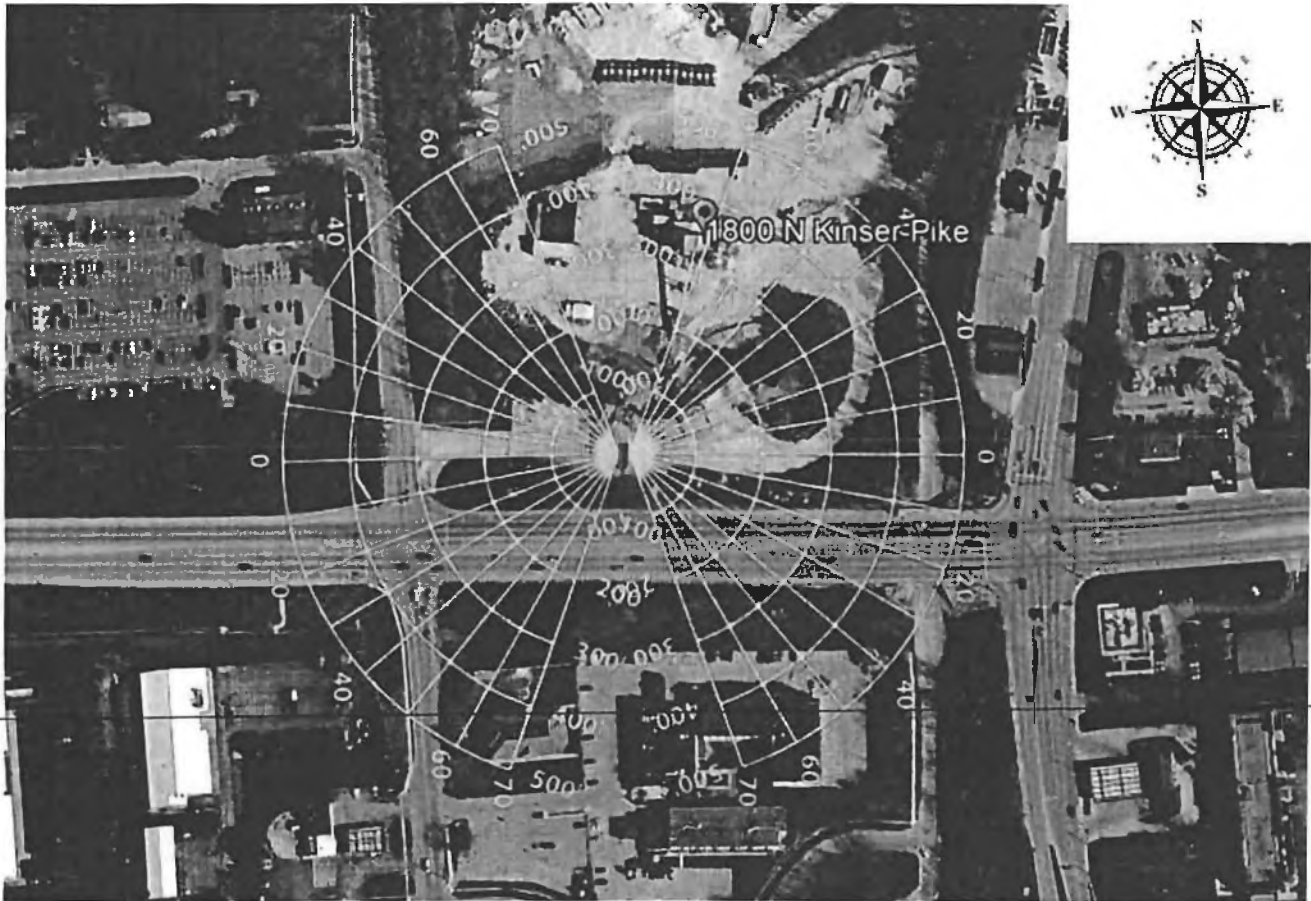
**Size: 10.5'x36'**

**Location: 1800 North Kinser Pike, Bloomington, IN**

The table below represents a large LED billboard, demonstrating the increase in illuminance from the billboard during normal night operation. Smaller billboards would have less effect than shown below. The values are within the standards of both the ISA and OAAA and indicate that the ambient light broadcast into the surrounding area has minimal effect. **Please note- A foot-candle equals one lumen per square foot. This is a British measurement. Using the metric system, a lumen is measured by a square meter or a lux (lucis). Thus a foot-candle is equivalent to approximately 10 lux or 10.57 lux.**

<b>Foot-candles at night under normal operation</b>					
	<b>Horizontal Viewing Angle</b>				
<b>Viewing Distance (ft)</b>	<b>0°</b>	<b>20°</b>	<b>40°</b>	<b>60°</b>	<b>70°</b>
<b>100</b>	0.40	0.37	0.32	0.22	0.14
<b>200</b>	0.10	0.09	0.08	0.06	0.03
<b>300</b>	0.04	0.04	0.04	0.02	0.02
<b>400</b>	0.03	0.02	0.02	0.01	0.01
<b>500</b>	0.02	0.01	0.01	0.01	0.01

**Example Broadcast of Light at Distances and Angles**



**Conclusion**

Given the above comparisons and measurements, the area will see an almost undetectable difference in ambient light after installation of the digital LED billboards

**Scotty Bland**

**Lead Account Manager**  
Phone 217-504-9398

---

## Exhibit A: OAAA Lighting Standards

### Brightness Criteria

A. OAAA Guidelines: The OAAA recommended brightness criteria for digital billboards is as follows:

- Light produced by a digital billboard should not exceed 0.3 Footcandles over ambient light levels.
- Measurement should be taken utilizing a Footcandle meter from the following distances perpendicular to the face of the digital billboard):

- o Posters: 150 feet
- o 10'6x36 Bulletins: 200 feet
- o 14x48 Bulletins: 250 feet
- o 20x60 Bulletins: 350 feet

The measurement distances are based on the average minimum viewing distances for each type of billboard.

- Digital billboards must have automatic dimming capability.

B. Basis for the Guidelines. These guidelines are based on recommendations by lighting expert Dr. Ian Lewin, Lighting Sciences Inc. (Scottsdale, AZ), in a March, 2008 report to the OAAA. Dr. Lewin developed brightness criteria to meet the following general guidelines:

- Appropriately Legible Copy. Digital advertising copy is appropriately legible and not overly bright.
- Simplicity. Provide a guideline that can be easily implemented and enforced. Measurement of the ambient light level of the sign on and off is conducted by a footcandle meter. If the difference in measurements is less than 0.3 footcandles, the digital billboard is in compliance.

- Established Guidelines. The criteria are based on established scientific methodology and established industry standards from the Illuminating Engineering Society of North America (IESNA) publication TM- 11-00 "light trespass" theory which is an accepted standard in the lighting industry.

- Flexibility. Ensure proper brightness levels in a variety of lighting environments.

### C. Additional Issues/Clarification

- Automatic Dimming Capability. A digital billboard must be able to automatically adjust as ambient light levels change. An automatic light sensing device (such as photocell or similar technology) should be utilized for adjusting the digital billboard's brightness. Sunset-sunrise tables and manual methods of controlling brightness are not acceptable as a primary means of controlling brightness.

- Brightness Measurement Methodology. The brightness standard requires the use of a Footcandle meter (also known as a "Lux meter"; ~\$100-1000). A Footcandle meter measures the amount of light arriving at the meter (illuminance), as opposed to an absolute measurement of the amount of light emanating from a light source or light sources (luminance). A Footcandle is a measure of lumens (light rays) that fall on one square foot area; Lux is the metric equivalent of a Footcandle.

In contrast, a Candela Meter / NIT Gun (~\$3,000) measures the amount of light emanating from a specific light source (luminance). A NIT gun measures candelas (a measure of luminance or brightness) per meter squared (also known as "NITS"), which is a measure of the brightness emanating from a specific light source. It excludes ambient light (which may include light from many sources) from the measurement. Standard NIT levels and/or utilization of a NIT gun are not a part of the OAAA recommended brightness guideline.

OAAA Washington, DC Headquarters | 1850 M Street, N.W., Suite 1040 | Washington, D.C. 20036 Phone: (202) 833-5566 | Fax: (202) 833-1523

[www.oaaa.org](http://www.oaaa.org)