MINUTES OF THE PUBLIC MEETING
OF THE CITY OF ANGOLA BOARD OF ZONING APPEALS
HELD ON NOVEMBER 27, 2023

The Board of Zoning Appeals held their regularly scheduled meeting on Monday, November 27, 2023 at 5:00 p.m., the minutes are recorded and prepared by the Department of Economic Development and Planning staff.

Chairman Brant Moore called the public meeting to order at 5:00 p.m. in the Angola Council Chambers at City Hall.

Present members: Brant Moore, Phil Roe, Michael Sutter, Susan Ralston, and Howard McKeever. Also present at the meeting: Planner Brett Steele, Director Jennifer Barclay and Attorney Kim Shoup. Quorum was confirmed.

Chairman Moore asked for approval of meeting minutes. Member Sutter made a motion to approve minutes for the September 25, 2023 meeting. Member McKeever seconded the motion. All other members present approved, none opposed.

Chairman Moore reviewed the meeting rules and procedures.

Chairman Moore moved to the next item on the agenda – New Business – 1290 Wohlert St Development Standard Variance

Planner Steele presented the first case as Front Yard Accessory Structure for development standard variance. The applicant is Jerry Long and the property is located at 1290 Wohlert Street with the current zoning of I2: Moderate Intensity Industrial District. The applicant requested relief from Section 18.164.130(E); Accessory Structure Standards. The hearing date was Monday, November 27, 2023. Legal Notice of the Public Hearing appeared in The Herald Republican on November 17, 2023. Eight (8) property owners within 300-ft of the project were sent notice by Certificate of Mailing on November 13, 2023. The property is not within a floodplain and staff recommended denial.

Planner Steele continued stating the petitioner's primary use involves re-manufacturing antique classic automobiles and/or automobile customization. With the amount of inventory on hand, the petitioner rents off-site storage units to house the overflow of automobiles and automobiles accessories. The petitioner has advised staff that these units are unsecure and not covered by the petitioner's insurance policy. Therefore, the petitioner wishes to construct a 30-ft by 60-ft cold storage accessory structure at his primary business along Wohlert St.

Planner Steele mentioned the 0.720-acre parcel houses an approximate 7,630-sf primary structure and approximately 15,000-sf asphalt impervious area. At the time of original construction, the primary structure was built in the eastern portion of the lot and provides ample front yard setbacks and meeting rear/side yard setbacks. Planner Steele referenced two images; one was taken by the petitioner inside his building and the second was an aerial reference the property lines.

DRAFT

Planner Steele noted that the petitioner's primary use, Integrity Auto Sales, is that of an 'automobile-oriented business'. An automobile oriented business defined within the UDO is a business that includes services rendered directly on, to, or for vehicles. Automobile oriented businesses include automobile accessory installation, automobile body shop, automobile gas station, automobile oil change facility, automobile parts sales, automobile rental, automobile repair or service station, and automobile wash; not including automobile sales. As of this date, the petitioner's operations is a legal nonconforming use as the use is only permitted within C2 and HC districts. Per section 18.184.060(B), a legal nonconforming use shall be permitted to occupy or use an existing building, enlarged existing building, newly constructed building, or relocated building, provided the building meets the current unified development ordinance.

Planner Steele detailed the variance requested. Per Section 18.164.030 of the Angola Municipal Code, it states that accessory structure are permitted within this zoning district. Subsection (E) location; accessory structures shall only be allowed in side yards and rear yards. With location of the primary structure, the only available positioning would be off the northern façade within the side yard for an accessory structure. Avoiding the side yard setback of 20-ft would only allow for an approximate 10-ft wide accessory structure.

Planner Steele mentioned the applicant requests relief to construct a 30-ft by 60-ft accessory structure in the front yard over an already impervious area. The accessory structure is placed 30-ft from the right-of-way to accommodate the front yard setback. The accessory structure is noted to be anchored to the ground with post being buried 32-inches, no windows, two garage doors facing the south, an entry door on east façade, and constructed with same or similar colored metal exterior to match primary structure.

Planner Steele showed images to the board as the property sits today. All images were captured from Wohlert St starting at the northwest property corner and moved south down Wohlert St. One image displayed approximate measurements of the accessory structure placement.

Planner Steele then broke down the contextual zoning and land use surrounding this property. As mentioned, the property is zoned I2. To the north; AW Manufacturing & Repair and Rockwell American, to the south; NEI Glass, Hudson Aquatic, and Metal Spinners, to the East; Chapman's Brewing Company, Rapid Rebuilding, and commercial businesses along N Wayne St, and to the West; Wagler& Associates, Dave's Diesel, Countryside Repair, and AG zoning.

Planner Steele stated the Angola Comprehensive Plan speaks to objectives within principle 1 and principle 2 for a project like this, but it is crucial to stay cognizant. While staff encourage growth of established businesses within corporate limits and redevelopment of under-utilized lots, it is important to protect property values, improve quality of life, and community character.

As of the meeting date, no public input has been received as a result of the legal notices noted Planner Steele.

Planner Steele finished by stating in conclusion, staff agrees that space is very limited in the side/rear yards and understands this project may be a "cheaper" option however does not constitute a 'hardship'. An accessory structure in the front yard would have a negative impact on the character of the

DRAFT

neighborhood and would withdraw from promoting orderly development of a community. If the applicant wished to purse improvements on the parcel, then Staff would recommend applying for an additional primary structure on the property or addition to thew existing primary structure. This would invoke a proper review process for this scale of development via the development plan process with the Plan Commission.

Planner Steele asked board members if there were any questions for staff. Chairman Moore clarified staff recommendation for the petitioner to seek plan commission via an addition to the existing structure or an additional primary structure. Member McKeever asked if the proposed building met all setbacks outlined in the zoning district. Planner Steele noted that all setbacks are met. Director Barclay explained that the route the petitioner is wanting to go, he is essentially skipping the development plan process.

Chairman Moore opened the public hearing. Applicant Jerry Long, 2995 W 100 N, took to the stand to speak on behalf of the project. Mr. Long started by advising all present members he would like to record his session. Attorney Shoup asked for a brief five-minute recess to speak with planning staff.

The meeting was called back to order a short time later. Mr. Long started referencing how he appreciated previous planning staff and storage issues have been a problem for him for two years now. Mr. Long wanted to report that the staff report is not factual. Mr. Long wanted to note that Retha in the planning office told him to seek a variance for this project. Mr. Long mentioned that he was very upset about the denial proposal in the staff report and is asking for the board to be trustworthy. Mr. Long covered his opinion on why he received the denial by staff being aesthetics, first responder response, and neighbor views.

Chairman Moore asked for the petitioner to address why the board should allow for an accessory structure in the front yard. Mr. Long stated because he is landlocked and only has front yard available. Chairman Moore asked for what color the building would be constructed with. Mr. Long mentioned he would like to bring the building color back to its original color of tan with matching shingles to the best he can.

Planner Steele inquired if the second front door could be opened since during his visit with the building commissioner it was blocked off. Mr. Long stated that it can open if need be. Mr. Long presented the board with several photos (Exhibit A) to show the board his struggle for space within the existing building.

Director Barclay asked Mr. Long if his strict use would be secure storage, he agreed. Director Barclay inquired about the anchors and Mr. Long advised the building would be attached to the anchors by screws. Director Barclay inquired further on if petitioner would have an issue classifying this building as a primary structure and Mr. Long did not.

It was noted that the petitioner should have been directed to just go through the development plan process by Director Barclay via the plan commission. Director Barclay took fault stating that the best course of action would have been presenting all development standards for his zoning district.

DRAFT

Member Sutter asked the petitioner how many employees he has working for him. Mr. Long stated that he is the sole proprietor and trying to restructure his business.

Chairman Moore asked Director Barclay for guidance as they move towards the findings for the case. Director Barclay stated the next step is development plan to the plan commission. Director Barclay stated they can either approve an accessory in the front yard or call it a primary, but the project does have to be presented to the plan commission.

Member Ralston asked Director Barclay if the board votes to approve an accessory structure in the front yard, will that set a precedence for future applications. Attorney Shoup stated no. Chairman Moore stated that every case is different and go case by case.

With no comments from the public, Chairman Moore closed the public hearing. Planner Steele presented the Findings of Fact for Development Standard Variance.

1. The approval of the variances will or will not be injurious to the public health, safety, morals and general welfare of the community. The petitioner provided: I cannot think of any way the proposed project would be injurious to public health, safety, moral, or general welfare of the community. On the contrary this will improve safety to where my primary structure can be a more organized, cleaner, and safer environment and to where my automotive lifts and other equipment can be used with less risk to accident injury or property damage. It will also create a cleaner and safer environment for visitors and/or customers. All members present agreed, none opposed.

2. The use and value of the area adjacent to the property included in the variance will or will not be affected in a substantially adverse manner. The petitioner provided: I would like to state that the use and value of the area adjacent to the proposed project will not be affected in any substantially adverse manner because this area is not presently used for my business in any productive or needed fashion presently nor has it ever, and the proposed structure and would not block or obscure any drive or encroach on any of my neighbors boundaries, or the roadway -as I would have a 30 foot setback. It would actually help clean up an eyesore of aging asphalt that is not being used, leave plenty of parking, and create a nice clean new construction appearance to an area far off to the side of my property which has aged and is not so nice looking. Furthermore, it would allow an enclosed space to put items that are an eyesore locked away inside such as our older forklift and other and equipment that presently lays outside year in -year out weathering and not looking very nice. It would allow me to consolidate and clean up the outside appearance and get rid of other means of storage outside that are an eyesore for the community. It would also stimulate the economy as I am trying to spend a sizable amount money with this project in a responsible fashion. All members present agreed, none opposed.

3. The strict application of the terms of the ordinance will or will not result in practical difficulties in the use of the property. The petitioner provided: My primary activities involve re-manufacturing antique classic automobiles and/or automobile customization at 1290 Wohlert. When these vehicles are completed they are sold by my company as a state licensed used auto dealer. These vehicles take up a lot of space— I really need more indoor storage for them, desperately. The current zoning

DRAFT

along with my dealer blanket insurance policy require these vehicles be stored inside, not outside in the parking lot. These vehicles eat up a lot of space indoors and over time have created a logistical hardship for my company, and other bottlenecks. To cope in 2022-2023 I have had to rent offsite storage facilities that are not secure nor does my dealer blanket insurance policy cover them when stored off-site. On average these vehicles have a value of around $40,000 to $50,000, sometimes as high as 70,000 each. So, without insurance coverage and having to store some of them at unsecure locations far away from my business--it has created a hardship. It is not appropriate in many ways to have to store these cars off-site. With that said, I humbly ask for your granting of this variance all things considered. I would be glad to give anyone an on-site tour of my facility so you can see my current hardship in living color and or any other information needed. Thank you for your time. Lastly, it should be stated that the only reason I am needing to apply for this variance per Retha Hicks and others is only for section E of the code 18.164.130 and I would gladly comply even with this one section E if I could somehow do this. But, with the other three businesses surrounding me in how they have built and the position of my current building. I have not any significant "side yard" or back yard" to comply through no fault of my own. All members present agreed, none opposed.

Chairman Moore asked for a motion. **Member Moore made a motion to *conditionally approve* Development Standard variance for Front Yard Accessory Structure after filing a development plan through the plan commission. Member Sutter seconded the motion. All members present were in favor, none opposed.**

Chairman Moore moved to the next item on the agenda 1504 N Wayne St – Special Exception

Planner Steele presented the second case as JK Property for Special Exception. The applicant is Ken Wilson and the property is located at 1504 N Wayne Street Suite B, Parcel ID 760623000009100012 with the current zoning of C2: Medium to Large General Commercial District. The applicant requested relief from Section 18.92.030(B)(2) Type 6 Retail, Special Handling. The hearing date is Monday, November 27, 2023. Legal Notice of the Public Hearing appeared in The Herald Republican on November 17, 2023. Thirteen (13) property owners within 300-ft of the project were sent notice by Certificate of Mailing on November 14, 2023. The property is not within a floodplain and staff recommendation is approval.

Planner Steele continued that Thunder Lakes, a local gun dealer, had expressed interest in relocating their business from its current location at 2160 W 175 N to a vacant building within the city limits. The petitioner, who owns the vacant building, has submitted a proposal to the Angola Plan Commission to rezone the entire Grandstand Plaza from C1: Small to Medium General Commercial District to C2: Medium to Large General Commercial District which was presented prior to this meeting. With the future tenant's main use to be gun sales and its given location, a rezone was most desirable. Gun sales are permitted under Type 6 Retail, Special Handling via approval of a special exception.

Planner Steele mentioned that Grandstand Plaza consists of five parcels and Suite B is the most northeastern parcel/building. The building once housed Homestead Carpet. The C2 district with special exception for Type 6 Retail, Special exception for gun sales is common along N Wayne St, as held in commercial businesses such as Rural King, Dunham Sports, and Walmart.

DRAFT

Planner Steele showed images to the board as the property sits today. The first image showcased the Grandstand Plaza from the intersection of Bickland and N Wayne St and the second image was that of Suite B.

Planner Steele then broke down the contextual zoning and land use surrounding this property. As mentioned, the property is zoned C2. To the north; McDonald's, Arby's, Village Green Apartments, and other commercial properties, to the south; Sofia's Kitchen, Campbell and Fetter Bank, and other commercial properties, to the East; Village Green Apartments, Agricultural, and Institutional property, and to the West; Rural King, Dental Office, restaurants, and other businesses within Angola Square.

Planner Steele stated the Angola Comprehensive Plan speaks to several objectives in support of a project like this. Objective 1.5: Strongly encourage redevelopment of under-utilized, vacant, or abandoned structures and lots and Objective 1.7: Encourage infill development to direct commercial and residential growth inside the corporate limits when under-utilized sites are redeveloped are reflected in the project.

As of the meeting date, no public input has been received as a result of the legal notices noted Planner Steele.

Planner Steele finished by stating in conclusion staff is supportive of this request and is encouraged to see commercial growth within the city and capitalizing a vacant building along a major corridor. The special exception of this parcel would allow for a broader range of permitted uses to attract new businesses and create more opportunities for residents and visitors.

Planner Steele asked if there were any questions by board members for staff, none were noted.

Chairman Moore opened the public hearing. Ian Garner, 319 Pokagon Trail representing JK Properties, took to the stand thanking the board for their time and expressed excitement to have a new location for Thunder Lakes.

With no comments from the public, Chairman Moore closed the public hearing. Planner Steele presented the Findings of Fact for Special Exception.

1. The approval of the special exception will not be injurious to the public health, safety, morals and general welfare of the community because will be utilizing existing infrastructure and mirror neighboring special excepted use. Additionally, the special exception will be strictly to one parcel, north suite of the building. All members present agreed, none opposed.
2. The special exception will not alter the character of the district because the Type 6 Retail, Special Handling is consistent with surrounding properties and character of the area, given its proximity to exact same land use. All members present agreed, none opposed.
3. The special exception is consistent with the purpose of the zoning district and Angola Comprehensive plan because objectives 1.5 and 1.7. All members present agreed, none opposed.
4. The special exception is in harmony with the adjacent land uses because Type 6 Retails, Special Handling is an adjacent land use for gun sales. All members present agreed, none opposed.

DRAFT

5. The special exception will not substantially impact property value in the adverse manner because the properties will continue to be used in a manner consistent with adjacent properties and receive all property approves regulated by federal agency's (ATF). All members present agreed, none opposed.

Chairman Moore asked for a motion. **Member Roe made a motion to *conditionally approve* Special Exception for Type 6 Retail, Special Handling that prior to the issuance of the special exception the rezone passes all required readings at City Council. Member McKeever seconded the motion. All members present were in favor, none opposed.**

Chairman Moore moved to the next item on the agenda Board of Zoning Appeals Rules and Procedures

Director Barclay explained to the board one modification to the rules and procedures for members. Director Barclay references a change to the notice requirements for adjacent property owners would be going from 300 feet to just the adjacent property owners. Director Barclay stated that the state code declares that either is fine.

Chairman Moore asked for a motion. **Member Ralston made a motion to amend the Rules and Procedures. Member Sutter seconded the motion. All members present were in favor, none opposed.**

Chairman Moore moved to the next item on the agenda 2024 Scheduled Meeting Dates.

Director Barclay presented the board with a calendar outlining all 2024 dates, with altered dates being noted. Director Barclay advised the board that the calendar also notates filing deadlines as reflected in previous calendars.

Chairman Moore asked for a motion. **Member Sutter made a motion to approve the 2024 Scheduled Meeting Dates for Board of Zoning Appeals. Member McKeever seconded the motion. All members present were in favor, none opposed.**

With no other business Chairman Moore asked for a motion to adjourn the November 27, 2023 meeting. Member Roe made a motion to adjourn. Member McKeever seconded the motion. The motion carried unanimously. The meeting was adjourned at 6:40 p.m.

_____ _____

Brant Moore, *Chairman* Date

_____ _____

Brett Steele, *Secretary* Date

DRAFT