

Updated:

8/20/18 @ 12:45pm

Added communications for Item 3 - Conditional Use Permit for Big Springs Quarry

8/16/18 @ 4:45pm Added the following items: Draft July Planning Commission Minutes Item 3 - Conditional Use Permit for Big Springs Quarry; 2 N 1700 Rd

8/15/18 @ 5:00pm
The following items will be added when available:
Draft July Planning Commission Minutes
Item 3 - Conditional Use Permit for Big Springs Ouarry; 2 N 1700 Rd

LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION CITY HALL, 6 EAST 6TH STREET, CITY COMMISSION MEETING ROOM AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS WEDNESDAY, AUGUST 22, 2018 6:30PM - 10:30PM

GENERAL BUSINESS:

PLANNING COMMISSION ACTION SUMMARY

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of May 23, 2018.

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of July 25, 2018.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

COMMUNICATIONS

- a) Receive written communications from the public.
- b) Receive written communications from staff, Planning Commissioners, or other commissioners.
- c) Receive written action of any waiver requests/determinations made by the City Engineer.
- d) Disclosure of ex parte communications.
- e) Declaration of abstentions from specific agenda items by commissioners.
- f) General public comment.

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AT THE COMMISSION'S DISCRETION

REGULAR AGENDA (AUGUST 22, 2018) MEETING NON-PUBLIC HEARING ITEMS:

ITEM NO. 1 FINAL DEVELOPMENT PLAN FOR BAUER FARM; 4651 BAUER FARM DR (SLD)

FDP-18-00301: Consider a revised Final Development Plan for Bauer Farm, located at 4651 Bauer Farm Dr. Submitted by Joe Stewart on behalf of Falco LLC, property owner of record.

PUBLIC HEARING ITEMS:

ITEM NO. 2 REZONING .81 ACRES FROM RS7 TO RSO; 708 ELM ST (LRM)

Z-18-00255: Consider a request to rezone approximately .81 acres from RS7 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential-Office) District, located at 708 Elm St. Submitted by TreanorHL, for Elizabeth B. Ballard Community Center Inc., property owner of record.

ITEM NO. 3 CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N 1700 RD (MKM)

CUP-18-00299: Consider a Conditional Use Permit for Big Springs Quarry, approximately 1,049 acres located at 2 N 1700 Rd. and parcels to the north, east, and south. Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record.

WITHDRAWN

ITEM NO. 4A ANNEX 34.2 ACRES; W OF HUNTERS HILL DR & HILL SONG CIR (BJP)

A-18-00246: Consider the annexation of approximately 34.2 acres located west of Hunters Hill Dr & Hill Song Cir. Submitted by BG Consultants, for DFC Company of Lawrence LC, property owner of record. *Initiated by City Commission on 6/19/18*.

WITHDRAWN

ITEM NO. 4B REZONING 34.2 ACRES FROM R-1 TO RS10; W OF HUNTERS HILL DR & HILL SONG CIR (BJP)

Z-18-00247: Consider a request to rezone approximately 34.2 acres from County R-1 (Single-Family Residential) District to RS10 (Single-Dwelling Residential) District, located west of Hunters Hill Dr & Hill Song Cir. Submitted by BG Consultants, for DFC Company of Lawrence LC, property owner of record. *Initiated by City Commission on 6/19/18*.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1 INITIATE TEXT AMENDMENT TO LAND DEVELOPMENT CODE; CONDITIONAL ZONING

Initiate a Text Amendment to the City of Lawrence Land Development Code, to define and clarify the use of conditional zoning.

MISC NO. 2 DOWNTOWN MASTER PLAN STEERING COMMITTEE

Appoint a Planning Commissioner to serve on the Steering Committee for the Downton Master Plan. The Steering Committee will advise, review, and provide feedback to the consultant, within the framework of the project scope, throughout the process for drafting the Downtown Master Plan.

ADJOURN

CALENDAR

July										
Sun	Mon	Mon Tue Wed Thu		Thu	Fri	Sat				
1	2	3	4	5	6	7				
8	9	10	11	12	13	14				
15	16	17	18	19	20	21				
22	23	24	25	26	27	28				
29	30	31								

August 2018										
Sun	Mon	Tue	Wed	Thu	Fri	Sat				
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12	13	14	15	16	17	18				
19	20	21	22	23	24	25				
26	27	28	29	30	31					

September 2018									
Sun	Mon Tue Wed Thu				Fri	Sat			
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9	10	11	12	13	14	15			
16	17	18	19	20	21	22			
23	24	25	26	27	28	29			
30									

PCCM Meeting:

(Generally 2nd Wednesday of each month, 7:30am-9:00am)

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2018 LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION MID-MONTH & REGULAR MEETING DATES

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM	Mid-Mon	Mee 6:30	Planning Commission Meetings 6:30 PM, Monday and Wednesday		
Jan 10	Strategic Plan	Jan 22	Jan 24		
Feb 7	Annexatio	n Process		Feb 21	
Mar 14	Bufferyard & Sensitive	Land Code Standards	Mar 26	Mar 28	
Apr 11	Cand	elled	Apr 23	Apr 25	
May 9	Community Design Man	ual & Design Guidelines	May 21	May 23	
Jun 13	Residential L	Jun 25	Jun 27		
Jul 11	Cand	Jul 23	Jul 25		
Aug 8	Condition	Aug 20	Aug 22		
Sep 12	Downtown Master Plan Scope	Sep 24	Sep 26		
Oct 19 *Friday	PC Orientati	Oct 22	Oct 24		
Nov 7	Cand	Nov 12	Nov 14		
Dec 5	Cano	Dec 17	Dec 19		
Meeting Locations	Suggested topics for future meetings: New County Zoning Codes Water Resources The Planning Commission meetings are held in	Retail Market Bus Tour – Development Patt Native Prairie Visit/Tour The City Commission meeting room on the		n &	
Meeting Locations	Massachusetts Streets, unless otherwise noticed	,	: 1° 1100r of City Hall, 6°	· &	
Planning & Dev	velopment Services Lawrence-Douglas Cou	inty Planning Division 785-832-315	0 www.lawrenceks	s.org/pds	

Revised 8/16/18

	Jan 24	Feb 21	Mar 28	April 23	April 25	May 23	June 27	July 25	August		
	2018	2018	2018	2018	2018	2018	2018	2018	22 2018		
Butler	No	No	Yes	Yes	Yes	Yes	Yes	Yes			
Carttar							Yes	Yes			
Carpenter	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Culver	Yes	Yes	Yes	Yes	Yes	Yes					
Kelly	No	Yes	Yes	Yes	Yes	No	Yes	Yes			
Paden	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Sands	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Sinclair	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Struckhoff	Yes	Yes	Yes	No*	Yes	Yes	Yes	Yes			
Weaver	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Willey	Yes	Yes	Yes	No*	Yes	Yes	Yes	No			
											*APA Conf
	201	8 MID-N	HTNON	ATTEN	DANCE						
	Jan 10	Feb 7	Mar 14	April 11	May 9	June 13	July 11	Aug 8			
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Butler	Yes	Yes	Yes	-	No	Yes	-	Yes			
Carttar						No	-	Yes			
Carpenter	Yes	Yes	Yes	-	Yes	Yes	-	Yes			
Culver	Yes	Yes	Yes	-	Yes						
Kelly	Yes	Yes	Yes	-	Yes	Yes	-	Yes			
Paden	Yes	Yes	Yes	-	Yes	No	-	Yes			
Sands	Yes	Yes	Yes	-	No	Yes	-	No			
Sinclair	Yes	No	Yes	-	Yes	No	-	Yes			
Struckhoff	Yes	Yes	Yes	-	Yes	Yes	-	Yes			
147	Yes	Yes	No	_	Yes	Yes	_	Yes			
Weaver Willey	Yes	Yes	Yes		100	Yes		Yes			



PLANNING COMMISSION MEETING July 25, 2018 Meeting Action Summary

July 25, 2018 – 6:30 p.m.

Commissioners present: Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, Weaver

Staff present: McCullough, Crick, Day, Ewert, Larkin, Pepper, Weik

GENERAL BUSINESS

PLANNING COMMISSION ACTION SUMMARY

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of June 27, 2018.

Motioned by Commissioner Struckhoff, seconded by Commissioner Sands, to approve the June 27, 2018 Planning Commission action summary (minutes).

Approved 9-0. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, and Weaver voted in favor.

COMMITTEE REPORTS

No reports to receive from any committees that met over the past month.

Commissioner Kelly said the Plan 2040 Steering Committee sent out the draft plan for review so Planning Commission would see it soon. He said Planning Commission would have a study session with City and County Commissioners on October 19, 2018.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

Ex parte:

Commissioner Sands said he spoke with Mr. Josh Urban regarding his opposition to Item 2. He said Mr. Urban's objections were the use and the potential for the area to be a target for petty crime.

Commissioner Carpenter said he stopped at the Clinton Store when he visited the area of Item 2. He said several people at the Clinton Store expressed their opposition to the Conditional Use Permit.

No abstentions.

GENERAL PUBLIC COMMENT

No general public comment.

PC Minutes 7/25/18

ITEM NO. 1 FINAL DEVELOPMENT PLAN FOR OREAD WEST OFFICE PARK; NW OF BOB BILLINGS PKWY & WAKARUSA DR (KEW)

FDP-18-00245: Consider a Final Development Plan for Oread West Office Park, located northwest of the intersection of Bob Billings Pkwy & Wakarusa Dr. Submitted by BG Consultants for Oread West Office Park Owner's Association Inc. and Six Pack LLC, property owners of record.

STAFF PRESENTATION

Ms. Katherine Weik presented the item.

APPLICANT PRESENTATION

Mr. David Hamby, BG Consultants, thanked staff and was present for questioning.

PUBLIC COMMENT

No public comment.

ACTION TAKEN

Motioned by Commissioner Sands, seconded by Commissioner Paden, to approve the Final Development Plan, FDP-18-00245, for Oread West Office Park based upon the findings of fact presented in the body of the staff report and subject to the following conditions and subject to City Commission approval of the Preliminary Development Plan:

1. Provision of a signed Site Plan Performance Agreement prior to the recording of the Final Development Plan with the Register of Deeds Office.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, and Weaver voted in favor.

PC Minutes 7/25/18

ITEM NO. 2 CONDITIONAL USE PERMIT FOR WAKARUSA BOAT & RV STORAGE; E 550 RD & N 1190 RD (BJP)

CUP-18-00239: Consider a Conditional Use Permit for Wakarusa Boat & RV Storage LLC, located at E 550 Rd & N 1190 Rd. Submitted by Jason Fike on behalf of Sharon Anderson, property owner of record.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION

Mr. Jason Fike, Wakarusa Boat & RV Storage LLC, said the facility would be a family business that he and his wife would run. He said if the Conditional Use Permit was approved he and his wife would move closer to the area and would not be an absentee owners. He said he would maintain the property as best as possible and add value to the community. He said the location was perfectly suited for boat and RV storage due to its proximity to Clinton Lake and would boost the local economy. He said there would be covered and uncovered storage and the facility would be surrounded by a security fence. He said access to the facility would be through an electric gate only accessible via a code. He stated landscaping would provide screening. He said there would be an onsite office to handle day-to-day operation and a website as well. He stated there was a huge shortage for storage in the area.

PUBLIC COMMENT

Ms. Winona Deiter, 608 1190 Rd, said she was opposed to the boat storage facility. She said there was already a boat storage facility up the road and that a new boat storage would take away business from the existing boat storage. She expressed concern about the impact to wildlife, increased traffic, and blight. She felt boat storage should be closer to the water to be of better service to the people that want to camp and take boats out on the lake. She expressed concern about people coming and going all the time. She said the residents who live in the area would be impacted.

Mr. Greg Shanklin, 1187 E 596 Rd, said the facility would allow for the potential of 142 class II RV's, which would be big and unattractive. He said the large site would allow for a few hundred RV's. He said RV's belonged in an industrial district not a small neighborhood community. He said RV's that cannot be parked in peoples driveways should not be parked in his neighborhood.

Mr. Jim Baldwin, 1171 E 550 Rd, expressed concern about public safety and the location of the access driveway. He also expressed concern about the narrowness of the roads and large RV's and boats navigating it. He was concerned about erosion and water runoff without a holding pond. He said he did not want a view of RV's from his front porch.

<u>Mr. Steven Thomas</u> expressed concern about the layout of the storage units. He said his house would be on the south side and there wasn't any screening. He asked Planning Commission to consider adding screening to the south side of the site.

<u>Ms. Marilyn Colgan</u> expressed concern about traffic safety on the narrow roads and the location of the entrance. She said there were a lot of bicyclists on the road. She said Clinton was a cul-de-sac with one way in and one way out so increased traffic would be a burden to the community.

Mr. Jared Paslay, 603 N 1190 Rd, did not feel there was a need for increased boat storage in the area. He did not feel this would contribute to the community or add value of any kind. He expressed concern about increased traffic. He asked Planning Commission to defer to discuss further.

Mr. John Hall, 462 N 851 Diagonal Rd, expressed concern about traffic safety and said the area was already an extremely well trafficked area without a storage facility. He said recreational bicyclists frequently ride in the area.

APPLICANT CLOSING COMMENTS

Mr. Fike said he spoke with the son of the woman who runs the current boat storage in the area and he said they were always full. Mr. Fike said he would charge double which would mean he wouldn't be taking business away from the other business. He said Clinton Storage, across the lake, was full and that Eudora had storage with no availability. He stated DeSoto and Lawrence storage facilities were also full. He felt there was a need for additional storage. He said wildlife was a fact of development. He said traffic could be an issue but that County Public Works had looked at the 40' wide entrance. He said he would add security cameras but that recreational vehicle and boat owners were not common thieves. He said regarding erosion, he would have to pull a stormwater pollution prevention permit. He said he would not be paving the site, it would be road based rock so rain water would soak in. He said there would be a holding pond for water runoff. He said he would put trees on the south side to shield that side. He felt the storage facility would increase business at the Clinton Store.

COMMISSION DISCUSSION

Commissioner Paden inquired about the current policy for RV & boat storage in town.

Mr. McCullough said staff were drafting regulations as part of the property maintenance code. He said staff hoped to take that to the City Commission in September. He said it would not come to Planning Commission. He said the draft standards would allow some RV's and boats on a property with some different locational and setback standards. He said the idea was to reduce and mitigate impacts to neighbors.

Commissioner Struckhoff asked about setbacks.

Mr. Fike said his architect was revising the plan to address additional trees and setbacks.

Commissioner Butler asked if the rectangles on the site plan represented spaces for RV's.

Mr. Fike said yes, the spaces would be 12' wide. He said the plan was more of a pictorial representation.

Commissioner Butler inquired about the neighbors comment that there was the potential for 142 RV's on the site.

Mr. Fike said he had not figured an exact number of how many RV's the site could hold.

Commissioner Butler inquired about Mr. Fike's earlier comment that there was a shortage of coverage storage.

Mr. Fike said he had called every boat storage facility in the surrounding area and none had covered storage available. He said there was some availability at Lake Perry.

Commissioner Sinclair asked about the current land use of the site.

Mr. Fike said the current land use was agriculture. He said the property owner lived in California.

Commissioner Carpenter said the staff report said the land had been vacant.

Commissioner Pepper said the vacant reference was indicating that there were no structures developed on the property.

Commissioner Kelly asked staff about the Golden Factors for demand of whatever the development is.

Mr. McCullough said the factors were not exclusive so Planning Commission could introduce other factors as they saw fit. He said it was in an urbanized area and there was presumably a demand for the type of use in the area. He said it was a factor that could be considered. He said the revised Comprehensive Plan would introduce the issue of need for certain uses. He said land use issues have to do more with compatibility, design, size, scope, scale, context of neighborhood, location to the lake and people it would serve.

Commissioner Sinclair asked about any other non-residential or non-agricultural uses in the area.

Ms. Pepper said predominately the area was agricultural and rural residential. She said the town of Clinton to the east had businesses. She stated closer to the lake there were more recreational facilities.

Commissioner Carttar inquired about a traffic impact study.

Ms. Pepper said a traffic impact study was not required. She said she reached out to the City Traffic Engineer to ask about trip generations. She said the most compatible use was mini-warehouse storage.

Mr. McCullough said the staff conclusion was that it would not burden the area in terms of traffic. He said they often hear traffic concerns but roads and streets are built to handle traffic.

Commissioner Carpenter wondered about the financial burden of improvements to the roadways.

Mr. McCullough said it would be the development generating the use.

Commissioner Carpenter asked if it had been reviewed by the County Stormwater Engineer.

Ms. Pepper said yes, she believed so. She said the drainage issue was not something she was made aware of prior to this meeting.

Commissioner Sands said the project would be taking away agricultural land and was in contrast to the values of Planning Commission. He said it was not exactly in line with the Comprehensive Plan.

He said the traffic would impact the area. He said he would not support the Conditional Use Permit. He stated it was not in line with the neighborhood.

Commissioner Butler felt it was not fair to comment on traffic and drainage when Planning Commission did not have the facts in front of them. She said her only issue was the size of the development. She asked the applicant if the size was something he was willing to reconsider.

Mr. Fike said he was willing to reduce the size. He said initially he was only developing 3 acres and then expand if there was a need. He said the storage facility across the lake was 28 acres.

Commissioner Paden asked if Mr. Fike used his boat at Clinton Lake.

Mr. Fike said he had been to Perry Lake once but usually boats at Clinton Lake.

Commissioner Kelly said he drove out to the property today and that the character of the area was almost entirely farming. He said the intersection seemed to be a main crossroad in Clinton Township. He said there was nothing to break the line of sight for quite some distance. He said he was struggling with the character of the area. He said he did not discount the demand but his hesitation on approving the Conditional Use Permit was the character of the area. He said a storage facility would really stand out in the area and would be noticed for some distance.

Commissioner Carpenter shared Commissioner Kelly's concern. He said the idea might have merit and fill a need in the area but the location was a problem. He felt it would completely change the character of the area.

Commissioner Struckhoff shared the same concerns regarding the character of the area. He said the idea of storage in the area was a good idea. He appreciated the applicant being flexible to change the plans. He said he would like to see more information about stormwater issues. He expressed concern about the proposed scope of the project at that site. He said he would have a hard time supporting it.

Commissioner Weaver inquired about moving the covered storage.

Mr. Fike said he could only move the building 40' to the left. He said the ground gradually drains to the natural swale area. He said he drew up plans for a retaining pond to keep water off the neighboring property.

Ms. Pepper said the 140' setback on the west property line was the setback. She said open storage had to be treated like covered storage and could not be moved.

ACTION TAKEN

Motioned by Commissioner Kelly, seconded by Commissioner Sands, to recommend denial of the Conditional Use Permit, CUP-18-00239, and forward to the Board of County Commissioners.

Commissioner Carttar asked what the applicants options would be if the proposal was denied.

Mr. McCullough said Planning Commission makes a recommendation to the Board of County Commissioners. He said the County Commission had the option to return it to Planning Commission for further development with the applicant.

Motion carried 7-2. Commissioners Butler and Paden voted against the motion. Commissioners Carpenter, Carttar, Kelly, Sands, Sinclair, Struckhoff, and Weaver voted in favor of denial.



PC Minutes 7/25/18

ITEM NO. 3A REZONING .27 ACRES FROM RSO TO CS; 1710 W 7^{TH} ST & 1711 W 6^{TH} ST (SLD)

Z-18-00242: Consider a request to rezone approximately 0.27 acres from RSO (Single-Dwelling Residential-Office) District to CS (Commercial Strip) District, located at 1710 W 7th St and 1711 W 6th St. Submitted by Casey's Retail Company on behalf of Harold Shephard and James W Vantuyl, property owners of record.

ITEM NO. 3B VARIANCE; 1703, 1711, 1717 W 6TH ST & 1710 W 7TH ST (SLD)

Consider a variance from the right-of-way width for a Principle Arterial Street from 150' to 100' for a Minor Subdivision, MS-18-00243, for Casey's Subdivision, located at 1703, 1711, 1717 W 6th St & 1710 W 7th St. Submitted by Casey's Retail Company on behalf of Lonnie J, and Geneva J. Blackburn, Harold Shephard, Marla Webster, Caroline B. Shephard, and James W. Vantuyl and Brenda S. Vantuyl, property owners of record.

STAFF PRESENTATION

Ms. Sandra Day presented items 3A-3B together.

Commissioner Carpenter asked if any communication from the public was received.

Ms. Day said she received several phone calls.

APPLICANT PRESENTATION

Mr. Jeff Laubach, SBB Engineering LLC, said there were a few meetings held with the Hillcrest neighborhood. He said the attendees of the meeting seemed pleased with the buffer area.

PUBLIC COMMENT

No public comment.

COMMISSION DISCUSSION

Commissioner Kelly asked if any other tools such as conditional use were considered.

Mr. McCullough said there had been a few instances of existing commercial strip wanting to expand. He said the buffer to 7th Street would be retained regardless of the zoning.

Ms. Day said the lot depth had natural constraints to it and the likelihood of intensification was self limiting due to the lot size and the buffer being retained.

Commissioner Kelly inquired about the Eagles Lodge property.

Ms. Day said the Eagles Lodge to the west had split zoning of CS in the front and RSO in the back. She said staff would have had a different response if the applicant had requested commercial zoning all the way to 7th Street.

Commissioner Sands asked if the access points would be reduced to one.

Ms. Day said yes.

Complete audio & video from this meeting can be found online: https://lawrenceks.org/boards/lawrence-douglas-county-metropolitan-planning-commission/

Commissioner Carttar said the staff report mentioned that there had been a recommendation as part of the HOP (Hillcrest-Old West Lawrence-Pinckney) area plan for a task force to examine transitional zoning surrounding the area. He wondered what would be an appropriate catalyst to enable the task force to be formed.

Ms. Day said if this project hadn't launched it she wasn't sure what would have.

Commissioner Carpenter said he was a LAN (Lawrence Association of Neighborhoods) representative to the HOP (Hillcrest-Old West Lawrence-Pinckney) discussions and the task force concept came up as a way to prevent the expansion of commercial uses out from 6th Street, primarily into the Pinckney neighborhood. He said there were discussions about a "line in the sand" with 7th Street and what uses would be allowed between 6th and 7th Street.

Mr. McCullough said the catalyst lies with the neighborhoods themselves to generate that task force. He said there had been some rezonings in the HOP (Hillcrest-Old West Lawrence-Pinckney) area that conformed with the desires of the plan so they were easy to support.

ACTION TAKEN on Item 3A

Motioned by Commissioner Struckhoff, seconded by Commissioner Carttar, to approve the request to rezone approximately .27 acres, from RSO (Single-Dwelling Residential Office) District to CS (Commercial Strip) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, and Weaver voted in favor.

ACTION TAKEN on Item 3B

Commissioner Carttar asked about the variance change in the 2006 Land Development Code.

Ms. Day said the concept, especially with regard to principal arterial streets, was that the wider width would go along with a street profile constructed as a boulevard. She said it worked very well with new greenfield development. She said it did not work so well with urbanized infrastructure. She said it was very onerous to property owners to obtain additional 25-50' of right-of-way that reduces their property further. She said in this particular application the applicant would have to dedicate additional right-of-way that would reduce their ability to build and the adjacent properties would not have that same burden since they weren't building.

Mr. McCullough said in all instances staff are having discussions with the City Engineer about anticipating the need for additional improvements.

Motioned by Commissioner Struckhoff, seconded by Commissioner Paden, to approve the variance requested for a minor subdivision, MS-18-00243, to reducing the right-of-way, required per Section 20-810(a)(5) for a principal arterial street, from 150 feet to 100 feet in accordance with the provisions per section 20-813(g) of the Land Development Code for property located at 1703, 1711, 1717 W 6th Street, and 1710 W. 7th Street.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Sinclair, Struckhoff, and Weaver voted in favor.



PC Minutes 7/25/18

ITEM NO. 4 FINAL DEVELOPMENT PLAN FOR ALVAMAR LOT 1; 1809 CROSSGATE DR (SLD)

FDP-18-00254: Consider a revised Final Development Plan for Alvamar Lot 1, located at 1809 Crossgate Drive (also known as Birdie Way) for the change of use of a 6,300 SF multi-purpose building from a primarily golf cart storage building to a secondary event center/golf cart storage building and exterior patio area. Submitted by Paul Werner Architects, for Eagle 1968 LC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, agreed with the staff report.

PUBLIC COMMENT

No public comment.

COMMISSION DISCUSSION

Commissioner Kelly asked about the staff report language that mentions work on the patio had already begun.

Mr. Werner said what caused concern with the City inspection staff were the columns. He said the columns should have been on the plan. He said the final development plan needed to be revised and the contractors now know to follow the development plan.

Commissioner Carpenter said he looked at the March 15, 2017 Planning Commission minutes and Commissioner Willey asked if the cart barn would be thought of as an event space or just used as needed and Ms. Joy Rhea said the cart storage would not be an event space but could be used in the event of rain. He said cart storage was the original purpose of the building. He asked how it went from cart storage to a primary event space.

Mr. Werner said the approved Final Development Plan provided parking as if it were an event space all the time. He said in the event that 100 golfers get stuck in a rainstorm there is somewhere to put them. He said if you look at the previous approved final development plan it still parks the same number of cars if it were an event space. He said golf carts do not need to be charged as much as they used to. He said a variety of things added up to how the space could be better used. He said it would be used for golf functions and event space.

Commissioner Carpenter said the lots have been moved around so much that it was hard to know what parking goes with which building. He said he doesn't buy the argument that the approved parking went with the event space.

Mr. Werner said there was plenty of parking for every activity.

Commissioner Kelly said it was not really about the parking, it was that Planning Commission approved a plan and then it was changed. He asked Mr. Werner if the plan changed because they realized their needs were different.

Mr. Werner said yes. He said they thought they needed the golf cart storage but made some changes to the main clubhouse. He said it was a combination of many things. He said it was a great looking building.

Commissioner Butler respectfully disagreed and said she did not think it was as innocent as Mr. Werner was trying to portray. She felt this was probably the original plan anyway and it made her angry.

Commissioner Sands asked what would happen if Planning Commission denied it and it reverts back to the previous development plan.

Mr. Werner said it was site planned for an event space with an occupancy based on the building today.

Mr. McCullough said the significant change to the plan was the outdoor activity area. He said staff believed all along that this was a cart barn that served as an emergency shelter for golf events. He said that was how it was represented by the applicant. He said the significant part was the concrete area represented as cart storage. He said a City inspector noticed columns going up which were not on the plan. He said the columns were on a previous iteration of the plans that were not approved. He said work was stopped and discussions began about bringing it back to allow notice to the neighbors of the switch in the use that was originally presented. He said if Planning Commission denies this then occupancy for the building would not be given until it's designed according to the approved plan. He said staff would then do their best to enforce the approved use.

Commissioner Kelly asked about the cutoff for noise.

Mr. Werner said 10:00pm weekdays and 11:00pm weekends seemed consistent with other activities. He said they had tents out there several times with other outdoor events with bands. He said there is some music around the pool sometimes. He said he wanted to be respectful to the neighbors.

Mr. McCullough said the noise ordinance was subjective. He said the Police are put in a tough spot for a noise complaints in a commercial space that has been approved for the use. He said land use decisions can affect their decisions out in the field.

Commissioner Carttar said they were talking exclusively about design changes of the building. He asked if there was anything else not directly related to that building.

Mr. Werner said the columns came from when it was designed with a roof over the whole thing.

Ms. Day said part of the review involves her looking at every note and going through the tables closely. She said the building elevations were updated and pieces of the cart path were different.

Commissioner Kelly asked what time the pool closed at night.

Ms. Lexee Cruz, Jayhawk Club Sales Director, said Sunday-Wednesday 11:00am-8:00pm and Thursday-Saturday 11:00am-9:00pm.

Commissioner Kelly asked if there was outdoor music.

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Ms. Cruz said there was occasionally an acoustic guitar player.

Commissioner Kelly said he was supportive of limitations on the noise. He said the original plan was for cart storage and secondary event space and there were members of the public present at the previous meeting. He said noise would be disruptive to the neighborhood that expected it to be a golf cart storage and secondary event space. He suggested noise cutoff of 9:00pm during the week and 10:00pm on weekends.

Commissioner Sands asked for other examples of outdoor event spaces.

Mr. McCullough provided the examples of Bon Bon, the Cider Gallery and Arterra Event Gallery. He said Bon Bon had a conditions related to amplified noise and time limits.

Commissioner Butler said this is not what Planning Commission was presented and she had no problem denying it. She said it was deceptive and she would not support it.

Commissioner Carpenter said he shared Commissioner Butler's opinion. He said nothing had changed other than the construction was caught.

Mr. McCullough said a building permit was issued based on the approved final development plan. He said if the approved building was built it would be eligible for an occupancy permit. He said if the revised final development plan was denied then the applicant could propose a different plan.

Mr. Werner said a building permit was issued for the building and work was continuing on the building. He said the issue was the outdoor space, not the indoor space.

Mr. McCullough said that was correct. The work that was stopped was the outdoor space. He said if this was denied it could involve ripping out columns, taking away landscaping, and adding the concrete approach to the cart barn that was approved.

Mr. Werner said the technical part that was messed up were the columns being too tall. He said columns higher than 6' require a permit. He stated the building had a permit and is being worked on every day. He said the building was close to being done. He said the issue was about the outdoor space. He said it was a good addition to the club.

Commissioner Kelly said he did not want to set the precedent so he was inclined to deny this.

Commissioner Struckhoff said saving Alvamar was a worthwhile endeavor. He said his inclination was to restrict time on noise. He struggled with the fact that this was already done and now they were in the forgiveness stage. He felt this was a great project but it belonged on their agenda at an earlier time. He said this was out of order and he was on the fence about it.

Commissioner Sinclair said during the course of discussions he realized he should abstain from this item. He said he did not make the connection between the property of record and his current employer until now. He stepped out of the room to abstain.

Commissioner Sands said the use was a reasonable use to expect at a golf course. He said he was still on the fence about it. He suggested restricting the outdoor space to daylight only.

Commissioner Carttar asked about the nature of the discussions from neighbors during the previous Planning Commission meeting in March.

Mr. McCullough said he did not recall much discussion from the community but that it was presented as a cart barn. He said staff wanted to provide the public the opportunity to come back tonight.

Commissioner Carttar asked if the construction of the columns was the only violation.

Mr. McCullough said it was the design of the area as an outdoor patio space instead of an access space for golf carts. He said it was a bait and switch and not implemented the way it was approved. He said it would be a challenge to get it in line with the final development plan but staff would do their best to do so. He said alternative plans could perhaps be submitted by the applicant. He said it was hard to enforce outdoor space. He said the space was approved as an area to prep golf carts but the building was constructed as an event space with finishes such as tile, electricity, and furnishings for an event space.

Commissioner Carpenter said there was a comment in the staff report about no kitchen facilities.

Mr. McCullough said there would be areas for catering.

Ms. Cruz said everything would be cooked in the kitchen clubhouse and then kept warm in the multiuse building.

Commissioner Sands asked if there was any other outdoor event space on the Jayhawk Club property.

Ms. Cruz said there was a patio off the wellness center.

Commissioner Paden said she liked the concept of an event space. She said the hang up was the process and that it seemed like a sneaky way to do something. She said it seemed liked the process hadn't been followed and that was her issue with it.

Commissioner Weaver agreed with Commissioner Butler about being angry about the situation. He said the building was being constructed by knowledgeable contractors and a good architect and they should have known that deviating from the plan would cause discussion about it. He said he was uncomfortable and offended that it would come in after the fact with the assumption it would be okay.

Commissioner Paden said the iteration that was built was in a previous proposal and was denied.

Mr. McCullough said his recollection was it was part of a building design that had an outdoor component to it that had columns and roof. He said it did not meet the development plan.

Mr. Werner said the building plan was denied and was never built.

Mr. McCullough said the building permit plans were denied because it wasn't a fully enclosed building. He said it was a building that was connected to columns and roof structure with a band stage. He said that did not comply with the final development plan.

Mr. Werner said the smaller building was designed, issued a building permit, and that was what was there today.

Commissioner Carttar said the building plan was submitted after the approval of the final development plan in March.

Mr. McCullough said yes, the building plan has to comply with the final development plan.

Ms. Day said the final development plan was not considered construction documents. The construction documents should meet the intent of the final development plan.

Mr. McCullough said the work was stopped because the plans that were approved did not have an outdoor patio area, no columns, and the other things that were constructed.

ACTION TAKEN

Motioned by Commissioner Butler, seconded by Commissioner Carpenter, to deny the Revised Final Development Plan, FDP-18-00254, for Alvamar Lot 1, based upon the discussion by Planning Commission and findings of fact presented in the body of the staff report.

Motion carried 8-0-1, with Commissioner Sinclair abstaining. Commissioners Butler, Carpenter, Carttar, Kelly, Paden, Sands, Struckhoff, and Weaver voted in favor of the motion to deny.

PC Minutes 7/25/18

ITEM NO. 5A ANNEX 34.2 ACRES; W OF HUNTERS HILL DR & HILL SONG CIR (BJP)

A-18-00246: Consider the annexation of approximately 34.2 acres located west of Hunters Hill Dr & Hill Song Cir. Submitted by BG Consultants, for DFC Company of Lawrence LC, property owner of record. *Initiated by City Commission on 6/19/18*.

ITEM NO. 5B REZONE 34.2 ACRES FROM COUNTY R-1 TO RS10; W OF HUNTERS HILL DR & HILL SONG CIR (BJP)

Z-18-00247: Consider a request to rezone approximately 34.2 acres from County R-1 (Single-Family Residential) District to RS10 (Single-Dwelling Residential) District, located west of Hunters Hill Dr & Hill Song Cir. Submitted by BG Consultants, for DFC Company of Lawrence LC, property owner of record. *Initiated by City Commission on 6/19/18*.

Items 5A-5B were deferred prior to the meeting.

PC Minutes 7/25/18

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1 PLANNING COMMISSION ORIENTATION SUB-COMMITTEE

Establish a sub-committee for the October 19, 2018 Planning Commission Orientation/Training Day.

Mr. McCullough said there would be a joint work session around the lunch hour with City Commission and County Commission regarding the Comprehensive Plan.

Commissioner Carpenter said he and Commissioner Willey agreed to be on the sub-committee.

Motioned by Commissioner Carpenter, seconded by Commissioner Weaver, to appoint Commissioners Carpenter, Willey, and Weaver on the Planning Commission Orientation Subcommittee.

Motion carried 9-0.

MISC NO. 2 PLANNING COMMISSION MID-MONTH & HOLIDAY SCHEDULE

Receive revised Planning Commission Mid-Month Schedule and discuss Planning Commission meeting dates of November 12 & 14 and December 17 & 19.

ADJOURN 9:45pm



PLANNING COMMISSION MEETING May 23, 2018 Meeting Action Summary

May 23, 2018 – 6:30 p.m.

Commissioners present: Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, Willey

Staff present: McCullough, Crick, Day, Ewert, Larkin, M. Miller, Pepper

GENERAL BUSINESS

Commissioner Struckhoff recognized Commissioner Culver for his 7 ½ years serving on Planning Commission.

PLANNING COMMISSION ACTION SUMMARY

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of April 23 & 25, 2018.

Motioned by Commissioner Carpenter, seconded by Commissioner Sinclair, to approve the April 23 & 25, 2018 Planning Commission action summary minutes.

Motion carried 7-0-2. Commissioners Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor. Commissioners Butler and Sands were not present for the vote.

COMMITTEE REPORTS

Receive reports from any committees that met over the past month.

Commissioner Willey said the Comprehensive Plan Committee met twice in April and continue to process public comment. She said the final draft would be seen by Planning Commission in the future.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
 - Commissioner Willey said she spoke with Mr. Wesley Broyles regarding Item 4, Marion Springs Event Center Conditional Use Permit, who expressed support for the project.
- No abstentions.

GENERAL PUBLIC COMMENT

No general public comment.

ITEM NO. 1 CAPITAL IMPROVEMENT PLAN

Presentation of recommended Capital Improvement Plan.

STAFF PRESENTATION

Mr. Jeff Crick presented the item.

PUBLIC COMMENT

Mr. Michael Almon commented on the project to fund 19th Street east of Harper to O'Connell Road. He felt the Capital Improvement Plan was premature and the scope larger than what was discussed at City Commission and Transportation Commission. He said there was nothing at Venture Park that would necessitate this at this time. He said he would like to see the project pulled from the Capital Improvement Plan.

COMMISSION DISCUSSION

Commissioner Culver asked staff to comment on pulling one item from the Capital Improvement Plan.

Mr. McCullough said Planning Commission's role was to look at the Capital Improvement Plan projects against the Comprehensive Plan. He said Planning Commission was not looking at the detailed design of the projects. He said Mr. Almon's comments were too detailed for the state statute review by Planning Commission. He said the existing plans of records reflect a connection on 19th Street to Venture Park Industrial Park so it had full plan support. He said street lane width and design, stormwater, etc were not in Planning Commission's purview.

ACTION TAKEN

Motioned by Commissioner Willey, seconded by Commissioner Culver, to make a finding that the projects presented in the 2019 - 2023 Capital Improvement Plan are in conformance with the City's Comprehensive Plan and forward a recommendation to the City Commission for approval.

Motion carried 7-0-2. Commissioners Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor. Commissioners Butler and Sands were not present for the vote.

Commissioner Butler arrived at the meeting at 6:46pm.

ITEM NO. 2 PRELIMINARY PLAT FOR MERCATO 2ND ADDITION; 6200 W 6TH ST (MKM)

PP-18-00028: Consider a Preliminary Plat for Mercato 2nd Addition, a five-lot subdivision on approximately 116.8 acres located at 6200 W 6th St and an associated variance from the standard in Section 20-811(c) of the Subdivision Regulations that sidewalks be installed on both sides of all streets. Submitted by Landplan Engineering, for Kentucky Place LC, JDS Kansas LC, Venture Properties Inc, Tat Land Holding Co LC, Sojac Land Company LC, Scotsdale Properties LC, Tanglewood LC, property owners of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Matt Gough, Barber Emerson, said there was a traffic study from 2017 and an update in 2018. He said staff received the 2018 updated traffic study and four other supplements to calculate traffic generated by the Lawrence Memorial Hospital West facility. He said staff did not accept those methods and intended to hire someone else to look at the numbers. He said the drainage study was updated in March to reflect the comment from staff about the location of detention areas in the right-of-way. He said the revised study was approved by the City stormwater engineer. He said the staff report noted Rock Chalk Drive as a local street. He said Rock Chalk Drive was within 80' of right-of-way, 31' wide, and used like a collector street. He said an enclosed stormwater system was added to the plat. He said page 7 of the staff report references an existing sanitary sewer main located at the northwest corner of the property. He said the sanitary sewer main wasn't extended as part of Rock Chalk Park but was completed several years prior in April 2009. He showed a video on the overhead of the aerial view of the sidewalk area so they could get a sense of the grading and spacing.

PUBLIC COMMENT

<u>Mr. Gary Webber</u>, 907 Murrow Ct, said he supported the staff report for denial of the variance because it did not meet the criteria. He felt this would be a step backward and he encouraged Planning Commission to deny the variance.

Mr. Michael Almon, Sustainability Action Network, said it was common for staff and others to lump together pedestrians and bicyclists as though they were the same population group but he did not feel they were. He said they were different users with different needs. He said nobody was going to walk along 6th Street or Iowa Street to get to this facility but they could do it on a bicycle. He felt bikeway connections were important.

COMMISSION DISCUSSION

Commissioner Sinclair inquired about the purpose for sidewalks on each side of the street.

Mr. McCullough said it was for the convenience of the pedestrian or bicyclist not having to cross roads where it may be unsafe. He said in this instance it would create a gap between the south part of Renaissance Drive and the east side going north past Mercato. He said they have to look at all the ways people will traverse sidewalks, such as internal trips generated or long-range trips. He said equitable infrastructure on both sides of street was for convenience and safety.

Commissioner Sinclair asked about areas of town where there was a sidewalk on one side of the street.

Mr. McCullough said throughout the city's history there have been different time periods of different code requirements. He said it had been an evolution of discussion and the requirement and expectations for the transportation network. He said now they were spending funding and resources to fill in the gaps that were created at different times of the code when sidewalks were not required on the initial development. He said currently when developments are submitted they require sidewalks. He said sidewalk gaps are filled through infill development, greenfield development, or federal grant money.

Commissioner Paden said the Bicycle Pedestrian Task Force was plagued by how to pay for filling sidewalk gaps. She said this variance would create another gap. She asked if Inverness was a collector street from Bob Billings to Clinton Parkway.

Mr. McCullough said he believed so.

Commissioner Paden said Inverness had sidewalks that switched from one side to the other.

Commissioner Culver asked about to the north of Rock Chalk Drive.

Mr. McCullough said it was originally built with a recreation path on one side and no sidewalk on the south side. He said Mercato at the time was proposing residential uses. He said his recollection was that they worked on more of the crosswalks to funnel residential pedestrians to a point along Rock Chalk Drive to get to Rock Chalk Park. He said since Mercato changed to CC600 zoning the sidewalks would be re required as developments were built.

APPLICANT CLOSING COMMENT

Mr. Gough said there were a lot of common sense reasons this could work.

Commissioner Sands arrived at the meeting at 7:22pm.

CONTINUED COMMISSION DISCUSSION

Commissioner Sinclair asked if the reason for the variance was due to the work and cost to make it work with the geography.

Mr. Gough said it was more of an efficiency and practicality based argument. He said what they were trying to achieve could be achieved just as well using the 10' wide recreation path.

Commissioner Sinclair said he was missing why this was a sticking point.

Mr. Gough said there was a process and in this case it was for Planning Commission to hear the variance.

Commissioner Carpenter said Planning Commission was being asked to consider whether conditions exist to grant a variance from the existing city policy. He said he had not heard anything that deprived the property owner the use of their property.

Commissioner Struckhoff said he did not see a reason to grant a variance. He did not want more sidewalk gaps created, especially when there would be a proposed health facility nearby. He said the policy was for sidewalks on both sides of the street and he did not a see compelling reason to grant a variance.

Commissioner Willey agreed with Commissioner Struckhoff that there was no compelling reason to grant the variance.

Commissioner Culver said without it being a residential area and with a 10' recreation path and all the internal pedestrian and bicycle modes of transportation within the development, he felt there would be adequate access points for pedestrians and bicyclist. He said the area would not develop further west due to the South Lawrence Trafficway. He felt a variance could be justified.

Commissioner Struckhoff asked about why the traffic study was not accepted by the city engineer.

Mr. McCullough said staff accepted and acknowledged the conclusions for the project of the medical office complex. He said with a site this size staff needed good traffic information by which to judge future projects and what improvements were needed to accommodate the remainder of Mercato. He said there was additional work to be done with the applicant in terms of traffic.

ACTION TAKEN on Variance

Motioned by Commissioner Paden, seconded by Commissioner Carpenter, to deny the variance requested from Section 20-811(c) of the Subdivision Regulations to waive the requirement to install sidewalks on both sides of proposed Renaissance Drive based on the findings listed in this staff report.

Commissioner Culver said he would not support the motion.

Motion carried 6-2-1, with Commissioners Butler and Culver voting in opposition. Commissioners Carpenter, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in the affirmative to deny the variance. Commissioner Sands abstained.

ACTION TAKEN

Motioned by Commissioner Paden, seconded by Commissioner Culver, to approve the Preliminary Plat of Mercato 2nd Addition subject to the following condition:

- 1. Applicant shall provide a revised preliminary plat with the following change:
 - a. Show and label a 5 ft wide sidewalk along the east side of Renaissance Drive, to be constructed with the Renaissance Drive improvements.
 - i. Alternatively, if the Planning Commission approves a variance from this requirement, note the variance and the date of the Commission's action.

Motion carried 8-0-1, with Commissioner Sands abstaining. Commissioners Butler, Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

ITEM NO. 3 VARIANCE; 893 E 1650 RD (MKM)

Variance from 1,320 ft frontage requirement for Residential Development Parcels which take access from a Principal Arterial. The variance is associated with a Certificate of Survey, CSR-18-00137, for approximately 20 acres located at 893 E 1650 Road. Submitted by Ryan J. Niehoff, property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Ryan Niehoff said given the circumstances of the frontage road he was trying to create two parcels. He said there was already a pending agricultural easement driveway on the south side of the creek. He said a split driveway would require deconstructing the creek and adding a drainage easement to get to the south property.

PUBLIC COMMENT

No public comment.

COMMISSION DISCUSSION

Commissioner Struckhoff asked if the County Engineer had been consulted about the proposed text amendment.

Ms. Miller said yes, the County Engineer was supportive of the amendment, provided it was limited to the one access point.

Commissioner Carpenter asked if a text amendment was passed would there be a need for the variance.

Ms. Miller said in this case yes. She said the topography would make it difficult for them to utilize one access point.

Commissioner Willey said the County made the requirements about the road frontage for safety issues because of the amount of driveways. She said the development patterns that allowed for the neighborhood to develop this way was poor use of agricultural land. She felt continuing in that pattern was not the right direction. She said this gave her pause even though the rest of the neighborhood had developed in this way.

Commissioner Sands asked if there was a proposed text amendment coming up.

Ms. Miller said if Planning Commission approves the variance staff is recommending the initiation of a text amendment.

Commissioner Willey said she would feel more confident if the text amendment came first. She said this felt backwards to her.

Commissioner Struckhoff said the placement of the variance before the text amendment did not concern him as much since the County Engineer was okay with it.

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Commissioner Carpenter inquired about deferring until the text amendment. He said he was concerned about setting a precedent.

Commissioner Butler said it would not be fair to the applicant to defer the request until a text amendment since that could take a while. She said she did not have a issue with the variance request and would support it.

Commissioner Sands asked about how long it would take a text amendment to come back to Planning Commission.

Mr. McCullough said approximately three months.

Commissioner Sands said he agreed with Commissioner Butler and did not have an issue with the order.

Commissioner Sinclair asked if the applicant owned the residential parcels across the road.

Mr. Niehoff said no.

Commissioner Sinclair appreciated Commissioner Willey's comments. He said it seemed like the applicant was the victim of the surrounding development.

ACTION TAKEN

Motioned by Commissioner Sands, seconded by Commissioner Butler, to recommend approval of the variance request to allow a Certificate of Survey creating two Residential Development Parcels to occur on the subject property with less than the required 1,320 feet of frontage requirement for each Residential Development Parcel based on the findings of fact found in the body of the staff report, and subject to the following condition:

- 1. The following note shall be added to the Certificate of Survey:
 - a. On May 23, 2018, the Planning Commission approved a variance from Section 20-806(d)(2) of the Subdivision Regulations [Section 11-106(d)(2) of the County Code]to allow the creation of two Residential Development Parcels with a total of approximately 1,655 ft of frontage on a principal arterial road rather than the 2,640 feet required by Code."

Commissioner Willey said she would vote against the motion because she felt it was premature.

Commissioner Carpenter said this was an example of incremental development in the county. He did not see a hardship since the land still had value. He said he would vote against the motion to be consistent.

Motion carried 6-3, with Commissioners Carpenter, Paden, and Willey voting in opposition. Commissioners Butler, Culver, Sands, Sinclair, Struckhoff, and Weave voted in the affirmative.

ACTION TAKEN

Motioned by Commissioner Sands, seconded by Commissioner Willey, to direct staff to initiate a text amendment to the Subdivision Regulations to revise the frontage requirement for Residential Development Parcels that front on, and take access to, principal arterials.

Motion carried 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.



ITEM NO. 4 CONDITIONAL USE PERMIT FOR MARION SPRINGS EVENT CENTER; 316 E 900 RD (MKM)

CUP-18-00127: Consider a Conditional Use Permit for Marion Springs Event Center, located on approximately 9.58 acres at 316 E 900 Rd, Baldwin City. Submitted by Jay I and Mary D Bessey, property owners of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Jay Bessey said he applied for the building to be on the National Historic Register. He said he was looking forward to preserving the building and maintaining the property.

Ms. Mary Beesey said the building provided value to the community. Said there was interest from the public in renting the space.

PUBLIC COMMENT

Mr. Jay Coffman expressed concern about security, increased lighting and traffic.

Mr. Ryan Niehoff spoke in favor of the event center.

APPLICANT CLOSING COMMENT

Mr. Bessey said there was current lighting on the property and he wasn't aware of any issues. He said the lights were on a timer and could be adjusted. He said he was not requesting a liquor license although patrons could have liquor on-site but would have to abide by the rental rules and conditions.

COMMISSION DISCUSSION

Commissioner Struckhoff asked staff to respond to the comments made about lighting.

Ms. Miller said the applicant could add additional lighting by revising the site plan and having staff review it.

Commissioner Willey felt having a public space in a rural neighborhood was valuable. She said she was excited to see it move forward.

Commissioner Weaver thanked the applicant for trying to preserve the structure.

Commissioner Sinclair said condition 2(c) listed the ending hour of 12:00pm when it should be 12:00am.

ACTION TAKEN

Motioned by Commissioner Weaver, seconded by Commissioner Willey, to approve the Conditional Use Permit, CUP-18-00127, for a *Recreation Facility* use at 316 E 900 Rd, subject to the following conditions:

- 1. The applicant shall provide a revised CUP plan with the following change:
 - a. Provide one additional ADA accessible parking space and update the parking summary.

- b. List the conditions which have been applied to the Event Center use.
- 2. The following conditions apply to the Conditional Use:
 - a. The CUP shall be administratively reviewed every 5 years by the Douglas County Zoning and Codes Office to ensure compliance with the CUP conditions.
 - b. Event occupancy is limited to no more than 200 patrons.
 - c. Event center may operate from 8:00 AM to 10:00 PM Sunday through Thursday, and 8:00 AM to 12:00 PM AM, Friday and Saturday.
 - d. Outdoor night-time events with amplified music are limited to no more than two per month. All other night events with amplified music shall be held indoors or shall be approved as Special Events.
 - e. All parking for the events shall occur on-site. Road-side parking is not permitted.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

ITEM NO. 5 REZONING 14.13 ACRES FROM PID TO IG; 3641, 3660, 3661 THOMAS CT & 3640-3660 E 25TH ST (BJP)

Z-18-00131: Consider a request to rezone approximately 14.13 acres from PID (Planned Industrial Development) District to IG (General Industrial) District, located at 3641, 3660, 3661 Thomas Ct and 3640 & 3660 E 25th St. Submitted by Paul Werner Architects on behalf of Arbor Properties LLC & Roger Johnson, property owners of record.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION

Ms. Joy Rhea, Paul Werner Architects, agreed with staff report and was present for questions.

PUBLIC COMMENT

No public comment.

COMMISSION DISCUSSION

Commissioner Willey said the rezoning seemed like a straightforward housekeeping item.

ACTION TAKEN

Motioned by Commissioner Willey, seconded by Commissioner Sands, to approve the request to rezone approximately 14.13 acres, from PID (Planned Industrial Development) District to IG (General Industrial) District, located at 3641, 3660, 3661 Thomas Ct and 3640 & 3660 E 25th St, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

Motion by Commissioner Sands, seconded by Commissioner Weaver, to move agenda item Misc. 1 up on the agenda.

Motion carried 9-0.

MISC NO. 1 VARIANCE; 3300 W 6TH ST (BJP)

Consider a variance from the right-of-way width for a Minor Subdivision (lot combination), MS-18-00188, for RCB Bank Subdivision, located at 3300 W. 6th Street and 534 Frontier Road. Submitted by BG Consultants on behalf of RCB Bank, property owner of record.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

APPLICANT PRESENTATION

No applicant present.

PUBLIC COMMENT

No public comment.

ACTION TAKEN

Motioned by Commissioner Willey, seconded by Commissioner Culver, to approve the variance requested for a Minor Subdivision, MS-18-00188, to reduce the right-of-way, required per Section 20-810(e)(5) for a principal arterial street, from 150 feet to 110 feet in accordance with the provisions per Section 20-813(g) of the Land Development Code for property located at 3303 W 6th Street.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

ITEM NO. 6 TEXT AMENDMENT TO LAND DEVELOPMENT CODE; SHORT TERM RENTAL (JSC)

TA-18-00079: Consider a Text Amendment to the City of Lawrence Land Development Code regarding Short Term Rental. *Initiated by City Commission on 2/20/18*.

STAFF PRESENTATION

Mr. Jeff Crick presented the item.

PUBLIC COMMENT

Ms. Rhonda Miller, 214 Lawrence Ave, spoke in favor of short term rentals and read a poem she wrote.

Mr. Dan Dannenberg, 2702 University Drive, said most of his street contained rental properties. He wondered who would monitor parties at short term rental properties. He expressed opposition to Short Term Rentals. He felt there would be no regulation.

<u>Mr. Michael Davidson</u>, Explore Lawrence, felt short term rentals should be regulated and felt the city recommendations were sound. He said the regulations played a valuable role in keeping tourism in the community.

Ms. Tena Santaularia, 1535 Kasold Drive, said Airbnb allowed her to take care of her properties and already provided regulations. She said Airbnb hosts are ambassadors for the city. She said she had more than one property. She felt that light regulations were important but did not want over regulations.

COMMISSION DISCUSSION

Commissioner Carpenter inquired about current non-owner occupied properties.

Mr. McCullough said they would need to come into compliance. He said it was not currently an allowed use under the code.

Commissioner Willey inquired about owner occupied short term rental accessory use.

Mr. Crick said it would be an administrative item. He said it would fall under rental licensing. He said Planning Commission would only see Special Use Permits.

Mr. McCullough said accessory uses were permitted by right as accessory uses.

Commissioner Willey asked about the additional burden of staff time.

Mr. McCullough said the known short term rentals could be absorbed into the staff workload with both Special Use Permits and licensing and inspection. He said the program could handle 160 additional short term rentals into the existing 18,000 rental properties.

Commissioner Sands inquired about the nature of the agreement that Airbnb has with the State of Kansas.

Mr. Crick said it was for tax collection. He said it was not required for other platforms and different platforms have different mechanisms to show they are compliant with state taxes.

Commissioner Sands asked if the City or State could restrict the use of certain platforms.

Mr. Crick said it would be extremely difficult since new platforms come and go.

Commissioner Sands asked if short term rentals were taxed at the same rate as hotels.

Mr. Randy Larkin said taxes would still be owed regardless of which company was used. He said the owner of the property would still have to remit taxes. He said if they do not then they would have issues with the State. He said Airbnb took an extra step and reached an agreement with the State to make it easier to submit taxes.

Mr. Davidson said Airbnb was taxed the same as hotels. He said Airbnb collects the money and then remits it to the City.

Commissioner Butler thanked Mr. Dannenberg for his comments. She said there may be benefits of having a text amendment with monitoring. She felt a text amendment was necessary for regulations.

Commissioner Culver asked if other community regulations had been looked at.

Mr. Crick said staff looked at many other communities and there was a large range. He said some were very complex while others had a simple permit.

Ms. Danielle Buschkoetter said there was a wide range in terms of what other cities do. She said the overarching theme was that it depended on what the community needed and what the community was looking for. She said there wasn't a best practice out there and it varied from community to community.

Commissioner Butler inquired about renting a property for 20 days.

Ms. Buschkoetter said it would depend on whether the property was owner occupied or non-owner occupied. She said most other cities say 30 days or under.

Commissioner Butler asked Mr. Buschkoetter to address Mr. Dannenberg's concerns.

Ms. Buschkoetter said the regulations would help staff have some kind of licensing in place to see where rental properties are within the community and identify issues and basic needs. She said it was not currently a permitted use and there were about 160 short term rentals in the community.

Commissioner Willey asked if single-family zoning where only 3 unrelated people were allowed was meeting the needs of the people currently doing short term rentals.

Ms. Buschkoetter said feedback was received about the occupancy standards.

Mr. McCullough said some of the Airbnb listings were for 10-12 people in larger houses. He said there was a congregate living land use as an alternative that could allow a higher occupancy. He said in the Oread District there were over 30 site planned congregate living uses. He said he could see

those uses being converted to short term rentals which would be allowed in what the text amendment proposes.

Commissioner Sands inquired about parking requirements of one space per bedroom.

Mr. Crick said the zoning districts of RS or RM would be one space per bedroom.

Commissioner Sands asked how the text amendment would conflict with the parking requirement of the downtown district.

Mr. McCullough said if the text amendment was approved then the more restrictive would apply and a parking space would need to be provided.

Commissioner Willey asked how often owners have to live in a property to be consider owner occupied.

Mr. McCullough said the legal term is "the majority of the time."

Mr. Crick said owner occupied does not mean the owner has to be on-site during the rental.

Commissioner Willey asked if there were options for short term rental in Industrial zoning.

Mr. Crick said yes, residential uses in any district would be consistent across the table.

Commissioner Willey said she stayed in a short term rental recently at a conference in New Orleans. She said although she enjoyed her stay she was appalled there was only one exit, no working fire escapes, and no fire extinguisher. She felt standards would keep people safe.

Commissioner Culver said this was a great starting point and would need to be adapted as the industry evolved.

Commissioner Struckhoff said he was supportive of the text amendment.

Commissioner Willey felt the occupancy standards needed to echo what they would be for long-term rentals.

Commissioner Carpenter wondered if the hotel industry was purchasing property to use for short term rentals.

Mr. Davidson said the Marriott chain was looking at working with properties to put into their system.

ACTION TAKEN

Motioned by Commissioner Sands, seconded by Commissioner Paden, to forward the proposed amendment to Articles 4, 5, 9, and 17 of the Lawrence Land Development Code permitting short-term rental unit uses to the Lawrence City Commission with a recommendation for approval.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

ITEM NO. 7 TEXT AMENDMENT TO LAND DEVELOPMENT CODE; CONDITIONAL ZONING (SLD)

TA-18-00154: Consider a Text Amendment to the City of Lawrence Land Development Code, Article 13 to review and potentially remove conditional zoning. *Initiated by City Commission on 4/17/18*.

STAFF PRESENTATION

Commissioner Sands said he had ex parte with Mr. Hugh Carter and his concerns about removing conditional zoning as a tool from the planning toolbox.

Ms. Sandra Day presented the item.

PUBLIC COMMENT

Mr. Hugh Carter, Chamber of Commerce, said he was part owner of property on Research Park Drive that was being rezoned to allow climate controlled storage. He felt the ability to condition was an important tool. He said conditional zoning was used for the good of the neighborhood and helped to alleviate fears. He stated the community was growing and infill was a way to control sprawl and to condition out offensive uses.

COMMISSION DISCUSSION

Commissioner Sands asked staff for a summary of City Commission concerns.

Mr. McCullough said a particular rezoning came up on Research Park Drive striking a number of uses in the IL zoning district to match the IBP zoning district. He said conditional zoning was identified as an alternative to the text amendment process. He stated it was beneficial for a number of reasons. He said it may be something staff does not support putting into a new district just to support one property because it would affect all zoning city wide. He said the Research Park Drive applicants were willing to strike all other uses because they had a specific use in mind. He said City Commission had discussions that if mini-warehouses were allowed in the area then why weren't they looking at incorporating it into the IBP district. He said City Commission initiated a text amendment to consider adding mini-warehouses in the IBP district. He said staff was working on language to distinguish between climate controlled and traditional mini-warehouses. He said the City Commission discussion was not a fully informed discussion because there were some terms thrown out like contract zoning and spot zoning. He said the current City Commission had only seen a few conditional zoning items and were not used to the way it had been used in the past and did not have the benefit of the staff research being presented in the staff report. He said City Commission rezoned that particular property to IL with conditions. He said the direction from City Commission was to go through the amendment process and if mini-warehouse ends up going into the IBP district the direction was to go back to the one property on Research Park Drive and initiate a rezoning back to the IBP district. He said that was the solution to cure what City Commission believed was a process issue. He said some projects may not have been moved forward if not for conditional zoning.

Commissioner Struckhoff said the use of conditional zoning was his least favorite way to get the best outcome of both encouraging development, satisfying the applicant with a reasonable project, and

still protecting the interest and needs of the neighborhood. He said conditional zoning was one of the most important tools in the PC toolbox. He appreciated the ability to provide a solution to allow a development and a good use to proceed while still maintaining control and protections that the conditions provide. He agreed with staff about not removing the use of conditional zoning.

Commissioner Culver asked what other tools could be used to allow unique situations to work if conditional zoning was removed.

Ms. Day said it would mean more text amendments to add more uses to districts, as well as more planned developments. She said it would be more process heavy to do the same project. She stated it would probably end up diluting districts or creating many more districts, such as CN4 and IL4. She said prior to the new Land Development Code being adopted staff went through the old code trying to collapse down those many districts that had grown because of that exact issue of creating a new district for a single project or use.

Mr. McCullough said there would be less distinction between districts as uses were added from one district to the next.

Commissioner Willey said she liked conditional zoning because it allowed for creativity in solving problems. She said infill was difficult and conditional zoning allowed for some control to alleviate fears in neighborhoods. She said she would hate to see the conditional zoning tool go away. She said she understood why the Research Park project got flagged by City Commission as being a little bizarre because all other uses were removed. She said that specific project could have been solved with a text amendment but some past projects where conditional zoning was used could not have been solved with a text amendment. She said Planning Commission would end up having to say no to projects they like because they cannot give reassurance to the neighborhood about fears. She stated she supported the staff recommendation of keeping conditional zoning.

Commissioner Sands said if conditional zoning was removed it would broaden and restrict other tools.

Mr. McCullough said there were implications to the zoning code in terms of when they were looking at uses and striking uses. He said the analysis of a text amendment that would affect the entire city was different than the analysis done on a specific property.

Commissioner Sands supported the staff recommendation of keeping conditional zoning.

Commissioner Carpenter said the discussion of "either-or" did not address the issue. He said initially the League of Women Voters opposed conditional zoning. He felt it was essentially planning a la carte by choosing what they do and don't want in a zone. He felt there should be predictability for property owners who live around infill development. He said they were forcing rezonings to comply with area plans. He said all conditional zonings were not the same and it was a mischaracterization to say he was against all conditional zoning. He said the ones that bothered him were the ones where the density was increased and uses were stricken from it. He said he was not completely opposed to conditional zoning but felt a better system was needed to define what it was and what the process was and when it would apply. He said the new Comprehensive Plan was forcing more infill so they would see a need for more flexibility. He felt there was middle ground for choosing which types of uses were good and bad and how to address the issue. He wondered why there were 35 conditional zonings since the new Development Code was adopted in 2006 and what was missing

from the Development Code that didn't take these issues into account. He wondered if they could add something to the Development Code that could take these issues into account. He felt conditional zoning had the potential to be legally challenged. He felt they could do this in a more structured and predictable fashion to address the issue.

Commissioner Sands asked Commissioner Carpenter if the proposed text amendment language met his intent.

Commissioner Carpenter said no and neither did the current language.

Commissioner Willey said City Commission probably wanted Planning Commission to have this discussion. She said what she was hearing from Planning Commission was that they did not want to remove the conditional zoning tool completely but it may need a great deal more time and attention. In the meantime, City Commission should expect that Planning Commission would forward those to them.

Commissioner Culver said something he found helpful during his years on Planning Commission was to learn some of the processes and procedures the applicant goes through that Planning Commission does not see. He felt it would be helpful to educate decision makers on the process and procedures the applicant goes through in regard to what type of tool could be used for different scenarios.

Mr. McCullough said staff employs the right tool in the right condition. He said the thing that was hard to predict was what the harm might be to the neighborhood from project to project. He said there is a high hurdle to change the zoning of a property once conditional zoning was established. He stated it would be difficult to come up with code language that was predictable enough to hit every possible future scenario. He said there would be some impacts to developments deemed as good. He said even a Planned Development Overlay was not the most flexible tool to use.

Commissioner Carpenter felt this would be a long-term discussion that should go hand in hand with the Comprehensive Plan.

Mr. McCullough said staff struggles with what problem this initiative is trying to solve. He said he would not know what to do with the Code until he received clarity on what problem is trying to be solved. He said the City's position is that conditional zoning is a legal tool.

Commissioner Struckhoff asked Planning Commission if for now it made sense to return the text amendment to City Commission without changes.

Commissioner Sands said yes. He felt the text amendment should be forwarded to City Commission with a recommendation to retain existing language with no changes. He struggled with sending nothing back to City Commission.

Commissioner Willey said Planning Commission looked at the text amendment and had a full-bodied discussion. She said the changed language did not solve the problem so it was entirely appropriate to send the text amendment back to City Commission with no changes but with the understanding that more discussions were needed in the future.

Mr. Randy Larkin said Planning Commission could send the text amendment back to City Commission with no changes. He said if City Commission did not agree with that opinion they would direct staff to prepare something specific which would be brought back to Planning Commission.

Commissioner Struckhoff said regarding Mr. McCullough's comment about 'what problem were they trying to solve' he requested that the 35 properties with conditional zoning be examined. He wondered if there had been complaints or problems with any of them.

Commissioner Carpenter said there were 10 conditional zonings in 2013.

Mr. McCullough said he did not know of any complaints.

ACTION TAKEN

Motioned by Commissioner Willey, seconded by Commissioner Culver, to forward the proposed amendment, TA-18-00154, amending Article 13 of the Lawrence Land Development Code to the City Commission with a recommendation to retain the existing language with no changes.

Motion carried 8-1, with Commissioner Carpenter voting against the motion. Commissioners Butler, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor of the motion.

ITEM NO. 8 TEXT AMENDMENT TO LAND DEVELOPMENT CODE; RECORDING SUBDIVISION DOCUMENTS WITH REGISTER OF DEEDS (SLD)

TA-18-00199: Initiate a Text Amendment to the City of Lawrence Land Development Code, Articles 8 and 13, to update requirements for recording subdivision documents with the Douglas County Register of Deeds Office.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

PUBLIC COMMENT

No public comment.

ACTION TAKEN

Motioned by Commissioner Sands, seconded by Commissioner Paden, to initiate a Text Amendment to the City of Lawrence Land Development Code and the Subdivision Regulations for the unincorporated areas of Douglas County to revise the requirement related to the material used for recording documents with the Douglas County Register of Deeds Office.

Motion carried 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

ITEM NO. 9 TEXT AMENDMENT TO COUNTY ZONING REGULATIONS; DATA COLLECTION DEVICES (SLD)

TA-18-00155: Consider a Text Amendment to the Douglas County Zoning Regulation Article 13-319-5.01, to include and define *Data Collection Devices*, such as SODAR and meterologic equipment and similar equipment as a Temporary Business Use. *Initiated by County Commission on 3/28/18*.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

PUBLIC COMMENT

No public comment.

COMMISSION DISCUSSION

Commissioner Carpenter asked about the purpose of the measurements.

Ms. Day said SODAR was equipment to collect data for a potential wind farm application.

Commissioner Carpenter asked if it would be as loud as a motorcycle.

Ms. Day said it would be louder than the clicking of computer keyboard typing but quieter than a motorcycle.

Commissioner Willey asked if it bothered the birds.

Ms. Day said she wasn't sure she could answer that.

ACTION TAKEN

Motioned by Commissioner Culver, seconded by Commissioner Weaver, to approve Text Amendment, TA-18-00155, amending Chapter 12-319-5 of the Douglas County Zoning Regulations to include *Data Collection Devices* as a temporary business use and forwarding to the Board of County Commissioners with a recommendation for approval.

Unanimously approved 9-0. Commissioners Butler, Carpenter, Culver, Paden, Sands, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

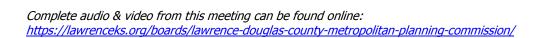
ITEM NO. 10 TEXT AMENDMENT TO LAND DEVELOPMENT CODE; OUTDOOR LIGHTING STANDARDS (MKM)

TA-18-00085: Consider a Text Amendment to the City of Lawrence Land Development Code, Articles 11 and 17, to update outdoor lighting standards to include standards for various types of light fixtures, such as LED. *Initiated by Planning Commission on 2/21/18.*

ITEM NO. 11 TEXT AMENDMENT TO LAND DEVELOPMENT CODE; STORAGE USES IN IBP DISTRICT (SLD)

TA-18-00150: Consider a Text Amendment to the City of Lawrence Land Development Code, Articles 4, 5, 9 and 17 to define certain types of storage uses; *Mini-Warehouse, self-storage, climate controlled self-storage and similar uses* and to permit some uses in the IBP (Industrial/Business Park) District. *Initiated by City Commission on 4/17/18*.

Items 10 and 11 were deferred prior to the meeting.



ITEM NO. 12 CONDITIONAL USE PERMIT; 1055 E 1500 RD (MKM)

CUP-17-00313: Consider a Conditional Use Permit for a *Recreation Facility* (event center), and a *Rooming, Boarding, and Lodging House*s (Short Term Rental) located on approximately 1.26 acres at 1055 E 1500 Road. Submitted by Stan Trekell, for Linda G. Fritz, Inc., property owner of record. *Deferred by Planning Commission on 4/25/18.*

Item 12 was withdrawn by the applicant prior to the meeting.



MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 2 METROPOLITAN PLANNING ORGANIZATION POLICY BOARD

City Appointee Planning Commissioner to Metropolitan Planning Organization Policy Board.

Motioned by Commissioner Willey, seconded by Commissioner Culver, to nominate Commissioner Sands to serve on the Metropolitan Planning Organization Policy Board.

Motion carried 8-0-1, with Commissioner Sands abstaining. Commissioners Butler, Carpenter, Culver, Paden, Sinclair, Struckhoff, Weaver, and Willey voted in favor.

ADJOURN 10:43pm

Planning Commission Key Links



Plans & Documents

- o Horizon 2020
- o Sector/Area Plans
- o <u>Transportation 2040</u>
- o 2015 Retail Market Study

Development Regulations

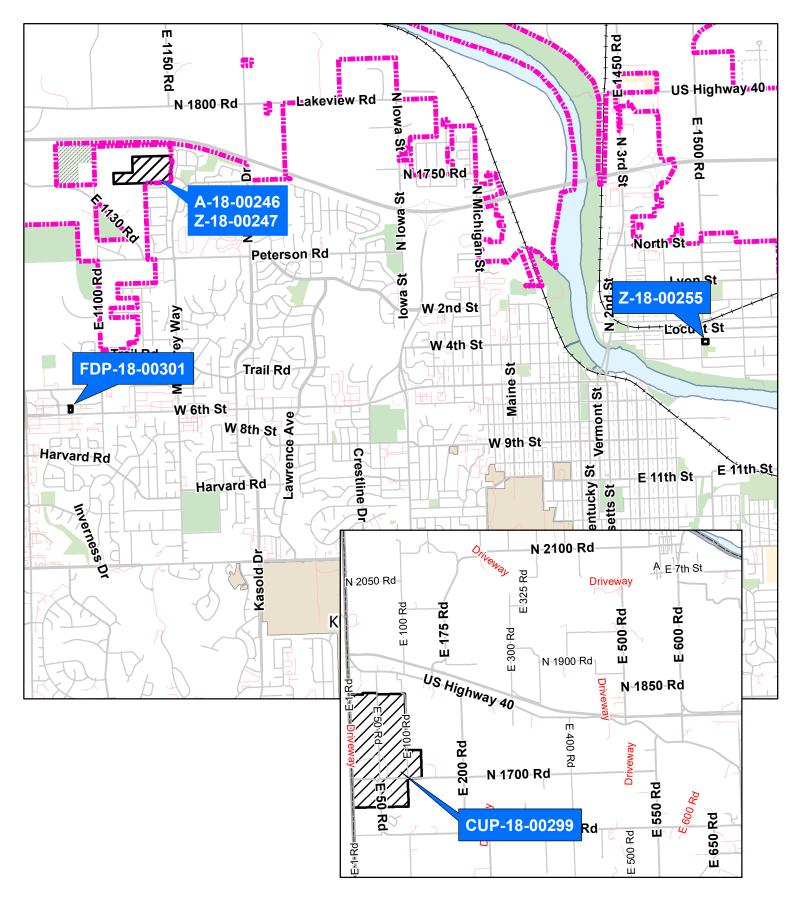
- o Community Design Manual
- o County Zoning Regulations
- o <u>City Land Development Code</u>
- o Subdivision Regulations

Online Mapping

- City of Lawrence Interactive GIS Map
- Douglas County Property Viewer
- o Submittals to the Planning Office

Planning Commission

- o <u>Bylaws</u>
- o Mid-Months & Special Meetings
- o <u>Minutes</u>
- o Planning Commission Schedule/Deadlines



Lawrence-Douglas County Planning Commission August 2018 Public & Non-Public Hearing Agenda Items



PLANNING COMMISSION REPORT Non-Public Hearing Item

PC Staff Report 08/22/2018

ITEM NO. 1 FINAL DEVELOPMENT PLAN FOR BAUER FARM VERIZON; 4651 BAUER FARM DR (SLD)

FDP-18-00301: Consider a Final Development Plan for Verizon, a *Retail Sales General* use, located at 4651 Bauer Farm Dr. Submitted by Joe Stewart, Architect, for FALCO, LLC, contract purchaser, Free State Holdings Inc., property owner of record.

STAFF RECOMMENDATION: Planning staff recommends approval of the Final Development Plan based upon the findings of fact presented in the body of the staff report.

Attachment:

- A. Proposed Final Development Plan
- B. Preliminary Development Plan (PDP-15-00529)

Design Standards to Consider

- Consistency with approved preliminary development plan, PDP-15-00529.
- Consistency with Article 10 of the 1966 Zoning Code and the standards contained in the 2006 Land Development Code.

KEY POINTS:

- Final Development Plans for projects with preliminary approvals prior to the adoption of the 2006 Land Development Code require Planning Commission approval.
- The proposed building is smaller than the building shown on the approved preliminary development plan.
- The proposed structure is for a single user. The approved preliminary development plan showed a multi-tenant building.
- The number of parking spaces is fewer than shown on the approved preliminary development plan.
- The open space area shown in this final development plan is increasing from the area shown on the approved preliminary development plan.
- This site shares access with the commercial use to the west, which is consistent with the approved preliminary development plan.

ASSOCIATED CASES

- PDP-15-00529; Bauer Farm Revised Preliminary Development Plan. City Commission approved on January 6, 2016.
- PF -15-00094; Bauer Farm 7th Plat.
- MS-16-00126; Minor Subdivision.
- FDP-16-00104; Zaxby's, 4661 Bauer Farm Drive.

OTHER ACTION REQUIRED

- Final Development Plan shall be recorded with the Douglas County Register of Deeds Office upon approval and prior to issuance of building permits
- Applicant shall apply for and obtain building permits prior to development.

PUBLIC COMMENT

No public comment was received prior to the printing of this staff report.

PLANS AND STUDIES REQUIRED

- Traffic Study Accepted by City staff.
- Downstream Sanitary Sewer Analysis The downstream sanitary sewer analysis cover letter
 dated June 15, 2018 provided by Joe Stewart Architect has been reviewed and accepted for
 this project satisfying the criteria required for the DSSA as outlined in Administrative Policy
 76. The proposed use will have a lower impact to the sanitary sewer than the use provided
 in the previously approved DSSA submitted by Landplan Engineering on January 20, 2010.
- Drainage Study The drainage letter dated June 15, 2018 meets the specified requirements and is approved.
- Retail Market Study Not applicable to application.

GENERAL INFORMATION

Current Zoning and Land Use:

PD-[Bauer Farm] (Planned Commercial Development) District; developing mixed-use project.

This district is a special purpose base district defined per Section 20-222 intended only to provide a suitable classification for land included in a Planned Development approved prior to the Effective Date, of the Land Development Code (July 2006).

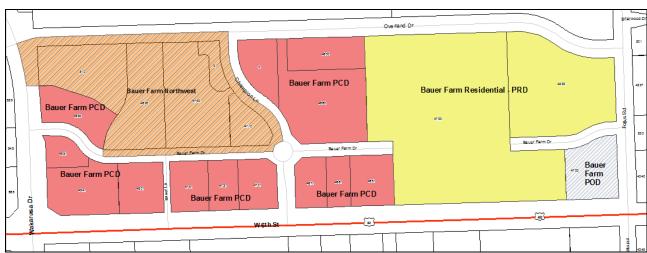


Figure 1: Bauer Farm Planned Development

Surrounding Zoning and land use:

PD-[Bauer Farm] (Planned Commercial Development) District to the west and northwest. A *Theater* is located on the north side of Bauer Farm Drive. A *Fast Order Food, Drive-In* use building located to the west known as Zaxby's and will shared access with this use.

PD-[Bauer Farm] (Planned Residential Development) District to the north and east. Developing multi-dwelling residential use to the east. Undeveloped mixed row house, duplex, and detached residential development.

PD-[Westgate] (Planned Commercial Development) District to the south; existing multi-tenant retail commercial building.

STAFF SUMMARY

This final development plan proposes the development of a 2,400 square foot single story *retail store* on a 28,490 square foot parcel [Lot 2, Bauer Farm Eighth Plat] located on the south side of Bauer Farm Drive. The proposed building is a single use building and contains a smaller footprint than the approved preliminary development plan, which showed a larger multi-tenant building development for this lot.

STAFF REVIEW

The Bauer Farm development was proposed and planned as a New Urbanism type of development, which would utilize several Traditional Neighborhood Design (TND) concepts. The Planning Commission approved waivers that were necessary to accommodate TND concepts such as smaller lots, narrower rights-of-way, and reduced peripheral setbacks. Several development plans have been approved for both the commercial and residential portions of the development. The Planning Commission reapproved waivers with their consideration of the 2015 revised preliminary development plan, PDP-15-00529. The 2015 revision separated the undeveloped commercial area located in the northwest portion Planned Development and updated the residential portion of the project with recent changes. The developed portions of the planned development and the undeveloped lot east of the Zaxby's site (4661 Bauer Farm Drive) remained as part of the original commercial portion of the Bauer Farm Planned Development.

The proposed use is located on the south side of Bauer Farm Drive. Uses on the south side were intended for more auto-oriented access with pedestrian sidewalks connecting uses throughout the Bauer Farm development and to W. 6th Street.

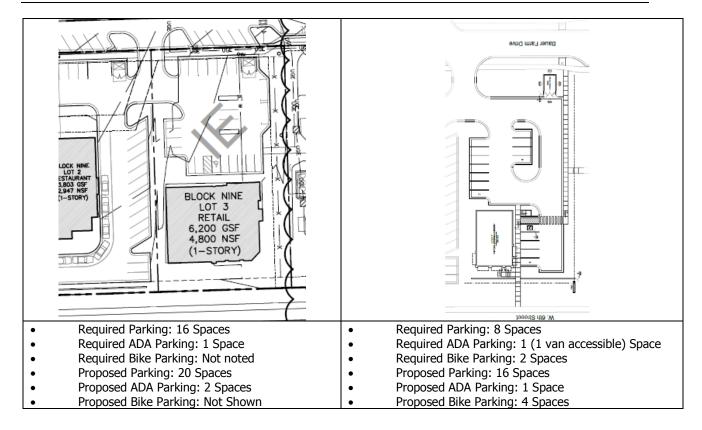
Off-Street Parking

In the 1966 Zoning Code, off-street parking is calculated at a different ratio and an alternative methodology was specifically applied to planned developments. Per the 1966 Zoning Code, parking was based on net square feet of building space rather than gross square feet as in the current Land Development Code. Additionally, planned development off-street parking was calculated at a rate of 1 space per 200 net square feet regardless of use. Prior to 2006, there was no mitigation requirement for excess parking. This proposed development includes excess parking but includes fewer spaces than what was shown on the approved preliminary development plan. The proposed building footprint is smaller and located on the west side of the site. This design allows for reducing the off-street parking.

The following table summarizes the off-street parking shown on the approved preliminary development plan and the proposed final development plan.

Table 1: Off-Street Parking Summary

Approved Preliminary Development Plan	Proposed Final Development Plan
Building: 6,200 square feet	Building: 2,400 square feet
Parking at 1:200 Net Square Feet	Parking at 1:300 Gross Square Feet
Per 1966 Zoning Code	Per 2006 Land Development Code



The approved preliminary development plan shows on-street parking along Bauer Farm Drive. This final development plan does not show on-street parking. The developer of Bauer Farm could request on-street parking in the future, subject to appropriate plans being submitted and approved. The proposed development exceeds the required off-street parking for this use. Excess parking does not require mitigation per Section 20-901 of the Land Development Code since this project was initiated under the 1966 Zoning Code. This proposed development reduces the number of off-street parking and the total imperious area shown on the approved preliminary development plan. This is an overall improvement to the site and is less intense development than the preliminary approval granted for this phase.

REVIEW CRITERIA

The Planning Commission is responsible for the final decision-maker of a final development plan under the 1966 Zoning Code. Applications submitted for final development plan approval must be in substantial compliance with the approved preliminary development plan. This section of the report provides a summary of the proposed development's "substantial compliance the approved preliminary development plan" based on the 1966 Zoning Code under which it was originally approved, and under applicable development standards of the current Land Development Code.

Section 20-1013 (b) of the 1966 Zoning Code states that a plan submitted for final approval shall be in substantial compliance with the plan previously given preliminary approval and that modifications may not:

- 1. Increase gross residential density or intensity by more than 5% or involve a reduction in the area set aside for common open space.
- 2. Increase the total floor area proposed for non-residential or commercial uses by more than 10%.
- 3. Increase the total ground area covered by a building by more than 5% or involves a substantial change in the height of buildings.

The proposed final development plan:

- 1. Does not include any residential use or include a reduction in common open space within the phase or development.
 - a. The approved plan included 27% of the site as open space.
 - b. The proposed plan includes 38% of the site as open space.

A minimum of 20% of the area in a Planned Development is required to be placed into common open space. The majority of common open space for the Bauer Farm Planned Development is located within the residential portions of the project. Open space for individual commercial lots is located along the perimeter of the lots and along the street frontages.

- 2. The proposed building is smaller than the building shown on the preliminary development plan.
 - a. The approved plan included a 6,200 square foot multi-tenant building.
 - b. The proposed plan includes a 2,400 square foot building single tenant building.
- 3. The proposed final development plan does not increase the ground covered by a building.
 - a. The building height is not altered by this request. Both plans indicated a single story building for this phase.

The proposed development meets the requirements of being substantially compliant with the approved preliminary development plan. The approved preliminary development plan included a multi-tenant *Retail* use building for this phase. This proposed application is for a single tenant *Retail* use. The overall intensity of the use is substantially less than then approved plan. The project is being "processed" under the old code; the review criteria for determining compliance with an approved preliminary development plan are comparable between the 1966 Zoning Code and the 2006 Land Development Code.

Finding: This application complies with the 1966 Zoning Code for consideration of a final development plan. A new public hearing is not required. The 1966 Zoning Code requires the Planning Commission to approve a final development plan as the determining authority.

Drive thru Uses in Bauer Farm Planned Development

A significant feature of the traditional neighborhood design concept is the limited number of vehicle oriented uses, specifically drive-thru uses. The development plan, including all the areas zoned PCD, PRD, and POD, was modified in 2008 to restrict drive-thru uses to the following mix:

- Three restaurant uses (3)
- One Bank (1)
- One other non-restaurant such as a pharmacy (1)

The plan included automotive service uses that did not count toward these "drive-thru" restrictions.

The CVS, (4841 Bauer Farm Drive), and Taco Bell, (4721 Bauer Farm Drive), buildings were the first in the area to be developed with drive-thru components. Two other restaurant uses were then developed with drive-thru components: Starbucks (4701 Bauer Farm Drive), and Burger King (4671 Bauer Farm Drive). The Preliminary Development Plan was modified in 2015 to increase the total number of drive-thru uses, excluding automotive service uses, within the Bauer Farm Planned Development (inclusive).

- Four restaurant uses (4)
- Two bank uses (2)
- One other non-restaurant such as a pharmacy (1)

The fourth restaurant use, Zaxby's (4661 Bauer Farm Drive) was constructed in 2016. This proposed development shares access with the Zaxby's site. One remaining non-restaurant drive-thru use (bank) may be developed on the northwest corner of Folks Road and W. 6th Street (4431 Bauer Farm Drive). This application does not include a drive-thru component. This information in included for reference

Finding: This application does not alter the overall drive-thru count approved for the Bauer Farm Planned Development.

Access and Circulation

Vehicular access to this site is provided from Bauer Farm Drive, which is consistent with the approved preliminary development plan. Access to the site is shared with the adjacent property to the west.

Pedestrian Connectivity

A pedestrian walkway connects the building with the W. 6th Street sidewalk. A sidewalk extends along the east side of the property from Bauer Farm Drive providing a connection from the residential development to the site.

Lighting

A photometric plan including a point-by-point illumination array has been provided. The lighting levels and fixture type are compliant with the standards in Section 20-1103(d) (3) of the Land Development Code. This property abuts a residential development along the eastern property line. The proposed lighting plan shows light levels to be compliant with the Land Development Code for areas abutting residential zoning.

Landscaping

Peripheral boundary buffer yards are not required between PUDs in the same development. Parking lots are also required to be screened between developments and screened from public rights-of-way.

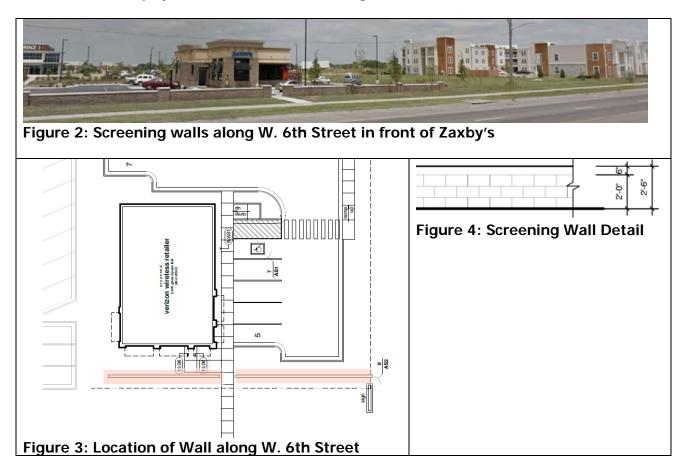
The site includes street trees along both Bauer Farm Drive and W. 6th Street. Shade trees are proposed in the parking lot and along the east side of the site between the commercial and residential uses. The site exceeds the minimum required interior landscape area and plantings.

Table 2: Landscape Summary

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Interior Parking Lot	Required	Provided
Area	640 square feet	2,004 square feet
Trees	1 tree per 10 spaces = 2 trees	6 trees
[number per parking space]		
Shrubs	2 shrubs per 10 spaces = 6	52 shrubs total for site.
[number per parking space]		25 interior to parking lot.
		Remainder screening perimeter of
		parking lot.

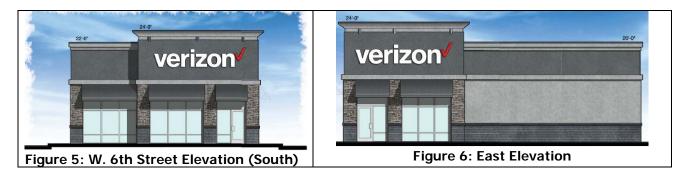
The approved preliminary development plan included a screening wall located along the south side of the commercial properties along W. 6th Street. This screening wall was not constructed

along the Burger King site, but was constructed as part of the Zaxby's project included the wall construction. This project will continue the wall along W. 6th Street.

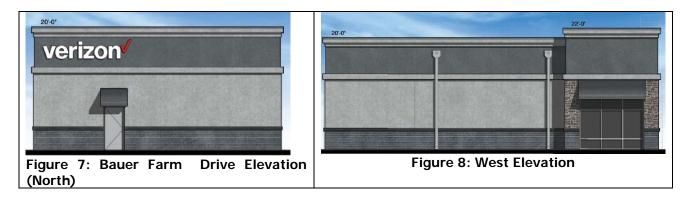


Commercial Design Guidelines

Planned Developments provide the developer greater flexibility for the developer to achieve their desired design and development. They also allow for greater control over the aesthetics of a site. Proposed building elevations include variation in material, building planes, and a varied roofline as viewed from W. 6th Street. The entry is located on the southeast corner of the building accessed from the parking lot consistent with other commercial buildings within the development. The entry is covered and prominent.



The rear and west elevations are consistent with the details found on the other two primary elevations. The rear elevation will be augmented by landscaping to soften the appearance of the wall.



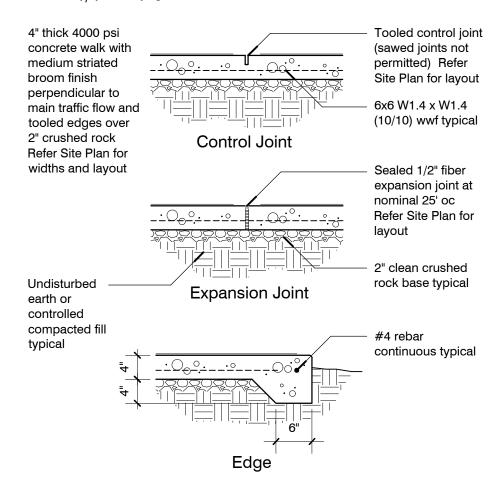
Finding: The proposed building meets the intent of the Commercial Design Guidelines.

Conclusion

The development proposed with this final development plan is smaller and less intense than the approved preliminary development plan. The design of the project provides adequate connectivity between the public streets and the development. This final development plan would complete the commercial phases of the original PCD portion of the Bauer Farm Planned Development.

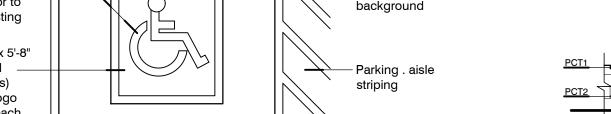
The graphic below shows the approved development and remaining vacant lots within the Planned Development.



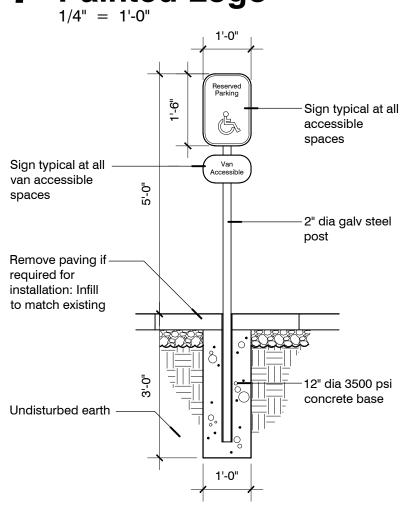


typical **Walk Details**

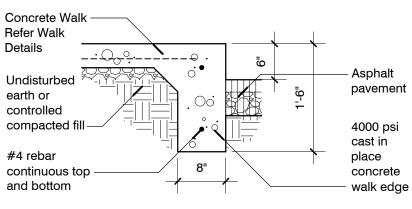
proposed

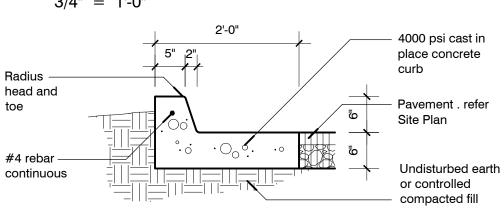


Blue traffic paint



10 Landscape Wall





Total Impervious: 17,614 sf

Total Pervious: 10,876 sf

Total Property Area: 28,490 sf Total Property Area: 28,490 sf

Curb and Gutter

verizon wireless retailer Driv Streeet 6/AS1) arm 6th auer 2-0 clear x 14-0 clea \mathbf{m} refer Civil Drawings for grading, dimensions, PROPERTY SURFACE SUMMARY utility, and landscape information **Existing Summary** Summary after project completion Total Building: 0 sf Total Building: 2,400 sf Total Pavement: 0 sf Total Pavement: 15,214 sf

Total Impervious: 0 sf

Total Pervious: 28,490 sf

Site Summary

Site Area 28,490 sf . 0.65 ac Gross Building Area

2,400 square feet Parking

Required: 8 stalls [1 / 300 sf] Provided: 16 stalls [1 disabled] Ratio: 6.67 spaces / 1,000 sf

Bike Parking Required: 2 spots [1 / 10 parking spots] Provided: 4 spots [2 U racks]

Reference Notes

General 1.01 Line of building profile below

1.02 Wood roof trusses

Sitework 2.01 Install 4" thick concrete walks . Refer Civil for

specifications and configurations 2.02 Install ADA compliant ramp assembly . Refer Civil for

exact location, specifications and configurations 2.03 6" dia steel pipe bollard with concrete fill . embed min 10 Specialties

10.01 Provide and install address numbering at storefront

10.02 Junction boxes for tenant signage . face flush with

10.03 Canvas awning to be installed over powder coated

aluminum frame . refer Finish Schedule

10.05 Internally illuminated double faced sign panel

15.01 Rooftop package hvac units . Refer MEP

15.02 Route 3" roof drain down in adjacent pilaster

15.03 Primary roof drain in tapered sump pan . refer

16.01 House electrical panel and telephone distribution

16.02 Wall lights . mount with bottom at 8-0 aff . Refer MEP

16.03 Floor mounted outlets and data ports . Refer MEP

All masonry to be sealed with 'Sure Klean' Siloxane PD water

repellant [protect adjacent finishes] . GFM1 . FB1 . FB2 . PCT1

'Sunbrella' Mildew Resistent Fabric Charcoal 2643-0000 . black

'Endicott Brick' Manganese Ironspot Velour modular units with

Class PB 'Dryvit' Quartzputz Finish to match SW7072 Online

Class PB 'Dryvit' Quartzputz Finish to match SW7075 Web Gray

Class PB 'Dryvit' Quartzputz Finish to to match SW7008 Alabaster

Clear Finish anodized aluminum storefront system with nominal 1 3/4" x 4 1/2" frame and tempered 1" insulated

glazing: 'Kawneer' or approved equal [AAS1 . Spandrel]

6x16 units with standard tooled concave mortar joints

units with standard tooled concave mortar joints

'Northfield Block' Cordova Stone . Midnight Splitface nominal 8x16

standard tooled concave mortar joints: [field brick]

facade finish and cover plate painted to match

and installed by others under separate permit]

assembly with prefinished metal frame [PFM1]

route below sidewalk and daylight in curb face

or above door as may apply

10.04 Bilco Type E Steel 36 x 36 roof hatch

10.06 Bike Rack . Inverted U

16 Electrical Systems

cabinet . Refer MEP

Exterior Finish Schedule

'Canyon Stone' Bauer Farm Stone

powder coated aluminum frame

'Sherwin Williams' SW7072 Online

AAS Anodized Aluminum Storefront

PFM1 Pre-Finished Metal

'Berridge' Charcoal Grey

[parapet cap . metal trim]

CVA Canvas Awning

FB1 Modular Face Brick

[random . ashlar]

[field . upper]

[accent]

[doors]

[masonry caps]

[masonry base]

PCT2 Pre Cast Base

Mechanical Systems

and service doors . 6" tall white vinyl self adhesive on

adjacent material [exterior building signage provided

36" below grade in 18" dia concrete pier

2.04 Sealed 1/2" fiber expansion joint

Concrete

4" thick concrete floor slab over 6 mil poly vapor barrier and 6" clean crushed rock . Refer Structural

3.02 3500 psi concrete grade beam footing with #5 rebar continuous t-c-b, #4 stirrups at 48" oc max and #5 rebar vertically nom 32" oc in grouted cmu cells

3.03 6" thick 4000 psi concrete slab with #3 rebar at 18" oc each way over 4" clean crushed rock

3.04 Concrete footings and foundations . Refer Structural **3.05** 3500 psi concrete grade beam footing with #5 rebar continuous t-c-b, #3 stirrups at 12" oc max

Masonry

4.01 Veneer masonry . Refer Exterior Finish Schedule

4.02 8" concrete masonry units with reinforced-grouted cells at nom 32" oc max . paint interior face of cmu **4.03** Natural stone veneer over galvanized diamond lath on

15# building felt . Refer Exterior Finish Schedule **4.04** Ground face masonry veneer . Refer Exterior Finish Schedule

4.05 Grout solid below grade . slab level

4.06 Truss type horizontal masonry joint reinforcement at 16" oc vertically

Membrane thru wall flashing and screened plastic 1/4" weeps at nom 32" oc Galv corrugated metal masonry ties at 16" oc vert and

24" oc horiz (max spacings) 4.09 Utility brick veneer . Refer Exterior Finish Schedule

4.10 Pre cast concrete trim . Refer Exterior Finish Schedule

comply with 2012 IMC Section 306.5 requirements

Metals

5.01 Steel roof ladder . provide with OSHA compliant safety cage and hinged locking screen assembly . ladder to

5.02 Steel column typ . Refer Structural

5.03 6" sq steel tube column with concrete fill . imbed full depth in concrete grade beam

5.04 1.5" pair heavy duty steel hinges each leaf . weld to

column and gate frame 5.05 1 1/2" 22 gauge intermediate steel decking . weld to

steel gate frame and brace

5.06 Steel footbolt . receiver pipe each leaf

5.07 Steel barrel bolt assembly weled to gates PCT1 Pre Cast Trim **5.08** 3 x 4 x 1/4 steel frame . weld . nominal size 3-8 x 5-8 'Northfield Block' Cordova Stone . Midnight Groundface nominal

each gate leaf

5.09 2 x 2 x 1/4 steel interior brace . weld **5.10** Double 8" 16 gauge metal stud box beam header

5.11 8" 14 gauge metal stud framing at 16" oc 5.12 8" 14 gauge metal stud lateral collars at 32" oc

horizontal and nominally 48" oc vertical **5.13** Double 8" 14 gauge studs at each end with 14

gauge metal wrap with 3" flanges **5.14** 4 x 8 x 1/4 steel angle LLU with 1/2" x 18" anchor bolt

and nine (9) #12 Tek screws each angle

Wood . Plastics

6.01 7/16" 'AdvanTech ZIP System'

6.02 2 layers treated 3/4" plywood **6.03** 5/8" osb sheathing

6.04 Exterior Wall: 2x6 wood studs at 16" oc . on treated sill

with sealer . 7/16" 'AdvanTech ZIP System' . foil faced R19 batt insulation

6.05 Wood header framing . Refer Structural

6.06 Pre engineered wood roof truss with sloped top chord and horizontal bottom chord . Refer Structural

Treated 2x continuous cap

6.08 Provide fire blocking at ceiling height . typical 10-0 aff .

8'- aff adjacent restrooms

Thermal . Moisture

7.01 R19 foil faced batt insulation 7.02 3" polyisoanuarate insulation over 15# building felt

7.03 45 mil mechanically attached TPO membrane roofing assembly (provide 10 year warranty. comply with FM standards) . tan

7.04 Pre finished 26 ga metal parapet cap - flashing

Refer Elevations for colors **7.05** Pre finished 26 ga metal fascia wrap over 3/4" treated plywood substrate . Refer Elevation for

7.06 Sealant and backer joint . typical

7.07 Membrane roofing system flashing ply up and over top of parapet

7.08 Tapered insulation roof crickets

7.09 1 1/2" rigid insulation . return min 24" below floor

7.10 4"w x 6"h scupper opening with pre finished metal wrap thru wall . place 2" above flow level . locate

Doors . Windows

Note: All mechanical

equipment shall be screened

per section 20-1006 of the

Land Development Code

1.75" x 4.5" black anodized aluminum storefront system

with tempered 1" insulated glass

8.02 Insulated hollow metal door and frame . Refer Door

4-0 min horizontal from drain

SIGNATURES

KAREN WILLEY - CHAIR OF PLANNING COMMISSION

SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION

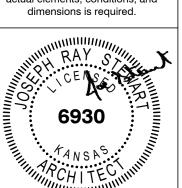
JOE STEWART

ARCHITECT

125 Highland Park Avenue Excelsior Springs . MO 64024 kcmojoe1973@gmail.com

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816 . 830 . 2754



signed 12 July 2018 Project Number 18.103.07 **ADA Compliance** Certification To best of my professional

knowledge, the facility as indicated is in compliance with the Americans with Disabilities Act, including the current ADA Title III Design Guidelines. Joseph Ray Stewart

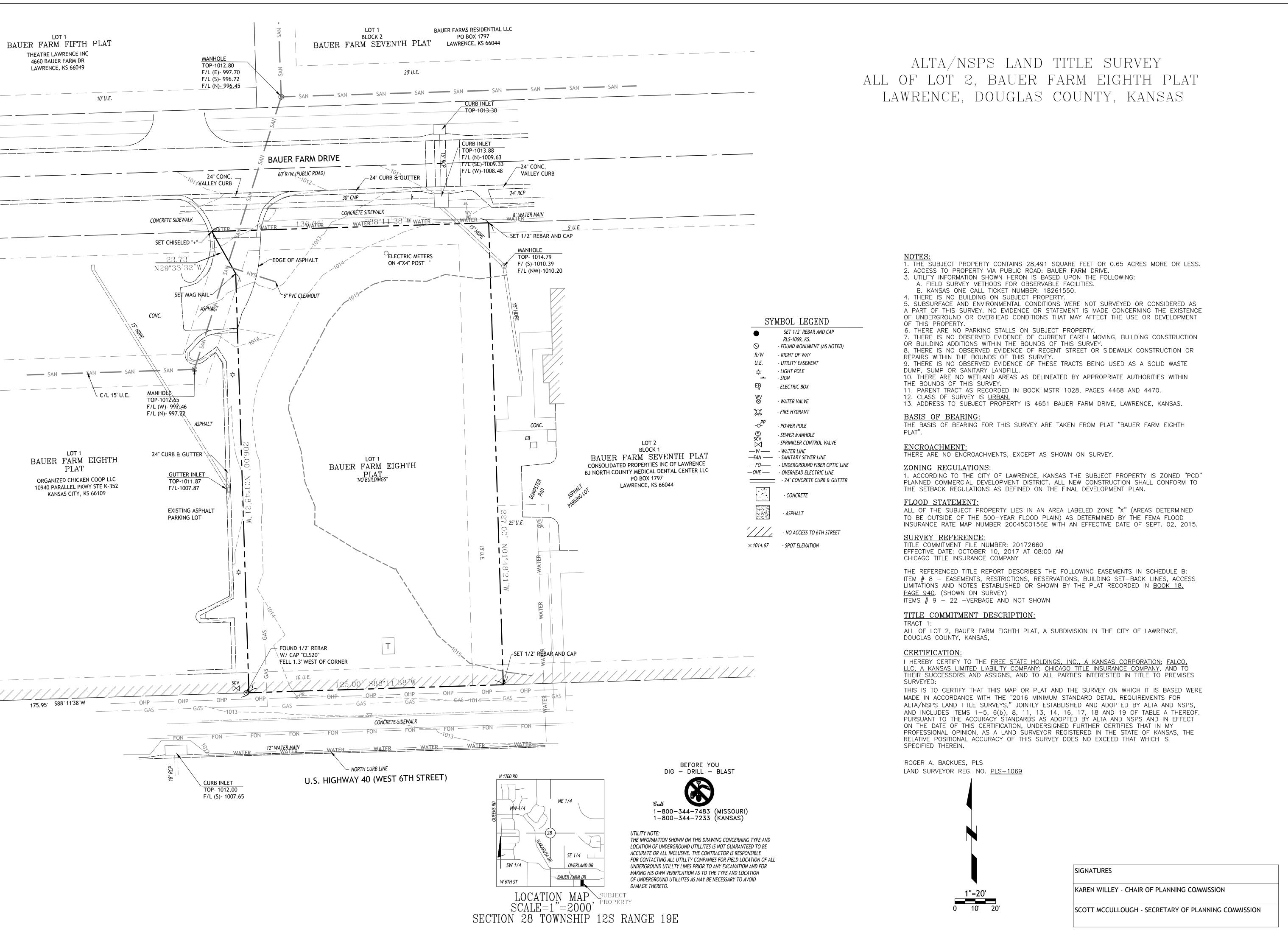
Kansas Architect 6930

Revisions

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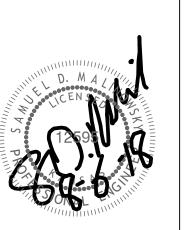
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Site Plan Site Summary permit 12 July 2018



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785.341.9747

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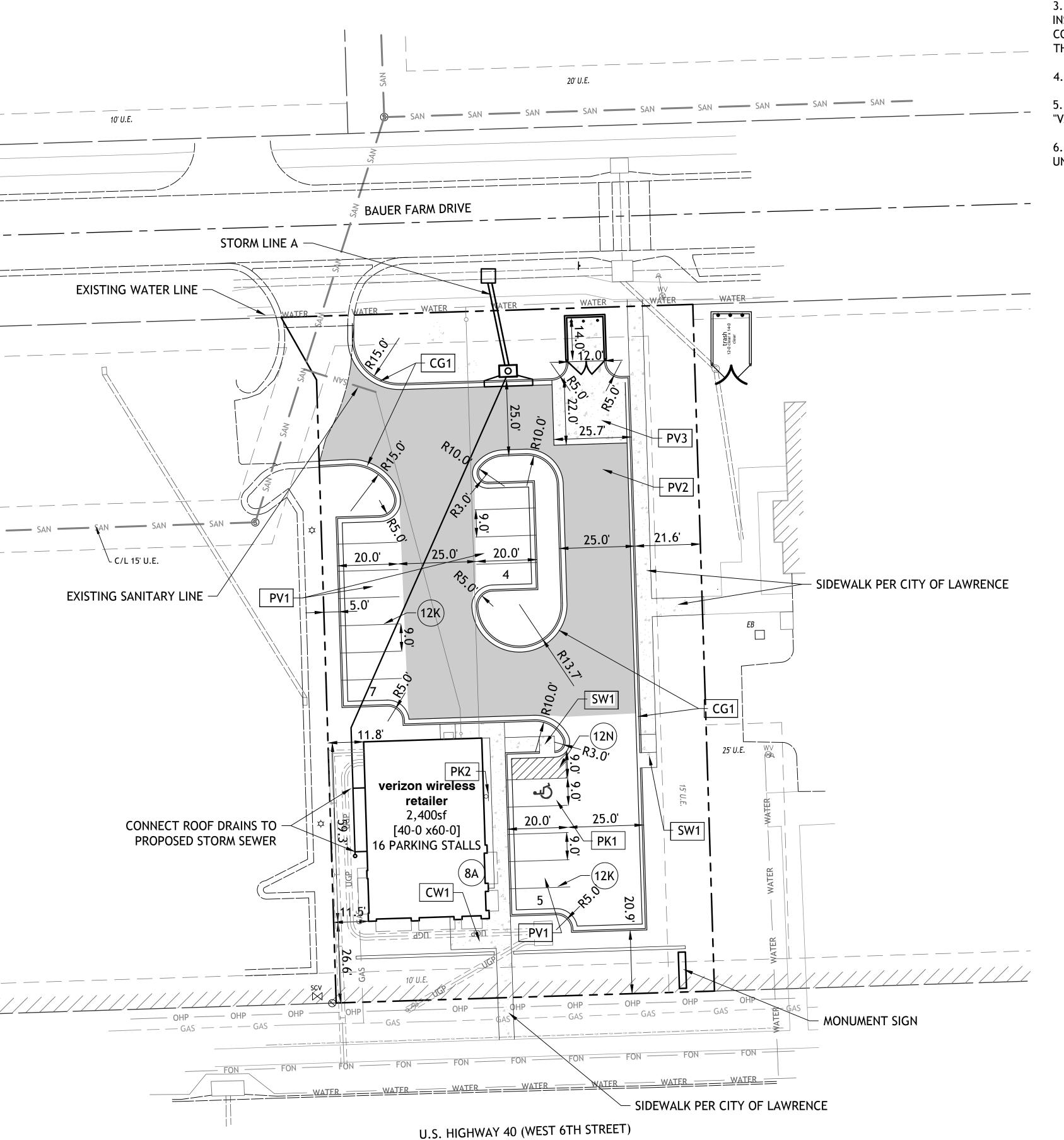
WERIZON WIRELESS

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Civil

EXISTING CONDITIONS

permit 31 JULY 2018



CONSTRUCTION NOTES:

1. COORDINATE START-UP AND ALL CONSTRUCTION ACTIVITIES WITH OWNER.

2. ALL CONSTRUCTION WORK AND UTILITY WORK OUTSIDE OF PROPERTY BOUNDARIES SHALL BE PERFORMED IN COOPERATION WITH AND IN ACCORDANCE WITH REGULATIONS OF THE AUTHORITIES CONCERNED.

3. PUBLIC CONVENIENCE AND SAFETY: THE CONTRACTOR SHALL CONDUCT THE WORK IN A MANNER THAT WILL INSURE, AS FAR AS PRACTICABLE, THE LEAST OBSTRUCTION TO TRAFFIC, AND SHALL PROVIDE FOR TI-1E CONVENIENCE AND SAFETY OF THE GENERAL PUBLIC AND RESIDENTS ALONG AND ADJACENT TO HIGHWAYS IN THE CONSTRUCTION AREA.

4. ALL DIMENSIONS SHOWN ARE TO THE BACK OF CURB UNLESS OTHERWISE NOTED.

5. ACCESSIBLE STALLS SHOWN WITH A "VAN" SHALL BE 16'-0" MIN. AND SHALL HAVE A SIGN DESIGNATING "VAN-ACCESSIBLE". SEE DETAIL.

6. ALL TRAFFIC CONTROL DEVICES, INSTALLATION AND OPERATIONS SHALL CONFORM WITH THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES".

NOTE

1. CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF ENTRANCE. SLOPED PAVING, EXIT PORCHES. RAMPS. PRECISE BUILDING DIMENSIONS AND EXACT BUILDING UTILITY ENTRANCE LOCATIONS.

2. THESE PLANS HAVE NOT BEEN VERIFIED WITH FINAL ARCHITECTURAL CONTRACT DRAWINGS. CONTRACTOR SHALL VERIFY AND NOTIFY THE ENGINEER OF ANY DISCREPANCIES. CONTRACTOR IS FULLY RESPONSIBLE FOR REVIEW AND COORDINATION OF ALL DRAWINGS AND CONTRACTOR DOCUMENTS.

3. ALL DIMENSIONS ARE TO BACK OF CURB UNLESS NOTED OTHERWISE

4. ALL DIMENSIONS ARE PERPENDICULAR TO PROPERTY LINE.

5. ACTUAL SIGN LOCATIONS TO BE COORDINATED WITH CONSTRUCTION MANAGER.

6. SEE ELECTRICAL PLAN FOR LOCATION OF PARKING LOT LIGHTS.

SEE DETAIL SHEET FOR THE FOLLOWING DETAILS:

CG1 CONCRETE CURB AND GUTTER (UNLESS OTHERWISE NOTED)

PK1 96" ACCESSIBLE & VAN ACCESSIBLE SPACE STRIPING

PK2 ACCESSIBLE PARKING SIGN

CW1 CURB WALK AT BUILDING

SW1 SIDEWALK RAMP

HDA HEAVY DUTY ASPHALT

PV1 LIGHT DUTY ASPHALT

PV2 HEAVY DUTY ASPHALT

PV3 CONCRETE PAVEMENT

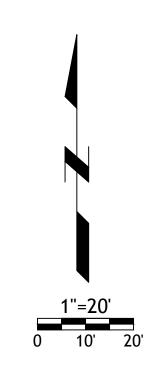
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BA DOOR (SEE ARCH. PLANS)

12K YELLOW PARKING LOT STRIPING (SHERWIN-WILLIAMS

TM 2160 LEAD FREE OR APPROVED EQUAL)

12N 4" YELLOW STRIPES 3'-0" O.C.



SIGNATURES

KAREN WILLEY - CHAIR OF PLANNING COMMISSION

SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION

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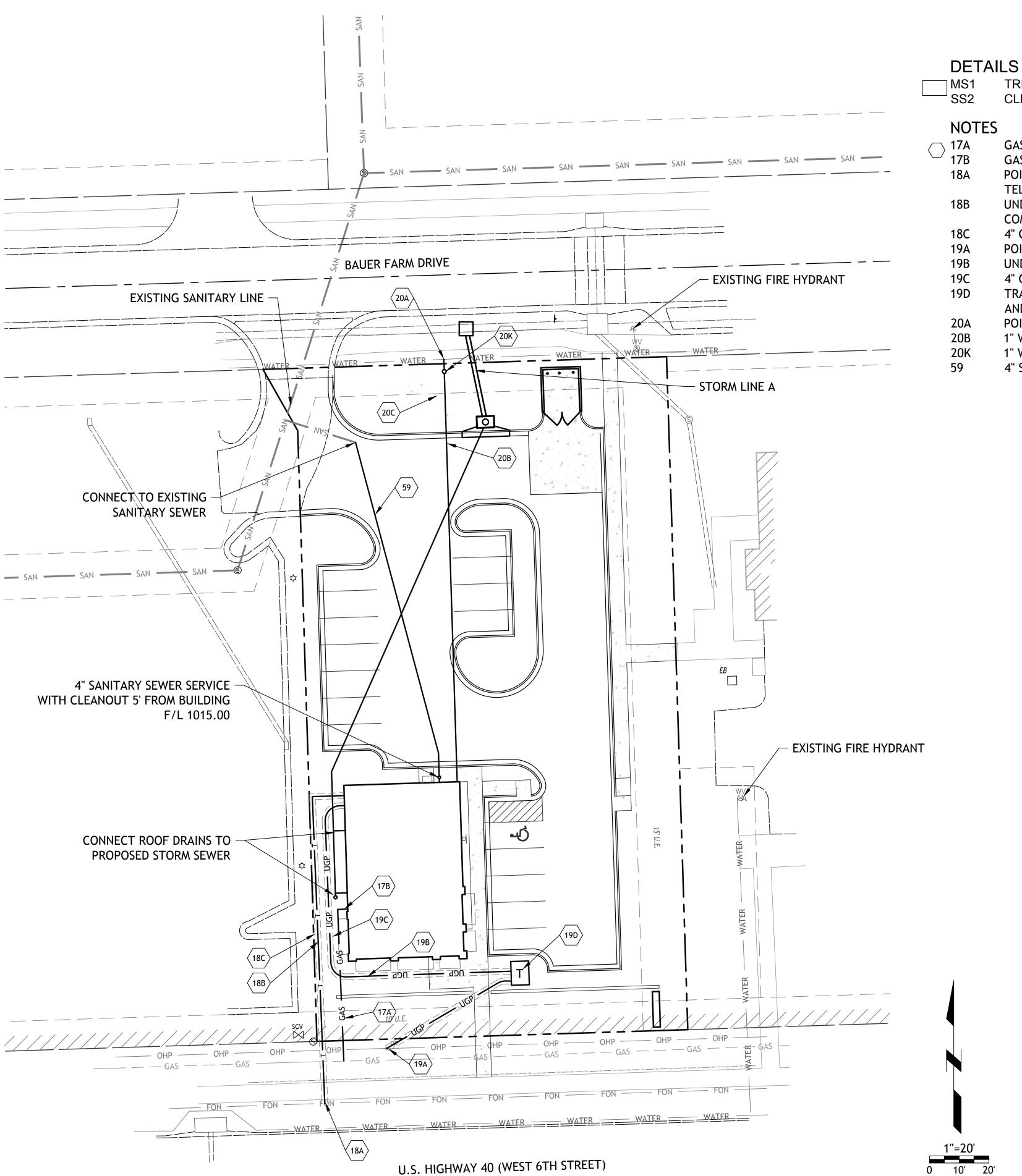
Revisions 8-6-18 CITY COMMENTS

> WERIZON WIRELESS

sheet
C2.0

general Layout

permit
31 JULY 2018



TRENCH AND BEDDING DETAILS

CLEAN-OUT

NOTES

GAS SERVICE (BY GAS COMPANY)

GAS METER

POINT OF CONNECTION - TELEPHONE SERVICE - COORDINATE WITH

TELEPHONE COMPANY

UNDERGROUND TELEPHONE SERVICE PER LOCAL TELEPHONE

COMPANY

4" CONDUIT INSTALLED BY CONTRACTOR - TELEPHONE SERVICE

POINT OF CONNECTION - WESTAR ENERGY

UNDERGROUND POWER-WESTAR ENERGY

4" CONDUIT INSTALLED BY CONTRACTOR - ELECTRIC SERVICE

TRANSFORMER PAD BY CONTRACTOR PER WESTAR ENERGY DETAIL AND SPECIFICATIONS

POINT OF CONNECTION - WATER SERVICE

1" WATER LINE INSTALLED BY CONTRACTOR

1" WATER METER

4" SANITARY SEWER SERVICE LINE (MIN 2%)

UTILITY NOTES:

- 1. CONSTRUCTION SHALL NOT START ON ANY PUBLIC WATER OR SANITARY SEWER SYSTEM UNTIL WRITTEN APPROVAL OR PERMITS HAVE BEEN RECEIVED FROM THE ENGINEER.
- 2. ALL UTILITY AND STORM SEWER TRENCHES CONSTRUCTED UNDER AREAS THAT RECEIVE PAVING SHALL BE BACKFILLED TO 18 INCHES ABOVE THE TOP OF THE PIPE WITH SELECT GRANULAR MATERIAL PLACED ON EIGHT-INCH LIFTS, AND COMPACTED TO 95% MODIFIED PROCTOR DENSITY.
- 3. CONTRACTOR SHALL NOT OPEN, TURN OFF, INTERFERE WITH, OR ATTACH ANY PIPE OR HOSE TO OR TAP ANY WATER MAIN BELONGING TO THE CITY UNLESS DULY AUTHORIZED TO DO SO BY THE CITY. ANY ADVERSE CONSEQUENCE OF ANY SCHEDULED OR UNSCHEDULED DISRUPTIONS OF SERVICE TO THE PUBLIC ARE TO BE THE LIABILITY OF THE CONTRACTOR. SM ENGINEERING AND OWNER ARE TO BE HELD HARMLESS.
- 4. DISINFECTION AND PRESSURE TESTING OF WATER LINES SHALL BE PERFORMED AND PAID FOR WATER DEPARTMENT 24 HOURS MINIMUM, PRIOR TO ANY TESTING.
- 5. ALL WATER AND SANITARY SEWER SYSTEMS THAT ARE TO BE PUBLIC LINES SHALL BE CONSTRUCTED IN ACCORDANCE WITH SPECIFICATIONS PREVIOUSLY APPROVED BY THE CITY OF LAWRENCE AND THE STATE OF KANSAS AND SHALL BE INSPECTED BY THE CITY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO ASSURE THAT THIS INSPECTION OCCURS.
- 6. LOCATIONS SHOWN FOR PROPOSED WATER LINES ARE APPROXIMATE. VARIATIONS MAY BE MADE, WITH APPROVAL OF THE ENGINEER, TO AVOID CONFLICTS.
- 7. CONTRACTOR TO INSTALL TRACING TAPE ALONG ALL NON-METALLIC WATER MAINS AND SERVICE LINES PER SPECIFICATIONS.
- 8. CONTRACTOR SHALL EXPOSE EXISTING UTILITIES AT LOCATIONS OF POSSIBLE CONFLICT AND POINTS OF CONNECTION PRIOR TO ANY CONSTRUCTION OF NEW UTILITIES.
- WATER LINES SHALL HAVE A MINIMUM COVER OF 42 INCHES. ALL VALVES ON MAINS AND FIRE HYDRANT LEADS SHALL BE WITH VALVE BOX ASSEMBLIES. THE SIZE OF VALVE BOX ASSEMBLY TO BE INSTALLED IS DETERMINED BY THE TYPE AND SIZE OF VALVE. VALVE BOX CAPS SHALL HAVE THE WORD "WATER".
- 10. A MINIMUM HORIZONTAL DISTANCE OF 10 FEET SHALL BE MAINTAINED BETWEEN PARALLEL WATER AND SANITARY SEWER LINES. WHEN IT IS NECESSARY FOR ANY WATER LINE TO CROSS A SANITARY SEWER LINE, THE SEWER LINE SHALL BE CONSTRUCTED OF DUCTILE IRON PIPE AT LEAST 10 FEET EITHER SIDE OF THE WATER LINE UNLESS THE WATER LINE IS AT LEAST 2 FEET CLEAR DISTANCE ABOVE THE SANITARY SEWER LINE.
- 11. WATER METER PITS TO BE LOCATED WITHIN 1' OF ROW LINE.

UTILITY STATEMENT:

THE UNDERGROUND UTILITIES SHOWN HEREON ARE FROM FIELD SURVEY INFORMATION OF ONE-CALL LOCATED UTILITIES, FIELD SURVEY INFORMATION OF ABOVE GROUND OBSERVABLE EVIDENCE, AND/OR THE SCALING AND PLOTTING OF EXISTING UTILITY MAPS AND DRAWINGS AVAILABLE TO THE SURVEYOR AT THE TIME OF SURVEY. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. FURTHERMORE, THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES BY EXCAVATION UNLESS OTHERWISE NOTED ON THIS SURVEY.

SIGNATURES

1. CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS

PRECISE BUILDING DIMENSIONS AND EXACT BUILDING UTILITY

FOR EXACT LOCATIONS AND DIMENSIONS OF ENTRANCE,

SLOPED PAVING, EXIT PORCHES, RAMPS, TRUCK DOCKS,

2. THESE PLANS HAVE NOT BEEN VERIFIED WITH FINAL

ARCHITECTURAL CONTRACT DRAWINGS. CONTRACTOR

DISCREPANCIES. CONTRACTOR IS FULLY RESPONSIBLE FOR

SHALL VERIFY AND NOTIFY THE ENGINEER OF ANY

REVIEW AND COORDINATION OF ALL DRAWINGS AND

ENTRANCE LOCATIONS.

CONTRACTOR DOCUMENTS.

KAREN WILLEY - CHAIR OF PLANNING COMMISSION

SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION

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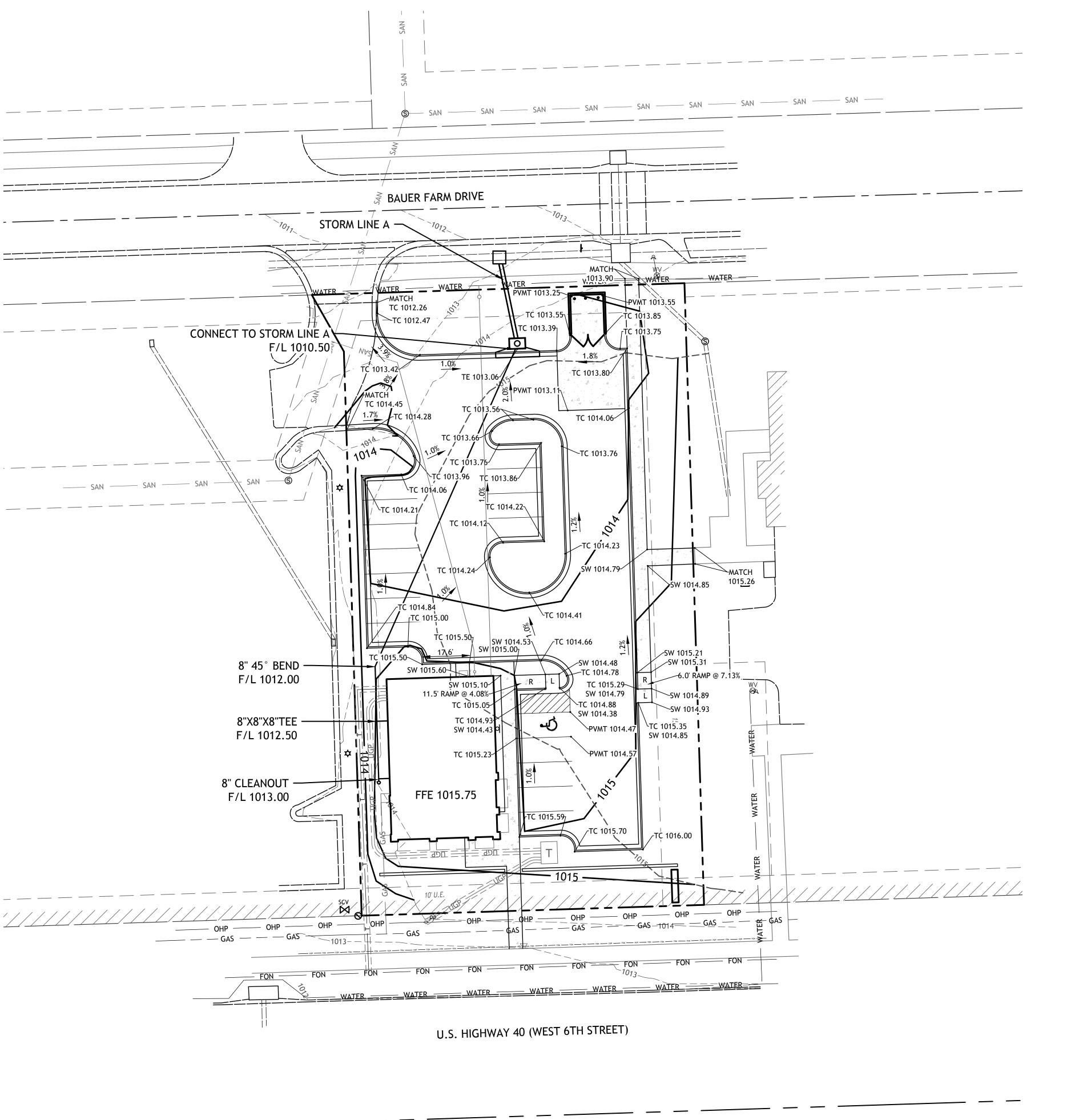
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UTILITY PLAN permit 31 JULY 2018



GRADING NOTES:

1. THE CONSTRUCTION AREA SHALL BE CLEARED, GRUBBED, AND STRIPPED OF TOPSOIL AND ORGANIC MATTER FROM ALL AREAS TO BE OCCUPIED BY BUILDING AND PAVING. TOPSOIL FOR REPLACEMENT ON SLOPES MAY BE STOCKPILED ON SITE. EXCESS TOPSOIL MAY BE WASTED IN FILL SLOPES PROVIDED THAT NO TOPSOIL WILL BE WASTED WITHIN 10 FEET OF THE EDGE OF THE BUILDING OR PARKING AREA. BURNING OF TIMBER WILL NOT BE PERMITTED UNLESS APPROVAL IS OBTAINED FROM GOVERNING OFFICIALS. STRIPPING EXISTING TOPSOIL AND ORGANIC MATTER SHALL BE TO A MINIMUM DEPTH OF 6 INCHES.

2. AREAS TO RECEIVE FILL SHALL BE SCARIFIED AND THE TOP 8-INCH DEPTH COMPACTED TO 95% STANDARD PROCTOR DENSITY. ANY UNSUITABLE AREAS SHALL BE UNDERCUT AND REPLACED WITH SUITABLE MATERIAL BEFORE ANY FILL MATERIAL CAN BE APPLIED.

3. OFF-SITE FILL MATERIAL SHALL HAVE A PLASTICITY INDEX OF 25 OR LESS, A LIQUID LIMIT OF 45 OR LESS AND CONTAIN NO ROCK LARGER THAN FOUR INCHES. OFF-SITE FILL MATERIAL SHALL BE APPROVED BY THE OWNER PRIOR TO BRINGING ON SITE.

4. EARTHWORK UNDER THE BUILDING SHALL COMPLY WITH THE PROJECT ARCHITECTURAL PLANS. OTHER FILL MATERIAL SHALL BE MADE IN LIFTS NOT TO EXCEED EIGHT INCHES DEPTH COMPACTED TO 95% STANDARD PROCTOR DENSITY. FILL MATERIAL MAY INCLUDE ROCK FROM ON-SITE EXCAVATION IF CAREFULLY PLACED SO THAT LARGE STONES ARE WELL DISTRIBUTED AND VOIDS ARE COMPLETELY FILLED WITH SMALLER STONES, EARTH, SAND OR GRAVEL TO FURNISH A SOLID EMBANKMENT. NO ROCK LARGER THAN THREE INCHES IN ANY DIMENSION NOR ANY SHALE SHALL BE PLACED IN THE TOP 12 INCHES OF EMBANKMENT.

5. AREAS THAT ARE TO BE CUT TO SUBGRADE LEVELS SHALL BE PROOF ROLLED WITH A MODERATELY HEAVY LOADED DUMP TRUCK OR SIMILAR APPROVED CONSTRUCTION EQUIPMENT TO DETECT UNSUITABLE SOIL CONDITIONS.

6. IN ALL AREAS OF EXCAVATION, IF UNSUITABLE SOIL CONDITIONS ARE ENCOUNTERED. A QUALIFIED GEOTECHNICAL ENGINEER SHALL RECOMMEND TO THE OWNER THE METHODS OF UNDERCUTTING AND REPLACEMENT OF PROPERLY COMPACTED, APPROVED FILL MATERIAL. ALL PROOF ROLLING AND UNDERCUTTING SHOULD BE PERFORMED DURING A PERIOD OF DRY WEATHER.

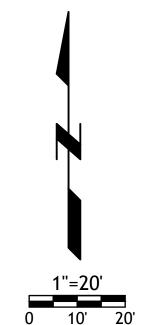
- 7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CONTROL OF DUST AND DIRT RISING AND SCATTERING IN THE AIR DURING CONSTRUCTION AND SHALL PROVIDE WATER SPRINKLING OR OTHER SUITABLE METHODS OF CONTROL. THE CONTRACTOR SHALL COMPLY WITH ALL GOVERNING REGULATIONS PERTAINING TO ENVIRONMENTAL PROTECTION.
- ALL SLOPES ARE TO BE 3:1 OR FLATTER UNLESS OTHERWISE INDICATED.
- 9. ALL SLOPES EXCEEDING 3:1 SHALL BE PROTECTED BY RIP RAP, CONCRETE PAVING, OR OTHER METHODS INDICATED ON THESE PLANS, THAT WILL PREVENT EROSION AND PLACED SUCH THAT THE SURFACE IS FLUSH WITH SURROUNDING GROUND AND SHAPED TO CHANNEL WATER IN DIRECTIONS INDICATED.
- 10. ALL SLOPES AND AREAS DISTURBED BY CONSTRUCTION SHALL BE GRADED SMOOTH AND FOUR INCHES OF TOPSOIL APPLIED. IF ADEQUATE TOPSOIL IS NOT AVAILABLE ON-SITE, THE CONTRACTOR SHALL PROVIDE TOPSOIL, APPROVED BY THE OWNER, AS NEEDED. THE AREA SHALL THEN BE SEEDED, FERTILIZED, MULCHED, WATERED AND MAINTAINED UNTIL HARDY GRASS GROWTH IS ESTABLISHED IN ALL AREAS. ANY AREAS DISTURBED FOR ANY REASON SHALL BE CORRECTED BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER PRIOR TO FINAL ACCEPTANCE OF THE PROJECT.
- 11. CONTRACTOR SHALL USE SILT FENCE OR OTHER MEANS OF CONTROLLING EROSION ALONG THE EDGE OF THE PROPERTY OR OTHER BOTTOM OF SLOPE LOCATIONS.
- 12. CONTRACTOR IS TO REMOVE AND DISPOSE OF ALL DEBRIS, RUBBISH AND OTHER MATERIALS RESULTING FROM PREVIOUS AND CURRENT DEMOLITION OPERATIONS.
- 13. THE CONTRACTOR SHALL TAKE ALL PRECAUTIONS NECESSARY TO AVOID PROPERTY DAMAGE TO ADJACENT PROPERTIES DURING THE CONSTRUCTION PHASES OF THIS PROJECT. THE CONTRACTOR WILL BE HELD SOLELY RESPONSIBLE FOR ANY DAMAGES TO THE ADJACENT PROPERTIES OCCURRING DURING THE CONSTRUCTION PHASES OF THIS PROJECT.
- 14. IT IS NOT THE DUTY OF THE ENGINEER OR THE OWNER TO REVIEW THE ADEQUACY OF THE CONTRACTOR'S SAFETY MEASURES, IN, ON OR NEAR THE CONSTRUCTION SITE AT ANY TIME DURING CONSTRUCTION.
- 15. THE SITEWORK FOR THIS PROJECT SHALL MEET OR EXCEED ALDI'S STANDARD SITEWORK SPECIFICATIONS.
- 16. PIPE LENGTHS ARE CENTER TO CENTER OF STRUCTURE OR TO END OF END SECTIONS.
- 17. HANDICAP STALLS SHALL MEET ADA REQUIREMENTS AND SHALL NOT EXCEED 2% SLOPE IN ANY DIRECTION AT THE BUILDING ENTRY AND ACCESSIBLE PARKING STALLS. SLOPES EXCEEDING 2.0% WILL BE REPLACED AT THE CONTRACTOR'S EXPENSE.
- 18. CONTRACTOR TO VERIFY TRUCK DOCK ELEVATIONS WITH ARCHITECTURAL STRUCTURAL DRAWINGS.

GEOTECHNICAL REPORT SHALL TAKE PRECEDENCE OVER ANY DISCREPANCIES BETWEEN THESE NOTES AND REPORT

LEGEND SIDEWALK TOP OF CURB ELEVATION TOP OF PAVEMENT ELEVATION TOP ELEVATION OF STORM STRUCTURE

DETAILS SD4 CLEANOUT

LANDING



SIGNATURES

KAREN WILLEY - CHAIR OF PLANNING COMMISSION

SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION

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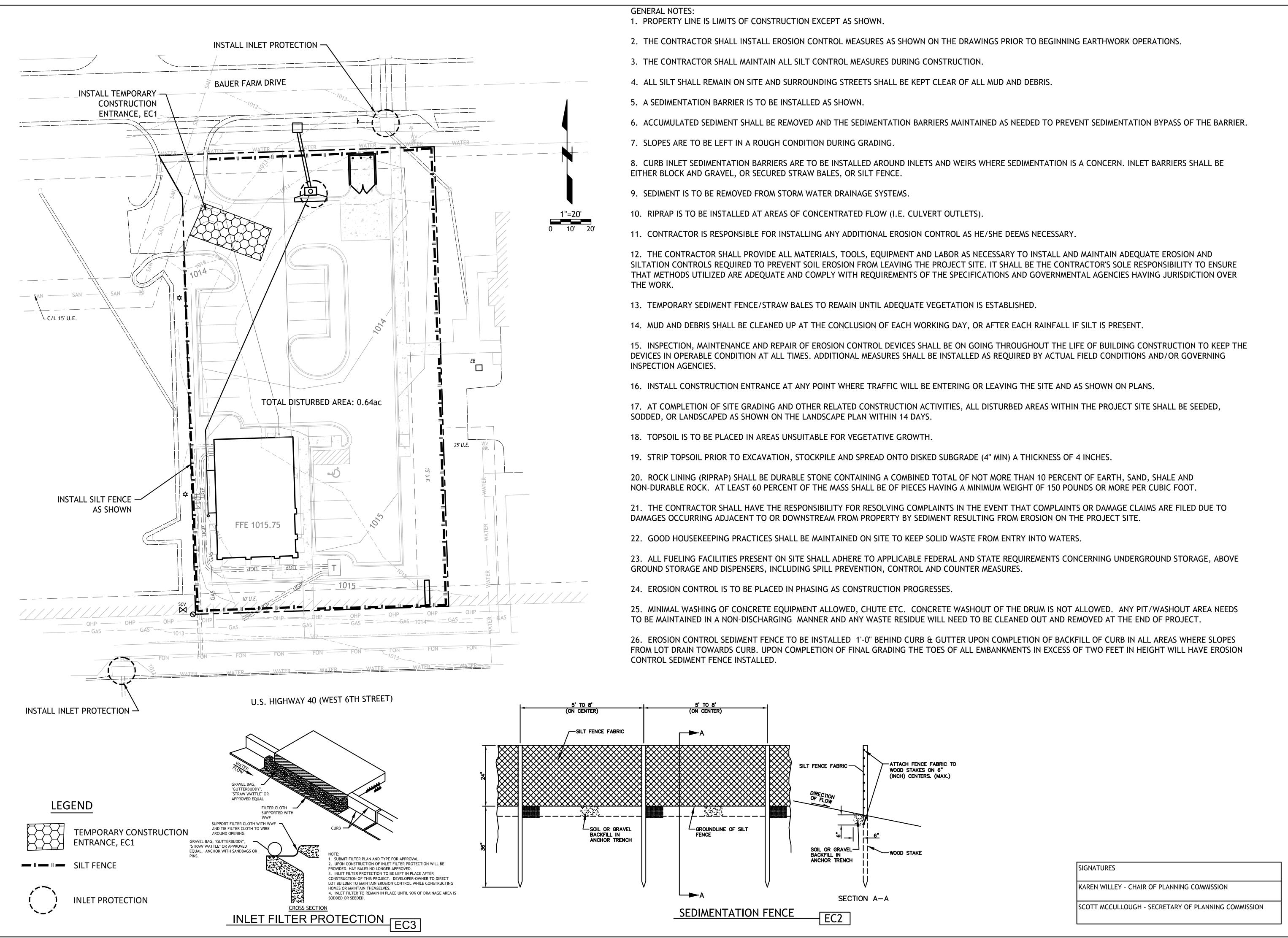
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GRADING PLAN permit 31 JULY 2018



SM Engineering

919 W. Stewart Road Columbia, Missouri 6520 smcivilengr@gmail.com 785.341.9747

Drawings and/or Specifications are orig proprietary work and property of the Engineer and intended specifically for t project. Use of items contained herei without consent of the Engineeris prohibited. Drawings illustrate best information available to the Engineer. F verification of actual elements, conditions

and dimensions is required.



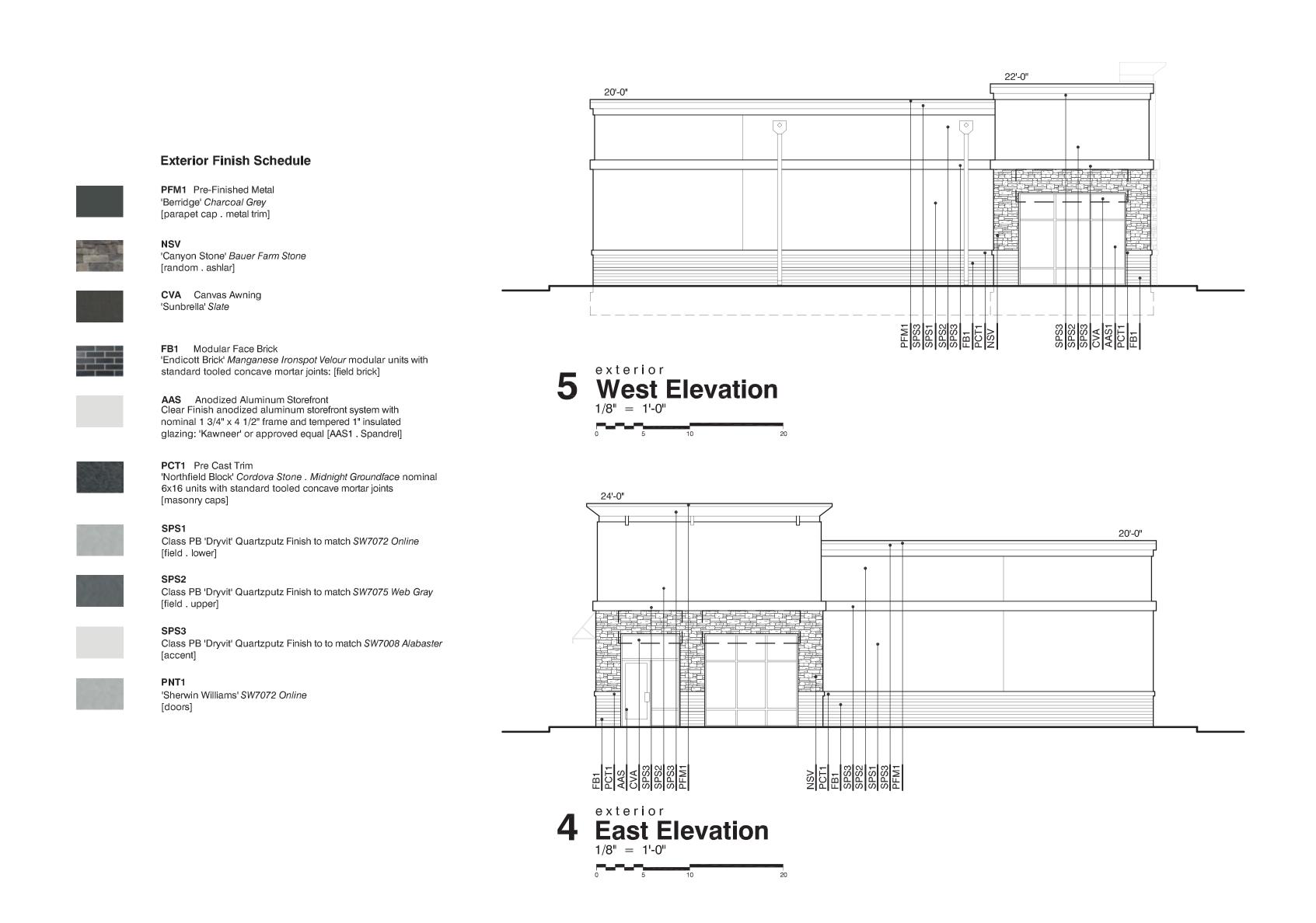
Revisions 8-6-18 CITY COMMENTS

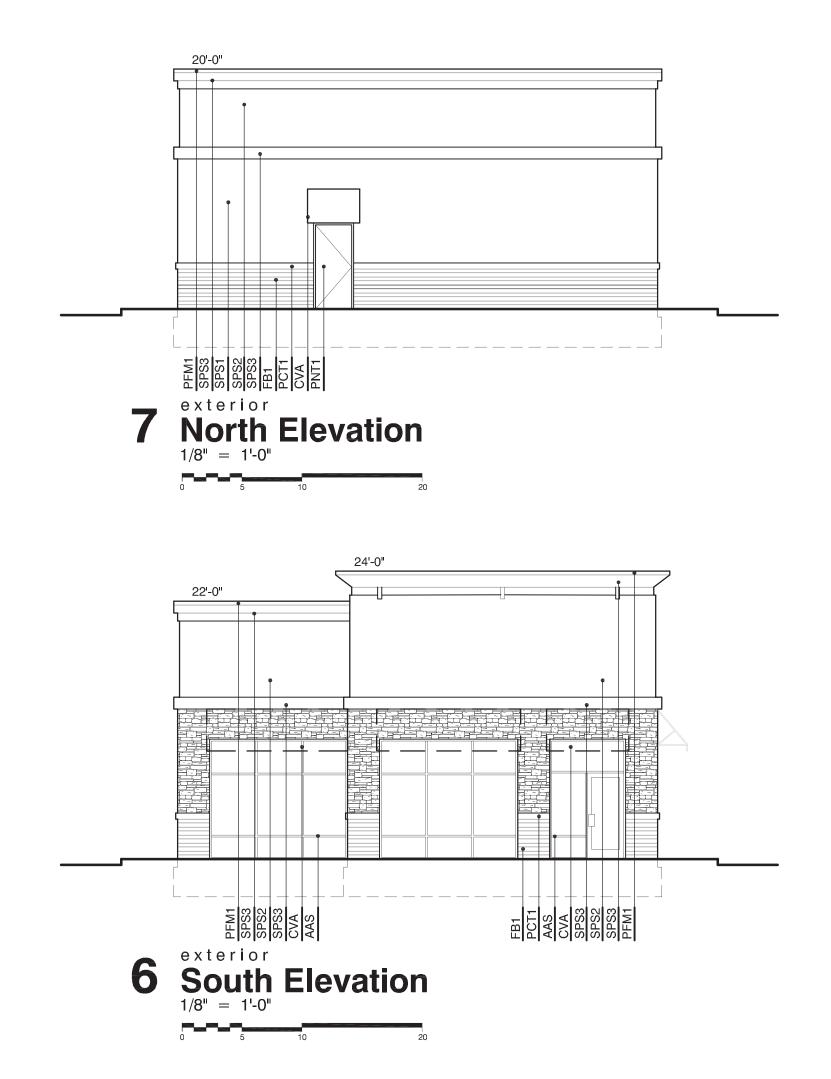
> WERIZON WIRELESS

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EROSION CONTROL

permit
31 JULY 2018





SIGNATURES

KAREN WILLEY - CHAIR OF PLANNING COMMISSION

SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION

OUTLOT BUILDING AT BAUER FARM

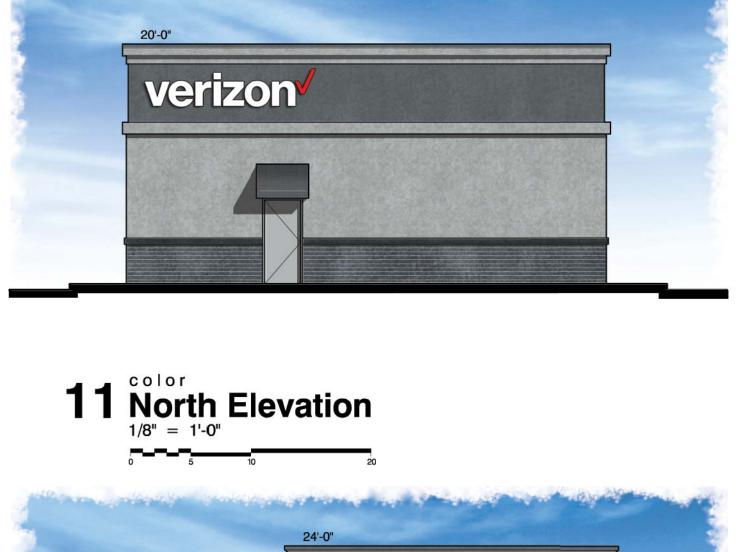






verizon

8 East Elevation





10 South Elevation

SIGNATURES

KAREN WILLEY - CHAIR OF PLANNING COMMISSION

SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION

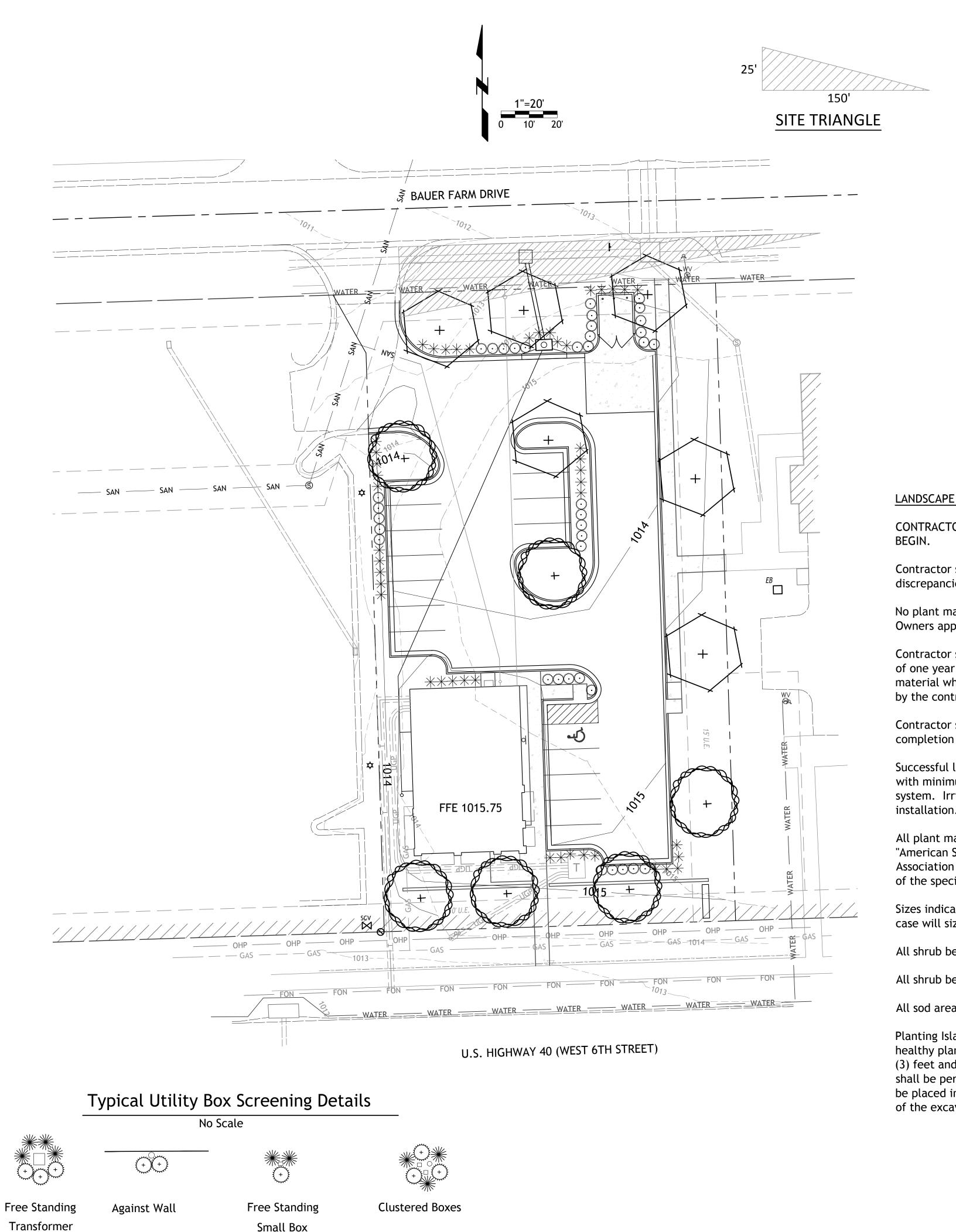
OUTLOT BUILDING AT BAUER FARM

Class PB 'Dryvit' Quartzputz Finish to match SW7075 Web Gray

Class PB 'Dryvit' Quartzputz Finish to to match SW7008 Alabaster

LAWRENCE . KANSAS





Tree List

Symbol	Quantity	Common Name	Botanical Name	Size Cond	dition	Spacing
+	6	October Glory Maple	Acer Rubrum 'October Glory'	2.5" cal	ВВ	As Show
+	6	Skyline Honeylocust	Gleditsia Triacanthos 'Skyline'	2.5" cal	ВВ	As Showi

Shrub List

Symbol	Quantity	Common Name	Botanical Name	Size	Condition	Spacir
O		Seagreen Juniper	Juniperus Chinensis 'Seagreen'	24" ht	Cont.	4'o.c
*	 45	Morning Light Maiden Grass	Miscanthos Sinensis 'Morning Light'	24" ht	Cont.	3'o.c

LANDSCAPE DATA: STREET FRONTAGE REQUIREMENTS **HWY 40** STREET TREE 1 / 40' **BAUER** STREET TREE 1/40'

INTERIOR PARKING LOT REQUIREMENTS 1 TREE / 10 SPACES 3 SHRUBS / 10 SPACES = 40sf OF LANDSCAPE AREA / SPACE

PROVIDED 6 SHADE TREES 52 SHRUBS 2,004 SF OF LANDSCAPE AREA

LANDSCAPE NOTES

CONTRACTOR REQUIRED TO LOCATE ALL UTILITIES BEFORE INSTALLATION TO

Contractor shall verify all landscape material quantities and shall report any discrepancies to the Landscape Architect prior to installation.

No plant material substitutions are allow without Landscape Architect or Owners approval.

Contractor shall guarantee all landscape work and plant material for a period of one year from date of acceptance of the work by the Owner. Any plant material which dies during the one year guarantee period shall be replaced by the contractor during normal planting seasons.

Contractor shall be responsible for maintenance of the plants until completion of the job and acceptance by the Owner.

Successful landscape contractor shall be responsible for design that complies with minimum irrigation requirements, and installation of an irrigation system. Irrigation system to be approved by the owner before starting any installation.

All plant material shall be specimen quality stock as determined in the "American Standards For Nursery Stock" published by The American Association of Nurseryman, free of plant diseases and pest, of typical growth of the species and having a healthy, normal root system.

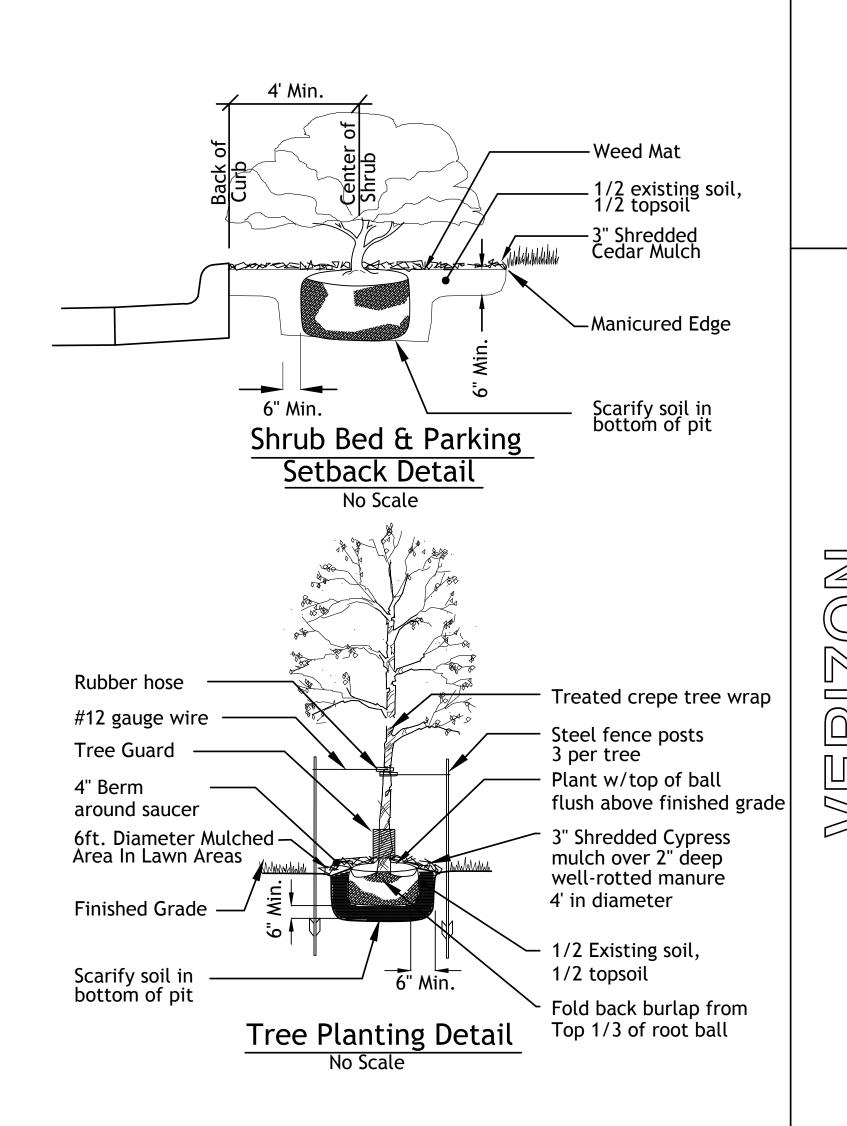
Sizes indicated on the plant list are the minimum, acceptable size. In no case will sizes less than specified be accepted.

All shrub beds within lawn areas to receive a manicured edge.

All shrub beds shall be mulched with 3" of shredded cedar mulch.

All sod areas shall be Turf-Type-Tall Fescue seed blend & fertilized.

Planting Island Preparation. To create favorable conditions conducive to healthy plant growth, planting islands shall be excavated to a depth of three (3) feet and backfilled with grade A sandy loam topsoil. A drainage perk test shall be performed prior to backfilling topsoil. Six (6) inches of water shall be placed in each excavated hole. If all of the water does not percolate out of the excavated hole within 24 hours, then drainage pipe shall be installed.



SIGNATURES KAREN WILLEY - CHAIR OF PLANNING COMMISSION SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION

Civil

LANDSCAPE PLAN permit 31 JULY 2018

SM Engineering

Columbia, Missouri 65203 smcivilengr@gmail.com 785.341.9747

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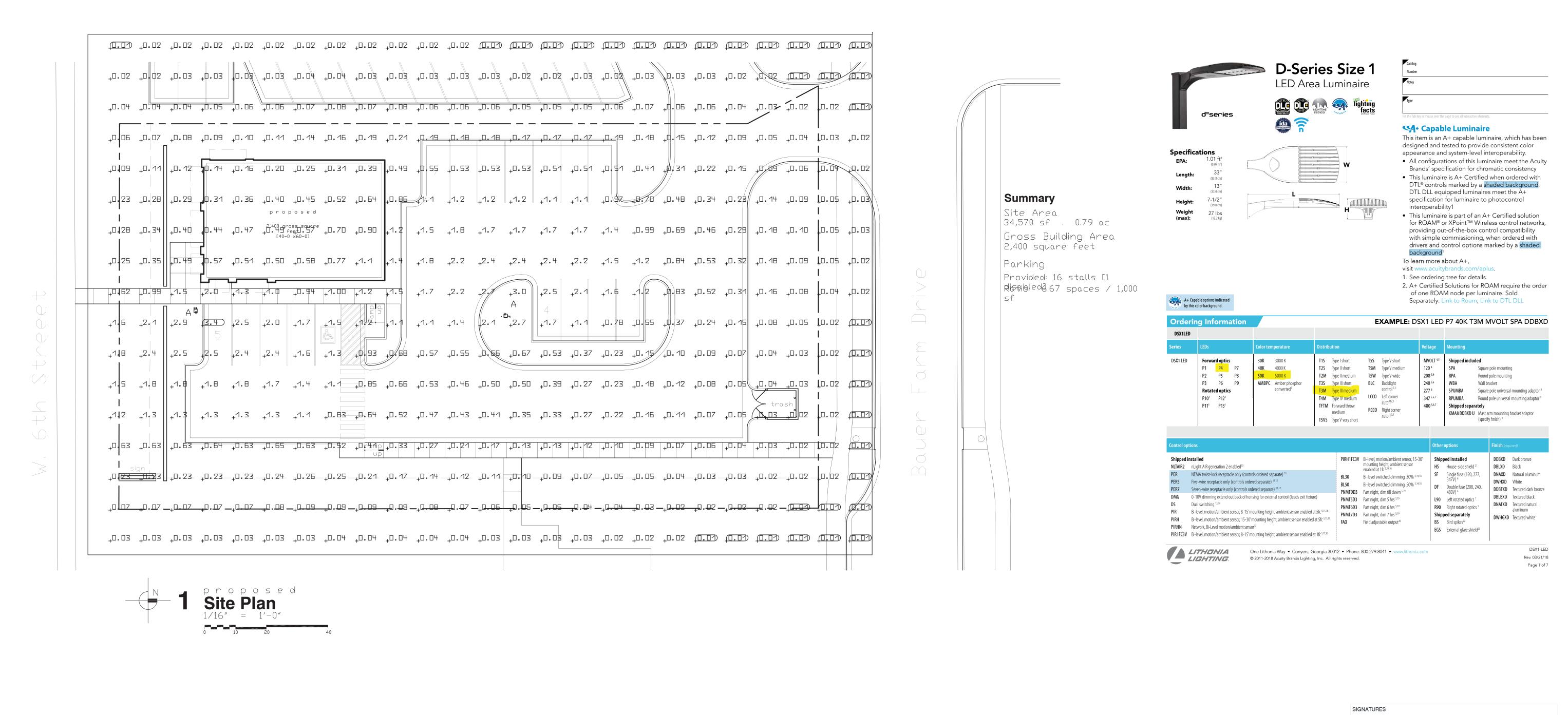
proprietary work and property of the

without consent of the Engineeris prohibited. Drawings illustrate best nation available to the Engineer. Fiel rification of actual elements, conditions and dimensions is required.

Revisions 8-6-18 CITY COMMENTS

sheet

UTILITY BOXES SHALL BE CLUSTERED AS MUCH AS POSSIBLE



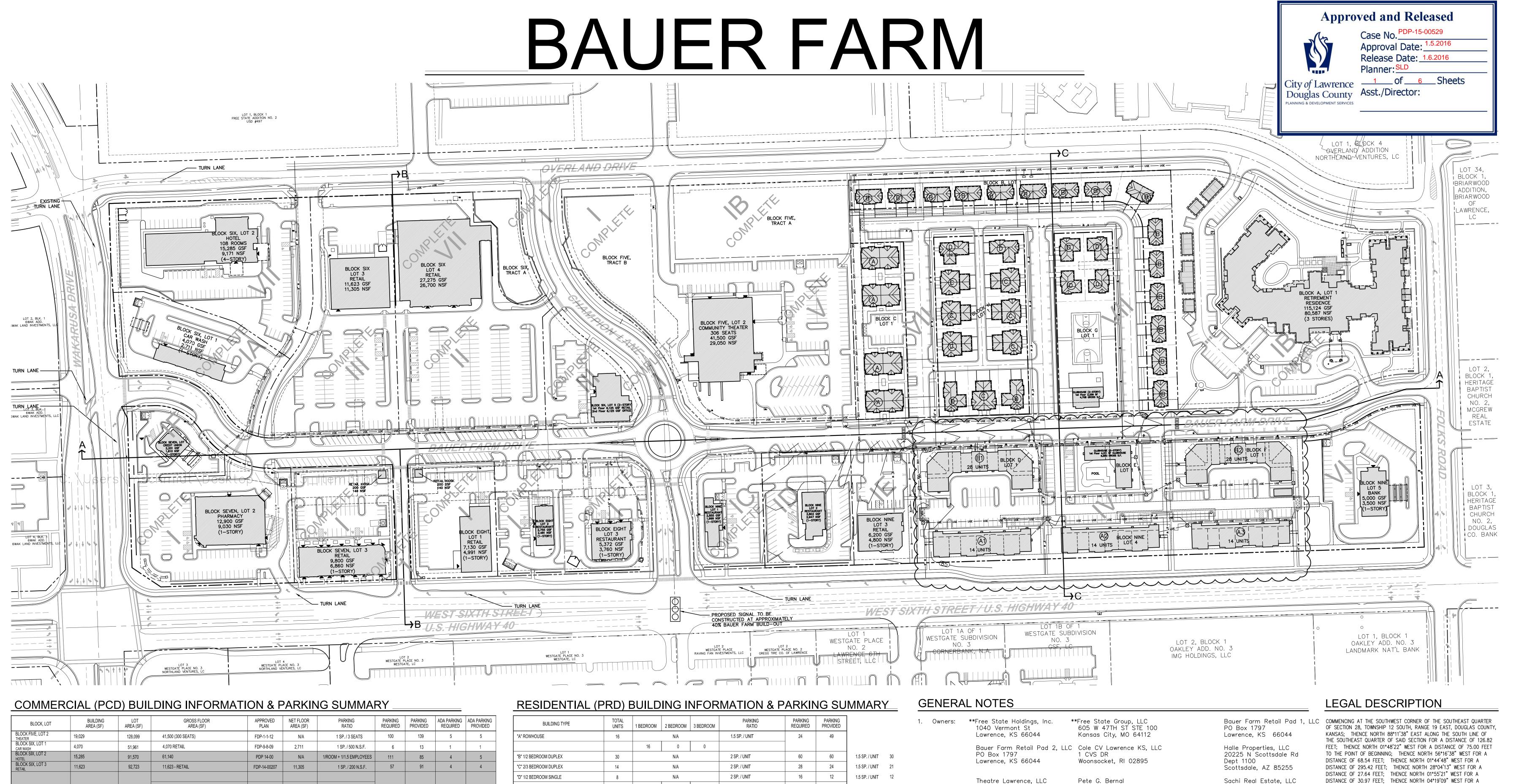
OUTLOT BUILDING AT BAUER FARM

LAWRENCE . KANSAS



KAREN WILLEY - CHAIR OF PLANNING COMMISSION

SCOTT MCCULLOUGH - SECRETARY OF PLANNING COMMISSION



BLOCK, LOT	BUILDING AREA (SF)	LOT AREA (SF)	GROSS FLOOR AREA (SF)	APPROVED PLAN	NET FLOOR AREA (SF)	PARKING RATIO	PARKING REQUIRED	PARKING PROVIDED	ADA PARKING REQUIRED	ADA PARKING PROVIDED
BLOCK FIVE, LOT 2 THEATER	19,029	128,099	41,500 (300 SEATS)	FDP-1-1-12	N/A	1 SP. / 3 SEATS	100	139	5	5
BLOCK SIX, LOT 1 CAR WASH	4,070	51,961	4,070 RETAIL	FDP-9-8-09	2,711	1 SP. / 500 N.S.F.	6	13	1	1
BLOCK SIX, LOT 2 HOTEL	15,285	91,570	61,140	PDP 14-00	N/A	1/ROOM + 1/1.5 EMPLOYEES	111	85	4	5
BLOCK SIX, LOT 3 RETAIL	11,623	92,723	11,623 - RETAIL	FDP-14-00207	11,305	1 SP. / 200 N.S.F.	57	91	4	4
BLOCK SIX, LOT 4 GROCERY STORE	27,275	116,582	27,275 - RETAIL	FDP-14-00207	26,700	1 SP. / 200 N.S.F.	134	141	5	8
			6,125 - RETAIL	PDP-15-00055	5,818	1 SP. / 200 N.S.F.	29			
BLOCK SIX, LOT 5 OFFICE/RETAIL	6,125	31,055	6,125 - OFFICE	PDP-15-00055	5,818	1 SP. / 200 N.S.F.	29	21	2	2
BLOCK SEVEN, LOT 1 CREDIT UNION	2,201	22,110	2,201 - CREDIT UNION	FDP-15-00373	1,610	1 SP. / 200 N.S.F.	9	9	1	1
BLOCK SEVEN, LOT 2 CVS/PHARMACY	12,900	70,200	12,900 - RETAIL	FDP-5-7-09	9,030	1 SP. / 200 N.S.F.	46	70	3	3
BLOCK SEVEN, LOT 3	9,800	45,622	9,800 - RETAIL	FDP-5-7-09	7,252	1 SP. / 200 N.S.F.	37	54	3	4
BLOCK EIGHT, LOT 1 TIRE STORE	7,130	38,735	7,130 - RETAIL	FDP-12-00093	4,991	1 SP. / 200 N.S.F.	25	31	2	2
BLOCK EIGHT, LOT 2 TACO BELL	2,755	30,191	2,755 - RESTAURANT	FDP-5-7-09	2,481	1 SP. / 200 N.S.F.	13	24	1	2
BLOCK EIGHT, LOT 3 RETAIL/STARBUCKS	5,372	39,074	5,372 - RESTAURANT	FDP-12-5-11	3,760	1 SP. / 200 N.S.F.	19	36	2	2
BLOCK NINE, LOT 1 BURGER KING	2,855	31,233	2,855 - RESTAURANT	FDP-5-2-11	1,999	1 SP. / 200 N.S.F.	10	29	2	2
BLOCK NINE, LOT 2 RESTAURANT	3,800	39,015	3,800 - RESTAURANT		2,947	1 SP. / 200 N.S.F.	11	46	2	2
BLOCK NINE, LOT 3 RETAIL	4,500	29,300	4,500 - RETAIL		3,125	1 SP. / 200 N.S.F.	16	19	1	2
MISC. ON-STREET PARKING	N/A	N/A	N/A		N/A	N/A	N/A	66	N/A	3
TOTAL		857,480	209,173				652	890	39	48
TOTAL COMMERCIAL/RETAIL			159,447		•			•	•	
TOTAL OFFICE/BANK			8,326							

^{**} Note: Shaded rows are applicable to Bauer Farm N.W. PD and not altered with this application. Bauer Farm NW is unchanged in this PD but is shown for contextual purposes only.

PCD RESIDENTIAL DENSITY, PER SEC	TION 20-1008(A):
GROSS PCD ACREAGE	COMMERCIAL BLDG. AREA, R/W, TRACTS & D/E
25.89	9.22 AC

PRD RESIDENTIAL DENSITY, PER SECTION 20-1007(A):

GROSS PRD ACREAGE	COMMERCIAL BLDG. AREA, R/W, TRACTS & D/E	NET RESIDENTIAL ACREAGE	TOTAL DWELLING UNITS	DWELLING UNIT DENSITY
16.44	1.07	15.37	292	22.25
PRD COMMMON OPEN SPACE, PR	ER SECTION 20-1006(G):			
GROSS PRD ACREAGE	R/W & OFF-STREET PKG.	NET RESIDENTIAL USE ACREAGE	REQUIRED OPEN SPACE ACREAGE (20% OF NET)	PROVIDED OPEN SPACE ACREAGE
16.44	1.07	15.37	3.07	3.08

BUILDING TYPE	TOTAL UNITS	1 BEDROOM	2 BEDROOM	3 BEDROOM	PARKING RATIO	PARKING REQUIRED	PARKING PROVIDED	
"A" ROWHOUSE	16		N/A		1.5 SP. / UNIT	24	49	
		16	0	0				
"B" 1/2 BEDROOM DUPLEX	30		N/A	•	2 SP. / UNIT	60	60	
"C" 2/3 BEDROOM DUPLEX	14		N/A		2 SP. / UNIT	28	24	
"D" 1/2 BEDROOM SINGLE	8		N/A		2 SP. / UNIT	16	12	
		4			1.5 SP. / 1 BR UNIT	6	6	
A1 - APARTMENT BUILDING	14		4		1.5 SP. / 2 BR UNIT	6	6	
				6	2.5 SP. / 3 BR UNIT	15	15	
		4			1.5 SP. / 1 BR UNIT	6	6	
A2 - APARTMENT BUILDING	14		4		1.5 SP. / 2 BR UNIT	6	6	
				6	2.5 SP. / 3 BR UNIT	15	15	
		4			1.5 SP. / 1 BR UNIT	6	6	1
A3 - APARTMENT BUILDING	14		4		1.5 SP. / 2 BR UNIT	6	6	
				6	2.5 SP. / 3 BR UNIT	15	15	
		18			1.5 SP. / 1 BR UNIT	27	22	1
B1 - APARTMENT BUILDING	28		8		1.5 SP. / 2 BR UNIT	12	10	
				2	2.5 SP. / 3 BR UNIT	5	4	
		18			1.5 SP. / 1 BR UNIT	27	22	
B2 - APARTMENT BUILDING	28		8		1.5 SP. / 2 BR UNIT	12	10	
				2	2.5 SP. / 3 BR UNIT	5	4	
CLUBHOUSE (5,000 GSF/2,800 NSF)	N/A		N/A		N/A			1
RETAIL (1,000 GSF/700 NSF)	N/A		N/A		1 SP. / 200 NSF	7	5	
RESIDENTIAL (5,000 GSF)	2	0	2	0	1.5 SP. / 2 BR UNIT			
FITNESS CENTER (3,600 GSF/2,520 NSF)	N/A		N/A		N/A	N/A	0	
RETIREMENT RESIDENCE	125	108	17	0	1 SP. / 3 BEDS	48	77*	1
MISC. ON-STREET PARKING	N/A		N/A	1	N/A	N/A	24	1
GARAGE PARKING	N/A		N/A		N/A	N/A	16	1
TOTAL	292					352	420	1

^{*} Note: 188 parking spaces were required but 78 were provided. 77 parking stalls were permitted in construction by Planning Commission on 03/22/10. This reduction applies only to the independent and/ or assisted living use and may not be converted to a multi-dwelling structure without

addressing the parking requirement.

OFFICE (POD) BUILDING INFORMATION & PARKING SUMMARY.

BLOCK, LOT	BUILDING AREA (SF)	LOT AREA (SF)	GROSS FLOOR AREA (SF)	NET FLOOR AREA (SF)	PARKING RATIO	PARKING REQUIRED	PARKING PROVIDED	PARKING REQUIRED	PARKING PROVIDED
BLOCK NINE, LOT 5	5,000	59,988	5,000	3,500	1 SP. / 200 N.S.F.	18	42	2	2

Owners:	**Free State Holdings, Inc. ** 1040 Vermont St Lawrence, KS 66044	*Free State Group, LLC 605 W 47TH ST STE 100 Kansas City, MO 64112	Bauer Farm Retail Pad 1, LLC PO Box 1797 Lawrence, KS 66044
	Bauer Farm Retail Pad 2, LLC PO Box 1797 Lawrence, KS 66044	Cole CV Lawrence KS, LLC 1 CVS DR Woonsocket, RI 02895	Halle Properties, LLC 20225 N Scottsdale Rd Dept 1100 Scottsdale, AZ 85255
	Theatre Lawrence, LLC 1501 New Hampshire St Lawrence, KS 66044	Pete G. Bernal 8100 E 22nd St Bldg 30C Wichita, KS 67226	Sachi Real Estate, LLC 8831 Lont Street Lenexa, KS 66215
	Lawrence Tunnel Wash, LLC 14610 Tillman Rd Smithville, MO 64089	Lawrence Retirement Residence, LLC 9310 NE Vancouver Mall Drive, Suite 200 Vancouver, WA 98662	**Bauer Farm Residential, LLC PO BOX 1797 Lawrence, KS 66044
	Wakarusa Investors LLC 6834 S University Blvd STE 415 Centennial, CO 80122	Big Yellow Dog LLC 789 N 1500 Rd Lawrence, KS 66049	
Land Plann Engineer:	er/ Treanor Architects 1040 Vermont Street Lawrence, KS 66044	1310 Wakarusa Drive	

Lawrence, KS 66049 4. Existing Land Use: Undeveloped/Retail, Assisted and Independent Living and Multi-Dwelling Residential. Proposed Land Use: Mixed Use Commercial/Retail/Residential (Assisted and Independent Living and Multi-Dwelling)

Landplan Engineering, P.A. 1310 Wakarusa Drive

Existing Zoning: PCD-2, POD, and PRD-2 No change zoning is being proposed. The maximum allowed SF for the Bauer Farm PUD and the maximum allowed SF for Bauer Farm N.W. PD per ordinance 8986 maximum retail area shall not exceed 50,000 SF. Maximum cap for retail SF for Northeast corner of 6th &

Wakarusa is 122,000 GSF. ** Note: Owners included in this application are noted. Remaining property owners have previously

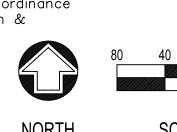
waived right to approve or disapprove alterations or modifications to the PDP. ESTIMATED PHASING SCHEDULE

3. Surveyor:

PHASE	ESTIMATED TIME OF CONSTRUCTION*	CURRENT STATUS	
I	COMPLETE	COMPLETE: CVS, FDP 5-7-08; Inline Retail, FDP-5-7-8; Taco Bell, FDP-5-7-8; Discount Tire, FDP-5-7-8 revised FDP-12-00093; Starbucks, FDP-12-5-11; Bank, FDP-15-00373; Drainage Block Five, Tract B; Champion Lane (development threshold has been met and signal will be installed by summer 2016.)	*
IA	COMPLETE 2010**	COMPLETE: Car Wash; FDP-9-8-09	
IB	COMPLETE 2010/2011**	COMPLETE: Drainage and retirement facility; FDP-4-6-10 and FDP-14 00538	
IC	COMPLETE 2011**	COMPLETE: Burger King; FDP-5-2-11	
ID	2015-2016	INCOMPLETE: Restaurant, Block 9, Lot 2	
ΙE	2015(Planning) -2016	INCOMPLETE: Retail, Block 9, Lot 3	
IF	2016	INCOMPLETE: Credit Union, Block 7, Lot 1	
II	2015	COMPLETE: Sprouts Grocer, FDP-14-00207	
III	2015	INCOMPLETE: Future retail/ office Bauer Farm N.W. PD	
IV	2016	INCOMPLETE: Multi-family Residential, FDP-6-22-2015	
V	COMPLETE 2012**	COMPLETE: Theater; FDP-1-2-12 [Phase 7]	
VI	2016/2017	PROPOSED: Bank, Lot 5, Block 9	**
VII	2016/2017	NOTE: Located in the Bauer Farm N.W. PD INCOMPLETE: Hotel Building, FDP-14-00207; Block C, Lot 1; Block H, Lot 1; Block G, Lot 1	

evelopment phasing nes as shown are reliminary and are subject to modification developer's iscretion. Iphabetical sub]phase lesignations do not lenote sequence of onstruction. ublic improvements ssociated with each

hase to be provided ia private funding or ia benefit district nancing [subject to ublic hearing]. omplete



SCALE: 1" = 80'

_□NNIN□ P□RPO□E□ ONL□ⅢNO FOR CON TR CTION

DISTANCE OF 85.37 FEET; THENCE NORTH 04°13'20" WEST FOR A

DISTANCE OF 160.25 FEET; THENCE NORTH 01°55'21" WEST FOR A DISTANCE OF 123.60 FEET; THENCE NORTH 88°11'38" EAST FOR A

DISTANCE OF 2139.53 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 38°33'23" A RADIUS OF 260.00 FEET FOR A LENGTH OF 174.98 FEET TO A POINT OF

COMPOUND CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 38°34'21" A RADIUS OF 340.00 FEET FOR A LENGTH OF 228.93 FEET TO A POINT OF TANGENCY; THENCE NORTH 88°11'38" EAST FOR A DISTANCE OF 59.99 FEET; THENCE SOUTH

01°47'22" EAST FOR A DISTANCE OF 629.06 FEET: THENCE SOUTH 88°11'38" WEST FOR A DISTANCE OF 2494.89 FEET TO THE POINT OF

BEGINNING; CONTAINING 43.88 ACRES MORE OR LESS.

A Preliminary Development Plan for

BAUER FARM

Lawrence, Kansas

OVERALL PLAN

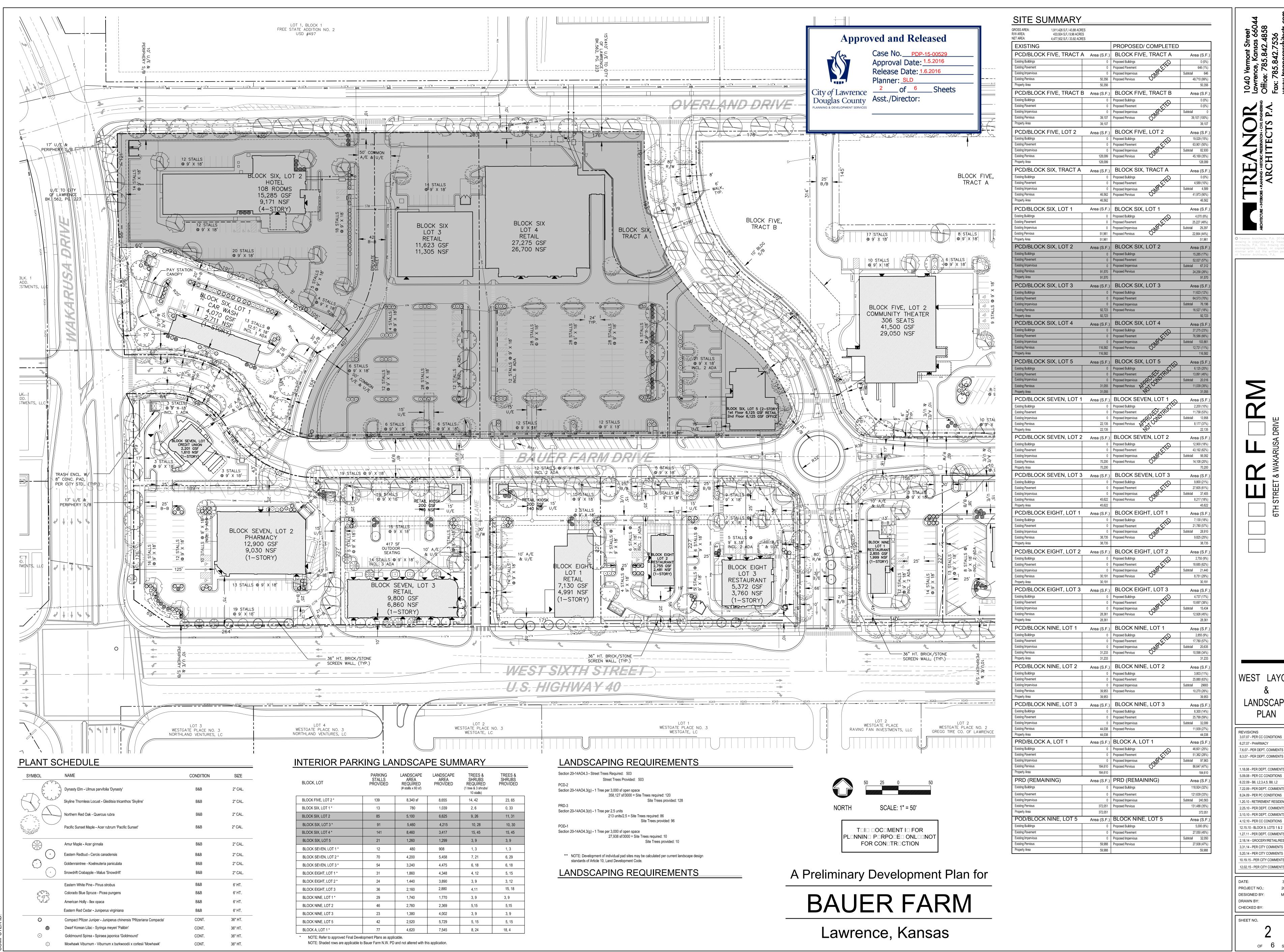
REVISIONS 3.07.07 - PER CC CONDITIONS 6.27.07 - PHARMACY 7.6.07 - PER DEPT. COMMENTS 8.3.07 - PER DEPT. COMMENTS 11.29.07 - WAKARUSA MEDIAN BREAK 1.18.08 - PER DEPT. COMMENTS 5.09.08 - PER CC CONDITIONS 6.22.09 - B6, L2,3,4,5; B8, L2 7.22.09 - PER DEPT. COMMENTS 8.24.09 - PER PC CONDITIONS 1.20.10 - RETIREMENT RESIDENCE 2.25.10 - PER DEPT. COMMENTS 3.10.10 - PER DEPT. COMMENTS 4.12.10 - PER CC CONDITIONS 12.15.10 - BLOCK 9, LOTS 1 & 2 1.27.11 - PER DEPT. COMMENTS 2.18.14 - GROCERY/RETAIL/RESIDENTAII 3.31.14 - PER CITY COMMENTS 5.20.14 - PER CITY COMMENTS

12.02.15 - PER CITY COMMENTS DATE: PROJECT NO. 20101227 DESIGNED BY: MTA/LPE DRAWN BY: CHECKED BY:

10.19.15 - PER CITY COMMENTS

SHEET NO.

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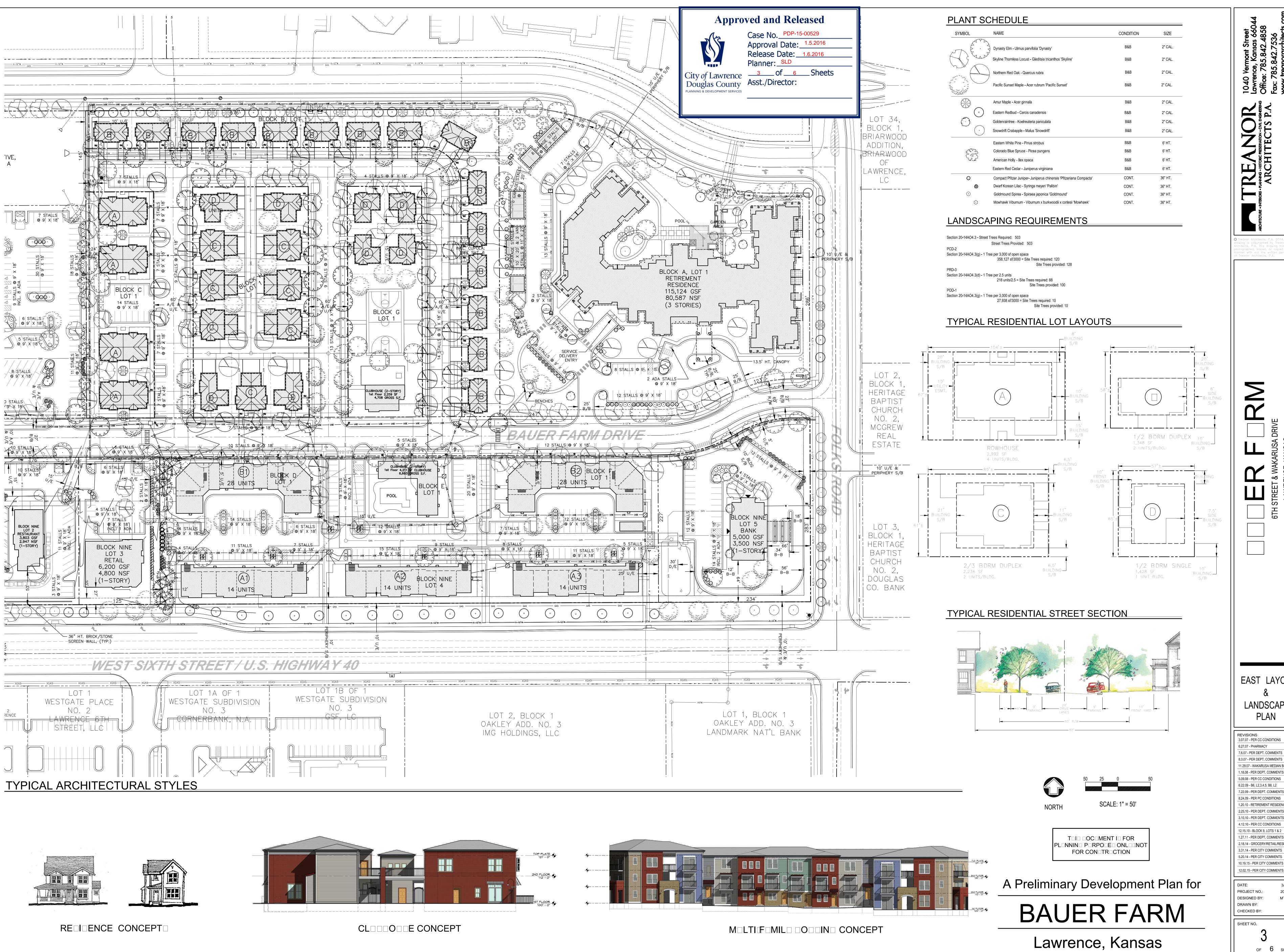
LANDSCAPE PLAN

REVISIONS 3.07.07 - PER CC CONDITIONS 6.27.07 - PHARMACY 7.6.07 - PER DEPT, COMMENT 8.3.07 - PER DEPT. COMMENTS

1.18.08 - PER DEPT, COMMENTS 5.09.08 - PER CC CONDITIONS 6.22.09 - B6, L2,3,4,5; B8, L2 7.22.09 - PER DEPT. COMMENT 8.24.09 - PER PC CONDITIONS 1.20.10 - RETIREMENT RESIDENCE 2.25.10 - PER DEPT. COMMENTS 3.10.10 - PER DEPT, COMMENTS 4.12.10 - PER CC CONDITIONS 12.15.10 - BLOCK 9, LOTS 1 & 2 1.27.11 - PER DEPT. COMMENTS 2.18.14 - GROCERY/RETAIL/RESIDENTAIL 3.31.14 - PER CITY COMMENTS

12.02.15 - PER CITY COMMENTS PROJECT NO.: 2003,695 **DESIGNED BY** MTA/LPE DRAWN BY: CHECKED BY:

of 6 sheets

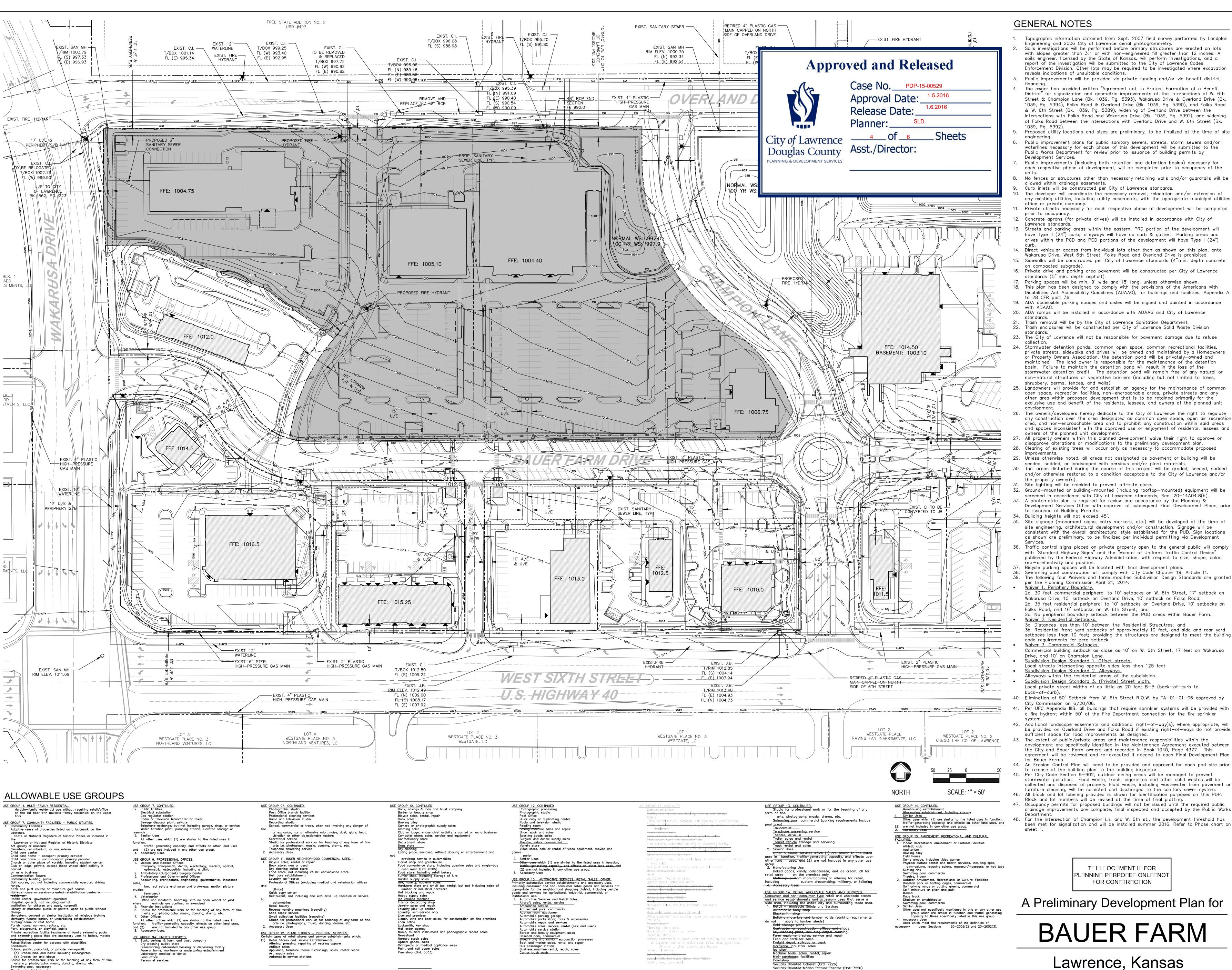


EAST LAYOUT LANDSCAPE

3.07.07 - PER CC CONDITIONS 1.20.10 - RETIREMENT RESIDENCE 2.25.10 - PER DEPT. COMMENTS

3.10.10 - PER DEPT, COMMENTS 4.12.10 - PER CC CONDITIONS 12.15.10 - BLOCK 9, LOTS 1 & 2 1.27.11 - PER DEPT. COMMENTS 2.18.14 - GROCERY/RETAIL/RESIDENTA 3.31.14 - PER CITY COMMENTS 5.20.14 - PER CITY COMMENTS 10.19.15 - PER CITY COMMENTS

2003,695 MTA/LPE CHECKED BY:



Theatre, live (if indoors)

Topographic information obtained from Sept. 2007 field survey performed by Landplan Engineering and 2006 City of Lawrence aerial photogrammetry. Soils investigations will be performed before primary structures are erected on lots with slopes greater than 3:1 or with non-engineered fill greater than 12 inches. A soils engineer, licensed by the State of Kansas, will perform investigations, and a report of the investigation will be submitted to the City of Lawrence Codes Enforcement Division. Other lots may be required to be investigated where excavation

reveals indications of unsuitable conditions. Public improvements will be provided via private funding and/or via benefit district

The owner has provided written "Agreement not to Protest Formation of a Benefit District" for signalization and geometric improvements at the intersections of W. 6th Street & Champion Lane (Bk. 1039, Pg. 5393), Wakarusa Drive & Overland Drive (Bk. 1039, Pg. 5394), Folks Road & Overland Drive (Bk. 1039, Pg. 5390), and Folks Road & W. 6th Street (Bk. 1039, Pg. 5389), widening of Overland Drive between the intersections with Folks Road and Wakarusa Drive (Bk. 1039, Pa. 5391), and widening of Folks Road between the intersections with Overland Drive and W. 6th Street (Bk.

Proposed utility locations and sizes are preliminary, to be finalized at the time of site

Public improvement plans for public sanitary sewers, streets, storm sewers and/or waterlines necessary for each phase of this development will be submitted to the Public Works Department for review prior to issuance of building permits by

Public improvements (including both retention and detention basins) necessary for each respective phase of development, will be completed prior to occupancy of the

No fences or structures other than necessary retaining walls and/or guardrails will be

Curb inlets will be constructed per City of Lawrence standards. The developer will coordinate the necessary removal, relocation and/or extension of any existing utilities, including utility easements, with the appropriate municipal utilities

Private streets necessary for each respective phase of development will be completed 12. Concrete aprons (for private drives) will be installed in accordance with City of 13. Streets and parking areas within the eastern, PRD portion of the development will

drives within the PCD and POD portions of the development will have Type I (24") 14. Direct vehicular access from individual lots other than as shown on this plan, onto Wakarusa Drive, West 6th Street, Folks Road and Overland Drive is prohibited.

15. Sidewalks will be constructed per City of Lawrence standards (4"min. depth concrete on compacted subgrade). 16. Private drive and parking area pavement will be constructed per City of Lawrence

17. Parking spaces will be min. 9' wide and 18' long, unless otherwise shown. 18. This plan has been designed to comply with the provisions of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), for buildings and facilities, Appendix A

19. ADA accessible parking spaces and aisles will be signed and painted in accordance 20. ADA ramps will be installed in accordance with ADAAG and City of Lawrence

22. Trash enclosures will be constructed per City of Lawrence Solid Waste Division 23. The City of Lawrence will not be responsible for pavement damage due to refuse

24. Stormwater detention ponds, common open space, common recreational facilities, private streets, sidewalks and drives will be owned and maintained by a Homeowners or Property Owners Association, the detention pond will be privately—owned and maintained. The land owner is responsible for the maintenance of the detention basin. Failure to maintain the detention pond will result in the loss of the stormwater detention credit. The detention pond will remain free of any natural or non-natural structures or vegetative barriers (including but not limited to trees,

shrubbery, berms, fences, and walls). Landowners will provide for and establish an agency for the maintenance of common open space, recreation facilities, non-encroachable areas, private streets and any other area within proposed development that is to be retained primarily for the exclusive use and benefit of the residents, lessees, and owners of the planned unit

26. The owners/developers hereby dedicate to the City of Lawrence the right to regulate any construction over the area designated as common open space, open air recreation area, and non-encroachable area and to prohibit any construction within said areas and spaces inconsistent with the approved use or enjoyment of residents, lessees and owners of the planned unit development. All property owners within this planned development waive their right to approve or disapprove alterations or modifications to the preliminary development plan.

29. Unless otherwise noted, all areas not designated as pavement or building will be seeded, sodded, or landscaped with pervious and/or plant materials. Turf areas disturbed during the course of this project will be graded, seeded, sodded and/or otherwise restored to a condition acceptable to the City of Lawrence and/or

Site lighting will be shielded to prevent off—site glare. Ground—mounted or building—mounted (including rooftop—mounted) equipment will be screened in accordance with City of Lawrence standards, Sec. 20—14A04.8(b). A photometric plan is required for review and acceptance by the Planning &

to issuance of Building Permits. 34. Building heights will not exceed 45'. 35. Site signage (monument signs, entry markers, etc.) will be developed at the time of site engineering, architectural development and/or construction. Signage will be consistent with the overall architectural style established for the PUD. Sign locations

as shown are preliminary, to be finalized per individual permitting via Development 36. Traffic control signs placed on private property open to the general public will comply with "Standard Highway Signs" and the "Manual of Uniform Traffic Control Device" published by the Federal Highway Administration, with respect to size, shape, color,

37. Bicycle parking spaces will be located with final development plans. Swimming pool construction will comply with City Code Chapter 19, Article 11. The following four Waivers and three modified Subdivision Design Standards are granted

per the Planning Commission April 21, 2014: Waiver 1. Periphery Boundary. 2a. 30 feet commercial peripheral to 10' setbacks on W. 6th Street, 17' setback on

Wakarusa Drive, 10' setback on Overland Drive, 10' setback on Folks Road; 2b. 35 feet residential peripheral to 10' setbacks on Overland Drive, 10' setbacks on Folks Road, and 16' setbacks on W. 6th Street; and 2c. No peripheral boundary setback between the PUD areas within Bauer Farm. Waiver 2. Residential Setbacks.

3a. Distances less than 10' between the Residential Strucutres; and 3b. Residential front yard setbacks of approximately 10 feet, and side and rear yard setbacks less than 10 feet; providing the structures are designed to meet the building code requirements for zero setback.

<u>Waiver 3. Commercial Setbacks.</u> Commercial building setback as close as 10' on W. 6th Street, 17 feet on Wakarusa Drive, and 10' on Champion Lane.

<u>Subdivision Design Standard 1. Offset streets.</u> Local streets intersecting opposite sides less than 125 feet.

Alleyways within the residential areas of the subdivision. <u>Subdivision Design Standard 3. (Private) Street width.</u> Local private street widths of as little as 20 feet B—B (back—of—curb to

40. Elimination of 50' Setback from W. 6th Street R.O.W. by TA-01-01-06 approved by City Commission on 6/20/06. Per UFC Appendix IIIB, all buildings that require sprinkler systems will be provided with a fire hydrant within 50' of the Fire Department connection for the fire sprinkler

42. Additional landscape easements and additional right—of—way(s), where appropriate, will be provided on Overland Drive and Folks Road if existing right-of-ways do not provide sufficient space for road improvements as designed.

The extent of public/private areas and maintenance responsibilities within the development are specifically identified in the Maintenance Agreement executed between the City and Bauer Farm owners and recorded in Book 1040, Page 4377. This agreement will be reviewed and re—executed if needed to each Final Development Plan

to release of the building plan to the building inspector Per City Code Section 9—902, outdoor dining areas will be managed to prevent stormwater pollution. Food waste, trash, cigarettes and other solid wastes will be collected and disposed of properly. Fluid waste, including wastewater from pavement or furniture cleaning, will be collected and discharged to the sanitary sewer system.

46. All block and lot labeling provided is shown for identification purposes on this PDP. Block and lot numbers will be revised at the time of final platting. 47. Occupancy permits for proposed buildings will not be issued until the required public drainage improvements are complete, final inspected and accepted by the Public Works

For the intersection of Champion Ln. and W. 6th st., the development threshold has been met for signalization and will be installed summer 2016. Refer to Phase chart on

A Preliminary Development Plan for

FOR CON TR CTION

BAUER FARM

Lawrence, Kansas

WEST GRADING UTILITY **PLAN**

REVISIONS 3.07.07 - PER CC CONDITIONS 6.27.07 - PHARMACY 7.6.07 - PER DEPT, COMMENTS 8.3.07 - PER DEPT. COMMENTS 11.29.07 - WAKARUSA MEDIAN BREAK 1.18.08 - PER DEPT. COMMENTS 5.09.08 - PER CC CONDITIONS 6.22.09 - B6, L2,3,4,5; B8, L2 7.22.09 - PER DEPT. COMMENTS 8.24.09 - PER PC CONDITIONS 1,20,10 - RETIREMENT RESIDENC 2.25.10 - PER DEPT. COMMENTS 3.10.10 - PER DEPT, COMMENTS 4.12.10 - PER CC CONDITIONS

12.15.10 - BLOCK 9, LOTS 1 & 2

1.27.11 - PER DEPT. COMMENTS

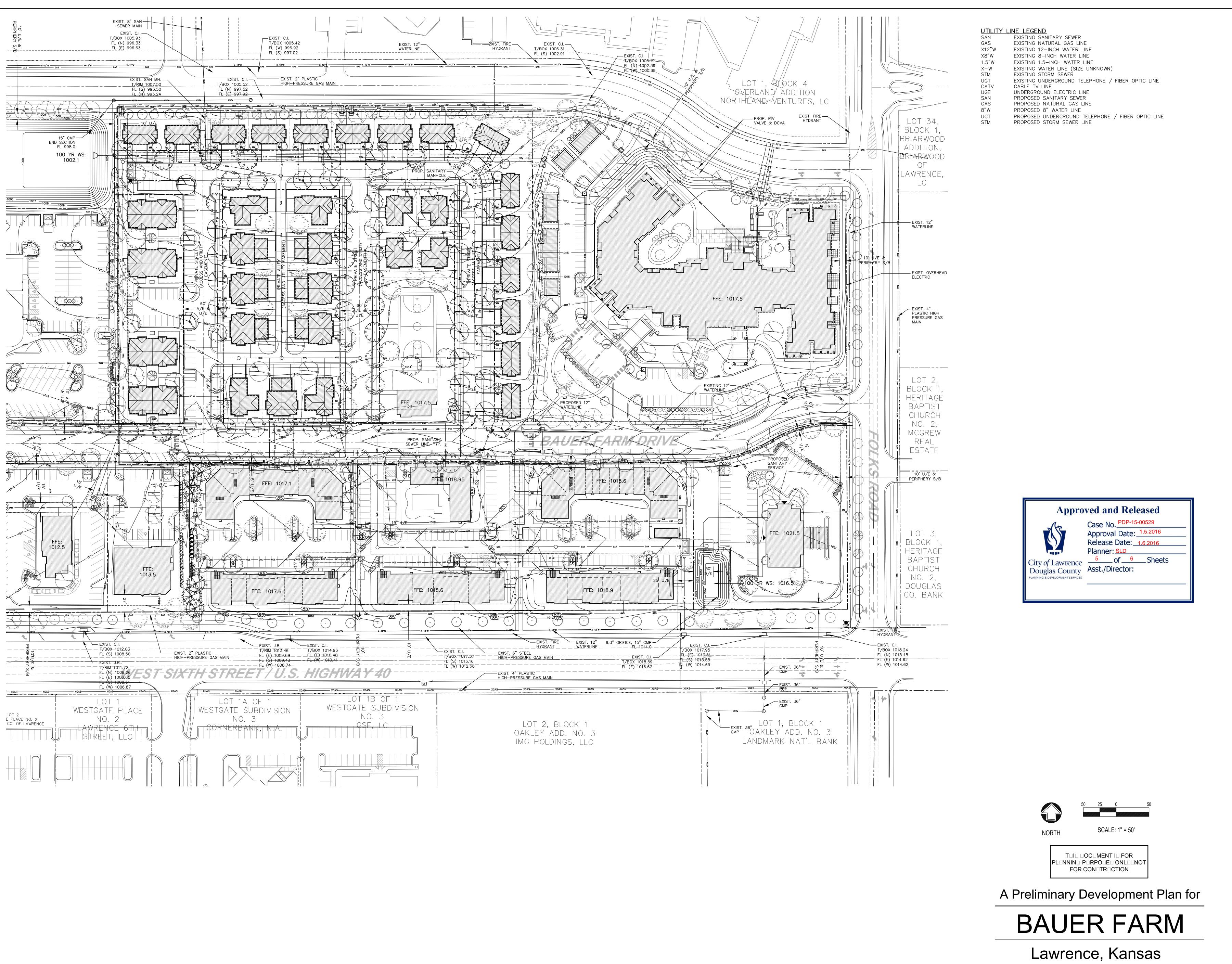
2.18.14 - GROCERY/RETAIL/RESIDENTAIL 3.31.14 - PER CITY COMMENTS 5.20.14 - PER CITY COMMENTS 10.19.15 - PER CITY COMMENTS 12.02.15 - PER CITY COMMENTS DATE: 3/9/2005 PROJECT NO. 2003,695

of 6 sheets

MTA/LPE

DRAWN BY: CHECKED BY: SHEET NO.

DESIGNED BY



1040 Vermont Street
Lawrence, Kansas 66044
Office: 785.842.4858
Fax: 785.842.7536
www.treanorarchitects.com

TURE - INTERIORS - PLANNING - HISTORIC PRESERVATION - CIVIL ENGINEERING
ARCHITECTS P.A.

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H STREET & WAKARUSA DRIVE LAWRENCE, KANSAS

EAST GRADING & UTILITY PLAN

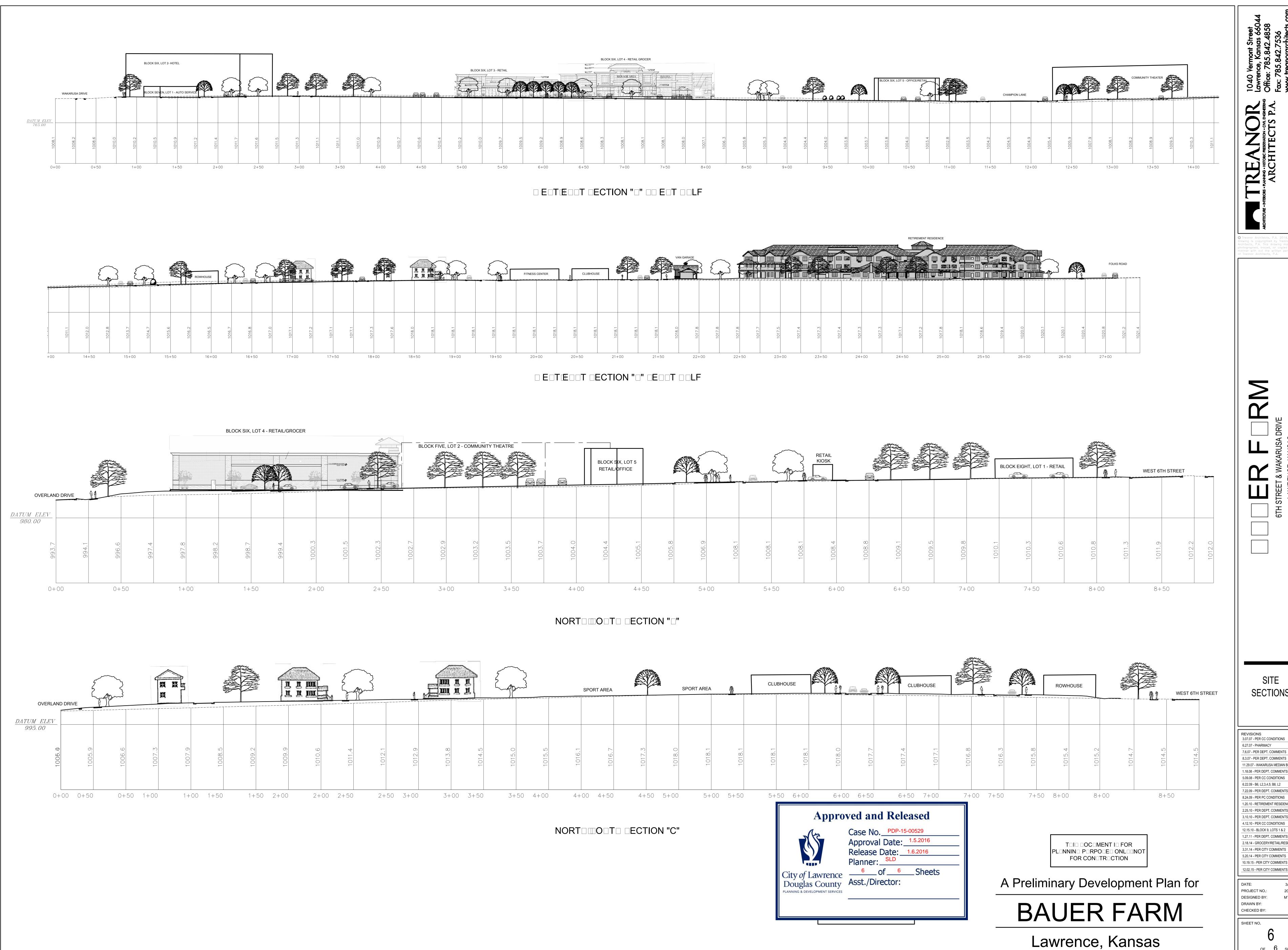
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3.07.07 - PER CC CONDITIONS 6.27.07 - PHARMACY 7.6.07 - PER DEPT. COMMENTS 8.3.07 - PER DEPT. COMMENTS 11.29.07 - WAKARUSA MEDIAN BREAK 1.18.08 - PER DEPT. COMMENTS 5.09.08 - PER CC CONDITIONS 7.22.09 - PER DEPT. COMMENTS 8.24.09 - PER PC CONDITIONS 1.20.10 - RETIREMENT RESIDENCE 2.25.10 - PER DEPT. COMMENTS 3.10.10 - PER DEPT, COMMENTS 4.12.10 - PER CC CONDITIONS 12.15.10 - BLOCK 9, LOTS 1 & 2 1.27.11 - PER DEPT. COMMENTS 2.18.14 - GROCERY/RETAIL/RESIDENTAIL 3.31.14 - PER CITY COMMENTS

12.02.15 - PER CITY COMMENTS PROJECT NO.: 2003,695 DESIGNED BY: MTA/LPE DRAWN BY: CHECKED BY:

SHEET NO.

of 6 sheets



FDP-18-00301: Consider a revised Final Development Plan for Bauer Farm, located at 4651 Bauer Farm Dr.



PLANNING COMMISSION REPORT Regular Agenda - Public Hearing Item

PC Staff Report 08/22/2018

ITEM NO. 2

Z-18-00255 RS7 (SINGLE-DWELLING RESIDENTIAL) TO RSO (SINGLE-DWELLING RESIDENTIAL-OFFICE) DISTRICT; 708 ELM STREET (LRM)

Z-18-00255: Consider a request to rezone approximately 0.81 acre from RS7 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential - Office) District, located at 708 Elm Street. Submitted by Lauren Davis of TreanorHL, for the Elizabeth Ballard Community Center, property owner of record.

STAFF RECOMMENDATION: Staff recommends approval of the request to rezone approximately 0.81 acres, from RS7 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential-Office) District based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Reason for Request: We are looking to incorporate the non-conforming use of the food pantry, that previously has not been addressed in the zoning, as well as add clothing and basic household goods to be available for those in need.

KEY POINTS

- Property is located in the North Lawrence Neighborhood.
- Property is currently used and occupied by the Ballard Center.
- Property includes an existing building with access on the north side of the property.
- Use of western side of property for donation drop-off will require site plan approval.
- Property is comprised of one platted lot. Eastern half of lot is remains unplatted.
- Existing building currently encumbers both platted and unplatted portions of the parcel.

ASSOCIATED CASES/OTHER ACTION REQUIRED

• Submission and approval of a site plan, SP-18-00253, for the addition of a concrete area with two donation drop boxes and two 10 foot x 12 foot storage sheds for sorting.

PLANS AND STUDIES REQURIED

- Traffic Study Not required for rezoning
- Downstream Sanitary Sewer Analysis Not required for rezoning
- Drainage Study Not required for rezoning
- Retail Market Study Not applicable

ATTACHMENTS

- 1. Property History
- 2. Neighborhood Area Map
- 3. Map of Uses

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

None received

Project Summary:

This application includes one parcel on the south side of Elm Street and the east side of N. 7th Street. The parcel is comprised of both platted and unplatted land. The existing building encumbers both the platted and unplatted portions of the parcel. The subject property is currently used as an early childhood education center and food pantry (*social service agency*).

The day care center use is permitted in both the current and proposed zoning districts as an allowed community facility. The Land Development Code defines community facilities as uses by a

public, publicly funded, nonprofit, or charitable nature, not including recreational uses, which provide a variety of services to the general public on a regular basis but not limited to education, technical or vocational training, day care, cultural, civic or social services, or utility services.

The Ballard Center's food pantry and proposed clothing and household goods donation program is currently a *social service agency* use. The Land Development Code defines social service agency as a service operated by a public, publicly funded, nonprofit, or charitable organization providing services undertaken to advance the welfare of citizens in need which typically includes supporting office uses. While the *social service agency* use is considered a community facility, like *day care center*, it is not permitted in the current RS7 district. It is permitted in the proposed RSO district.

The proposed rezoning will return the Ballard Center to compliance. The center's services and activities came into existence under the 1966 zoning code. The Ballard Center was zoned RS-2 which permitted community facilities subject to listed conditions. It was the adoption of the Land Development Code in 2006 and subsequent rezoning to RS7 that took the Ballard Center's *Social Service Agency* use out of compliance. The RS-2 district became the RS7 district with the adoption of the Land Development Code. The proposed RSO district, like the previous RS-2 district, permits both of the Ballard Center's main uses.

The applicant intends to expand the *social service agency* use by adding a drop-off and sorting area for donated clothing and household goods. The property is currently zoned RS7 (Single-Dwelling Residential) District. The current use of the property for *social service agency* is not compliant with the permitted uses of the RS7 District established in Section 20-402 of the Land Development Code. An expansion, as proposed, constitutes an expansion of a non-conforming use. The property requires rezoning to accommodate the *social service agency* use. The current RS7 district does not permit expansion or intensification of the *social service agency* use. The proposed RSO district would.

Per Douglas County Register of Deeds records, the current building was built in 1915.

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: "It will enhance an existing community resource."

Elm Street between N. 2nd Street and N. 9th Street is a generally residential area with pockets of other zoning districts. The corridor is located entirely within North Lawrence.

Staff Finding – *Horizon 2020* does not directly addresses social service uses. Map 3-2 indicates a future land use of parks, recreation, and open space surrounded by low to very low-density residential. *Horizon 2020* discusses transitions and compatibility of those uses between low-density residential and more intense uses. The subject property is not directly adjacent to the neighborhood's other, more intense zoning districts, but it does contribute to a broad transition zone between the CS (Commercial Strip) and IG (General Industrial) Districts found along N. 2nd Street and Locust Street and the RS7 (Single-Dwelling Residential) District found in the southern and eastern portions of the North Lawrence neighborhood.

The proposal is generally in conformance with the comprehensive plan because it conforms to the transitional policies between uses. It also prevent the expansion of a non-conforming use in a low-density residential area. The Ballard Center's existing food pantry *social service agency* use is not registered as an approved non-conforming use. A non-conforming use may not be expanded per Section 20-1502 of the Land Development Code.

Both RS7 and RSO Districts are single-dwelling residential districts and do not support multidwelling structures per the Land Development Code. The stated intent of the RSO District is to accommodate low to medium-intensity administrative and professional offices that are compatible with the character of low and medium-density residential neighborhoods. The generally single-dwelling residential nature of the neighborhood would be maintained under this proposed rezoning.

2. ZONING AND USE OF NEARBY PROPERTY, INCLUDING OVERLAY ZONING

Current Zoning and Land Use: Surrounding Zoning and Land U		used for early childhood education center (<i>Day Care Center</i>) and Food Pantry (<i>Social Service Agency</i>).
To the north	RS7 (Single-Dwelling Residential), detached dwelling use.	
To the south	OS (Open Space) District, open spaces/parks (John Taylor Park) use.	
To the west	RS7 (Single-Dwelling Residential), detached dwelling use.	
To the east	RS7 (Single-Dwe	elling Residential) District, detached dwelling use.



Figure 1: Existing Zoning



Figure 2: Existing Land Use

Staff Finding – The property is surrounded by existing RS7 (Single-Dwelling Residential) zoning and OS (Open Space) zoning to the south. Land uses include residentially developed lots to the north, east, and west. There is a church (*neighborhood religious institution*) at the northwest corner of the intersection of Elm Street and N. 7th Street. Furthermore, there are pockets of GPI (General Public and Institutional Use) District, CS (Commercial Strip) District, CN1 (Inner neighborhood Commercial) District, RS5 (Single-Dwelling Residential) and RSO (Single-Dwelling Residential-Office) District within the southern half of the North Lawrence neighborhood.

3. CHARACTER OF THE NEIGHBORHOOD

Applicant's Response: Residential with light commercial."

The property is located in the North Lawrence neighborhood. The neighborhood includes a mix of residential, commercial, and industrial uses with a commercial area along N. 2nd Street and small commercial pockets along Locust Street. There are industrial and commercially zoned parcels centered along Maple Street and the railroad tracks north of the subject property. Significant land uses in the immediate neighborhood include Woodlawn Elementary School and John Taylor Park. The south side of Locust Street to the east and west of N. 6th street is already zoned RSO (Single-Dwelling Residential-Office) District and has been developed as a *duplex* use.

The subject property is not located within any historic environs in the neighborhood. It is located within the FEMA designated Zone X: Protected by Levee, which means it is not considered part of the regulatory floodplain.

Staff Finding – The North Lawrence Neighborhood includes a variety of zoning districts and land uses. RSO (Single-Dwelling Residential-Office) District already exists to the northwest of the subject property along Locust Street west of N. 7th Street. The Locust Street RSO district was developed as a *duplex* use. This is an example of the RSO district acting as a buffer and transition zone between the CS (Commercial Strip) and IG (General Industrial) districts along the railroad tracks and the RS7 district that surrounds the subject property. RSO is a residential district as its base and conforms to the residential character the area.

Detached-Dwelling Residential use dominates the subject property's immediate neighborhood.

4. PLANS FOR THE AREA OR NEIGHBORHOOD, AS REFLECTED IN ADOPTED AREA AND/OR SECTOR PLANS INCLUDING THE PROPERTY OR ADJOINING PROPERTY

The *North Lawrence Neighborhood Plan* was adopted by the Lawrence-Douglas County Planning Commission in 1981; however, it is not identified as a specific plan by *Horizon 2020*. The plan focuses on the future development of the North Lawrence neighborhood. It recognizes the variety of land uses throughout the neighborhood and the inconsistency between zoning districts and land uses that exists for some parcels. The plan recommended rezoning of properties consistent with their land use or with performance standards taking into account the surrounding residents.

The plan also recognizes the unique demographic and physical characteristics of the North Lawrence Neighborhood and encourages increased utilization of the public and quasi-public spaces in the neighborhood. The plan recognizes neighborhood churches, the Ballard Center, and Woodlawn School as public and quasi-public spaces. A survey associated with the plan noted relative public satisfaction with the neighborhood's public facilities and services. The plan notes,

The Ballard Center will continue to function in its present capacity and remain and important neighborhood asset.

Residents express a strong desire to see community facilities such as a daycare center, indoor recreation and meeting rooms developed as a joint operation with the present facilities of Woodlawn School.

The RSO (Single-Dwelling Residential-Office) District is intended to accommodate both low and medium-intensity administrative and professional uses that are compatible with the character of

low and medium-density residential neighborhoods. This matches a non-residential objective outlined in the 1981 North Lawrence Neighborhood Plan,

Provide for diverse and convenient non-residential facilities to serve neighborhood needs in such a way that low density residential areas of the neighborhood are not adversely affected.

The Ballard Center has operated an early childhood education center and desires to expand a food, clothing, and household goods donation program. The RSO (Single-Dwelling Residential-Office) District permits both uses while the current RS7 (Single-Dwelling Residential) District permits only the *day care center* use. The services provided by the Ballard Center align with the goals the North Lawrence Neighborhood Plan outlined for its public and quasi-public spaces. The Ballard Center is looking to align those uses with the Land Development Code's zoning districts.

Another stated goal of the RSO (Single-Dwelling Residential-Office) District is to act as a transitional zoning district between higher intensity commercial areas and residential neighborhoods. A variety of zoning districts exist in North Lawrence and there is not always a gradual transition between higher-intensity commercial or industrial districts and lower-intensity residential districts. Broadly, this rezoning would meet the intentions of the RSO (Single-Dwelling Residential-Office) District. It would act as a transitional zoning district between the higher intensity CS (Commercial Strip) and IG (General Industrial) Districts present in the western half of the neighborhood and the lower intensity RS7 (Single-Dwelling Residential) and OS (Open Space) Districts that exist in the eastern portion of the neighborhood.

Staff Finding — This request is consistent with the stated objective of the 1981 neighborhood plan to align land use and zoning, as well as provide neighborhood services without negatively affecting the surrounding properties. The proposed rezoning complies with *Horizon 2020's* stated criterial for strong neighborhoods. This request will not alter the character and appearance of the surrounding low-density residential neighborhood. The proposed rezoning will allow the Ballard Center to continue operating as an identifiable hub. *Horizon 2020* calls for interspersed public and civic uses that are designed to offer basic daily needs and services. The Ballard Center, along with John Taylor Park and Woodlawn School, function as identifiable hubs for the North Lawrence neighborhood.

5. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED UNDER THE EXISTING ZONING REGULATIONS

Applicant's Response: "The property is very suitable for the new zoning."

The property included in this rezoning request is comprised of one platted lot. The eastern portion of the site is currently unplatted. Communications between planning staff and the applicant indicate that a larger-scale development project would require replatting of the subject property to include the currently unplatted land on the eastern half of the site.

The RS7 (Single-Dwelling Residential) District does not permit the Ballard Center's *social service agency* use that encompasses the food, clothing, and home goods donation program. The RSO (Single-Dwelling Residential-Office) District permits the *social service agency* use and will allow for future site alterations not permitted for the existing non-conforming use. A rezoned Ballard Center property would allow the continued use of the site as a community facility.

Staff Finding – The Planning Director has determined the current use of the site to be *social service agency*, which is a non-conforming use in the RS7 (Single-Dwelling Residential) District.

Rezoning the subject property to RSO (Single-Dwelling Residential-Office) District would allow future site and use alterations that would not be permitted for a non-conforming use under the Land Development Code.

6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED Applicant's Response: "W/4"

The property has been zoned RS7 (Single-Dwelling Residential) District since the adoption of the Land Development Code in 2006. The property is not vacant. The site has operated as a school, library, and a number of *social service agency* uses since it was constructed in 1915.

The subject property was zoned RS-2 (Single-Family Residential) District in 1966. The 1966 Zoning Code permitted the Ballard Center's uses with special conditions.

Staff Finding – The property included in this request is developed with a building with frontage along Elm Street and N. 7th Street. The building was constructed in 1915 and has operated in the current manner as a center for social services since the 1960s.

7. EXTENT TO WHICH APPROVING THE REZONING WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES

Applicant's Response: "It will not detrimentally affect nearby properties."

Nearby properties include single-dwelling residential uses fronting Elm Street and N. 7th Street. John Taylor Park is immediately south of the property. A church is located to the northwest at the intersection of Elm Street and N. 7^{th} Street.

The RSO District, at its base, is a single-dwelling residential district. The residential component of the district is in conformance with the surrounding RS7 District. There is no residential proposal included in the associated site plan under staff review.

Staff Finding — Approval of the request is not anticipated to result in detrimental impacts to the adjacent properties. A site plan has been submitted to expand the existing *Social Service Agency* use and is currently under staff review. Staff will review the site plan application for compliance with the standard site plan requirements established by the Land Development Code.

8. THE GAIN, IF ANY, TO THE PUBLIC HEALTH, SAFETY AND WELFARE DUE TO THE DENIAL OF THE APPLICATION, AS COMPARED TO THE HARDSHIP IMPOSED UPON THE LANDOWNER, IF ANY, AS A RESULT OF DENIAL OF THE APPLICATION

Applicant's Response: "It will allow the Ballard Center to provide additional public services to the community. Without rezoning it will be difficult for the Ballard Center to operate at its full potential."

Evaluation of this criterion includes weighing the benefits to the public versus the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the rezoning request on the public health, safety, and welfare.

Approval of the proposed zoning would align the long-term existing use with the Land Development Code. Rezoning to RSO (Single-Dwelling Residential-Office) will allow the Ballard Center to conform expand its mission.

Staff Finding — Denial of the request will maintain the current RS7 (Single-Dwelling Residential) District, which does not permit the Ballard Center's social service programs to expand. There would be little gain to the public health, safety, and welfare if the application was denied as the proposal would limit the expansion of a non-conforming use.

9. PROFESSIONAL STAFF RECOMMENDATION

The RSO District would permit *social service agency* and *day care center* uses. The area is mostly comprised of *detached-dwelling residential* use but there are a variety of zoning districts and uses throughout the southern portion of the North Lawrence neighborhood.

The proposed rezoning to RSO would allow the Ballard Center to expand its food, clothing, and household goods donation program. *Social service agency* is not a permitted use in the RS7 District. The proposed rezoning would allow for an existing community facility to expand and improve operations without significant impact to the surrounding area's residential atmosphere.

CONCLUSION

Staff recommends approval of the proposed rezoning from RS7 (Single-Dwelling Residential) to RSO (Single-Dwelling Residential-Office) District for 708 Elm Street.



Z-18-00255: Rezone 0.81
acres from RS7 (Single-Dwelling Residential)
District to RSO (Single-Dwelling Residential-Office)
District, located at 708 Elm Street.



PLANNING COMMISSION REPORT Regular Agenda – Public Hearing Item

PC Staff Report 08/22/18

ITEM NO. 3: CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N. 1700 ROAD (MKM)

CUP-18-00299: Consider a Conditional Use Permit for Big Springs Quarry, approximately 1,049 acres located at 2 N. 1700 Rd. and parcels to the north, east, and south. Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record.

STAFF RECOMMENDATION: The Conditional Use Permit application includes a change in the area encompassed in the CUP, and revised restrictions/conditions of use. Staff recommends approval of the CUP application based on the findings of fact listed in this report subject to the revised restrictions/conditions of use provided in Attachment A.

Attachments:

Attachment A – Current Restrictions of Use and Conditions of Approval

Attachment B – Letters of recommendation

Attachment C – Quarry Operations and Property Values

Attachment D - Reclamation Awards

Attachment E - Site Exhibit

Reason for Request:

Applicant's response: "This request is twofold: To extend the life of the existing Conditional Use Permits (CUP) that expire 12/19/2020 (CUP No. 3500 and No. 3853) and a request to expand the quarry."

KEY POINTS

- The request consists of several requested revisions to the Conditional Use Permit. Each request will be reviewed individually in the staff report.
- The CUP is currently regulated by 22 restrictions of use which were applied to the original permit. In addition, subsequent conditions or restrictions have been established with each revision or amendment to the original CUP. Revised restrictions of use and conditions of operation are proposed with this application. The proposed restrictions of use and conditions of approval are provided at the end of this report and the current restrictions and conditions are included in Attachment A. Changes recommended to the restrictions and conditions are the removal of those which have been met and no longer apply, modification or removal of some, and a few conditions have been added.
- Key changes being proposed with this CUP are a change in the area within the CUP and a new 30 year time frame.

Public Communications

Property owners in the area, Michele and Robert Best, visited the Planning Office to discuss the application and their concerns. They own property to the south of Phase 6 (Purple phase on the proposed plan). They have plans to build a new house on the northern portion of their property, near the southern boundary of Phase 6, but don't want to build until quarrying is complete on Phase 6/Purple. They indicated that they are not opposed to the expansion of the quarry or the extension of the time frame but would like to see a condition that quarrying would not stop in Phase 6 but would continue until materials are depleted; by the end of the current CUP (December 2020). The applicant indicated they intend to continue quarrying in Phase 6 and have no intentions to stop or move to another location as long as there is a market demand. They've agreed to the addition of a condition on the CUP requiring them to keep quarrying Phase 6 until it is complete.

Several letters of recommendation were provided to the Planning Office. These are included with this report as Attachment D.

Project Summary

The current CUP for Big Springs Quarry contains approximately 800 acres. Several phases of the quarry have been quarried and reclaimed. Phases 1, 1A, 2, and 3 are complete and Phase 6 is currently being quarried. The applicant is proposing the addition of approximately 569 acres and the removal of the areas that have been quarried and reclaimed from the CUP. A new 30 year timeframe has been requested to allow time for quarrying of this area. Other changes being proposed with this conditional use permit application include an increase in the area that can be open at a time from 30 acres to 40 acres due to the larger equipment that is used today than when the CUP was originally approved in 1992; and changes to the restrictions/conditions of use.

A similar application was submitted in 2008, a few years after Mid-States Materials became the operator of the quarry. At that time, compliance issues were discovered that had occurred under the previous operator. Mid-States agreed to withdraw the application at that time and entered into a consent decree to resolve the compliance issues. Compliance with the consent decree was evaluated and a memo was provided to the County Commission on March 9, 2011 indicating that the quarry was in compliance with these requirements.

Quarry/CUP area (Figure 1)

Currently approved	800 acres
Area that has been quarried and reclaimed	440 acres
Area to be quarried	360 acres
Area to be added	569 acres
Plant site	40 acres
Area of proposed Quarry/CUP	969 acres*

^{*}The area is less than listed in the CUP application due to fact that legal descriptions are written to the centerline of the road, but City/County GIS maps note only the area out of the road right-of-way.

ASSOCIATED CASES

- Conditional Use Permit (CUP-7-2-90) approved by Board of County Commissioners on Dec. 19, 1990 for Martin Marietta Aggregates to operate a 720 acre limestone quarry.
- Conditional Use Permit (CUP-6-6-92) approved by the Board of County Commissioners on Sept. 16, 1992 to include an additional 80 acre tract (Phase I-A) in the overall quarry operation. A condition of approval was that no future requests to expand the size of the quarry site would be allowed.
- Revision to the original CUP (CUP-7-2-90) was approved by the Board of County Commissioners on March 17, 1993 to allow the addition of a shop maintenance facility on the site.
- Conditional Use Permit (CUP-12-09-06) approved by the Board of County Commissioners on July 16, 2007 to allow the transfer of operator to Mid-States Materials and a revision to the landscaping plan.
- Conditional Use Permit (CUP-07-05-08) for expansion of quarry and other changes. This CUP was withdrawn and the applicant entered into a consent decree with the County Commission to resolve previous compliance issues. (Staff memo confirming compliance with the consent decree was provided to County Commission on March 9, 2011.)

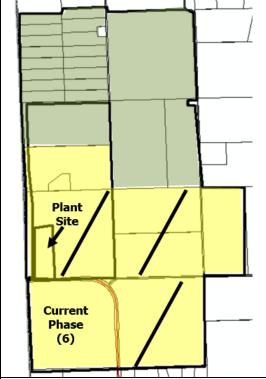


Figure 1. Areas of quarry.

- Yellow: currently approved.
- Struck through: quarrying and reclamation complete
- Green: proposed new area.

 Conditional Use Permit (CUP-13-00126) to allow phasing to occur in any sequence. As a result quarrying moved from Phase 3 to Phase 6 and left Phases 4 and 5 to be completed later. The current CUP uses colors to designate the phases so that sequencing can be determined as quarrying progresses.

OTHER ACTION REQUIRED

- Consideration of the CUP request by the Board of County Commissioners.
- If the Board of County Commissioners approved the CUP, issuance of a permit for the CUP by the Zoning and Codes Office when all conditions of approval have been met.

GENERAL INFORMATION

Current Zoning and Land Use:

A (Agricultural) District and F-F (Floodway Fringe) Overlay district; Limestone Quarry, *Mining and Excavation,* permitted with a Conditional Use Permit and agricultural uses on portions not being quarried.

Surrounding Zoning and Land Use:

To the west: The property abuts the Douglas/Shawnee County Line to the west and the quarry extends westward into Shawnee County. Agriculture, rural residences and woodland are located west of the proposed expansion.

To the north, east, and south: A (Agricultural District) with F-F (Floodway Fringe Overlay District) to the south and east; agricultural uses and scattered rural residences. An undeveloped platted rural subdivision is located south of the completed Phase 3 of quarry property. (Figure 2)

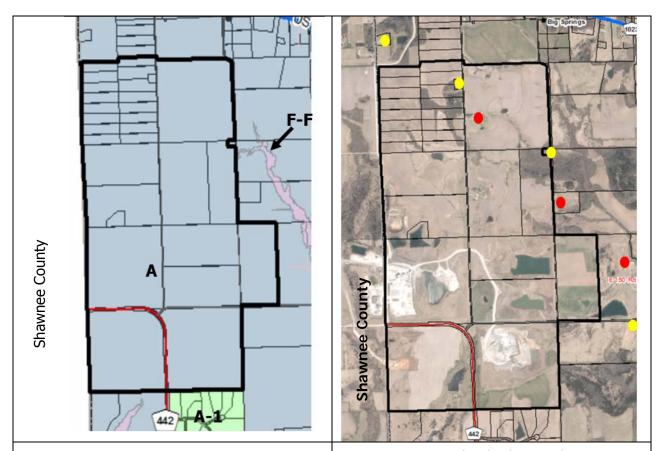


Figure 2a. Surrounding zoning. Subject property outlined.

Figure 2b. Surrounding land use. Subject property outlined. Residences marked with yellow dots, those owned by Mid-States marked with red.

I. ZONING AND USES OF PROPERTY NEARBY

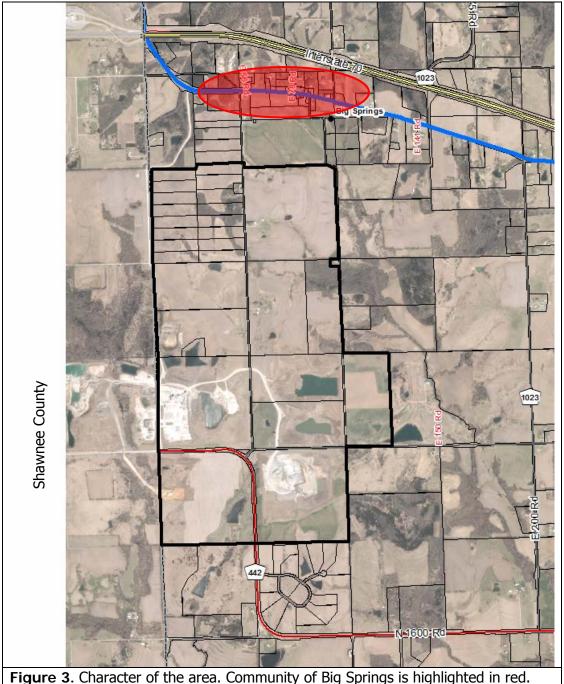
The quarry extends across the county line and is also located within Shawnee County. The surrounding area consists primarily of agricultural land uses; however, there are rural residences scattered throughout the area. Figure 2b shows the location of these residences, and identifies those that are owned by Mid-States. There are nearby residences in Shawnee County as well. Notice of the public hearing for this CUP at the Planning Commission was mailed to property owners within Shawnee County and the CUP was provided to the Shawnee County Planning Office for comments. At the time this report was written, no comments had been provided from Shawnee County residents or the Shawnee County Planning Office.

Staff Finding – Most of the land in the area is zoned and used for agriculture. However, there are residential land uses nearby which should be considered when establishing setbacks and restrictions of use. The applicant is proposing a 500 foot setback from all residences (not owned by Mid-States), in addition to other setbacks measured from the phase property line. These setbacks will be discussed later in this report. With proper setbacks and conditions restricting

the use, the continuation and expansion of the quarry should be compatible with the existing nearby zoning districts and land uses.

11. **CHARACTER OF THE AREA**

Big Springs Quarry is located on the west boundary of Douglas County, and extends into Shawnee County. (Figure 3) This is primarily an agricultural area with scattered residential uses. A platted subdivision which has not been developed is located just south of Phase 3, which was recently completed.



Access to the plant site is taken from County Route 442 for local deliveries; all other access is taken from the main access point on Highway 40 to the north. This access point is west of the community of Big Springs. The acreage being added to the quarry with this conditional use

permit will move the northern boundary of the quarry closer to Big Springs. A portion of Big Springs is zoned B2 (General Business) and is developed with uses permitted in that district. Other uses in the community include a church and residences. Mid-States purchased several parcels adjacent to the quarry to provide a buffer between the quarrying activity and properties owned by others. (Figure 4)

The quarry has been operating in the area since the 1990's and is a feature of the area. As phases are completed and reclaimed they are returned to a state suitable for agriculture. These parcels could be used for any use permitted in the A Zoning District.

Staff Finding – The quarry is located in a rural area with predominately agricultural land uses and scattered farm/rural residences. The principal land use is agricultural grassland and row crops.



Figure 4. Properties adjacent to Big Springs Quarry which Mid-States has purchased or is buying on contract shown in yellow. Property within the quarry that is owned by Mid-States is shown in green.

The character of the area has not changed much in the past 30 years. The expansion of the quarry will allow quarrying activity closer to the community of Big Springs and the extension of the time frame will allow the quarry to remain in the area for another 30 years. As the character of the area has not changed much since the original CUP was approved, the proposed CUP should be compatible with the existing uses provided measures, such as setbacks, pre-blast surveys, and drainage studies, are provided to mitigate potential impacts on nearby residences and wells.

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's response:

"The current land is zoned agricultural and it is suitable for that purpose. However, it is much more valuable for what lays underneath the surface. This is one of the richest mineral deposits of limestone to be found in Douglas County. Once the limestone has been mined, the land will be reclaimed back to agriculture. Reclamation will be completed in phases. Some of this land has already been reclaimed and Mid-States Materials, LLC ("Mid-States") won the 2012, 2014, and the 2018 Governor's Mined Land Reclamation Award for these phases. These awards were presented for returning the land back to its natural state with the added value of significant water features."

The property is well suited for agricultural uses and the phases that are not currently being quarried will continue to be used for agriculture. The quarried and reclaimed phases have been returned to a state suitable for agricultural land uses and are currently being used for agriculture. The property, due to the reserves of limestone and the infrastructure put in place for previous quarrying activity approved with earlier Conditional Use Permits, is also well suited for the proposed quarry use.

Staff Finding – A Conditional Use Permit does not change the base, underlying zoning. The suitability of the property for agricultural or rural residential use will not be altered. This

property is suitable for the uses permitted in the A (Agricultural) Zoning District and will continue to be used for agriculture before and after quarrying. The property, due to the reserves of limestone and the infrastructure put in place for previous quarrying activity approved with earlier Conditional Use Permits, is also well suited for the proposed quarry use.

IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED Staff Finding — County Zoning Regulations were adopted in 1966; this property has been zoned "A (Agricultural)" since that adoption. The property was used for agricultural purposes until the approval of a Conditional Use Permit, CUP-7-2-90, in 1992 for a quarry.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant's Response:

"This site has been a quarry site since at least 1992. Due to the stringent precautions MSM takes with regards to developing the quarry, the nearby property owners will notice little difference. MSM has worked hard to create substantial buffers between the quarry and the surrounding neighborhoods. MSM has purchased or leased several properties that will not be quarried, but located in between the quarry and the surrounding neighbors. Additionally, Mid-States Ventures, LLC in 2018 purchased the 308 acre Lone Oak property located to the southeast of the quarry to create a sizable buffer. The Lone Oak property itself is not viable as a quarry, so no expansion will take place on this property."

Section 19-01 of the County Zoning Regulations recognize that "certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited." The proposed use falls under Use No. 5, Mining and Excavation, listed in Section 19-4 Conditional Uses Enumerated, of the Douglas County Zoning Regulations.

Mining is an activity which can have a significant impact off-site. Increasing the borders of the quarry could have a negative impact on residences in the area. This area is sparsely populated; however, there are residences located near the proposed borders of the pink, blue and orange phases. The applicant is proposing a 500 foot setback for mining and blasting from these residences (Figure 5) and is setting aside areas of woodland adjacent to the parcels that are adjacent to the quarry itself to act as a vegetated buffer. The property owners of these residences have not contacted the Planning Office regarding the proposed changes to the CUP. The property within and north of the proposed pink phase was divided into 10 acre parcels under the 10 acre exemption in 2006, but was not developed. Mid-States is purchasing these parcels within the quarry boundary on contract as well as some of the parcels to the north of the pink phase, to provide a buffer area.

Staff Finding – The proposal requests the expansion of the quarry's boundary to the north and an increase in quarry area to approximately 1,049 acres as well as a 30 year extension to the time frame. This expansion and extension of time frame could have a negative impact on nearby residences. The new quarry area is located to the north, away from the platted residential subdivision to the south. 500 foot setbacks are proposed along the new borders for existing residences that are not owned by Mid-States. Limits on hours of operation and hours of blasting will be set to minimize the impact of noise and traffic associated with the quarry; as

noted in the attachments to this report. These measures and the other restrictions/conditions of use should mitigate the impact of the quarry on nearby land uses.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant's Response:

"The public gain is an inexpensive reliable supply of construction grade limestone aggregate that serves two of the five most populous counties in the state of Kansas. The Quarry has been in existence for over thirty-six years, thus any hardship imposed upon the individual landowners has already been factored and accounted for in the intervening years. The surrounding properties are appreciating at a rapid rate over the last three years according to the Douglas County Appraiser's website. (As an example, one property went from \$126,970 to \$144,030 from 2016 to 2018. Name withheld but information can be given upon request.) These appraisals are reflective of the market. The public gain far outweighs any hardship being imposed upon individual landowners"

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

Approval of the extension in the time limit for the Conditional Use Permit would permit the quarry to operate for 30 years after the County Commission's approval rather than through December of 2020, as currently permitted. The addition of land to the north would move the quarry activities nearer to the community of Big Springs. The applicant has proposed a wide setback area to mitigate the impact on the nearby residences and purchased land adjacent to the quarry, where possible, to provide an additional buffer.

Expanding the area and extending the time frame for quarrying would permit the quarry to utilize more of the available limestone deposits; however, it would also increase the length of time the neighboring property owners are impacted by the quarrying activity.

Restriction of Use No. VII(d) of the original CUP states, "Wo more than 30 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site." The applicant indicated that the request to have a larger mining activity area (40 acres) permitted to be opened at one time would provide the maneuvering room necessary for large equipment and would accommodate the mining activities necessary to reach the lower levels. The materials are located in shelves, with limestone for concrete located nearer the surface and limestone for road rock at a deeper level. The applicant indicated that a larger area was necessary for operating at this lower level. Increasing the area permitted to be open at a time would increase operating capacity and efficiency.

Staff Finding – The extension of the 30 year timeframe for the quarry would provide predictability for the neighbors, rather than approving a shorter time frame and then processing extension requests as the deadline approaches if quarrying is not complete. The increase in area would allow the quarry to utilize additional limestone reserves; however, the impact on the area north of the quarry would increase as mining activities would be closer. Mid-States purchased several parcels to the north of the quarry to provide a wider buffer between the

quarry and Big Springs. Appropriate setbacks and conditions should be applied to mitigate the impact of the quarrying activities as much as possible.

The increase in the area that can be open and mined from would be beneficial for the operator allowing them more room for the vehicles and more mining area for the extraction of the lower lying resources; and may allow quarrying to progress more quickly.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response—

"The Horizon 2020 Comprehensive Plan, dated 08/08/2017 Amendment, provides the following text (Pg. 7-1 – 7.2, only relevant bullet points are cited) concerning industrial uses:

STRATEGIES: INDUSTRIAL AND EMPLOYMENT-RELATED LAND USE

- The principal strategies for the identification, development, and maintenance of industrial and employment-related areas are:
 - Increase the number and diversity of jobs available to the citizens of Douglas
 County to stabilize the future employment base and generate additional wealth
 in the community.
 - Identify an adequate amount of available land in a number of locations in Douglas County to meet diverse industrial and business related development needs.
 - Increase community involvement in economic development activities, by partnering with the local business community and area educational institutions to bring new technology and investment to the region for the purpose of meeting the economic development job growth goal of securing twenty thousand new jobs in Douglas County by 2020.
 - o Protect, enhance, and retain existing industrial-related land use areas serving the community.
 - Continue to address the needs of existing businesses and industries to ensure their retention in the community and to help facilitate expansion plans of those businesses and industries for the future.

The Big Springs quarry is the hub for all of MSM's quarries located in a three state region. All ticketing for every individual truck that rolls out of over twenty different quarries goes through the Big Springs Control Center. There are thirty (30) employees on-site and up to sixty (60) positions created in the trucking industry. All of the bullet points listed above are strong considerations for renewing and expanding this CUP. This quarry is located on agriculturally zoned land located far from any population centers. These two considerations are among the best possible factors in locating a quarry. It is clear that this quarry is consistent with the Horizon 2020 Comprehensive Plan."

An evaluation of the conformance of a conditional use permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. The comprehensive plan does not directly address conditional use permits; however, the plan does refer to the character of the rural portions of the county, areas outside the Urban Growth Area: "*Agricultural uses should continue to be the predominant land use within the areas of the county beyond the designated urban growth/service areas (rural areas). Uses permitted in the rural area should continue to be limited to those which are compatible with*

agricultural production and uses.....Residential development should be limited in these areas so that new development does not unnecessarily remove productive land from agricultural use." (pages 5-6, Horizon 2020) The quarry use is compliant with the comprehensive plan in that it is a temporary use and the reclamation plan ensures that the land is returned to a rural state and would be suitable for agricultural uses.

The Resource Management section of Chapter 16 of the Comprehensive Plan, the Environment Chapter, notes: *This section encourages the responsible use of marketable natural resources within Douglas County through property extraction and reclamation methods. They are essential to sustainable development activity, primarily in the form of low cost raw materials, such as sand, gravel, timber, oil, gas, and stone, etc."*(Page 16-21 *Horizon 2020*)

<u>Staff Finding</u> – *Horizon 2020* does not directly address the issuances of CUPs but the use of the property as a quarry is in compliance with the recommendation on page 5-6 of the plan that land not be removed from agricultural production. The quarry will remove land from agricultural production for a time, but reclamation is required, which will return the property to a state that is suitable for agricultural uses. The CUP request is compliant with the recommendations regarding industrial and employment-related operations in Chapter 7, and with the establishment of appropriate extraction and reclamation measures, with recommendations regarding resource management in Chapter 16.

STAFF REVIEW

This CUP includes requests to revise the restrictions of use. Some of the significant changes proposed are: the expansion and revision of the quarry area; an increase in the area permitted to be open and mined at one time; and an extension of the time limit for the CUP.

CUP-7-2-90 was approved on December 19, 1990 for the operation of a 720 acre limestone quarry with a 30 year time limit. An additional 80 acres, Phase I-A, was permitted in 1992. A shop building was permitted through a revision to CUP-7-2-90 in 1994.

RESTRICTIONS OF USE AND CONDITIONS OF APPROVAL

The current CUP contains 22 original restrictions of use, 5 conditions which were added in 1992 with the 80 acre increase in area, 5 additional restrictions which were added in 1993 with the addition of the shop building, 6 restrictions which were added with the change of operator in 2007, conditions were also added that were specific to the consent decree in 2008 and to the change in phasing scheduling in 2013. Many of these restrictions and conditions have been met and no longer apply. The applicant is proposing a revised set of conditions. The following is a summary of the proposed restrictions/conditions of use:

- 1. Setbacks: New setbacks are being proposed. These are illustrated in the site exhibit, Attachment G.
 - a. A 100 foot setback is proposed along the road rights-of-way with the exception of the Purple Phase (current Phase 6) which has a 260 foot setback from the roadway and a 400 foot setback from the southern property line. The setbacks shown for the Purple Phase are not being revised with this proposal.
 - b. Residential Setbacks: A 500 foot setback is being provided for each residence near the quarry. In addition, a natural setback area will be provided where stands of trees are located in the area (shown on Pink and Orange Phases) This is an additional setback from the original CUP as there were no specific setbacks applied for residences. The natural area setbacks should be dimensioned on the exhibit.

- c. Setbacks for the Green Phase (former Phase 4) are revised with this CUP. The setback on the east is revised from 150 foot to 100 foot. This is due to the fact that Mid-States is the owner of the property to the east. The setback on the southern edge of the Green Phase (Phase 4) is increased from 500 feet to 700 feet.
- 2. Hours of Operation: the application requests the following changes to the hours of operation:
 - a. Extend hours for the sale and removal of rock to 6:00 PM Monday through Friday (currently ends at 5:30 PM) and adds Saturday morning hours of 7:00 AM to noon. Various hours of operation have been set for different quarries within the county. A similar quarry in the county has operating hours to 9 PM Monday through Saturday for the sale and removal of rock. As no comments have been received regarding these extended hours, and the expanded sales times could result in increased production, staff would recommend approval of the increased hours.
 - b. Extend hours for production and extraction from 5:30 PM to 6:00 PM.
- 3. Personal Property Bond: The requirement that the applicant post a \$10,000 bond to cover damages to personal property which resulted from blasting or quarrying activities is proposed to be replaced with a requirement that the applicant maintain a \$1,000,000 liability insurance. Certificates of insurance would be provided to the Zoning and Codes Department on a yearly basis.
- 4. Pre-blast Survey: The revised conditions clarify that a pre-blast survey can be conducted prior to quarrying beginning in a phase. Staff recommends adding information regarding how the operator will notify property owners that quarrying will begin in a phase and what studies/surveys are available prior to quarrying.
- 5. Site Access and Road Restrictions: The original condition dealt with several options for the haul road. As the haul road has been installed, this condition has been reduced.
- 6. Conditions added with expansion of quarry in 1992: When an 80 acre expansion was approved in 1992 conditions prohibiting the request of another expansion were approved. These conditions are being removed with this proposal.
- 7. Conditions added with approval of shop facility in 1993: Several of these conditions were regarding the construction of the building. The condition limiting the use of the shop to maintenance of equipment/vehicles used on the site will be kept.
- 8. Conditions added with the transfer of operator in 2006: The elevation 1042 was set as the maximum excavation depth possible before a hydrologic study is required. This elevation limit is retained.
 - Other conditions were related to compliance issues at the time. These are not being included.
- 9. Condition regarding the sequencing of phasing added in 2013 is no longer needed as the phases are denoted with colors rather than numbers. The operation plan should include a phasing plan; however, this could be changed with future operation plans.

10. Condition regarding quarrying of Phase 6 (Purple Phase) added in response to neighboring property owner's concerns.

Staff's recommended restrictions of use and conditions of approval are provided at the conclusion of this report.

The following is a review of the major changes being proposed with this CUP:

REQUEST 1. EXTENSION OF TIME LIMIT TO 2050.

The CUP was approved in 1990 with a 30 year time limit; expiring in December of 2020. Assigning a time frame to the CUP serves to notify the public that this will be a long term use, which provides some predictability in making future plans. However, the time needed to deplete reserves depends in part on the amount of reserves available, the amount of time the quarry is mined, and market demand. It should be understood that the time frame is not a set deadline, but a notice that quarrying may occur until that date and an extension may be requested at that date if quarrying is not complete.

As limestone reserves are available in this area, the site is currently used as a quarry, and infrastructure is in place (haul roads), the quarry operator has complied with the conditions and restrictions of the current CUP, and conditions and restrictions will be applied to mitigate potential impacts of the quarry, staff recommends approval of the 30 year timeframe to the term of this CUP.

2. CHANGE IN PROPERTY WITHIN THE CUP AND INCREASE IN ACREAGE OF THE QUARRY.

Condition No. 2 of the conditions of approval which were approved with CUP-6-6-92 stated that "No additional requests be made by Martin Marietta and/or its heirs during the remainder of Conditional Use Permit No. 3500 and No. 3853 (which expires December 19, 2020) to expand the size of the quarry site." And Condition of Approval No. 5 states that "Proposed Phase 1-A shall be the only permitted incremental expansion of the quarry CUP." The County Counselor noted that this is a condition applied to the Conditional Use Permit by the Board of County Commissioners. He noted that, as with other conditions, it can be revised with the submittal and approval of a conditional use permit amendment or a new conditional use permit.

In this case a new conditional use permit application was submitted. As limestone reserves are available, if the request to expand the quarry boundary meets the approval criteria for a conditional use permit, it is staff's opinion that the condition should not be carried over to the new conditional use permit.

Staff recommends approval of the change of area included in the quarry subject to the following conditions: 1) a survey of nearby wells shall be completed prior to quarrying commencing in any phase to establish the water levels in the adjacent wells and to set the depth at which mining can occur. If any mining is to occur below 1042, Mid-States must cause a hydrologic study to be completed and 2) submittal of an operation plan which illustrates that the amount of limestone available in the quarry with the additional acreage to the north could be mined by the end of the term of this CUP, with average market demand.

INCREASE IN AREA TO BE OPEN AND MINED FROM

Paragraph (d) in Restriction of Use No. VII states that "No more than 30 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site." The applicant is requesting that this restriction be revised to permit 40 acres to be open at one time.

The applicant indicated that the request to have a larger mining activity area (40 acres) opened at one time would provide the maneuvering room necessary for large equipment and would accommodate the mining activities necessary to reach the lower levels. The materials are located in shelves, with limestone for concrete located nearer the surface and limestone for road rock at a deeper level. The applicant indicated that a larger area is necessary for operating at this lower level. Increasing the area permitted to be open at a time would increase operating capacity and efficiency.

The Reclamation and Operation Strategies listed in the Best Management Practices for Reclaiming Surface Mines states that "Mining the slope to the final contours reduces reclamation costs by eliminating some of the earthwork necessary for final reclamation. This can result in reclamation being completed earlier, the performance security being reduced, and operating costs being lower in the long run." The extra mining area should allow the quarrying activity to be done at a slope which would prevent the formation of high-walls and could aid in the reclamation process.

The increase in area to be openly mined would be beneficial for the operator in allowing them more room for the vehicles, more mining area for the extraction of the lower lying resources, and may allow quarrying to progress more quickly. In addition the larger area may allow the quarrying activity to be done at a slope which could aid in the reclamation process.

RESTRICTIONS AND CONDITIONS OF USE:

1) Setbacks

Purple Phase (former phase 6)

- 400 foot setback along the south perimeter
- 260 foot setback along County Route 442
- Triangular area in the southeast corner a corner of which is 1,800 feet north of the south property line along the setback line of County Road 442 / E. 50 Road and another corner of which is 1,100 feet west of the right-of-the way of County Road 442/E. 50 road along the south setback line.

Green Phase (former Phase 4):

- 100 foot setback to the north and 700 foot setback to the south sides
- 100 foot setback on the east side

Pink Phase

• 100 foot along north property line

Blue Phase

100 foot along east property line

Orange Phase

• 100 foot along east property line

All Phases—

- 100 foot setback from the property line along the east side of the private haul road.
- 100 foot setback from the property line along E. 50 Road and E. 100 Road
- 500 foot residential setback (residences existing at the time of CUP approval)

2) Operation Restrictions

- a. Methods shall be adopted to minimize dust in stage area as well as along the haul roads.
- b. Quarry hours of operation shall be restricted to:
- i. sale and removal of rock: 6 a.m. 6 p.m., Monday- Friday; 7 a.m. 12:00 p.m. Saturday
- ii. Production and extraction: 6 a.m. 10 p.m., Monday Thursday; 6 a.m. 6:00 p.m., Friday
- iii. Blasting: 1 p.m. 5 p.m., Monday Friday
- iv. No quarry operations shall take place on holidays observed by the State of Kansas: (New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day: the day immediately following Thanksgiving Day, and Christmas Day.

Activities occurring after these hours: In the event of an emergency or other situation that requires quarrying, or sell of product after these hours, the request must be

provided to the Board of County Commissioners prior to the after hours activity commencing.

c. No more than 40 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase.

3) Fencing

The entire site shall be fenced with a five-strand barbed wire fence. Fencing shall be maintained by the operator. A security gate and fence shall be placed/maintained at the entrance to the quarrying site across the main haul road. The fence shall be signed periodically (minimum of 500 feet intervals) stating: "Mid-States Materials No Trespassing"

4) Berms

- a. All setbacks along roadways shall contain berms to screen operations. Berms are to be 6 to 8 feet high (8 feet maximum), built at a 3 to 1 slope and vegetated.
- b. Topsoil removed from each phase will be used to construct the berms. Berms shall be constructed as quarrying progresses in each phase.

5) Blasting

- a. Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives.
- b. No fly-rock shall leave the property.
- c. Prior to each blast, the operator shall contact adjoining neighbors who request individual notice of each blast. A signaling system, siren, horn, or other signaling system, shall be used to alert people in the neighboring vicinity before each blast takes place.
- d. No explosives will be set in the ground overnight unquarded.

6) Monitoring Blasting

- a. Operator shall contact with independent seismology firm to monitor blasts at the commencement of quarrying operations, at each residence within ½ mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.
- b. After the initial blasting, operator shall contract for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm at stations chosen by the seismology firm. A monthly report, which analyzes the impacts of daily blasting, will be available at operator's offices for inspection. Residents may request positioning of the seismograph to measure the impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those it determines, based on professional advice of its independent seismology firm, will provide adequate seismic readings at resident's

properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the Douglas County Public Works Director who may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of the operator.

c. The operator shall comply with the NFPA 495 Kansas Explosive Materials Code regulations regulated by the Office of the State Fire Marshall.

7) Air and Water Quality

The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than 1 time in a one year period as observed by KDHE observers over a 5 minute period.

8) Other Regulatory Restrictions

All applicable regulations of EPA, KDHE, and Kansas Department of Agriculture, and other applicable agencies shall be adhered to and subsequent revisions to these regulations shall apply.

9) Noise and Light Pollution

Vehicles used in plant operation (extraction & production) after 6:00 PM shall be equipped with manufactured lighting in addition to a back-up audible signal alarm.

Permanent outdoor lighting in the quarry, including the plant area, mining area, and haul roads, shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries.

10) Reclamation Bond

Mid-States shall be responsible for reclamation of all quarried land.

a. A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site in the Facility Area. The Bond shall be filed with the Douglas County Clerk's Office.

This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.

- b. In addition to the bond required under paragraph (a), above, a performance bond in the amount of \$400,000.00 with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk's Office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.
- c. For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of \$400,000.00 with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk's Office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10

acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.

d. Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.

11) Insurance

The operator shall carry liability insurance in the amount of \$1,000,000.00. Certificates of insurance shall be submitted to the Zoning and Codes Department on an annual basis.

12) Operation Report and Plan

- a. Prior to the issuance of the CUP permit and every 5 years thereafter, the operator shall submit a detailed report and plan of quarrying operations to the Planning Office.
- b. The plan shall show the phases of quarrying; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation.

13) Reclamation and Review

- a. The quarry shall utilize sequential reclamation. With the exception of the first cut in a phase, overburden within a cut shall be placed in the previous cut thereby removing the need to stockpile large amounts of overburden.
- b. Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Detailed Reclamation Plan shall be submitted and approved prior to opening of a quarry phase.
- c. The detailed reclamation plans would include a site plan showing elevations, crosssections, and the proposed plan for revegetation of the area.
- d. The property shall be reclaimed to a to a state that is compatible with the surrounding area with regard to slopes, and plant and animal life supported by the established ecosystem.
- e. Terraced areas shall be shaped to blend with the existing, adjoining contours. The land must be graded to final contours as shown on the approved reclamation plan, top-soil, which had been used to construct the berms of each quarry phase shall be removed as areas are reclaimed and the topsoil shall be spread over the land area and seeding of appropriate native plants must occur. It is not necessary for vegetation to be established before moving fully to the next phase.

14) Studies/Surveys Required Prior to Opening New Phase

a. Pre-Blast Survey. A pre-blast survey (by an independent seismology firm or structural engineer approved by the applicant and the owners of existing structures within one-half mile of the quarry site) shall be offered to the property owners and conducted, if the property owners request, prior to operating in each phase.

(Notice shall be mailed, by certified mail, to all property owners within one-half mile of the phase to be quarried, at least 1 month prior to the beginning of that phase, indicating that a new phase is about to be quarried and letting the property owner know about the pre-blast survey.)

b. Hydrologic Study

The quantity/quality of water in the wells within one-half mile of each quarry phase shall be documented prior to the commencement of quarrying operations in that phase. A study shall be done, at the operator's expense, for all wells within $\frac{1}{2}$ mile of each phase (with property owner consent). Notice shall be provided to all property owners within one-half mile of the phase boundary as noted in Condition 13a.

This study is intended to provide an inventory of area residential and stock wells and determine their capacities and current volumes/levels of operation; and to determine the impact of quarrying, per phase, based on the depth of mining proposed. If mining is proposed at a depth lower than 1042 or the local water table, the County Engineer may require a hydrologic study to analyze the impact on area wells.

c. Drainage Study

Prior to work progressing in each phase of the quarrying operation, a detailed grading plan showing site runoff and its relationship to the adjoining properties shall be submitted to the Planning Office for review and approval prior to work progressing in each phase.

15) Site Access and Road Restrictions

a. Except for vehicles traveling to and from the site on 45th Street in Shawnee County, the principal access to the site for transport truck traffic and hauling of rock shall be restricted to the use of U.S. Highway 40 from the direct haul route north of the proposed quarry. (The haul road is currently in place and the intersection with Highway 40 was designed in accordance with KDOT requirements.)

Any other haul route options must first be approved by the Douglas County Commission.

b. Except for local deliveries of rock from the quarry site, Route 442 shall not be used by transport trucks to travel to and from the east. The operator shall post signs and adopt appropriate restrictions on the quarry site, including restrictions on sale of rock where necessary, to ensure strict compliance with this restriction by all transport trucks.

In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shouldering, surfacing, and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the operator to cease operation or order such steps as the Board deems necessary under this CUP.

- c. No township roads shall be used as access to the quarry.
- d. Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site are to include:
 - no flatbed trucks without sides or tailgates;
 - tailgates shall be in place and in an upright position; and
 - all trucks leaving the site must be covered by a tied-down tarp.
- e. Operator is responsible for spillage and cleanup of aggregate within one mile of the plant site, which includes the intersection of the access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.
- f. The operator will not allow trucks to exceed State of Kansas legal weight limits or legally posted weight limits since different truck configurations have different legal weight limits.
- g. Weight limitations shall be posted on appropriate roads adjacent to the quarry.
- h. Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the operation plan. Road crossings between the phases of the site shall be maintained by operator at all times.
- i. During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.

16) Transfer of Operator

Because the operator's track record is an important consideration, a change in the quarry operator shall require the conditional use permit to come back to the Planning Commission for review and to the County Commission for reapproval.

17) Sanitary Landfill

The property shall not be used or requested for use as a sanitary landfill within the life of this conditional use permit.

18) Shop Facility

Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location.

19) Inspection/Violation/Revocation

The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant's representatives.

Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:

- a. Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.
- b. Order the operator or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this CUP. In such cases, the operator shall be given no more than ninety (90) days to rectify any condition of noncompliance.
- c. Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.
- d. In cases such as those described in Paragraph (C) that do not pose an imminent threat to the public health, safety and welfare, the operator shall be given no more than 90 days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the CUP.
- e. If the operator or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the CUP.
- 20) The timeframe for completion of any phase is dependent on the market demand; however, the operator agrees to continuously quarry Phase 6 (within the limits of the CUP restrictions) so that Phase 6 will be completed as soon as possible

CONDITIONS AS OF BOCC 6/5/13 ACTION

CUP-7-2-90 RESTRICTIONS OF USE (As Amended 9-16-92 by County Commission)

SETBACKS

Operations setbacks vary around perimeter of the site based on the Exhibit prepared by Brian Kubota for Martin Marietta [and amended in Exhibit "B", as orally revised on 8/26/92, reflects revised language added in approval of CUP-6-6-92]. The setbacks shown are and shall be:

- * 50' blasting/mining setback along the west perimeter of Phases I and V; & along the north perimeter of Phases I, I-A and V;
- 400' blasting/mining setback along the west and south perimeters of Phase VI;
- 160' mining and
 260' blasting setbacks along County Road #442;
- 100' mining/blasting setback along Township Roads 050E, 1700N & 100E;
- 100' mining and
 150' blasting setbacks along the east side of Phase IV;
- * 200' mining and 500' blasting setbacks - along the east side of Phase III, the north & south sides of Phase IV, and along a portion of the east side of Phase V near the NE corner across from the Wulfkuhle residence;
- * 700' blasting/mining setback along the south perimeter of Phase III; and the area southeast of a line which is 100' northeast of and parallel to the pipeline in Phase III and all of the area to the southeast of the pipeline;
- * a triangular area in the southeast corner of Phase VI, a corner of which is 1,800' north of the south property line of Phase VI along the setback line of County Road #442 and another corner of which is 1,100' west of the right-of-way of County Road #442 along the south setback line of Phase VI; and
- in the northeast corner of Phase I-A, a rectangular tract the south side of which is 500' south of the north property line of Phase I-A and the west side of which is 500' west of the right-of-way of County Road 100E.

II. OPERATIONS RESTRICTIONS

Methods shall be adopted to minimize dust in staging area as well as along the haul roads.

Quarry operations shall be restricted to:

- a) sale and removal of rock: 6AM 5:30PM, Monday Friday;
- b) production and extraction: 6AM 10PM, Monday Thursday; 6AM 5:30PM, Friday;
- c) blasting: 1PM 5PM, Monday Friday;
- d) provided, however, that no quarry operations shall take place on the following holidays or the days on which such holidays are observed by Kansas state

government: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the day immediately following Thanksgiving Day; and Christmas Day.

III. FENCING

The entire site shall be fenced. All existing fencing shall be maintained by the applicant in at least its existing condition and in compliance with the fence laws of Kansas. Where additional fencing is installed by the applicant in compliance with this restriction, it shall consist of a five-strand barbed wire fence and thereafter shall be maintained in compliance with the fence laws of Kansas. Within sixty (60) days after the approval of this conditional use permit, the applicant shall enter into an agreement in which it agrees to maintain all partition fences along adjoining tracts and to indemnify and hold harmless the owners and occupants of said tracts of land from any liability arising from the failure to maintain said fencing as required herein and by the fence laws of Kansas. In the event any livestock is determined to be on the quarry site, the applicant's representatives shall assist the owner thereof or the owner's representative in retrieving the livestock and the applicant shall shut down any operations as necessary to complete the retrieval process.

A security gate and fence shall be placed at the entrance to the quarrying site across the main haul road.

The fence shall be signed periodically along each perimeter stating:

- a) the operator's name, business address and phone number;
- b) Conditional Use Permit Number; and
- c) NO TRESPASSING.

IV. BLASTING

Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives. All fly-rock shall be removed from adjacent property immediately after a blast. Prior to each blast the applicant shall contact adjoining neighbors who request individual notice of each blast. Further, a signaling system shall be used to alert people in the neighboring vicinity before each blast takes place. Finally, the applicant shall observe the blasting safety precautions described in the paragraph on page 17 of the August 22, 1990 minutes of the Lawrence-Douglas County Metropolitan Planning Commission, beginning with the sentence: "Security is of the utmost importance to the mining operator."

V. AIR QUALITY

The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than $\underline{1}$ time in a one year period as observed by KDHE observers over a 5 minute period.

VI. OTHER REGULATORY RESTRICTIONS

All applicable regulations of EPA, KDHE, Ks. State Bd. of Agriculture - DWR, and other applicable agencies hall be adhered to and subsequent revisions to these regulations shall apply.

VII. PERFORMANCE BOND FOR RECLAMATION

- (a) A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site as designated on Phase I and shall be filed with the Douglas County Clerk's Office prior to the commencing of any site preparation activities or any other work being done pursuant to the CUP. This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.
- (b) In addition to the bond required under paragraph (a) above, a performance bond in the amount of \$400,000.00 with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk's Office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.
- (c) For each additional 10 acre site excavated for extraction purposes in any Phase of the quarry operations during the term of the CUP, a performance bond in the amount of \$400,000.00 with sufficient sureties for additional excavation for extraction purposes shall be secured and shall be filed with the Douglas County Clerk's Office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.
- (d) No more than 30 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase. Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.

VIII. RECLAMATION AND REVIEW

The first year of operation, and every 5 years thereafter, the applicants shall submit a detailed report and plan of quarrying operations to the Planning Office and to the Douglas County Public Works Director indicating the phases of quarry operation; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation. The Monitoring and Management Plan for the Reclamation Process shall include:

Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Phase I plan shall be submitted prior to opening of quarrying activities in Phase II, and each subsequent reclamation plan be submitted prior to the opening of the following phase of quarrying activity. The property shall be reclaimed to a state similar to the existing state (or better) with reference to general topography, percent

slope, and plant and animal life supported by the established ecosystem. [Refer to PC minutes, 9/26/90, pp. 3 & 4.]

IX. PRE-BLAST SURVEY AND HYDROLOGIC STUDY

A pre-blast survey (by an independent seismology firm approved by the applicant and the owners of existing structures within one-half mile of the quarry site) shall be conducted, if the property owners request it, for existing structures within one-half mile of the quarry site to document existing conditions and determine the quantity/quality of water in the wells. The cost of such survey shall be paid by the applicant. Both the property owners and Martin Marietta shall be provided copies of the survey performed to retain for their records.

A hydrologic study of the site shall be completed at the applicant's expense prior to any quarrying operation:

(a) to provide an inventory of area residential and stock wells and determine their capacities and current volumes/levels of operation; and,

(b) to determine the impact of quarrying, per phase, based on the depth of mining proposed on the existing water tables which serve these wells.

X. DRAINAGE STUDY

Prior to work progressing in each phase of the quarrying operation, a detailed grading plan showing site runoff and its relationship to the adjoining properties shall be submitted to the Planning Office for review and approval prior to work progressing in <u>each</u> phase.

XI. SITE ACCESS AND ROAD RESTRICTIONS

(a) Except for vehicles traveling to and from the site on 45th Street in Shawnee County, the principal access to the site for transport truck traffic and hauling of rock shall be restricted to the use of U.S. Highway 40 from a direct route north of the proposed quarry. The northern access to U.S. Highway 40 shall be accomplished by either a purely private road connecting the site with U.S. Highway 40 or by the extension of Woodring Road to the site and the improvement of Woodring Road and 29th Street in accordance with AASHTO and MUTCD standards. The U.S. 40 intersection improvement for either alternative shall be in accordance with KDOT requirements. The Douglas County Commission prefers the private road alternative, and nothing herein shall be construed as a commitment by the Commission to exercise its powers of eminent domain to extend and improve Woodring Road and 29th Street.

If the applicant chooses the Woodring Road/29th Street alternative, the applicant may be required to acquire all rights-of-way deemed necessary for the project by the Director of Public Works/County Engineer and convey such property interests to Douglas County and Shawnee County without cost to the counties. The cost of all public improvements to Woodring Road and 29th Street, including, but not limited to, engineering services, utility relocation, and construction, shall be paid by the applicant. Douglas County, at its option, may provide construction engineering services and such other services deemed appropriate by the County Commission in connection with the project, and the total direct and indirect cost of such services shall be paid by the applicant. Further, the applicant shall enter into a maintenance agreement with Douglas County to properly maintain the improved public roadway in a manner acceptable to the Director of Public Works/County Engineer.

The northern access to U.S. 40 shall be constructed and available for use no later than twelve (12) months from the date rock crushing activity begins on the proposed CUP site. The County Commission may extend this deadline for a fixed period of time upon a documented showing by the applicant of an unreasonable delay caused by either Douglas County or the Kansas Department of Transportation.

If the composition of the private road alternative described above includes an aggregate surface, "year round" dust control along the roadway shall be maintained by the applicant. If a public road is constructed by the applicant for gaining access to U.S. 40, it shall contain a hard surface of either concrete or bituminous asphalt in accordance with AASHTO standards.

(b) Improvements to Douglas County Route 442 and the on-going maintenance of such improvements shall include the construction or overlay at the quarry entrance on Route 442 and 45th Street (where necessary) of through lanes, acceleration/deceleration lanes (on the north side) and a left turn lane (for traffic approaching from the west in Shawnee County) with shouldering, all in accordance with AASHTO and MUTCD standards. The work shall be planned, permitted and completed within one year of the date on which the CUP is approved. The applicant shall be financially responsible for the cost of such improvements, including, but not limited to, right-of-way acquisition, engineering, and construction. Douglas County, at its option, may provide construction engineering services in connection with such improvement project, and the total direct and indirect cost thereof shall be paid by the applicant.

Except for local deliveries of rock from the quarry site, Route 442 shall not be used by transport trucks to travel to and from the east. The applicant shall post signs and adopt appropriate restrictions on the quarry site, including restrictions on sale of rock where necessary, to ensure strict compliance with this restriction by all transport trucks. In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shouldering, surfacing and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the applicant to cease operation or order such steps as the Board deems necessary under Section XVII, Inspection/Violation/Revocation.

- (c) No township roads shall be used as access to the quarry.
- (d) Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site, are to include:
 - no flat bed trucks without sides or tailgates;
 - tailgates in place and upright position; and
 - all trucks leaving the site must be covered by a tied-down tarp.
- (e) Martin Marietta shall be responsible for spillage and clean up of aggregate within one mile of the plant site. This includes the intersection of access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.
- (f) Weight limitations shall be posted on appropriate roads adjacent to the quarry.
- (g) Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the applicant's submittal. Access crossings between the phases of the site shall be maintained by applicant at all times.

·(h) During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.

XII. NOISE AND LIGHT POLLUTION

Vehicles used in plant operation (extraction & production) after 6PM shall be equipped with a strobe light in addition to the back-up (audible) signal alarm. During hours when it is permissible to use only a strobe light, the audible signal shall be turned off.

Permanent outdoor lighting at the plant area, mining area, and haul roads shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries. Lighting is restricted to low pressure, sodium.

XIII. PERIMETER SETBACK EXCEPTIONS

The perimeter setback along the west shall be eliminated at the time adjoining property in Shawnee County is actively quarried and if the operation is under the same operator. The perimeter setback adjoining any neighboring property shall be modified to a lesser distance than set forth in I, above, down to a minimum of 50' mining/blasting setback, upon filing with the Douglas County Commission of a duly notarized statement by the beneficial owner of such neighboring property evidencing said owner's agreement to modification of the setback; provided that no such modification shall be permitted along the northern boundary of Phase IV or Phase I-A, unless such a statement is filed by all landowners owning property north of and within 1,300' of the northern boundary of Phase IV and the East 1,000' of the northern boundary of Phase I-A. [language revised as approved September 16, 1992]

XIV. DEVELOPER'S TRACK RECORD

Because the developer's track record is an important consideration, a change in the quarry operator shall require the Conditional Use Permit to come back to the Planning Commission for review and to the County Commission for reapproval.

XV. FUTURE USE OF THE SITE

The property shall not be used or requested for use as a sanitary landfill within the life of this Conditional Use Permit.

XVI. MONITORING BLASTS

Martin Marietta shall contract with an independent seismology firm to monitor blasts at the commencement of quarrying operations at each residence within 1/2 mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.

After the initial blasting, Martin Marietta shall contract for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm

at stations chosen by the seismology firm. A monthly report which analyzes the impacts of daily blasting will be available at Martin Marietta's offices for inspection. Residents may request positioning of the seismograph to measure the impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those it determines, based on the professional advice of its independent seismology firm, will provide adequate seismic readings at residents' properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the County Commission which may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of Martin Marietta.

XVII. INSPECTION/VIOLATION/REVOCATION

The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant's representatives. If no escort is available, the inspection may proceed immediately.

Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:

- (a) Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.
- (b) Order the applicant or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this permit. In such cases, the applicant shall be given no more than ninety (90) days to rectify any condition of noncompliance.
- (c) Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.
- (d) In cases such as those described in paragraph (c) that do not pose an imminent threat to the public health, safety and welfare, the applicant shall be given no more than (90) days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the Conditional Use Permit.
- (e) If the applicant, or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the Conditional Use Permit.

XVIII. BOND TO COVER DAMAGES TO PERSONAL PROPERTY.

The applicant shall post with the Douglas County Clerk a cash bond in the amount of \$10,000 to defray the cost of any damages to the personal property of the occupants of residences within one (1) mile of the quarry site perimeter which the Board of County Commissioners, after due notice and hearing, in its judgement determines are due to the activities of the

applicant, its agents or employees. Such cash bond shall be maintained at the \$10,000 level by the applicant during the term of this CUP, and the bond amount shall be refunded to the applicant without interest upon the completion of the 30 year CUP term. Any award or denial of award by the County Commission shall be subject to appeal to the district court.

XIX. INCORPORATION BY REFERENCE

All of the terms, conditions, plans and restrictions contained in the applicant's bound application submittal and the Planning staff August 22, 1990 report to the Planning Commission, entitled "Reclamation: The Process and the Plan," are hereby incorporated by reference as a condition and restriction on this Conditional Use Permit. In any instance in which there is a conflict between the terms of these restrictions and the bound submittal or Planning staff report, these restrictions shall control.

XX. ACKNOWLEDGEMENT

By the signatures of its authorized agents, the applicant acknowledges and agrees to be bound by the provisions of this Conditional Use Permit.

XXI. LANDSCAPING

Landscaping along the road right-of-way are permitted to be clustered in groups which are 200' on center and approximately 40' - 50' between cluster groups. Trees and shrubs are to be shown on the revised landscape plan dated 30 January 1991.

Landscaping shall be phased in accordance with the approved landscape plan which shows three landscape phases. Landscape phase one and two: are along County Rds. 442, 050E, 100E, and 1700N (between 050E and 100E). Planting for these phases of the quarrying operation will be completed by Spring 1993 (which is during the mining operations Phase 1); the third and final landscape phase is along the north side of County Road 1700N, east of County Rd. 100E. This final landscape phase will be activated by the completion of the mining operations Phase 2. [This planting is adjacent to mining operations Phase 4.]

(Approved by Board of County Commissioners of Douglas County, KS on February 27, 1991.)

XXII. ADDITIONAL REQUIREMENTS

Rock extracted from the permitted site shall not be transported to and crushed in Shawnee County during the term of this permit. No more than one portable rock crushing plant shall be operated on the site and its use shall be restricted to the plant site in Phase I. The applicant shall cease the use of the portable rock crushing plant by no later than December 31, 1993. If the "state-of-the-art" permanent, enclosed rock crushing plant proposed by the applicant is not constructed by January 1, 1996, this Conditional Use Permit shall be null and void; provided, however, the County Commission may grant an extension to this deadline upon a documented showing that any delay was beyond the applicant's control.

CONDITIONS OF APPROVAL CUP-6-6-92 Approved September 16, 1992

- 22 restrictions of use approved by the County Commission as revised on February 27, 1991 for Conditional Use Permit No. 3500; [revised language provided above]
- No additional requests be made by Martin Marietta and/or its heirs during the remainder of Conditional Use Permit No. 3500 and No. 3853 (which expires December 19, 2020) to expand the size of the quarry site;
- 3. Restriction I SETBACKS and Restriction XIII PERIMETER SETBACK EXCEPTIONS shall be modified to reflect the additional setbacks as proposed in Exhibit B-1, dated August 26, 1992, and the additional language as proposed in Exhibit C, dated August 26, 1992; [revised language provided above]
- 4. An amended Proposed Operations Plan shall be submitted which includes the additional acreage; AND
- Proposed Phase 1-A shall be the only permitted incremental expansion of the quarry CUP.

Added with 1993 approved of Shop

PC Item 3

Attachment A, Pg 10

- 1. All repair and maintenance activities shall occur in the enclosed shop facility;
- 2. Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location;
- 3. Specific landscape improvements associated with the new structures shall be submitted for review by the Planning Staff prior to issuance of building permits;
- 4. Acquisition Douglas County Health Department permits prior to issuance of building permits for the proposed structures; and
- 5. Submittal of a revised site plan, to be approved by Planning Staff, indicating the placement of the shop facility near the office/scale house or at an elevation approximately 50' lower than the current ground elevation at the proposed location.

Added w/ 2006 transfer of upcestor PC Item 3 Attachment A, Pg. 11

CONDITIONS OF APPROVAL

- 1. Upon completion of quarry operations of Phase 2, Mid-States shall return the topsoil that is currently located on the approximately ¼ mile boundary between Phase 1A and Phase 2, and, after the topsoil is returned, reconstruct a 5-strand barb-wire fence along the line of the former interior fence between Phase 1A and Phase 2. Upon completion of quarry operations of Phase 5, Mid-States shall reconstruct a 5-strand barb-wire fence along the approximately ½ mile line of the former interior fence between Phase 1 and Phase 5. All of the foregoing fencing shall be in accordance with the requirements of the CUP.
- 2. Mid-States shall be responsible for reclamation of all quarried land. Prior to commencing quarry operations, Mid-States shall file one or more performance bonds, to ensure reclamation of the Quarry in accordance with the CUP, with the Douglas County Clerk in the initial amount totaling \$1,300,000, and keep the performance bond in effect for the remaining life of the CUP, in such amounts and with such sureties as required by Section VII of the CUP Restrictions of Use. Only upon Mid-States' filing of such performance bonds, will Douglas County release the current performance bonds on file.
- If Mid-States desires to excavate deeper than elevation 1042 in any Phase, Mid-States
 must cause a hydrologic study to be completed in accordance with Section IX of the
 CUP Restrictions of Use, prior to such excavation.
- 4. The landscaping provisions contained in Section XXI of the CUP Restrictions of Use is varied such that neither Martin Marietta nor Mid-States has an obligation to replant previously planted landscaping which subsequently died, provided, however, that the following landscaping shall be planted:
 - Area I (South side of Phase I)

On berm on north side of County Road 442 from entry gate to E50: 6 sets of 4 Austrian Pines and 3 Hackberry, total of 42 trees

Area II (Southeast corner of Phase I & Northwest corner of Phase III)
Add to both sides of E50 entry:
4 sets of 3 Austrian Pines and 2 Hackberry, total of 20 trees

Area III (East side of Phase I)

West side of E50 South of haul road crossing, 500 ft. offset from crossing: 4 sets of 3 Austrian Pines and 2 Hackberry, total of 20 trees

Area IV (East side of Phase V)

West side of E50 North of haul road crossing, 500 ft. offset from crossing: 5 sets of 3 Austrian Pines and 2 Hackberry, total of 25 trees

Area V (Northeast corner of Phase III)

Short section on South side West of E100 Rd, approximately 450': 3 sets of 3 Austrian Pines and 2 Hackberry, total of 15 trees

Area VI (East side of Phase II)

West side of E100 Rd. after berm is removed, North approximately 1300': 4 sets of 3 Austrian Pines and 2 Hackberry, total of 20 trees

PC Item 3 Attachment A, Pg 12

Area VII (Northwest corner of Phase IV)

East side of E100 Rd.:

3 sets of 3 Austrian Pines and 2 Hackberry, total of 15 trees.

The foregoing landscaping shall be planted to incorporate existing trees and, with the exception of the landscaping outlined in Area VI, all landscaping shall be planted on or before December 31, 2007. The landscaping outlined in Area VI shall be planted as soon as practicable, but no later than December 31 of the year in which the berm is removed.

In addition, an agreement shall be obtained with a professional landscaping company for maintenance, including irrigation, of the landscaping for a term of 12 months following planting, and the Zoning & Codes Department shall be provided a copy of such agreement on or before December 31, 2007.

In the event that the landscaping identified above is not planted or evidence of the 12-month maintenance agreement is not supplied on or before the dates specified, Mid-States shall be in material non-compliance with the CUP Restrictions of Use and, upon written notice from the Zoning & Codes Department, shall immediately cease all quarrying and sale activities at the Quarry until such non-compliance is remedied to the satisfaction of the Zoning & Codes Department.

- Mid-States shall submit its first reclamation report and plan of quarrying operation to the Planning Office and Douglas County Public Works Director by July 31, 2010, to comply with the requirement of Section VIII of the CUP Restriction of Use. The Planning Office will review and make recommendations and submit a report to the County Commission for approval. Every five (5) years thereafter, Mid-States will submit the detailed report required by Section VIII.
- 6. This Approval to Transfer CUP is supplemental to, and shall become a part of, the CUP. Mid-States and its operation of the Quarry shall be subject to the above requirements and all of the previously approved Conditions of Approval and Restrictions of Use, the same as if the CUP was originally granted to Mid-States, and Mid-States shall sign below to confirm its agreement and understanding of these requirements. Section XIV of the CUP shall continue to apply in the event Mid-States subsequently desires to transfer ownership or operational authority of the Quarry to another person or entity, and references in this Approval to Transfer CUP to Martin Marietta or Mid-States shall apply to the new Quarry owner or operator, as the context requires. This Approval to Transfer CUP shall not prevent the Board or the County Zoning & Codes Department from taking enforcement action in the event that it is later determined that the Quarry is not in compliance with the CUP Restrictions of Use and Conditions of Approval, as amended.

PC Item 3 Attachment A, Pg 13

CUP-13-00126, BIG SPRINGS QUARRY REVISED PHASING SEQUENCING, WAS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS ON JUNE 5, 2013 SUBJECT TO THE FOLLOWING CONDITION:

The remaining phases of the quarry, 4, 5, and 6, may occur in any sequence provided that the reclamation review provisions of Condition 8 would still apply; and that nothing herein shall change any phasing requirement in any other portion of the Conditional Use Permit.

PC Item 3 Attachment B Pg 1

CONSTRUCTION & AGGREGATE PRODUCTS, INC.

5700 Park Avenue Des Moines, Iowa 50321-1207 (515)243-5857 Fax (515)243-6131 (800)388-5857 www.capiowa.com

August 6, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall PO Box 708 Lawrence, KS 66044

To whom it may concern,

Please accept this letter as my personal and professional endorsement of Mid-States Materials, LLC in their attempt to get a Conditional Use Permit. We have been in business with Mid-States for 15 years. In all that time, we have found them to be a great business partner. They are an important customer to us and if they are not allowed to continue the quarry, we would suffer a great loss to our bottom line.

Mid-States has great people to work with and I have developed a good working relationship with their people. They invest in their business by buying the best machinery and supplies and always pay on time. We urge you to approve the CUP so that Mid-States can continue with the quarry.

Sincerely,

Dana Raley Vice President

Construction & Aggregate Products



G.W. VAN KEPPEL COMPANY

1801 N. 9th Street PO Box 2923 Kansas City, Kansas 66101

AGGREGATE EQUIPMENT DIVISION

August 3, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall P.O. Box 708 Lawrence, KS 66044

I am writing this letter of recommendation on behalf of Mid-States Materials. For the past seven years our company has been working with the Big Springs Quarry, a part of Mid-States Materials. G. W. Van Keppel has been involved in the aggregate industry since we were founded back in 1926. We provide equipment and services to the industry. G. W. Van Keppel currently operates in 8 different states working with hundreds of rock quarries. Mid-States Materials stands out as one of the leaders in the industry. Mid-States Materials has always put safety first for our employees visiting any of their locations. The Big Springs location has helped grow the surrounding markets. The Big Springs quarry helps provide quality products and a good value to the industry. Driving through many of their sites, you can see the continued effort they put into the reclamation work. The sites are always clean and welcoming. We are proud to have them as a partner in the aggregate industry.

Sincerely,
Ben Schmidtlein
Kansas Sales Manager
G. W. Van Keppel Co.

August 6, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall PO Box 708 Lawrence, KS 66044

To whom it may concern,

I buy my agricultural lime from Mid-States Materials. Ag lime is incredibly important to farming as it reduces soil acidity, provides calcium and magnesium for plants, and improves water penetration. I have been buying ag lime from Mid-States for years. Ag lime can only be manufactured at limestone quarries. This is the only quarry in southeast Douglas County and practically all of Shawnee County. I am supportive of Mid-States CUP application, as they are a great asset for agriculture in this area.

We urge you to approve the CUP application so that Mid-States can continue making ag lime for Kansas farmers.

Sincerely, Janes Territy

August 1, 2018

In Re:

Letter of Recommendation for Mid-States Materials, LLC

P.O. Box 236

Topeka, Kansas 66601

To whom it may concern,

Mid-States Materials, LLC has leased our property to conduct aggregate quarry operations for several years. It is my pleasure to write this letter of recommendation for Mid-States Materials, LLC, in recognition of their outstanding work at our site.

Management is friendly and communicates with us regularly about activities at the quarry. Royalty payments are timely. The site is always properly maintained and professionally operated.

Many times, reclamation activities are the primary basis for the public when judging the overall success of mining within Kansas.

The reclamation work that has been completed on our property is well beyond that required by regulations and demonstrates Mid-States Materials' commitment to practice environmental stewardship at an elevated level.

Mulula

Sincerely,

Thomas C. Nichols

On Behalf of the Nichols Family

Big Springs Quarry



August 2, 2018

City of Lawrence Lawrence Douglas County Metropolitan Planning Office 6 East 6th Street Lawrence, Kansas 66044

Re: Big Springs Quarry Conditional Use Permit / Mid-States Materials

To Whom It May Concern:

I have been associated with Mid-States Materials, LLC since 2008 working with the company in a Risk Management capacity. Truss has provided insurance and risk management services for Mid-States Materials over the past decade and the company's commitment to public, employee and environmental safety would be considered "Best In-Class" for the aggregate industry. I have been in the aggregate business for over 30 years and Mid-States Materials pledge to providing top quality products to the marketplace is second to none.

In fact, the company's 2019 Preliminary Worker's Compensation Experience Modification is .72. When you compare Mid-State Materials to other companies in the same industry, their total worker's compensation losses were \$13,172 annually, compared to the industry average of \$132,888 annually. Simplistically their losses were 10% of what is expected for someone of the same size in the aggregate production business. This is a direct result of the companies drive towards a quality product and a safe working environment that benefits both employees and the general public.

Mid-States Materials is a perfect example of a locally owned small business that is doing things the right way for the benefit of all. I could not be more proud of my affiliation with the company, their employees and their shareholders.

Best Regards,

Chandler Cullor President

TRUSS



August 6, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall PO Box 708 Lawrence, KS 66044

To Whom It May Concern,

Please accept this letter of recommendation for Mid-States Materials. Mid-States Materials has been a great business partner and customer of Foley Equipment for many years. In working with Mid-States Materials, we have found their staff to be professional and honest. They are a company built on integrity, reliability and loyalty.

Mid-States provides high quality products and that are of great value to the construction market place. Foley Equipment provides much of the equipment they current use in their operations. Therefore, Foley Equipment and our employees would benefit from Mid-States Materials continuing these operations.

Sincerely,

Matt McNett

Vice President - Service & Power Solutions

Foley Equipment

www.foleyeq.com

KANSAS

Chanute 501 W. 35th Pkwy. Chanute, KS 66720 (620) 431-3600

Colby 205 E. Horton Ave. Colby, KS 67701 (785) 462-3913

Concordia 1805 Lincoln St. Concordia, KS 66901 (785) 243-1960 Dodge City 1600 E. Wyatt Earp Blvd. Dodge City, KS 67801 (620) 225-4121

Great Bend 701 E. Tenth St. Great Bend, KS 67530 (620) 792-5246

Liberal 1701 E. 5th St. Liberal, KS 67901 (620) 626-6555 Manhattan 5104 Skyway Dr. Manhattan, KS 66503 (785) 537-2101

Olathe 15854 S. 169 Hwy. Olathe, KS 66062 (913) 393-0303

Salina 2225 N. Ohio St. Salina, KS 67401 (785) 825-4661 **Topeka** 1737 SW 42nd St. Topeka, KS 66609 (785) 266-5770

Wichita 1550 S. West St. Wichita, KS 67213 (316) 943-4211 MISSOURI

Kansas City 5701 E. 87th Street Kansas City, MO 64132 (816) 753-5300

Sedalia 1040 Sedalia Road Sedalia, MO 65301 (660) 829-7400

St. Joseph 3619 Pear Street St. Joseph, MO 64503 (816) 233-2516 Lawrence-Douglas County Metropolitan Planning Commission City Hall PO Box 708 Lawrence, KS 66044

July 27th, 2018

To whom it may concern,

Please accept this letter as my personal and professional endorsement of Mid-States Materials, LLC in their attempt to get a Conditional Use Permit for the Big Springs Quarry. I have been in business with Mid-States for over 10 years. In all that time, I have found them to be a great business partner. They are my main customer base and if they are not allowed to continue the quarry, I would suffer a great loss to my bottom line.

Mid-States has great people to work with and I have developed a good working relationship with their people. They invest in their business by buying the best machinery and supplies and always pay on time. We urge you to approve the CUP so that Mid-States can continue with the quarry.

Sincerely,

Jason Rowe

Rowe's Mobile Service



Fastenal Company 100 SE Monroe Topeka, KS 66603 785-232-1098

August 3, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall P.O. Box 708 Lawrence, KS 66044

To whom it may concern,

Please accept my personal and professional recommendation to approve Mid-State Materials, LLC for their Conditional Use Permit at the Big Springs Quarry. Fastenal has maintained a great business relationship with Mid-State Materials, LLC since May 2004. Throughout the years Mid-State Materials, LLC has grown to be a key customer for Fastenal. As an industrial supplier Mid-States Materials, LLC and their employees are known to purchase the best available products to maintain a high standard of excellence. We urge you to approve Mid-State Materials, LLC for the Conditional Use Permit at the Big Springs Quarry so they can continue to provide for the people.

Sincerely,

Darian Brosa General Manager P: 785-232-1098 dbrosa@fastenal.com

Accounting Fax: 920.431.7615

Corporate Fax: 920.431.7614

Credit Department: 800.536.2940



August 2, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall P.O. Box 708 Lawrence, Ks 66044

To whom it may concern,

Please accept this letter as my personal and professional endorsement of Mid-States Materials, LLC in their attempt to obtain a Conditional Use Permit at the Big Springs Quarry. Pomp's Tire Service has conducted business with Mid-States Materials for the last 10 years. Mid-States has been a great business partner throughout those 10 years and they are a very important and loyal customer. Pomp's Tire Service would suffer greatly if they are not able to continue to run operations at the Big Springs Quarry.

It has always been a pleasure doing business with all the employees of Mid-States and we have built a great working relationship. Over the years it's been obvious that Mid-States purchases the best available products, supplies and equipment. Mid-States has always been on time with their payments to Pomp's Tire Service and their communication is above and beyond. We urge you to approve the Conditional Use Permit so that Mid-States can continue to operate at the Big Springs Quarry and we can continue to conduct business with them.

Sincerely,

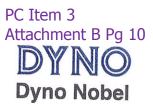
Jeromy Jones Pomp's Tire Service Regional OTR Sales P: 816-808-0718 jjones@pompstire.com



Buckley Powder Co.

A Dyno Nobel Distributo

42 Inverness Drive East Englewood, Colorado 80112 USA Telephone: 303 790 7007 Fax: 303 790 7033



August 2, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall PO Box 708 Lawrence, KS 66044

To whom it may concern,

I urge you to approve Mid-States Materials, LLC request for Conditional Use Permit at the Big Springs Quarry. We have been in business with Mid-States Materials since their formation. In all that time, we have found them to be a great business partner and trustworthy member of the community. The ownership, management and employees have always conducted themselves with a high level of professionalism and integrity. Mid-States Materials has grown their business through both good and bad economic environments but their approach has not varied. The management and the employees always do their best to not just adhere but to exceed all safety and environmental regulations, which is evident in the state and national awards they have won.

Aggregates are a fundamental ingredient required for a modern sustainable society. Without aggregates our economy suffers and deteriorates. As a proud member of the aggregate producing industry, Mid-States Materials has provided a service and product used by every citizen of Douglas County in either the homes they live in, the roads they drive on, the roads food and other goods are shipped on, or the shops, schools and hospitals they visit.

The employees of Buckley Powder Company and I urge you to approve the CUP so that Mid-States Materials can continue with their efforts to help the community they serve.

Sincerely,

Philip H. Porter

General Manager

Buckley Powder Co.



August 1, 2018

Lawrence Douglas County Metropolitan Planning Office 6 East 6th Street P.O. Box 708 Lawrence, KS 66044

My name is Craig Stromgren. I am the President and owner of Safety Consulting, Inc. and Safety Supplies, Inc. in Topeka, Kansas.

I have been doing business with Mid-States Materials for the last 10 years in a role of inspecting their quarries for insurance purposes, as a consultant and as a safety trainer. We also source a lot of their safety supplies and work closely with their three on staff Environmental, Health and Safety Professionals. We have inspected their quarries which includes an evaluation of the safety and health of their employees and the public if they are on site. We have also completed some of their MSHA required 8-hour refresher training during the winter months. I have always found them to be very open to us completing a thorough examination of their premises. They have always taking things very seriously and fixed things in a timely fashion if items were noted. Mid-States has brought our company in to evaluate risk management situations and ask for our opinion. I would look at this as a proactive approach.

I would recommend Mid-States Materials be granted a new permit knowing that they care about the land around them, the people around them and they will do what is required by the local, state and federal regulations, but go above and beyond in some of these areas.

Sincerely,

Craig S. Stromgren

President

August 6, 2018

Lawrence-Douglas County Metropolitan Planning Commission City Hall **PO Box 708** Lawrence, KS 66044

AUG 07 2018

City County Planning Office Lawrence, Kansas

To whom it may concern,

I buy my agricultural lime from Mid-States Materials. Ag lime is incredibly important to farming as it reduces soil acidity, provides calcium and magnesium for plants, and improves water penetration. I have been buying ag lime from Mid-States for 20 years. Ag lime can only be manufactured at limestone quarries. This is the only quarry in southeast Douglas County and practically all of Shawnee County. I am supportive of Mid-States CUP application, as they are a great asset for agriculture in this area.

We urge you to approve the CUP application so that Mid-States can continue making ag lime for Kansas farmers.

Sincerely,

20-30 years Billy Murr.



PHOENIX CENTER POLICY PAPER SERIES

Phoenix Center Policy Paper Number 53:

Quarry Operations and Property Values: Revisiting Old and Investigating New Empirical Evidence

George S. Ford, PhD R. Alan Seals, PhD

(March 2018)

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Phoenix Center Policy Paper No. 53 Quarry Operations and Property Values: Revisiting Old and Investigating New Empirical Evidence

George S. Ford, PhD⁺ R. Alan Seals, PhD⁺

(© Phoenix Center for Advanced Legal & Economic Public Policy Studies, George S. Ford and R. Alan Seals (2018).)

Abstract: A large literature exists on the impact of disamenities, such as landfills and airports, on home prices. Less frequently analyzed is the effect of rock quarries on property values, and what little evidence is available is dated and conflicting. This question of price effects is a policy relevant one, with one study in particular used frequently to support "not in my backyard" campaigns against new quarry sites. In this POLICY PAPER, we revisit the literature and conduct a new analysis of the price effects of quarries, estimating the effect of quarries on home prices with data from four locations across the United States and a wide range of econometric specifications and robustness checks along with a variety of temporal circumstances from the lead-up to quarry installation to subsequent operational periods. We find no compelling statistical evidence that either the anticipation of, or the ongoing operation of, rock quarries negatively impact home prices. Our study likewise highlights a number of shortcomings in the empirical methodologies generally used to estimate the effect of disamenities on real estate prices. First and foremost, many existing studies are naïve as to the empirical conditions necessary to identify a causal relationship and do not establish credible strategies to estimate the counter-factual outcome. Second, the inclusion of "distance to the site" regressors in hedonic models is shown to be an unreliable statistical method. Using the method of randomized inference, the null hypothesis of "no effect" of placebo quarries is rejected in as much as 93% of simulations.

[†] Chief Economist, Phoenix Center for Advanced Legal & Economic Public Policy Studies. The views expressed in this paper are the authors' alone and do not represent the views of the Phoenix Center or its staff.

^{*} Adjunct Fellow, Phoenix Center for Advanced Legal & Economic Public Policy Studies; Associate Professor of Economics and Director of Graduate Studies - Auburn University.

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3

I. Background

Odds are that underneath your feet is a construction material made of sand, crushed stone, and gravel. These construction materials are an essential ingredient into nearly every construction project, from residential housing, office buildings, retail outlets, entertainment structures, to the roads that connect them. Sand, rock and gravel are literally the foundation of economic development, but their extraction process can generate dust, noise, vibration, and truck traffic. While modern technologies and methods have greatly reduced quarries' impact, the environmental and economic consequences of quarry operations receive considerable attention, often in the form of "not in my backyard" (or "NIMBY") campaigns opposing quarry expansions or new sites. Choosing a quarry site is a delicate task. While a quarry may be best located far from residential density on NIMBY concerns, it also needs to be near the final point of demand due to its high transportation cost. Quarries must balance the need to be both "near" and "far," so they are typically found on the outskirts of cities and towns.

A key NIMBY complaint in the siting and expansion of quarries is the effect of the operations on nearby home values. According to Census data, housing amounts to about 70% of the average American's net wealth, so naturally homeowners are sensitive to any adverse effect, real or imagined, on property values.² Despite NIMBY opposition, nearly all the evidence on quarry operations finds no price effect. Frequently mentioned studies include Rabianski and Carn (1987) and Dorrian and Cook (1996), both of which find no relationship between appreciation rates of property values near to and far from quarries.³ An

^{1 2014} Minerals Yearbook, Construction Sand and Gravel, U.S. Geological Survey (2014) at p. 1 (available at: https://minerals.usgs.gov/minerals/pubs/commodity/sand_&_gravel_construction/myb1-2014-sandc.pdf) ("Construction sand and gravel is a traditional basic building material and is one of the earliest materials used by humans for dwellings and later for outdoor areas such as paths, roadways, and other constructs. Despite the relatively low, but increasing, unit value of its basic products, the construction sand and gravel industry is a major contributor to and an indicator of the economic well-being of the Nation").

Wealth, Asset Ownership, & Debt of Households Detailed Tables: 2013, U.S. Census Bureau (2017) (available at: https://www.census.gov/data/tables/2013/demo/wealth/wealth-asset-ownership.html).

³ A.M. Dorrian and C.G. Cook, *Do Rock Quarry Operations Affect Appreciation Rates of Residential Real Estate*, Working Paper (1996); J. Rabianski and N. Carn, *Impact of Rock Quarry* (Footnote Continued....)

even earlier study conducted for the U.S. Bureau of Mines in 1981 also found no consistent relationship between quarry operations and the prices of nearby homes.⁴ There are a number of consulting reports on the question, and none report price attenuation attributable to a quarry.⁵

Opposition to quarries based on home valuations relies universally on a report by Professor Patricia Hite (2006). This brief, 250-word study (hereinafter the "Hite Report") analyzes data from a few thousand homes sales (apparently in the midto-late 1990s) around a single quarry in Delaware, Ohio. Using an unconventional regression model and data on transactions occurring decades after the quarry opened, the Hite Report finds a positive relationship between home prices and distance from the quarry. Based on that evidence, the Hite Report concludes that quarries reduce home values. Yet, the Hite Report's methods and data do not support a causal interpretation.

As economic development marches on, new quarries will be required to satisfy the demand for basic building materials. In light of the mostly dated and conflicting evidence on the effect of quarries on housing prices, this POLICY PAPER offers new evidence, and a review of old evidence, on the relationship between housing prices and rock quarries. First, given its frequent use by NIMBY opposition to quarries, we revisit the *Hite Report*, analyzing home sales data

Operations on Value of Nearby Housing, Prepared for the Davidson Mineral Properties (August 25, 1987).

⁴ M. Radnor, D. Hofler, et al., Social, Economic and Legal Consequences of Blasting in Strip Mines and Quarries, U.S. Bureau of Mines (May 1981) (available at: http://www.cdc.gov/niosh/nioshtic-2/10006499.html).

See, e.g., Study of Impact of Proposed Quarry on The Real Estate Values of Surrounding Residential Property in Raymond, New Hampshire, Crafts Appraisal Associates Ltd. (April, 2009) ("The evidence does however suggest that the overall marketplace does not react to an influence such as a quarry with a measurable negative reaction as it relates to sale price."); Martin Marietta New Design Quarry: Analysis of Effect on Real Estate Values, Stagg Resources Consultants, Inc. (November 17, 2008); A Property Valuation Report: Affect [sic] of Sand and Gravel Mines on Property Values, Banks and Gesso, LLC (October 2002); Impacts of Rock Quarries on Residential Property Values in Jefferson County, Colorado, Banks and Gesso, LLC (May 1998); R.J. McKown, Analysis of Proposed Sand & Gravel Quarry: Granite Falls, WA, Schueler, McKown & Keenan, Inc. (September 25, 1995).

⁶ D. Hite, Summary of Analysis: Impact of an Operational Gravel Pit on House Values: Delaware County, Ohio, Working Paper (2006). We assign the date "2006" as is conventional, but that year is merely the recording stamp date on the document when it was filed in some type of proceeding. We do not know whether a more detailed analysis was provided at some point. We have never seen such a document cited and were unable to locate it.

around the same Delaware-Ohio quarry. Despite replicating both the location and methods of the *Hite Report*, our regression analysis finds that prices *fall* — not rise — as distance from the quarry increases. This result conflicts with that appearing in the *Hite Report*, so we look for more evidence by analyzing data on homes sales near a quarry outside of Murfreesboro, Tennessee, over the same time interval. Again, we find prices *fall* as distance from the quarry increases.

We are reluctant, however, to claim this evidence implies quarries raise home prices. Rather, we conclude, based on the method of randomized inference and other tests, that the *Hite Report*'s method is unreliable. Using a simulation of pseudo-treatments, we find that the null hypothesis that home prices rise or fall in distance from a *randomly selected location* is rejected in no less than 67% of cases at the 10% nominal significance level. Estimating price-distance relationships, especially without explicitly considering selection bias, is a highly-unreliable statistical procedure. The nature of real estate markets do not permit the effect of quarries to be identified with such naïve empirical tests.

Second, using data on home sales near a relatively new quarry in Gurley, Alabama, we augment the Hite-style analysis with a difference-in-differences estimator, which quantifies the price-distance relationship both before-and-after operations begin. By exploiting the timing of the quarry buildout and the location of home sales with respect to the quarry, we can credibly identify a causal relationship, at least in theory. Unlike the analysis for Delaware and Murfreesboro, home prices rises in distance from the Gurley quarry site, but do so before the quarry becomes operational. After operations begin in 2013, the positive effect of distance is attenuated, again suggesting a positive effect of quarries on housing values.

One critique of our Gurley analysis is that market participants shift price forecasts downward in response to the prospect of a quarry so that the deleterious effects of the quarry could be realized before the quarry opens. Quarry site approvals normally take a decade or so, providing ample time for anticipatory responses to valuation fears. To address this concern, we analyze transactions near a recently approved quarry in Madera County, California. Using a difference-in-differences estimator in conjunction with Coarsened Exact Matching, we test for the anticipatory effect of the proposed quarry on nearby housing prices located along the major roadways serving the site. We find no evidence the quarry reduced housing prices. If anything, relative home prices rose near the quarry site.

While our evidence suggests that quarries do not reduce, but may increase, home prices, our analysis suggests more than anything that the identification of

the effect of quarries on prices is a very difficult problem, facing many conceptual and practical obstacles. We do not resolve all these difficulties. That said, we can conclude the evidence strongly implies the *Hite Report* and its methods are unreliable. Further analysis is, as usual, encouraged.

This paper is outlined as follows. First, we discuss the empirical requirements of quantifying a plausibly causal relationship between property values and quarry operations. Second, we revisit the *Hite Report*, estimating the price-distance relationship for the same quarry in Delaware, Ohio, and replicating the analysis for a quarry near Murfreesboro, Tennessee. Using a simulation method, we demonstrate the futility of estimating the price effects of quarries using the method proposed in the *Hite Report*. Third, we turn to the estimation of causal effects using the difference-in-differences estimator for quarry sites in Gurley, Alabama, and Madera County, California. Across multiple methods, we find, if anything, that home prices near quarries rise, not fall. In all, however, we believe our analysis best supports the hypothesis of "no effect" of quarries, or the announcement of quarries, on home prices. Conclusions are provided in the final section.

II. Empirical Framework

Disamenities such as landfills, airports, windfarms and prisons may plausibly reduce the prices of nearby homes. Such effects have been widely studied.⁷ Modern empirical methods for observational data based on the Rubin Causal Model, however, suggest that much of the work may offer biased estimates of such disamenities because much it looks only at prices after the "treatment," making it difficult to address selection bias.⁸ To conclude that a disamenity reduces home values, the researcher's interest must be in the *causal effect* of an amenity or disamenity on property values. Using only post-treatment prices is problematic since the locations of amenities and disamenities are not randomly selected, and

⁷ Other disamenities that may affect property values, airports and waste disposal, are frequently opposed by homeowners. *See, e.g.,* J.P. Nelson, *Airport and Property Values: A Survey of Recent Evidence,* 14 JOURNAL OF TRANSPORT ECONOMICS AND POLICY 37-52 (1980) (available at: http://www.bath.ac.uk/e-journals/jtep/pdf/Volume X1V No 1 37-52.pdf); J.B. Braden, X. Feng, and D. Won, *Waste Sites and Property Values: A Meta-Analysis,* 50 ENVIRONMENTAL AND RESOURCE ECONOMICS 175-201 (2011).

⁸ Excellent resources on the modern methods of causal inference for economic analysis include G.W. Imbens and J.M. Wooldridge, *Recent Developments in the Econometrics of Program Evaluation*, 47 JOURNAL OF ECONOMIC LITERATURE 5-86 (2009); J.D. Angrist and J. Pischke, MOSTLY HARMLESS ECONOMETRICS: AN EMPIRICIST'S COMPANION (2008); and J.D. Angrist and J. Pischke, MASTERING 'METRICS: THE PATH FROM CAUSE TO EFFECT (2015).

disamenities are typically located away from residential density to minimize impact and to placate NIMBY resistance.

The non-random selection of a quarry site greatly complicates the quantification of a quarry on housing prices due to selection bias. Finding that housing prices rise at increased distance from a quarry may merely reflect the economics of site choice (i.e., real estate is cheaper per unit in less densely populated areas on the outskirts of town) rather than any causal effect on property values. Also and consequently, empirical work may be frustrated by the lack of housing density near the site, rendering small sample sizes, which may, in turn, lead to the undue influence of outliers. Many quarries, especially new ones, have almost no housing within a mile or two of the site (the typical distance within which negative effects are claimed), as shown in the maps provided in the Appendices. And, given the lengthy approval process, if a quarry does affect housing prices, then such effects may occur prior to operations by an "announcement effect." In conducting empirical work on quarries and housing prices, the researcher must address, and deal with the theoretical and empirical consequences of, the non-random nature of site location.

A. Quantifying the Effect of a Quarry on Housing Prices

Resistance to new quarry sites (or the expansions of old ones) based on property values rests exclusively on the *Hite Report*. In that report, the effect on prices is quantified by comparing the mean, quality-adjusted transactions prices around the quarry outside of Delaware, Ohio, as the home's distance from the quarry increases. This "experiment," however, has little hope of accurately measuring the effect of quarries on home prices.

To better grasp the nature of the problem, let there be two types of residential locations: (1) locations proximate to and potentially affected by quarry operations (labeled N, for "near"); and (2) locations distant from and entirely unaffected by quarry operations (labeled F, for "far"). Also, let there be two periods: the period prior to (t = 0) and after (t = 1) the initiation of quarry operations. For now, assume the approval process is instantaneous and that the quality and type of homes in the two locations are very similar (or, that such differences can be accounted for by statistical methods).

Prior to quarry operations homes sell for the average price P_0^N if near the future location of the quarry and P_0^F otherwise. (A numerical example is provided later.) For various reasons, these prices need not be equal. After quarry operations begin, the average, quality-adjusted prices for houses are P_1^N and P_1^F . The

differences in the prices across time (P_1 - P_0) are δ^N and δ^F . Other things constant, the effect of the quarry operations can be measured as,

$$\Delta = \delta^{N} - \delta^{F} = (P_{1}^{N} - P_{0}^{N}) - (P_{1}^{F} - P_{0}^{F}), \tag{1}$$

where Δ is the difference-in-differences ("DiD") estimator. The DiD estimator looks for a difference in outcomes after the treatment that is difference than the differences in outcomes before the treatment (thus, explaining the term difference-in-differences). Under certain conditions, the DiD estimator plausibly measures the causal effect of the quarry.

Many studies of the effect of amenities or disamenities on housing values looks only at the difference between *near* and *far* locations in the *post-treatment* period, or the difference in P_1^N and P_1^F (or δ_1). This post-treatment approach is the one used in the *Hite Report*, where all the data is from sales decades after the quarry operations began. If, however, there is a difference in prices before the quarry operations begin, this post-operations difference is clearly not a measure of the effect of proximity to the quarry. A numerical example may prove helpful.

B. A Numerical Example

Before a quarry opens, assume the average, quality-adjusted price for a home near the quarry site is \$80,000, but the average price is \$100,000 for homes far from the future quarry site. Thus, there is a \$20,000 or 20% difference in prices prior to quarry operations, perhaps reflecting the lack of locational rents for homes far from residential density. Plainly, since quarry operations have not begun, this difference cannot be attributed to the quarry. In fact, the quarry site may have been chosen because of the lower property values or lack of residential housing in the area.

As a benchmark case, say that the quarry operations once initiated have *no effect* on property values and the sales prices of homes are unchanged after quarry operations begin (\$80,000 and \$100,000, respectively). If a researcher were to

⁹ See, e.g., B.D. Meyer, Natural and Quasi-Experiments in Economics, 13 Journal of Business & Economic Statistics 151-161 (1995); J.D. Angrist and A.B. Krueger, Empirical Strategies in Labor Economics, in Handbook of Labor Economics Vol. 3A (eds., O. Ashenfelter and D. Card) (1999); S. Galiani, P. Gertler, and E. Schargrodsky, Water for Life: The Impact of the Privatization of Water Services on Child Mortality, 113 Journal of Political Economy 83-123 (2005); D. Card, The Impact of the Mariel Boatlift on the Miami Labor Market, 13 Industrial and Labor Relations Review 245-257 (1990).

simply compare prices based on distance from the quarry after operations begin, then a difference of 20% would be found. Yet, that difference existed prior to the quarry's opening, and thus the quarry did not *cause* that difference, implying any causal claim made about that difference is mistaken. The truth (by assumption) is that the quarry had *no effect*. The DiD estimator (Δ) is, in fact, zero, correctly identifying the causal effect of the quarry [= (80,000 – 80,000) – (100,000 – 100,000)].

Assume instead that the quarry does reduce prices for nearby homes. Let the post-quarry average prices be \$70,000 near and \$100,000 far from the quarry, other things constant. Prices near the quarry fall by \$10,000 and those far from the quarry are unchanged. The DiD estimator accurately quantifies the effect of the quarry, which is a \$10,000 reduction in value [=(70,000-80,000)-(100,000-100,000)]. Looking at data after the quarry operations begin, alternately, which is the *Hite Report*'s approach, would find an effect size of \$30,000 [=70,000-100,000], or three times the true effect. Selection bias accounts for the \$20,000 error in the estimated effect.

Ideally, then, to properly identify the causal effect of a quarry operation, the researcher must observe prices both before and after the quarry may reasonably be expected to affect housing prices (among other considerations such as the similarity in pricing trends prior to the treatment). The analysis of transactions occurring well after the quarry opens offers little hope for quantifying the effect of the quarry, absent unique circumstances. Certainly, the empirical demands are considerable, and the identification of the causal effect must be explicitly set forth and proper empirical methods applied.

C. Key Assumptions for Estimating Causal Effects

With regard to the location of homes and quarries, we do not have the luxury of experimental data. Rather, the data is observational and the data generation process occurs over many decades. The observational nature of the data is crucial: quarry site and housing locations are non-random and not independent of economic activity near the site or each other. Thus, research on the price effects of quarry sites must pay careful attention to selection bias, which is caused by the non-random process by which sites are chosen to avoid residential density but still

(Footnote Continued. . . .)

¹⁰ For instance, a large condominium complex may have built near the quarry. The researcher must adjust for the difference in average prices resulting from this changing mix of household types).

remain close to the point of demand for aggregates (i.e., sand, stone and gravel). Thus, the "treatment" and "outcome" are related through observed and potentially unobserved factors.¹¹

As explained by Imbens and Wooldridge (2009), when estimating the causal treatment effect in observational studies the researcher must be alert to two key concepts stemming from selection bias: (1) unconfoundedness (or the conditional independence assumption) and (2) covariate overlap (or common support).¹² Unconfoundedness implies that, conditional on observed covariates *X*, the treatment assignment probabilities are independent of potential outcomes. If we have a sufficiently rich set of observable covariates, then regression analysis including the variables *X* leads to valid estimates of causal effects. Since the *X* must be observed to be included in the regression model, this approach is often referred to as *selection on observables*. It is difficult to know and impossible to test whether the observed and included *X* are sufficient to guarantee unconfoundedness (so the regression error and treatment are uncorrelated), though some guidance is available through pseudo-treatment tests (as applied later).

The conditional independence assumption (or *unconfoundedness*) implies that the observed factors included in the statistical analysis fully account for all the differences in the types of homes sold both near and far from the quarry (or other site of interest).¹³ In quantifying the effect of education on income, for instance, it is not enough to simply compare the incomes of persons with and without a college education. Work ethic, for instance, affects both the probability that a person will obtain a college degree and his or her future income. A hard-working person may earn a higher income even without a college education. If work ethic cannot be observed, then a comparison of average incomes across those with and without a college degree does not measure the true value of a degree. The difference is a positively biased estimate of the payoff of education.

(Footnote Continued. . . .)

 $^{^{11}}$ In regression analysis, this problem appears as a correlation between the regression residual and the treatment variable.

¹² Supra n. 8.

 $^{^{13}}$ That is, the regression model includes all the regressors needed to make the conditional *near* and *far* prices equal prior to the treatment.

The second factor to consider for the measurement of the causal effect is covariate overlap, which Imbens and Wooldridge (2009) observe is, after unconfoundedness, the "main problem facing the analyst." This condition implies that the support of the conditional distribution of *X* for the control group overlaps completely with the conditional distribution of *X* for the treatment group. That is, the covariate distributions for the treated and untreated groups are sufficiently alike, thereby lending credibility to the extrapolations inherent to regression analysis between groups. If the characteristics of untreated observations (home *far from* the quarry) are very different from the treated observations (homes *near to* the quarry), then the projections from the controls to the treated units will be a poor one.

Say, for instance, that a sample used to assess the effect of an experimental cancer treatment includes only persons over 65 years old in the experimental treatment group (or simply treatment group) and only persons below 45 years old in the non- treatment group (or control group). The purpose of the control group is not simply a counterweight to the treatment group. Rather, the control group measures the outcomes for the treated group if that group did not receive the treatment. To fix ideas, what we actually want to estimate is what would the treatment group have looked like had they not been treated, which is the sole purpose of a control group. It is unreasonable to expect, we believe, that the survival outcomes of 45 year-old persons provides an approximation of survival outcomes of persons 65 years and over that did not receive the experimental treatment. To extrapolate this discussion to the case of housing values, if the control group includes almost all homes in a golf course community with swimming pools and the treatment group—the properties near some disamenity-includes mostly one-bedroom condominiums, then the difference in sale prices between the two is a nearly meaningless statistic. Regression models are powerful tools, but they cannot make up of for such large differences in characteristics across treatment and control groups (even if observable and included in the regression model as explanatory variables), which is important given that the control group is being "projected" onto the treatment group.

A number of statistical techniques are used to address confoundedness and covariate imbalance in observational studies. In a housing study, for instance, a researcher may choose the control group by finding a group of homes comparable to the treatment group — that is, similar square footage, amenities, lot sizes — from a population of homes unaffected by the treatment. This approach, which we

¹⁴ Imbens and Wooldridge, *supra* n. 8 at 43.

employ here, ensures that the characteristics of homes in the treatment and control groups are sufficiently similar, adding credibility to the control group as a suitable "stand in" for the treatment group if it had not received the treatment.

The *Hite Report* is silent on both of these key assumptions, and there is good reason to suspect the analysis fails on both counts. All the pricing data is for home sales occurring long after the quarry operation began and the regression model is quite basic, so the experiment is almost certainly plagued with selection bias. As for covariate overlap, from what few descriptive statistics are provided in the *Hite Report* we observe that the range of home prices within 0.5 miles of the quarry has a minimum of \$80.1 and a maximum of \$178.9 (in thousands). In contrast, the range of prices for homes further from the quarry is \$60 to \$798.6. This difference in the maximum prices is sizable, suggesting that the homes near the quarry may be very much unlike those far from the quarry, thus risking biased results of the effect of distance.

III. Revisiting the Hite Report

In NIMBY campaigns challenging quarry development, the *Hite Report* is the sole empirical analysis supporting the claim that quarries reduce housing prices. Subsequent works by Erickcek (2006), the Center for Spatial Economics (2009), Smith (2014), among others, conduct no new empirical analysis, choosing instead to extrapolate the *Hite Report*'s results to different locations (a questionable practice on its own).¹⁵

(Footnote Continued. . . .)

¹⁵ G.A. Erickeek, An Assessment of the Economic Impact of the Proposed Stoneco Gravel Mine Operation on Richland Township, W.E. Upjohn Institute for Employment Research (August 15, 2006) (available http://www.stopthequarry.ca/documents/US%20Study%20on%20the%20impact%20of%20pits% 20quarries%20on%20home%20prices.pdf); The Potential Financial Impacts of the Proposed Rockfort for Center Spatial Economics (February 26, 2009) http://wcwrpc.org/FinancialImpacts_RockfortQuarryCanada.pdf); G. Smith, Economic Costs and Benefits of the Proposed Austin Quarry in Madera County, Report (October 23, 2014) (available at: http://www.noaustinquarry.org/wp-content/uploads/2016/08/Austin-Quarry-Economics-Report.pdf). Other works relying on the *Hite Report* (directly or indirectly) include, e.g., M. Conklin, et al., The Quarry Proposed by St. Marys Cement Inc. for a Location Near Carlisle, Ontario Should Not be Permitted: Proponents' Brief, 5 Studies by Undergraduate Researchers at Guelph (2011) (available at: https://journal.lib.uoguelph.ca/index.php/surg/article/view/1338/2345); Business Suirvey and Economic Assessment of Locating a Quarry and Asphalt and Cement Plants within Aeortech Park, Group ATN Consulting, Inc. (October 13, 2014) (available at: http://stopthefallriverquarry.com/wpcontent/uploads/2015/10/GATN_Aerotech_Park_FINAL_Report_Oct_13_2015-2.pdf); M.A. Sale,

This uniform reliance on the *Hite Report* is somewhat surprising. On the face of it, the report is a seven-page document consisting of 1.5 pages of double spaced text (about 250 words) along with a few tables and figures. It is more an "abstract" than it is a "study." Moreover, even a brief review of the Hite Report points to a number of serious problems that should give any researcher pause. First, there are almost no details regarding model specification and few details on the data used. Not even descriptive statistics are provided. Second, the choice of model specification is entirely ad hoc, treating nearly identical variables (distance) differently with respect to functional form and using a non-standard and unnecessary estimation procedure. Such inconsistent, unconventional and inconvenient choices are symptomatic of ends-driven analysis. explanation is provided as to how the chosen model and analysis of transactions occurring decades after the quarry operations began might identify the effect of that particular quarry (or any new quarry) on housing prices. Selection bias is clearly a concern, but it is neither mentioned nor addressed. Fourth, no analysis is provided to suggest that the homes near the quarry are sufficiently similar to those distant from the quarry to provide reliable estimates of the effect of distance (i.e., covariate overlap). Comparing prices of the homes in rural areas on the outskirts of town to those near the local university risks confusing the vagaries of real estate development with the impact of the quarry.

Setting aside the question of causality for the moment, whether the relationship estimated in the *Hite Report* can be replicated is an important first step in evaluating the report's credibility and the suitability of the methods used to answer this policy-relevant empirical question. To that end, we collect data on home sales within five-miles of the same quarry in Delaware, Ohio, evaluated in the *Hite Report*. It appears the data from the *Hite Report* was from the 1990's (though it is impossible to be certain given the lack of detail), so we collect data on

Quarry Bad for Area, THE NEWS & ADVANCE (September 28, 2008) (available at: http://www.newsadvance.com/opinion/editorials/letters-to-the-editor-for-sunday-september/article_ca388ca4-14c7-534b-9b17-1b78d1cecc40.html).

(Footnote Continued. . . .)

Data is obtained from www.agentpro247.com. For all our analysis, we limit the prices to greater than \$25,000 and less than \$1,000,000, and look only at the "full" sales of single-family homes not in distress. The National Lime & Stone Quarry near Delaware, Ohio, is located near Latitude 40.281005 and Longitude -83.135828.

sales over the ten-year period 1998 through 2007.¹⁷ These data appear to immediately follow that used in the *Hite Report* but precedes the housing market crash in 2008 and the broader economic malaise that followed.¹⁸ For further analysis, we also collect data on sales near a quarry outside of Murfreesboro, Tennessee, over the same ten-year period.

A. A Review of Empirical Methods

To reproduce the *Hite Report*'s analysis, we obtain transactions prices on 2,114 single-family homes between 1998 through 2007 that are located within five miles of the National Lime & Stone Quarry near Delaware, Ohio. Using latitude and longitude coordinates, distance from each home to the center the quarry (D) is calculated. Other explanatory variables used the *Hite Report* include, for each transaction, the sale date (DATE), the distance to Delaware City (DDC), the house-to-lot size (H2L), the number of bathrooms (BATH), and the number of total rooms (TOTR). We measure the sale date as the year of sale; the *Hite Report* does not indicate how the sale date is measured.¹⁹

The regression model of the *Hite Report* takes the following general form,

$$p_{it} = \exp(\delta_1 \ln D_i + \beta_0 + \sum_{j=1}^k \beta_j X_{j,i}) + \varepsilon_{i,t}, \qquad (2)$$

where p_{it} is the transaction price (in thousands) for home i at time t, lnD is the natural log of distance from the quarry (in miles), and X_i are the k regressors listed above (with coefficients β_i as coefficients).²⁰ For reasons unexplained in the *Hite Report*, only the distance from the quarry is transformed by the natural log

¹⁷ See also D. Hite, The Impact of the Ajax Mine on Property Values, ARMCHAIRMAYOR.CA (March 5, 2015) (available at: https://armchairmayor.ca/2015/03/05/letter-the-impact-of-the-ajax-mine-on-property-values) (stating that the analysis was completed in 1996-1998).

 $^{^{18}}$ Our data source does not offer data in the early-to-mid 1990s, so we cannot replicate the same time period as the *Hite Report*. We are trying to obtain such data for further analysis.

 $^{^{19}}$ It is preferred to measure *DATE* as a fixed effects, as this specification requires prices to rise monotonically over time.

The variables in the model are listed at *Hite Report*, *supra* n. 6 at p. 3. A similar specification is used in D. Hite, *A Hedonic Model of Environmental Justice*, Working Paper (February 14, 2006) (available at: https://papers.srn.com/sol3/papers.cfm?abstract_id=884233).

transformation; distance from the city center (*DCC*) and the other regressors are not transformed. The specification seems purely ad hoc.

Equation (2) is non-linear in the parameters and must be estimated by Non-Linear Least Squares ("NLS"). This specification is highly irregular in econometric practice. Normally, hedonic models of housing prices are estimated by Ordinary Least Squares ("OLS"). A regression model quite similar to Equation (2) and very common in hedonic analysis is,

$$\ln p_{i,t} = \delta_1 \ln D_i + \beta_0 + \sum_{j=2}^k \beta_j X_{j,i} + \nu_{i,t},$$
(3)

where the dependent variable is the natural log of price and where the Xs might be transformed to logs as well.²¹ While Equation (3) is typical of hedonic price functions, we are unable to find the estimation of Equation (2) anywhere in the literature. In fact, we were unable to locate a single instance where even the author of the *Hite Report* estimates a hedonic price function using Equation (2), but plenty of instances where Equation (3) is used.²² As detailed later, a test of functional form can inform us as to whether the natural log transformation of the dependent variable is a better approach and infinitely more common.

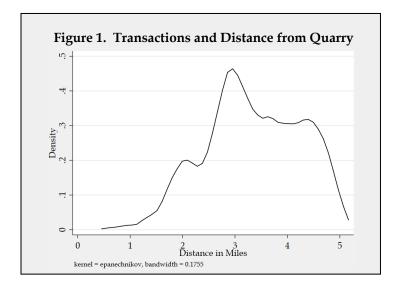
Note that Equation (3) is not simply the log transformation of Equation (2) because of the additive error term in Equation (2).

²² See, e.g., D. Hite, W.S. Chern, F. Hitzhusen and A. Randall, Property Value Impacts of an Environmental Disamenity, 22 JOURNAL OF REAL ESTATE FINANCE AND ECONOMICS 185-202 (2010) (draft available at: https://ssrn.com/abstract=290292); D. Hite, A. Jauregui, B. Sohngen, and G. Traxler, Open Space at the Rural-Urban Fringe: A Joint Spatial Hedonic Model of Developed and Undeveloped Land Values, Working Paper (November 1, 2006) (available at: https://ssrn.com/abstract=916964); D.M. Brasington and D. Hite, A Mixed Index Approach to Identifying Hedonic Price Models, 38 REGIONAL SCIENCE AND URBAN ECONOMICS 271-284 2008 (August 5, 2006) (available https://ssrn.com/abstract=928252); E. Affuso, C. de Parisot, C. Ho, and D. Hite, The Impact of Hazardous Wastes on Property Values: The Effect of Lead Pollution, 22 URBANI IZZIV 117-126 (2010) (available at: https://ssrn.com/abstract=1427544); D. Hite, Factors Influencing Convergence of Survey and Market-Based Values of an Environmental Disamenity, Mississippi State University Agricultural Working Paper No. 2001-011 (November 29, 2001) https://ssrn.com/abstract=292447); C. Ho and D. Hite, Economic Impact of Environmental Health Risks on House Values in Southeast Region: A County-Level Analysis, Working Paper (2005) (available at: https://ssrn.com/abstract=839211); D. Hite, A Hedonic Model of Environmental Justice, Working Paper (February 14, 2006) (available at: https://ssrn.com/abstract=884233).

The coefficient of primary interest in the *Hite Report* is δ_1 , which measures the percent change in the transaction price for a percentage change in distance from the quarry (D), but only *after* the quarry operations began (see Eq. 1). In this specification (and also for Eq. 3), this elasticity is constant across the full range of distance. With data on 2,812 sales, the *Hite Report* estimates the coefficient δ_1 to be 0.125, where the positive sign indicates the average sale price of homes is higher the further away the homes are from the quarry (statistically significant at the 1% level). The *Hite Report* concludes, as do subsequent reports that adopt the result, that this positive coefficient implies quarries reduce the price of nearby homes. As detailed above, the positive sign on the coefficient δ_1 cannot reasonably be interpreted in this manner since the data is for sales occurring long after quarry operations began, among other concerns.

B. National Lime & Stone Quarry in Delaware, Ohio

Replication is the essence of science. Even if the estimated price-distance relationship from Equation (2) lacks a causal interpretation, it is worth evaluating whether the *Hite Report's* findings can be confirmed. We do so by estimating Equation (2) using data on 2,114 transactions in the same area over the period 1998-2007. Figure 1 offers the kernel density of the distribution of transactions by distance from the quarry. The thinness of the market very near the quarry is plain to see, which is also apparent from a map of the area surrounding the quarry (see Appendix 1).



Regression results from Equation (2) are summarized in the first column of Table 1, along with descriptive statistics for the full sample and the sample divided

into homes closer to the quarry than two miles and those further than that distance. The model has a Pseudo-R² of 0.25, which is very close to that reported in the *Hite Report* (0.254).²³ Five of the seven estimated coefficients (including the constant term) are statistically different from zero at the 1% level or better.

			N = 0	N = 1
	Coef	Mean	Mean	Mean
	(t-stat)	(St. Dev)	(St. Dev)	(St. Dev)
$lnD(\delta_1)$	-0.1413***	1.166	1.227	0.518
	(-4.00)	(0.304)	(0.230)	(0.224)
DATE	0.0450***	2002.7	2002.5	2004.4
	(11.13)	(2.952)	(2.969)	(2.125)
DDC	0.0409***	2.876	2.859	3.050
	(5.92)	(2.139)	(2.207)	(1.207)
H2L	-0.102	0.1498	0.148	0.1668
	(-0.81)	(0.1110)	(0.111)	(0.102)
BATH	0.0419	1.806	1.788	1.995
	(1.09)	(0.584)	(0.597)	(0.384)
TOTR	0.1398***	5.099	5.065	5.099
	(7.59)	(1.016)	(1.031)	(1.016)
Constant	-85.71***	•••	•••	
	(-10.57)			
Pseudo-R ²	0.250			
Obs.	2,114	2,114	1,930	184

Despite using exactly the same regression model and data on sales around the same quarry, we find that the transaction prices of homes *decrease* (not increase) as the distance from the quarry increases. The negative coefficient (-0.141) is similar in size *but different in sign* from that found in the *Hite Report* (0.125) and is statistically significant at the 1% level. The estimated coefficient implies a 1% increase in distance reduces home average, quality-adjusted home prices by about 0.14%. Since the coefficient is less than unity, the price-distance relationship is subject to diminishing marginal returns.²⁴ Figure 2 illustrates the relationship

 $^{^{23}}$ The Pseudo-R² is the squared correlation coefficient between the predicted value of the regression and the dependent variable.

²⁴ For any fixed change in mileage, the percentage change falls as distance increases.

between sale prices and distance from the quarry, revealing sizable reductions in average prices as distance from the quarry increases.

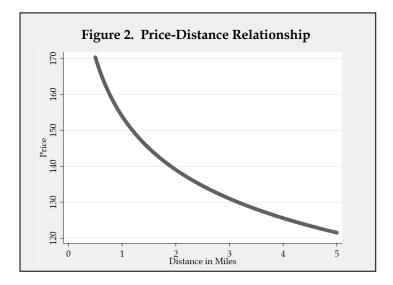


Table 2 summarizes the average predicted prices and price effects at varying distances from the quarry. Interpretation of the table is straightforward. A home sold 3 miles from the quarry will have a price 22% lower that of a home sold within 0.5 miles of the quarry, or 16% lower than the average home sold within 1.5 miles of the quarry. At two miles, the differences are 18% and 11%; at five miles, the differences are 28% and 22%. These are sizable effects.

Table 2. Home Values by Distance from Quarry								
	Distance in Miles from Quarry							
	0.5	1.0	1.5	2.0	2.5	3	4.0	5.0
Avg. Price ('000)	169.8	153.9	145.4	139.6	135.2	131.8	126.5	122.6
Reduced Value (from 0.5 miles)		-9%	-14%	-18%	-20%	-22%	-25%	-28%
Reduced Value (from 1.5 miles)				-11%	-14%	-16%	-19%	-22%

These estimates and their predicted effect on prices are based on the estimation method (Eq. 2) used in the *Hite Report*. There are other equation specifications and estimation methods that are more consistent with standard practice in the analysis of housing prices (hedonics). In order to assess the robustness of the result, we offer alternative analyses below.

1. Alternative Estimation Approaches

As discussed above, Equation (2) is a non-standard method to estimate the relationship of interest. Normally, a researcher would avoid the non-linear Equation (2) and use the natural log of price to estimate Equation (3) by OLS. Statistical testing (such as the Box-Cox test of functional form) may be used to evaluate whether the linear or log-form of the dependent variable is preferred.²⁵ Other advantages of Equation (3) over Equation (2) is that the linear equation is amenable to estimation by Median Regression ("MReg") and Robust Regression ("RReg"), both of which are less sensitive to outliers in the data than is NLS or OLS.²⁶ Outliers are common in home sales data, so it is sensible to evaluate the effect on the estimates by these alternative estimation procedures, especially when the results are used in a policy relevant setting that may have significant financial implications.²⁷ We summarize the results from both methods.

Modern research on housing prices increasingly accounts for the spatial nature of real estate markets using new spatial methods.²⁸ We estimate the price-distance

 $^{25}\,\,$ W.E. Griffiths, R.C. Hill and G.G. Judge, Learning and Practicing Econometrics (1993) at pp. 345-7.

²⁶ See, e.g., R. Koenker, Quantile Regression (2005); B.S. Cade and B.R. Noon, A Gentle Introduction to Quantile Regression, 1 Frontiers in Ecology and the Environment 412-420 (2004) (available at: http://www.econ.uiuc.edu/~roger/research/rq/QReco.pdf); O.O. John, Robustness of Quantile Regression to Outliers, 3 American Journal of Applied Mathematics and Statistics 86-88 (2015); P.J. Rousseeux and A.M. Leroy, Robust Regression and Outlier Detection (2005); R. Andersen, Modern Methods for Robust Regression (2008); T.P. Ryan, Modern Regression Methods (2008).

²⁷ C. Janssen, B. Söderberg and J. Zhou, *Robust Estimation of Hedonic Models of Price and Income for Investment Property*, 19 JOURNAL OF PROPERTY INVESTMENT & FINANCE 342-360 (2001); S.C. Bourassa, E. Cantoni and M. Hoesli, *Robust Hedonic Price Indexes*, 9 International Journal of Housing Markets and Analysis 47-65 (2016).

Including papers by the *Hite Report's* author. *See, e.g.,* D.M. Brasington and D. Hite, *Demand for Environmental Quality: A Spatial Hedonic Analysis,* 35 REGIONAL SCIENCE AND URBAN ECONOMICS 57-82 (2005) (draft available at: https://ssrn.com/abstract=491244); see also J.M. Mueller and J.B. Loomis, *Spatial Dependence in Hedonic Property Models: Do Different Corrections for Spatial Dependence Result in Economically Significant Differences in Estimated Prices?*, 33 JOURNAL OF AGRICULTURAL AND RESOURCE ECONOMICS 212-231 (2008) (available at: http://ageconsearch.umn.edu/bitstream/42459/2/MuellerLoomis.pdf); L. Osland, *An Application of Spatial Econometrics in Relation to Hedonic House Price Modeling*, 32 JOURNAL OF REAL ESTATE

relationship using a Spatial Regression Model ("SReg"). To do so, a spatial weighting matrix (*W*) is computed and spatially-weighted lags of the dependent and independent variables are included in the regression as well as an adjustment for autocorrelated errors.²⁹

Table 3. Alternative Estimation Methods National Quarry near Delaware, Ohio						
	OLS	MReg	RReg	SReg	OLS-CEM	
	Coef	Coef	Coef	Coef	Coef	
	(t-stat)	(t-stat)	(t-stat)	(t-stat)	(t-stat)	
lnD	-0.2726***	-0.2021***	-0.1220***	-0.1558 ***	-0.147***	
	(-7.31)	(-14.21)	(-5.59)	(-2.65)	(-3.00)	
DATE	0.0433***	0.0342***	0.0367***	0.0440***	0.0453***	
	(12.45)	(15.76)	(16.58)	(12.86)	(6.30)	
DDC	0.0273***	0.0460***	0.0551***	0.0679***	0.0483***	
	(3.90)	(8.64)	(15.00)	(5.09)	(3.31)	
H2L	0.0794	-0.1131	-0.2591***	-0.1779	0.1812	
	(0.68)	(-1.47)	(-3.74)	(-1.48)	(0.94)	
BATH	0.0485	0.0997***	0.1499***	0.0166	-0.0092	
	(1.46)	(5.41)	(7.94)	(0.56)	(-0.10)	
TOTR	0.1540***	0.1523***	0.1508***	0.1497***	0.2047***	
	(8.97)	(14.00)	(14.12)	(9.11)	(6.44)	
Constant	-82.47***	-64.31***	-69.52***	-77.07***	-86.77***	
	(-11.82)	(-14.80)	(-15.67)	(-11.25)	(-6.02)	
Spatial Terms (χ²)				242.3***		
Pseudo-R ²	0.246	0.216	0.243	0.265	0.214	
Obs.	2,114	2,114	2,114	2,114	1,461	
Statistical Significa	nce: *** 1%, **	5%, * 10%				

RESEARCH 289-320 (2010) (available at: http://pages.jh.edu/jrer/papers/pdf/past/vol32n03/03.289_320.pdf).

D.M. Drukker, H. Peng, I.R. Prucha, and R. Raciborski, *Creating and Managing Spatial-Weighting matrices with the* spmat *Command*, 13 Stata Journal 242-286 (2013); D.M. Brasington and D. Hite, *Demand for Environmental Quality: A Spatial Hedonic Analysis*, 35 Regional Science and Urban Economics 57-82 (2005) (draft available at: https://ssrn.com/abstract=491244). We truncate the distance at 0.5 miles.

Results for the alternative estimation methods are summarized in Table 3.30 Across all four alternatives, the price-distance relationship is negative and statistically different from zero at the 1% level or better. Plainly, the negative price-distance relationship is robust to estimation method. The price-distance elasticity is a good bit larger for OLS and MReg, but similar to that estimated by Equation (2) for both the RReg and SReg methods (in the full sample). Note that more of the regressors are statistically significance in MReg and RReg, suggesting these estimation alternatives are worth consideration.

2. Coarsened Exact Matching

Thus far, we have paid no attention to whether homes near the quarry are like those far from the quarry (i.e., covariate overlap). What evidence is available in the *Hite Report* suggests that in her sample the types of homes sold near the quarry may have been be very different than those sold at a distance from it. While distance from the quarry is a continuous variable, we can consider covariate overlap by comparing the characteristics of homes near to and those far from the quarry, using a two-mile cutoff. In Table 1, we do observe some meaningful differences between homes within two miles of the quarry and those further away especially in the year sold and the number of bathrooms and total rooms.³¹ To ensure we are comparing like homes, we apply Coarsened Exact Matching ("CEM") to the data and match on these three variables.³² All 184 transactions within two miles of the quarry are matched to 1,277 (of 1,930) homes further than

 $^{^{30}}$ The Box-Cox test statistic for the Delaware County data is 64.1, which is statistically significant at better than the 1% level. The test statistic is distributed $\chi^2(1)$ with a critical value of 2.71 at the 10% level. The natural log transformation, consistent with Equation (3), is preferred to the specification estimated in the \it{Hite} Report. Or, we might say the problem is not so much in the estimation by NLS rather than OLS but that the natural log transformation of the dependent variable is the better specification.

³¹ Standardized differences (the absolute value of the means difference divided by the square root of the summed variances) are used. *See* Imbens and Wooldridge, *supra* n. 8 at p. 24. The rule of thumb for a large difference is a standardized difference exceeding 0.25. For the DATE variable, the standardized difference is 0.51, and about 0.30 for bathrooms and total rooms.

³² S.M. Iacus, G. King. G. Porro, *Causal Inference without Balance Checking: Coarsened Exact Matching*, Working Paper (June 26, 2008) (available at: https://ssrn.com/abstract=1152391), later published *Causal Inference without Balance Checking: Coarsened Exact Matching*, 20 POLITICAL ANALYSIS 1-24 (2012) (available at: https://gking.harvard.edu/files/political_analysis-2011-iacus-pan_mpr013.pdf).

two miles from the quarry. The weights created by the CEM procedure are then used to estimate Equation (3) by weighted OLS.

Results for the CEM-weighted regression are reported in the final column of Table 3. The estimated coefficients are comparable in most respects to the other models.³³ Most significantly, the price-distance relationship remains negative (-0.147) and statistically different from zero. While we do not present the results in the table, we note that when estimated using the non-linear Equation (2) with CEM-weighted data the price-distance relationship is negative (-0.053) but not statistically significant, a difference we will return to later.

C. Rogers Group Quarry near Murfreesboro, Tennessee

It is reasonable to expect that the relationship of home prices to distance from a quarry might vary by location. Earlier research suggests this is so in other contexts.³⁴ To further evaluate the results reported in the *Hite Report*, we collect data on home sales around the Rogers Group Quarry near Murfreesboro, Tennessee.³⁵ Transaction data is again collected for years 1998 through 2007 and the sample includes 2,311 transactions. Given differences in data availability, we replace the total number of rooms with square footage (*SQFT*). Distance from the city center (*DCC*) is measured from Murfreesboro. We apply the same methods as before, estimating Equation (2) by NLS and then Equation (3) by OLS, MReg, RReg, and SReg. Results are summarized in Table 4. We do not observe large differences between the characteristics of home sold near to and far from the quarry, so we do not apply CEM for this quarry.

³³ CEM-weighting often alters the coefficients and their significant levels since the data is better matched.

See supra n. 7 and citations therein.

The quarry is located at coordinates: 35.884699, -86.530625.

Table 4. Regression Results and Descriptive Statistics Rogers Quarry near Murfreesboro, Tennessee					
	NLS	OLS	MReg	RReg	SReg
	Coef	Coef	Coef	Coef	Coef
	(t-stat)	(t-stat)	(t-stat)	(t-stat)	(t-stat)
lnD	-0.0655***	-0.0383***	-0.0320***	-0.0327***	-0.0222
	(-4.99)	(-2.63)	(-3.01)	(-3.78)	(-0.72)
DATE	0.0522***	0.0443***	0.0407***	0.0404***	0.0444
	(27.09)	(20.36)	(31.73)	(35.55)	(23.05)
DDC	-0.0035*	-0.0006	-0.0007	-0.0011	-0.0012
	(1.85)	(-0.26)	(-0.44)	(-0.84)	(-0.15)
H2L	-0.6590	0.6404	-2.170***	-2.676***	0.3311
	(-1.11)	(0.42)	(-4.47)	(-5.84)	(0.42)
BATH	0.1395***	0.1666***	0.1811***	0.1759***	0.1344***
	(17.65)	(13.44)	(24.06)	(28.87)	(12.17)
SQFT	0.00026***	0.00021***	0.00032***	0.00033***	0.00018***
	(17.40)	(5.82)	(25.01)	(29.27)	(9.10)
Constant	-100.3***	-84.59***	-77.57***	-76.87***	-77.84***
	(-17.40)	(-19.52)	(-30.57)	(-33.79)	(-20.17)
Spatial Terms	(χ^2)				385.2***
Pseudo-R ²	0.692	0.590	0.529	0.678	0.605
Obs.	2,311	2,311	2,311	2,311	2,311
Statistical Sign	ificance: *** 1%, *	* 5%, * 10%			

The fit the regressions (R^2 is around 0.60) is much higher than for the Delaware data, but the negative coefficients on distance are seen again. For the NLS model, the price-distance relationship is -0.0655 and the coefficient is statistically different from zero at better than the 1% level. Across the alternative specifications and estimation methods, the price-distance relationship is consistently negative and statistically different from zero, save one exception. Only in spatial regression is the price-distance relationship not statistically significant, though the coefficient is negative and similarly sized to the other models.

Additional evidence also leads to questions about the negative views of quarries. If quarries were a disamenity, then we might expect people to avoid living around them. Figures 3A-3C in Appendix 3 demonstrate population movements for Rutherford County, Tennessee, with emphasis on the Rogers Group quarry. Population is measured using U.S. Census Bureau population data for years 1990, 2000, and 2010. These figures show population density increasing

dramatically over this time period in the same census block as the Rogers Group quarry. These population movements toward the quarry in conjunction with the econometric results further indicate the Murfreesboro quarry is not a great disamenity, if a disamenity at all.

D. Randomized Inference and the Implausibility of the Model

Our analyses of home prices near the quarries in Delaware, Ohio, and Murfreesboro, Tennessee, find a negative and statistically significant relationship between home prices and distance from a rock quarry in most specifications and estimation methods. Consequently, we find no evidence that supports the findings of the *Hite Report*, despite using the same model and, in one instance, the same quarry from that earlier study. We fear, however, that these estimated relationships are mainly the consequence of the *Hite Report*'s poor experimental design than they are a measure of any real effect of the quarry. Indeed, we question whether the quantification of the effect of a disamenity or amenity can be plausibly estimated by a price-distance relationship. In Delaware County, for instance, it is not hard to find a statistically-significant price-distance relationship (using Eq. 2) from just about anywhere: the Church of the Nazarene off Highway $101 (\delta_1 = -0.058, t = -2.79)$; The Greater Gouda gourmet grocery on North Sandusky Road ($\delta_1 = 0.268, t = 6.92$); and the Foot & Ankle Wellness Center off South Hook Road ($\delta_1 = -0.043, t = -2.99$).

Given patterns in real estate development, it seems plausible that a positive or negative price-distance relationship would be observed from almost any location. A sensible way to evaluate the reliability of the distance-based hedonic regressions is to apply the method of randomized inference (a type of pseudo-treatment).³⁶ In this procedure, the location of a "disamenity" or "amenity" is randomly chosen in the geographic area under study. Given the random assignment of location, we might expect the price-distance relationship to be statistically significant in proportion to the alpha-level of the statistical test (say, a 10% significance level) due to random variation. That is, a valid statistical test conducted at the 10% level

³⁶ R.A. Fisher, The Design of Experiments (1935); P.R. Rosenbaum, Observational Studies (2002); M.D. Cattaneo, B.R. Frandsen, and R. Titiunik, *Randomization Inference in the Regression Discontinuity Design: An Application to Party Advantages in the U.S. Senate*, 3 Journal of Causal Inference 1–24 (2015); T. Fujiwara and L. Wantchekon, *Can Informed Public Deliberation Overcome Clientelism? Experimental Evidence from Benin*, 5 American Economic Journal: Applied Economics 241–255 (2013).

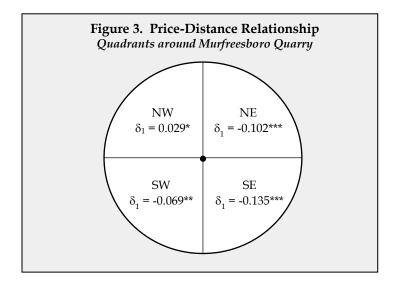
QUARRY OPERATIONS AND PROPERTY VALUES

will reject the null hypothesis 10% of the time even if the null is true (e.g., Type I error).

We conduct such tests using the following simulation. First, a random location (latitude, longitude) within the Delaware area is chosen (see Appendix 4 for an illustration of the process). Second, the distances from this location to all home sales is computed. Third, we replace in the regression model the variable measuring distance from the quarry (D) with this alternate distance measure (D'). Fourth, we estimate a regression of price on the same variables as above, obtaining the coefficient, t-statistic and its probability on δ_1 . Fifth, this process is repeated 1,000 times. Finally, from these 1,000 simulations, we can compute how often the null hypothesis of "no effect" is rejected.

At the threshold significance level of 10%, the null hypothesis is rejected in a whopping 67% of the simulations for the data from Delaware County, sometimes with positive and sometimes negative coefficients. Conducting the same simulation for Murfreesboro, the rejection rate is an even larger 93%. Given the random selection of locations in the simulation, this result is a powerful indictment against the sort of model employed in the *Hite Report*. A researcher may pick just about any location and find a statistically-significant price-distance relationship. We conclude based on this analysis that the addition of a distance variable to a hedonic model in an effort to identify the effect of a quarry on home prices is a poor experimental design with grossly inaccurate inference tests, especially when using asymptotic critical values for hypothesis testing and only data on postoperation transactions. In fact, we suspect many of the hedonic studies using distance from disamenities may be similarly unable to identify an effect of interest, but leave that question to future research.

Another problem with estimating the price-distance relationship is that unlike square footage, distance from a quarry is not unidimensional but occurs on a coordinate plane. A house may be located to the east or to the west, to the north or to the south, of a quarry, and moving closer to or away from the town center, a university, a landfill, or any other site that may influence prices. To see this, we divide the transaction data near Murfreesboro into four quadrants around the quarry (northeast, northwest, southeast, and southwest) and estimate a pricedistance relationship unique to each quadrant (using Eq. 2). summarized in Figure 3.



From Figure 3, we see that the price-distance relationships are not equal across quadrants but rather differ substantially by the direction of the movement away from the quarry. From Table 4, we know that the average price-distance relationship from this quarry is negative (and statistically significant). Yet, from Figure 3, we see that the price-distance relationship is positive in the Northwest quadrant, but negative in all other quadrants. All the estimated price-distance relationships are statistically different from zero at the 10% level or better. It appears, therefore, that there is no "price-distance relationship" but many "price-distance relationships" from any given site. We believe these results are more evidence of the spurious nature of the price-distance relationship estimated using hedonic models of housing prices.

In light of our randomized inference procedure and additional evidence, we conclude, for now, that the type of model and experimental design used in the *Hite Report* is entirely unsuited to the task of identifying the price impact of quarries. Our results from replication efforts, which consistently find a negative price-distance relationship, are no less implicated by the defect than those of the *Hite Report*. Identifying the effects of quarries on housing prices requires a different experimental design, and careful attention to selection bias, covariate overlap, and the numerous ramifications of thin markets around the site. We attempt to offer some better evidence below.

E. Spurious Regression and the Search for Results

In light of the evidence that a statistically significant price-distance relationship is found for no less than seven-out-of-ten randomly chosen locations,

we conclude the *Hite Report's* experimental design is incapable of quantifying the effect of quarries on house prices. The results from such models are spurious. Consequently, we expect that the price-distance relationship will be sometimes positive, sometimes negative, sometimes statistically significant and sometimes not for any given quarry. Statistical significance is the flip of a coin heavily weighted toward the rejection of the null hypothesis. Our analysis also shows that the choice of estimation method may alter the estimated coefficient and its significance, a common trait of spurious regression.

The fact different quarries and different estimation methods produce different results advises caution in conducting and assessing such studies, especially in a policy-relevant context when economic development is at stake. Inference errors may be inadvertent, or an advocate may exploit the spurious nature of the relationship by searching for a location, model specification, and time period to produce an outcome supporting a favored policy position. We can demonstrate the risks of such an ends-driven search by looking at more recent data for Delaware, Ohio, using data on prices for the five-year period 2012 through 2016 (1,429 transactions). The models and variables are measured in the same way as above.

Table 5 summarizes the results from a few estimation methods. For expositional purposes, we present only on the price-distance relationship. Using the unconventional Equation (2) from the *Hite Report*, we find that the price-distance relationship for this period is positive—a statistically significant result (by asymptotic convention). The result is opposite of that estimated for the data from the 1998-2007 period, even though the location is the same. Without any constraint on the choice of time period to analyze, an unscrupulous advocate is free to choose data from different periods in search of results to support his or her position.

Table 5. Results Delaware Quarry, Years '12-16						
	NLS	OLS	MReg	RReg	SReg	
	Coef	Coef	Coef	Coef	Coef	
	(t-stat)	(t-stat)	(t-stat)	(t-stat)	(t-stat)	
lnD	0.1285***	0.0192	-0.0065	0.0412	0.0780	
	(3.45)	(0.52)	(-0.32)	(1.63)	(1.10)	
Spatial Terms (χ²)					41.28***	
Pseudo-R ²	0.392	0.332	0.263	0.377	0.347	
Obs.	1,429	1,429	1,429	1,429	1,429	

Model selection and variable choice may also be used in an ends-drive search for results. As shown in Table 5, estimating Equation (3), a standard functional form for hedonic regressions, the positive coefficient is now a sixth the size of that estimated by Equation (2) and is no longer statistically different from zero at standard levels.³⁷ Also, Median, Robust and Spatial Regression do not find statistically significant price-distance relationships. In fact, the only model that produces a statistically-significant positive effect is the non-standard regression equation used in the *Hite Report*. Moreover, if we replace the *TOTR* variable with the *SQFT* variable in the NLS model, the price-distance relationship shrinks to 0.02 (one-sixth the size) and the coefficient is no longer statistically significant. Again, a researcher may pick-and-choose model specification, along with time period analyzed and regressors, to obtain a desired result. Skepticism is warranted for any analysis of the price effects of quarries (and amenities or disamenities generally) absent robustness analysis across time and model specifications.

Table 6. Results Delaware Quarry, Years '98-07 & '12-16						
	NLS	OLS	MReg	RReg	SReg	
	Coef	Coef	Coef	Coef	Coef	
	(t-stat)	(t-stat)	(t-stat)	(t-stat)	(t-stat)	
lnD	0.10028	-0.1361***	-0.0963***	-0.0501***	-0.1059**	
	(0.11)	(-5.04)	(-6.33)	(-2.89)	(-2.10)	
Spatial Terms (χ	(2^2)				41.28***	
Pseudo-R ²	0.302	0.262	0.219	0.288	0.151	
Obs.	3,543	3,543	3,543	3,543	3,543	
Statistical Signif	icance: *** 1%, **	5%, * 10%				

As another check on robustness (or a lack thereof), we combine the data from 1998-2007 and 2012-2016, excluding those years when the housing market and economy generally were in turmoil (2008-2011). Results on the price-distance relationship are summarized in Table 6. Now, Equation (2) estimated by NLS reports a statistically insignificant (but positive) coefficient for the price-distance relationship. The other estimation methods, however, all confirm the negative and statistically significant relationship consistent with the results in Tables 1 and 3. It appears, therefore, whether or not quarries affect prices hinges on model selection and dates selected, which simply demonstrates the spurious nature of these sorts of experiments. Plainly, care must be given to model selection, and robustness analysis should be thorough and explicit. And, in light of the randomized

The Box-Cox test indicates a preference for the transformation ($\chi^2 = 40.7$).

inference and quadrant analysis above, the utility of the price-distance relationship for quantifying the effects of quarries and disamenities should be regarded as defective, at least until further research demonstrates otherwise.

The analyses presented here, we believe, offers compelling evidence that the *Hite Report*'s experimental design is a flimsy method, easily manipulated to produce nearly any desired result through the selection of location, model specification, estimation technique, and the time period analyzed. The *Hite Report*'s findings cannot be reliably replicated and conflicting results are readily obtained. The spurious nature of the price-distance relationship from such experiments is clearly demonstrated, and the defective approach allows for nearly any result imaginable. Using data long after a quarry opens poses no limits on the selection of time period, enhancing the risk of the exploitation of spurious regression for economic and political advantage.

IV. A Difference-in-Difference Approach

As detailed above, to quantify the effect of a quarry on home prices the researcher ideally needs pricing data both before and after quarry operations begin.³⁸ With this data, statistical analysis can determine how the relationship between price and distance from the quarry *changes* after the quarry opens, thus quantifying, under some well-known assumptions, a plausible causal effect.

There are some potential shortcomings with a simple before-and-after analysis, however. New quarries take years to get approval and normally we expect equity prices to reflect new information quickly, so price effects may precede that event. In this section, we offer two before-and-after analyses of the effect of a quarry on home prices. First, we evaluate pricing activity around the Vulcan quarry in Gurley, Alabama, which began operations in 2013. Gurley is a rural area not far from the city of Huntsville, Alabama. Consistent with the analysis above, we use the general format of the *Hite Report* (and several

Another possible identification strategy involves exploiting policy experiments with respect to residential distance from a quarry. For example, if some states required houses to be a certain distance away from a quarry while other states did not, then a credible counter-factual could be constructed allowing the researcher to estimate the effect of quarry distance on home prices. A regression discontinuity design could be used to identify the price-distance relationship if regulations required potential home buyers to be informed of the quarry for homes within a certain distance. Homes just inside and just outside this cut-point would could be used as treatment and control units to identify the causal price-distance relationship.

alternatives) to test for a *change* in the price-distance relationship after the quarry opens.

Second, we evaluate the price effects of the contested Austin Quarry in Madera, California, which was approved in 2016.³⁹ Located in the southwest corner of the intersection of Highway 41 and Highway 145, the site is proximate to two subdivisions, one located on Highway 145 and the other on Highway 41. Thus, not only are the subdivisions proximate to the quarry, but both are expected to deal regularly with the quarry's traffic flow. Though first proposed in 2010, media coverage and public protest did not begin until 2013, at which time the new quarry might be expected to affect home prices through an announcement effect.⁴⁰ A control group is chosen using CEM from homes sales in subdivisions not too far from the quarry site but beyond the range of influence. We find no statistically significant effect of the quarry in either model, though in both cases the estimated coefficients indicate, if anything, the quarry raises property values.

A. The Empirical Model

For these analyses, we employ the standard regression model for the DiD estimator. Using a log-linear form common to hedonic regressions, the regression equation is,

$$\ln p_{it} = \Delta T \cdot N_i + \delta_0 N_i + \beta_0 + \sum_{i=2}^k \beta_j X_{j,i} + v_{it} , \qquad (4)$$

where T is dummy variable equal to 1.0 after the treatment and N_i is a dummy variable for homes near the quarry site (or a continuous measure of distance from the quarry). The estimated coefficient δ_0 measures the difference in average sale prices for homes near the quarry (or the effect of distance from it) *prior to the treatment*. After the treatment, the difference in price between homes near and far from the quarry is $\Delta + \delta_0$. The difference between the two effects is Δ , which is the DiD estimator, as defined in Equation (1), or $\Delta = \delta_1 - \delta_0$. The t-test on the coefficient

³⁹ J. Rieping, *Controversial Quarry Up for Vote*, MADERA TRIBUTE (July 16, 2016) (available at: http://www.maderatribune.com/single-post/2016/07/16/Controversial-quarry-up-for-vote); M.E. Smith, *Austin Quarry Approved in 3-2 Vote*, SIERRA STAR (July 20, 2016) (available at: http://www.sierrastar.com/latest-news/article90713132.html).

⁴⁰ Lexus-Nexus search conducted on February 20, 2018. B. Wilkinson, *Concerns Over Truck Traffic on Road*, Sierra Star (February 21, 2013).

 Δ is, therefore, a direct test of the statistical significance of the effect of a quarry on home prices.

As an alternative, we estimate,

$$\ln p_{it} = \Delta T \cdot N_i + \beta_0 + \sum_{j=2}^k \beta_j X_{j,i} + \lambda_t + \nu_{it} , \qquad (5)$$

where the continuous DATE variable is replaced with year fixed effects (λ_t), which is a somewhat standard treatment of time in the DiD regression. Due to collinearity with the fixed effects, the $\delta_0 N$ term is no longer included in the regression, but the interpretation of Δ is unchanged.

For consistency with the earlier analysis, we also estimate the model specification of the $Hite\ Report$, adding as a regressor the interaction of a treatment dummy variable for years 2013 and later (T). The regression model is,

$$p_{it} = \exp(\delta_0 \ln D_i + \Delta \ln T \cdot D_i + \beta_0 + \sum_{j=2}^k \beta_j X_{j,i}) + \varepsilon_{it}, \qquad (6)$$

where the variables are defined the same way as the Murfreesboro analysis (i.e., total rooms is replaced with square footage). The coefficient δ_0 quantifies the price-distance relationship prior to the initiation of quarry operations in 2013. Starting in 2013, the price-distance relationship is measured by $\delta_0 + \Delta = \delta_1$, where Δ measures the *change* in the slope of the price-distance relationship. If the quarry reduces home values near the quarry, then Δ should be positive and statistically significant. Equation (6) is estimated by NLS.

B. Vulcan Quarry in Gurley, Alabama

As with the earlier analysis, data is obtained on home sales within a five-mile radius of the quarry location in Gurley, Alabama. The quarry began operations in 2013, and our data spans 2005 through portions of 2017. The sample includes 593 transactions, but we note only 83 are for sales prior to 2013.⁴¹ Since there is no "city

⁴¹ The low samples are likely the consequence of the rural nature of the market and data collection in such areas. We cannot exclude the possibility the sample is peculiar in some respect.

center" in the area, the *DCC* variable is measured as the distance from the WalMart Supercenter in the nearby town of Big Cove.

	NII C Fr. C	OLC E- 4	OLC E- E		
	NLS-Eq. 6 Coef	OLS-Eq. 4 Coef	OLS-Eq. 5 Coef	Mean	
	(t-stat)	(t-stat)	(t-stat)	(St. Dev	
lnD	0.0876	0.2723***	0.3679**	3.445	
	(0.97)	(3.64)	(2.20)	(0.987)	
$T \cdot lnD$	-0.1205**	-0.0543	-0.1587	2.936	
	(-2.41)	(-1.07)	(-0.88)	(1.50)	
DATE	0.0162*	0.0191*		2014.1	
	(1.67)	(1.85)		(2.30)	
DDC	-0.0456***	-0.0529***	-0.0512***	4.484	
	(-5.85)	(-5.99)	(-5.80)	(2.27)	
H2L	-1.2185	-0.2457	0.1868	0.063	
	(-0.79)	(-0.11)	(0.08)	(0.029)	
BATH	0.1752***	0.2672***	0.2655***	2.875	
	(6.92)	(8.84)	(8.71)	(0.932)	
SQFT	2.2E-04***	2.0E-04***	1.9E-04***	2,870.3	
	(5.97)	(3.22)	(3.11)	(1,139.8)	
Constant	-27.99	-27.57	10.61***		
	(-1.43)	(-1.32)	(36.57)		
λ_t	No	No	Yes		
Pseudo-R ²	0.641	0.602	0.608	•••	
Obs.	593	593	593	593	

Statistical Significance: *** 1%, ** 5%, * 10%

Results are summarized in Table 7.42 Many of the coefficients are statistically significant and similar to those estimated using the Murfreesboro data. First, for Equation (6) estimated by NLS, we find that housing prices rise as distance from the quarry increases (the coefficient on $\ln D$ is positive), but this positive effect is observed *prior to the beginning of quarry operations*. After the quarry opens, the positive (though statistically insignificant) price-distance relationship is attenuated; the estimated Δ coefficient is -0.103 and the null hypothesis of "no effect" for the DiD estimator is rejected at the 5% level. Prior to 2013, the price-

Since we do not observe large differences in the characteristics of homes near to and far from the quarry, we do not apply CEM.

distance elasticity is 0.088 (δ_0), but after 2013 it is -0.033 (δ_1), a small effect that is statistically indistinguishable from zero (F-stat = 0.16, prob = 0.69).

Turning to Equation (4), the price-distance relationship is again positive (and much larger than with NLS) but is now statistically significant prior to the beginning of quarry operations. The Δ coefficient is -0.054, which while negative is no longer statistically different from zero at standard levels. The positive price-distance relationship is attenuated after the quarry began operating, but not to a statistically significant degree. The results are similar for Equation (5). Though not summarized in the table, we note that for MReg and RReg neither of the quarry-distance coefficients is statistically different from zero. The SReg results, also not presented in the table, are not wholly unlike the OLS estimates of Equation (4); the coefficient δ_0 is positive (0.331, t = 4.45) and statistically significant, but the Δ coefficient is negative (-0.055, t = 0.98) and not statistically different from zero.

The lack of robustness to specification leads us to conclude that the most likely effect of the quarry is no effect at all. Also, we acknowledge that the defects in the *Hite Report*'s empirical strategy is as relevant here as before: our randomized inference simulation computes a rejection rate on δ_0 of 65% and for Δ of 67% (at a nominal 10% significance level). While we recognize the limitations of the data and the methods, on whole the results are entirely at odds with the claim that quarries reduce housing prices. If anything, the effect is the opposite.

C. Austin Quarry in Madera County, California

Quarry sites often take years for approval. Our model of the Gurley quarry presumed that prices do not reflect the quarry operations until after the quarry is operational. A reasonable argument may be made, however, that home prices might adjust before the quarry opens when the local population becomes aware of the future quarry site. We consider that possibility now.

The Austin Quarry in Madera, California, was approved in September 2016 despite a substantial NIMBY effort.⁴³ A search of news outlets reveals that public attention to proposed quarry initiated in early 2013 and was very active is

⁴³ M. Smith, *Supervisors Approve Austin Quarry 3-2*, SIERRA STAR (September 12, 2016) (available at: http://www.sierrastar.com/news/local/article101492412.html).

subsequent years.⁴⁴ Thus, we define the treatment dummy *T* as having values of one in years after 2013 (and also consider other years). Data is collected for the ten years preceding the treatment date, so the data spans 2007 through 2016.

The Austin Quarry site is well outside of town, but there are two subdivisions proximate (less than three miles) to the site: Bonadelle Racheros-Madera Ranchos and Bonadelle Rancheros Nine. Both subdivisions abut the major highways (Highways 41 and 145) servicing the quarry site. If any homes are to be affected by the quarry, then these are the most likely candidates, and they represent our treatment group. The dummy variable N takes a value of 1 for these subdivisions (zero otherwise). Visual inspection of the area points to a number of subdivisions in the vicinity that are neither on the major highways serving the site nor within ten miles of the site: Madera Estates, Madera Country Club, Lake Madera Country Club, Chuk Chanse, Valley Lake Ranchos, Madera Acres, Madera Knolls, and Madera Highlands. A control group will be selected from home sales in these subdivisions.

Estimation of the DiD estimator employs Equation (5). Regressors include the age of the home at the sale data (*AGE*), square footage (*SQFT*), the number of bedrooms (*BED*) and bathrooms (*BATH*), a dummy variable indicating whether the home a two story home (*STRY*), a dummy variable indicating the presence of a fireplace (*FIRE*), a dummy variable indicating whether the home has a swimming pool (*POOL*). Year fixed effects are included.

⁴⁴ B. Wilkinson, Concerns Over Truck Traffic on Road, SIERRA STAR (February 32, 2013); G. Smith, Economic Costs and Benefits of the Proposed Austin Quarry in Madera County (October 23, 2014) (available http://www.noaustinquarry.org/wp-content/uploads/2016/08/Austin-Quarry-Economics-Report.pdf); M.E. Smith, Progress Continues on Austin Quarry, SIERRA STAR (February 10, 2016) (available at: http://www.sierrastar.com/news/article87816032.html); B. Wilkinson, Group Opposes Proposed Rock Quarry, **S**IERRA Star (November 12, 2014) (available http://www.sierrastar.com/news/article87802492.html); D. Joseph, Quarry Issues Need to be Addressed. **SIERRA STAR** (December 3. 2014) (available http://www.sierrastar.com/opinion/article87803072.html).

Table 8. Descriptive Statistics Austin Quarry in Madera County, California					
Variable	ALL Mean (St.Dev)	N=0 Mean (St.Dev)	N=1 Mean (St.Dev)	Stan. Diff.	
AGE	16.13 (12.16)	16.50 (12.22)	15.21 (11.95)	0.075	
SQFT	1811.6 (522.7)	1706.7 (490.6)	2072.9 (509.5)	0.518*	
BED	3.32 (0.59)	3.27 (0.54)	3.43 (0.70)	0.179	
ВАТН	1.99 (0.68)	1.83 (0.66)	2.38 (0.56)	0.639*	
STRY	0.024 (0.15)	0.016 (0.12)	0.043 (0.20)	0.115	
FIRE	0.632 (0.48)	0.730 (0.44)	0.390 (0.49)	0.515*	
POOL	0.068 (0.25)	0.033 (0.17)	0.159 (0.36)	0.311*	
Price	215.4	195.0	266.3		
Price/SQFT	120.8	116.4	131.9		
Obs.	887	633	254		

Descriptive statistics for the treatment and control pool are provided in Table 8. The homes are similar in some respects, but large standardized differences (> 0.25) are found for square footage, the number of bathrooms, and the presence of a fireplace or pool.⁴⁵ CEM based on *SQFT*, *BATH*, *FIRE*, and *POOL* reduces the standardized differences to acceptable levels for all the regressors. We are able to match 229 of 254 homes in the treated group to 450 of 633 homes in the control pool, for an estimation sample of 679 home sales.

⁴⁵ Imbens and Wooldridge, *supra* n. 8.

Tab		on Results and D ry in Madera Coun	escriptive Statisti ty, California	cs
	OLS	CEM-OLS	CEM-MReg	SReg
	Coef	Coef	Coef	Coef
	(t-stat)	(t-stat)	(t-stat)	(t-stat)
N (δ_0)	0.1166**	0.1277**	0.1194***	0.1913**
	(2.47)	(2.08)	(4.99)	(2.11)
$T \cdot N (\Delta)$	0.1663***	0.1005	0.1161***	0.0878
. ,	(2.95)	(1.21)	(3.14)	(1.32)
AGE	0.0017	0.0087***	-0.0003	-0.0055*
	(1.20)	(3.47)	(-0.35)	(-0.35)
SQFT	1.7E-04***	1.3E-04**	3.0E-04***	2.0 E-04***
	(3.40)	(2.05)	(12.68)	(4.39)
BED	0.0349	0.01205***	0.0450**	-0.0542
	(0.90)	(2.63)	(2.49)	(1.54)
BATH	0.0288	-0.0439	-0.0777***	-0.0218
	(1.08)	(-0.60)	(-2.60)	(-0.61)
STRY	-0.0878	-0.0408	0.0043	-0.1378
	(-0.70)	(-0.33)	(0.05)	(-1.29)
FIRE	0.0770**	0.0650*	0.0422***	0.0305
	(2.43)	(1.73)	(2.94)	(0.88)
POOL	0.1833***	0.1577***	0.0853***	0.2346***
	(3.71)	(4.03)	(3.68)	(3.63)
Constant	11.21***	10.92***	11.35***	11.62***
	(98.08)	(70.30)	(20.67)	(83.17)
λ_t	Yes	Yes	Yes	Yes
Spatial Terms (χ²)				27.17***
Pseudo-R ²	0.482	0.491	0.361	0.186
Obs.	887	679	679	887

Regression results are summarized in Table 9. For comparison purposes and to illustrate the important effects of covariate balance, estimates for both the full and CEM-weighted samples are provided. The models fit the data well for both samples. For the full sample, which we caution does not rely on balanced data, the estimated δ_0 coefficient (0.117) indicates that prices in the treated group were about 12% higher [exp(δ_0) - 1] in the pre-treatment period. After the treatment, the prices were even higher (Δ = 0.166), a statistically significant result of about an 18% increase. The remaining coefficients are sensibly sized and many are statistically different from zero. A swimming pool, for instance, raises price by about \$38,000.

Turning to the CEM-weighted model, the price difference before the treatment is a bit larger (δ_0 = 0.128), and the difference is statistically significant at standard

levels. As in the full sample, the DiD estimator Δ is positive (0.100), but now it is not statistically significant. For the balanced sample, we cannot reject the null hypothesis that the quarry's announcement effect is zero, though the coefficient is relatively large and the t-statistic is much larger than 1.00. In contrast, for the CEM-weighted MReg, prices are higher in the treated area during both the pretreatment and treatment period, and both coefficients are statistically different from zero at better than the 1% level.

In the final column of Table 9, we summarize the results from SReg using the full sample. The spatial terms are statistically significant at the 1% level. The results are comparable to the others. Prices are higher in the treated area before the treatment, but we do not see a statistically significant change is seen after the treatment. The DiD estimator Δ is positive and relatively large (0.09), but statistically significant only at the 20% level.

	Table 10. Regressio Austin Quarr	y in Madera Coun		
	2013	2014	2015	2016
	Coef	Coef	Coef	Coef
	(t-stat)	(t-stat)	(t-stat)	(t-stat)
T·N (Δ)	0.2721***	0.0018	0.0322	0.3949
, ,	(2.65)	(0.01)	(0.42)	(1.41)

Finally, we can estimate the Δ coefficient for each year beginning with our chosen treatment date (2013), thereby assessing whether that choice is influencing the estimate.⁴⁶ The results by year are summarized in Table 10. Large positive coefficients are observed in years 2013 and 2016 (the latter close to being statistically significant), and smaller positive coefficients for the other years. These results are consistent with those reported in Table 9.

Notably, we do not estimate a price-distance relationship in these equations. Distance from the quarry site is not a regressor. Unlike the distance-based model, the rejection rates for randomized inference (assigning the homes in the treatment group randomly from those in the sample) are very close to the nominal level of the test (11% rejection rate versus 10% nominal test level). The statistical reliability

_

 $^{^{46}}$ The coefficients are year specific and do not quantify the average after the treatment year, as do the results from Table 9.

of this approach is much superior to the price-distance approach used in the *Hite Report*.

Taken together, we conclude from these results indicate that the effect of the quarry may very well be zero, at least in the form of an announcement effect. If there is any effect, it is positive. Whether or not the quarry will affect prices, either positively or negatively, after operations begin (assuming they do) is unknowable at this time. In light of the evidence presented here and in prior research, the expectation must be that there will be little to no effect on home prices and, if anything, that effect may be positive.

V. Conclusions

We estimate the effect of rock quarries on home prices with data from four quarry locations across the United States, a wide range of econometric specifications and robustness checks, and a variety of temporal circumstances from the lead-up to quarry installation to subsequent operational periods. We find no compelling statistical evidence that either the anticipation of, or the ongoing operation of, rock quarries negatively impact home prices. While our study extends the literature on estimating the effects of "disamenities," primarily as a critique of existing methods, the empirical problem is difficult and likely requires advanced research methods beyond what we provide here. The primary obstacle to estimating these effects is the lack of data and that lack of data is actually driven by the quarry site selection process, which limits our ability to infer a causal relationship. Thin markets and a subsequent lack of sales data are a serious problem since quarries are today (and typically in the past) located, by design, away from residential density.

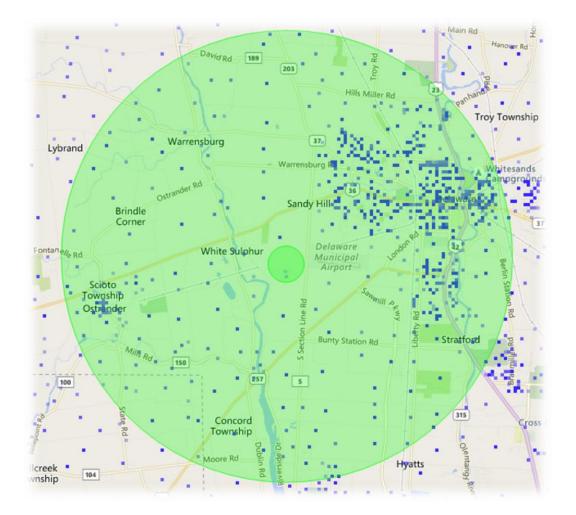
Our study highlights a number of shortcomings in the empirical methodologies generally used to estimate the effect of disamenities on real estate prices. First and foremost, the vast majority of studies do not (or even attempt to) identify the causal effect of disamenities. That is, existing studies are naïve as to the empirical conditions necessary to identify a causal relationship and do not establish credible strategies to estimate the counter-factual outcome—i.e., how the real estate around quarries would have looked, on average, without a landfill or other disamenity. To evaluate the credibility of existing studies and their methodologies, we first employ permutation tests to examine whether or not the existing methodologies yield higher than expected rejection rates of the null hypothesis. We accomplish this by randomly assigning a location in our sample space with a "disamenity" (i.e., a placebo quarry) and then estimate the effect on surrounding home prices. The null hypothesis of "no effect" of the placebo

quarries is rejected in no less than 7 out of 10 simulations, and at a rate as high as 9 out of 10 simulations.

In an attempt to produce a meaningful counter-factual we employ a difference-in-differences estimation strategy which exploits the timing and placement of a quarry. We use this strategy in two different contexts: (1) before and after operations of a quarry in Gurley, Alabama; and (2) before and after local debate (and subsequent approval) of a quarry in Madera County, California. The first exercise estimates the effect of quarry operations on home prices and the second exercise estimates the anticipatory effect of a quarry on home prices. Neither exercise yields evidence of a negative impact on home prices. Given a number of data concerns and model limitations (since our interest is primarily in replication), further research is advised.

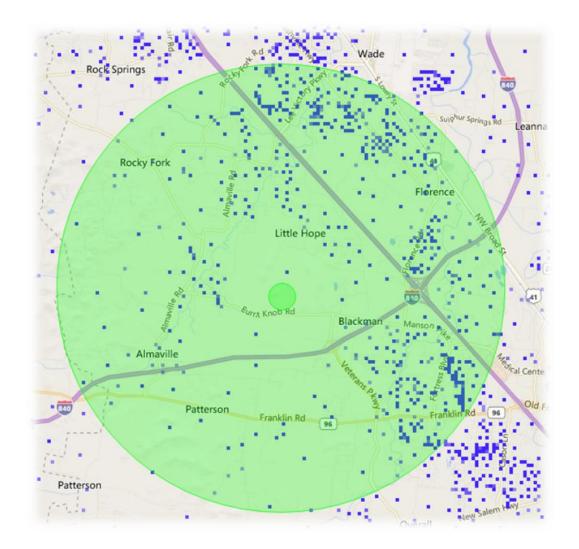
APPENDIX 1. MAP OF NATIONAL LIME & STONE QUARRY NEAR DELAWARE, OHIO

Notes: The small, inner green circle marks the National Lime & Stone Quarry near Delaware, Ohio. The larger green circle is a five-mile radius around the quarry location. The blue dots mark areas of population density using 2010 census data. Map generated using censusviewer.com.



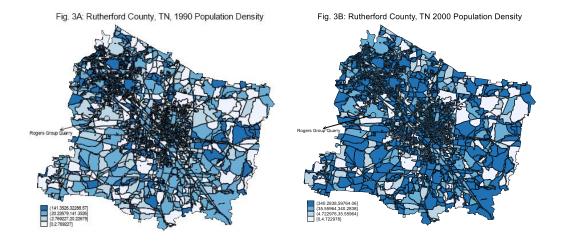
APPENDIX 2. MAP OF ROGERS GROUP QUARRY NEAR MURFREESBORO, TENNESSEE

Notes: The small, inner green circle marks the Rogers Group Quarry near Murfreesboro, Tennessee. The larger green circle is a five-mile radius around the quarry location. The blue dots mark areas of population density using 2010 census data. Map generated using censusviewer.com.



APPENDIX 3. CENSUS BLOCK POPULATION GROWTH NEAR ROGERS GROUP QUARRY NEAR MURFREESBORO, TENNESSEE

Notes: Figures 3A-3C demonstrate population movements for Rutherford County, TN, with emphasis on the Rogers Group quarry. Population is measured using U.S. Census Bureau population data for years 2000, 2010, and 2016. Darker blues imply greater population.

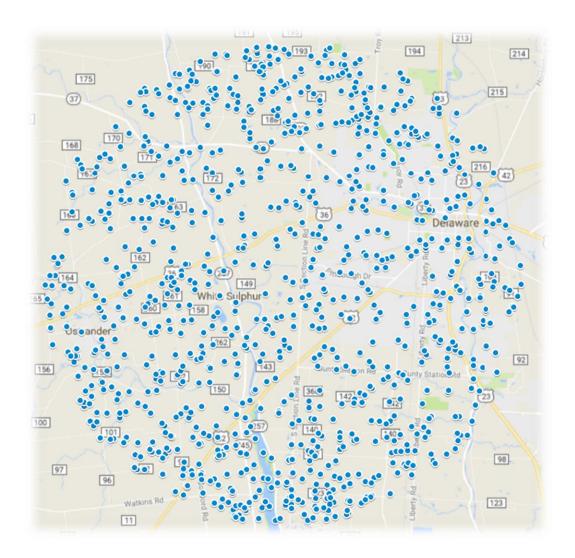


Rogers Group Quarty

(612,7666,458086)
(612,7666,458086)
(7,7333397,55,56643)
(9,77333397,55,56643)

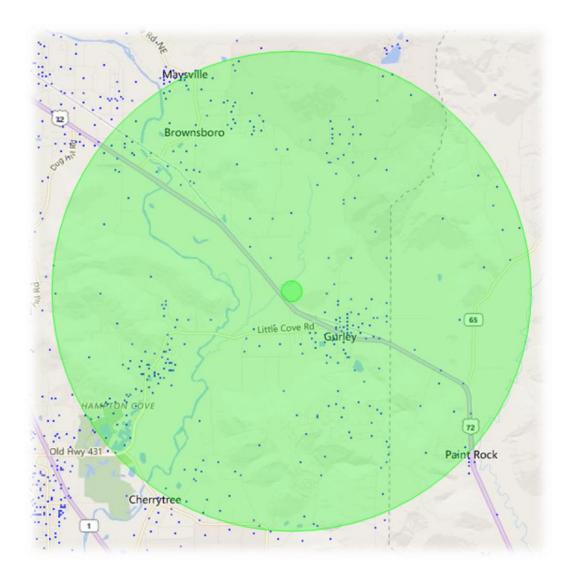
APPENDIX 4. ILLUSTRATIVE MAP OF RANDOM LOCATIONS USED FOR RANDOMIZED INFERENCE ANALYSIS FOR DELAWARE COUNTY

Notes: The blue dots represent the random locations chosen by the randomized inference simulation for Delaware County, Ohio. Map generated using Google maps.



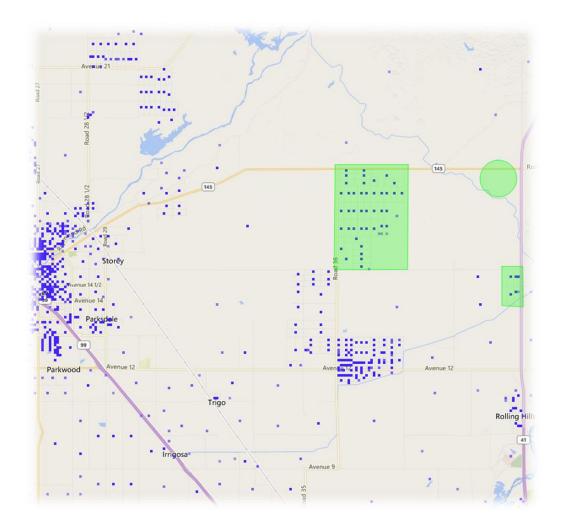
APPENDIX 5. VULCAN QUARRY NEAR GURLEY, ALABAMA

Notes: The small, inner green circle markets the Vulcan Quarry near Gurley, Alabama. The larger green circle is a five-mile radius around the quarry location. The blue dots mark areas of population density using 2010 census data. Map generated using censusviewer.com.



APPENDIX 6. MAP OF AUSTIN QUARRY SITE IN MADERA COUNTY, CALIFORNIA

Notes: The green circle marks the site of the proposed Austin Quarry in Madera County, California. The immediate two areas of population to the South and West of the quarry site—marked in green rectangles—are the "treated" areas. The blue dots mark areas of population density using 2010 census data. The control group is chosen from areas further west and north of Highway 145 toward Madera. Map generated using censusviewer.com.





1320 Research Park Drive Manhattan, Kansas 66502 (785) 564-6700 PC Item 3 Attachment D Pg 1

900 SW Jackson, Room 456 Topeka, Kansas 66612 (785) 296-3556

Governor Sam Brownback

Jackie McClaskey, Secretary

December 29, 2017

Mr. Eric Bettis Mid-States Materials, LLC P.O. Box 236 Topeka, KS 66601-0236

Dear Mr. Bettis:

Your application for reclamation work completed at the Big Springs Quarry site, Phase III, has been selected to receive the Governor's Mined Land Reclamation Award for 2017. The award will be presented at the Kansas Aggregate Producer's Association Annual Convention Awards Luncheon on January 12, 2018. We hope you will be able to attend and receive the award plaque.

In the next few months, I will use the information from your application to write and submit your reclamation work to the National Association of State Land Reclamationists for consideration in the national non-coal award competition.

Congratulations on receiving the award. If you have any questions, please give me a call.

Sincerely,

Scott B. Carlson

Assistant Director

Division of Conservation, Kansas Department of Agriculture

1320 Research Park Drive

Manhattan, KS 66502

785,564,6618

scott.carlson@ks.gov

CC: Cole Anderson, Mid State Materials, LLC



PC Item 3 Attachment D Pg 2

> Phone: (785) 296-3600 Fax: (785) 296-6172 Email: doc@kda.ks.gov www.ksda.gov/doc

Sam Brownback, Governor

109 SW 9th Street, 2A Topeka, Kansas 66612-1283

Dale A. Rodman, Secretary Greg A. Foley, Executive Director

September 3, 2013

Mr. Eric Bettis Manager Mid-States Materials, LLC 2 North 1700 Road Lecompton, KS 66050

Dear Mr. Bettis:

Your application for reclamation work completed at the Big Springs Quarry site has been selected to receive the Governor's Mined Land Reclamation Award for 2013. The award will be presented at the Kansas Aggregate Producer's Association Annual Convention Awards Luncheon in January, 2014. We hope you will be able to attend and receive the award plaque.

In the next few months, I will use the information from your application to write and submit your reclamation work to the National Association of State Land Reclamationists for consideration in the national non-coal award competition.

Congratulations on receiving the award. If you have any questions, please give me a call.

Sincerely,

Scott B. Carlson

Mined Land Reclamation Program Manager



PC Item 3 Attachment D Pg 3

MECEITED NOV 2 8 2011

Phone: (785) 296-3600 Fax: (785) 296-6172 Email: doc@kda.ks.gov www.ksda.gov/doc

109 SW 9th Street, 2A Topeka, Kansas 66612-1283

Dale A. Rodman, Secretary Greg A. Foley, Executive Director Sam Brownback, Governor

November 23, 2011

Mr. Cole Anderson Environmental, Health and Safety Manger Mid-States Materials, LLC 2350 NW Waterworks Drive Topeka, KS 66606

Dear Mr. Anderson:

Your application for reclamation work completed at the Big Springs Quarry site has been selected to receive the Governor's Mined Land Reclamation Award for 2011. The award will be presented at the Kansas Aggregate Producer's Association Annual Convention Awards Luncheon on Friday January 13, 2012, at the Marriott Hotel located at I-435 and Metcalf in Overland Park. We hope Mr. Bettis or yourself will be able to attend and receive the award plaque.

In the next few months, I will use the information from your application to write and submit your reclamation work to the National Association of State Land Reclamationists for consideration in the national non-coal award competition.

Congratulations on receiving the award. If you have any questions, please give me a call.

Sincerely,

Scott B. Carlson

Mined Land Reclamation Program Manager

SBC:clt



Officers

President
Ed Coleman
Montana Department of Environmental Quality
ecoleman@mt.gov

Vice President
Danielle Duhé
Louisiana Department of Natural Resources
Danielle.Duhe@la.gov

Secretary/Treasurer
Jeff Meitrott
Pennsylvania Department of Environmental
Protection
jmeitrott@pa.gov

July 30, 2018

Mr. Cole Andersen Mid-States Materials, LLC Sent Via Email

On behalf of the National Association of State Land Reclamationists (NASLR), let me congratulate you on being the 2018 winner of the Outstanding Reclamation Award in the non-coal category. Your state reclamation agency nominated the Big Springs Quarry to NASLR for its impressive reclamation and innovative practices. An award ceremony will be part of our dinner banquet at the upcoming annual conference at the Kingsmill on the James in Williamsburg, Virginia on September 10. The banquet will be held at 6:00 pm at the Kingsmill. You and a guest are invited to attend the banquet as guests of NASLR. If you plan to attend, please contact Jeff Meitrott, NASLR's Secretary/Treasurer, by phone at 814.342.8116 or via email at jmeitrott@pa.gov by August 10 so that he can confirm your attendance for the meal with the hotel. If you are interested in attending the entire conference, information is on our website at www.naslr.org. Registration fees are waived for award winners. Please contact Jeff as soon as possible if you would like to attend the entire conference, so that he can get you registered.

Should you not be able to attend, we will ask a representative from the Kansas Dept. of Agriculture to accept the award on your behalf and they will present it to you after the conference.

Again, congratulations on being a winner and for demonstrating that mined land can be very successfully reclaimed and at the same time providing a mineral resource necessary to our nation.

Sincerely,

Edward L. Coleman

President

Simone Rodriguez

New York State Department of Environmental
Conservation
simone.rodriguez@dec.ny.gov

Executive Committee

Halina Duda
New York State Department of
Environmental Conservation
Environmental Conservation
halina.duda@dec.ny.gov



Your guide to profitable production

July 2018 | www.AggMan.com

century-old operation is a good neighbor

Tips to meet specs for washed sand

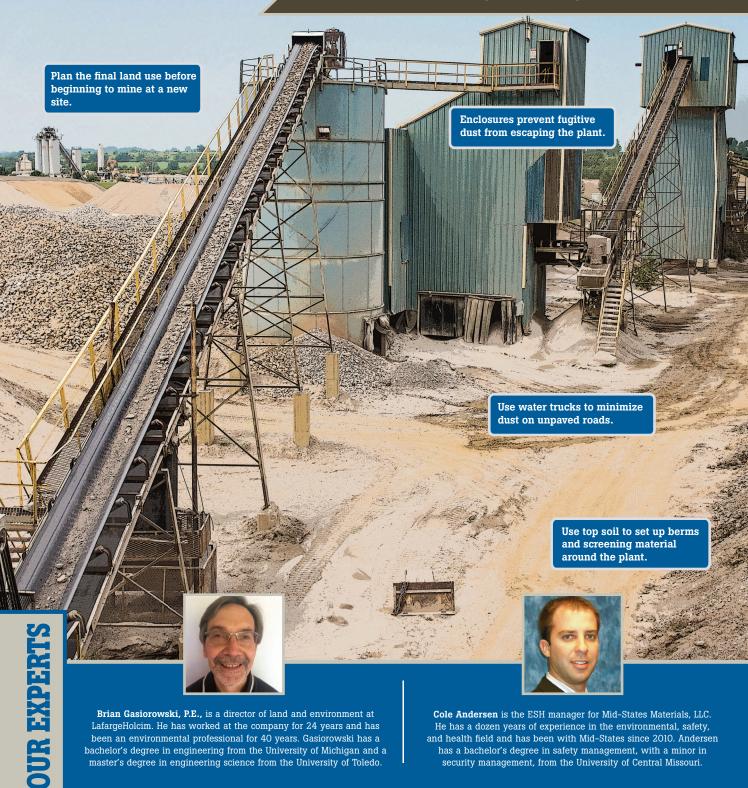
Minimize your operation's environmental impact

Randall @Reilly

OPERATIONS ILLUSTRATED

Therese Dunphy, Editor-in-Chief

Environmentally Friendly Operations



Brian Gasiorowski, P.E., is a director of land and environment at LafargeHolcim. He has worked at the company for 24 years and has been an environmental professional for 40 years. Gasiorowski has a bachelor's degree in engineering from the University of Michigan and a master's degree in engineering science from the University of Toledo.

Cole Andersen is the ESH manager for Mid-States Materials, LLC. He has a dozen years of experience in the environmental, safety, and health field and has been with Mid-States since 2010. Andersen has a bachelor's degree in safety management, with a minor in security management, from the University of Central Missouri.

Four Focus Areas Reduce Impact

or many aggregate producers, environmental management goals tend to fall into several categories including: water, air, and waste. Taking a proactive approach to these areas — along with the development of a solid reclamation plan — can not only reduce an operation's impact on the environment, but also improve relations with neighbors and regulators. "Quarry operations must always be sensitive to neighbors," says Cole Andersen, ESH manager for Mid-States Materials, LLC. "A good environmental program will not only reduce neighbor complaints, but will show the local, state, and federal inspectors that you are a good operator and demonstrate compliance."

At LafargeHolcim, its environmental management system has been in place and providing consistent guidance to operators for more than 15 years. A combination of good policy, site-specific modifications, and quality training are the drivers of its effectiveness, says Brian Gasiorowski, P.E., director of land and environment. "A real key aim is that we reuse as much of the water as we can," he says. To accomplish that goal, operations are graded and drainage patterns are set up to funnel water to a central point.

If necessary, engineers design sedimentation basins to capture runoff and to filter water for reuse at the operation. For example, sediment basins can be used for slurry water as well as to dewater the pit.

"Air quality is really about dust control," Andersen ex-

plains. "There are two considerations to clean air. Fugitive dust is produced from equipment traveling around the yard. We apply water from the sediment ponds to the quarry yard; that aids in suppressing the fugitive dust. A secondary source for dust emissions is from the crushing equipment used in handling aggregate. We control these emissions by using a dust control water system maintenance plan that applies water during the production process by taking water from the sediment ponds. The water is then introduced back into the sediment ponds for filtering and recycling."

When it comes to managing waste, it's important to look at all aspects of an operation and determine where waste is generated and what type of waste is generated. "We deal with things like used oils, oil filters, and oily rags," Gasiorowski says. "A key for us is making sure we have a designated method of collecting those materials, containerizing those materials, and segregating them from general waste." Universal waste, such as light bulbs and batteries, is also separated from general waste and sent to a designated recycling or disposal facility, he adds.

To ensure operators adhere to guidelines for water, air, and waste handling, internal audits may be helpful. "Regular internal inspections are the best way to make sure your plans are working," Andersen says. "If something is wrong, be diligent in addressing the issue. Don't be afraid to try something new if it doesn't work."

Manage water consumption



Minimize water impact by reusing water as much as possible. Make sure the site is properly graded and surface water drainage patterns bring water to a central point. If water contains solids or sedimentation, use sedimentation basins to allow reclaimed water to be used in the process, if possible. When designing the sediment pond, factor in an additional 20 percent volume for sediment accumulation.

Dial down the dust



Maintain material in a moist condition so that dust isn't liberated from aggregates. Watering systems on conveyors and enclosed transfer points help reduce dust generation in those areas. If roads are paved, they should be swept. If they are unpaved, they should be watered. Daily inspections allow for adjustments of water sprays as needed.

Watch your waste



Review your operation to see what types of waste is generated on a regular basis. Create collection points for items such as used oil, oil filters, and oily rags. Containerize those materials and keep them separate from general waste. Universal waste items such as light bulbs and batteries should also be segregated from general waste and sent to designated recycle or disposal facilities.

Plan for the future



From the outset of mining, consider the final use for the property. As topsoil is stripped, use it to berm and screen operations. Seed berms to stabilize them throughout mining processes, then use the topsoil for the final grading during reclamation. Concurrent mining and reclamation processes minimize the work to be performed when the deposit is tapped out.

Voices of Experience

Brian Gasiorowski, P.E

eople are at the heart of any successful environmental management program says Brian Gasiorowski, P.E., director of land and environment at LafargeHolcim. The key, he explains, is gathering a "solid, experienced team of environmental professionals and having them located close to the operations and present on a regular basis."

Within the Aggregates Construction Materials (ACM) business, the company has 225 active facilities, and each environmental manager is responsible for an average of 15 to 20 sites. "They are able to establish a team relationship with the operating staff," Gasiorowski says. "They become an extension of the operations team at the facility."

Each site also has a designated facility manager who completes a daily checklist to ensure that environmental management system objectives are being completed. The facility manager can make daily adjustments — such as changing the pressure or direction of a spray jet — to accomplish the desired effect. Environmental managers regularly visit the sites and verify that environmental expectations are being met.

That approach has paid off. LafargeHolcim's Empire Sand & Gravel operation, based in Eagan, Minn., recently received a National Stone, Sand & Gravel Association Environmental Excellence Gold Award for its efforts.

"Good people on the environmental team and good people on the operations team who are working together effectively and communicating effectively," Gasiorowski explains, "that's really a strong element of how we achieve a high level of environmental performance."

The site's application was developed by the local environmental manager and hit on all the key elements of a strong environmental management system: water, air, and waste. "We are able to collect all the water on site," he says, noting that the site has a well-designed, well-operated water management system. It has sedimentation basins that remove sediment from the water, which is reused in the washing process. Dust control is effectively managed. A well-defined waste management process ensures proper handling of waste. In addition, a solid, long-term reclamation plan is in place for the site.

"When you look at the full package at that operation, it really hits on all cylinders in terms of key elements of an environmental program," he says.

For companies who want to advance their environmental efforts, Gasiorowski suggests participation in state and national trade associations. Both levels of organizations typically have environmental committees where operators can learn from their peers and be kept apprised of regulatory requirements.

State environmental agencies may also be a good source for guidance, particularly those that have an ombudsman program. "In Michigan, for example, they've developed a guidance manual for the aggregates industry," he says. "Sometimes, we're a little bit frightened to interact with government agencies, but if you can find that ombudsman link, you can find very good, useful information."

Cole Andersen

good environmental program must be tailored to your operation," says Cole Andersen, ESH manager for Mid-States Materials, LLC. In addition to tailoring environmental aspects of mining, the company also takes a customized approach to reclamation which has helped it win the Governor's Mined Land Award several times over the last eight years.

"The land that we own is reclaimed in such a fashion that fishing and waterfowl are maximized. On our most recent reclamation project on company-owned ground, we planted over 900 trees for quail and pheasant and stocked over 100,000 fish in three different ponds," he says. On leased land, the landowner is embedded into the development of the reclamation plan so the final land use will be one the landowner likes and can enjoy in the future. "The goal in reclamation is to make the ground aesthetically pleasing, but for the land to also have a meaning to future generations."

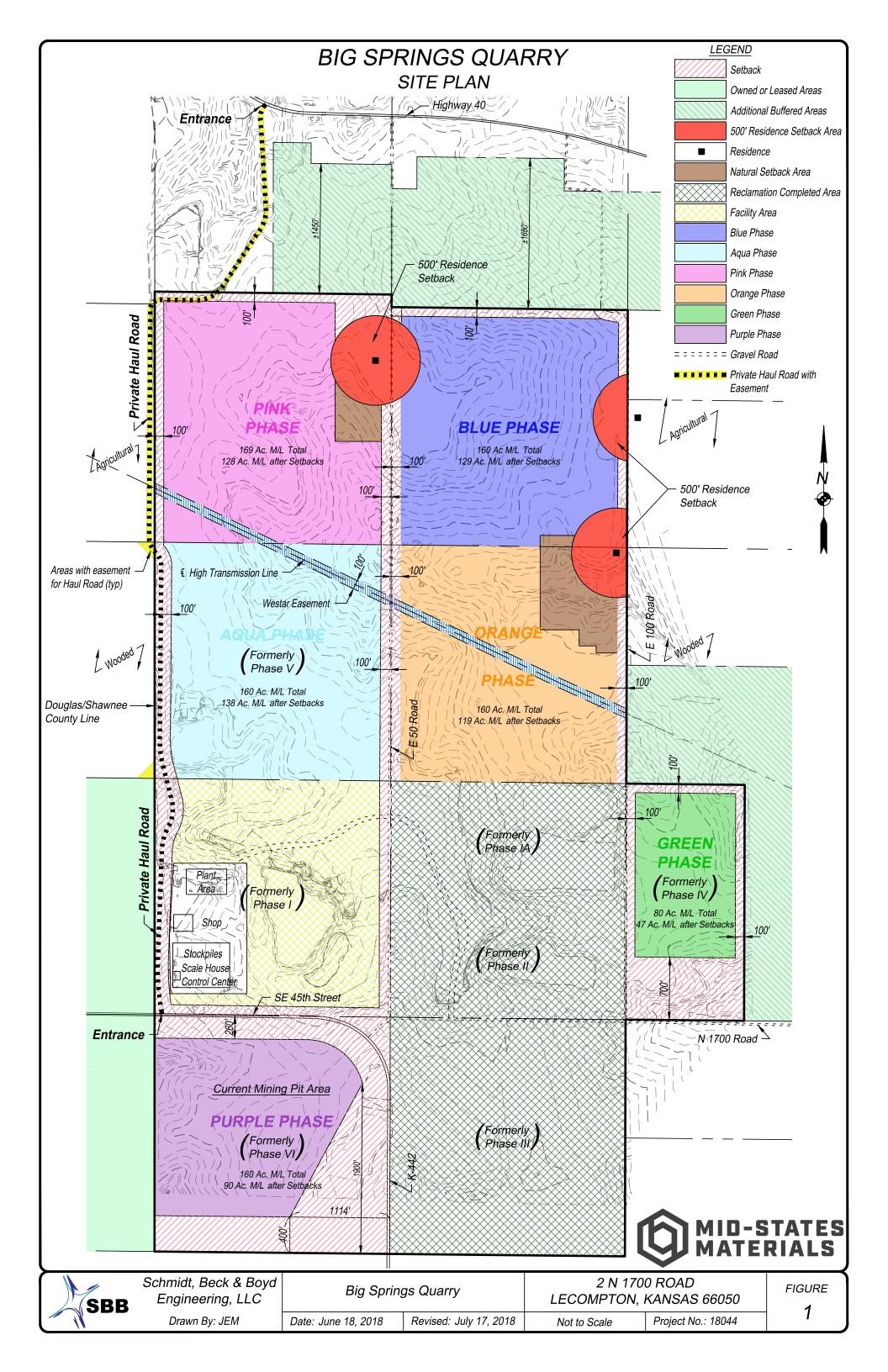
In addition to owner-driven goals for the land, topography and layout are primary considerations when developing a reclamation plan. "Most of our quarries are surface operations, meaning there will always be a void from mining," Andersen says. "Therefore, we will generally always have a water feature at the end of mining to fill the void. We find that a significant water feature is highly prioritized among Kansas landowners." Once the water feature is addressed, plantings can be used to target future use. For example, some landowners want to row crop their land while others want to maximize conditions conducive to wildlife and game.

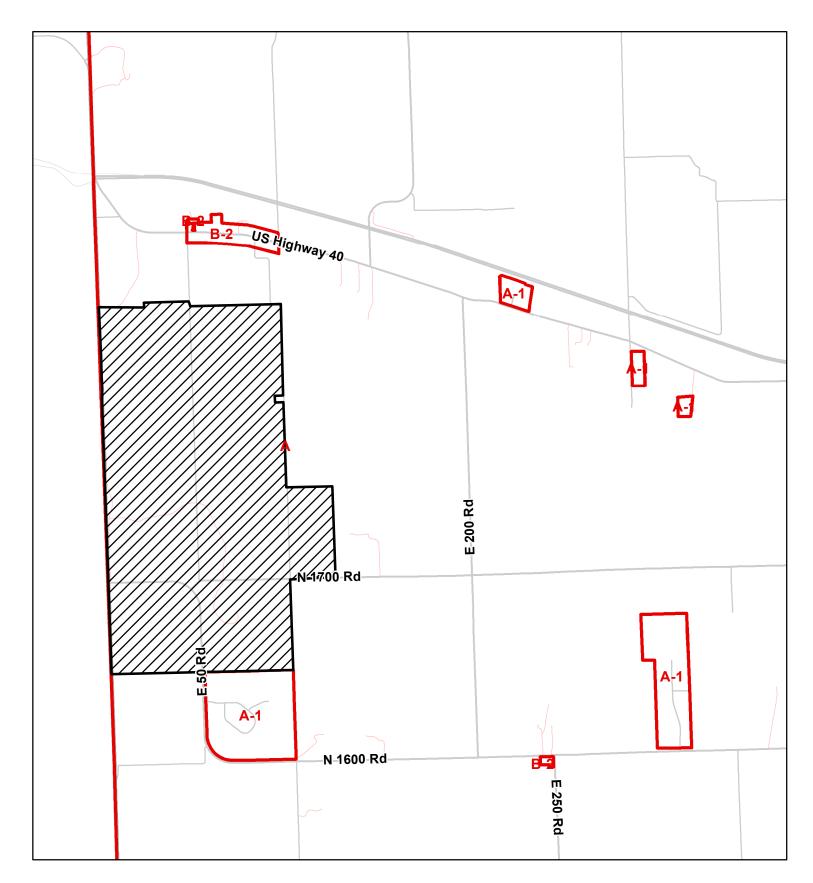
Consider your approach to reclamation from the outset of mining, Andersen advises, noting that Mid-States always strips and saves the topsoil. "We use the topsoil to berm and screen operations around the perimeter of the property. We then seed the berms and save them for the final grading at the end of reclamation.

"Nobody wants to see a large pile of overburden just sitting there. The best process of reclamation for us is to reclaim as we go and stabilize (seed) open areas," he adds. "When the pit is opened up, newly stripped material can be placed behind you. The reclamation process is much easier with this reclaim-as-you-go philosophy."

During the last phase of mining, the water feature will be addressed, but first, Mid-States will perform a drainage study to make sure it doesn't wrongfully displace any downstream neighbors' water rights. "A neighbor will be very unhappy if he has a dry pond due to quarrying activities," Andersen cautions.

Finally, he suggests involving the foreman in the design process. "Having a good plan is one thing, but having a crew and foreman carry out the plan is key. Take pride in your work."





CUP-18-00299: Conditional Use Permit for Big Springs Quarry, approximately 1,049 acres located at 2 N 1700 Rd. and parcels to the north, east, and south.



Robert and Michele Best 1607 E 50 Road Lecompton, KS 66050

Dear Douglas County Planning Committee and to whom it may concern,

We appreciate the opportunity to share our perspective on the Conditional Use Permit for Big Sprigs Quarry; 2 N. 1700 Road. We hope you will understand how our perspective and request is unique to the situation because:

- 1. Big Springs is currently quarrying next to our residential property at 1607 E 50 Road in Phase 6 (purple)
- 2. Our history of events in regard to living next to a quarry and having some type of predictability in our lives.

Thank you in advance for taking time to read and reflect upon our letter.

Up front we would like to share our goal in this letter to the Planning Commission of Douglas County Kansas. Our goal is to come to an agreement with the planning committee to support the completion of Phase 6 (purple) within the timeline of the current CUP by December 19, 2020, by adding an agreement into the wording of the new CUP requested by the Big Springs Quarry. Here is a suggestion of an agreement we would like to see that is specific and has a timeline goal.

• "The timeframe for completion of any phase is dependent on the market demand, however, the operator agrees to continuously mine in Phase 6 [purple] (within the limits of the CUP restrictions and not leave to quarry in another county) so that Phase 6 [purple] could be completed as soon as possible and preferably by or before December 19, 2020."

Big Springs by their own wording allude to being a dynamic engine of the local economy, as referenced in their Horizon 2020 Comprehensive Plan, section VII. By not only extending the current time period by 30 years they are also expanding their business to almost 1000 acres. This demonstrates they are forecasting increased business in their near future. For this reason they should be supportive of completing Phase 6 (purple) by 12/19/20.

Here is the history from our perspective of being one of very few Douglas County Tax paying residents that have lived next to Big Springs Quarry since 2010.

- When we purchased this property in 2010 it was our understanding per the CUP and our real-estate paperwork that Mid-States Quarry would be completed in Douglas County by December 19, 2020.
- In May 2013 the Douglas County Planning Committee denied the request to revise phasing of the CUP by a vote of 8-2.
- In June 2013 the Douglas County Commissioners (Flory, Gaughan & Thellman) overruled the Douglas County Planning Committee and approved changing the CUP to allow changes in phasing order.

Discussion points from the June 2013 Douglas County Commissioner meeting: (separate attachment)

- Thellman said she sees a neighborhood that has lived through this quarry and expects a light at the end of the tunnel and needs some predictability.
- Flory said he finds nowhere in the documents that a prior CUP established
 a time table for the completion of the quarrying of the various tracts, and he
 asked Hutton if that is correct. Hutton responded that is correct, other than
 the 30 year window. Flory said it is his understanding there is nothing in the
 CUP that prohibits the applicant from pausing all his quarrying in Shawnee
 County and suspending his work in Douglas County for 5-years, then
 resuming work in Douglas County. Hutton said that is also correct.
- Although not in the official minutes, Flory stated to Mr Hutton that, "This is the last time, right?" Mr Hutton answered affirmatively.
- Important to note: every single resident that currently lived on the property in discussion was against changing the phasing. We were not in favor because we had plans to build on our property, which we put on hold due to the CUP phase changes in 2013. We thought this would be completed by 2020. Property owners that live outside Douglas County were in favor, but they don't live in Douglas County.

On August 13, 2018, Mary Miller County Planner II, met with us to discuss the current request for Big Springs Quarry Conditional Use Permit. She was very helpful and answered many of our questions. Mary also shared with us that she had visited with Cole Anderson of Big Springs Quarry and he said they were agreeable to a condition that they would continuously mine in Phase 6 (not leave to quarry in another county) so that Phase 6 could be completed as soon as possible. Mr Anderson said he was confident that if the market stays as good as it is now they'll be done with Phase 6 in 2 years. If the market slows, it may take longer. The draft that was shared with us and that is in the requested CUP to date, we feel did not meet our goal of being specific enough to clarify a timeline of completion of Phase 6. We feel the current wording would still leave Big Springs Quarry open to leaving Douglas County and coming back to Phase 6 years later.

Another concern we have with the consideration of a new Conditional Use Permit for Big Springs Quarry is the following. A family member of one of the current property owners (Mid States LLC) has purchased land directly west of our property and we worry that this could be a quarry CUP change in the future. This is especially worrisome because the quarry can apparently go dormant in Douglas County for years, putting the residents that live there plans in limbo without predictability. What good is a CUP if it doesn't protect the residents living there? This is why the neighbors that have complained have tried to paint this as a big company vs small neighbor situation, because this is what it feels like. Comparing the residents that live in Douglas County to the property owners that don't reside in Douglas County is insulting.

If the intent of Big Springs Quarry was always to extend the CUP, why wasn't this made clear in the current CUP. People like ourselves who were new to the area and purchasing property were mislead in their decision to purchase. Our decision to purchase property may have been different if we knew the quarry land had no timeframe of completion.

In conclusion, all we are asking for is for Big Springs Quarry to complete Phase 6 (purple) by December 19, 2020, as originally agreed upon. We have put plans on hold for developing our property, due to uncertainty as of when the Big Springs quarry will complete Phase 6 (purple). We do not feel this is an unreasonable request as tax paying residents seeking predictability and closure in a current CUP.

Sincerely,

Robert & Michele Best

PLANNING/CUP 06-05-13

The Board considered an amended Conditional Use Permit (CUP-13-00126) to authorizefor a revised phasing schedule for Big Springs Quarry, located at 2 N 1700 Road. The application was submitted by Mid-States Ventures, LLC, for Bonnie M. Nichols, Trustee, and Mid-States Materials, LLC, property owners of record. The Big Springs Quarry was approved with Conditional Use Permit CUP-7-2-90. Mary Miller, Lawrence-Douglas County Metropolitan Planning Staff, presented the item.

Miller gave a background presentation on the history of the quarry and then showed maps of the current reclaimed status of the quarry. She discussed the notification process and comments received by surrounding property owners. Concerns received included the owners wanting to be able to anticipate the phasing so they can make decisions on their property based upon quarrying stages. Some felt there should be no amendments to CUPs. On March 27, 2013, the County Commission sent the item back to the Planning Commission, on a 2-1 vote, for consideration ofn the phase sequencing and to return a recommendation to the County Commission. On May 20, 2013, the Planning Commission forwarded a recommendation to deny denied the request to revise the phasing for the CUP on an 8-2 vote.

Staff madkes no recommendation but provideds the following list of options for the Planning Commissioner's recommendation to the Board of County Commissioners based on the following findings of fact, as contained in the staff report:

- I. Zoning and uses of property nearby. Nearby property is zoned A (Agricultural) and is used predominately for agricultural purposes. Other uses in the area include scattered farm/rural residences; a platted subdivision which has not yet been developed, zoned A-1 (Suburban Home Residential); and a hunting/shooting facility to the east, permitted as an agricultural use. The quarry extends into Shawnee County to the west which has similar zonings and land uses. (Figure 1) The quarry is an existing use which is compatible with the development in the area with the conditions and restrictions of use applied to the CUP.
- II. Character of the area. The quarry is located in a rural area with predominately agricultural land uses and scattered farm/rural residences. A hunting/shooting facility is located nearby; however, the predominate land use is agricultural grassland and row crops. Hwy 40 and Interstate 70 traverse east/west through the area approximately a mile north of the quarry site. The quarry is an existing use which is compatible with the development in the area with the conditions and restrictions of use applied to the CUP. The proposed revised phasing would not alter the quarry's nature so it would remain compatible with the character of the area.
- III. Suitability of subject property for the uses to which it has been restricted. A Conditional Use Permit (CUP) d s not change the base, underlying zoning. A quarry is a permitted use in the A District when approved through the Conditional Use Permit process. The property is suitable for use as a quarry due to the fact that limestone reserves are present. The request to revise the phasing schedule d s not alter the suitability of the property for uses permitted in the A (Agricultural) Zoning District.
- IV. Length of time subject property has remained vacant as zoned. County Zoning Regulations were adopted in 1966; this property has been zoned "A (Agricultural)" since that adoption. The Conditional Use Permit for the quarry was approved in 1990. The property is currently being quarried, and has been developed with a rock crushing plant and a shop.
- V. Extent to which removal of restrictions will detrimentally affect nearby property. The revised phasing schedule should have no negative impact on nearby properties as there are no physical changes being proposed to the quarrying activity.
- VI. Relative gain to t ehhe public health, safety and welfare by the destruction of the value of the petitioner's property as compared to the hardship imposed upon the individual landowner. The denial of the request would maintain the original expectation that surrounding land owners may have planned for relative to the use and enjoyment of their own property. The denial of the request would require the operator to proceed in the phasing sequence established with the original application and would prohibit them from coordinating quarrying activities on both sides of the county line. Approval of the request would result in a more efficient means of operation for the southern portion of the quarry. The comparison is between the loss of efficiency for the quarry operator with denial of the request and the loss of predictability for property owners with approval of the request.
- VII. Conformance with the comprehensive plan. The conditions and restrictions of use associated with the CUP permitting this quarry ensures the responsible use of a marketable natural resource. The change being proposed will not alter the extraction and reclamation methods and is in conformance with the Comprehensive

Plan.

The following list of options were provided recommended by staff:

- 1) Approve the revised phasing to allow the operator to coordinate quarrying activities between the portions of the quarry on each side of the Douglas County/Shawnee County line.
- 2) Deny the revised phasing to maintain the predictability as to the sequencing of the quarrying operations for the benefit of surrounding property owners.

Gaughan opened the item for public comment.

John Hutton, representing Mid-States, stated in almost 30 years of mining, the topic of phasing has come before the Commission three times. In 1992, the Commission approved the addition of Phase 1A. This resulted in an obvious delay of quarrying and changed the phasing sequence. When the applicant came to planning staff to discuss the submission of a reclamation plan, the subject of phasing order came up. The phasing was never referred to as an amendment. Hutton discussed how there is no time certainty or predictability on when quarrying will take place. In 1992, when the rephrasing was approved, Phase 4 which is located next to Lone Oak had not been mined and 21 years later it still has not been mined. The economy determines how much rock is needed and how fast the phases move along. He said staff can make sure all the conditions are being met during the CUP. Mid-States has gone above the call of duty to meet these conditions. Hutton said his client has spent hundreds of thousands on this quarry and has also received the Governor's Award for reclamation so they must be doing a good job. He stated this is a first class operation and continues to compete against other quarries that are less regulated. Hutton said he feels the neighbors have not explained how the certainty argument impacts their lives on a real basis. The neighbors that have complained have tried to paint this as a big company vs. small neighbor situation but other property owners, like the Nichols, who own some of the quarry land, have rights too and a stake in the outcome.

Flory said he finds nowhere in the documents that a prior Commission established a time table for the completion of the quarrying of the various tracts, and he asked Hutton if that is correct. Hutton responded that is correct, other than the 30-year window. Flory said it is his understanding there is nothing in the CUP that prohibits the applicant from focusing all his quarrying in Shawnee County and suspending his work in Douglas County for five -years, then resuming work in Douglas County. Hutton said that also is correct. Flory said he feels this is important to establish the County has no control over the timing of the mining..

Thellman asked Hutton what his client's expectation in regards to completing of mining by 2020. Hutton stated his client intends to do what they can based upon market forces then make another decision closer to 2020 as to what option he wants to explore with this Board. It makes sense for his client to ask for an extension if the mining is not completed by 2020.

David Henry, 4311 SE 24th Court, Tecumseh, Kansas, said he owns property adjacent to near the quarry north of Phase 5. Henry said there is an 80 acre tract between his property and the actual quarry property. He asked the Board to reject the request to revise the phasing as the revision would delay the mining of Phase 5 and disrupt his retirement relocation to the family farm.

Flory clarified there is 80 acres owned by Mid-States, that is between the CUP border and Henry's property. Henry said "yes" there is a quarter mile between his property and the quarryied property (owned by Mid-States); and at one point there was a request to mine the 80 acres, but the request was later dropped.

David Buffo, representing Lone Oak LLC, said in response to the 1A added phasing in 1992, it is his understanding that was to be the only rephrasing allowed. He feels the request to re-phase in 1992 is different than what is being requested today. That was a request to add land to the quarry. It is his understanding the Board wanted guidance from the Planning Commission on how to proceed giving the public a chance to speak. The Planning Commission responded with an 8-2 vote to deny the applicants request to change the CUP. Buffo asked that the Board follow the guidance given by the Planning Commission. He said there has been a lot of talk about uncertainty and granted we do not know what will happen tomorrow. But when Lone Oak invested in their property they relied upon the CUP to obligate the quarry to move in phases. Buffo said he is not asking Mid-States to change their business, just to proceed in order. He would like a better explanation for why Mid-States wants to skip to Phase 6. He feels a denial will not disrupt their business and asked the Board to uphold the CUP.

Bart Christian, Lone Oak LLC, stated his home is within 300 feet of the quarry. He said he needs closure. He feels the rephrasing will have a direct peril affect on selling his property. Christian said he has spent hundreds of

thousands of dollars fighting this quarry because he feels they have falsified documentation accepted by the County. He said he would be debt free if he didn't have to fight the quarry. He asked the Board to follow the phasing stated in the CUP.

Robert Best, property owner directly south of Phase 6, asked the Board to deny an amendment to the CUP. Best said when bought his property he looked at the CUP documents to assure there would be no landfill issue. He knew a quarry would be there, but he wants Mid-States to follow sequence.

Tony Zemek, Lone Oak LLC, looked at the CUP before buying into the Lone Oak property. He asked for phasing to continue in consecutive order.

Patty O'Conner, property owner directly east of Phase 3, said quarrying has been going on for 20 years. She said she was under the impression the quarry would be quarried in phases in consecutive order. She stated concerns about proper signage locations and the possibility of her cattle wandering onto quarry property due to an open gate. She opposes a change in rephrasing.

Hutton responded to O'Conner's concerns about signage, gates and fencing by telling her to contact Mid-States staff for a resolution. He responded to Buffo's comment that the "rephrasing will not save his client any money." Mid- States wants to mine in Phase 6 and in Shawnee County at the same time using the same road because it is more efficient and more profitable.

Thellman asked if Mid-States moved to Phase 6 would the Nichols will still receive royalties. Hutton said the Nichols own the property in Phase 6 but do not own property in all phases.

Thellman asked if there is a sense of how much time it would take to quarry Phase 4. Hutton said he d s not have an answer.

Gaughan asked Miller to walk him through the conditions of the permit for the phasing. Miller said the order of phasing was not a condition by the Planning Commission or County Commission of the CUP. It was a self-imposed condition incorporated by reference with condition 19 to include everything in the bound application into the conditions. They would start with one and end with six, and there would be six phases.

Flory stated this request was initiated according to what he found in the documents. On February 4 Mid-States provided their notice of intent to quarry Phase 6 following completion of Phase 3 and provided staff their reasons for doing to. It wasn't phrased as a request for amendment or revisions. It was just a notice of intent. Planning Staff notified the Board of County Commissioners of the Mid-States notification request and placed the item on the County agenda for March 6, 2013. At the request of Mr. Buffo, who wanted more time, the Board referred the item to March 27. The Board had a hearing and accepted considerable comment. On a divided vote, the item was sent back to Planning Commission for consideration. Flory said his view at that time was that the item wasn't an issue that needed to go back to the Planning Commission because it wasn't an amendment based on his reading of the documents. It wasn't even a revision of any requirement. If you thoroughly look at the Planning Commission minutes, they voted 8-2 to deny. But there was considerable confusion as to why the Planning Commission even had the item. Flory said he d sn't feel the Board gave the Planning Commission significant direction on what the County Commission wanted them to consider. A couple of the more experienced Commissioners on the Planning Commission stated repeatedly "this is a matter for the Board of County Commissioners." Flory stated he agrees with that statement. The only real question for this Commission and appropriate for consideration is "Would Mid-States commencing quarrying operations in Phase 6 prior to completion of Phase 4 and Phase 5 violate the conditions set out in the Conditional Use Permit without amending the CUP1/2" That is the only question to look at. Flory said after having reviewed the language in the CUP, especially sections 7 and 8, which are the provisions relating to phases of reclamation, his conclusion for 'phases" is that the clear intent was not to set out an ordering sequence, but solidify out of the acreage being dedicated to the quarrying operation and being given a CUP, it was necessary that only portions be quarried at any given time and that reclamation of the previously quarried tracks be accomplished so we don't end up with 700 acres of mined territory and get no reclamation. Flory said he feels that is the absolute clear intent of why there were phases. Phases should not have been the term used. Perhaps "tract" was more appropriate. He feels the neighbors have concluded that "phase" means a required numerical sequencing. Flory said he d s not find that language in the CUP. It d s not mandate completion of quarrying in any particular order. What is d s require is submission of detailed reclamation plans and the timely completion of reclamation when moving from one phase to the subsequent phase (as stated in the CUP). The CUP clearly limits the number of acres open for mining and extraction at any one time and establishes clear bonding requirements regarding each tract. Flory stated in his mind that is the clear intent of having Phase 1, 2, 3, 4, 5, 6, tract 1, 2, 3, 4, 5, 6, parcel 1, 2, 3, 4,

5, 6 or whatever we want to call it. The clear intent was the Commission wanted to ensure the process was orderly and most importantly to avoid a large landfill situation being created, that the reclamation was orderly. Flory said it is important to note there is no express requirement the quarrying occur numerically from one to six. The view of the professional planning staff was there is no such requirement which is why they didn't consider it initially as an amendment, or even a revision; just information on what the applicant intended to do. If the Board of County Commissioners in 1990 wanted a certain order for quarrying based upon the map they could have included that. But it is not there. His second concern is the timing. There are no time periods set in the CUP. Flory said that could easily have been included in the CUP, but was not. Flory said in his view, when the government purports to prescribe unlawful activity or to regulate lawful activity, which is the case we have here, the burden is on the government to be clear and unequivocal so the people that are subject to the laws and the regulations do not have to guess what they have to do to comply. There is nothing in this CUP the prohibits Mid-States from quarrying any of the phases or tracts in the order they deem appropriate as long as they comply with all of the reporting, bonding and reclamation requirements which is what we as a governmental agency should be most concerned about. He concluded that the proposed action before the Board d s not violate the CUP and d s not require an amendment and he said he feels this body should take no action.

Gaughan asked Miller how an amendment would be recorded. Miller replied, "it depends." If the Board determines there is nothing to amend there would be a memo in file. If there was an amendment we would amend condition 19 where it says they plan to quarry in phases. The Board would add they intend to quarry sequentially; or staff would revise Condition 19 to say everything would apply and add a special condition that says it is not necessary to phase sequentially.

Flory added the Planning Commission minutes mentioned an actual amendment which changed the number on the phases would be problematic.

Gaughan stated his concern is over the labeling of Tracts versus Phases being worded differently throughout the CUP. He feels in the original Martin Marrietta application there was a clear distinction between the wordings. Somewhere along the way labels were used interchangeably, even using the term "area." Gaughan said as you follow the documents everything disappears except for the term "phase." Gaughan asked if an amendment is required, what it would be. The inclusion of Phase 1A is a change in sequence and not so different then what we are asked to do know.

Miller replied if the decision were made that this is an amendment, you would make a change to Article 19 reflecting the applicant d s not have to quarry in sequential order or set a specific condition which d s establish an order.

Gaughan said there is no phasing requirement but a requirement to review the plan every five years. A plan is a plan. He asked why we would require the review if we never anticipated the plan to change. The applicant adjusts to conditions of the economic environment. He feels we should put a clarification in the language so there is no misunderstanding so we don't have to address this again. Miller said at one time the terms phases, tracts, and areas were all used. But over time, staff has interpreted the wording variations to mean phases.

Thellman said she d s not read the original document as black and white as Commission Flory stated. She feels the original intent of the phases was meant to be sequential. What strikes her more is the wording that Phase 5 is to the north and the last phase is phase 6. She feels that provides the expectation of mining sequentially. She agrees the company has tried hard to be a good neighbor and received an award for superior reclamation work. She senses there should be direction for sequential activity through the quarry. Thellman said she see a neighborhood that has lived through this quarry and expects a light at the end of the tunnel and needs some predictability.

Flory said 2020 is still coming and this whole thing will be a new ballgame. This is up to the Commission now.

Thellman stated she feels people have purchased their land reading the same documents the Board has but with a layid person's eye which appears to have six phases. She interprets that to mean sequential phases. Thellman stated there were other lawyers on the Planning Commission that also wrestled with this dilemma. Her preference is to follow the plan as written. But, it appears the other two Commissioners are willing to move forward with a change in sequence. She noted it appears the Nichols family will be compensated by the quarry for other phases and will not be harmed by following the plan.

Gaughan asked about the language of the five-year plan under condition 8. He read as follows: Reclamation reviewed the first year of operation and every five years thereafter the applicant shall submit a detailed report and plan of operations to the Planning Office indicating the phasing of quarry operation. He asked Miller if the

point of that statement is it could never be reconsidered. Miller replied the reason for that statement is so the Planning office will know where the applicant is in the mining process to that can be tracked. Sometimes quarries set idle for 20 years.

Flory said again his view is it is not an amendment. However if staff feels amending is the best way to handle this there is a legitimate business rational for a relative minor amendment especially in conjunction with the Shawnee County operations that would benefit the entire community economically. If there needs to be an amendment that basically states phasing can be done in any order as long as the County is kept apprised, and they comply with all of the notification prior to commencing quarrying operations in a particular phase, and reclamation prior to the quarrying in a subsequent phase, he said he is willing to vote on an amendment.

Bart Christian stated Shawnee County has quarried 20 years the same as in Douglas County. He feels there will never be closureer if allowed to change the phasing.

Gaughan stated he wants to complete the amendment using the wording Flory suggested. But quarrying still needs to be done phase per phase.

Miller suggested the following wording: The remaining phases of the quarry, 4, 5 and 6 may occur in any sequence provided that the reclamation review provisions of condition 8 would still apply. Flory added that "nothing herein shall change any phasing requirement in any other portion of the Conditional Use Permit."

Thellman asked if there are other operators that will view this as precedence for changing the order of what they are quarrying. Flory responded "no" because this quarry is the most conditioned and regulated quarry in Douglas County, if not the state of Kansas.

Gaughan added this is not the first time the County Commission has allowed reordering of phasing.

Flory asked for clarification that 1A didn't just cause a reordering of the phasing but actually added property to the CUP. Miller stated that is correct.

Gaughan moved to amend approve the CUP amendment, CUP-13-00126, to include the following language: The remaining phases of the quarry, 4, 5 and 6 may occur in any sequence provided that the reclamation review provisions of condition 8 would still apply; and that nothing herein shall change any phasing requirement in any other portion of the Conditional Use Permit.

Before seconding the motion, Flory asked Mr. Hutton and Mr. Buffo if they understand that by making this amendment or change that all other conditions, bonding, reclamation, and everything else in the Conditional Use Permit is applicable to the phases as they occur. Mr. Hutton and Mr. Buffo agreed.

Motion was seconded by Flory and carried 2-1 with Thellman in opposition.

Note: The Board determined if there is a request for a setback change, this would need to be discussed with the County Counselor and brought back to the Board for consideration for an amendment though there is no violation at this time. Staff is to following up with information to the Board. Hutton asked if there is communication or request for a setback that he be notified.

CITY COMMISSION AGENDA ITEM



Department: Planning & Development Services **Commission Meeting Date:** August 21, 2018

Staff Contact: Amy Miller, Asst. Director- Planning

Recommendations/Options/Action Requested:

Authorize City Manager to sign a contract for professional consulting services with Houseal Lavigne Associates to complete the Downtown Master Plan and adopt Resolution No. 7262 to establish a Steering Committee to advise, review, and provide feedback to the consultant, within the framework of the project scope, throughout the process for drafting the Downtown Master Plan.

Through the City's <u>strategic planning process</u>, the City Commission identified a priority initiative of creating a Downtown Master Plan that includes identifying needed and desirable assets, identifying existing infrastructure and uses, and discovering potential uses and obstacles in response to the critical success factor of Economic Growth and Security.

Staff developed a Request for Proposals (RFP) and through the selection process selected Houseal Lavigne Associates (HLA) as the firm that presented the most comprehensive proposal that fit the City's needs. At the direction of the City Commission at their May, 1, 2018 meeting (Agenda Memo), staff starting working the Houseal Lavigne Associates on refining the scope and timeline. The refined scope and timeline are attached as Exhibit A as part of the attached professional services agreement.

Through the scope refinement process, staff, in conjunction with HLA, identified that a steering committee could help the consultant in an advisory capacity to review and provide feedback at three key points (3 meetings) throughout the process. The consultant will run the steering committee meetings, set the agendas and be responsible for incorporating any feedback received from the steering committee. Therefore, a resolution is also being brought forward for consideration, establishing a 17-member steering committee. The proposed makeup of the steering committee is as follows:

Executive Summary:

- East Lawrence Neighborhood Association (ELNA)— (Appointed by Neighborhood Assoc.)
- Oread Neighborhood Association (Appointed by Neighborhood Assoc.)
- Oread Residents Association (Appointment by Neighborhood Assoc.)
- Old West Lawrence Neighborhood Association (OWL) (Appointed by Neighborhood Assoc.)
- Pinckney Neighborhood Association (Appointed by Neighborhood Assoc.)
- North Lawrence Neighborhood Association (Appointed by Neighborhood Assoc.)
- Explore Lawrence (Appointed by Explore Lawrence)
- At-Large (Appointed by Mayor with consent of City Commission)
- Lawrence Cultural Arts Commission (LCAC) (Appointed by LCAC)
- Historic Resources Commission (HRC) (Appointed by HRC)
- Architect (Appointed by Mayor with consent of City Commission)
- Developer (Appointed by Mayor with consent of City Commission)
- Lawrence Douglas County Planning Commission (PC) (Appointed by

	 PC) Downtown Lawrence Inc. (DLI) – (Appointed by DLI) Downtown Business Owner/Tenant – (Appointed by Mayor with consent of City Commission) Downtown Residential Owner/Tenant – (Appointed by Mayor with consent of City Commission) Downtown Property Owner at Large – (Appointed by Mayor with consent of City Commission) Steering Committee appointments will need to be made in early September and placed on the City Commission agenda September 11th or 18th. It should also be noted that in addition to the steering committee, there will be an extensive public input phase, included in the scope of the project, that will involve multiple stakeholder meetings, as well as on-line tools that will enable all stakeholders to be engaged throughout the process. This item is included in the 2018 Capital Improvement Program (CIP), with a budget maximum of \$110,000.
Strategic Plan Critical Success Factor	Economic Growth and Security
Fiscal Impact (Amount/Source	The fiscal impact to the City is \$110,000. This item is in the 2018 CIP-Project PR1918CIP.
Attachments:	(Professional Services Agreement attachment will be posted as soon as possible) Professional Services Agreement with Exhibit A (scope and timeline) Resolution No. 7262
Reviewed By: (for CMO use only)	□TM □DS □CT □BM

RESOLUTION NO. 7262

A RESOLUTION OF THE CITY OF LAWRENCE, KANSAS, APPOINTING A STEERING COMMITTEE TO ADVISE, REVIEW, AND PROVIDE FEEDBACK TO THE CONSULTANT, WITHIN THE FRAMEWORK OF THE PROJECT SCOPE, THROUGHOUT THE PROCESS OF CREATING AND DRAFTING THE DOWNTOWN MASTER PLAN FOR THE CITY.

WHEREAS, through the City's strategic planning process, the Governing Body has identified, as a priority initiative, the creation of a Downtown Master Plan, that includes, *inter alia*, identifying needed and desirable assets, identifying existing infrastructure and uses, and discovering potential uses and obstacles in response to the critical success factor of Economic Growth and Security; and

WHEREAS, the development of a Downtown Master Plan is also identified as an implementation step in *Horizon 2020*, the Comprehensive Plan for the City of Lawrence and Unincorporated Douglas County; and

WHEREAS, at the direction of the Governing Body at its May 1, 2018, public meeting, after first completing the Request for Proposal process, City Staff has commenced working with Houseal Lavigne Associates, LLC, a land use planning consultant -- and the selected consultant for this project -- to refine the scope and timeline for the Downtown Master Plan project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1. Through its strategic planning process, the Governing Body has determined that development of a Downtown Master Plan is a top priority and that it is necessary to establish a Steering Committee to advise, review, and provide feedback to the consultant, within the framework of the project scope, throughout the process of creating and drafting the Downtown Master Plan.

SECTION 2. Accordingly, the Governing Body hereby establishes a seventeen-member Steering Committee. The Steering Committee shall have the following composition (appointed by the noted authorities):

- East Lawrence Neighborhood Association (ELNA)— (Appointed by ELNA)
- Oread Neighborhood Association (Appointed by Neighborhood Assoc.)
- Oread Residents Association (Appointment by Neighborhood Assoc.)
- Old West Lawrence Neighborhood Association (OWL) (Appointed by OWL)
- Pinckney Neighborhood Association (Appointed by Neighborhood Assoc.)
- North Lawrence Neighborhood Association (Appointed by Neighborhood Assoc.)
- Explore Lawrence (Appointed by Explore Lawrence)
- At-Large (Appointed by Mayor with consent and approval of Governing Body)
- Lawrence Cultural Arts Commission (LCAC) (Appointed by LCAC)
- Historic Resources Commission (HRC) (Appointed by HRC)
- Architect (Appointed by Mayor with consent and approval of Governing Body)
- Developer (Appointed by Mayor with consent and approval of Governing Body)
- Lawrence–Douglas County Planning Commission (PC) (Appointed by PC)

- Downtown Lawrence Inc. (DLI) (Appointed by DLI)
- Downtown Business Owner/Tenant (Appointed by Mayor with consent and approval of Governing Body)
- Downtown Residential Owner/Tenant (Appointed by Mayor with consent and approval of Governing Body)
- Downtown Property Owner at Large (Appointed by Mayor with consent and approval of Governing Body)

SECTION 3. The Governing Body hereby charges the Steering Committee, as appointed, with advising the consultant at three key points throughout the process of creating and drafting a Downtown Master Plan: (1) Project Initiation; (2) Downtown Vision, Goals, and Objectives; and (3) Final Master Plan and Implementation Strategy. The consultant is hereby charged with conducting Steering Committee meetings, setting the agendas, and for incorporating into the Downtown Master Plan appropriate feedback received from the Steering Committee.

SECTION 4. The Governing Body hereby establishes, for the consultant-led process for developing the Downtown Master Plan, the following outline:

Step 1 - Project Initiation

Step 2 - Community Outreach and Engagement

Step 3 – Market and Demographic Analysis

Step 4 – Existing Conditions Summary

Step 5 – Downtown Vision, Goals and Objectives

Step 6 - Preliminary Downtown Plan and Policies

Step 7 – Final Master Plan and Implementation Strategy

SECTION 5. Upon the adoption by the Governing Body of the Final Downtown Master Plan, the Steering Committee shall be retired. In the event that a member of the Steering Committee is unable or unwilling to complete his or her appointment, then the original appointing authority shall, at the earliest practicable time, appoint his or her replacement.

SECTION 6. If any section, clause, sentence, or phrase of this resolution is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this resolution.

SECTION 7. This resolution shall be in full force and effect upon its adoption by the Governing Body of the City of Lawrence, Kansas.

Lawrence, Kansas, this day of	_,
APPROVED:	
Stuart Boley Mayor	-
	APPROVED:

ATTEST:		
Sherri Riedemann		
City Clerk APPROVED AS TO FORM:		
Toni R. Wheeler City Attorney		