



**Updated:**

**9/22/14 @ 12:45pm**

**Added communications for the following items:**

**Item 3 - CUP for Central Soyfoods; 1168 E 1500 Rd**

**Item 5B - SUP for Rhody Delahunty Complex; 1106 Rhode Island St**

**Added Draft July Planning Commission Minutes**

**9/17/14 @ 3:45pm**

**Added Items 5A & 5B - Rezoning & Special Use Permit for 1106 Rhode Island**

**9/16/14 @ 4:30pm**

**The following items will be added when available:**

**Item 5A - Rezoning 1106 Rhode Island**

**Item 5B - Special Use Permit 1106 Rhode Island**

**Draft July Planning Commission Minutes**

**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION  
CITY HALL, 6 EAST 6<sup>TH</sup> STREET, CITY COMMISSION MEETING ROOM  
AGENDA FOR PUBLIC & NON-PUBLIC HEARING ITEMS  
SEPTEMBER 22 & 24, 2014 6:30PM - 10:30PM**

#### **GENERAL BUSINESS:**

#### **PLANNING COMMISSION MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of July 21, 2014.

Receive and amend or approve the minutes from the Planning Commission meeting of August 25, 2014.

#### **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.

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

#### **REGULAR AGENDA (SEPTEMBER 22, 2014) MEETING PUBLIC HEARING ITEMS:**

**Recess LDCMPC**

**Convene Joint Meeting with Baldwin Planning Commission**



**ITEM NO. 1      CONDITIONAL USE PERMIT FOR CREEKWOOD LAWN; 1753 N 700 RD (SLD)**

**CUP-14-00295:** Consider a Conditional Use Permit to allow a Truck Storage Facility for Creekwood Lawn, located at 1753 N 700 Rd. Submitted by Shelby Franklin, property owner of record. *Joint meeting with Baldwin Planning Commission.*

**Adjourn Joint Meeting  
Reconvene LDCMPC**

**ITEM NO. 2      SPECIAL USE PERMIT FOR WWTP; 2300 W 41<sup>ST</sup> ST (MKM)**

**SUP-14-00262:** Consider a Special Use Permit for the Wakarusa Wastewater Treatment Plant, a Major Utility, located on approximately 531 acres at 2300 E 41<sup>st</sup> St. Submitted by City of Lawrence, property owner of record.

**ITEM NO. 3      CONDITIONAL USE PERMIT FOR CENTRAL SOYFOODS LLC; 1168 E 1500 RD (MKM)**

**CUP-14-00304:** Consider a Conditional Use Permit for Central Soyfoods LLC, a Value Added Agriculture use, at 1168 E 1500 Rd. Submitted by David Millstein, property owner of record.

**PUBLIC HEARING ITEM on Variance Only:**

**ITEM NO. 4      PRELIMINARY PLAT FOR SCHWEGLER ADDITION; 2201 OUSDAHL RD (SLD)**

**PP-14-00303:** Consider a Preliminary Plat for Schwegler Addition located at 2201 Ousdahl Rd. Consider variance request from section 20-810 (e)(5)(i) regarding minimum right-of-way for a collector street. Submitted by Grob Engineering Services LLC on behalf of USD #497, property owner of record.

**RESUME PUBLIC HEARING:**

**ITEM NO. 5A      RM12 TO RMO; .269 ACRES; 1106 RHODE ISLAND ST (LBZ)**

**Z-14-00314:** Consider a request to rezone approximately .269 acres from RM12 (Multi-Dwelling Residential) District to RMO (Multi-Dwelling Residential-Office) District located at 1106 Rhode Island St. Submitted by Hernly Associates on behalf of the City of Lawrence, property owner of record.

**ITEM NO. 5B      SPECIAL USE PERMIT FOR RHODY DELAHUNTY COMPLEX; 1106 RHODE ISLAND ST (LBZ)**

**SUP-14-00326:** Consider a Special Use Permit for Rhody Delahunty Complex for the development of two detached dwelling structures on a single lot in an RM District as required by Section 20-402 of the Land Development Code. The property is located at 1106 Rhode Island. Submitted by Hernly Associates on behalf of the City of Lawrence, property owner of record.

**~~\*\*DEFERRED\*\*~~**

**~~ITEM NO. 6      RSO TO CN2; 0.8 ACRES; 4101 W 6<sup>th</sup> ST (MKM)~~**

**~~Z-14-00300:~~** Consider a request to rezone approximately 0.8 acres from RSO (Single Dwelling Residential-Office) District to CN2 (Neighborhood Commercial Center) District, located at 4101 W 6<sup>th</sup> St. Submitted by Doug and Berniece Garber, property owners of record.



## MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

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## ADJOURN

## CALENDAR

August 2014						
Sun	Mon	Tue	Wed	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						

September 2014						
Sun	Mon	Tue	Wed	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				

October 2014						
Sun	Mon	Tue	Wed	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	

**PCCM Meeting:** (Generally 2<sup>nd</sup> Wednesday of each month, 7:30am-9:00am)

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## **PLANNING COMMISSION MEETING**

**August 25, 2014**

**Meeting Minutes DRAFT**

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August 25, 2014 – 6:30 p.m.

Commissioners present: Britton, Culver, Denney, Graham, Josserand, Kelly, Liese, Rasmussen, Struckhoff, von Achen

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

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## **COMMITTEE REPORTS**

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

## **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- No ex parte.
- No abstentions.



PC Minutes 8/25/14 **DRAFT**

**ITEM NO. 1 SPECIAL USE PERMIT FOR PUMP STATION NO. 10 ADDITION; 3055  
LOUISIANA ST (SLD)**

**SUP-14-00259:** Consider a Special Use Permit for Pump Station No. 10 Addition, located at 3055 Louisiana St. Submitted by the City of Lawrence, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Dave Wagner, Utility Director, provided an overview of the project.

Ms. Melinda Harger talked about outreach to the neighborhood and community. She said there was a public meeting in January where several options were shown. She said the neighborhood preferred the full berm with green roof option. She said they were working with Baker Wetlands to tie into the nature aspect of the land.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Josseland thanked staff for their work on the project.

Commissioner Rasmussen asked if there would be something like a 6' fence with barbed wire around the facility. He wondered if the site would be accessible to the public.

Mr. Wagner said the pump station would not be fenced at this time. He said public access would not be encouraged and that it was not meant to be accessed by the public. He said the structure would be secured so that the public could not access the facility. He said if someone breached the structure they would know.

Commissioner Rasmussen asked if the public could still walk their dog, for example, near the facility.

Mr. Wagner said it was not a problem from the exterior of the facility.

Commissioner Liese asked how far the pump station would pump.

Mr. Wagner said 16,000', which equaled three miles.

Commissioner Liese asked about exterior sounds.

Mr. Jim Martin, Professional Engineering Consultants, said that a muffled sound could be heard right outside the building but would not be heard away from the building.

Commissioner Culver asked if it was common practice now to have mechanical equipment below grade or if it was specific to this pump station.

Mr. Wagner said most pump stations now were below grade. He said the electrical support systems were above grade but that the pump was submerged.



**ACTION TAKEN**

Motioned by Commissioner Struckhoff, seconded by Commissioner Culver, to approve Special Use Permit (SUP-14-00259) for Pump Station No. 10 located at 3055 Louisiana Street, a *minor utility*, based upon the findings presented in the body of the staff report and subject to the following condition:

1. Approval of a Floodplain Development Permit prior to issuance of a building permit.

Unanimously approved 10-0.



PC Minutes 8/25/14 **DRAFT**

**ITEM NO. 2 IG TO IL; 1.88 ACRES; 720 E 9<sup>TH</sup> ST (MKM)**

**Z-14-00263:** Consider a request to rezone approximately 1.88 acres from IG (General Industrial) District to IL (Limited Industrial) District located at 720 E 9<sup>th</sup> St. Submitted by Flint Hills Development Group on behalf of 720 LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Tom Larkin, Flint Hills Development Group, agreed with the staff report.

**PUBLIC HEARING**

Ms. KT Walsh, East Lawrence Neighborhood Association, said the neighborhood did not want a fast food drive-thru. She also stated the neighborhood would prefer electric cords instead of generators. She also requested the hours be restricted due to residential areas nearby.

**COMMISSION DISCUSSION**

Commissioner Josserand asked if restaurant was a permitted use.

Mr. McCullough said yes. He said the fast order food without drive-thru was a permitted use. He said also mobile vending was permitted. He said fast order food drive-in was a different kind of use.

Commissioner Josserand asked Mr. Larkin if the ownership group was local.

Mr. Larkin said the ownership group was 100% local.

Commissioner von Achen asked about the criteria for a work/live situation.

Ms. Miller said work/live was a space within a building that consisted of a dwelling unit that was accessory to a non-residential use and had direct internal access to the non-residential use.

Commissioner von Achen inquired about the urban conservation overlay district.

Ms. Miller said there were two urban conservation overlay districts; Downtown Lawrence and 8<sup>th</sup> & Penn. She said overlay districts had guidelines for specific uses.

Commissioner von Achen inquired about food trucks.

Ms. Miller said food trucks were not being requested for this property but were requested for 804 Pennsylvania Street. She said it would be possible to site plan any property in a district that allowed fast order food to have food trucks.

Commissioner Liese asked if fast order food/drive-in was the same as fast order food/drive-thru.

Ms. Miller said yes. She said an example of a drive-in would be an A&W or Sonic and a drive-thru would a McDonalds.

Commissioner Britton said he was sensitive to the neighborhood concerns and asked if they should remove the fast food drive-in use and make it available with a Special Use Permit.



Commissioner Culver asked the applicant about his thoughts on that.

Mr. Larkin said it was pretty evident with his plan that it was the opposite direction of what he wanted. He said he had plans for food trucks but not on this property. He said he did not want to add additional road blocks to have a food truck.

Mr. McCullough said fast order food drive-in did not include food trucks.

Commissioner Liese said a Special Use Permit would just be for a drive-thru use and would not prohibit food trucks.

Mr. Larkin said he was okay with that.

Commissioner Rasmussen said he preferred a Special Use Permit rather than restricting it all together because he felt it stifled creativity.

### **ACTION TAKEN**

Motioned by Commissioner Britton, seconded by Commissioner von Achen, to approve the rezoning request for approximately 1.88 acres at 720 E 9<sup>th</sup> Street from IG (General Industrial) District to IL (Limited Industrial) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report with the following condition to restrict uses and maintain consistency with the overall 8<sup>th</sup> and Penn Neighborhood Redevelopment Zone:

1. The *Financial, Insurance, and Real Estate Offices* use shall be restricted in the District to prohibit the following financial office uses:
  - a. Payday advance or other short term loan businesses defined generally as an establishment that makes small consumer loans, usually backed by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until an applicant's next payday, and then cashed unless the customer repays the loan to reclaim such person's check.
  - b. Car title loan businesses defined generally as an establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. The loan terms are often for 30 days and failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle.
2. The *Fast Order Food with Drive-In* use is permitted in this District only upon approval of a Special Use Permit.

Commissioner Denney asked if a McDonalds would be permitted if it didn't have a drive-thru.

Mr. McCullough said that was correct.

Commissioner Rasmussen asked if the Special Use Permit was only for this property, not for every IL district.

Mr. McCullough said yes, just this piece of property.



Commissioner Kelly said he would support the motion and thanked the applicant for working with the neighborhood.

Unanimously approved 10-0.



PC Minutes 8/25/14 **DRAFT**

**ITEM NO. 3 SPECIAL USE PERMIT FOR WWTP; 2300 W 41<sup>ST</sup> ST (MKM)**

**SUP-14-00262:** Consider a Special Use Permit for the Wakarusa Wastewater Treatment Plant, located on approximately 531 acres at 2300 W 41<sup>st</sup> St. Submitted by City of Lawrence, property owner of record.

*Item 3 was deferred prior to the meeting.*



PC Minutes 8/25/14 **DRAFT**

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

**MISC NO. 1      MINOR SUBDIVISION VARIANCE FOR SHANK HILL ADDITION NO. 2;  
1016 & 1020 E 1292 RD (MKM)**

Variance request from the minimum lot width requirement with minor subdivisions in the unincorporated portion of Douglas County. The variance is associated with Shank Hill Addition No. 2, a two lot Minor Subdivision for property located at 1016 and 1020 E 1292 Road (MS-14-00361).

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

**APPLICANT PRESENTATION**

Mr. Dean Grob, Grob Engineering Services, was present for questioning.

**COMMISSION DISCUSSION**

Commissioner Denney asked how long the garage had been there.

Mr. Grob said it had been there a while and was one of the first houses built there.

Commissioner von Achen inquired about the line in which 212' was measured. She asked if it could be under 225' anywhere on the property.

Ms. Miller said the frontage should be 250' but that this was platted way before those regulations were adopted. She said now that the lot line was being changed the 212' was not conforming and needed a variance.

Commissioner Rasmussen asked what would happen if the variance was granted and five years from now the property owner decided to shift the property lines. He wondered if the property owner would have to come back for another variance.

Mr. McCullough said this was unique to this measured distance.

**ACTION TAKEN**

Motioned by Commissioner Rasmussen, seconded by Commissioner Britton, to approve the variance requested from Section 20-810(a)(2)(i) of the Subdivision Regulations [Section 11-110(a)(2)(i) of the County Code] to allow a land division through Minor Subdivision MS-14-00361 with Lot 1 having a 95% minimum lot width of approximately 212 ft rather than the 225 ft required by Code, subject to the following condition:

The following note shall be added to the Minor Subdivision:

*"At their August 25, 2014 meeting, the Planning Commission approved a variance from Section 20-810(a)(2)(i) of the Subdivision Regulations to allow a 95% minimum lot width of approximately 212 ft for Lot 1."*

Unanimously approved 10-0.

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**ADJOURN 7:33pm**





## **PLANNING COMMISSION MEETING**

**July 21, 2014**

### **Meeting Minutes**

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July 21, 2014 – 6:30 p.m.

Commissioners present: Culver, Denney, Josserand, Liese, Rasmussen, Struckhoff, von Achen

Staff present: McCullough, A. Miller, Crick, Day, Ewert, Halm

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## **PLANNING COMMISSION MINUTES**

Receive and amend or approve the minutes from the Planning Commission meeting of June 23, 2014.

Motioned by Commissioner Rasmussen, seconded by Commissioner Struckhoff, to approve the June 23, 2014 Planning Commission minutes.

Unanimously approved 7-0.

## **COMMITTEE REPORTS**

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

Commissioner Culver said the Metropolitan Planning Organization (MPO) met last week.

Commissioner Rasmussen said the Horizon 2020 steering committee received the survey results from ETC.

## **EX PARTE / ABSTENTIONS / DEFERRAL REQUEST**

- **Ex parte:**

Commissioner Struckhoff said he talked to the development team of the Southpoint project. He said they provided benefits of the project.

Commissioner Culver said he met with the applicant and discussed information that was within the Planning Commission packet. He said he had a phone discussion with Mr. Steve Schwada and Ms. Beth Easter.

Commissioner von Achen said she received a phone call from Ms. Candice Davis regarding Southpoint to reiterated her concerns that were included in her letter.

Commissioner Rasmussen said he met with Mr. Dan Watkins to talk about the Southpoint project. He said he also received a number of calls from citizens asking what Planning Commission was going to do.

Commissioner Josserand said he had a meeting with Mr. Dan Watkins and talked about items within the packet. He said he had a brief phone call with Mr. Kirk McClure.



Commissioner Denney said he had no ex parte to report because he had been out of town.

Commissioner Liese said Mr. Steve Schwada contacted him to talk about the format and content of the Mid-Month meeting.

- No abstentions.



PC Minutes 7/21/14 **DRAFT**

**ITEM NO. 1 FINAL DEVELOPMENT PLAN FOR BAUER FARM; 4700 OVERLAND DR  
(SLD)**

**FDP-14-00207:** Consider a Final Development Plan for Bauer Farm to include a 27,275 SF grocery store and a 11,623 SF commercial retail building, located at 4700 Overland Dr. Submitted by Treanor Architects, for Free State Group LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Micah Kimball, Treanor Architects, was present for questioning.

**COMMISSION DISCUSSION**

Commissioner von Achen asked to see the bikeway system map.

Ms. Day showed the bikeway system map layer on the overhead.

**ACTION TAKEN**

Motioned by Commissioner Rasmussen, seconded by Commissioner Denney, to approve the Final Development Plan based upon the findings of fact presented in the body of the Staff Report subject to the following conditions:

1. Applicant shall provide cut sheets for the lighting fixtures for review and approval prior to release of the plan for building permits.
2. Submission of revised Final Development Plan with the following changes:  
Signature block for Planning Commission Chair and the Director of Planning

Unanimously approved 7-0.



PC Minutes 7/21/14 **DRAFT**

**ITEM NO. 2 PRELIMINARY DEVELOPMENT PLAN FOR THE LINKS AT LAWRENCE; 251 QUEENS RD (MKM)**

**PDP-14-00171:** Consider a Preliminary Development Plan for The Links at Lawrence, a 900 unit apartment complex, on approximately 78 acres located at 251 Queens Rd. Submitted by Blew & Associates PA, for Links at Lawrence, property owner of record.

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

Commissioner Liese asked staff to comment about benefit districts.

Ms. Miller said benefit districts were a common practice to pay for streets and that it typically was not an issue seen by Planning Commission.

**APPLICANT PRESENTATION**

Mr. Kim Fugett, Lindsey Company, thanked staff for their help. He said Lindsey Company had been in existence for over 30 years and had close to 40,000 apartment units. He said Lindsey Company had sold less than 3% of their property developments over the years. He said they develop properties to build and manage for a lifetime. He said they revisited the plan in hopes of finding ways to reduce costs and start development. He said they refigured the density counts and we learned the definition of unit was different than what they previously used. He said another change was the removal of the golf course, due to interest in the sport declining. He said the new plan would include walking trails. He said the sensitive land area contained red bellied snakes which were an endangered species. He said they were notified by the State that they would need to mitigate land to protect the snake. He said dropping the golf course would allow a place for the red bellied snakes to live. He said the new plan increased the sensitive area by 9 acres. He said the new plan also allowed for 65% of the site to be common open area. He said the market study said there was still a demand for apartments.

**PUBLIC HEARING**

Ms. Sunee Mickle, 229 Eisenhower Drive, said she was aware of The Links when she purchased her home but at the time she thought it would be a golf course community. She expressed concern about the plan changing over the years and about overcrowding in the school system.

Mr. Chuck Thompson, 317 Campbell Drive, said his real estate agent told him the area would be single-family dwellings. He said the whole community was surrounded by apartment complexes. He was concerned about the increase in traffic due to the apartment complex. He asked that Planning Commission revert back to the original drawing that was submitted. He wanted the total density in the area reduced.

Ms. Shari Gerling, 5236 Carson Drive, said she was told about development in the area and that they were supposed to be high end townhomes. She was concerned about sewer and street development being assessed to the neighborhood. She wondered if the developer was responsible for assessments.

Commissioner Liese asked staff to respond to questions asked during the public comment.

Mr. McCullough said this project was in the Lecompton school district so Lecompton school district would need to plan for any increase in children. He showed the possible benefit districts on the



overhead that were included in the packet. He said a special assessment benefit district was an actual district of property with boundaries intended to help finance a major cost for infrastructure improvements. He said it had been known for some years that Queens Road would need to be urbanized and improved. He said there were different ways to address it. He the development policy required developments to pay for infrastructure. He said one of the ways to pay for it was the special assessment benefit district. He said staff would likely recommend to City Commission, at the time they consider forming the district, that any owner occupied structure on the east side of Queens Road, while legally needing to be in the district, would not necessarily have to pay for the assessments. He said that was because they had already paid some of their share with Wakarusa Drive and other infrastructure. He said staff would likely recommend that other properties on the west side pay the special assessment portion. He said the city at large would pick up the east side if owner occupied and the west side would be paid by the development group. He said the district was yet to be determined.

Ms. Gerling asked how the percentage was broken up.

Mr. McCullough said typically it was the area of the lot or the frontage of the lot, so for example, a smaller lot would pay less assessment than a larger lot.

Ms. Gerling asked who would make the final decision.

Mr. McCullough said City Commission would form the district.

Ms. Gerling said she never drives on Queens Road and did not think it was fair to assess a neighborhood that does not use Queens Road.

Mr. McCullough said benefit districts go through a process of determining benefit and that at some point as the area urbanizes people will use the streets adjacent to the their houses.

Ms. Gerling asked who owned Lindsey Management.

#### **APPLICANT CLOSING COMMENTS**

Mr. Hugh Jarrett, Lindsey Company, said on average there were .1 school age children per apartment. He said The Links would be paying more property taxes than the burden put on schools. He said their apartments have a low impact on schools. He said Mr. Jim Lindsey founded the company and had been the primary owner for 35 years. He said Mr. Lindsey's health does not allow him to travel anymore. He said one of the things that had delayed the development was the cost. He said there were not many sizeable areas to develop in Lawrence.

#### **COMMISSION DISCUSSION**

Commissioner Josserand inquired about the buffer on the southern side and how it had changed since 2007.

Ms. Miller said there had been some changes to the Code. She said the 60' buffer was no longer required. She said The Links would have a 25' buffer with landscaping.

Commissioner Josserand asked how the property was zoned in 2007.

Ms. Miller said it was zoned agriculture.

Commissioner Josserand asked if the land to the south was zoned.



Ms. Miller said the Kellyn Addition was not rezoned at that time.

Commissioner Josserand inquired about the height restriction.

Ms. Miller said the applicant was not requesting a height modification.

Commissioner Josserand asked if the original application in 2007 was developed at the maximum density permitted by Code at that time.

Mr. McCullough said it was the 4.2 units per acre. He said the zoning request limited it to 6 units per acre.

Commissioner Josserand asked if the applicant could have requested a higher density than what was requested in 2007.

Mr. McCullough said yes.

Commissioner Josserand inquired about the increase in the number of apartments being requested by the applicant.

Mr. Jarrett said the circumstance was that they generally plan out 2-3 years ahead of time. He said during the lead time things can change. He said the cost of construction with the development increased and they could not get the numbers to work with the site. He said the street and sewer infrastructure costs were also expensive.

Josserand said the infrastructure costs should have been known by the applicant years ago when they first requested the development.

Mr. Jarrett said The Links was a very good product and they wouldn't invest 40 million dollars if they thought it would not work.

Commissioner Josserand asked if the developer drove through the Oread neighborhood to see how many vacancy signs were up.

Mr. Jarrett said companywide they had less than 2% vacancy. He said they provide an extremely good amenity package. He said the property manager and assistant property managers would live onsite. He said the apartments would not be the cheapest or the most expensive in town but that Lawrence had a market for apartments.

Commissioner Culver asked what implications the benefit district had on Planning Commission's recommendation.

Mr. McCullough said there were appropriate conditions to ensure The Links was adhering to the development policies.

Commissioner Denney asked if Planning Commission made a recommendation on the benefit district.

Mr. McCullough said the benefit district was information only and that a decision would be made by City Commission down the road.



Commissioner Rasmussen said he liked seeing the protection of the open space, wooded areas, and stream corridor. He asked what would prevent a developer from expanding into that space.

Ms. Day said any relocation or change in common open space would have to come back to Planning Commission and City Commission for approval.

Commissioner von Achen appreciated the amount of environmentally sensitive lands being protected and the willingness to work with the endangered species regulations. She inquired about the increased impervious surface area and wondered about drainage.

Mr. Buckley Blew, Blew and Associates, said there would be two detention ponds on the east side property where water would be directed to. He said water would also be directed to where it naturally would go. He said they would adhere to all requirements necessary.

Commissioner von Achen inquired about height requirements being reduced from 39' to 35' for the apartments.

Mr. Fugett said the first variance was for a spire on the clubhouse that encroached upon the height requirement. He said the new three story building was below the height restriction so there wasn't a need to ask for that.

Commissioner Rasmussen said he would support a motion to approve the development because he liked this type of land use since it was concentrated and maximized space while preserving open space and wooded areas. He also liked the walking trail that would interconnect to other properties.

Commissioner Struckhoff said he generally supported the proposal. He expressed concern about the amount of impervious surface.

## **ACTION TAKEN**

Motioned by Commissioner Culver, seconded by Commissioner Rasmussen, to approve The Links at Lawrence Preliminary Development Plan (PDP-14-00171) based upon the findings of fact presented in the body of the staff report and subject to the following conditions:

1. Agreements not to protest the formation of a benefit district must be executed by the applicant and provided to the Planning Office before recording of the Final Development Plan for the following:
  - a. Street and sidewalk improvements for Queens Road.
  - b. Street and sidewalk improvements for George Williams Way.
  - c. Geometric intersection improvements for Queens Road and Wakarusa Drive.
  - d. Intersection improvements, geometric and signalization, for Queens Road and W 6<sup>th</sup> Street.
  - e. Intersection improvements, geometric and signalization, for George Williams Way and Rock Chalk Drive.
2. Provision of a revised Preliminary Development Plan with the following changes:
  - a. Provide a continuous evergreen hedge, or 6 ft solid fence or wall along the south side of the parking/drive area in the Southeast Quadrant of the development adjacent to the proposed Kellyn Addition.
  - b. Provide a 12 ft Pedestrian Access Easement for the shared use path within the Utility Easement for the Sanitary Sewer Interceptor Line and add the following note: *"A 12' shared use path will be constructed by the property owner within the pedestrian easement to City standards, at the time of this development. The path will terminate 50' south of the north property line with a mini cul-de-sac. When a connecting trail has been constructed on the*



*property to the north, the developer of this project will construct the remaining 12' wide connecting piece of the shared use path."*

- c. Make minor changes to utilities shown on the plan per City Utilities Engineer's comments.
  - d. Make minor changes to the plan per the City Fire Code Official's comments.
  - e. Add the following note: *"Prior to any construction activity the perimeter of the protected wooded areas adjacent to the construction activity will be fenced at the drip line and signage will be erected that notes that any construction activity, grading, trenching or storage is prohibited within the fenced area."*
  - f. Note the number of van accessible ADA parking spaces provided in the parking data for each phase.
  - g. Revise the Parking Summary to note the bicycle parking requirement as 1 space per 4 auto spaces provided, provide the required additional bicycle parking spaces, and show the location of the bicycle parking on the plan.
  - h. Relocate bufferyard landscaping along the south property line north of the 25 ft utility easement. If necessary widen the bufferyard by relocating the buildings to the north to provide adequate landscaping area.
  - i. Revise plan based on minor technical issues. Staff will provide the applicant with a list.
3. Stormwater Engineer is currently reviewing the revised plans and will provide comments that may result in revisions to the plan, including possibly requiring a detention pond on the southwest corner.

Commissioner Josserand said the developer proposed a good project but he was concerned about the sheer magnitude of it. He felt that overbuilding multi-dwelling on the fringe of the city taxed infrastructure and had a toxic effect on central city housing.

Motion carried 6-1, with Commissioner Josserand voting in opposition.



PC Minutes 7/21/14 **DRAFT****ITEM NO. 3      COMPREHENSIVE PLAN AMENDMENT TO HORIZON 2020 CHAPTERS 6 & 14 (JSC)**

**CPA-14-00107:** Consider a Comprehensive Plan Amendment to Horizon 2020 Chapter 6 and Chapter 14 (Revised Southern Development Plan) to revise the future land use designations from medium-density residential, traditional neighborhood development, and auto-related commercial uses to commercial use; and to designate the node as Regional Commercial from Auto-Related Center at the southeast intersection of US-59 Hwy and N. 1250 Road. Submitted by Landplan Engineering PA.

**ITEM NO. 4A      ANNEX 102.64 ACRES; E SIDE OF S IOWA ST & S SIDE OF N 1250 RD (SLD)**

**A-14-00104:** Consider a request to annex approximately 102.64 acres located along the east side of S. Iowa Street and the south side of N. 1250 Road (Armstrong Road). Submitted by Landplan Engineering PA on behalf of Armstrong Management LC and Grisham Management LC, property owners of record. *Initiated by City Commission on 4/8/14.*

**ITEM NO. 4B      RS10 & A TO CR & CR-FP; 122.96 ACRES; SE CORNER SLT & US-59 HWY (SLD)**

**Z-14-00105:** Consider a request to rezone approximately 122.96 acres from RS10 (Single-Dwelling Residential) District and County A (Agricultural) District to CR (Regional Commercial) District and CR-FP (Regional Commercial Floodplain Overlay) District, located at the SE corner of the South Lawrence Trafficway and US-59 Hwy. Submitted by Landplan Engineering PA, on behalf of Armstrong Management LC and Grisham Management LC, property owners of record.

**ITEM NO. 4C      RS10, A, & VC TO OS-FP; 46.10 ACRES; SE CORNER SLT & US-59 HWY (SLD)**

**Z-14-00106:** Consider a request to rezone approximately 46.10 acres from RS10 (Single-Dwelling Residential) District, County A (Agricultural) District, and County VC (Valley Channel) District to OS-FP (Open Space-Floodplain Overlay) District, located at the SE corner of the South Lawrence Trafficway and US-59 Hwy. Submitted by Landplan Engineering PA on behalf of Armstrong Management LC and Grisham Management LC, property owners of record.

**STAFF PRESENTATION**

Mr. Jeff Crick presented Item 3.

Ms. Amy Miller presented the Retail Market Study.

Ms. Sandra Day presented Items 4A-4C.

**APPLICANT PRESENTATION**

Mr. Dan Watkins, attorney representing Collett Development, said there were challenges to developing the property. He said he viewed this as an extension of the South Iowa Regional Commercial Center. He said he had conversations with Mr. Roger Boyd and Mr. John Boyd regarding this area being an extension of the Baker Wetlands. He said he also reached out to KDOT because of its location. He said they were working through some of the issues with them. He said the project would provide new and expanded retail opportunities for the community.



Mr. Robert Collett, Collett Development, thanked staff and Planning Commission for the open dialogue and fair process.

Mr. Chris Challis, Collett Development, said Lawrence had a great downtown and he knew the importance of preserving the main street character. He said he knew how important a gateway was to the community as well. He felt the project location was ideal for retail development. He felt it would be an extension of the south Lawrence corridor. He said discussions with the Corps of Engineers involved conserving the open space portion of the property and putting it into a conservation easement and managed by the Baker Wetlands. He discussed some of the content from the retail analysis regarding retail development.

Commissioner Rasmussen asked if the Corps of Engineers would be granting wetland permits for the project.

Mr. Challis said yes.

Commissioner Rasmussen consulted staff attorney Mr. Randy Larkin and then said he would recuse himself. Commissioner Rasmussen said as of October 1, 2014 he would be a Corps of Engineer employee and would be providing environmental legal support. He said it was possible he could be involved in providing legal counsel on permitting activities for this project after October 1, 2014. He said he did not feel comfortable participating in the project. He did not want to create a legal problem with any conflict of interest.

Mr. Watkins asked if it would be better to have additional members of Planning Commission present.

Mr. McCullough said Planning Commission could consider deferring the item since multiple Planning Commissioners were absent.

Mr. Watkins said he was comfortable moving forward if Planning Commission was.

Commissioner Josserand said he was a little uncomfortable with multiple Planning Commissioners being absent but that staff and the applicant were comfortable moving forward.

Mr. Brian Sturm, Landplan Engineering, said the site was less than ideal for medium density or traditional residential development. He said the ground was adjacent to special natural amenities and located at the threshold of the city. He said regarding the annexation, the request met the recommendations of Horizon 2020. He said regarding the rezoning, it accommodated retail and floodplain practices. He said a large area of the commercial zoning district that would remain green to offset some of the other impacts by the development. He said the open space was consistent with the Comprehensive Plan.

## **PUBLIC HEARING**

Ms. Laura Routh, 2235 East Drive, said she was disappointed that not all of the Planning Commissioners were present this evening. She said her primary complaint with the proposal was developing in the floodplain. She did not feel this development would be a good gateway to the community. She said the notion that somehow this development would provide a buffer or some benefit to what's left of the wetlands after the construction of the South Lawrence Trafficway, was offensive. She said the amount of runoff that would come from this development would not benefit the wetlands.



Ms. Erica Fox Zabusky, 1026 Ohio St, said it was laughable to think people would drive to Lawrence to shop at a strip development. She expressed concern about the pull factor away from Massachusetts Street. She felt this kind of project on the extremity of town would put stress on the infrastructure and transportation system.

Ms. Mary Jo Shaney, attorney on behalf of K-10/40 Development LC, said the proposal as presented tonight was not consistent with Horizon 2020. She said the proposal leapfrogs over the task force that the City set up in October of 2013 to begin to study and amend Horizon 2020. She felt the goals of Horizon 2020 would be compromised by the proposal. She said the project was 193% larger than the present auto related plan that was in place.

Ms. Betty Alderson, 1400 Lilac Lane, said she thought it had been established years ago that a mall was not wanted by the residents of Lawrence, especially at the proposed location. She felt the development would be harmful to downtown. She also stated that local stores would not be a part of this project.

Mr. Kirk McClure, 707 Tennessee St, said a well functioning market should have growth and supply. He said if they fail to have growth and demand they should not have growth and supply. He said shoppers pay the sales tax, not the vendors. He said without new income and new spending there would be no new sales tax. He said this would not be a regional mall, it would just be another strip mall. He said Planning Commission lacked growth managing tools. He felt the development was very premature.

Mr. Jim Bowers, White Goss Law Firm, representing the property owners of the northwest corner of 6<sup>th</sup> & K-10 Hwy. He discussed the planning process and interpretation of the plan by staff. He requested that the project be tabled or denied. He said the project violates the Horizon 2020 plan and policies which limits the development of commercial retail projects. He said they would be changing the Comprehensive Plan to bring the Comprehensive Plan into alignment with the project. He said the County and the City appointed a steering committee in October 2013 for the purpose of reviewing Horizon 2020. He felt it was inappropriate for Planning Commission to consider this application prior to the completion of the steering committees review and update of Horizon 2020. He said the Comprehensive Plan prohibited new regional commercial centers. He said the project would damage existing retail centers in Lawrence.

Ms. Candice Davis said she was astonished by what had been presented tonight. She wondered why she had just heard of the project a month ago. She said it appeared that planning in the community was a free-for-all. She said the recent Horizon 2020 study that was conducted revealed that downtown needed to be a focus. She said downtown was a unique destination and it was at risk.

Mr. Gary Rexroad said the project was a positive step forward for Lawrence. He said the project had a positive endorsement from the Planning staff. He said when Horizon 2020 was written it provided guidance and it had been followed as much as it could be. He said they had a responsibility to take advantage of opportunities and adjust as they go. He said the project offered a number of things beyond just the straight forward elements. He said it appreciated the environment and wetlands around it. He thought downtown was precious and protected by density. He felt the project represented a great opportunity for sales tax dollars.

Ms. Bonnie Johnson, 2601 Belle Crest Drive, said the reasons to say no to the project included floodplain issues, the revised Southern Development Plan was completed with knowledge of the South Lawrence Trafficway, a recent community survey said growth management was a top issue,



the impact of the South Lawrence Trafficway on 23<sup>rd</sup> Street, and in previous discussions about Menards it was decided that retail should not be at this location. She felt this development might be premature.

Mr. Roger Boyd, manager of the Baker Wetlands, said he had no objections to the development. He said the open space component would soften the impact to the agricultural land that would still be in place. He said the open space would also provide the opportunity for educational trails.

Ms. Heidi Simon, 5723 Westfield Drive, asked Planning Commission for support of the project to move it forward. She said the development would help balance the wants and needs of the community. She said the developer was not asking for special financing and would only bring revenue.

Mr. Brad Finkeldej, 821 Sunset Drive, said from a land use point of view if you look at a map of Lawrence to see where retail should go, the intersection of SLT and K-10 made perfect sense. He said Planning Commission created this location for retail and also created a new subcategory in Horizon 2020 of auto related. He said the location was considered to be a perfect location for the most intense use retail. He felt this was a downgrade in zoning compared to what the Southern Development Plan stated. He said there was a provision that said no retail development south of K-10, except for the auto related zone. He referenced a 2006 blog in which Mr. McClure said that if Walmart was approved it would cause vacant space, blighted shopping areas, and widespread vacancy. Mr. McClure also said that if Walmart was approved as a grocery store it would cause Dillons and Hy-Vee to close. In 2007 Mr. McClure said overbuilding would create vacancy. In 2008 Mr. McClure said Bauer Farm would create vacancies and blighted areas. In 2009 Mr. McClure said there would be damaging oversupply, blight, and vacancy. In 2012 and 2014 Mr. McClure said they had the same problem. Mr. Finkeldej did not feel they had a problem with blight downtown or losing businesses. He felt Planning Commission should support the project.

Mr. Michael Almon, 1311 Prairie Ave, said the proposed site was the site of the 1978 cornfield mall was which was wisely rejected. He said Horizon 2020 does not support increasing the size or number of new commercial center but may consider small new inter neighborhood centers as part of new planned neighborhoods. He said the proposed project would be a two auto oriented strip malls across the street from each other. He said Horizon 2020 does require a nodal plan for a new regional commercial center be created. He felt the developer had moved too soon. He felt the sewer systems would be overloaded.

Ms. Janet Gerstner, 413 Vine Drive, expressed concern about the proposal. She was concerned about diluting the existing market. She said three retailers would relocate from existing locations. She did not feel the project would pull shoppers and that retailers would not be different than Topeka or Kansas City. She felt the developers would be rewarded for not adhering to plans. She wanted to sustain downtown and she felt this project may damage it. She stated it may also undermine the new Rock Chalk Park.

Ms. Marci Francisco, 1101 Ohio St, said commercial areas should be easily reached by transit. She felt the development would add traffic to the extension of Louisiana Street.

Mr. Tim Bateman, 6212 Berando Ct, said he wanted a strong downtown. He did not think adding retail to other locations in town would hurt downtown. He felt the project may help to keep shoppers from going other places. He said the project could help increase sales tax dollars.



Ms. Cille King, League of Women Voters, said regarding retail she did not think this was a draw. She said the stores would be scaled down versions and smaller than the ones in Topeka and Kansas City.

#### **APPLICANT CLOSING COMMENTS**

Mr. Watkins said nobody wants downtown to suffer. He said the community had worked through many issues over the years to mitigate concerns regarding development in Lawrence. He said the location was the perfect site for retail.

Mr. Challis said the plan did not include a faux main street experience. He said the project did not focus on small specialty shops. He said downtown Lawrence was extraordinarily successful and was a great destination. He said it was not the same battle as the cornfield mall. He said the project was not looking to recreate downtown.

Mr. Watkins did not feel putting a moratorium on the project until Horizon 2020 was revised was the appropriate way to go.

#### **COMMISSION DISCUSSION**

Commissioner Liese said Planning Commission had three options; vote, delay, or choose to end the meeting.

Commissioner Josserand said there was a fourth option of asking questions.

Mr. McCullough said Planning Commission should consider all the information obtained from the public hearing and staff report. He said they had quorum and it was their duty to act on the request. He said deferral was an option but typically that was for additional information. He said Planning Commission was making a recommendation to City Commission. He said if they needed additional information the items could be deferred to get specific information.

Commissioner Liese asked what happened if they did not extend the meeting.

Mr. McCullough said he would not advise that as an option.

Commissioner Josserand said Planning Commission had the ability to defer.

Mr. McCullough said that was correct.

Commissioner Josserand said the numbers in the retail market study, retail development report, and letter from Mr. McClure, over the past 8-10 years show declining sales tax revenue.

Ms. Miller said when adjusted for inflation the sales tax collections have declined.

Commissioner Josserand asked if that was unhealthy.

Ms. Miller said when determining the health of the market all of the factors needed to be looked at, not just one indicator.

Commissioner Josserand asked Mr. Finkeldei to comment about too much retail space on the market.

Mr. Finkeldei said it was an issue of whether or not you believe the market corrects. He said too much retail could be built in one place that could cause something else to happen. He said the question becomes if you look at the health of the environment. He said Mr. McClure said for years



that it would cause vacancy and blight but today he said there wasn't vacancy problems, but rather retail problems. He said there had been adaption within the city and market so there have been historically low vacancy rates over the last 10 years. He said a healthy vacancy rate was fine.

Commissioner Josserand said he forgot to mention earlier that he had ex parte communications with Mr. Chris Challis. He asked staff if this kind of development would be considered four sided development.

Mr. McCullough said it would be considered with the site plan application. He said four sided architecture at a gateway location was typically the buildings you could see from the road.

Commissioner Josserand asked Mr. Finkeldei about other retail areas.

Mr. Finkeldei said there were discussions about commercial areas, for example Walmart in Bauer Farm, and how much retail should go there. He said Horizon 2020 had a limit on it depending on the size of the node. He said regional centers had different characteristics than commercial centers.

Commissioner Liese inquired about building on a floodplain.

Mr. McCullough said the proposal was to fill a portion of the floodplain which the Code allowed so it would be Code compliant. He said any development in the area would seek the same type of development.

Commissioner Liese asked staff to talk about the public comment that accommodations should be made so as not to threaten the environment and Baker Wetlands.

Mr. McCullough said that would be a change of philosophy and Code for the entire City of Lawrence to prohibit development in the floodplain. He said it would be Code compliant.

Commissioner Liese asked staff to talk about traffic on Louisiana Street.

Mr. McCullough said there would be an impact to the traffic system and that was being studied right now. He said it would be a little pre-mature to study every part of the technical studies. He said Louisiana, Michigan, and 31<sup>st</sup> Streets could expect traffic as the area urbanizes.

Commissioner Denney expressed concern about pedestrian connectivity.

Mr. McCullough said there would likely be a sidewalk required on the new Michigan Street.

Commissioner Denney asked if Michigan Street would go all the way through to 31<sup>st</sup> Street.

Ms. Day said yes. She said regarding pedestrian connectivity, the SLT project included extensive extension of the recreation path. This proposed project would have an expectation to tie the interior sidewalks back to the overall recreation path for full connectivity. She said during previous discussions about Menards there was a clear expectation that the commercial along the north and south sides of 31<sup>st</sup> Street would be the limit of where the commercial would go.

Commissioner Culver inquired about the comments made regarding the Horizon 2020 task force.

Mr. McCullough said generally speaking there was a public process going on to identify issues that may need to be addressed in a major revision to the current Comprehensive Plan. He said many of



the sites they were discussing tonight had undergone Comprehensive Plan Amendments to change what was adopted into what the proposal would accommodate. He said the plan update itself was in a public identification phase and that the steering committee would work on what issues to land on for ultimately a plan amendment process in 2015 and 2016. He said he had not been directed to place a moratorium on Comprehensive Plan Amendments as they come forward.

Commissioner Culver inquired about the project being an extension of South Iowa.

Mr. McCullough said the crux of the project was mostly about changing the medium density residential on the east side of the proposed project from residential to commercial. He said essentially it had commercial designation with the auto related commercial use. He said the plan intent was a very intense commercial use.

Commissioner von Achen asked staff to comment on Mr. Almon's observations about wastewater and runoff.

Ms. Day said the design of a new wastewater and pump station was already in process and would be seen by Planning Commission next month. She said when those two facilities go online they will be capable of accommodating the site. She said runoff would be part of the H&H study, drainage study and more specifics of the site development in the future.

Commissioner Liese asked about the concern expressed about a shopping center not being a gateway.

Mr. Sturm said there would be a parking lot like any commercial or retail development. He showed renderings on the overhead. He said the buildings would have a mixture of materials and the architecture would highlight the stores as a place shoppers would want to visit. He said there were development standards in place for the K-10 corridor that require 50' of greenspace between the edge of K-10 right-of-way on the north and any development. He said the topography would lend itself for people driving on K-10 to see the greenspace and then the stores. He said it would be the most modern retail center in the community. He said it was a chance for Lawrence to put forth its retail design guidelines, corridor, and landscaping guidelines.

Commissioner Josserand asked the developer if they anticipate requesting economic incentives from the City.

Mr. Challis said the retail development did not require incentives and they did not intend to ask. He said part of the project included potentially realigning 35<sup>th</sup> Street. He said there are times when a project may add additional infrastructure beyond that which the project was demanding itself. He said he did not know what the engineering report would turn out to be.

Commissioner Struckhoff said that just because Horizon 2020 was in the process of a revision did not mean developments would come to a halt. He said a development like this will and must come to Lawrence. He said since first adopted the Comprehensive Plan had been amended 47 times. He said the plan reflected the will of the community. He said this was a massive project and the kind that Lawrence had envisioned for the northwest corridor. He said his main problem with the proposal was the location. He said he could not support the project at this location.

Commissioner Culver said he was concerned about setting a precedent for outward development south. He said he could not support the project at this location.



Commissioner von Achen said she was afraid that such a large project would undermine commitments made to other retail projects in other areas of the community. She reviewed the staff responses to the Comprehensive Plan Amendment. She did not feel the responses overwhelmingly supported the plan. She said she would not support the proposal.

Commissioner Liese reviewed the Golden Factors.

Commissioner Denney said there were two factors; whether there should be a change to the Comprehensive Plan and from there everything else follows. He said the time to change the plan is when there was an error or when circumstances change. He said perhaps the plan did need to be clarified. He said it was unrealistic to consider K-10 a barrier. He said without looking at the zoning issue he was supportive of changing the Comprehensive Plan. He did not feel the project would cause harm to downtown. He said downtown was an entertainment and specialty destination. He said in the long run it should be businesses that decide where they put their business ventures. He said if he remembered correctly the result of the denial of the cornfield mall was the Tanger Outlet and Riverfront mall. He said he did not want to see car lots at the proposed location and a shopping center would be a better gateway. He said he would support the proposal.

Commissioner Josserand thanked the applicant for a thoughtful plan. He said the staff recommendation for the Comprehensive Plan was a little weak. He wondered if the project would negatively impact other retail within the community. He felt that too much retail had a toxic effect on existing development. He was not sure they should aspire to be a retail demand center. He did not feel new retail space necessarily created new retail sales. He said approval of this proposal at this time could be unbalancing of more even development. He said the area may be right for development later on.

Commissioner Liese said he was pleased to hear Mr. Challis say that the development was not designed to compete with downtown. He said he would support a motion for deferral to obtain more information about any changes that may be made to Horizon 2020. He said he would also vote in favor of all four proposals if that was the motion. He said the alternative to the proposal was a gigantic parking lot.

**ACTION TAKEN on Item 3**

Motioned by Commissioner Struckhoff, seconded by Commissioner Josserand, to deny the Comprehensive Plan Amendment, CPA-14-00107, to Horizon 2020 Chapters 6 and 14.

Motion carried 4-2-1, with Commissioners Denney and Liese voting in opposition.  
Commissioner Rasmussen abstained.

**ACTION TAKEN on Item 4A**

Motioned by Commissioner Struckhoff, seconded by Commissioner von Achen, to deny annexation, A-14-00104, of 102.64 acres on the east side of South Iowa and the south side of N 1250 Rd.

Motion carried 4-2-1, with Commissioners Denney and Liese voting in opposition.  
Commissioner Rasmussen abstained.

**ACTION TAKEN on Item 4B**

Motioned by Commissioner Struckhoff, seconded by Commissioner Culver, to deny rezoning, Z-14-00105, 122.96 acres at the southeast corner of SLT and US-59 Hwy.



Motion carried 4-2-1, with Commissioners Denney and Liese voting in opposition.  
Commissioner Rasmussen abstained.

**ACTION TAKEN on Item 4C**

Motioned by Commissioner Struckhoff, seconded by Commissioner Culver, to deny rezoning, Z-14-00106, 46.10 acres at the southeast corner of SLT and US-59 Hwy.

Motion carried 4-2-1, with Commissioners Denney and Liese voting in opposition.  
Commissioner Rasmussen abstained.



PC Minutes 7/21/14 **DRAFT**

**ITEM NO. 5      TEXT AMENDMENT FOR PARKING & ACCESS STANDARDS (SMS)**

**TA-6-14-09/TA-13-00235:** Receive an update on the proposed Text Amendments to the City of Lawrence Land Development Code, Article 9 and related sections of Chapter 20, for comprehensive revisions to parking and access standards.

*Item 5 was deferred prior to the meeting.*

**MISCELLANEOUS NEW OR OLD BUSINESS**

Consideration of any other business to come before the Commission.

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**ADJOURN 12:28am**



**2014**  
**LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION**  
**MID-MONTH & REGULAR MEETING DATES**

Mid-Month Meetings, Wednesdays 7:30 – 9:00 AM (*Friday Meeting)	Mid-Month Topics		Planning Commission Meetings 6:30 PM, Mon & Wed	
Jan 24*	Planning Commission Retreat - half day Friday		Jan 27	Jan 29
Feb 12	HERE @ KU	Topics for 2014	Feb 24	Feb 26
Mar 12	Small Business Facilitator	Continue H2020 Discussion from Jan Retreat	Mar 24	Mar 26
Apr 9	Apartment Trends – Tim Keller, Keller & Associates		Apr 21	Apr 23
May 14	Comp Plan Update Exercises		May 19	May 21
Jun 11	MPO Multi-Modal Studies <a href="http://lawrenceks.org/mpo/study">http://lawrenceks.org/mpo/study</a>	APA Conference updates	Jun 23	Jun 25
Jul 9	Preview presentation from development team of Annexation & Rezoning applications for proposed commercial & open space development containing approximately 167 acres located south of K-10 & east of US59		Jul 21	Jul 23
Aug 15*	PC Orientation – all day Friday		Aug 25	Aug 27
Sep 10	Demographics Presentation by Planning Staff		Sep 22	Sep 24
Oct 8	Environmental Survey		Oct 20	Oct 22
Nov 5	Interactive Map/Resource Tutorial & Discussion of Revised Southern Development Plan		Nov 17	Nov 19
Dec 3	TBD		Dec 15	Dec 17
	<b>Suggested topics for future meetings:</b> <i>How City/County Depts interact on planning issues</i> <i>Stormwater Stds Update – Stream Setbacks</i> <i>Overview of different Advisory Groups – potential overlap on planning issues</i> <i>Joint meeting with other Cities’ Planning Commissions</i> <i>Joint meeting with other Cities and Townships – UGA potential revisions</i>		<i>New County Zoning Codes</i> <i>Tour City/County Facilities</i> <i>Oread Overlay Districts</i> <i>Comprehensive Plan – Goals &amp; Policies</i> <i>Utilities Master Plan</i> <i>Water Resources</i>	
<b>Meeting Locations</b>	The Planning Commission meetings are held in the City Commission meeting room on the 1 <sup>st</sup> floor of City Hall, 6 <sup>th</sup> & Massachusetts Streets, unless otherwise noticed.			
<b>Planning &amp; Development Services   Lawrence-Douglas County Planning Division   785-832-3150   <a href="http://www.lawrenceks.org/pds">www.lawrenceks.org/pds</a></b>				

Revised 05/22/14



### 2014 PLANNING COMMISSION ATTENDANCE

	Jan 27 2014	Feb 24 2014	Feb 26 2014	Mar 24 2014	Apr 21 2014	Apr 23 2014	May 19 2014	May 21 2014	June 23 2014	July 21 2014	Aug 25, 2014	Sept 22, 2014
Britton	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	
Culver	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Denney	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Graham	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	
Josserand	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Kelly	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	
Liese	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Rasmussen	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	
Struckhoff	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
von Achen	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	

### 2014 MID-MONTH ATTENDANCE

	Jan 24 2014	Feb 12 2014	Mar 12 2014	April 9 2014	May 14 2014	June 11 2014	July 9 2014	Aug 15 2014	Sept 10 2014	Oct 8 2014		
Britton	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes			
Culver	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Denney	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Graham	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Josserand	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			
Kelly	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
Liese	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes			
Rasmussen	Yes	Yes	No	Yes	Yes	No	No	Yes	Yes			
Struckhoff	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
von Achen	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes			



# Planning Commission

## Key Links



City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES



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### Plans & Documents

- [Horizon 2020](#)
- [Sector/Area Plans](#)
- [Transportation 2040](#)
- [2012 Retail Market Study](#)

### Development Regulations

- [Community Design Manual](#)
- [County Zoning Regulations](#)
- [Land Development Code](#)
- [Subdivision Regulations](#)

### Online Mapping

- [City of Lawrence Interactive GIS Map](#)
- [Douglas Co. Map Viewer](#)
- [Submittals to the Planning Office](#)

### Planning Commission

- [Bylaws](#)
- [Mid-Months & Special Meetings](#)
- [Minutes](#)
- [Planning Commission Schedule/Deadlines](#)



**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**  
**Joint Hearing with Baldwin City Planning Commission**

PC Staff Report  
9/22/14

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR CREEKWOOD LAWN; 1753 N 700 RD (SLD)**

**CUP-14-00295:** Conditional Use Permit request for a Truck Storage Facility for Creekwood Lawn, located at 1753 N 700 Road. Submitted by Shelby Franklin, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

**STAFF RECOMMENDATION:** Staff recommends approval of a Conditional Use Permit for a Truck Storage Facility and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report, and subject to the following conditions:

1. Provision of a note on the face of the site plan stating, "The Conditional Use Permit shall expire on December 31, 2019."
2. The applicant shall obtain from Douglas County a building permit as a condition of continued operation.
3. The applicant shall work with the Douglas County Public Works Office to widen the driveway per County specifications.
4. The applicant shall obtain from Douglas County a local floodplain development permit.

**Attachments:**

Attachment A: Area Map

Attachment B: Site Plan

Attachment C: Floodplain Boundary Map

**Reason for Request:**      *To store my equipment/trucks for my business. [Previous application] I failed to get the information in on time and last year's CUP expired.*

**KEY POINTS**

- Site includes existing building used for storing equipment related to business activity.
- Conditions of approval of original 2003 CUP not met including execution of a local floodplain development permit and historic environs review.
- Historic Environs review no longer applicable. State law was revised in July 2013 eliminating requirement for review of project impact on historic property for properties located in the environs of a listed property.
- Local Floodplain Development Permit is required for this property. Applicant is working with County staff.

**DESCRIPTION OF USE**

This property is used for storage of trucks, equipment and materials related to a landscape business. Site activity includes some exterior storage. The purpose of this request is to permit the storage of vehicles and equipment as allowed, with a Conditional Use Permit, in the A (Agricultural) District.

The existing building was originally constructed as an agriculture building and exempt from building inspection review. The applicant has stated the intent to construct a residence at this location and



the building would then be an accessory building to the residence. To date a residence has not been constructed at this site.

This business could potentially operate as a home occupation if the applicant resided at this location. Currently this building is considered an accessory structure with no primary use (residence).

### **ASSOCIATED CASES/OTHER ACTION REQUIRED**

- CUP-12-17-02: Creekwood Lawn Company Storage Shed
  - PC approved on 1/22/03
  - BOCC approved on 2/24/03
  - Conditions of approval not met, application expired on 2/24/2004.
- CUP-12-00030: Conditional Use Permit for a *Truck Storage Facility* for Creekwood Lawn
  - PC approved on 8/20/12
  - BOCC approved on 9/13/12
  - Conditions of approval not met, application expired on 9/13/2013
- Board of County Commissioner's approval of this Conditional Use Permit, CUP-14-00295
- Release of Conditional Use Permit by the Douglas County Zoning and Codes Office

### **PUBLIC COMMENT**

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

## **I. Zoning and uses of Properties nearby**

Current Zoning and Land Use: A (Agricultural) District; existing building and exterior storage on 3.87 acres.

Surrounding Zoning and Land Use: A (Agricultural) District in all directions. Rural residential homes located along township roads. Surrounding uses include:

- Public school building and Vinland Fairgrounds located to the northwest.
- Rural residential homes along the north side of N 700 Road to the north and along E 1750 Road to the south.
- Agricultural field to the east and west.

**Staff Finding** – this property is surrounded by A (Agricultural) zoning. Surrounding uses include both residential and non-residential uses.

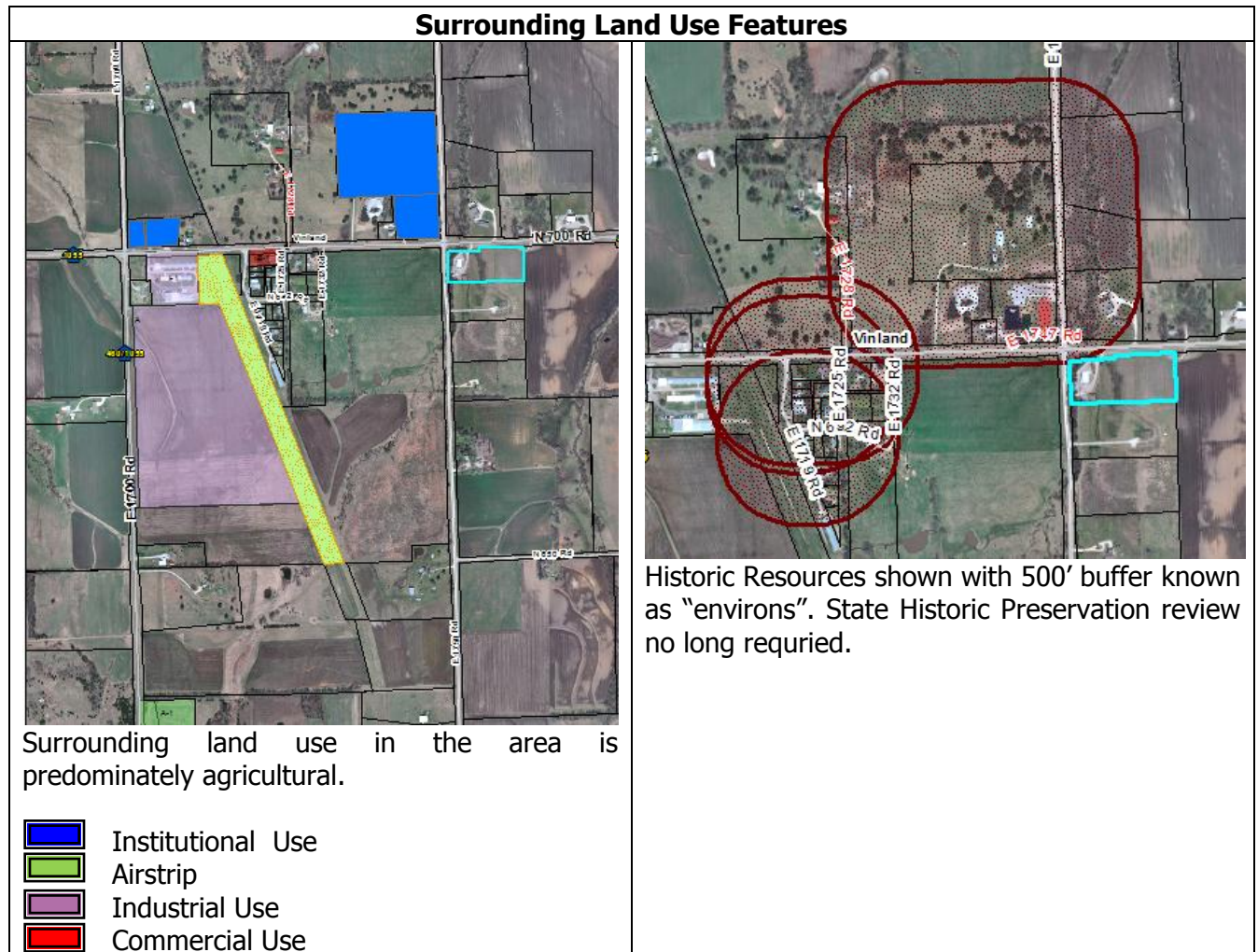
## **II. CHARACTER OF THE AREA**

The property is located within 3 miles of Baldwin City and within the unincorporated area of the Vinland community in Douglas County. This unincorporated portion of Douglas County includes predominantly rural residences clustered along the County roads. McFarlane Aviation, a manufacturing business, a private grass air strip, and several other non-residential uses are also located in the immediate area. Several properties in the area are of historic significance.

The subject property is located within the proximity of a designated historic building (the Vinland Fair Grounds Exhibit Building). Changes in State regulations no longer subject this property to review by the State Historic Preservation Office. Previous approval required historic design review by



the State Historic Preservation Office as a condition of approval. Based on changes to State law this condition is no longer applicable to this request.



Additionally, the property is encumbered by the Coal Creek Tributary floodplain. The applicant is working with county staff to meet the requirements for a local floodplain development permit.

**Staff Finding** – This portion of Douglas County includes a rich variety of uses and activities. The area is within 3 miles of Baldwin City but is identified as Vinland, an unincorporated town in Douglas County. The overall character of the area is rural with a mix of rural residential homes on smaller lots and larger agricultural tracts in the immediate area. The area includes several historically listed buildings and properties as well as extensive floodplain generally located west of E 1750 Road.

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

Applicant's response: *"The property is perfectly suitable for my needs."*

A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural or rural residential use will not be altered. The subject property is located within the community of Vinland and within 3 miles of Baldwin City. The subject property area is



zoned for agricultural uses. The applicant has expressed a desire to ultimately construct a residence in this location. If or when that happens, a Conditional Use Permit for Truck Storage would no longer be required since the use could qualify for home occupation registration

The A (Agricultural District) is the predominant zoning district for the unincorporated portions of Douglas County. The purpose of this district is intended to *"provide a full range of agricultural activities, including processing and sale of agricultural projects raised on the premises, and at the same time, to offer protection to agricultural land from the deprecating effect of objectionable, hazardous and unsightly uses. The district is also intended for purposes of protecting watersheds and water supplies to provide for spacious development, to protect forest areas, and scenic areas, and to conserve fish and wildlife, to promote forestry, growing of natural crops and grazing and to prevent untimely scattering of more dense urban development."* Section 12-306-1.

This district allows a variety of land uses including traditional agricultural uses, but also detached residential structures and *"Accessory open or enclosed storage of farm materials, products or equipment, accessory farm buildings, including barns, stables, sheds, tool rooms, shops, bins, tanks, and silos, and other accessory buildings and uses, including but not limited to accessory private garages, servants' quarters, guest houses, swimming pools, home barbecue grills, customary church bulletin boards or identification signs not exceeding 30 square feet in area for permitted public and semi-public uses, accessory storage, and accessory off-street parking and loading spaces."* Section 20-306-2.19.

In this application the building is not accessory structure as there is no primary structure currently built on this site. The building is considered to be a primary use. As a commercial use Truck Storage is allowed in the A (Agricultural) District subject to a Conditional Use Permit.

The applicant has stated multiple times that the long term plan for the property is as a future residence with the business qualifying and registering as a home occupation. To date no building permit has been requested for residential construction on this site. The subject property is 3.8 acres and consistent with the rural residential development pattern for parcel sizes in this area.

This property has a history of non-compliance and complaints from adjacent property owners regarding exterior storage of materials. The 2012 CUP application was revised to add landscaping along the south and east sides of the property to increase the buffer between the subject property and the adjacent residential uses. The scope of the business has expanded and contracted since 2002 when the building was constructed. At one time, the applicant had employees that were dispatching from this site, leaving their personal vehicles at site and taking job vehicles to their destinations. This clearly commercial activity was included as part of the violations and complaints. There are no current complaints regarding this property.

Previous review of this application found the existing zoning to be suitable to the area. The *Truck Storage* use was approved in 2003 and 2012 subject to conditions. Conditions of approval were not met and the approvals expired.

The expectation of this use was that a residence would be constructed as the primary use and the business activity would become secondary. Active residential use is anticipated to curtail complaints because the applicant would be residing at this location.

**Staff Finding** – Approval of the Conditional Use Permit does not alter the base zoning district. The existing A (Agricultural) District is suitable for this location.



#### **IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED**

The subject property includes a 60' by 40' building constructed in 2002 but no residence. The structure was constructed as an agricultural building; therefore no building permit was issued. The original CUP was approved by the Planning Commission on January 22, 2003. The County Commission approved the CUP on February 24, 2003. The original conditions of approval were not met and thus expired. A second CUP was considered in 2012 with approval. This application also included conditions that were not met and thus expired. The applicant has operated a business from this location [storage of equipment and materials] from this site since 2002. In addition to the enclosed building, exterior storage of material is located along the west property line. City and County staff have worked with the applicant to establish an area outside of the regulatory floodplain for this exterior storage.

This application represents the final attempt by County Zoning staff to implement full compliance with this property owner.

**Staff Finding** – The subject property is developed with an existing building used for storage of equipment related to a landscape business. The County Zoning Regulations were adopted in 1966, this property has been zoned "A (Agricultural)" since that time.

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

Applicant's Response: "*Nothing will affect nearby properties.*"

Section 12-319-1.01 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 is included in Section 12-319 Supplemental Use Regulations – Conditional Uses – Temporary Uses.

-4.24 Conditional Uses Enumerated, of the County Zoning Regulations listed as a "*Truck Storage Facility*" use. The Regulations describe a *Truck Storage Facility* as follows:

*12-319-4.24. Truck Storage Facility ancillary uses, open or enclosed, provided that wholesale and retail sales not be permitted on the premises. Open storage must meet the minimum yard requirements of the district in which it is located and must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and adjoining properties.*

The existing building has been used for equipment storage of the applicant's lawn service business. The plan shows an area for external storage of mulch and an area for vehicle (employee) and equipment storage along the west side of the property.

Notes on the face of the plan address the limitation of the use to the storage of equipment and materials for the lawn care business. Storage of equipment for other purposes or businesses is prohibited. This plan shows screening along the south side to address the standards of the use stated above. The existing vegetation along the west property line provides adequate screening. This area also includes floodplain. The site plan shows that the storage areas are outside of the



regulatory floodplain. The applicant is working with County staff to complete the local Floodplain Development Permit required for this property.

Approval of the CUP will provide an opportunity for the applicant to be compliant with the minimum zoning regulations and standards. As a Conditional Use Permit, the issues of screening and buffering to reduce undesirable impacts such as noise and view on residential properties to the south can and should be provided and maintained.

**Staff Finding** – Approval of this request will not detrimentally impact adjacent property owners so long as adequate screening is maintained and encroachment into the regulatory floodplain with exterior storage of materials is avoided.

## **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: *"There is no destruction of value in my property. I am just following protocol for having a building on my property."*

The purpose of this criterion is to compare the effect of denial of the request on the public health, safety and welfare to the effect of denial on the individual landowner. If the request were denied, the existing business would be required to relocate to a commercial or industrially zoned location. The impact to the existing building would be significant in that the investment could not easily be reused except as a strictly agricultural use or with the construction of a residence as a primary use.

Approval of the subject property neither directly benefits the community nor harms the public health, safety and welfare, as the underlying A (Agricultural) zoning district is unchanged. Approval allows an existing business to remain in Douglas County operating from its current location. The impact of the use for storage of trucks and lawn equipment is comparable to other similar requests for *Truck Storage Facilities*.

**Staff Finding** – There is no significant gain to the public's health, safety and welfare by permitting the continued use as a Conditional Use Permit. The underlying A (Agricultural) zoning remains unchanged. Denial of the request would prevent the applicant from continuing to operate a business from this location. Approval of the request benefits the applicant by allowing continued operation the business.

## **VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response: *"I still plan on building a home on my property"*

This property is not located within the Baldwin City Urban Growth Boundary. It is, however, located within 3 miles of the city limits of Baldwin City. The comprehensive plan recommends that agricultural uses continue to be the predominant land use within the areas of the county beyond the designated urban growth areas. *Horizon 2020* encourages the support of local businesses to *"ensure their retention and to facilitate expansion plans for the future."* Industrial uses are directed to urban areas where services such as sewer, water and transportation options are available. *Horizon 2020* does not address conditional use permits as a tool to achieve specific policies. This use does not have a high demand for water and sewer services as a storage facility.



**Staff Finding** – The Comprehensive Plan recommends that uses in the rural area be limited to those compatible with agricultural uses and that the design should be consistent with the rural character. A Conditional Use Permit can be used to allow specific non-residential uses. This tool allows proportional development in harmony with the surrounding area. The proposed request is consistent with the Comprehensive Plan.

## STAFF REVIEW

### Joint Hearing

County Resolution No 80-5 established the policy that a joint hearing be held for requests within 3 miles of the incorporated cities in Douglas County so that the County Commission would have the benefit of both Planning Commissions' recommendations. A joint meeting is being held between the Lawrence/Douglas-County Metropolitan Planning Commission and Baldwin City Planning Commission. Both recommendations will be forwarded to the Board of County Commissioners.

### Site Summary:

Subject Property: 3.8 acres  
Existing Building: 2,400 SF (40'x 60')  
Off Street Parking Required: 1 space per two employees—[No on-site employees]  
Employees leave personal vehicles on site while business vehicles are taken to specific job sites.  
28' by 23' space provided for employees parking – approximately 3 spaces are provided.

## STAFF REVIEW

### Development History

- 2001 Building constructed.
- 2002 **CUP-12-17-02:** *Truck Storage Facility* for Creekwood Lawn was approved by the Planning commission and County Commission subject to conditions and to expire February 2013.
- 2003 Application expired since conditions of approval were not met within 12 months of approval.
- 2012 **CUP-12-00030:** *Truck Storage Facility* for Creekwood Lawn was approved by the Planning Commission and County commission subject to conditions and to expire December 2017.
- 2013 Application expired since conditions of approval were not met within 12 months of approval.
- 2013 Changes in state law no longer require environs review for historic properties.
- 2014 **CUP-14-00295:** *Truck Storage Facility* for Creekwood Lawn -- new application

Between 2001 and 2005 the County Zoning staff had engaged in communications with the applicant regarding various violations. Communications between County staff and the applicant also occurred in 2012 seeking resolution.

The subject property is located in the southeast portion of Douglas County within the Vinland area. The original 2002 application was the result of a change in the County Zoning Regulations relating to Home Occupations. This business could not operate as a home occupation use without a primary residential structure on site.

The existing building has never had an inspection because it was constructed under the Agricultural Building exemption. In the past the applicant indicated to County Staff that he would like electrical



service extended to the building. A Douglas County inspector visited the site and did a cursory review of the building, notifying the applicant of additional information needed to bring the building into compliance with minimum building codes. The building is not an “agricultural building”. As a condition of approval, staff recommends the applicant obtain a commercial building permit for the existing structure and that the building be improved to meet current code requirements.

Approval of this request would allow a commercial type business. The subject property is not located within any urban growth area. It should be noted that if the applicant resided on this property, this use may qualify as a Home Occupation and a CUP would not be required.

**Setback Requirements** - Building setback requirements for the “A” District are as follows: Front Yard - 50’; Side Yard - 15’; Rear Yard - 50’. Setback requirements are measured from the property lines. The building is accessed from N. 700 Road. The existing structure complies with the minimum yard requirements. The subject property is described by metes and bounds; it is not a platted property. The storage areas are generally setback from the west property line 15’ or more. Additionally, since this area is encumbered by regulatory floodplain staff required the applicant to show that the storage areas were also located outside of the floodplain.

**Access to the site** - Specific access to the site is provided via a driveway from N. 700 Road. The record for this property includes a discussion between the property owner and the Public Works Director regarding the existing access to the property. It is recommended that the driveway be made wider – to 30’ to accommodate trucks. The applicant has been notified that when a residence is constructed that access will be required to be relocated opposite of the entrance on the north side of Route 460 at 1758 N. 700 Road. A separate access for a residence will not be permitted for this property.





**Screening and Outdoor Storage-** The site plan drawing shows that the area is substantially screened by dense vegetation along the county roadways. Additional screening was added to the site to screen the exterior areas from adjacent property to the south and east.

**Floodplain-**As noted in the description of the neighborhood above, a portion of this property is encumbered by the regulatory floodplain of Coal Creek. There is no floodplain development permit for this property. From the site plan and visual inspection by Douglas County inspection staff, it appears that development of the site has occurred outside the limits of the floodplain. Prior to the adoption of the August 2010 FEMA maps, the property was not in the regulatory floodplain. The applicant is working with county staff to acquire a local floodplain development permit for the current use of the property.

**Time Limit** -This use is clearly a business. The existing building is not used for any agricultural purpose. This property has been the subject of zoning violations and complaints from nearby residents. At present, complaints appear to be resolved. Staff recommends, based on comments from the Douglas County Zoning and Codes office this approval should be limited to 5 years at this location. If the applicant wishes to intensify the use (e.g. include a business office, expand employees, include more storage of materials and supplies) then an appropriate commercial or industrial zoning district would be required or the business would need to be relocated to an appropriately zoned property. The applicant could reapply for another Conditional Use Permit. Staff will consider the compliance and any complaints in review of a future application. If a residence is constructed on this property the use would be required to be registered as a home occupation.

A Conditional Use Permit with a time limit is recommended to expire on one of two dates to allow better administration of enforcement by County Staff. These date ranges are:

- January 1/December 31 or
- June 30/July 1.

Staff recommends this CUP expire on December 31, 2019. This time limit is intended to provide the applicant adequate time to make permanent arrangements for the continued operation of this business.

## **Conclusion**

A Conditional Use Permit does not allow the range of uses found in commercial or industrial districts. Approval of a CUP can be tailored to address specific issues such as intensity or frequency of use, include time limitations, and provide screening requirements.

This use could have existed as an extension of a Home Occupation if a single-family residence was already constructed on this property. The applicant has indicated a long term plan to establish a residence on this property. Denial of the request would result in the relocation of the business to another commercial or industrially zoned location. The access to the property is immediately adjacent to a paved road and county highway network. The County Public Works Director indicated that the existing driveway width should be widened.

All vehicles and equipment are intended to be stored within the existing building or in designated areas on the site. It is assumed that only minor maintenance of these vehicles will also be provided within this building. Service to vehicles or storage of vehicles not associated with this business are prohibited.



This Conditional Use Permit (CUP-14-00295) would allow the continued operation of an existing landscape business in Douglas County for a limited time.



CUP-12-17-02

- \* When employees are not working, there are company trucks in these spaces. \*
- \* Mulch is not stored year round, I bring it in for spring and then again for fall. \*
- \* We dump a majority of our grass clippings + brush at the city compost, we report monthly to Cassander Field. \*

Legal Description

501 A 15-14-20 Brg w NW Cor  
 NE 1/4 TH N 89° 40' 7" E US 7.25' 50 PT  
 Brg on N Line NE 1/4; TH S 0° 3' 9" E  
 602.1 FT Brgs 89° 40' 7" W US 7.25' 50 PT  
 Brg on W line NE 1/4; TH S 0° 3' 9" W 602.1' to Pt 1 Brg. Less 501 A DBCH/39  
 1 mi 55' (D) 2003 70011013 )

Contour line (2' elevation intervals)  
Parcel Ownership Boundary

August 5, 2010 FEMA Flood Maps  
500 YEAR, 0.2 PCT ANNUAL CHANCE  
100 YEAR, ZONE AE



30 15 0 30 60 90 120 Feet

1 inch = 30 feet

Date: 6/7/2012

DISCLAIMER NOTICE

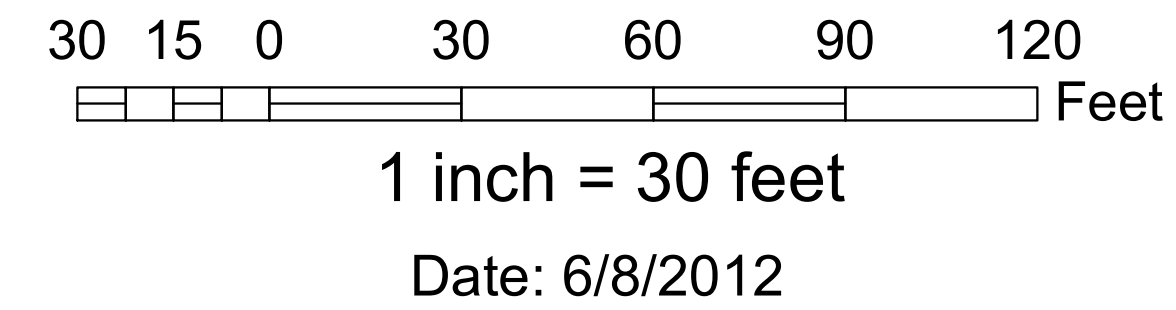
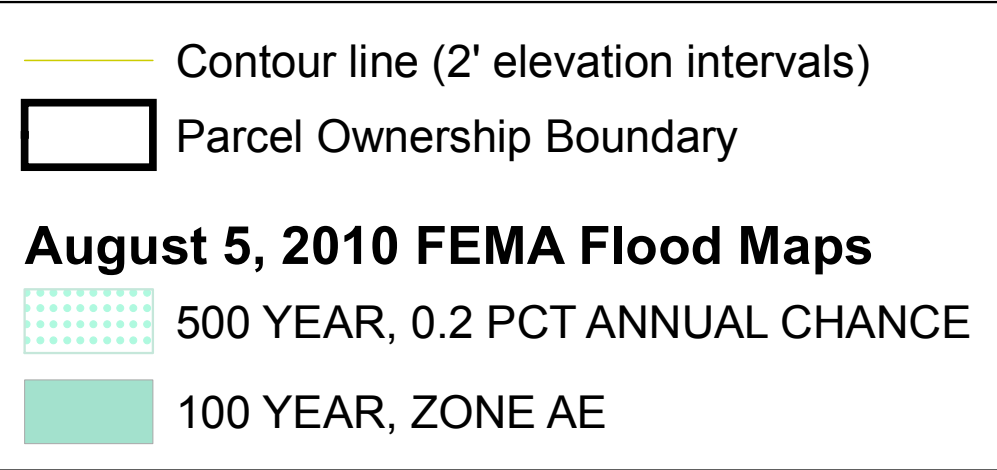
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Drawing prepared by Lawrence-Douglas County Planning and Development Services Department  
Aerial Photo was flown in the spring of 2009  
June 7, 2012



Shelby D. Franklin Property,  
1753 N 700 Road  
Baldwin City, KS

General Notes:  
a. Topography shown on 2' intervals  
b. Employees shall not work on property except to pick up, drop off and or service vehicles, equipment and/or machinery  
c. Portajohn on west side of building serviced by A-1  
d. Water is the only utility on the property  
e. Dimensions of adjacent roadways shown  
f. The approved use for this site is an interior equipment storage facility for vehicles and all related lawn care machinery. Repair and/or services stored vehicles and/or all related lawn care machinery other than that necessary for standards maintenance/upkeep is prohibited.  
g. Any exterior storage of material shall be located completely screened per section 12-319-4.31 of the County Zoning Regulations.  
h. The addition of exterior storage of materials shall first require a revision to the site plan portion of the CUP  
i. Existing landscaping shown, berm shown is in the process of being completed and will be planted with evergreen trees for screening in September/October 2012.  
• When employees are not working, there are company trucks in the spaces  
• Much is not stored year-round. Large deliveries are madetot the site for spring and fall.  
• The majority of grass clippings and brush are dumped at the City Compost facility, we report monthly to Cassandra Ford.  
**Legal Description:**  
Legal Description: 5.01 Ac., S15-T14-R20 beginning at the north west corner of the NE 1/4 TH N89DEG40'07"E 659.23 FT,SD PT BEING ON N LINE NE 1/4;TH S 0DEG03'09"E 662.1 FT THS89DEG40'07"W 659.23 FT,SD PT BEING ON W LINE NE 1/4;TH N 0DEG03'09"W 662.1 FT TO PT BEG,LESS 5.01A D 804/391 WW35 (DIV2003 7001168)

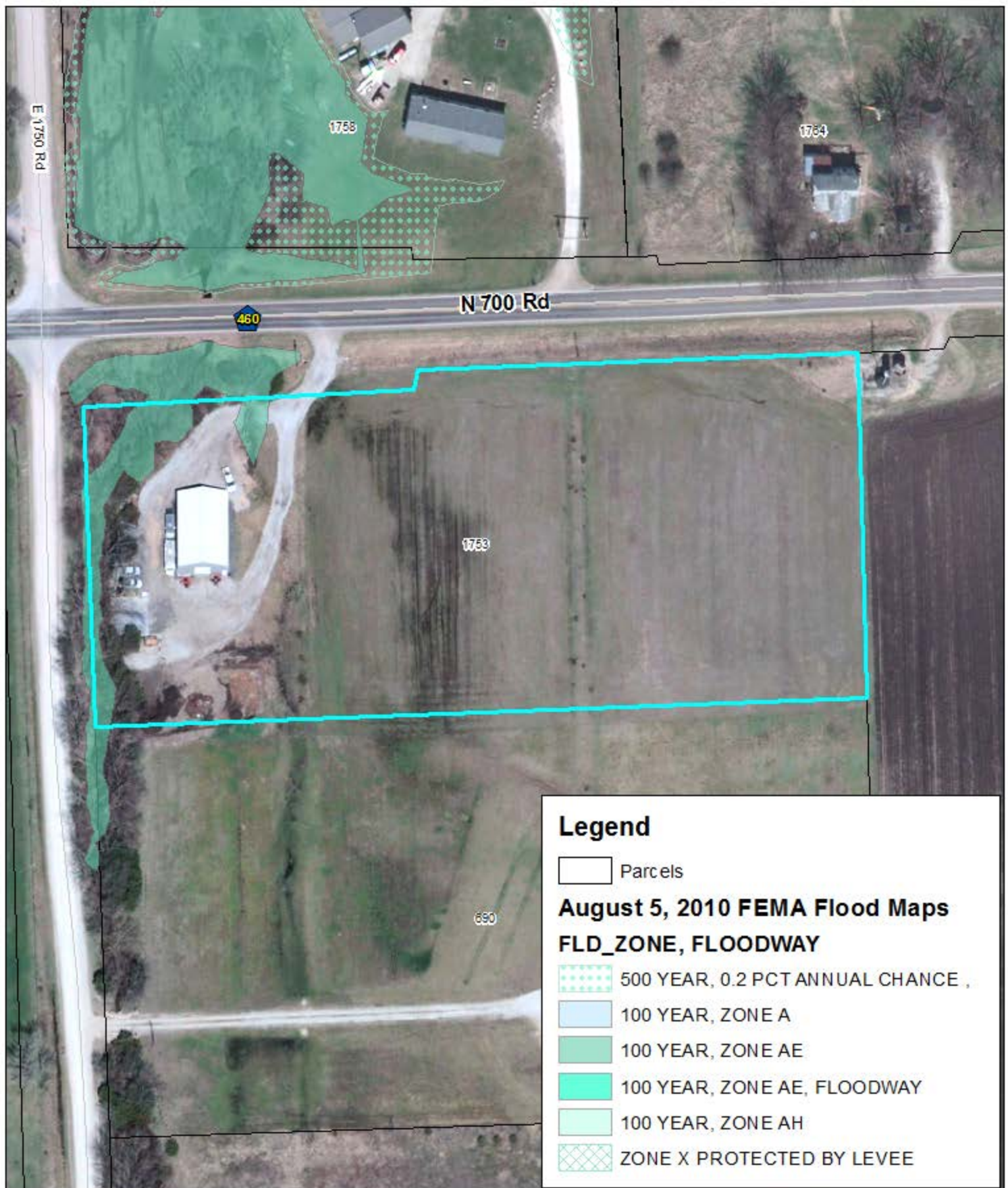


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Drawing prepared by Lawrence-Douglas County Planning and Development Services Department  
Aerial Photo was flown in the spring of 2009  
June 7, 2012



# Floodplain Boundary Map



50 25 0 50 100 150 200 Feet

1 inch = 102 feet

## DISCLAIMER NOTICE

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Date: 8/16/2012







**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item:**

PC Staff Report  
09/22/14

**ITEM NO. 2: SPECIAL USE PERMIT FOR WWTP; 2300 W 41<sup>ST</sup> ST (MKM)**

**SUP-14-00262:** Consider a Special Use Permit for the Wakarusa Wastewater Treatment Plant, a *Major Utility*, located on approximately 531 acres at 2300 E 41<sup>st</sup> St. Submitted by City of Lawrence, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of SUP-14-00262, a Special Use Permit for a wastewater treatment plant located at 2300 E 41st Street, a *Major Utility*, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Applicant shall provide a photometric plan to the Planning Office for review and approval prior to the release of the SUP plan for building permits.
2. Applicant shall provide a revised site plan with the following changes:
  - a) Location and height of all exterior lighting shown on the plan.
  - b) Revision of landscaping sheet per City Horticulture Manager's approval.
  - c) Dimensions of the solar array pad noted on Sheet 3.
  - d) Provision of the 75 ft Type 3 Bufferyard along the perimeter of the site that is not within the protected riparian area, with the exception of 41<sup>st</sup> Street interior to the site.
  - e) Addition of the following note: *"The Bufferyard Landscaping and Perimeter Parking Lot Landscaping requirement along 41<sup>st</sup> Street interior to the site has been waived due to the fact that the subject property is located on both sides of the street."*

**Applicant's Reason for Request:** *"Per the City of Lawrence Development Code, any development of more than 10 acres within a GPI Zoning District requires a Special Use Permit. The site will be used for the City of Lawrence's new Wakarusa Wastewater Treatment Plant."*

**KEY POINTS**

- This pump station is a *Major Utility*, therefore approval is required through a Special Use Permit per Section 20-530 of the Development Code.
- The property is zoned GPI (General Public and Institutional Use) District. Per Section 20-1307 of the Development Code, Institutional Development Plans (IDP) must be submitted for development in the GPI District. A site plan may serve as the IDP for properties under 10 acres, a Special Use Permit (SUP) is required for properties over 10 acres. This SUP also serves as the Institutional Development Plan.
- The purpose of an Institutional Development Plan is to provide a community vision for the long-term use and development of public institutional space and lands so they are designed to be compatible with surrounding land uses and contribute to the neighborhood and character of the area in which they are located.



- Site plans will be required for each phase of the project. Site plans which are consistent with the Institutional Development Plan may be administratively approved. Changes which vary significantly from the IDP will require a revised SUP.
- The City Wastewater Master Plan indicated the need for a 2<sup>nd</sup> treatment plant and recommended locating the plant south of the Wakarusa River. As a result, the subject property has been annexed into the City, rezoned to the GPI District, and platted in preparation for development.

### **FACTORS TO CONSIDER**

- Procedural requirements of Section 20-1306; Special Use Permits.
- Requirements of Section 20-1307; Institutional Development Plan.
- Improvement is included in the City's Capital Improvement Plan.

### **OTHER ACTION REQUIRED**

- City Commission approval of the Special Use Permit and adoption of ordinance.
- Recording of the Institutional Development Plan with the Douglas County Register of Deeds.
- Administrative approval of Floodplain Development Permit for construction of the treatment plant prior to issuance of Building Permits.
- Building Permits must be obtained prior to construction.

### **ASSOCIATED CASES**

- Annexation request [A-04-02-07]; approved by City Commission with adoption of Ordinance No. 8181 on October 9, 2007.
- Rezoning request [Z-04-04-07]; from A and V-C to GPI approved by City Commission with adoption of Ordinance No. 8182 on October 9, 2007.
- Rezoning request [Z-08-16-07]; to the FP Overlay District approved by City Commission with adoption of Ordinance No. 8187 on November 6, 2007.
- *Preliminary Plat [PP-04-04-07]; approved by Planning Commission on May 23, 2007; expired.*
- *Special Use Permit [SUP-04-04-07]; approved by City Commission on October 2, 2007; expired.*
- Preliminary Plat [PP-13-00444]; approved by Planning Commission on December 16, 2013.
- Final Plat [PF-14-00010]; administratively approved March 4, 2014; recorded at Register of Deeds Office on March 26, 2014.
- Floodplain Development Permit [FP-14-00160] for off-site road improvements; administratively approved on June 10, 2014.
- Floodplain Development Permit [FP-14-00284] for Phase 1 of the project, placement of fill outside the setbacks; administratively approved on August 8, 2014.
- Variance from Floodplain Management Regulations [B-14-00281] approved by Board of Zoning Appeals on August 7, 2014 to allow placement of fill within the setbacks.
- Floodplain Development Permit [FP-14-00401] for Phase 2 of the project, placement of fill within the required setbacks; administratively approved August 29, 2014.

### **ATTACHMENT**

1. Special Use Permit/Institutional Development Plan



## PLANS AND STUDIES REQUIRED

- *Traffic Study* – The 7 Step TIS provided with the 2007 project was determined to be adequate as the project has been reduced in scale from that proposed in 2007.
- *Downstream Sanitary Sewer Analysis* – A DSSA is not required for this utility.
- *Drainage Study* – Not required for project as the downstream flooding is entirely confined within the limits of the 100-year floodplain as defined by the Federal Flood Insurance Study (FIS) current at the time the development is proposed. (Section 1.7, City Stormwater Management Criteria)
- *Retail Market Study* – Not applicable to project.

## PUBLIC COMMENT

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

## GENERAL INFORMATION

Current Zoning and Land Use: GPI (General Public and Institution Use) and FP (Floodplain Management Regulations Overlay) Districts; *Crop Agriculture*.

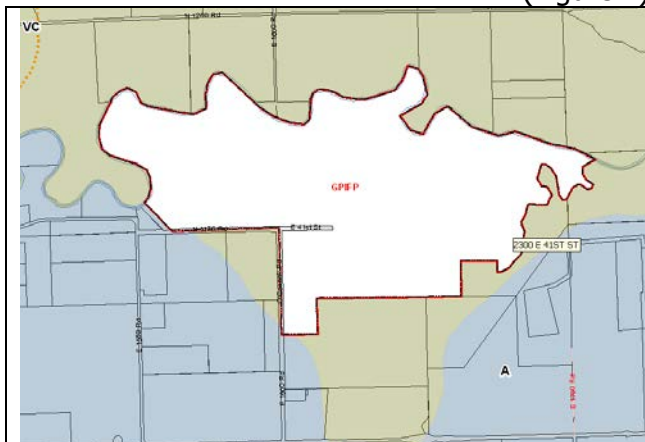
Surrounding Zoning and Land Use: To the west: A (County-Agricultural) and V-C (County-Valley Channel) Districts and the F-F (Floodway Fringe) Overlay District; Agricultural uses and scattered rural residences.

To the south: A (County-Agricultural) and V-C (County-Valley Channel) Districts and the F-F (Floodway Fringe) and F-W (Floodway) Overlay Districts; Agricultural uses and scattered rural residences.

To the east: A (County-Agricultural) and the F-F (Floodway Fringe) and F-W (Floodway) Overlay Districts; Agricultural uses, woodland, and scattered rural residences.

To the north: V-C (County-Valley Channel) and and the F-F (Floodway Fringe) and F-W (Floodway) Overlay Districts; Wakarusa River and agricultural uses.

(Figure 1)



**Figure 1a.** Zoning in area. Zoning Districts outside the City limits are highlighted. (Subject property outlined)



**Figure 1b.** Land use in area. (Subject property is outlined.)



## Summary of Special Use

The proposed wastewater treatment plant will serve the community and accommodate future growth. The treatment plant meets the definition of a *Major Utility* in Section 20-1764 of the Development Code:

*MAJOR UTILITIES: Services and utilities that have substantial impacts. Such uses may be permitted when the public interest supersedes the usual limitations placed on land use and transcends the usual restraints of the district for reasons of necessary location and community-wide interest. Typical uses include: water and wastewater treatment facilities, major water storage facilities, airports, and power generation plants.*

This wastewater plant was recommended in the City Wastewater Masterplan and the project has been underway since 2007 with the annexation and rezoning of the property. A preliminary plat and SUP had been approved in 2007; however, the slowdown in the economy in 2008 put the project on hold and the SUP and plat approvals expired. The facility is proposed in the same location as in the 2007 SUP.

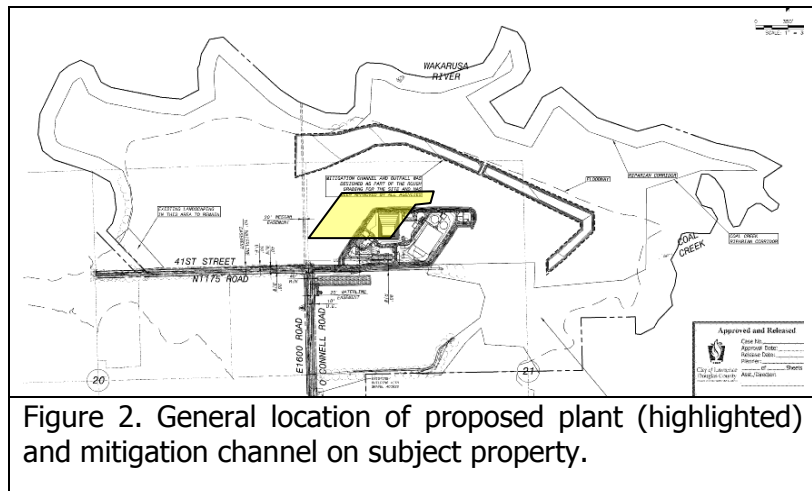
The plant will be located on Lot 1, Wakarusa Wastewater Treatment Plant Addition and will utilize approximately 15 acres of the 530 acres available on the lot. The remainder of the lot will remain in agricultural production. The treatment plant will include an administrative building with meeting rooms. A conference room is being considered and is being shown on the plans as an alternate bid. The presence of floodplain on the property will require local Floodplain Development Permits for the placement of fill as well as the construction of the facility.

### SITE SUMMARY:

	Existing	Proposed
Property Area:	531.29 acres	531.29 acres
Total Impervious Area:	72,530 sq ft (1.67 acres)	507,256 sq ft (11.64 acres)
Total Pervious Area:	529.62 acres	519.65 acres

### Site Plan Review

The subject property contains approximately 531 acres and is located north and east of the intersection of O'Connell Road (extended E 1600 Road) and 41<sup>st</sup> Street (extended N 1175 Road). It is bounded on the north by the Wakarusa River and on the east by Coal Creek. The proposal is to construct a wastewater treatment plant on approximately 15 acres, in the general location shown in Figure 2.

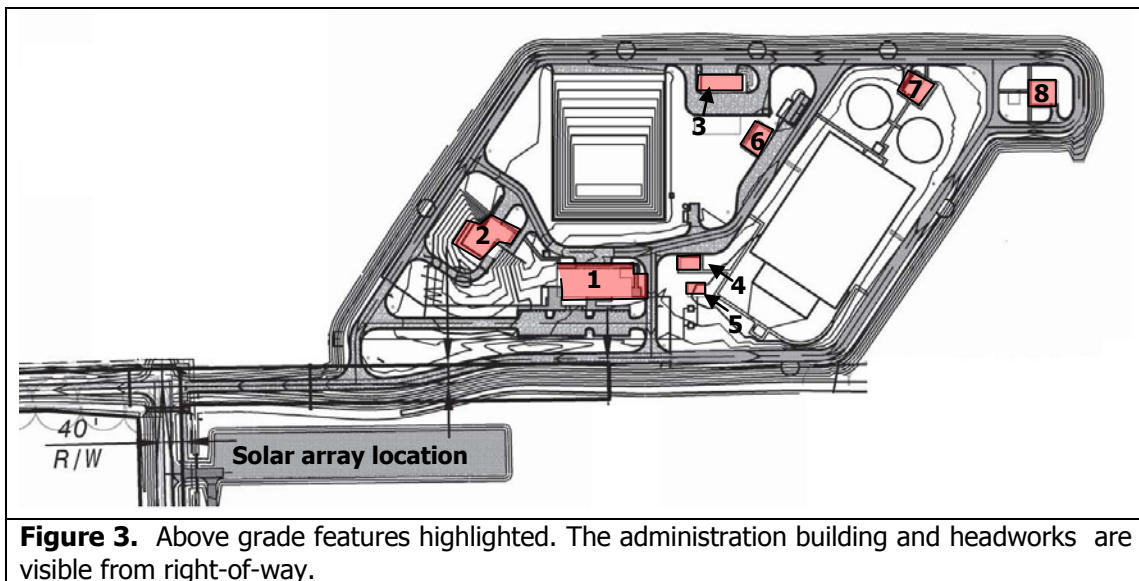


A mitigation channel and outfall is designed to the north of the facility for stormwater management. The project will be developed in phases and the additional area will allow the size of the plant to be increased while still providing an effective buffer.



A wide buffer of open space is planned for periphery of the site. The width of the riparian buffer to be protected along the Wakarusa River and Coal Creek is noted on the plan as 200 ft and 100 ft respectively. A 75' bufferyard is required on all sides of a GPI District per Section 20-1307(2) of the Development Code. The 75 ft bufferyard on the periphery of the site that is not with the riparian corridors should be shown on the plan. Alternative Compliance has been approved for the peripheral bufferyard based on the existing vegetation and the agricultural use in this location. The bufferyard requirement along 41<sup>st</sup> Street interior to the site has been administratively waived due to the fact that the subject property is on both sides of the street.

The treatment plant will include an administrative building with offices and meeting rooms. A solar array is planned south of the facility to provide electricity for portions of the facility. Most of the features associated with the treatment plant will be located at or below grade. The structures that will be above grade are highlighted and numbered in Figure 3. These are the administration building (1), headworks (2), vehicle storage and maintenance (3), chemical storage (4), electrical switchgear (5), solids thickening (6), sludge pumping station (7), and ultra violet disinfection (8).



**Figure 4a.** View from right-of-way at intersection of O'Connell Road (E 1600 Rd extended) and 41<sup>st</sup> Street (N 1175 extended). The headworks is the structure on the left and the administration building on the right.



**Figure 4b.** Example of solar panel array to be located south of the facility, across 41<sup>st</sup> Street.



## **Review and Decision-Making Criteria (20-1306(i))**

### **1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE**

Applicant's Response:

*"Yes. The proposed use complies with all applicable provisions of the Development Code."*

The proposed use, a *Major Utility*, is an allowed use in the GPI (General Public and Institutional Use) District subject to Special Use Permit (SUP) approval. The property is completely encumbered with the Regulatory Floodplain; therefore, a Floodplain Development Permit is required per Section 20-1203 and must be approved prior to the release of building permits. The City selected a site of over 500 acres to allow adequate open space to buffer the use from neighboring properties and to allow room for any plant expansion which may be necessary to accommodate future growth in the city's population. Section 20-1307(c)(2) requires an Institutional Development Plan for sites greater than 10 acres to be approved by a Special Use Permit, which provides for a public hearing for the item. The Institutional Development Plan serves as the master plan for the project, so future phases are shown on the plan. The future improvements shown on the IDP will require approval through the administrative site plan process.

#### **ACCESS**

The Code recommends that uses in the GPI District be located along collector or arterial streets. This is appropriate for most of the permitted uses in the GPI District, such as recreation centers, schools, and public buildings, but is not appropriate for this particular use. A wastewater treatment plant will have less public traffic than other uses permitted in the GPI District so access to a collector or arterial road is not necessary. In addition, the large area being provided as a buffer requires a relatively isolated location. Given these factors, the location of the facility on a local street is appropriate.

E 1600 and N 1175 Roads were previously designated as Minimum Maintenance Roads. Per the County Access Management Standards, Minimum Maintenance Roads typically provide access for low speed agricultural vehicles where a minimum maintenance level of service will not have a significant impact on local traffic circulation. As these roads will provide the primary access to the site, they are no longer suited for minimal maintenance. The Board of County Commissioners rescinded the Minimum Maintenance designation on January 22, 2014 with adoption of Resolution No. 14-03.

Improvements to these roads are necessary to provide suitable access for the traffic that will be generated by the construction activities and the wastewater plant. E 1600 Road will be improved from the intersection of N 1175 Road and E 1600 Road south to 1100 Road. N 1175 Road will be improved from the intersection of N 1175 Road and E 1600 Road west to E 1500 Road. The improvements include fill, grading, and surfacing work. Drainage ditches and culverts will also be constructed as a part of the project.

#### **PARKING**

Per Section 20-902 of the Development Code, a minimum of one off-street parking space is required for each 1.5 employees with the *Major Utility* use. The facility will employ 25 employees; therefore, 17 parking spaces are required. The plan notes that 20 parking spaces with 1 ADA accessible space would be provided. 3 stalls are provided for the fleet vehicles.



As the IDP serves as the master plan, an alternate parking summary is included on the plan. If the administration building contains an accessory conference room, parking for that use would be required at a rate of 1 stall per 4 seats. The conference room would have 145 seats; therefore 37 stalls would be required. A total of 57 parking spaces (including 3 ADA) and 6 bicycle spaces would be required and are provided on the plan. The plan notes that the size of the parking lot will vary depending on whether or not the accessory conference room is included.

The parking provided on the plan complies with the Development Code.

#### LIGHTING

The plan notes that full cut-off fixtures will be used but the lighting locations will be determined when the utilities have been routed. A photometric plan will need to be submitted to the Planning Office for review and approval prior to the release of the SUP plan for building permits.

#### SETBACKS/BUFFERYARDS

The following setbacks are required in the GPI District:

- Where abutting street right-of-way: 40 ft
- Where abutting residential district: 40 ft
- Where abutting non-residential district: 15 ft

The property was an island annexation and is surrounded by property in the unincorporated portion of the County that is zoned for agricultural uses. This area is not located within the boundaries of any adopted long range plan; therefore, future recommended land uses have not been identified. The administration building is located approximately 120 ft from the right-of-way for 41<sup>st</sup> Street and the remaining area being developed at this time is located within the interior of the site and is not within the required setbacks.

Section 20-1307(c)(2) requires a Type 3 Bufferyard along the perimeter of the property. Alternative compliance has been approved from this requirement due to the size of the property, the agricultural use of the property, and the natural vegetation occurring on the site. A bufferyard is not required along the right-of-way for 41<sup>st</sup> Street within the property as the lot is located on both sides of this dead-end street. This waiver should be noted on the plan.

#### SIDEWALKS

Per Section 20-1307(c)(2), sidewalks are required on all street frontages as part of the first phase of a project in the GPI District. An administrative waiver has been granted from this requirement based on the fact that the property is surrounded by land in the unincorporated portion of the County and no connecting sidewalks are available. When the surrounding properties are developed to urban standards, sidewalks shall be provided along the street right-of-way. This is noted on the plan.

#### LANDSCAPING AND SCREENING

The required street trees will be clustered near the intersection of 41<sup>st</sup> Street and O'Connell Drive/E 1600 Road. Native grasses and plants are being used as much as possible for the landscaping materials.

#### Interior Parking Lot

The Code requires 40 sq ft of landscape area for each parking space and 1 tree and 3 shrubs per 10 parking spaces. The plan shows the layout for the alternate proposal, with the conference room, as it would be the most intensive and notes the required landscaping for both the



alternate proposal (with conference room) and the base proposal (without conference room). The plan notes that if the base proposal is chosen the landscaping provided on the plan would be reduced to that which is required. The amount of landscaping provided is compliant with Code; however, the City horticulture manager had some recommendations for revised species and locations. The plan should be revised to incorporate her recommendations.

#### Perimeter Parking Lot

Per Section 20-1004 of the Development Code, parking lots shall be screened from view of street rights-of-way with a minimum of 1 tree per 25 ft of parking lot frontage and a masonry wall, fence, or continuous hedge. A portion of the parking lot fronts on to the 41<sup>st</sup> Street right-of-way. As this right-of-way is located within the interior of the site and functions more as a drive than a street; perimeter parking lot landscaping is required but may not provide a public purpose. In accordance with Section 20-1004, the Planning Director waived the perimeter parking lot landscaping requirement following a determination that the overall spirit and intent of this Development Code is not undermined by granting the waiver. This should be noted on the plan.

**Staff Finding** – The proposed use, as conditioned, is compliant with the provisions of the Development Code with the following administrative approvals: a) waiver from the Type 3 Bufferyard requirement along 41<sup>st</sup> Street interior to the site, b) waiver from the requirement to install sidewalks on both sides of the adjacent streets until such time as the surrounding properties are developed to urban standards, c) waiver from the requirement to install perimeter parking lot landscaping along 41<sup>st</sup> Street and d) approval of Alternative Compliance for the Type 3 Bufferyard landscaping along the perimeter of the property.

## **2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS**

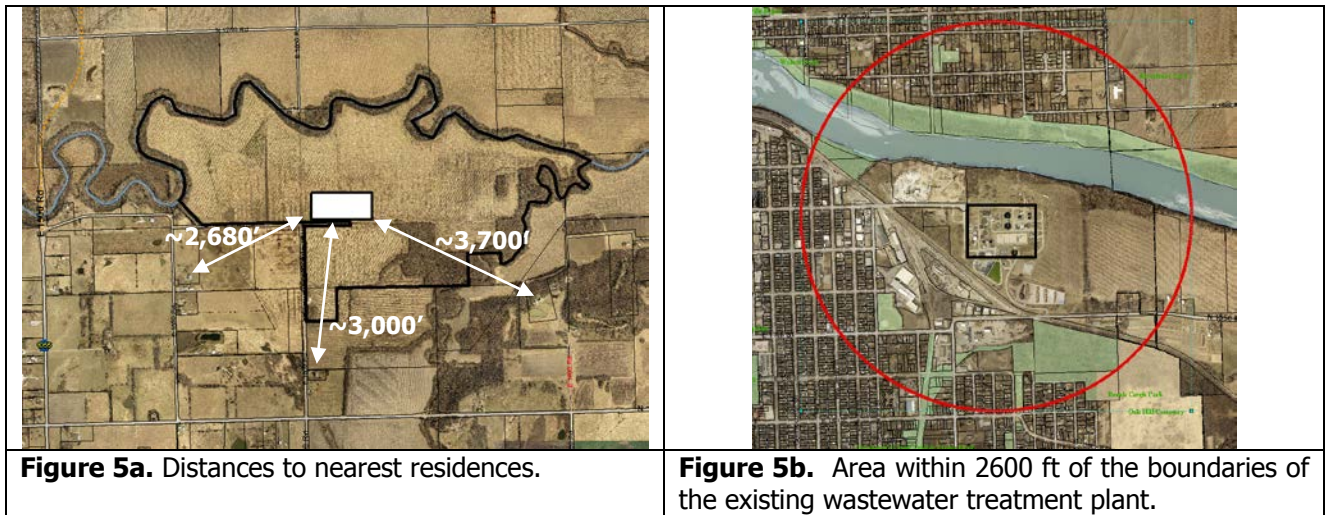
Applicant's Response:

*"Yes. The proposed facility is compatible with adjacent uses, which are primarily agricultural. The design of the Wakarusa Wastewater Treatment Plant will allow for significant buffers surrounding the operating facility. Therefore, impacts to adjacent owners will be minimal."*

The selected property is located in Service Area 4 of the Urban Growth Area. It is bounded on the north and east by the Wakarusa River and Coal Creek. Currently the uses surrounding the property are agricultural. The proposed use is not one that would typically be compatible with residential development. The selection of an isolated site and the inclusion of adequate land area to allow on-site buffering of the use will allow it to be compatible with the adjacent uses currently in place and also with development in the future.

The use is not expected to generate significant traffic. The lighting will be full cut-off fixtures and a photometric plan will be provided to insure the lighting is confined to the site. There is occasionally some odor associated with this use; but the existing residences in the area are located far enough from the facility that it should not affect them. Figure 5 shows the distance to the nearest residence from the proposed SUP and shows the land uses that are within that distance from the existing wastewater treatment plant. The proposed use should have no impact on the existing residences, given their separation from the facility.





**Staff Finding** – The proposed use, as planned, is compatible with adjacent land uses.

**3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**

Applicant's Response:

*"No. In fact property values are likely to rise due to the potential development that may occur on these properties after completion of the wastewater treatment plant."*

The surrounding areas are agricultural lands, with scattered rural residences. The large size of the site and its relative isolation should minimize its impact on surrounding properties. The roads used for access to the site will be improved to standards that will accommodate the anticipated traffic. The plant may provide additional sewer capacity so that additional development may occur to the south of Lawrence; however, urban development would be tied to connection to City services which could occur only following annexation into the city.

**Staff Finding** – The location of the plant should provide adequate buffering to minimize any negative impacts on the neighborhood. No diminution of property values is anticipated.

**4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT**

This area is not contiguous to other City properties so City utilities do not currently exist in this area. The subject property is being developed to provide utility services for future development and to increase capacity for the City of Lawrence. The extension of water lines to the plant will be determined during the design phase of the project. Sanitary sewer mains are being planned to direct flow to the facility.

**Staff Finding** – The subject property will provide wastewater utility facilities for the surrounding area when it is incorporated and the City of Lawrence. City water will be available to the surrounding areas as they annex, as water lines will be extended to serve the facility. Adequate services will be available to serve the subject property and services will become



available to surrounding development. There should be no impact on the current utility services in the area.

**5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

**Staff Finding** – This is a phased project and site plans will be required for each phase. The site plan will function as the enforcement document to assure that maintenance and use of the property is consistent with the approval.

**6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**

Applicant's Response:

*"No. KDHE will regulate the construction and effluent of the facility to ensure that the surrounding environment is not adversely impacted."*

The proposed facility will have positive environmental impacts and will improve the quality of effluent water due to year-round nutrient removal. The proposed Wakarusa Wastewater Treatment Plant (WWTP) is located within the Wakarusa and Coal Creek floodplain. To protect the WWTP from future flooding, the site is being raised to approximately the 500-year flood level. A flood mitigation channel is being designed and constructed to meet the City's no-rise requirement. A NPDES (National Pollution Discharge Elimination System) Permit has been obtained from the Kansas Department of Health and Environment (KDHE) for the Wakarusa WWTP. There are a number of other regulatory/permitting agencies that have been involved with this project. Approvals have been or will be obtained from the following permitting agencies: KDHE, USACE (US Army Corps of Engineers), KDWR (Kansas Division of Water Resources), KBS (Kansas Biological Survey), KSHS (Kansas Historical Society), KDWPT (Kansas Department of Wildlife, Parks and Tourism, and the City and County Floodplain Administrators.

**Staff Finding** – The proposed use, with the protection measures required by Federal, State and Local governments, should not cause significant adverse impacts on the natural environment.

**7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO WHAT THAT TIME PERIOD SHOULD BE.**

Time limits are established on Special Use Permits to permit a periodic review to determine if the use remains compliant with the area or if a rezoning would be appropriate. A wastewater treatment plan is part of necessary infrastructure whose life span will be determined by demand and operational characteristics. It would not be appropriate to place a time limit on this use.

**Staff Finding** – The proposed use is a major utility which is being planned to serve future development in the area and within the City of Lawrence. Because of the nature and magnitude of the project it would not be appropriate to place a time limit on the proposed use.

**Conclusion**

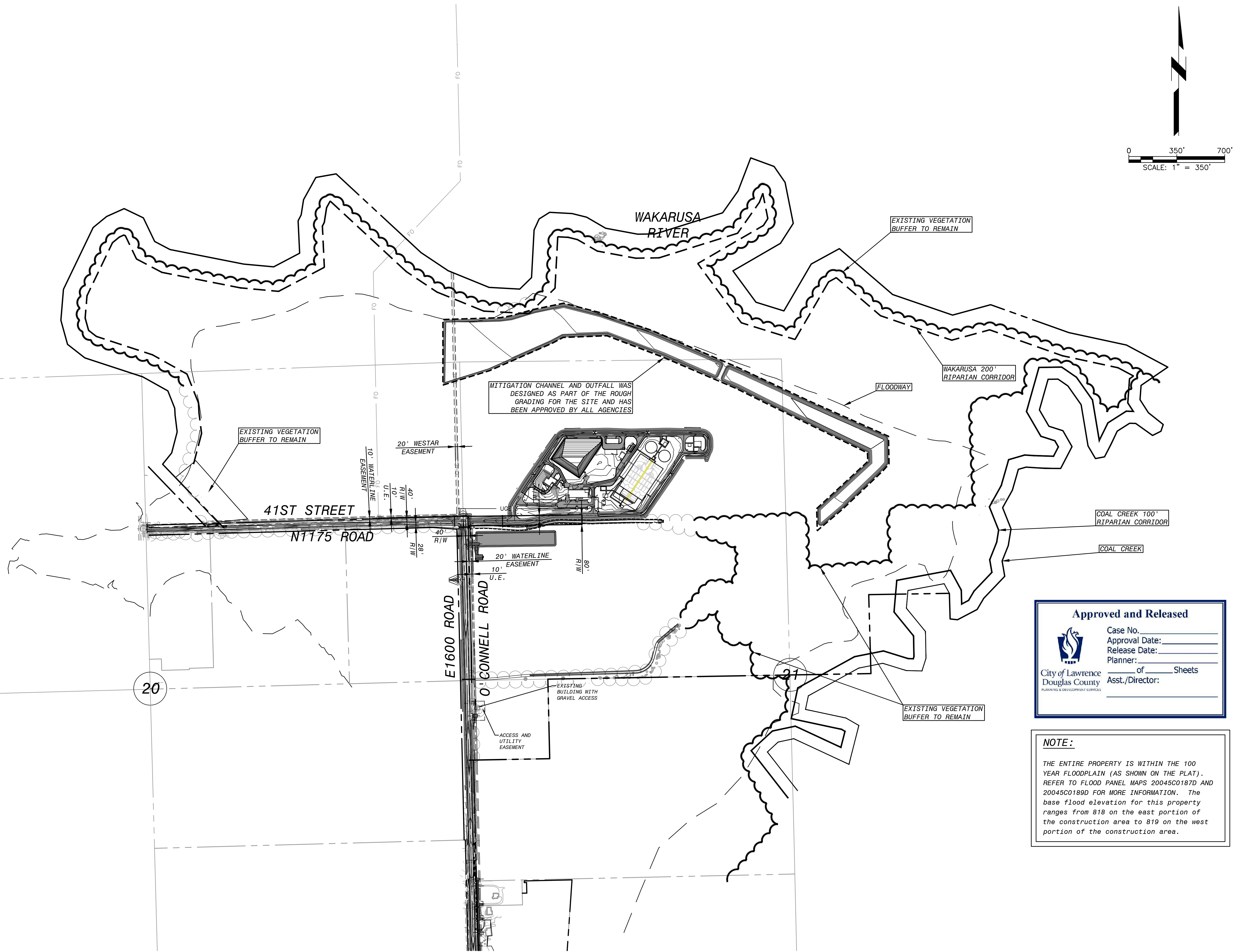
The proposed wastewater treatment plant will benefit the community by increasing the sanitary sewer capacity which will accommodate growth within the City. The use, as planned, is compatible with this location. Staff recommends approval of the Special Use Permit as conditioned.







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**Approved and Released**

City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

Case No. \_\_\_\_\_  
Approval Date: \_\_\_\_\_  
Release Date: \_\_\_\_\_  
Planner: \_\_\_\_\_ of \_\_\_\_\_ Sheets  
Asst./Director: \_\_\_\_\_

**NOTE:**

THE ENTIRE PROPERTY IS WITHIN THE 100 YEAR FLOODPLAIN (AS SHOWN ON THE PLAT). REFER TO FLOOD PANEL MAPS 20045C0187D AND 20045C0189D FOR MORE INFORMATION. The base flood elevation for this property ranges from 818 on the east portion of the construction area to 819 on the west portion of the construction area.

DESIGNED: CBC		INSTITUTIONAL DEVELOPMENT PLAN PLANNING		2	CBC DRA B7A
DETAILED: CBC		INSTITUTIONAL DEVELOPMENT PLAN PLANNING		1	CBC DRA B7A
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APPROVED: BTA		DATE		9/15/14	8/25/14
DATE: AUGUST 2014		PW:		SW:	YREF1:
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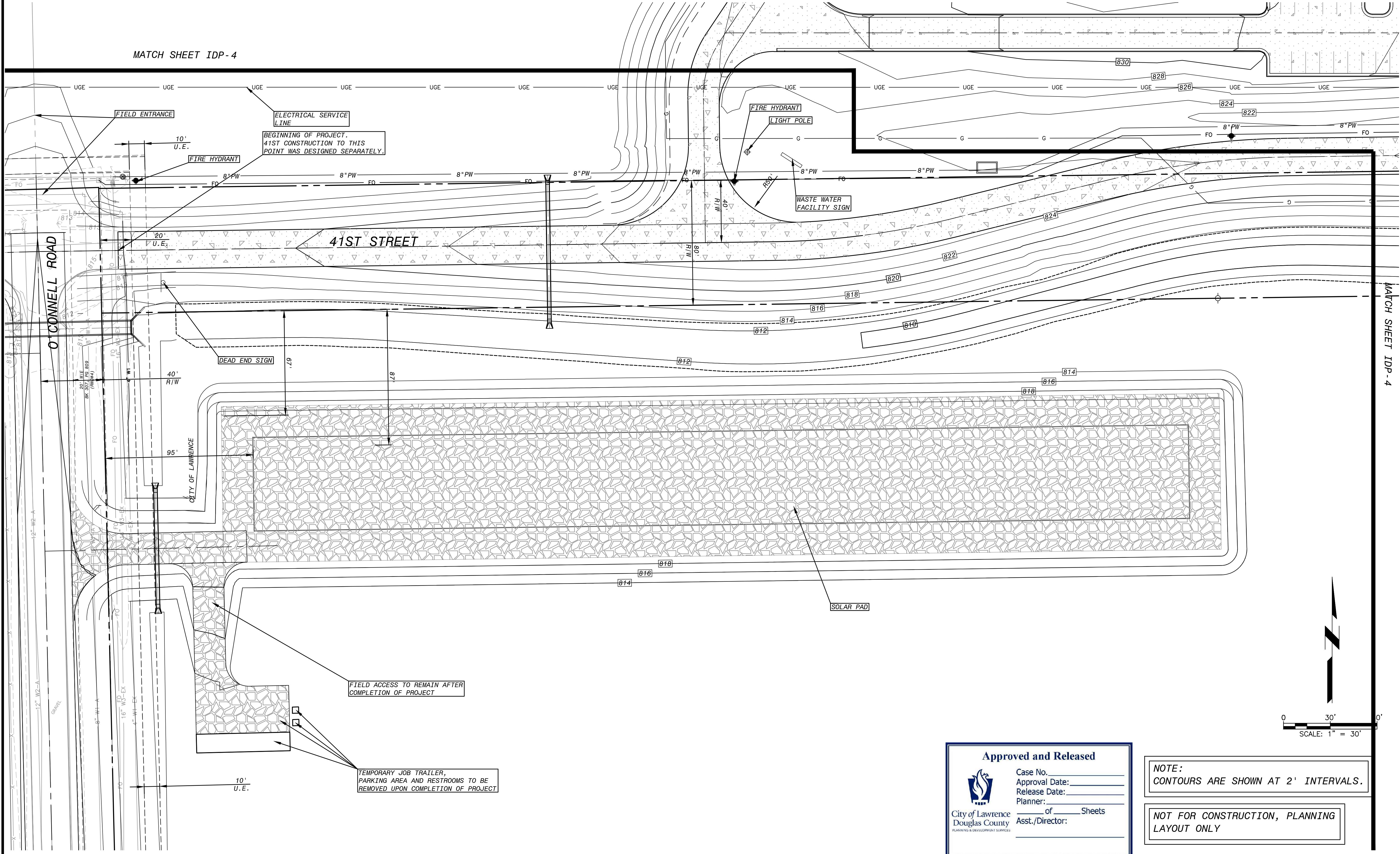
**BARTLETT & WEST**  
W.O. : 18365.002

**CITY OF LAWRENCE, KANSAS**

**WAKARUSA WASTEWATER TREATMENT PLANT**

PROPERTY BOUNDARY





MATCH SHEET IDP-4

MATCH SHEET IDP-4

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City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

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CHECKED: DRA	
APPROVED: BTA	
DATE: AUGUST 2014	
PROJECT NO. 180984	
IDP-3 SHEET 3 OF 10	

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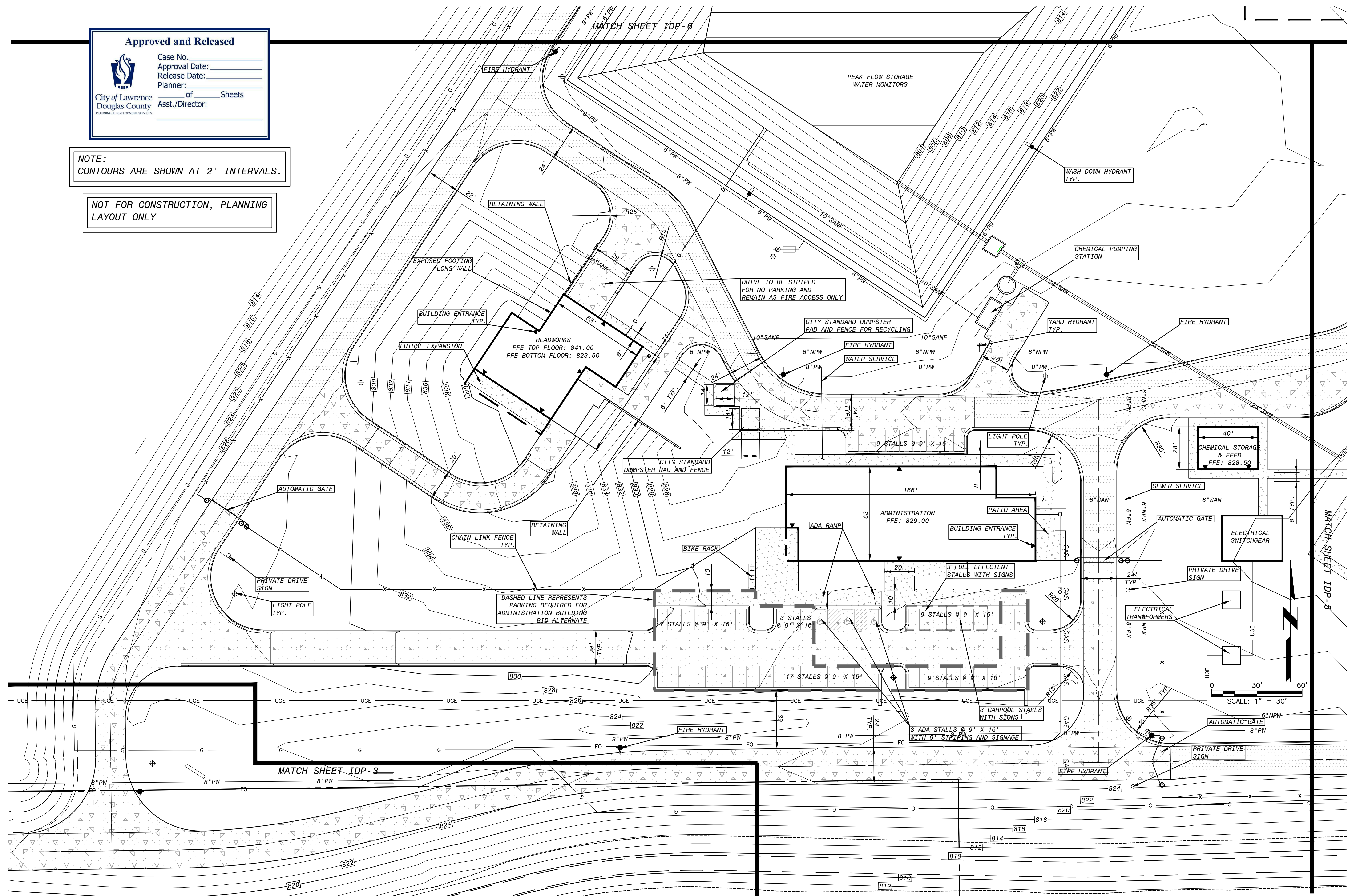
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**CITY OF LAWRENCE, KANSAS**  
**WAKARUSA WASTEWATER TREATMENT PLANT**  
**SITE LAYOUT**



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City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICESCase No. \_\_\_\_\_  
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Planner: \_\_\_\_\_ of \_\_\_\_\_ Sheets  
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## INSTITUTIONAL DEVELOPMENT PLAN

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WAKARUSA WASTEWATER TREATMENT PLANT  
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4 OF 10BARTLETT & WEST  
W.O. : 18365.002

9/15/14	INSTITUTIONAL DEVELOPMENT PLAN PLANNING	2	CBC DRA BTA
8/25/14	INSTITUTIONAL DEVELOPMENT PLAN PLANNING	1	CBC DRA BTA
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# INSTITUTIONAL DEVELOPMENT PLAN

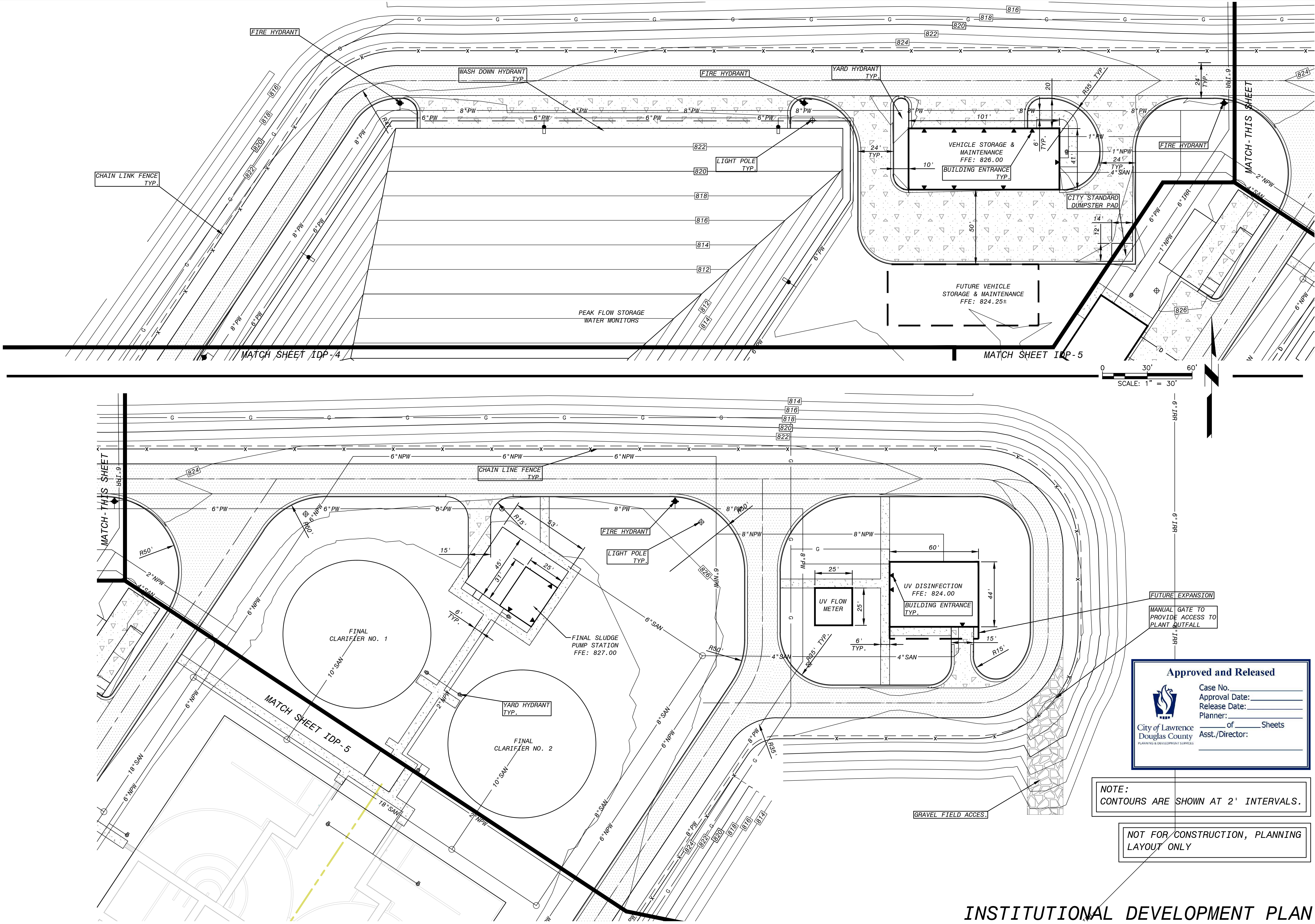
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 DATE: AUGUST 2014

IF THIS BAR DOES NOT  
 MEASURE 1" THEN DRAWING  
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PROJECT NO.  
 180984

**IDP - 5**  
 SHEET  
 5 OF 10







City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

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Asst./Director: \_\_\_\_\_

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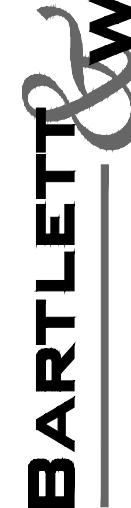
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DATE: AUGUST 2014	
PROJECT NO. 180984	
IDP-6 SHEET 6 OF 10	

CITY OF LAWRENCE, KANSAS	
WAKARUSA WASTEWATER TREATMENT PLANT	
SITE LAYOUT	



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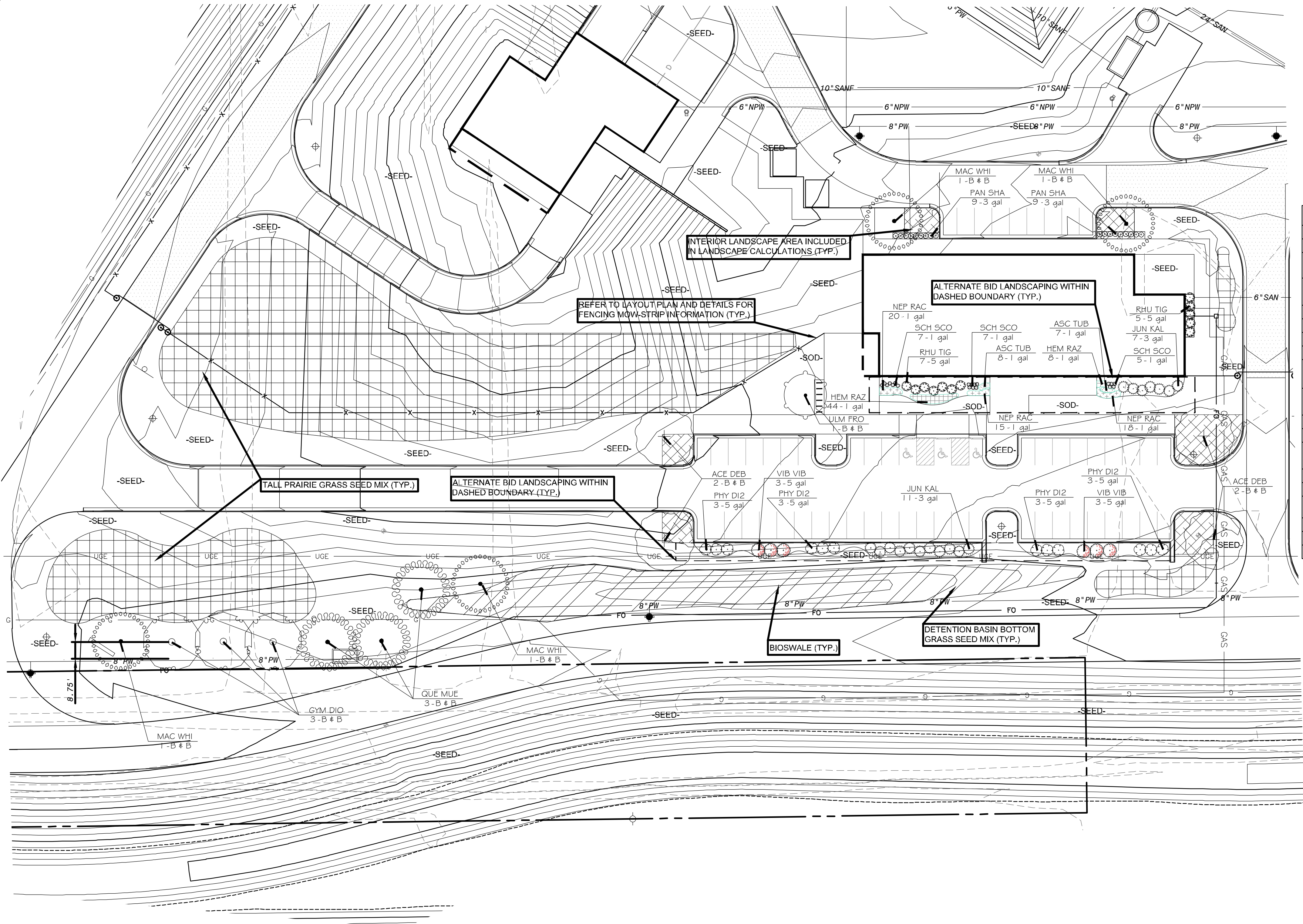


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W.O. : 18365.002

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LANDSCAPE CALCULATIONS

<b>STREET TREES</b> 41ST STREET : 350 LF STREET FRONTAGE/40		= 8 TREES REQUIRED = 8 TREES PROVIDED
<b>ALTERNATE BID - INTERIOR PARKING LOT LANDSCAPING</b> 57 PARKING STALLS / 10		= 6 TREES REQUIRED = 6 TREES PROVIDED
		= 18 SHRUBS REQUIRED = 18 SHRUBS PROVIDED
40 SF LANDSCAPE AREA X 57 PARKING SPACES		= 2,280 SF LANDSCAPE AREA REQUIRED = 2,280 SF LANDSCAPE AREA PROVIDED
<b>BASE BID - INTERIOR PARKING LOT LANDSCAPING</b> 20 PARKING STALLS / 10		= 2 TREES REQUIRED = 6 SHRUBS REQUIRED
40 SF LANDSCAPE AREA X 20 PARKING SPACES		= 800 SF LANDSCAPE AREA REQUIRED

\*\* ALTERNATE BID REPRESENTED ON PLANS. IF BASE BID IS CHOSEN LANDSCAPING TO BE REDUCED.

PLANT SCHEDULE

TREES	QTY	BOTANICAL NAME / COMMON NAME	CONT	CAL
ACE DEB	4	Acer platanoides 'Deborah' / Deborah Maple	B & B	2.5" Cal
GYM DIO	3	Gymnocladus dioica 'Espresso' / Kentucky Coffeetree	B & B	2.5" Cal
MAC WHI	4	Maclura pomifera 'White Shield' / White Shield Osage Orange	B & B	2.5" Cal
QUE MUE	3	Quercus muehlenbergii / Chinkapin Oak	B & B	2.5" Cal
ULM FRO	1	Ulmus x Frontier / Frontier Elm	B & B	2.5" Cal

SHRUBS	QTY	BOTANICAL NAME / COMMON NAME	COND.	SIZE
JUN KAL	18	Juniperus x pfitzeriana 'Kallay's Compact' / Juniper	CONT.	3 gal
PAN SHA	18	Panicum virgatum 'Shenendoah' / Burgundy Switch Grass	CONT.	3 gal
PHY DI2	12	Physocarpus opulifolius 'Diablo' / Ninebark	CONT.	5 gal
RHY TIG	12	Rhus typhina 'Tiger Eyes' / Tiger Eyes Sumac	CONT.	5 gal
SCH SCO	19	Schizachyrium scoparium 'The Blues' / The Blues Little Bluestem	CONT.	1 gal
VIB VIB	6	Viburnum x burkwoodii 'Mohawk' / Viburnum	CONT.	5 gal

SHRUB AREAS	QTY	BOTANICAL NAME / COMMON NAME	COND.	SIZE	SPACING
ASC TUB	15	Asclepias tuberosa / Butterfly Milkweed	CONT.	1 gal	18" o.c.
HEM RAZ	52	Heemerocallis x 'Razzle Dazzle' / Daylily	CONT.	1 gal	18" o.c.
NEP RAC	53	Nepeta racemosa 'Walker's Low' / Catmint	CONT.	1 gal	18" o.c.

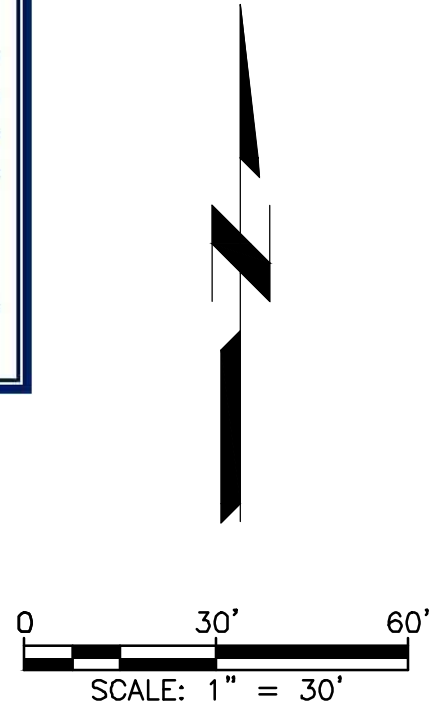
NOTE: LANDSCAPING SHALL NOT BE PLACED WITHIN UTILITY EASEMENTS, WITHIN 8 FEET OF THE PUBLIC WATERLINE, OR WITHIN 8 FEET OF THE PUBLIC SANITARY SEWER (TYP.).


NOTE: VERIFY PROTOCOL FOR MULCH INSTALLATION WITH OWNER

Approved and Released



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Approval Date: \_\_\_\_\_  
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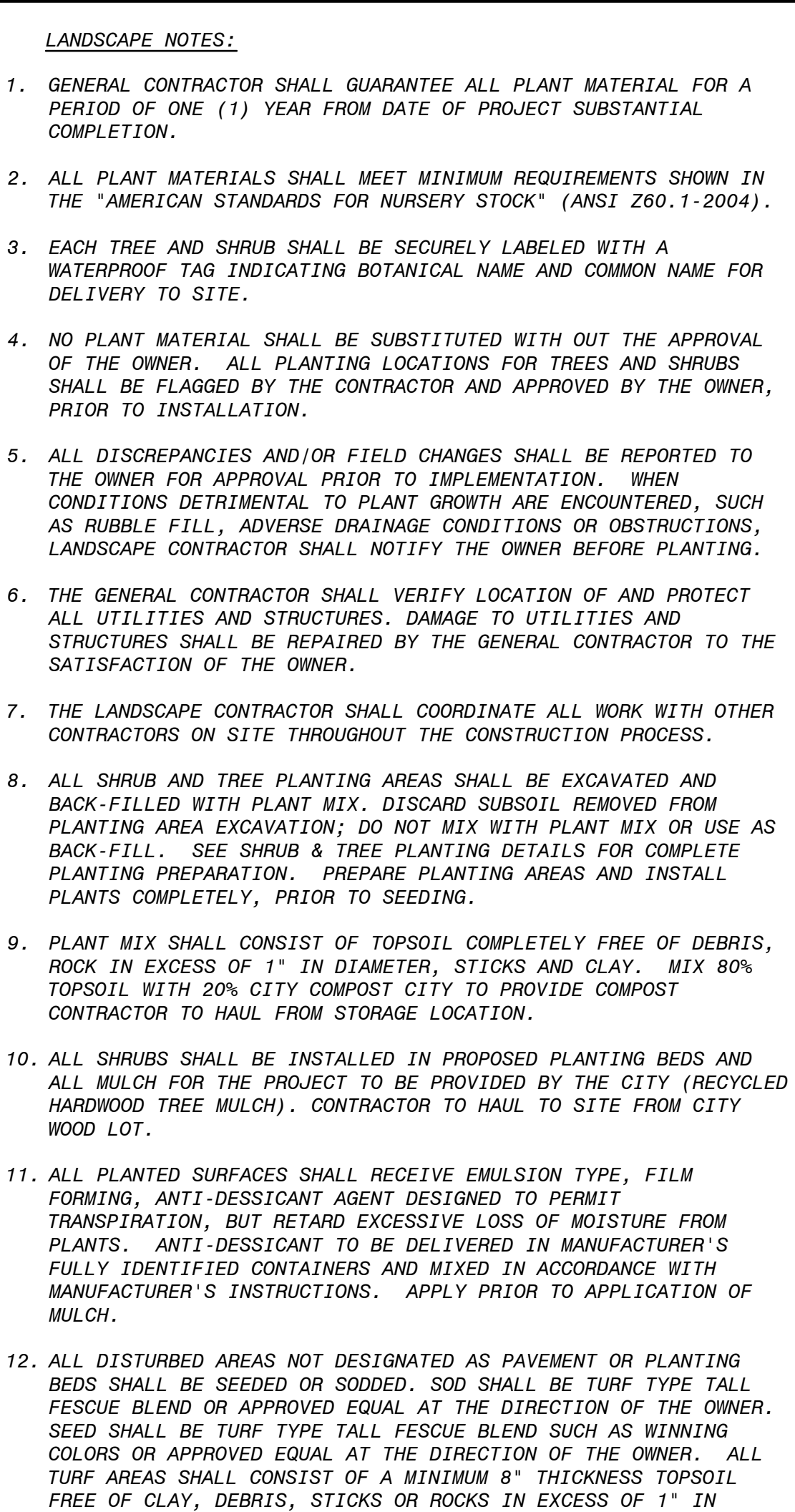
CITY OF LAWRENCE, KANSAS  
WAKARUSA WASTEWATER TREATMENT PLANT  
LANDSCAPE PLAN

DESIGNED: KES  
CHECKED: KES  
CHECKED: DRA  
APPROVED: BTA  
DATE: AUGUST 2014  
PROJECT NO.  
180984  
IDP - 7  
SHEET  
7 OF 10

**BARTLETT & WEST**  
W. O. : 18365.002

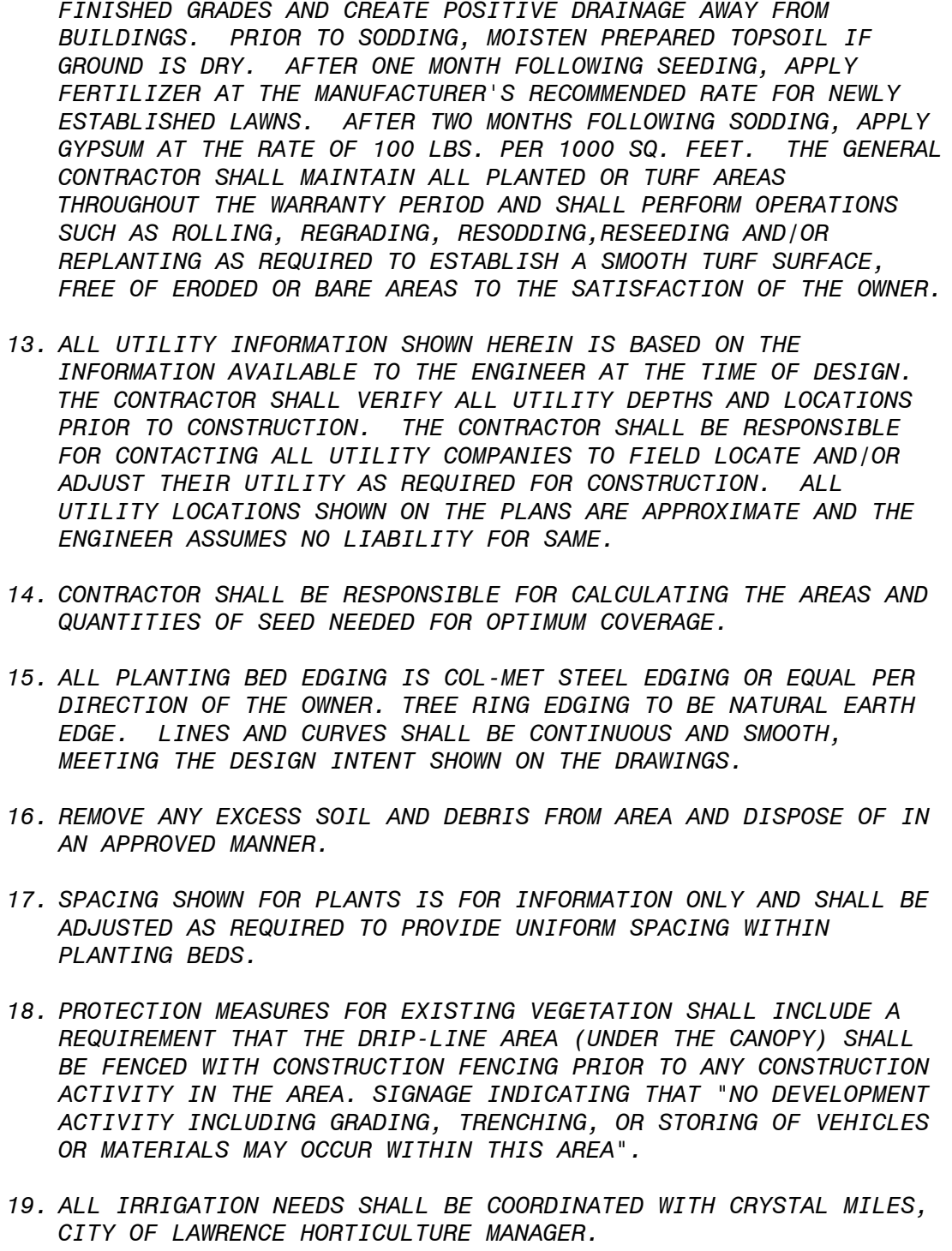
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9/15/14	INSTITUTIONAL DEVELOPMENT PLAN PLANNING
8/25/14	INSTITUTIONAL DEVELOPMENT PLAN PLANNING
DATE	REVISONS AND RECORD OF ISSUE
SW:	XREF1:
SAVED:	XREF2:
PLOTTED:	XREF3:
USER: CBC000988	DWG VER:
	XREF4:





DETENTION BASIN SLOPES SEED MIX: 20 LBS/AC		
GRASSES: 17 LBS/AC		
	Big Bluestem	Andropogon gerardii
	Little Bluestem	Schizachyrium scoparium
	Side Oats Grama	Bouteloua curtipendula
	Switchgrass	Panicum virgatum
	Canada Wild Rye	Elymus canadensis
FORBS: 3 LBS/ACRE		
	Purple Prairie Clover	Dalea purpurea
	Gray Headed Coneflower	Ratibida pinnata
DETENTION BASIN BOTTOM SEED MIX: 20 LBS/AC		
GRASSES: 17 LBS/AC		
	Switchgrass	Panicum virgatum
	Virginia Wild Rye	Elymus virginicus
	Indian Grass	Sorghastrum nutans
	Prairie Cordgrass	Spartina pectinata
	Big Bluestem	Andropogon gerardii
FORBS: 3 LBS/AC		
	New England Aster	Symphyotrichum novae-angliae
	Bur Marigold	Bidens aristosa

<h2 style="margin: 0;">Approved and Released</h2>	
 <p style="margin: 10px 0;"><b>City of Lawrence Douglas County</b></p> <p style="margin: 0 0 10px 0;"><small>PLANNING &amp; DEVELOPMENT SERVICES</small></p>	Case No.: _____ Approval Date: _____ Release Date: _____ Planner: _____ _____ of _____ Sheets Asst./Director: _____ _____



<div><div><b>CITY OF LAWRENCE, KANSAS</b></div><div><b>WAKARUSA WASTEWATER TREATMENT PLANT</b></div><div><b>LANDSCAPING PLAN</b></div></div>		<div><div><b>BLACK &amp; VEATCH</b> Building a world of difference® Black &amp; Veatch Corporation Kansas City, Missouri</div><div><b>BARTLETT &amp; WEST</b>  W.O. : 1B365.002</div></div>	<table><tr><td>DESIGNED:</td><td>KES</td></tr><tr><td>DETAILED:</td><td>KES</td></tr><tr><td>CHECKED:</td><td>DRA</td></tr><tr><td>APPROVED:</td><td>BJA</td></tr><tr><td>DATE:</td><td>AUGUST 2014</td></tr></table> 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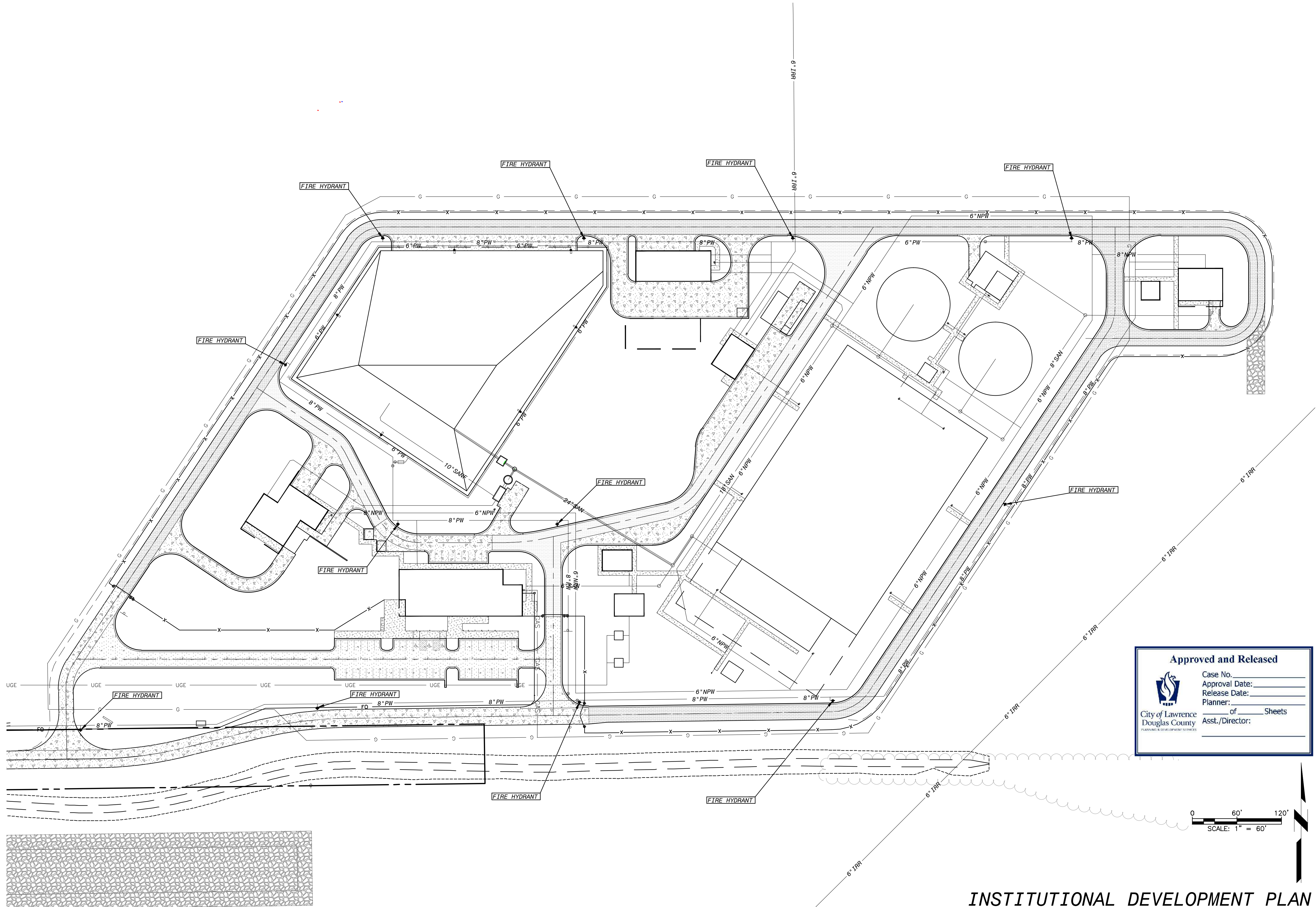






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City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

**Approved and Released**

Case No. \_\_\_\_\_  
Approval Date: \_\_\_\_\_  
Release Date: \_\_\_\_\_  
Planner: \_\_\_\_\_ of \_\_\_\_\_ Sheets  
Asst./Director: \_\_\_\_\_

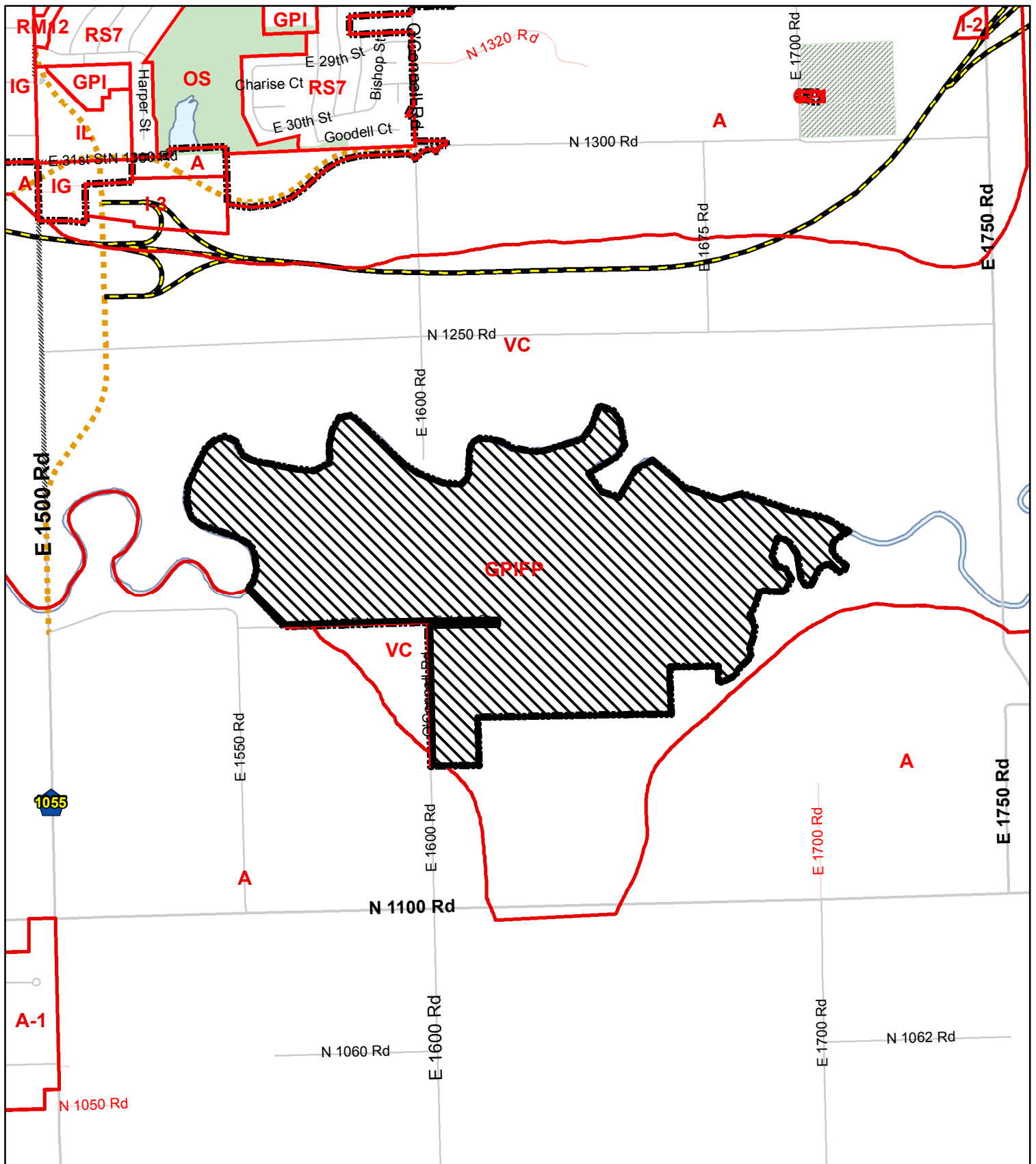
**BLACK & VEATCH**  
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Black & Veatch Corporation  
Kansas City, Missouri

**BARTLETT & WEST**  
W.O. : 18365.002

CITY OF LAWRENCE, KANSAS  
WAKARUSA WASTEWATER TREATMENT PLANT  
FIRE HYDRANT LOCATION


DESIGNED: CBOC
DETAILED: CBOC
CHECKED: BTA
APPROVED: BTA
DATE: AUGUST 2014
PROJECT NO. 180984
IDP - 10 SHEET 10 OF 10





## SUP-14-00262: Special Use Permit for Wakarusa Wastewater Treatment Plant Located at 2300 West 41st Street

Lawrence-Douglas County Planning Office  
September 2014

 Subject Property





**PLANNING COMMISSION REPORT**  
**Regular Agenda –Public Hearing Item**

PC Staff Report  
9/22/14

**ITEM NO. 3      CONDITIONAL USE PERMIT FOR CENTRAL SOYFOODS LLC; 1168 E 1500 RD (MKM)**

**CUP-14-00304:** Consider a Conditional Use Permit for Central Soyfoods LLC, a Value Added Agriculture use, at 1168 E 1500 Rd. Submitted by David Millstein, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the Conditional Use Permit, CUP-14-00304, for *Value Added Agriculture* subject to the following conditions:

1. The following standards shall apply to the use:
  - a. A maximum of 4 full-time equivalent employees are permitted.
  - b. The structure in which the use is conducted may be up to 3,600 sq ft.
  - c. No equipment that creates noise, vibration, electrical interference, smoke or particulate matter emission perceptible beyond the property lines or in excess of EPA standards is allowed.
  - d. All equipment and materials used in the business must be stored indoors.
  - e. No retail sales of products shall occur on the site.
  - f. Deliveries from trucks with a GVWR (Gross Vehicle Weight Rating) of more than 5 tons are limited to no more than 2 per week. This does not apply to incidental deliveries such as Fed Ex and UPS.
2. Provision of a revised CUP plan with the following changes:
  - a. General CUP notes added per Planning approval.
  - b. Parking area expanded to 5 parking spaces, with one being ADA accessible, and dimensions of the parking area noted on the plan.
  - c. Evergreen trees added to screen the south side of the parking area.
  - d. Location of holding pond/lagoon shown on the plan.
  - e. Standards listed in Condition No. 1 noted on the plan.
  - f. Addition of the following note: *"The Conditional Use Permit will be administratively reviewed by the Zoning and Codes Office in 5 years and will expire in 10 years from the approval date noted on the plan unless an extension is approved by the County Commission prior to that date."*

**Reason for Request:** *"We are making this request to modify the existing structure at this proposed location to house a new facility for Central Soyfoods LLC, a producer of organic tofu in Lawrence since 1978. The current facility is located at 710 E 22<sup>nd</sup> Street and has proven to be difficult to maintain the sanitary standards necessary for continued use."*

**KEY POINTS**

- The subject property is located on and takes access from E 1500 Road, which is classified as a Principal Arterial in the Douglas County Access Management Road Classification Map.
- The property is located within the Urban Growth Area of the City of Lawrence.

**ATTACHMENTS**

- A --CUP Plans
- B --Public Communications



### **ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Approval of the Conditional Use by Board of County Commissioners.
- Applicant shall obtain a permit for the Conditional Use from the Zoning and Codes Office prior to commencing the use.
- Applicant shall obtain a building permit from the Zoning and Codes Office for the conversion of the residence to a soybean processing facility prior to construction.

### **PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- The owner of the adjacent property to the south visited the planning office to discuss the project and expressed concern with possible impacts it could have on her property and property value.
- Email received from Wayne and Nancy Othick, property owners in the area, which expressed concern that allowing the use could lead to other types of factories or businesses in the area. They were also concerned with the possibility that the business might grow larger than currently proposed and that a lagoon for wastewater might contaminate the ground water.
- Phone call from Linda Long discussing possible impacts and conditions that could be applied.
- Email and phone calls from Michael Manley, property owner in the area, expressing opposition to the proposal.

### **GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural) District; vacant residence.

Surrounding Zoning and Land Use: A (Agricultural) District in all directions;  
V-C (Valley Channel), F-F (Floodway Fringe Overlay), and F-W (Floodway Overlay) Districts to the north;  
Surrounding land uses include agriculture, rural residences, the Wakarusa River, and woodlands.  
(Figure 1)

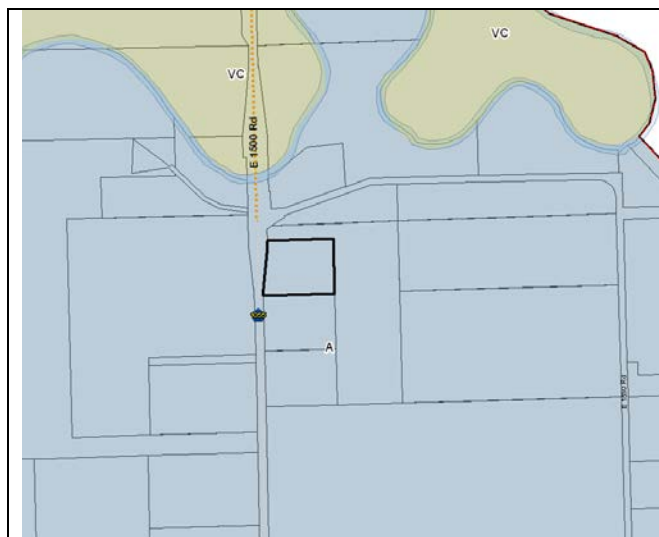


Figure 1a: Zoning of the area. Subject property is outlined.



Figure 1b: Regulatory Floodplain in the area. The dark area is the regulatory floodway, the lighter colored area is the regulatory floodway fringe.





Figure 1c: Land use in the area.

### Site Summary

Subject Property:	Approximately 5 acres
Existing structure:	1,756 sq ft
Proposed structure:	2,812 sq ft
Bean bin	6 ft x 14 ft: ~320 sq ft (500 bushel capacity)

### Summary of Request

The Conditional Use Permit is requested to accommodate a *Value Added Agricultural Use* on the subject property. The proposed use, a soybean processing facility, meets the definition of *Value Added Agriculture* provided in Section 12-319-7.35 of the County Zoning Regulations:

*"A business that economically adds value to an agricultural product as a result of a change in the physical state of an agricultural commodity that is not produced on the site, by manufacturing value-added products for end users instead of producing only raw commodities. Value-added products may include:*

- a. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).*
- b. The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system)."*

The proposed use, processing soybeans into tofu and tempeh, is a change in the physical state of the product and would fit example 'a' of the definition above.



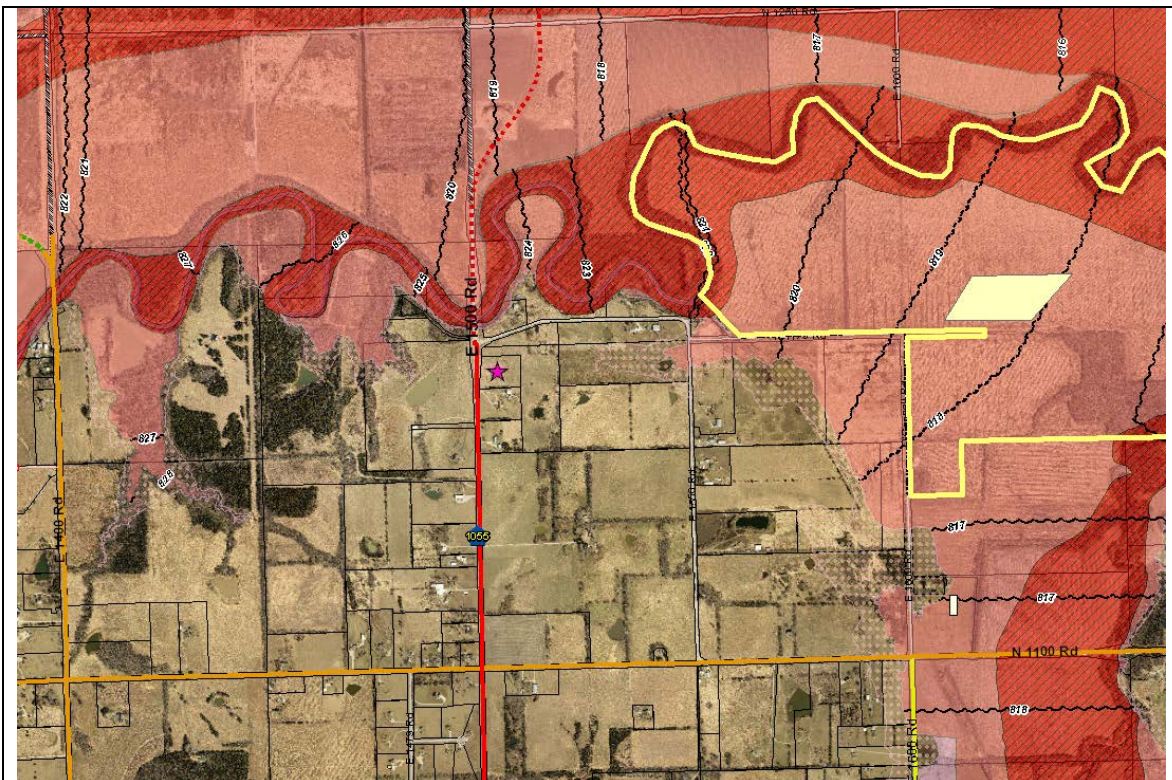
The residence would be converted into a processing facility and a bean bin would be installed to the rear of the house. The on-site septic system would serve the employees; however, the water used in the processing and washing of the soybeans would be kept in a holding pond or lagoon. The holding pond will be engineered and will be regulated by the Kansas Department of Health and Environment (KDHE).

## I. ZONING AND USES OF PROPERTY NEARBY

The subject property and surrounding area are zoned A (Agricultural) District. V-C (Valley Channel) zoning is located to the north in generally the same location as the F-F (Floodway Fringe Overlay) and F-W (Floodway Overlay) Districts associated with the Wakarusa River (Figure 1). Land uses in the nearby area include rural residences, agricultural land and riparian woodland.

**Staff Finding –** The area is rural in character and is zoned A (Agricultural) District with land to the north along the Wakarusa River also being zoned V-C (Valley-Channel) District and F-F (Floodway Fringe Overlay) and F-W (Floodway Overlay) Districts. Surrounding uses are predominantly rural residential and agricultural. A *Value Added Agriculture* Use could be compatible with the existing uses if conditions were applied to the use to insure compatibility with nearby residences.

## II. CHARACTER OF THE AREA



**Figure 2:** Characteristics of the area: Street network: Principal arterials shown in red, major collectors in orange, minor collectors in yellow. Boundary of the city property to the east with the proposed site of the Wakarusa Wastewater Treatment Plant shown in yellow. Floodplain shown in red. Subject property identified with a star.

The area is bounded on the north by the Wakarusa River and its associated floodplain, and contains primarily agricultural and rural residential land uses. Large parcel residential properties are located throughout the area and are adjacent to the south of the subject property on E 1500



Road. E 1500 Road, designated as County Route 1055 in the Douglas County Access Management Map, is classified as a principal arterial. Approximately one-half mile to the east of the subject property is property (approximately 530 acres) that has been annexed into the City and rezoned for development of the Wakarusa Wastewater Treatment Plant. The plant is expected to utilize approximately 16 acres of the property and the remainder will remain in agricultural use. (Figure 2).

**Staff Finding** – This is an agricultural area with rural residences. A city wastewater treatment plant will be located on a 530 acre lot to the east, but the majority of this lot will remain in agricultural production. County Route 1055, a principal arterial, provides access through the area. A *Value Added Agriculture* use should be compatible with the character of the area.

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

Applicant's response:

*"The subject property is suitable for Central Soyfoods for several reasons: We now share a building with a roofing company on one side and a body shop on the other making pest control difficult and because of the nature of the materials used in the body shop, paint etc, fumes are a problem. A stand alone facility would be a step forward. Central is an agricultural enterprise based on value added agricultural processes. Its by-products are used by several local organic producers as fertilizer for the vegetables they grow and that are consumed by Lawrencians. This location allows us to have the flexibility to use any excess okara (the by-produce) in our own gardens to enrich the soil. The rural nature of this location will also provide our employees with a better working environment."*

The subject property is zoned A (Agricultural) District. Section 12-306 of the County Zoning Regulations notes *"...the purpose of this district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses."* The A District is associated with a majority of the unincorporated portion of Douglas County.

Uses allowed in the A District include: farms, truck gardens, orchards, or nurseries for the growing or propagation of plants, trees and shrubs in addition other types of open land uses. It also includes residential detached dwellings, churches, hospitals and clinics for large and small animals, commercial dog kennels, and rural home occupations. In addition, uses enumerated in Section 12-319 which are not listed as permitted uses in the A District, may be permitted when approved as Conditional Uses. The property has been developed with a residence and is well suited for uses which are permitted in the A District.

The existing structure will be enlarged to 2,812 sq ft and the processing facility will be located entirely within the structure. The facility has 5 part-time employees and produces tofu and tempeh for Lawrence and the surrounding area. Given the small scale of the proposed processing facility, the property is also well suited for the proposed conditional use, *Value Added Agriculture*. A Conditional Use Permit (CUP) does not change the base, underlying zoning.

**Staff Finding** – The property is suitable for the uses which are permitted within the A (Agricultural) District. The property is also suitable for the proposed *Value Added Agriculture* use,



a soybean processing facility, when approved as a Conditional Use, given the small scale of the facility.

#### IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

**Staff Finding** – The subject property was developed with a 1,756 sq ft residence in 1989. The proposal is to convert the existing structure into a soybean processing facility.

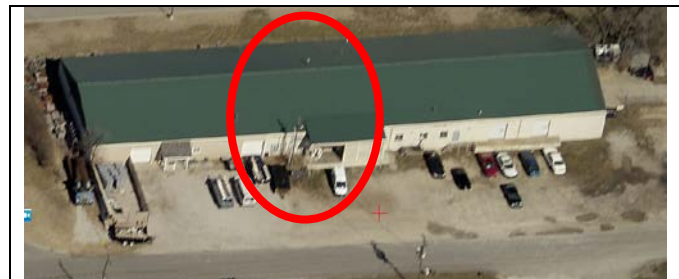
#### V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant's Response:

*"I see no detrimental impacts affecting adjacent property owners. Central Soy is a very small business and our business model is designed to restrict our growth to this region, freshness and responsive delivery restrict our size. At this point in time, we produce around 100,000 pounds of tofu per year. We employ 5 part time people and produce 3 times per week. We deliver the tofu using our own Transit Connect Van. At the current location we receive few deliveries; consisting of around 70 bushels of organic Kansas grown soybeans per month and other sundry items germane to the business. This location will allow us to install a bean storage bin to further reduce traffic. All of these facts translate to a very low impact on the location and the neighbors."*

Section 12-319-1.01 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 is included in the Conditional Uses enumerated in Section 12-319-4 of the Zoning Regulations for the Unincorporated Territory of Douglas County as *Value Added Agriculture*.

Staff visited the existing production facility at 710 E 22<sup>nd</sup> Street to become familiar with the nature of the use. As the applicant noted, the facility shares a building with other uses. (Figure 3) The production machinery and the delivery vehicle are shown in Figures 5 and 6.



**Figure 3.** Current facility at 710 E 22<sup>nd</sup> Street. General location of Central Soyfood is circled.

There was no smell or noise from the processing apparent from outside the facility.

The soybeans are processed in the equipment shown in Figure 4a, then the curds are separated from the whey, pressed in the equipment shown in Figure 4b, and packaged in a separate room, behind the film in Figure 4b. There was also a cooler in the building. The applicant indicated the new facility would have a larger cooler.

The applicant indicated that they've been a small business since they began operation and they have no plans to expand. This is an important consideration since the scale and size of the operation is an important consideration in determining off-site impacts. He indicated that they could double production by adding an additional processing day and using the same equipment; however, he said the company serves Lawrence and the nearby area and is not intending to



expand its market. If any major growth to the facility were proposed it would require review to determine if the facility would remain compatible with the adjacent land uses or would need to relocate.



Figure 4a. Processing area



Figure 4b. Processing area for pressing the tofu.



Figure 5. Central Soyfood's delivery vehicle.



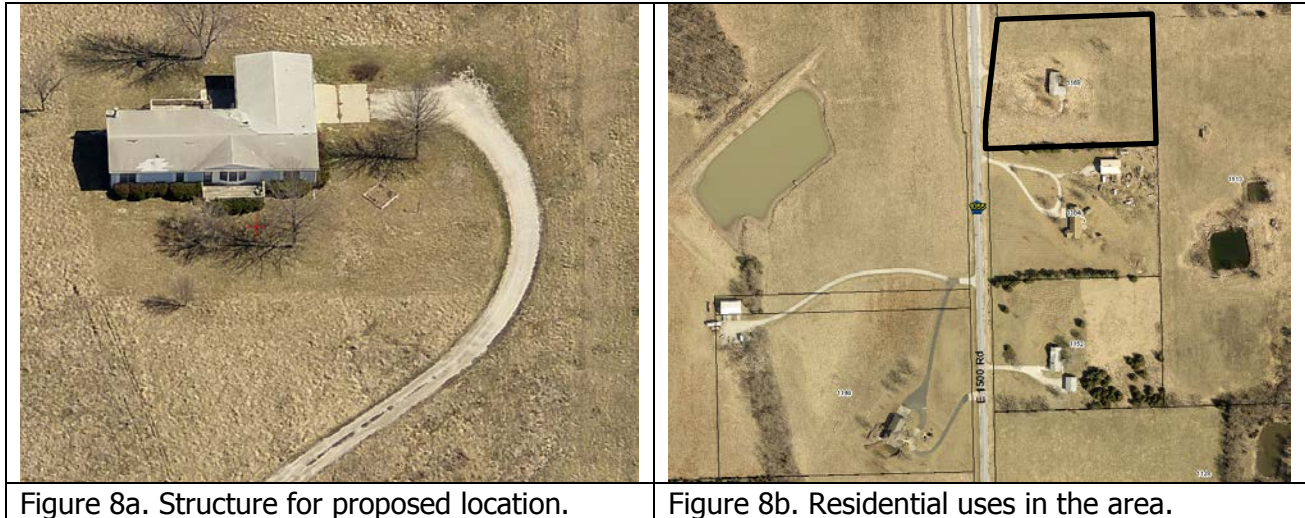
Figure 6. Okara, a byproduct of processing. Typically used as livestock feed or fertilizer.

The proposed location is adjacent to, and takes access from, a Principal Arterial. All processing will occur indoors and there will be no exterior storage of products or commodities. Soybean deliveries are from farms in the area and occur typically about once a month. With the installation of the bean bin, deliveries are expected to be less frequent. The facility will receive incidental deliveries, such as Fed Ex, UPS, etc. The owner indicated that the bean deliveries are made by a grain truck (Figure 7).



Figure 7. Example of soybean delivery truck.





Given the proximity of the rural residences (Figure 8), it is appropriate for the standards of a Type II Home Occupation that serve to minimize negative impacts to adjacent properties be applied to this CUP, in those cases where they are more stringent than the *Value Added Agriculture* use conditions. The following is a list of the *Type II Rural Home Business Occupation* standards found in Section 20-319-6.02(b) with staff's discussion following in *red* :

- 1) A maximum of 4 nonresident employees are permitted;  
*The standard for a Type II Rural Home Business Occupation and Value Added Agriculture are the same.*
- 2) The business must be conducted within the dwelling unit or an accessory building that is no greater than 3600 sq ft in area;  
*The Value Added Agriculture use limits the area of all buildings used in the production to 10,000 sq ft. The Type 2 Rural Home Business Occupation area standard is more stringent in this case.*
- 3) The majority of work related to agricultural implement repair or grading and earthwork activities must be conducted off premises;  
*Not applicable to the proposed use.*
- 4) No equipment that creates noise, vibration, electrical interference, smoke or particulate matter emission that is perceptible beyond the property lines of the subject parcel is allowed;  
*The Value Added Agriculture use does not allow smoke or particulate matter emissions that exceeds EPA standards. Both standards should apply.*
- 5) All equipment, materials, and vehicles must be stored indoors or otherwise completely screened from view of adjacent parcels and rights-of-way;  
*The standards are the same with the exception that vehicles are required to be completely screened with a home occupation.*
- 6) No inventory of products can be displayed or sold on the premises except what has been produced on the premises;  
*There is no limitation on inventory of products or sales for the Value Added Agriculture use. No sales on the site are being proposed with this use but this standard should apply.*
- 7) A minimum site area of 5 acres is required;



The *Value Added Agriculture* section notes that a minimum site area is consistent with the County adopted policy for agricultural uses. The Home Occupation standard should apply.

- 8) The site must have direct access to a section line road or highway;  
The *Value Added Agriculture* use requires the site to have access to a full-maintenance public road. The Home Occupation standard is more restrictive.
- 9) Outdoor storage buildings and off-street parking spaces must be located at least 50 ft from all property lines and rights-of-way, or be screened so as not to be visible from off-site.  
The *Value Added Agriculture* use requires that storage of all products be enclosed within a building or structure so that it is not visible from the site boundary/property lines but does not specify a distance from the property line. The Home Business standard is more restrictive in this case.

Standards that apply to *Value Added Ag* (Section 12-319-4.35) but not Home Occupation Business include:

- 10) Commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to 2 trips (to and from the site) per day.  
The grain truck shown in Figure 7, an example of the typical delivery vehicle for Central Soyfoods, has a GVWR of 52,080 lbs or 26 tons. A typical UPS delivery truck has a GVWR of 5 tons. The standard for limited large truck deliveries should apply, and could be more restrictive given the residences in the surrounding area. The applicant indicated that a limit on deliveries of 2 deliveries by commercial vehicles that exceed 5 tons (GVWR) a week would be acceptable. This restriction would not apply to incidental deliveries by Fed Ex or UPS.
- 11) The site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.  
The subject property was created prior to 2006 in accordance with the Subdivision Regulations in place at the time; therefore it is a vested parcel. The County Engineer indicated he was satisfied with the access and frontage provided based on the low volume of traffic to be generated by this use.

To insure compatibility with the surrounding land uses, the following conditions are recommended, based on the standards of the Type 2 Home Occupation Business and the *Value Added Agriculture* use:

1. A maximum of 4 full-time equivalent employees are permitted.
2. No equipment that creates noise, vibration, electrical interference, smoke or particulate matter emission that is perceptible beyond the property lines or in excess of EPA standards is allowed.
3. All equipment and materials used in the business must be stored indoors.
4. The parking area shall be screened from the adjacent residence to the south with evergreen trees, such as cedars.
5. No retail sales of product shall occur on the site.
6. Deliveries from trucks with a GVWR (Gross Vehicle Weight Rating) of more than 5 tons are limited to no more than 2 per week. This does not apply to incidental deliveries such as Fed Ex, and UPS.



## PUBLIC COMMENTS

The principle concerns raised by the members of the public that contacted the Planning Office were that this CUP would set a precedent for other businesses such as vehicle repair shops and convenience stores to locate in the area and that the business would have negative impacts such as odor, noise, and traffic that would negatively impact their properties and property values.

- The type of uses which are possible in this area are limited to those that are permitted by right in the A (Agricultural) District and those that are permitted as a Conditional Use. Section 12-319-4 lists the uses which may be permitted as Conditional Uses. A vehicle repair shop and convenience store are not permitted in the A District by right or as Conditional Uses; however, other uses included in the list of conditional uses could be possible if they were approved by the County Commission. The Conditional Use review process allows potential impacts of the use to be evaluated and conditions to be applied to minimize or eliminate impacts. Each Conditional Use Permit is evaluated on its own basis for compatibility with the surrounding area.

The proposed use meets the standards for a Type 2 Rural Home Business Occupation with the exception that the owner does not live on site. As home occupations are expected to occur on site with a dwelling and in close proximity to other dwellings, applying the standards of a Type 2 Home Occupation to the use will minimize negative impacts to insure compatibility with nearby properties.

- The facility will utilize the existing septic system, but wastewater from the soybean processing will be kept in a holding pond which is regulated by the Kansas Department of Health and Environment. The County Health Official indicated that an engineered lagoon or holding pond typically has little, if any, odor.

**Staff Finding** – The use is small scale and very similar to a *Type II Rural Home Business Occupation*. Applying the standards of a *Type II Rural Home Business Occupation* to the facility should insure compatibility with nearby residences.

## **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:

*"While our current product provides a healthy, renewable foodstuff, a move to this proposed location would enhance our general operation and insure our future prosperity with no hardships imposed on the land or our neighbors."*

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 this request would allow the landowner to relocate the business to the subject property.

No benefit would be afforded to the public health, safety, or welfare by the denial of the request as the business operation is small scale, a low traffic generator and would be located on a principal arterial. Application of the Type 2 Rural Home Business Occupation standards should insure compatibility with the nearby residences.



**Staff Finding** – In staff’s opinion, the approval of this request, with the *Type 2 Home Business Occupation* standards will result in a compatible project that will not harm the public health, safety or welfare. Denial of the request would prevent the relocation of the soyfood processing facility to this location.

## **VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant’s Response:

*"I don't see any reference to value added agriculture in Horizon 2020. There is a current emphasis on local food production and Central has been producing local organic food for over 45 years."*

The proposed use is a component of a local/regional food system: processing locally and regionally grown soybeans into tofu and tempeh for sale in the area. Chapter 16 of the Comprehensive Plan recommends the development of policies to support a sustainable local/regional food system; however, the policies and recommendations have not been developed at this time.

The Comprehensive Plan (Page 1-3, *Horizon 2020*) notes: *"It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail. It is the intent to meet and safeguard individual rights and vested interests in a manner which will create the minimum disruption in individual freedoms and life values."*

**Staff Finding** –A Conditional Use Permit can be used to allow specific uses that are not permitted in a zoning district with the approval of a site plan. This tool allows development to occur in harmony with the surrounding area and to address specific land use concerns. As conditioned, the proposed use is in compliance with the Comprehensive Plan.

## **CUP PLAN REVIEW**

The proposal is to convert the vacant residence on the property to a soyfood processing facility. Proposed site improvements include a 1056 sq ft addition to the structure, an employee parking area, and a bin for soybean storage.

**Parking and Access:** The site plan identifies a 625 sq ft parking area east of the drive. Parking required for a Value-Added Agricultural use is 1 space per 2 employees. 5 employees would require 3 parking spaces. Per Section 12-316-4 a parking space must contain 180 sq ft; therefore, 3 parking spaces would require 540 sq ft. While the parking provided on the plan is compliant with the Zoning Regulations, Staff recommends providing a parking space for each employee to insure adequate parking is provided on the site. One ADA accessible parking space is required for this use.

Access to the site is accommodated via a 12 ft wide driveway to E 1500 Road. No change to the access is proposed by the applicant and none were identified as needed in the review of the application.

**Landscape and Screening:** The equipment and materials will be stored inside. Evergreen species such as cedar trees should be planted along the south side of the parking area to screen it from view of the adjacent residence to the south.



**Limits and Conditions:**

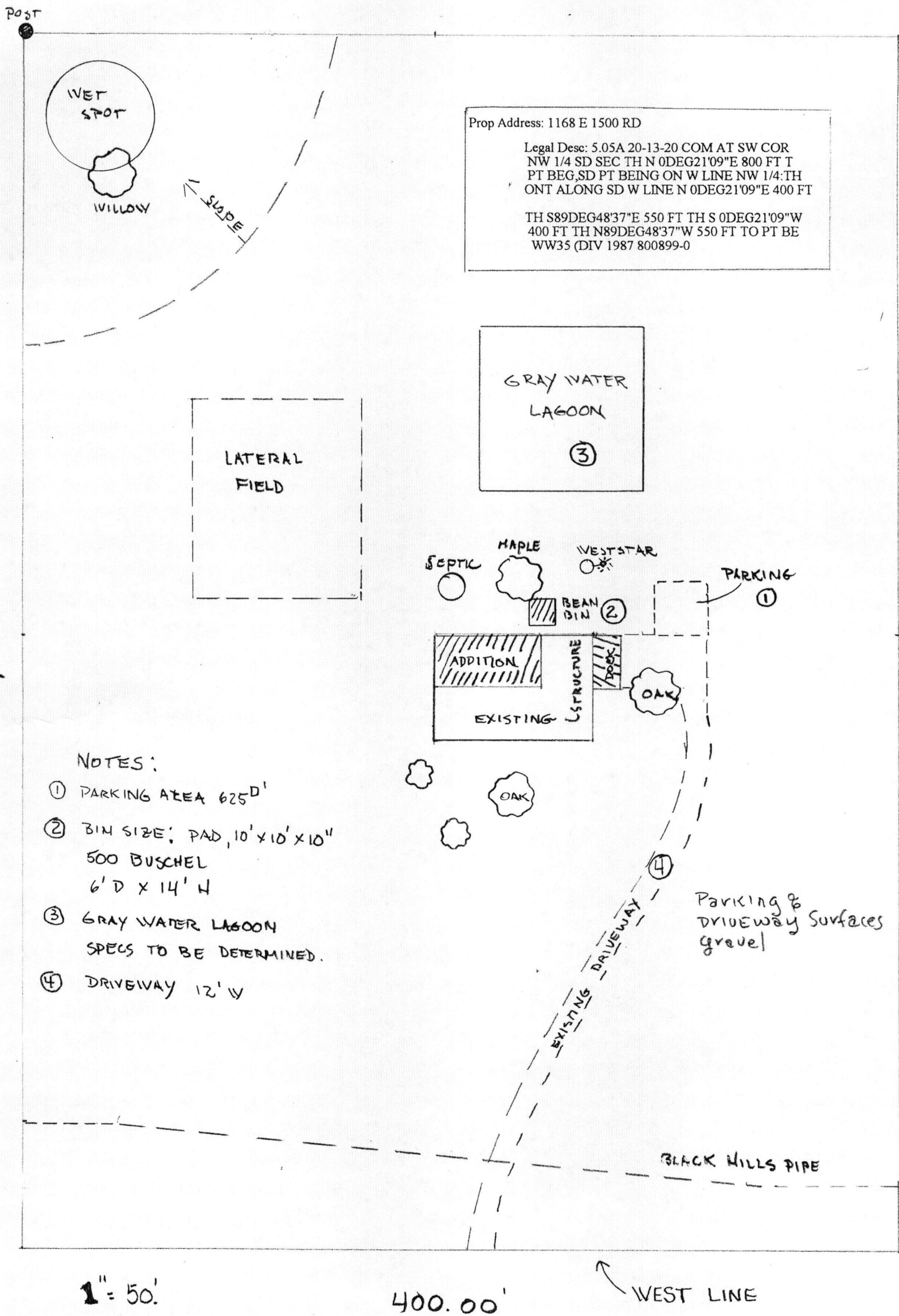
The standards of a *Type 2 Rural Home Business Occupation* should apply, in addition to the standards for the *Value Added Agriculture* use to insure compatibility with the nearby residential uses. The use should be administratively reviewed by the Zoning and Codes Office every 5 years to insure compliance with the standards of the Conditional Use Permit. Expiration dates are often applied to Conditional Uses so they may be re-evaluated to determine if they remain compatible with the development in the area. A 10 year time limit is recommended for this CUP with an extension possible by the Board of County Commissioners.

**Conclusion**

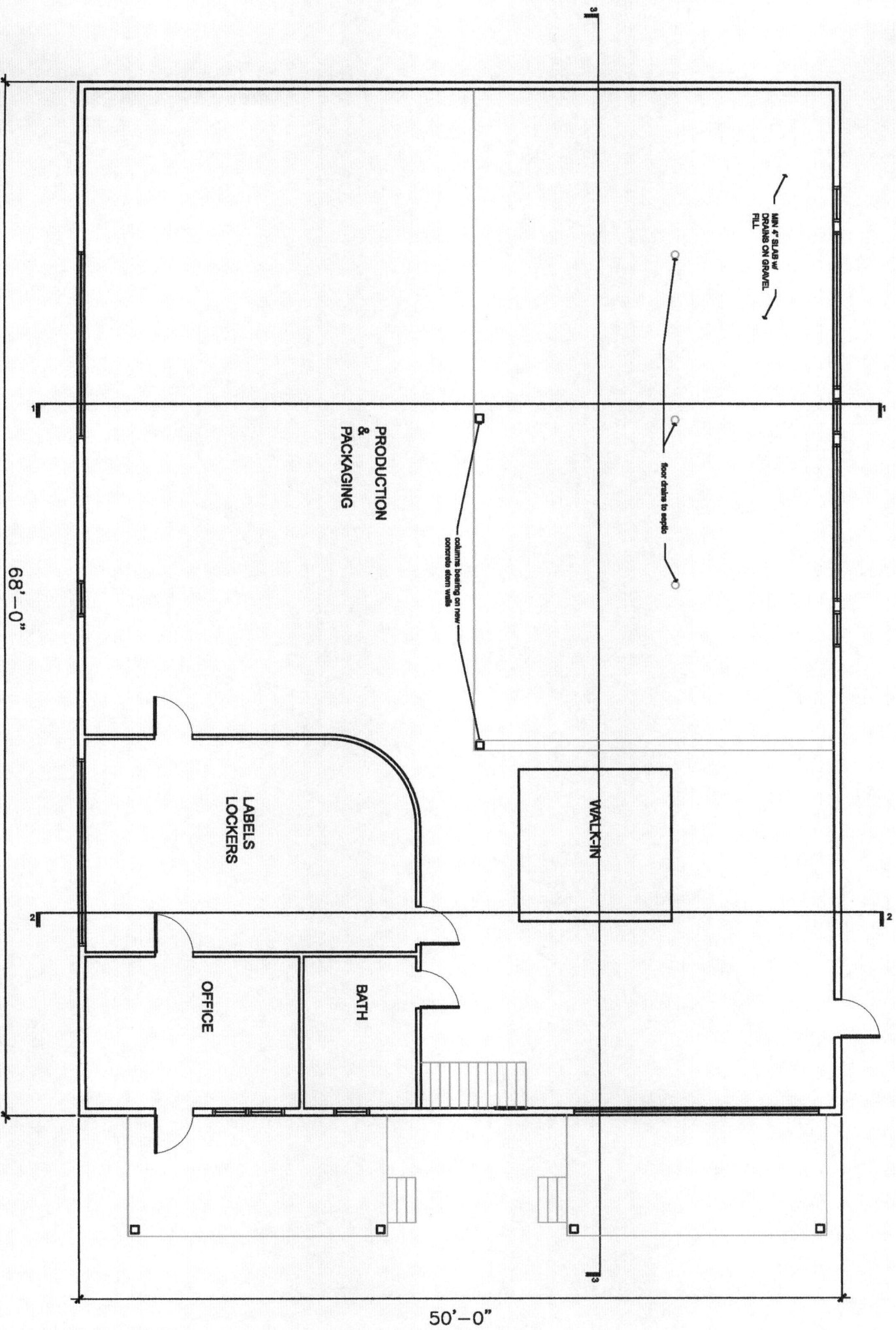
The *Value Added Agriculture and Type 2 Rural Home Business Occupation* standards placed on the Conditional Use should insure compatibility with surrounding properties. The use requires a Conditional Use Permit which is obtained from the Douglas County Zoning and Codes Office. The building must comply with minimum building code standards for non-residential uses and a building permit will be required for changes to the structure. The proposed CUP complies with the County Zoning Regulations and the land use recommendation of *Horizon 2020*.



# Site Plan Proposed tofu facility







1 Plan  
1/8" = 1'-0"

1168 EAST 1500

REVISIONS

Permit Documents

ISSUE DATE AUGUST 06, 20

SCALE 1/8" = 1'-0"

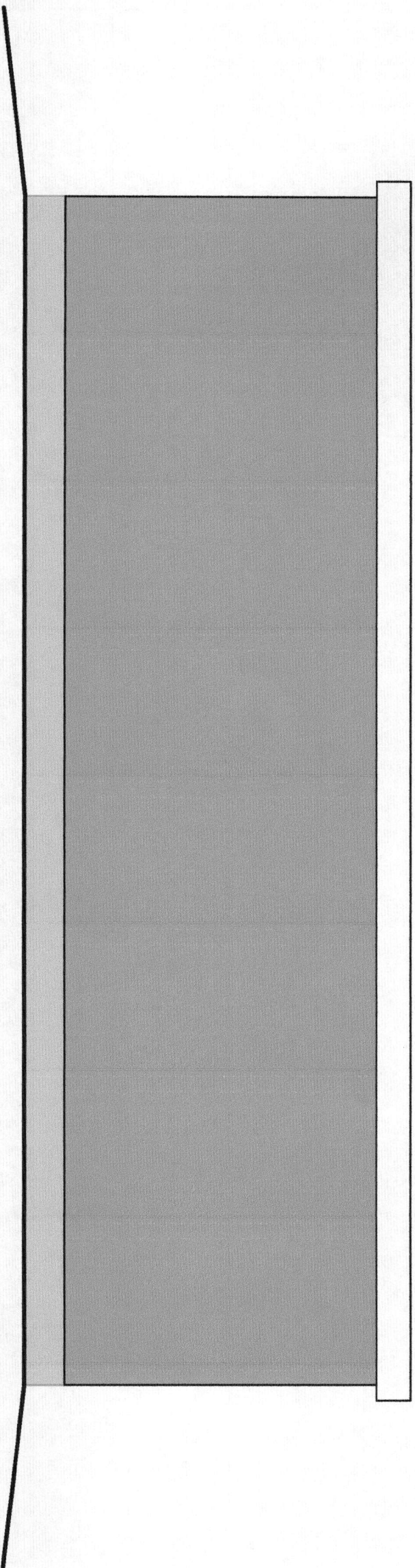
PROJECT NO

DRAWN BY

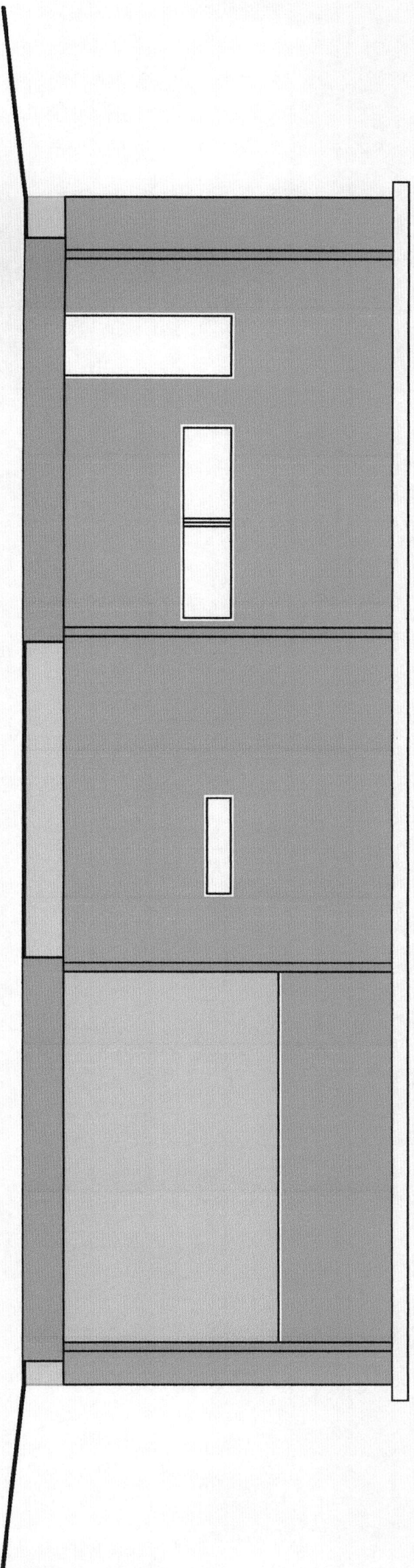
TITLE

PLAN





1 North ELEVATION  
3/16" = 1'-0"



2 South ELEVATION  
3/16" = 1'-0"

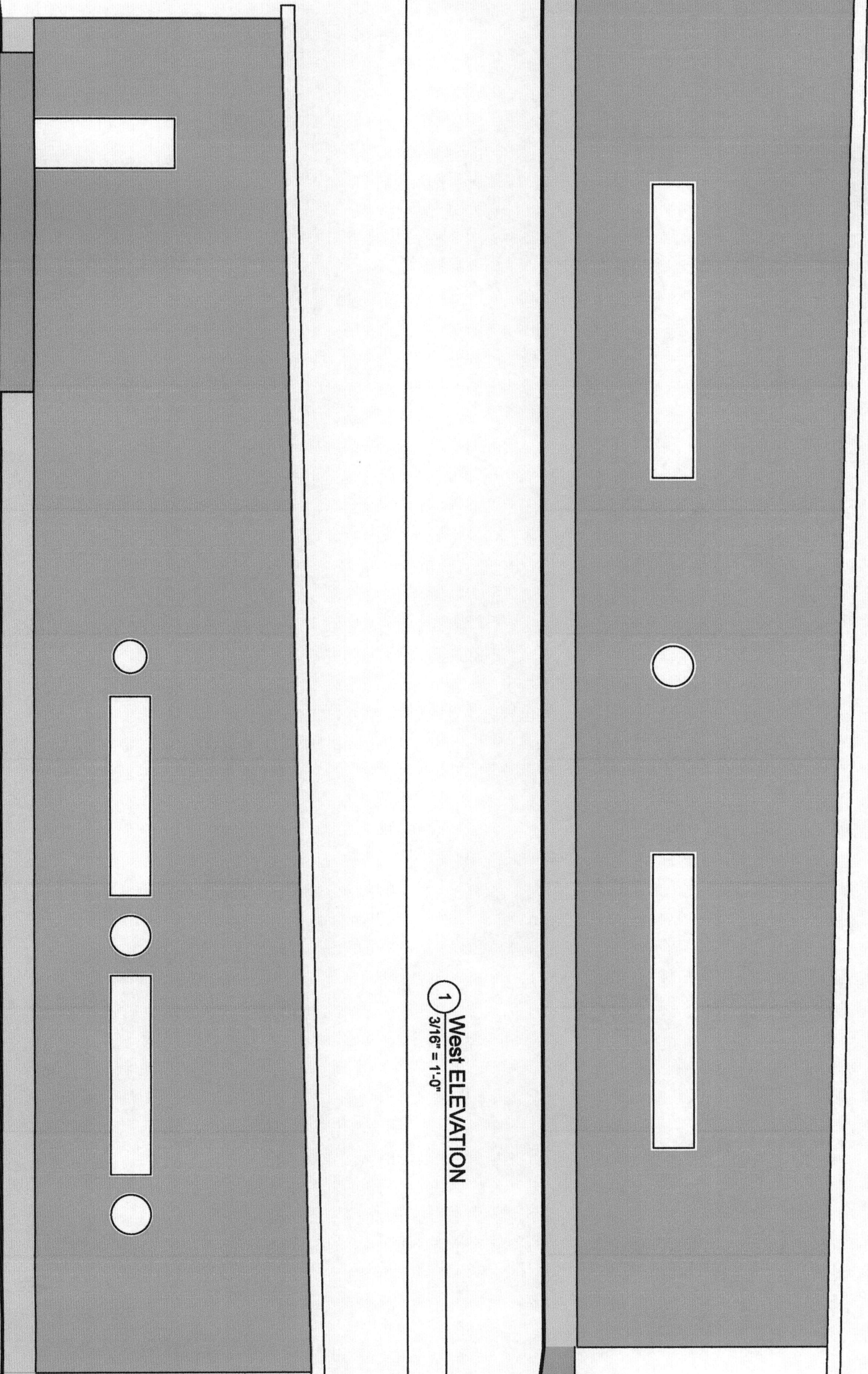
1168 EAST 1500

REVISIONS	
Permit Documents	
ISSUE DATE	AUGUST 05, 20
SCALE	3/16" = 1'-0"
PROJECT NO	
DRAWN BY	
TITLE	
ELEVATIONS	



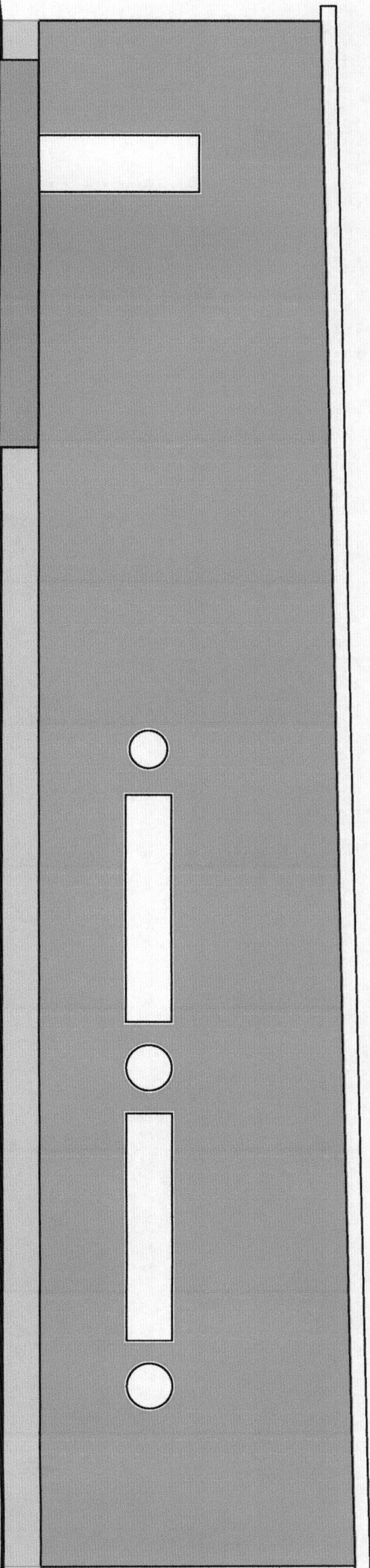
1 West ELEVATION

3/16" = 1'-0"



2 East ELEVATION

3/16" = 1'-0"



1168 EAST 1500

REVISIONS

Permit Documents

ISSUE DATE AUGUST 05, 20

SCALE 3/16" = 1'-0"

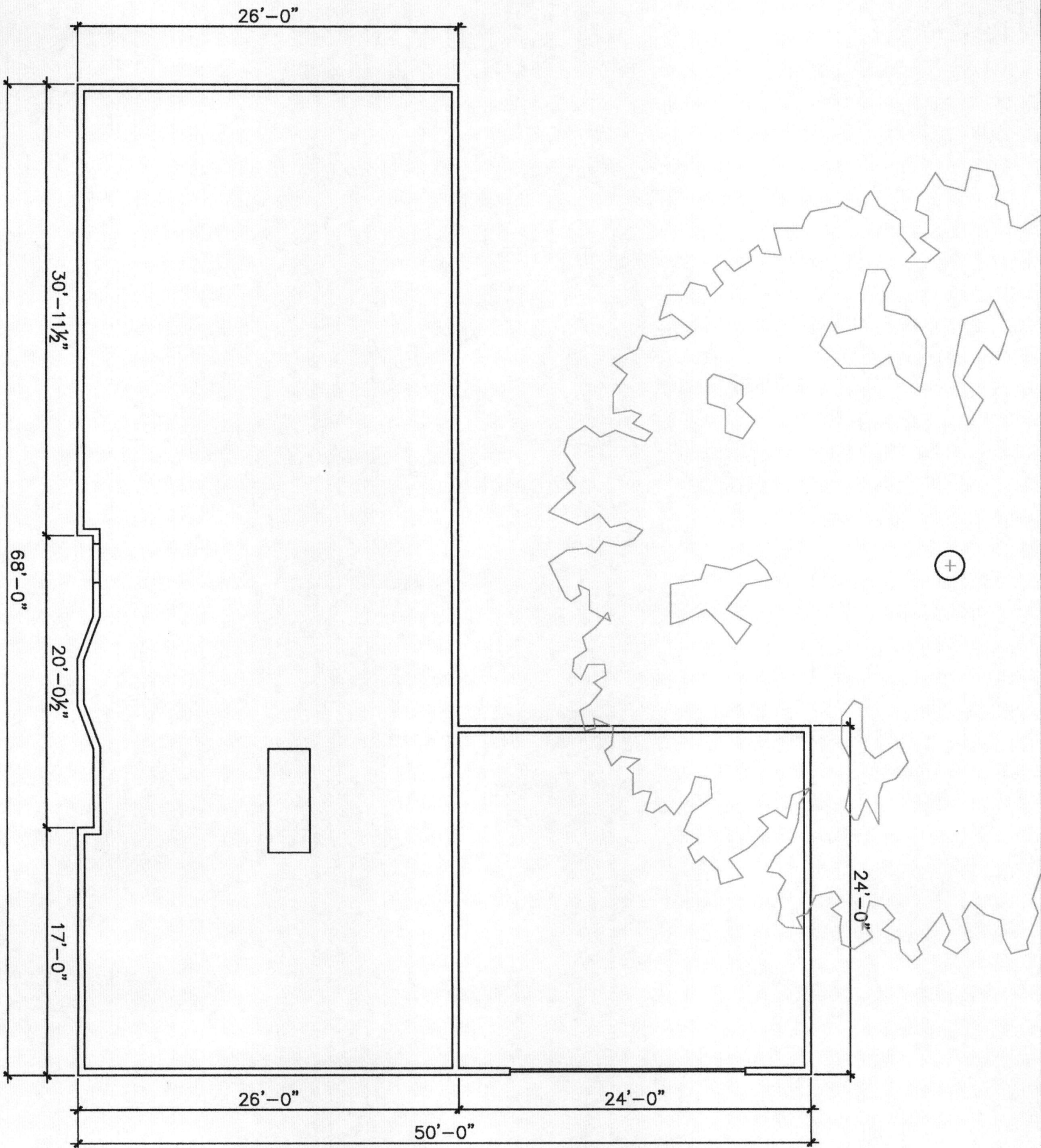
PROJECT NO

DRAWN BY

TITLE

ELEVATIONS





1 EXISTING PLAN  
1/8" = 1'-0"

1168 EAST 1500

REVISIONS

Permit Documents

ISSUE DATE AUGUST 06, 20

SCALE 1/8" = 1'-0"

PROJECT NO

DRAWN BY

TITLE

EXISTING PLAN



-----Original Message-----

From: copl28 [<mailto:copl28@peoplepc.com>]

Sent: Tuesday, August 19, 2014 1:30 PM

To: City Hall email

Cc: [copl28@peoplepc.com](mailto:copl28@peoplepc.com)

Subject: Proposed Tofo Factory

Att: Lawrence Douglas County Planning Commission:

Sirs:

We are sending this e-mail in reference to the proposed "factory" that maybe built within an existing modular home at the North corner of 1175 and Haskell Avenue. We have been in this county and this area for over 36 years; we had a home-based business for many years on our property through the county; we are told that this project being proposed will not have anyone living on site, as we were required. We think that by allowing this gentlemen, (we do not want anyone to not be able to make a living), to move to this area, which is sub-ag, this will decrease the values of our homes and become a traffic problem for those living close by. County told us that we had to keep all equipment from view of the road-which we did, is this going to happen with this project? It does seem that by allowing this business to come into our area, that you, as the commission, will be setting our area up for more of these factories or any other type of business; quick shop, auto body anything that maybe wanted to be placed on property in this area. We did not move to the country over 36 years ago to see this happen. We also understand that ,if, this owner wants, he may add onto this existing building to have more room for his products along with hiring more employees. A lagoon maybe a possibility, if, septic is not able to hold the water from this product. Have you given thought to what could happen to any surrounding wells, if, this was to happen?We are not sure it would, but, what if it did cause damage to someones well, if, that is only water source? We appreciate your reading this and we, along with other neighbors are not wanting this project to take place in our area due to many of the mentioned items and of course if the base product of soybeans would be a pollution product; please leave our area free from this.

Thank you. Wayne and Nancy Othick

1144 E 1550 Road

Lawrence, Kansas



## Mary Miller

---

**From:** Mary Miller  
**Sent:** Tuesday, August 19, 2014 3:41 PM  
**To:** Mary Miller  
**Subject:** RE: Proposed Tofo Factory

-----Original Message-----

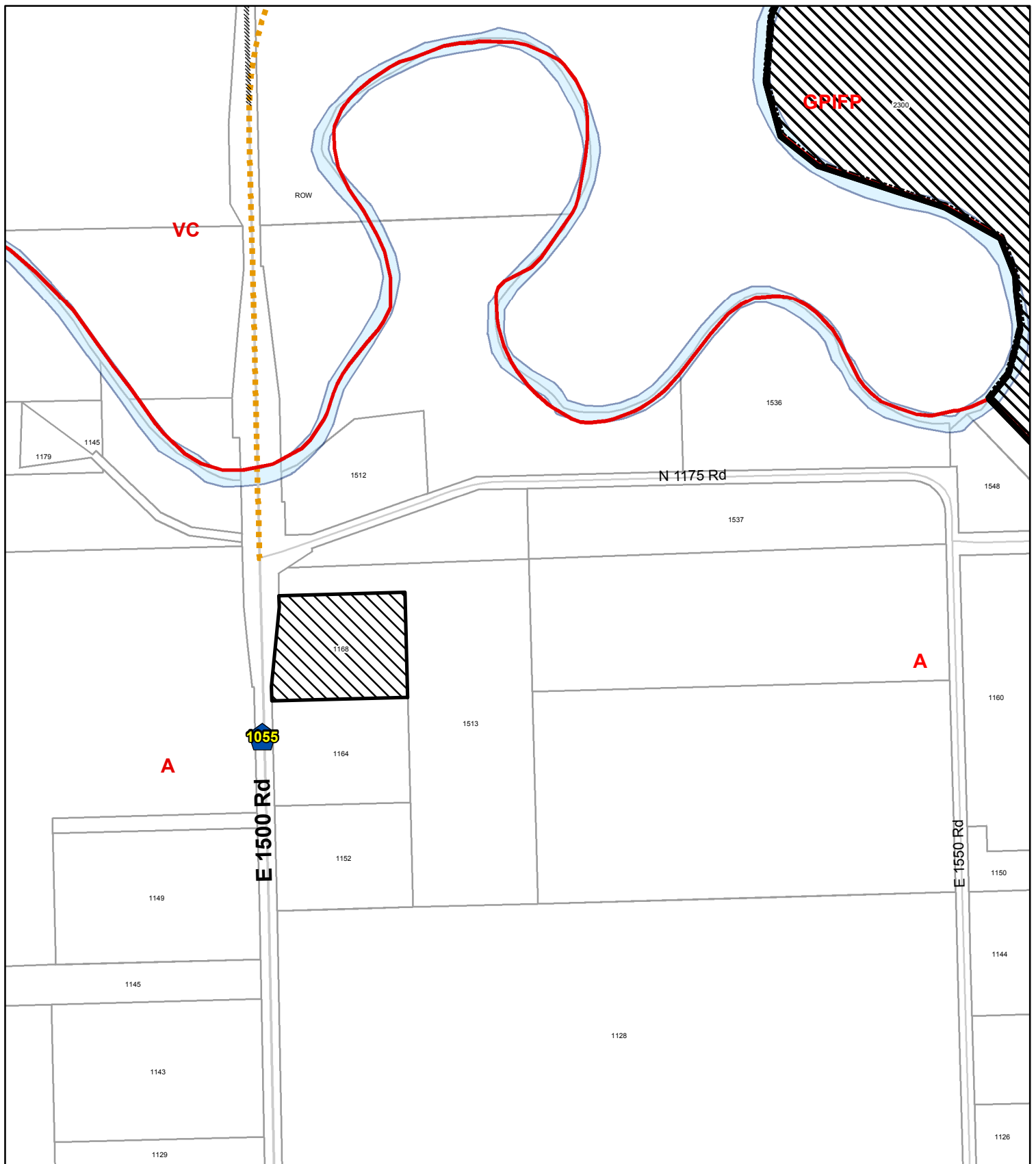
From: cop128 [mailto:cop128@peoplepc.com]  
Sent: Tuesday, August 19, 2014 1:30 PM  
To: City Hall email  
Cc: cop128@peoplepc.com  
Subject: Proposed Tofo Factory

Att: Lawrence Douglas County Planning Commission:  
Sirs:

We are sending this e-mail in reference to the proposed "factory" that maybe built within an existing modular home at the North corner of 1175 and Haskell Avenue. We have been in this county and this area for over 36 years; we had a home-based business for many years on our property through the county; we are told that this project being proposed will not have anyone living on site, as we were required. We think that by allowing this gentlemen, (we do not want anyone to not be able to make a living), to move to this area, which is sub-ag, this will decrease the values of our homes and become a traffic problem for those living close by. County told us that we had to keep all equipment from view of the road-which we did, is this going to happen with this project? It does seem that by allowing this business to come into our area, that you, as the commission, will be setting our area up for more of these factories or any other type of business; quick shop, auto body anything that maybe wanted to be placed on property in this area. We did not move to the country over 36 years ago to see this happen. We also understand that ,if, this owner wants, he may add onto this existing building to have more room for his products along with hiring more employees. A lagoon maybe a possibility, if, septic is not able to hold the water from this product. Have you given thought to what could happen to any surrounding wells, if, this was to happen?We are not sure it would, but, what if it did cause damage to someones well, if, that is only water source? We appreciate your reading this and we, along with other neighbors are not wanting this project to take place in our area due to many of the mentioned items and of course if the base product of soybeans would be a pollution product; please leave our area free from this.


Thank you. Wayne and Nancy Othick  
1144 E 1550 Road  
Lawrence, Kansas





**CUP-14-00304: Conditional Use Permit for the Relocation  
and Expansion of Central Soyfoods, LLC  
Located at 1168 E 1500 Road**

Lawrence-Douglas County Planning Office  
September 2014

 Subject Property





# PETEFISH

PETEFISH, IMMEL, HEEB & HIRD, LLP  
*Attorneys at Law*  
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*\*\*Admitted in Kansas and Missouri*

*\*\*\*Admitted in Kansas and District of Columbia*

**RECEIVED**

**SEP 22 2014**

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Lawrence, Kansas**

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Olin K. Petefish (1912-2001)  
Jeffrey O. Heeb (retired)

September 22, 2014

**Via Hand Delivery**

Lawrence-Douglas County  
Metropolitan Planning Commission  
6 East 6<sup>th</sup> Street  
Lawrence, Kansas 66044

Re: September 22, 2014 Commission Meeting

Ladies and Gentlemen:

I am writing on behalf of Willis and Linda Long in opposition to the application for a Conditional Use Permit for Central Soyfoods LLC, at 1168 E. 1500 Road, which is Item No. 3 on the agenda for the September 22, 2014 Planning Commission Meeting.

Mr. and Mrs. Long's home is on the property located at 1164 E. 1500 Road, which is the property that is immediately adjacent to and south of the subject property. They also own a parcel that borders the subject property on the north and east. Mr. and Mrs. Long bought their property to make their home and they enjoy living in the County away from the businesses located in the City. Now they are faced with an industrial use being brought to their doorstep, and they oppose the County's allowing an industrial use being brought so close to residential properties and on such a small lot.

Mr. and Mrs. Long have several reasons for their opposition to the application for the conditional use permit, which will be addressed below, but their primary objection is that the application of Central Soyfoods does not comply with the County's Code, and cannot legally be approved.



1. **The application does not satisfy the requirements of the County's Code.**

Section 12-319-4.35 of the County's Code allows conditional use permits for Value-added Agricultural Businesses so long as the business meets certain location and development standards. Although Planning Staff has addressed some of these requirements, Planning Staff did not adequately address all of them. In particular, the Code requires that Value-Added Agricultural Businesses meet the following requirements:

- "Structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials." (12-319-4.35.b.)
- "Minimum Site Area: A minimum site area is consistent with the County adopted policy for agricultural uses." (12-319-4.35.g.)
- "Road Access and Frontage: The site must have direct access to a full maintenance public road and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations." (12-319-4.35.h.)

The problem with Central Soyfoods' application is that it seeks to convert a residential dwelling that is non-conforming and expand the building by over 60% and convert it to an industrial use without having to comply with the County's current zoning regulations. The law is clear that an owner cannot expand or change the use of a non-conforming property without complying with the current zoning regulations, and the Planning Commission should not set bad precedent by ignoring the change in the non-conforming use simply because the Staff likes the idea of a Value-added Agricultural business.

**Commercial Building Codes.** Because the application for the CUP proposes to manufacture tofu and tempeh at the location and not just to store raw materials, the County's Code requires that the structure be upgraded to meet commercial building codes. Although this is a requirement for approval of the CUP, the Planning Staff failed to address this requirement in its report and does not propose that this requirement be added to the conditions for approval. There is no indication anywhere in the Staff's report that the upgrade to the building must meet all the commercial building code requirements. Without this upgrade, then the CUP cannot be legally approved.

**Minimum Site Area.** In its report, Planning Staff acknowledges that the *Value Added Agriculture* section requires "a minimum site area consistent with the County adopted policy for agricultural uses." Instead of addressing the minimum site area for agricultural uses, the Planning Staff merely concludes that the Home Occupation standard of five acres should apply. The Staff does this even though Staff states that the Home Occupation standards should only apply if those standards are stricter. That is not the case here.



The County's adopted policy for minimum site areas is provided in the Height, Area and Bulk Requirements of the County's Code (Section 12-318). Under these Requirements, the minimum site area for agricultural uses is ten acres for property that takes access from a Principal Arterial Road. Because the property that is the subject of the CUP application takes access to a Principal Arterial Road and only has a site area of five acres, the property does not meet the minimum site area required by the *Value Added Agriculture* section. The Planning Staff states that the property is a vested parcel since it was created before 2006. Although this is correct, this does not allow the property owner to change the use of the property without complying with the current Height, Area and Bulk Requirements.

Because the property was created before 2006, the property is a non-conforming use of the property (See Section 12-320-2.01.b.—made non-conforming through the adoption of the Height, Area and Bulk requirements under section 12-318). Under Section 12-320-1, the non-conforming use “may be continued,” but “[n]o non-conforming building, structure, or use shall be changed, extended, enlarged or structurally altered” subject to four exceptions that do not apply to this case. Furthermore, under state law, if there is “any alteration” to a building or use in the building, then the zoning regulations currently in effect shall apply. K.S.A. 12-758(a).

In this case, Central Soyfoods proposes two major alterations that if allowed to be done would require the property to comply with the current zoning restrictions, including lot area restrictions. First, Central Soyfoods proposes to increase the size of the building from 1,756 square feet to 2,812 square feet—an increase of over 60%. Second, Central Soyfoods proposes to change the use of the property from residential to industrial. Because of these changes, the property loses its right to continue the non-conforming use and must fully comply with the Height, Area and Bulk requirements under section 12-318.

And as mentioned above, because the property takes its access to a Principal Arterial road, the Height, Area and Bulk requirements under section 12-318 requires the property to have a minimum area of ten acres. Because it does not, the CUP cannot be approved.

#### **Road Access and Frontage.**

Likewise, Central Soyfoods' application for the CUP must be denied because the property does not have sufficient road frontage.

Under the *Value Added Agriculture* section, the property “shall meet the minimum frontage requirements in accordance with the Access Management Regulations.” (12-319-4.35.h.) The Access Management Regulations requires a minimum of 1,320 feet of road frontage for properties that obtain their access to a Principal Arterial road. (Section 9-501.) The Access Management Regulations provide exceptions for residential properties (see Section 9-502 and 9-512) or in the situation in which the minimum frontage impairs the owner's access to public roads (see Section 9-507), but none of the exceptions applies to this case. The alteration of the building to allow for an industrial use is obviously not a residential use and the owner's access to the road is not impaired. Thus, the minimum road frontage of 1,320 feet is required. But Central



Soyfoods' parcel only has roughly 400 feet of road frontage, and therefore, the application does not comply with the Access Management Regulations or the *Value Added Agriculture* section.

Again, because Central Soyfoods is attempting to substantially change the use and size of the building, it must comply with the current zoning restrictions, including, the Height, Area and Bulk requirements under section 12-318. And for parcels that take their access to a Principal Arterial road, Section 12-318 requires a minimum of 1,320 feet of road frontage.

For these three reasons, the approval of Central Soyfoods' application for a CUP would be contrary to the *Value Added Agriculture* section and therefore, it should be denied.

**2. The presence of the industrial use raises security issues.**

Mr. and Mrs. Long also believe that approval of the CUP raises security issues that should be addressed. Currently, Mr. and Mrs. Long live next to a residential dwelling that currently can only have a single family occupying that home. If the CUP is approved there will be no one residing in the property, and the people who will have access to the property will be the 5+ employees of Central Soyfoods, delivery drivers, and others who need to access the property for purposes of operating an industrial site. Because Central Soyfoods states that these employees are all part-time, the likely turnover of those employees are higher than they would be if they were full-time employees. And this turnover prevents the neighbors from getting to know any of them so that they know who should be lurking around the property. The employees will be unknown to the neighbors, but those employees and drivers will all now have the opportunity to scope out neighboring residences. This is a great concern for Mr. and Mrs. Long who now have to be diligent in ensuring their safety from the employees of the Central Soyfoods' industrial site.

**3. There is no adequate protection for drainage of the gray water.**

I understand that Central Soyfoods' industrial process uses a significant amount of water. The Staff report does not make it clear whether Rural Water District No. 4 will allow a residential water meter to be used for industrial purposes. And because of the amount of water used in the industrial process, Central Soyfoods produces a significant amount of "gray water." Although I understand that Central Soyfoods' application did not include any method for the proper discharge of this waste water, the Planning Staff noted that a lagoon will have to be "located" as shown on the plan. Mr. and Mrs. Long believe that not only should a lagoon be "located" it must be constructed in a manner which prevents discharge of the gray water from the property. Mr. and Mrs. Long's property also borders the subject property on the North and east and the natural flow of water from the subject property flows toward the northeast corner of the subject property and onto Mr. and Mrs. Long's property. The Planning Commission cannot approve the CUP without adequate assurance that the discharge of the "gray water" will not be allowed to flow off of the subject property onto Mr. and Mrs. Long's property.



4. **The proposed industrial use is not compatible with the area.**

Planning Staff has determined that the industrial use proposed by Central Soyfoods is compatible with the residential and agricultural nature of the neighboring properties. Mr. and Mrs. Long are not opposed to Value-added Agricultural businesses being located in the County, but they are opposed to industrial business being located on tracts of only five acres right in the midst of residential properties. Industrial businesses ought to be located on tracts larger than five acres as required by current code. Because the tract owned by Central Soyfoods is only five acres, the industrial manufacture of soybean products should not be located there, and the CUP should be denied.

Mr. and Mrs. Long bought their property so that they could live in the County away from industrial uses. Yet, they are now faced with a proposed industrial use at their doorstep.

The Longs' property is significant for historical reasons. The Hoover Barn is located near the subject property. The Hoover Barn was part of the Douglas County farm home, which was also known as the Douglas County Poor Farm. Enclosed with this letter is a description of the history of the Poor Farm.

An industrial use is not compatible with the adjacent historical Hoover Barn and the location of the Douglas County Poor Farm. By allowing an industrial use at this location, the Planning Commission would set precedent for the location of other industrial uses in this area, and the risk of losing the use of the area as residential and agricultural is high, and the historical uniqueness of the property would be swallowed by the industrial use.

Furthermore, if the CUP were approved, because the subject property is non-conforming, it would likely never be allowed to be used for residential again, and the property would either remain industrial or vacant.

And Central Soyfoods, like so many other owners of industrial land, is not a good steward of the land it owns. During the time that Central Soyfoods owned the subject property, it did nothing to keep up the appearance of the property. Enclosed are photographs of the subject property compared to the Longs' property. The fact that Central Soyfoods has failed to adequately maintain the property is a bad sign of how it plans to maintain the property once the industrial use is placed in the property. Furthermore, Central Soyfoods failed to maintain its current property in Lawrence in a manner that complied with the FDA's regulations. On July 2, 2014, the FDA sent a warning letter to Central Soyfoods that noted "serious violations" of the FDA's regulations. A copy of the FDA's letter is enclosed with this letter.

The failure of Central Soyfoods to adequately maintain its current facility in compliance with law and its failure to maintain the subject property while it owned the property does not give Mr. and Mrs. Long any confidence that once a CUP was approved that Central Soyfoods would be a good neighbor. As everyone knows, actions speak louder than words, and Central Soyfoods' promises to comply with the CUP conditions should hold little weight when its



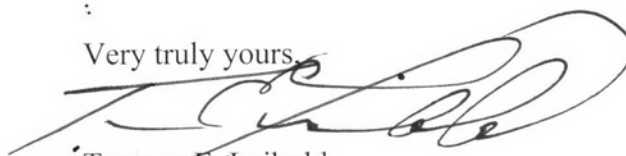
actions reveal an industrial company that is not concerned with complying with the law or ensuring its property is properly maintained. Because of these failures, the Longs are reasonably concerned by the presence of the industrial use so close to their home.

Finally on this issue, the presence of the industrial use will have a negative impact on the value of the residential properties near the industrial site: "[A]ccording to the Appraisal Institute[, a]n unkempt yard, . . . or having certain commercial facilities nearby, such as a power plant or funeral home, can reduce the value of surrounding homes by as much as 15%." Brian O'Connell, 7 Neighborhood Threats to Your Home's Value, found at <http://realestate.msn.com/7-neighborhood-threats-to-your-homes-value>. The subject property is located closed to the Longs' property. I enclose photographs of the property from the Longs' home. The close proximity of an industrial use may significantly reduce the value of the Longs' property.

Again, while the Longs do not oppose a Value-added Agricultural business in the County, the business should not be located near to residences and on such a small tract of land.

For all these reasons, Mr. and Mrs. Long oppose the Planning Commission's approval of the CUP of Central Soyfoods LLC, and they request that the Planning Commission deny the CUP.

:  
Very truly yours,



Terence E. Leibold  
Petefish, Immel, Heeb & Hird, L.L.P.

Enclosures

cc: Mr. and Mrs. Long



## DOUGLAS COUNTY POOR FARM

I AM GOING TO TALK TO YOU TODAY ABOUT THE Douglas County Poor Farm. The English definition of the Poor Farm is the Almshouse, where the paupers are supported. There was even a Poor Commissioner.

### SHOW MAP OF DOUGLAS COUNTY

Douglas County Commission minutes of January 30, 1866 show the purchase of the 110 acre farm from George Stern for \$2,200. Four days later plans for a "Farmhouse, two stories high and 24 feet wide by 36 feet long to be built on the county farm and used for a County Asylum for the poor" were noted. The building cost 3,760. A Superintendent was employed in March 1866 for the sum of \$1,200 a year for himself and his family.

It was suggested the Poor Farm be located two to four miles of the County seat because the Poor Commissioner made visits to the Poor Farm about once a week, but not regularly enough so that he could show up unexpectedly so he had an opportunity to see the real condition of the institution and the kind of care the inmates were receiving.

In 1877 according to a newspaper article in an account written by George Hollingbery who was unhappy with the obvious neglect and mistreatment of the inmates of this county home he stated "an aged Irishman died at the county farm and was buried unceremoniously in the county farm burying place which was situated on the bank of the Wakarusa River, in a narrow strip of land between the river and the road, and used as a cow pasture, said burying has long been without any protection from the desecrating root of pigs, or tramped of horses and cattle. This is another instance of the notorious want of decency that has long characterized the management of the asylum for the aged, sick and



friendless poor of the county. Because of this article a special meeting of the county commissioners was held in January 1888 to investigate the poor farm situation. They wanted all who had complaints against the present superintendent Mr. Dodge or against his management of the poor farm to come before him. Some felt that Mr. Dodge was a common drunkard, and a profane and brutal man, and such facts were well known. The pauper sick were fed on cornbread and fat meat. Others who were called upon to testify were Mr. Wheadon, Col. Sam Walker, Mr. Doolittle, ex-sheriff Carnen, William Marshall, Charles Gomer, Swan Johnson (a Swede), J. B. Walton, George Nell, H. D. Whitman and Dr. Morris. Several of those who testified thought Mr. Dodge was a good farmer but drank too much and they all felt he should be removed as superintendent of the home.

*That's all we know about the Poor Farm from 1866 - 1911.*

The "new" building, known as the Poor Farm, was accepted by the Board of County Commissioners from the builder on March 13, 1911. "Bids for the building were let on July 23, 1910." John H Petty was low bidder at \$22,944.00. The building contained 35 rooms.

In a 1918 Thesis written by Frances Maude Ellis it stated "That Douglas County provided everything and paid the superintendent and his wife \$50. a month, the cook \$20. the hired man \$25. a month making a total of \$95 a month for help in farming the 200 acres and for caring for the 20 inmates. But Douglas County had a new modern instillation in which it is easier to do the work for the inmates than in some of the other institutions.

The cost per year for caring for each inmate was \$206.89 which seems very low in comparison to other almshouses. A great deal of the food was produced on the farm and with the present system of management the inmates seem to receive good care with not a great deal of expense to the county.

*Frances also researched 17 other poor farms in Kansas*



On March 15, 1927, the main barn was destroyed by fire. A former resident names W. J. Welshimer had been dismissed earlier from the home and was convicted by a jury in the District Court on May 7, 1927 of arson in the fourth degree for the burning of the barn. When he appeared for sentence to the penitentiary, Welshimer made the following statement, 'you wouldn't keep me at the County Home, so I had to fix it so you would keep me some place.'

On April 13, 1944 the home was destroyed by fire. Eight of the 34 elderly residents of the County Home were burned to death- three of the dead were women. The 34-year old brick and frame structure was a total loss.

George Hoskinson, superintendent, and the six employees of thee home rescued the other 26 residents. Two elderly men sleeping in the basement, awakened Hoskinson and his wife about 1:30 a.m.- they found flames and smoke in the basement laundry room. Efforts with a fire extinguisher failed and the employees aided the aged residents in exiting the burning building.

Mrs. Hoskinson drove the truck to a nearby farm to call the fire department, when they arrived the roof was already on fire and it was too late.

Mr. Hoskinson stated that he helped one inmate out twice and she returned to to burning building and died in the flames.

I remember two of the people very well ~~who died in the fire~~. John Chance and Lizzie Raandolph – I remember well. Aunt Cora and Uncle Charlie Wheadon help one man after he was brought from the burning house. He broke loose and went back in to get a pair a rubber knee boots and he never returned.



County Welfare Director, Mrs. Mildred Watson and two members of the staff, Miss Cecelia Robinson and Mrs. Margaret Pierce, arranged temporary quarters in the community building for the displaced residents.

The county quickly bought a home at 1003 W 4<sup>th</sup> to be used as a "convalescent hospital." It was three stories tall and had a red tile roof.

After the fire county commissioners announced that a small farmhouse would be build 300 feet southwest of the burned home. The livestock and equipment was sold in a sale.

In 1953 Mr. and Mrs. Gerald Hoover purchased the farm.

The county had problems with the old house (that had been purchased on West 4<sup>th</sup> street) and on November 4, 1958 voters approved construction of a new County Nursing home. The old home was sold and purchased in 1982 by Medical Arts Center.

Funds from the sale of the old county farm house and the house on West 4<sup>th</sup> and a two year 1&1/2 mill levee financed a new \$280,000 Douglas County Home, which then became Valleyview Care Home at 2528 Ridge Court. It opened in April 1961.

I have pictures of the remaining buildings that were on the Poor Farm and still remaining today.

#### SHOW SLIDES

Hoovers House  
County Well  
2 pictures of cave

Chicken house  
Garage  
Barn

Distance from barn  
Dynamite bldg.

Articles on table; Journal World 1946 along with other paper work.

*Anschutz library at KU. And the State of Kansas Historical  
library in Topeka*



Home Inspections, Compliance, Enforcement, and Criminal Investigations Compliance Actions and Activities Warning Letters 2014  
**Inspections, Compliance, Enforcement, and Criminal Investigations**

**Central Soyfoods 7/2/14**

Department of Health and Human Services

Public Health Service  
Food and Drug Administration  
Kansas City District  
Southwest Region  
8050 Marshall Drive, Suite 205  
Lenexa, Kansas 66214-1524

Telephone: (913) 495-5100

**July 2, 2014****WARNING LETTER****UNITED PARCEL SERVICE  
SIGNATURE REQUIRED**

CMS#433431

Mr. David T. Millstein  
Central Soyfoods LLC  
710 E. 22nd Street, Ste C  
Lawrence, Kansas 66046-3118

Dear Mr. Millstein:

The Food and Drug Administration (FDA) conducted an inspection of your food processing facility, located 710 E. 22<sup>nd</sup> Street, Ste C, Lawrence, Kansas, from May 20 through May 21, and July 1, 2014. The inspection revealed serious violations of FDA's Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food (CGMP) regulation, Title 21, Code of Federal Regulations, Part 110 (21 CFR Part 110). These conditions cause the food products produced and stored at your facility, including Hickory Smoked, Firm (type), and Garlic Herb Tofu to be adulterated within the meaning of section 402(a)(4) [21 U.S.C. 342(a)(4)] of the Federal Food, Drug and Cosmetic Act (the Act) in that they have also been prepared, packed or held under insanitary conditions whereby they may have become contaminated with filth or may have been rendered injurious to health. You can find the Act and its implementing regulations at [www.fda.gov](http://www.fda.gov)<sup>1</sup>.

**CGMP violations:**

1. You failed to take effective measures to exclude pests from the processing areas and protect against the contamination of food on the premises by pests, as required by 21 CFR 110.35(c) and evidenced by the following:



- a. What appeared to be a live roach was found on the leg of a food processing table inside the finished product packaging area.
- b. What appeared to be a live roach was found under a pallet of dried soybeans in the warehouse area of the plant.
- c. An apparent gnaw hole was found on a bag of Nigari (lot# 110415), an ingredient used in the production of your tofu.
- d. Apparent rodent droppings were found around bags of dried soybeans in the warehouse area. The warehouse is directly adjacent to the production area.

2) The facility and procedure used for cleaning and sanitizing of equipment has not been shown to provide adequate cleaning and sanitizing treatment as required by 21 CFR 110.35(d) (5). Specifically, on May 20, 2014, after producing tofu your procedure for cleaning and sanitizing food contact equipment by using hot water only does not provide adequate cleaning and sanitizing. The inside of the smoker used to smoke tofu contained accumulated debris. The corners of a metal food cart found in the packaging area contained debris.

3) Failure to take apart equipment as necessary to ensure thorough cleaning as required by 21 CFR 110.80(b)(1), Specifically, You do not fully disassemble all food contact equipment after processing and before the start of manufacture. The barrels with the screens used to extract the soy milk from the soy pulp had accumulated food debris inside parts of the screen.

4) Failure to have smoothly bonded or well-maintained seams on food contact surfaces, to minimize accumulation of food particles and the opportunity for growth of microorganisms as required by 21 CFR 110.40(b). Specifically, on May 20, 2014, during the manufacture of hickory smoked, firm (type), and garlic herb tofu several food contact tables and a food cart were found to have unsanitary welds. Also in the production area inside the hopper and the holding vats for the soybeans prior to the cooking kettle had rough welds.

5) Failure to properly store equipment, remove litter and waste, and cut weeds or grass that may constitute an attractant, breeding place, or harborage area for pests, within the immediate vicinity of the plant buildings or structures as required by 21 CFR 110.20(a)(1). Specifically, during the inspection conducted on May 20, 2014, the following harborage areas were found inside and outside your facility:

- a. Several bags of soybean meal were stored outside on the loading dock area. One bag was split open and apparent rodent droppings were found in and around the spilled food product.
- b. The area around the loading/receiving dock and door is overgrown and weeds are not trimmed around the front and side of the facility. Unused equipment is also stored outside on the loading/receiving dock

6) Instruments used for measuring conditions that control or prevent the growth of undesirable microorganisms are not accurate as required by 21 CFR 110.40(f). Specifically, on May 20, 2014, during the inspection of your facility, the temperature of cooling tofu was taken and the thermometer used by your employee read **(b)(4)** degrees F. The temperature of the Tofu was also taken with an FDA calibrated thermometer and the temperature recorded was 135 degrees F.

The above items are not intended to be an all-inclusive list of the violations at your facility. It is your responsibility to ensure compliance with the applicable laws and regulations administered by FDA. You should take prompt action to correct these violations. Failure to do so may result in regulatory action being initiated by the FDA without further notice. These actions include, but are not limited to, seizure and/or injunction.



Section 743 of the Act (21 U.S.C. 379j-31) authorizes FDA to assess and collect fees to cover FDA's costs for certain activities, including re-inspection-related costs. A re-inspection is one or more inspections conducted subsequent to an inspection that identified noncompliance materially related to a food safety requirement of the Act, specifically to determine whether compliance has been achieved. Re-inspection-related costs means all expenses, including administrative expenses, incurred in connection with FDA's arranging, conducting, and evaluating the results of the re-inspection and assessing and collecting the re-inspection fees (21 U.S.C. 379j-31(a)(2)(B)). For a domestic facility, FDA will assess and collect fees for re-inspection-related costs from the responsible party for the domestic facility. The inspection noted in this letter identified noncompliance materially related to a food safety requirement of the Act. Accordingly, FDA may assess fees to cover any re-inspection-related costs.

Please respond in writing within fifteen (15) working days from your receipt of this letter. Your response should outline the specific actions you are taking to correct these violations and prevent their recurrence. If you cannot complete all corrections before you respond, please explain the reason for your delay and state when you will correct any remaining violations.

Your written response should be sent to the Food and Drug Administration, Attention: Danial S Hutchison. If you have questions regarding any issues in this letter, please contact Mr. Hutchison at (913) 495-5154 or [Danial.Hutchison@fda.hhs.gov](mailto:Danial.Hutchison@fda.hhs.gov).

Sincerely,  
/S/  
Cheryl A. Bigham  
District Director

Page Last Updated: 07/14/2014

Note: If you need help accessing information in different file formats, see Instructions for Downloading Viewers and Players.

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U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993  
Ph. 1-888-INFO-FDA (1-888-463-6332)  
Email FDA



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U.S. Department of Health & Human Services

### Links on this page:

1. <http://www.fda.gov/>



CENTRAL SOYFOOD PROPERTY -NOT MAINTAINED FOR 4 YEARS







CENTRAL SOYFOOD PROPERTY -NOT MAINTAINED FOR 4 YEARS  
Photo taken Sept.15, 2014 3 days after trying to shame owners  
into mowing yard before meeting



Long Residence 9/12/2014



CENTRAL SOYFOOD 9/12/2014





Long Residence next door

1160 E 1500 Rd

1160 E 1500 Rd

Lawrence, Kansas

Street View - May 2011

CENTRAL SOYFOOD Property 2011



















THE FOLOWING IS FROM MIKE MANLEY, 1548 NORTH 1175 ROAD, LAWRENCE KANSAS 66046,

REGARDING CENTRAL SOYFOODS LLC CONDITIONAL USE PERMIT APPLICATION, SUBJECT TO PUBLIC HEARING 9/22/14 AS CUP-14-00304:

FACTS WE KNOW ABOUT DAVID T. MILLSTEIN (President of Central Soyfoods) obtained using GOOGLE:

## **ISSUE # 1: FDA Warning Letter to Central Soyfoods, citing Serious Violations, July 2014.**

A warning letter from the Kansas City District FDA office, dated July 2, 2014, was sent to Central Soyfoods LLC and is an item of public record. The letter cites numerous "serious violations" of FDA Good Manufacturing Processes for manufacturing of food for human consumption. Full text can be found at the following website.

<http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2014/ucm404543.htm>

I am concerned, regardless of whether all violations cited below have been/will be found by the FDA to be corrected, that these types of inherent issues will follow the Central Soyfoods facility from their current location within the city limits, out to the proposed relocation site at 1168 E. 1500 Road. The rodent and health issues cited by the FDA are of concern to myself and others I have spoken with in our rural residential neighborhood.

Below are excerpts of the exact text of the FDA letter (font sizes modified for emphasis).



**Department of Health and Human Services**

Public Health Service  
Food and Drug Administration  
Kansas City District  
Southwest Region  
8050 Marshall Drive, Suite 205  
Lenexa, Kansas 66214-1524

Telephone:(913) 495-5100

**July 2, 2014**

### **WARNING LETTER**

**UNITED PARCEL SERVICE  
SIGNATURE REQUIRED**

CMS#433431



Mr. David T. Millstein  
Central Soyfoods LLC  
710 E.22nd Street, Ste C  
Lawrence, Kansas 66046-3118

Dear Mr. Millstein:

The inspection revealed serious violations of FDA's Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food (CGMP) regulation

in that they have also been **prepared, packed or held under insanitary conditions whereby they may have become contaminated with filth or may have been rendered injurious to health.**

- 1. You failed to take effective measures to exclude pests from the processing areas and protect against the**



# **contamination of food on the premises by pests,** as required by 21 CFR 110.35(c) and evidenced by the following:

a. What appeared to be a **live roach** was found on the leg of a **food processing table** inside the finished product packaging area.

b. What appeared to be a **live roach** was found under a **pallet of dried soybeans** in the warehouse area of the plant.

c. An **apparent gnaw hole** was found on a bag of Nigari (lot# 110415), an ingredient used in the production of your tofu.

d. **Apparent rodent droppings** were found **around bags of dried soybeans** in the warehouse area. The warehouse is directly adjacent to the production area.

2) The facility and procedure used for cleaning and sanitizing of equipment has not been shown to provide adequate cleaning and sanitizing treatment as required by 21 CFR 110.35(d)(5). Specifically, on May 20, 2014, after producing tofu your procedure for cleaning and sanitizing food contact equipment by using hot water only does not provide adequate cleaning and sanitizing. The **inside of the smoker used to smoke tofu contained accumulated debris**. The corners of a metal food cart found in the packaging area contained debris.

3) **Failure to take apart equipment as necessary to ensure thorough cleaning** as required by 21 CFR 110.80(b)(1), Specifically, You do not fully disassemble all food contact equipment after processing and before the start of manufacture. **The barrels with the screens used to extract the soy milk from**



**the soy pulp had accumulated food debris inside parts of the screen.**

4) Failure to have smoothly bonded or well-maintained seams on food contact surfaces, to minimize accumulation of food particles and the opportunity for growth of microorganisms as required by 21 CFR 110.40(b). Specifically, on May 20, 2014, during the manufacture of hickory smoked, firm (type), and garlic herb tofu several food contact tables and a food cart were found to have unsanitary welds. Also in the production area inside the hopper and the holding vats for the soybeans prior to the cooking kettle had rough welds.

5) **Failure to properly store equipment, remove litter and waste, and cut weeds or grass that may constitute an attractant, breeding place, or harborage area for pests,** within the immediate vicinity of the plant buildings or structures as **required** by 21 CFR 110.20(a)(1). Specifically, during the inspection conducted on May 20, 2014, the following harborage areas were found inside and outside your facility:

a. Several bags of soybean meal were **stored outside on the loading dock area.** One bag was split open and apparent **rodent droppings** were found in and around the spilled food product.



**(NOTE: PHOTO BELOW WAS TAKEN AT CENTRAL SOYFOODS FACILITY IN SEPTEMBER 2014, AFTER THE FDA WARNING LETTER. ARE THESE BAGS OF SOYBEAN MEAL STILL BEING STORED OUTSIDE ON THE LOADING DOCK AREA?)**





**b. The area around the loading/receiving dock and door is overgrown and weeds are not trimmed around the front and side of the facility.** Unused equipment is also stored outside on the loading/receiving dock

6) Instruments used for measuring conditions that control or prevent **the growth of undesirable microorganisms** are not accurate as required by 21 CFR 110.40(f). Specifically, on May 20, 2014, during the inspection of your facility, the temperature of cooling tofu was taken and the thermometer used by your employee read **(b)(4)** degrees F. The temperature of the Tofu was also taken with an FDA calibrated thermometer and the temperature recorded was 135 degrees F.

**The above items are not intended to be an all-inclusive list of the violations at your facility.**

Sincerely,  
/S/  
Cheryl A. Bigham  
District Director



## ISSUE # 2: Long-term Neglect of property at 1168 E 1500 Road

Central Soyfoods acquired the property at 1168 E 1500 Road in 2010. The first set of photos, below, were obtained using GOOGLE STREET VIEW and were dated September 2011. The previous owner of the property was an elderly lady who mowed the property weekly and had pride in her property and consideration for the overall upkeep of our neighborhood (THE ADVANTAGE OF HAVING A HOMEOWNER PRESENT ON THE PROPERTY).

After acquisition by Central Soyfoods/Millsteins, it can already be seen that mowing became infrequent and the property began to be overrun by weeds and brush. Because tall weeds provide a breeding ground for rodents -- plus the snakes that feed on them -- these creatures have increased dramatically causing a health and safety hazard for their neighbors.





THE SECOND SET OF PHOTOS, BELOW, WERE TAKEN SEPTEMBER 12, 2014, BY MIKE MANLEY. THE CENTRAL SOYFOODS PROPERTY IS SHOWING THE LONG-TERM EFFECTS OF SEVERAL YEARS OF NEGLECT AND ABSENTEE OWNERSHIP. THE LONG'S HAVE MOWED THE CENTRAL SOYFOODS PROPERTY (FOR FREE -- MULTIPLE TIMES) IN AN ATTEMPT TO KEEP IT FROM APPEARING ABANDONED AND REFLECTING BADLY ON THEIR ADJACENT RESIDENCE AND ACREAGE.



THE LONGS HAVE BEEN APPROACHED ABOUT 50 TIMES OVER THE PAST 4 YEARS BY STRANGERS, LOOKING FOR CHEAP REAL ESTATE, ASKING WHO OWNS THE APPARENTLY ABANDONED PROPERTY NEXT DOOR.

THE 3-4 YEAR DURATION OF THESE DETERIORATING CONDITIONS IS THE UNFORTUNATE OUTCOME OF ABSENTEE OWNERSHIP AND NEGLECT OF PROPERTY. AS THE MILLSTEINS ARE ATTEMPTING TO REQUEST AN EXCEPTION TO GOOD PLANNING PROCEDURES -- THEY SHOULD HAVE AT LEAST TRIED TO BE GOOD NEIGHBORS BY KEEPING THE PROPERTY MOWED AND MAINTAINED,



RATHER THAN ALLOWING IT TO DETERIORATE TO THE POINT THAT IT'S OBVIOUS NO ONE LIVES THERE. THEIR PROPERTY HAS BECOME AN EYESORE IN OUR OTHERWISE PLEASANT RURAL RESIDENTIAL AREA.

I find it curious that the above letter from the FDA dated July 2 , 2014 stated the following as a violation at Central Soyfoods current location at 710 E. 22nd Street:

**The area around the loading/receiving dock and door is overgrown and weeds are not trimmed around the front and side of the facility.**

To Summarize: THE Central Soyfoods/MILLSTEIN PROPERTY HAS HAD LITTLE OR NO MAINTENANCE FOR 3 YEARS. I REALIZE YOU MAY NOT HAVE SEEN THIS COMPELLING EVIDENCE OF NEGLECT AND DERELICTION WHEN YOU INITIALLY LOOKED AT THE SOYFOODS PROPOSAL. IT SPEAKS VOLUMES ABOUT THE IMPORTANCE OF BEING A HOMEOWNER AND RESIDENT. I HAVE A LOT OF PRIDE IN OUR NEIGHBORHOOD AND I HOPE YOU WILL CONSIDER THE LASTING IMPACT YOUR DECISION WILL HAVE ON OUR NEIGHBORHOOD-- GIVEN THE HISTORY OF THIS INDIVIDUAL'S NEGLECT OF THE PROPERTY AND DISREGARD FOR THE RESULTING IMPACT ON ADJACENT RESIDENTS AND THE GENERAL NEIGHBORHOOD. WHEN I HEAR CHILDREN GIVE EXCUSES FOR THEIR BAD BEHAVIOR -- ALL I HEAR IS " BLAH BLAH BLAH BLAH BLAH -- DOG ATE MY LAWNMOWER -- BLAH BLAH BLAH " . PICTURES ARE WORTH A THOUSAND BLAH BLAH BLAHS. -- ACTIONS HAVE CONSEQUENCES and I BELIEVE THEY HAVE MADE THEIR BED AND NOW THEY HAVE TO SLEEP IN IT. - SORRY ABOUT THE SPEECH - THERE'S MORE.



I Attempted to shame Susan Millstein into mowing her yard and gave her 4 days (I would have been over there in 30 minutes with a push mower). Anyway below is just another picture taken Sept 15, 2014. -- AS OF THIS WRITING I AM NOT SURE IF THEY HAVE HAD A DEATH BED CONVERSION AND HAVE MOWED THEIR PROPERTY THE DAY BEFORE THEIR MEETING --FIGURING YOU HAVE NOT HAD TIME TO INSPECT THEIR PROPERTY.



CENTRAL SOYFOOD PROPERTY -NOT MAINTAINED FOR 4 YEARS  
Photo taken Sept.15, 2014 3 days after trying to shame owners  
into mowing yard before meeting



THIS PHOTO IS WHAT THE LONGS HAVE HAD TO LOOK AT FOR 4 YEARS. GREAT BREEDING GROUNDS FOR RODENTS/SNAKES (who eat the rodents). Unfortunately GREEN IS NOT CLEAN (in this case).



One more quote from the FDA

**Failure to properly store  
equipment, remove litter and  
waste, and cut weeds or grass  
that may constitute an**



**attractant, breeding place, or  
harborage area for pests, within the  
immediate vicinity of the plant buildings or structures as  
required** by 21 CFR 110.20(a)(1).

THE PREVIOUS FACTS ARE ALL PUBLIC KNOWLEDGE AND I BELIEVE SHOULD BE  
CONSIDERED WHEN MAKING AN IRREVOCABLE DECISION ABOUT THE FUTURE  
OF OUR NEIGHBORHOOD -- WHICH WE ARE ALL PROUD OF. MOST OF THE  
RESIDENTS OF THE IMMEDIATE NEIGHBOORHOOD HAVE LIVED HERE ON  
AVERAGE 25-35 YEARS AND HAVE NEVER SEEN THIS LEVEL OF NEGLECT.

**HAVE PRIDE IN  
LAWRENCE-- PLEASE --  
VOTE NO!**



## **PART 2 --( COMMON SENSE)**

# **THE PSYCHOLOGICAL WAR ON THE WOMEN OF OUR COMMUNITY.**

**To understand our the mindset of the rural homeowner please read Truman Capote's book "IN COLD BLOOD". Strange people creep the Bejesus out of some of our residents. -- We want neighbors we can trust, not transient/unknown workers who rotate in and out. Having a resident neighbor is an infinitely better situation -- as they are close by and have concern about your well being and are there at night if you have an emergency -- having a non-resident based business will prevent this sense of security -- which can only be accomplished by have a long term resident -- who genuinely cares about you.**



## **QUESTIONS:**

**1. Will the employees be Drug Tested Frequently and have a Criminal background check. -- Our lives and sense of security depend upon this. -- PLEASE PUT YOUR SELF IN OUR POSITION AND HAVE SOME CONSIDERATION ABOUT HOW YOU WILL BE DESTROYING OUR NEIGHBORHOOD.**

**2. When Central Soyfoods first bought the residence they had some of their employees living in the house. One night Willis Long was walking on his property only to discover -- strange people trespassing on his property by his barn. -- AGAIN if this was his wife -- the phrase "CREEPS THE BEJESUS OUT OF ME" would apply.**

**3. If the Central Soyfood Property is zoned for a business -- can it ever be a residence again-- Please be positive about this. Otherwise you will PERMANENTLY RUIN OUR NEIGHBORHOOD.**



**PLANNING COMMISSION REPORT**  
**Regular Agenda – Non-Public Hearing Item**

PC Staff Report  
PP-14-00303

**ITEM NO. 4      PRELIMINARY PLAT FOR SCHWEGLER ADDITION; 2201 OUSDAHL RD  
(SLD)**

**PP-14-00303:** Consider a Preliminary Plat for Schwegler Addition located at 2201 Ousdahl Rd. Submitted by Grob Engineering Services LLC on behalf of USD #497, property owner of record.

**STAFF RECOMMENDATION:**

Staff recommends approval of the Preliminary Plat for Schwegler Addition.

**REASON FOR REQUEST:**      *Subdivision requirement prior to construction.*

**ATTACHMENTS**

1. Area Map
2. Preliminary Plat

**KEY POINTS**

- The property is currently an unplatted lot owned by USD 497.
- This property includes an existing elementary school and surface parking lot.
- This property abuts Ousdahl Road, a designated collector street requiring 80' of right-of-way.
- This segment of the existing street is constructed with a narrower total right-of-way thus requiring a variance.

**SUBDIVISION CITATIONS TO CONSIDER**

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 10, 2012.
- Section 20-810(e)(5)(i) requires 80' of right-of-way for a collector street.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- SP-05-35-05; picnic shelter addition.
- SP-14-00225; temporary classroom addition.

**OTHER ACTION REQUIRED**

- Administrative approval of the Final Plat.
- City Commission acceptance of Easements.
- Recording of the Final Plat with the Douglas County Register of Deeds.
- Application and release of Building Permits prior to development.

**PLANS AND STUDIES REQUIRED**

- *Traffic Study* – Not required with this application. Additional information may be required with the submission of a site plan for future site improvements.
- *Downstream Sanitary Sewer Analysis* – Not required for preliminary plat. Additional information may be required with the submission of a site plan for future site improvements.
- *Drainage Study* – Not required for preliminary plat. Additional information may be required with the submission of a site plan for future site improvements.
- *Retail Market Study* – Not applicable to project.



## **PUBLIC COMMENT**

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

### **Site Summary**

Gross Area:	7.78 Acres
Number of Existing Lots:	Unplatted parcel
Number of Proposed Lots:	1 lot
Right-of-Way Dedicated:	5' of right-of-way is proposed with this application.

## **GENERAL INFORMATION**

Current Zoning and Land Use: GPI (General Public and Institutional) District. Existing elementary school.

Surrounding Zoning and Land Use: RS7 (Single-Dwelling Residential) District to the north and east. Existing residential homes.

CS (Commercial Strip) District to the south and west. Existing commercial businesses.

## **STAFF REVIEW**

This property is located on the west side of Ousdahl Road, a designated collector street, and the south side of W. 22<sup>nd</sup> Street, a local street. This property is developed with an existing elementary school. A Preliminary Plat is required as a pre-development requirement prior to planned facility improvements to the existing elementary school.

### **Compliance with Zoning Regulations for the GPI District**

The subject property contains approximately 7.7 acres and exceeds the minimum 5-acre lot size in the GPI District. Minimum setbacks are established in Article 6 of the Development Code. Notably, the required building setback is 40' from residential zoning (north and east property lines). The Preliminary Plat shows that the building exceeds the required setback of 40' along Ousdahl Road. The building setback along W. 22<sup>nd</sup> Street is 13' at the east end of the building and does not comply with this setback. This site was developed prior to the current design standards.

This subdivision meets some but not all of the density and dimensional standards established for the GPI District per section 20-601 (b). These non-conformities predate the district requirements. They will continue to be reviewed as part of any future site plan for this property.

### **Streets and Access**

This property abuts Ousdahl Road on the east and W. 22<sup>nd</sup> Street on the north. Access to the school parking lot is from W. 22<sup>nd</sup> Street. A driveway from Ousdahl Road also provides access to a paved area on the south side of the building. There are no changes to the access for this property.

### **Utilities and Infrastructure**

This Preliminary Plat does not include any changes to utilities that serve this property. As details become available regarding the future site improvements for the school, additional information will be required. The existing building is currently provided with supporting infrastructure.

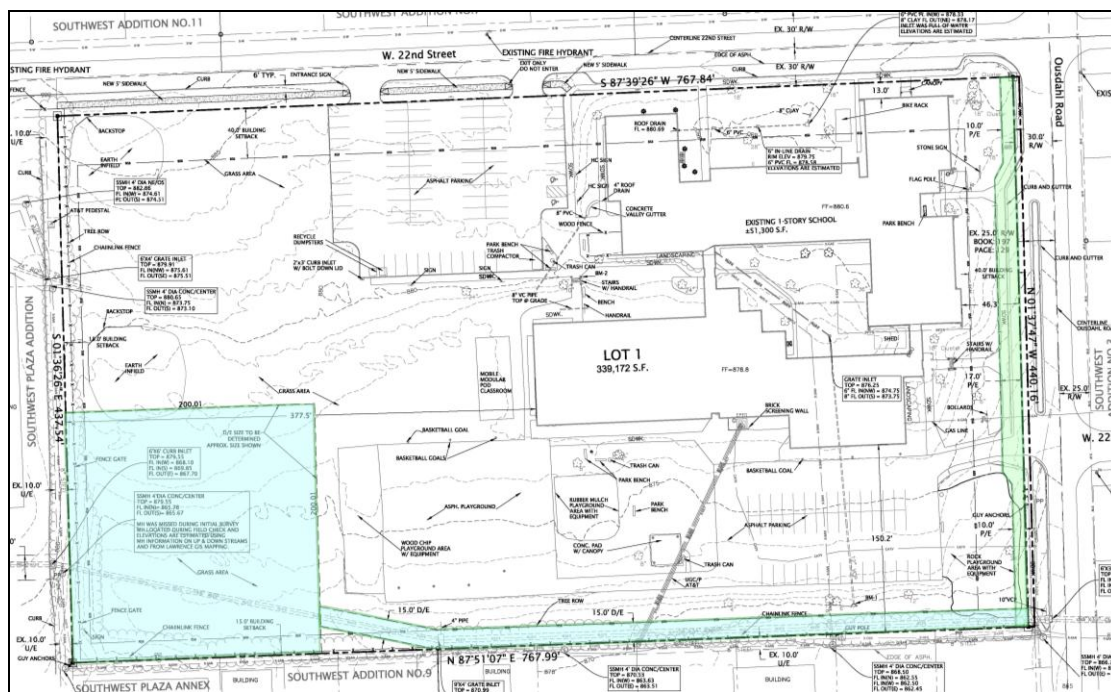
### **Easements and Rights-of-Way**

*Drainage Easements:* This project includes a new drainage easement in the southwest corner of the site and a drainage easement along the south property line to accommodate a future detention pond to serve this area. The applicant is working with the City of Lawrence Stormwater Engineer and his consultant in the final design of the detention pond. The proposed easement does not



currently reflect the final design. The 200' by 200' easement may be slightly modified with final design. A final dimension of the easement will be required prior to recording a Final Plat for this property. If additional easement is determined to be needed in the future after the Final Plat is recorded than the City and the property owner may need to coordinate the execution of an easement by separate instrument independent of the Final Plat. The drainage easement is highlighted in blue in the following image.

**Pedestrian Easements:** This Preliminary Plat includes the dedication of additional easement along Ousdahl Road. This easement combined with the proposed right-of-way meets the required right-of-way dedication that is required. Additionally, this easement places the existing sidewalk in a public easement and preserves connectivity along this segment of Ousdahl Road. Pedestrian easement is highlighted in green in the following image.



**Figure 1: Proposed drainage and pedestrian easements**

**W. 22<sup>nd</sup> Street Right-of-Way:** No changes to the right-of-way for W. 22<sup>nd</sup> Street are proposed with this Preliminary Plat. The existing right-of-way for W. 22<sup>nd</sup> Street complies with the current design standards for a local street [60' required, 60' provided].

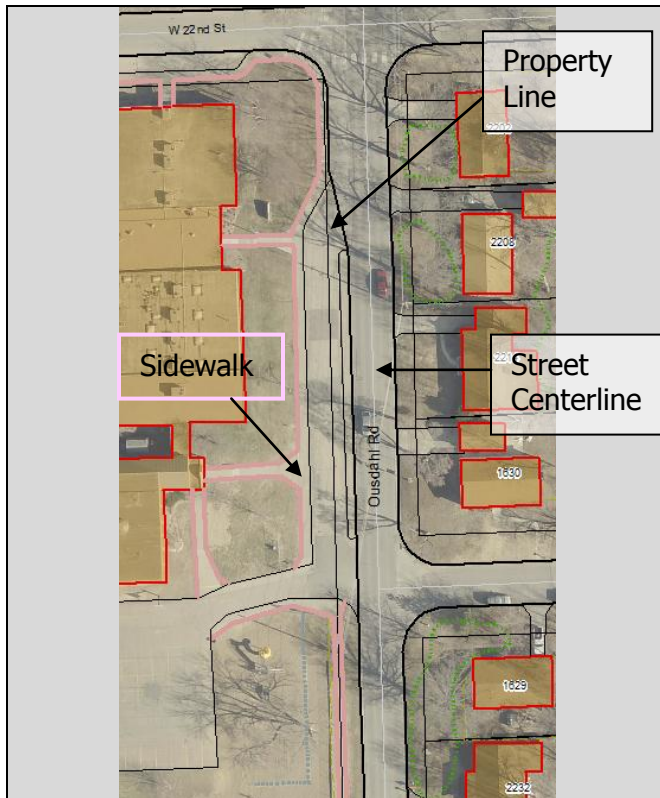
**Ousdahl Road Right-of-Way:** The preliminary plat indicates an addition of 5' of right-of-way will be added along the west side of Ousdahl Road. This will increase the total right-of-way from 50' to 55'. As a collector street, the total required right-of-way is 80' total or 40' from the centerline of the street. Compliance with this standard would require a dedication of 15' of right-of-way.

This site is developed with a separated bus lane located partially within the southbound lane of Ousdahl Road. The remainder of the bus lane and the public sidewalk are located on the school property. There are no plans to change this configuration for bus circulation. The City Engineer noted that a use of right-of-way agreement should be executed for the bus lane. This agreement will be reviewed with the future submission of a site plan for site improvements.

Dedication of the required Ousdahl Road right-of-way (40' from the street centerline) would result in reducing the building setback along Ousdahl Road. The building currently exceeds the minimum required setback by 6'.



The public sidewalk along Ousdahl Road is offset to accommodate a bus lane along the eastern edge of the property. The sidewalk reconnects with a typical alignment south of W. 22<sup>nd</sup> Street Terrace.



**Figure 2: Existing sidewalk shown in pink**



**Figure 3: Existing bus lane shown with arrows**

**VARIANCE REQUEST:** Reduce the 80 ft right-of-way requirement in Section 20-810(e) (5) for a Collector Street to allow the right-of-way for Ousdahl Road to remain 50' (25' from centerline) with an additional dedication of 5' of right-of-way and easement for the sidewalk for that portion of Ousdahl Road along the east property line of the subject property.

**Criteria 1.** Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

**Applicant Response:** *The existing right-of-way width at this location is 50 feet (25 feet on the subject property). The remainder of the existing right-of-way along this continuous portion of Ousdahl Road is 60 feet in width. Strict application of the specified 80-foot right-of-way width for collector streets would cause the existing building to be in non-conformance due to the minimum setback regulations listed in 20-601 (b)[10].*

Dedication of additional right-of-way from adjacent properties is unlikely and will substantially reduce lot sizes in the area. Requiring the subject property to dedicate 15' of right-of-way would result in reducing the front yard setback to a non-conforming dimension along Ousdahl Road. The Preliminary Plat shows the dedication of 5' of the required 15'. This accommodates right-of-way improvements to serve the school district without negatively impacting the building setback along Ousdahl Road.

**Criteria 2.** The proposed variance is in harmony with the intended purpose of these regulations.



***Applicant Response:*** *The regulation specify an 80-foot right-of-way to allow for wider collector streets currently being constructed in the expanding neighborhood with residential lots fronting along Ousdahl Road, so it is highly unlikely that Ousdahl road would be significantly widened in the future. The Right-of-way width does not exceed 60 feet at any point along this continuous portion of Ousdahl Road.*

This preliminary plat shows the existing condition of the site and the developed land use pattern of the area. The width of the right-of-way is consistent for properties between W. 22<sup>nd</sup> Street and W. 23<sup>rd</sup> Street. The street right-of-way width north of W. 22<sup>nd</sup> Street is 60' wide but is still inconsistent with the current design standard. The surrounding land uses to the east and north are developed residential lots with detached housing. There are no plans to widen this segment of Ousdahl Road regardless of its classification as a collector street.

**Criteria 3:** The public health, safety, and welfare will be protected.

***Applicant Response:*** *We are proposing an increase in right-of-way width along Ousdahl road to 30 feet on this property, which will align with the current configuration of the right-of-way along the remainder of the street. Increasing the right-of-way width to the Code requirement for collector streets (40 feet) on this property would not benefit the general public since Ousdahl Road functions adequately and there are no plans for future improvements, which would require additional right-of-way. This property has functioned as a school since 1957, with several building additions since. The public health, safety, and welfare of the general public will not be affected by this request.*

This preliminary plat includes the dedication of easement and right-of-way to equal the property owner's share of the required 40' of right-of-way for Ousdahl Road. The dedication of the pedestrian easement along Ousdahl Road will place the public sidewalk along the west side of Ousdahl Road in a public easement. The extension of the easement along the north end of the property provides for future sidewalk repairs or changes to be relocated away from the back of curb providing greater separation between the street and the sidewalk and improving safety.

25' ROW existing
+ 5' ROW proposed
<u>+10' Easement minimum proposed</u>
40' Total Easement and ROW

**Figure 4: Right-of-way summary**

### **Staff Finding:**

The proposed request is consistent with the development pattern of the area and accounts for the existing condition of the street. There are no planned improvements that would widen this street.

### **Conformance**

The preliminary plat is an essential element in the development process. Minor revisions to the drainage easement may be needed. Subject to approval of the variance for the right-of-way width for Ousdahl Road, this Preliminary Plat complies with the standards and requirements of the Subdivision Regulations and the Development Code.



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PRELIMINARY PLAT  
**SCHWEGLER ADDITION**  
LAWRENCE, KANSAS

DESIGNED BY

BCK

CHECKED BY

JDG

ISSUE DATE

July 21, 2014

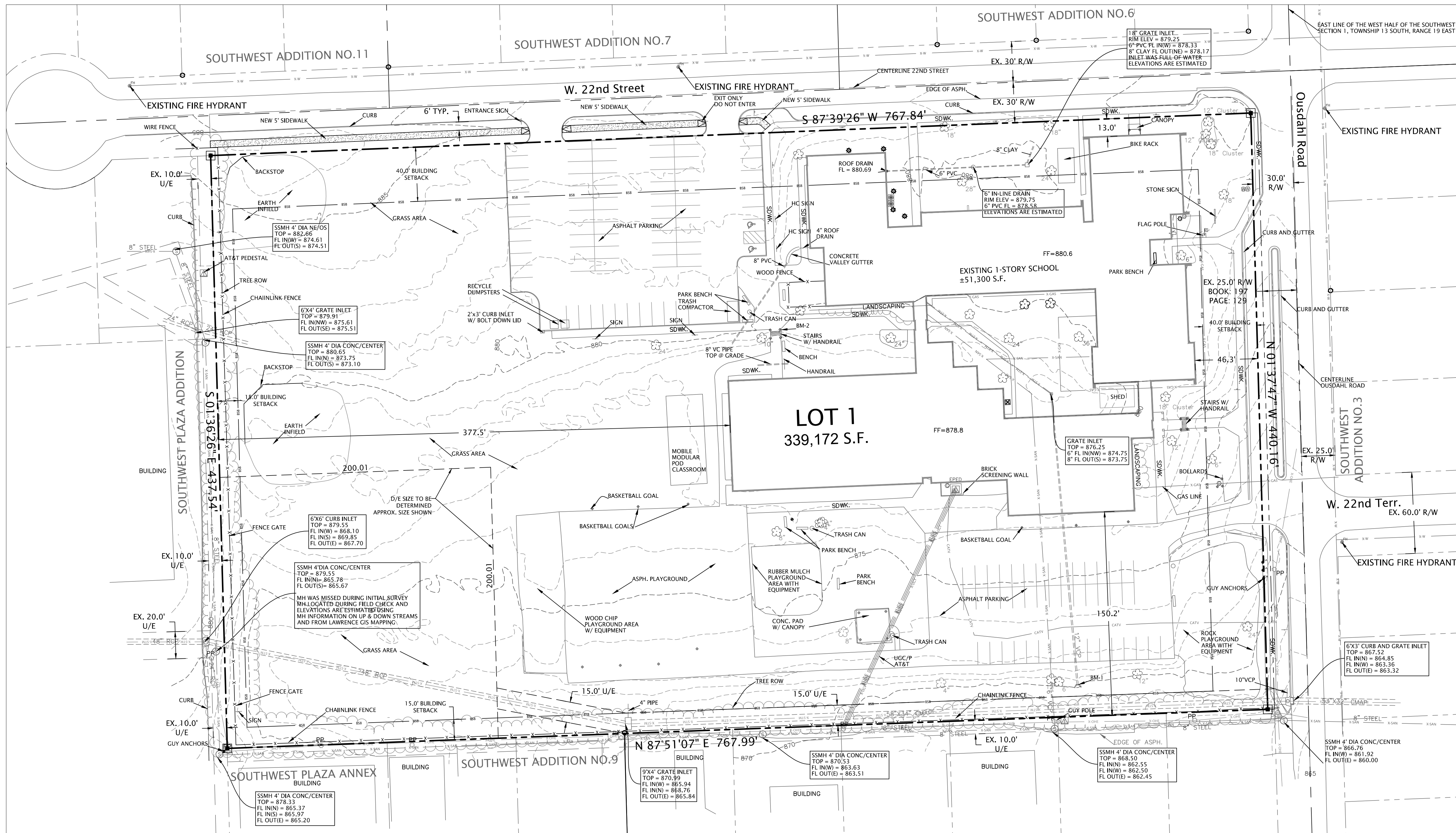
## REVISIONS

August 27, 2014

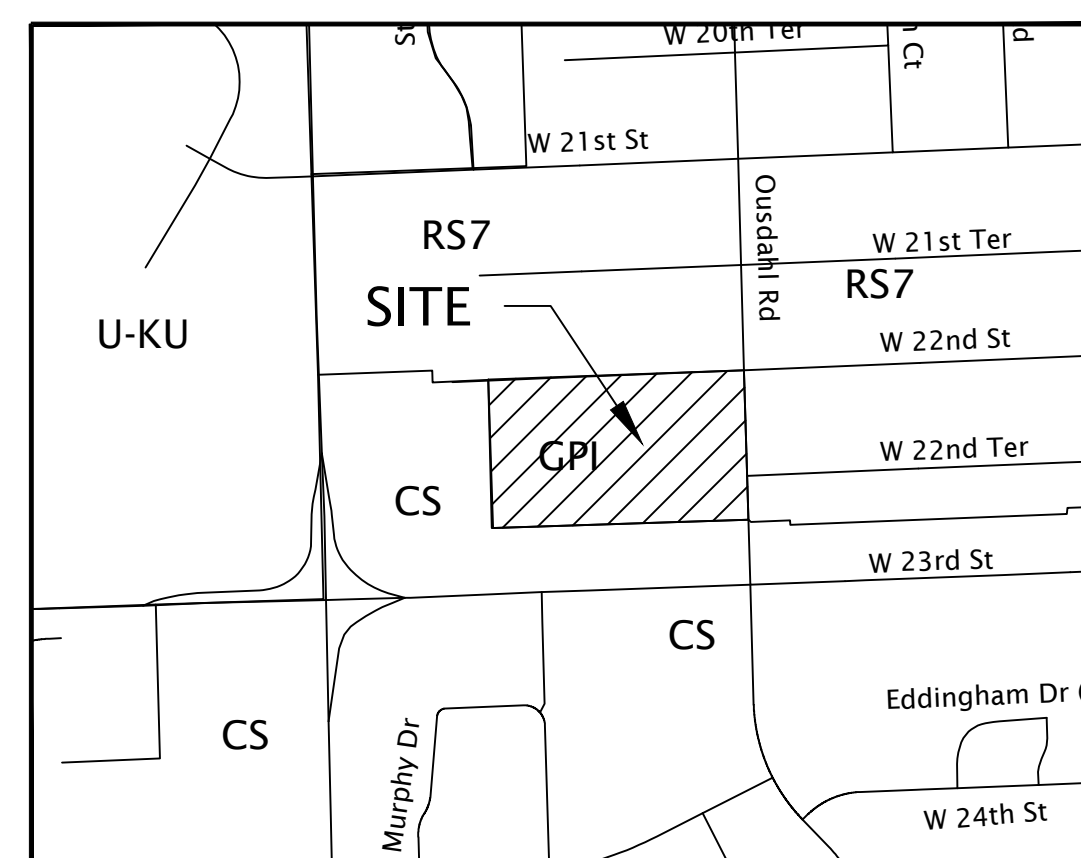
SHEET

1

1



### LOCATION MAP



SCALE 1"= 600












## LEGAL DESCRIPTION

[illegible][illegible]

**n** **d** **S** **r** **r** **S** **S** **E** **D** **C**

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## BENCHMARKS

BM1 - CHISELED "□" ON TOP HEADWALL SOUTH OF SOUTHEAST PARKING LOT.  
Elev. 871.22

BM2 - CHISELED "□" ON NORTHEAST CORNER OF EAST CONCRETE WALL FOR

Elev = 880.31

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## GENERAL NOTES

1. OWNER: Unified School District #97, 110 McDonald Drive, Lawrence, Kansas 66044
2. LANDPLANNER: Grob Engineering Services LLC, 3210 Mesa Way, Suite A, Lawrence, Kansas 66049
3. SURVEYOR: Cook, Flatt, & Strobel Engineers, PA., 850 E. 13th Street, Lawrence, Kansas 66044.
4. Topography obtained by County Maps and boundary survey performed by CFSE, June 2014.
5. Existing land use: Elementary School
6. Existing zoning: GPI
7. Proposed land use: Elementary School
8. Proposed soil types: Mc - Martin silt clay loam
9. This project is not located within the 100 year floodplain per FEMA map #20045C0159D. Effective date: August 5th, 2014
10. All new telephone, cable television and electrical lines must be located underground.
11. Developer is responsible for the cost of relocation of existing utilities, if necessary to serve the proposed subdivision.
12. A variance request is being submitted to Lawrence/Douglas County Planning Commission from section 20-81(0)(e)5 to allow a reduced Right-of-Way width on this property along Ousdahl Road.

## PROVISIONS OF FINANCING OF ROADS, SEWER, WATER AND OTHER PUBLIC SERVICES

1. The subdivision will not have public streets.
2. The subdivision will provide connections to existing City of Lawrence waterlines.
3. The subdivision will provide connections to an existing City of Lawrence sanitary sewer system.
4. Purchasers of the lots in the subdivision will not be subject to special assessments or other costs or fees specific to improvements within the subdivision.
5. Proposed improvements will not depend on a vote, petition or other collective action of property owners in the subdivision.
6. Financing for installation of the public improvements shall be guaranteed by either an escrow deposit or letter of credit.

### LEGEND

— OHW	— OHW	OVERHEAD WIRE	 SANITARY MANHOLE	BB BACK OF CURB TO BACK OF CURB
— OHW	— OHW	OVERHEAD ELECTRICAL	 STORM MANHOLE	R/W RIGHT-OF-WAY
— UGT	— UGT	UNDERGROUND TELEPHONE	 STORM DRAIN	CL CENTERLINE
— GAS	— GAS	GAS	 GUY ANCHOR	D/E DRAINAGE EASEMENT
— W	— W	WATERLINE	 UTILITY POLE	U/E UTILITY EASEMENT
— SAN	— SAN	SANITARY SEWER LINE	 WATER METER	A/E ACCESS EASEMENT
— SS	— SS	SANITARY SEWER SERVICE	 WATER VALVE	(P) PLATTED
— STM	— STM	STORMWATER LINE	 FIRE HYDRANT	(W) MEASURED
		PROPERTY LINE	 TRAFFIC SIGNAL STR.	(C) CALCULATED FROM MEASUREMENTS
		OFF SITE SURVEYED PROP.	 GAS VALVE	
		CENTERLINE	 GAS METER	 FOUND BAR - ORIGIN UNKNOWN
		PAVEMENT	 LIGHT POLE	 SET 2" x 24" REBAR W/16" C
		UTILITY EASEMENT	 SIGN	
		BUILDING SETBACK LINE	 ELECTRIC BOX	
— SB	— SB		 CABLE TV BOX	

NOTE: "S" IN UTILITY LINE DENOTES EXISTING FEATURE

## SITE SUMMARY

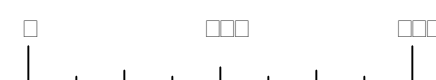
GROSS AREA:	7.79 acres
RIGHTS-OF-WAY AREA:	0.05 acres
NET AREA:	7.74 acres
TOTAL NUMBER OF LOTS:	1 Lots
AVERAGE LOT SIZE:	7.74 acres
MINIMUM LOT SIZE:	7.74 acres
MAXIMUM LOT SIZE:	7.74 acres

ENTIRE ADDITION IS ZONED GPI (GENERAL PUBLIC AND INSTITUTIONAL).

a preliminary plat for \_\_\_\_\_  
**HWEGLER ADDITION**



SCALE: 1" = 40'





**PLANNING COMMISSION REPORT**  
**Regular Agenda - Public Hearing Item**

PC Staff Report  
09/22/2014

**ITEM NO. 5A RM12 TO RMO; .269 ACRES; 1106 RHODE ISLAND ST (LBZ)**

**Z-14-00314:** Consider a request to rezone approximately .269 acres from RM12 (Multi-Dwelling Residential) District to RMO (Multi-Dwelling Residential-Office) District located at 1106 Rhode Island Street. Submitted by Hernly Associates on behalf of the City of Lawrence, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the request to rezone approximately .269 acres, from RM12 (Multi-Dwelling Residential) District to RMO (Multi-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 proposing to restore and preserve the historic structures on the lot. In order for the buildings to meet our needs (commercial and residential per the historical use) a rezoning to RMO from the current RM12 is required.*

**KEY POINTS**

- The property is a contributing structure to the North Rhode Island Street Historic Residential District listed in the National Register of Historic Places.
- The property has been used as a storage area for approximately 30 years.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- SUP-14-00326; mixed residential and office use including detached residential uses in an RM district.
- City Commission approval of the rezoning and publication of an ordinance rezoning the property.
- City Commission approval of the Special Use Permit and publication of an ordinance.
- DR-14-00291 – Design Review for the proposed project approved by the Historic Resources Commission on August 21, 2014.
- B-14-00323 – Variance requests to allow for the placement of structures and the new parking area on the site approved with conditions by the Board of Zoning Appeals on September 4, 2014.

**PLANS AND STUDIES REQUIRED**

- *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 to residential request

**ATTACHMENTS**

- Resolution 7013

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Communication from Tenants to Homeowners
- Communication from the East Lawrence Neighborhood Association



### Project Summary:

The property located at 1106 Rhode Island Street contains 0.269 acres and is platted as Lots 118 and 120 Rhode Island Street, Original Townsite. The existing structures on site consist of a frame house (c. 1871), a two story barn (c. 1880) and a garage attached to the barn. Rhody Delahunty established his home and transfer and storage company business at 1106 Rhode Island Street by 1871. He died in 1919 and the operation of the business passed to Thomas Delahunty. Thomas Delahunty ran the transfer and storage company until the mid-1930s. Thomas and his sister Nellie occupied the property into the 1960s and maintained an antiques business there. In 1964 Stanley and Janet Swartzman bought the property and in August of 1965 sold the property to Raymond F. Barland. Barland used the property for an auto salvage business specializing in old Packard parts. The Barland family owned the property and used it for storage until 2013.

Proposed request is for a mixed residential office zoning to accommodate both residential and offices uses. The property is located within the East Lawrence Neighborhood and is listed as a contributing property to the North Rhode Island Street Historic Residential District, National Register of Historic Places. This application was submitted concurrently with an application for a Special Use Permit to accommodate the detached residential use in a RM zoning district. The proposed project also includes the rehabilitation of the existing structures and a new structure to be placed on the southeast corner of the property. A parking area will be established to the west of the barn to support the property uses.



West elevation of 1106 Rhode Island Street.



Barn at 1106 Rhode Island Street.

## REVIEW & DECISION-MAKING CRITERIA

### 1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *Horizon 2020 includes statements that recognize the importance of historic resources to our sense of place and to help provide direction for future development and growth. The request will allow the property to be preserved and stabilize the historic neighborhood. The neighborhood surrounding the proposed development is very mixed.*

*Directly south of the development are several lots that serve as permanently affordable rental housing (Tenants to Homeowners). Further south of that is a mix of owner occupied single-family dwellings and rental dwellings. Across the street to the West is a large lot zoned GPI (The Douglas County Law Enforcement Center and a large parking lot). Directly north of the lot, across 11<sup>th</sup> Street is a multi-family apartment building. North of that structure and further down Rhode Island*



*Street are a mix of single-family owner occupied dwellings, a multi-family apartment complex intermixed with single dwelling rental housing.*

*Directly east of 1106 Rhode Island is a large multi-family rental house, and further south there is a mix of owner occupied single dwellings and rental dwellings. Other properties in close proximity include a large historic dwelling and an historic church which have both been converted to office buildings.*

*The 1106 property is at the corner of a minor arterial street (11th Street) and a very busy civic building and associated parking (Law Enforcement Center). The zoning request of RM-O and the proposed residential/professional office uses for this small lot is a nice complement to the varied neighborhood uses and creates a stable transitional property between the intensity of uses in downtown and the Law Enforcement Center and the lower intensity residential uses further east, north, and south.*

*Historically the property has been used in a similar way to what the current project is suggesting though historically the uses were much more intense level. The portion of the property we would like to convert to office use has been warehouse, transfer and storage, auto-repair, and auto salvage in the past. We believe that the professional office use is a much less intense use to those industrial uses. Historically the circa 1870 house served as the home and likely the office for the proprietor of the on-site industry.*

*The Horizon 2020 document has commentary that encourages development and redevelopment that includes components of what this project is suggesting. Under "Neighborhood Concept" Item 3, Mixed housing types and Live/Work opportunities "should be explored". Our project and RM-O zoning promote mixed housing types and live/work opportunities in close proximity.*

*Policy 3.2 "Protect Existing Housing Stock" includes statements encouraging preservation of existing dwelling units. Our project will do that and will reverse a decades long apparent attempt at "demolition by neglect". This policy also suggests consideration of "alternate standards" for the rehabilitation of existing housing stock. While we aren't specifically requesting alternate standards it is clear that the document favors some allowances and exceptions where preservation of housing stock is concerned.*

*Policy 3.3 "Encourage Compatible Infill Development" encourages redevelopment and infill as a means of providing a variety of compatible housing types within neighborhoods.*

*Policy 3.6 "Promote Neighborhood Identity" suggests that preservation and enhancement of the visual and environmental character of existing neighborhoods is important. Our suggested project will do just that.*

*Goal 6 and Policy 6.1 suggest that transitional elements between areas of differing development intensity should have careful attention given them. We believe that the multitude of processes and submittals along with the local support we have garnered for this project suggest that the project is a good one and should be allowed to proceed.*

*We believe that our proposed project meets many of the goals and intents of Horizon 2020. We have the written support of the East Lawrence Neighborhood and the property owner directly south of the project. Both believe in historic preservation and support the various requests required to see this project move forward.*



Key features of the plan found in Chapter 3 state:

- *Support infill development and redevelopment which provide a range of residential, commercial, office, industrial and public uses within these parcels consistent and compatible with the established land use pattern in the surrounding area.*
- *Encourage the identification, protection and adaptive reuse of the wide diversity of historic buildings, structures, sites and archeological sites that can be found in Lawrence and Douglas County. Considering historic preservation issues in combination with other land use decisions assures the preservation of historic resources but also fosters the image, identity and economic development goals in the Comprehensive Plan.*

Approval of the proposed request would include office uses within the district. This rezoning would facilitate the redevelopment of the site that has been blighted for approximately 30 years. The future land use map identifies the area for medium to high density residential adjacent to community facility. The project will have two dwelling units on Lot 120. While the professional office use is not contemplated in the future land use map, RMO is a transitional use that will help facilitate the rehabilitation of the property and provide for infill development as identified as a key feature of *Horizon 2020*.

- **Staff Finding** – *Horizon 2020* supports infill development and redevelopment that provides a range of residential, commercial, office, industrial and public uses when the development is consistent and compatible with the established land use pattern in the surrounding area. In addition, *Horizon 2020* encourages the adaptive reuse of historic buildings.

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

Current Zoning and Land Use: RM12 (Multi-Dwelling Residential) District; existing residence and barn

Surrounding Zoning and Land Use: RM12 (Multi-Dwelling Residential) District to the north and south; existing multi-family uses

RS5 (Single-Dwelling Residential) District to the east; existing multi-dwelling residential units and detached residential dwelling uses.

GPI (General Public and Institutional) District to the west; existing Judicial and Law Enforcement Building

This property abuts multi-dwelling residential uses to the north and south. Detached residential uses are located to the east. The multi-dwelling residential uses are converted detached residences that now include multiple units. The housing form has generally remained intact as detached buildings on individual lots. The existing RM12 district includes both detached residences and residences converted to apartments. In addition, the adjacent property to the south was recently redeveloped as multi-family structures by Tenants to Homeowners. (These changes are not reflected on the land use map below.)

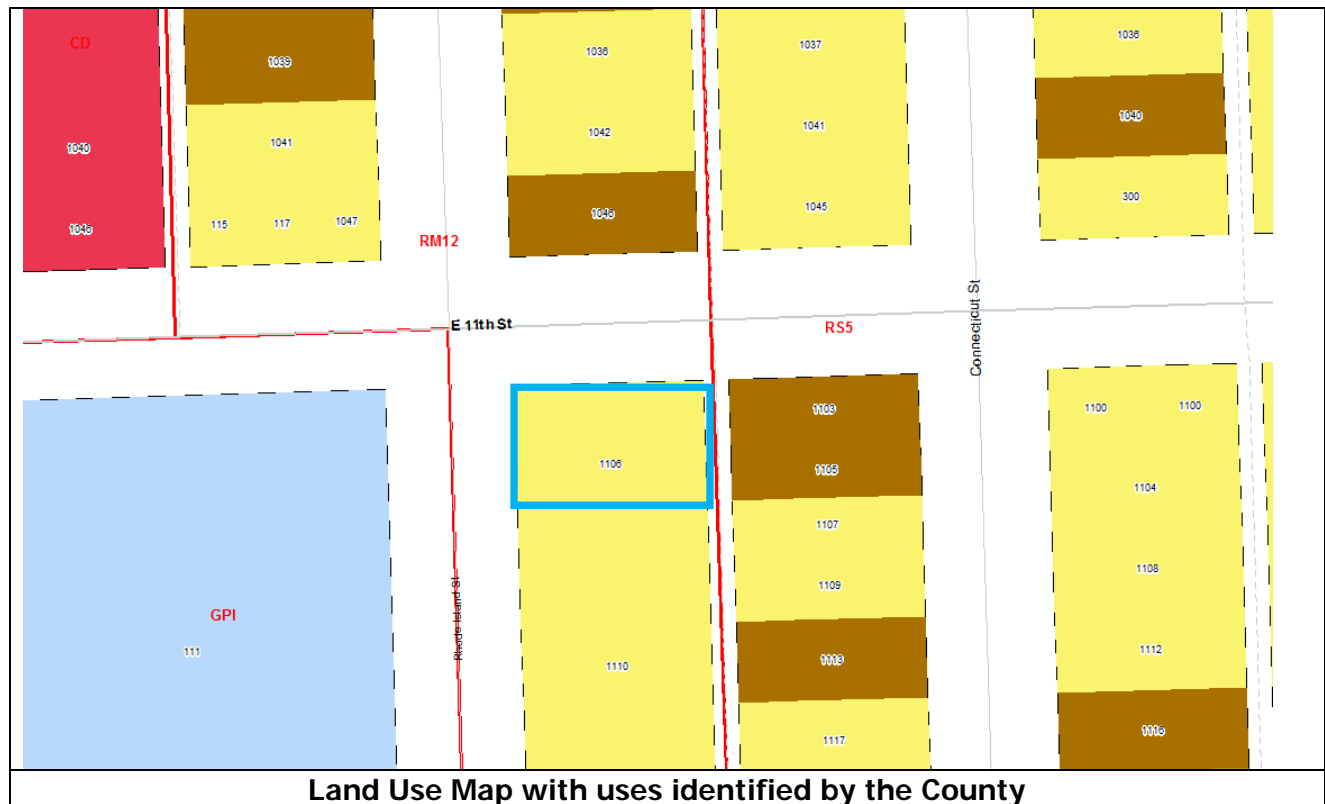
A dominant use in the area is the Judicial Law Enforcement Building located immediately to the west. This public facility use includes a parking lot with access to Rhode Island Street.



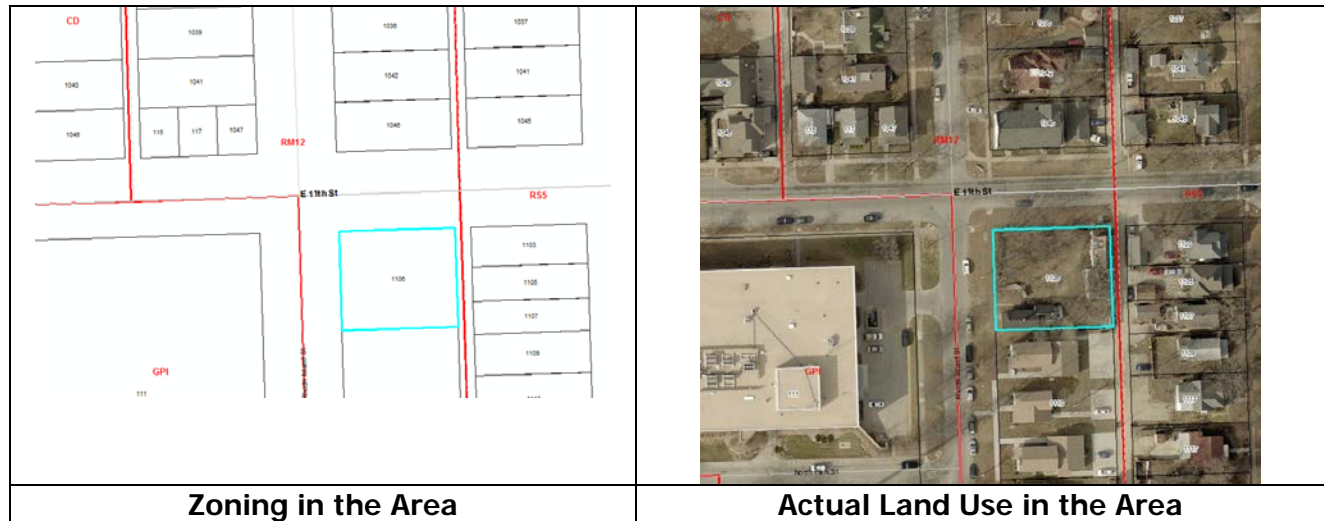
One ½ block to the northwest is the CD district. At the corner of this district (1040 and 1046 New Hampshire Street) is professional office use.

The proposed use includes multi-dwelling residential uses.

The RMO District is designed to accommodate mixed use development of low and moderate intensity administrative and professional offices that are compatible with the character of medium and high density residential neighborhoods. The district is intended to be used as transitional zoning between higher-intensity commercial areas and residential neighborhoods. Typical land uses in the East Lawrence Neighborhood include commercial uses and professional office uses on corner lots in the neighborhood.







**Staff Finding** – This property is surrounded by a mix of detached and multi-dwelling residential uses to the north, south and east. The property to the west is the Judicial Law Enforcement Center. To the northwest ½ block are professional office uses. The proposed zoning includes the multi-dwelling uses that are similar to those located to the north, south and east. The office use will create a transition from the GPI district to the residential uses in the area.

### 3. CHARACTER OF THE NEIGHBORHOOD

1106 Rhode Island Street is located on the edge but within the East Lawrence Neighborhood. The East Lawrence neighborhood is a large neighborhood that includes properties east of Massachusetts Street to Oregon Street and from the Kansas River to 15<sup>th</sup> Street. This neighborhood and the structures located therein are valuable as part of the development of the City of Lawrence documenting residential land use from the late nineteenth century and the early twentieth century. The East Lawrence neighborhood followed local population, social, economic and architectural building patterns described in the Multiple Property Documentation Form *Historic Resources of Lawrence, Douglas County, Kansas*. The vernacular architecture and the cohesive streetscapes of the neighborhood emphasize the commonalities of the diverse populations that settled in this area of Lawrence. While the structures in the neighborhood reflect the evolution of vernacular architecture and the incorporation of stylistic details over time, the relationship between the structures based on location, streetscape, building materials, workmanship, mass and scale create a distinct neighborhood identity that is of value to the study of the history of the City of Lawrence. 1106 Rhode Island Street is listed as a contributing property to the North Rhode Island Street Historic Residential District, National Register of Historic Places. This National Register District is listed for its architecture and its association with community planning and development. Listed in 2004, the district is located within the original townsite of Lawrence.

As noted in the map below, 1106 Rhode Island is located adjacent to Downtown area. This is a transitional area between residential and non-residential uses. A portion of the property has always been used as a commercial property providing services beyond the neighborhood.





The proposed project is the rehabilitation of the existing structures and the addition of a parking area and small structure on the alley/northeast corner of the property. The existing structures and the proposed structure are typical forms for the area in size and placement. The project does not include any form that is not currently located in the district.

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

This property is located along the western edge of and within the boundary of the *East Lawrence Neighborhood Revitalization Plan* (adopted in 2000). The overall neighborhood contains a wide variety of land uses. Industrial uses are generally located along the railroad tracks located in the northeast part of the neighborhood. Commercial uses and office uses are typically located on the corners of several scattered blocks throughout the neighborhood.



*The East Lawrence Neighborhood Revitalization Plan* is a unique neighborhood plan in that it proposes six elements that will aid in the revitalization and improvement of the neighborhood. The plan does not identify existing and future land uses for the area but rather encourages the diversity of uses that have been historically present in the neighborhood. Goal 2 of the *East Lawrence Neighborhood Revitalization Plan* is to preserve and conserve existing physical neighborhood landmarks. Listed in the National Register, 1106 Rhode Island is a landmark for the East Lawrence Neighborhood.

*The East Lawrence Neighborhood Plan* was adopted in 1979. This plan shows 1106 Rhode Island Street as medium density residential. The plan policies identify that office uses should be located in areas that can physically support the use. The property is also located on the corner of an intersection of an arterial and local street. The '79 plan also includes a policy that encourages the preservation of historic structures.

**Staff Finding** – The proposed project is within the range of uses that are contemplated in the *East Lawrence Neighborhood Revitalization Plan* and will aid in the rehabilitation and reuse of a property that is a landmark in the neighborhood. The proposed location can physically support the residential and office uses proposed for the project. The rezoning will continue the mixed use nature of the neighborhood.

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

Applicant's Response: *Historically the subject property was an auto repair and salvage business along with a residence. Our proposed uses, office and residential fit well with the area which is a good mix of multi-family, single-family, government, and commercial uses.*

The property is currently zoned RM12 which permits the residential uses proposed by the applicant but not the professional office use. The proposed office use is to be located in the historic barn on the property. This structure will be rehabilitated so that it is conditioned space to support a new use. The history of the zoning for this property shows that while the use has been commercial and residential since 1871, the zoning has changed from residential in 1929 to local business in 1960 and back to residential in 1966. While the southern part of the property is suitable for the multi-dwelling use, the northern portion of the property has always had a commercial use dating to 1871. The current restriction on this property of only residential uses would not allow for the rehabilitation of the barn to an office use. The office use is less intensive than the historic commercial uses for the property. The restriction of the current zoning to residential uses does not allow for the historic use of the property.

**Staff Finding** –Historically, the property has had a mixture of residential and commercial uses. The current zoning does not allow for the mix of uses that will continue the history of the property. The proposed office use is a less intensive use than the historic commercial use. The proposed request is consistent with the historic use of the property including residential and non-residential uses.

## **6. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED**

The property has been developed with a residential structure, a barn, and a garage. The date of construction for the residential structure and the barn is c. 1871. The primary use for the property has been storage since 1965.



Historically this property has included commercial and residential uses. The proposed request is consistent with the historic use of the property including residential and non-residential uses.

**Staff Finding** – The property was developed in 1871 with commercial and residential uses.

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

Applicant's Response: *We believe that since the property has been blighted for nearly 30 years our proposed uses will not be detrimental at all, but will improve nearby properties in a significant way.*



Property Prior to Enforcement Action

On March 26, 2013, the City of Lawrence exercised the power of eminent domain in the public interest to acquire the property located at 1106 Rhode Island Street for the purpose of rehabilitation. (See attached resolution.) The property had been deemed unsafe and dangerous due to conditions that were considered "injurious to the health, safety, and welfare of the community."

The proposed rehabilitation of the property will improve the neighborhood by returning the property to habitable conditions and removing the blight that has existed.

The uses provided in the RMO are similar to the uses in the area. The residential uses for the proposed zoning are consistent with the uses to the north, east, and south. The office use is a less intensive use than the storage use that has existed at least since 1965.



**Staff Finding** –The uses permitted within the RMO district are compatible with the nearby residential and institutional uses. The use of the property as multi-dwelling residential and office will be less intensive than the previous commercial/storage use. The rehabilitation the rezoning will improve the visual character and safety of the area.

**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: *By allowing the rezoning the governing body will promote the removal of decades of blight on the subject property. No hardship is imposed on any individual landowners, but conversely the property will improve the public health, safety, and welfare of the environs.*

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.

The property has been deemed unsafe and dangerous due to conditions that were considered "injurious to the health, safety, and welfare of the community." The City has acquired the property to promote the rehabilitation of the structures and to remove the unsafe and dangerous conditions.

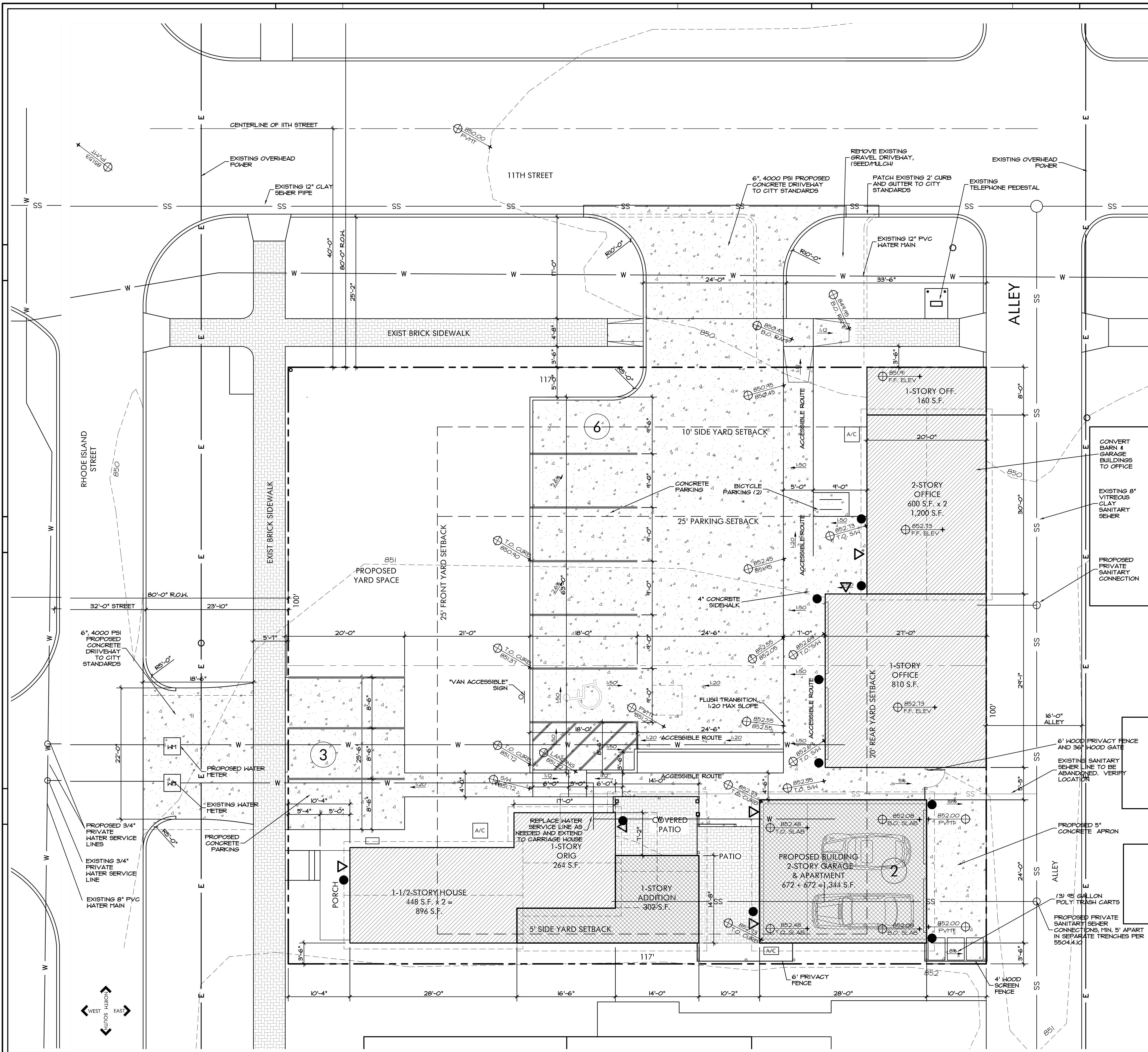
The rezoning of the property to RMO will allow for the residential historic structure to maintain its residential use while providing an adaptive reuse for the barn and garage structures. The property has a history of mixed use. The redevelopment of the property as a mixed use will allow the property owner to utilize the historic structures without compromising their historic integrity.

**Staff Finding** – Approval of the rezoning request would benefit the public health, safety, and welfare by rehabilitating the existing property and allowing uses that are compatible with the neighborhood. In addition, the approval of the rezoning request will allow for the reuse of historic structures that are listed in the National Register of Historic Places.

**9. PROFESSIONAL STAFF RECOMMENDATION**

This staff report reviews the proposed rezoning request for its compliance with the Comprehensive Plan, adopted plans for the area, the Golden Factors, and compatibility with surrounding development. The rezoning request conforms with recommendation in *Horizon 2020* for the adaptive reuse of historic buildings. Staff recommends approval of the rezoning request for approximately .269 acres from RM12 (Multi-Dwelling Residential) District to RMO (Multi-Dwelling Residential-Office) District and forwarding it to the City Commission with a recommendation for approval based on the findings of fact found in the body of the staff report.





<b>ZONING:</b>	EXISTING RM-12, PROPOSED RM-O
<b>LEGAL DESCRIPTION:</b>	Lots 118 and 120, Rhode Island Street
<b>PROJECT DESCRIPTION:</b>	Historic preservation and new construction for a mixed-use property containing two residential rental units and an commercial office unit.
<b>PROPERTY OWNER:</b>	Current - City of Lawrence Pending - 1106 Rhode Island, LLC, 920 Massachusetts, Suite 2, Lawrence, KS 66044
<b>ARCHITECT:</b>	Hernly Associates, Inc. 920 Massachusetts St. Suite 2 Lawrence, KS 66044-2868
<b>PROPERTY SURFACE SUMMARY</b>	
<b>EXISTING SUMMARY</b>	<b>SUMMARY AFTER PROJECT COMPLETION</b>
TOTAL BUILDINGS = 2,407 S.F.	TOTAL BUILDINGS = 3,308 S.F.
TOTAL PAVEMENT = 443 S.F.	TOTAL PAVEMENT = 4,851 S.F.
TOTAL IMPERVIOUS = 3,050 S.F.	TOTAL IMPERVIOUS = 8,159 S.F.
TOTAL PERVIOUS = 8,650 S.F.	TOTAL PERVIOUS = 3,541 S.F.
TOTAL PROPERTY AREA = 11,700 S.F.	TOTAL PROPERTY AREA = 11,700 S.F.

<b>PROPOSED USES</b>	
Barn and Truck Shed - Administrative and Professional Office (Architects)	
Historic Dwelling - Detached Dwelling (3 Bedroom Rental)	
Proposed Dwelling - Detached Dwelling/Garage (1 Bedroom Rental)	
<b>PARKING</b>	
Per the requirements in Article 9 of the Development Code:	
Administrative and Professional office	= 1 space per 300 SF
Detached Dwelling	= 2 per dwelling unit
Office:	= 2,010 S.F. 2,010/300
Dwellings:	= 2 proposed 2x2
Total Required	= 11 spaces
Standard Stall	= 8 spaces
ADA Van Accessible	= 1 space
Garage	= 2 spaces
Total Provided	= 11 spaces
Bike Parking - 1 req. per 10 Office spaces	= 1 space
Bike Parking Provided	= 2 spaces

**REFUSE DISPOSAL**  
(3) 95 gallon poly trash carts will be located in a screened enclosure adjacent to the alley.

**BENCHMARK:**  
Site grading is based on and tied to NGS benchmark T 368:  
A stainless steel rod in hand hole located 190.9' north of the centerline of East 13th Street and 23.6' east of the centerline of Oregon Street. Elevation is 827.39' (NAVD 88).  
Local Benchmark: center of intersection 11th and Rhode Island 851.53'

**Zoning Variances Approved: (pending)**  
Front Setback - reduction from 25 feet to 5 feet  
Rear Setback - reduction from 20 feet to zero feet  
South Side Setback - reduction from 5 feet to 3 feet  
North Side Building Setback - reduction from 10 feet to zero feet  
North Side Parking Setback - reduction from 25 feet to 5 feet

**Design Review Approved:**  
DR-14-00291 - The HRC approved the project on 8/21/2014.

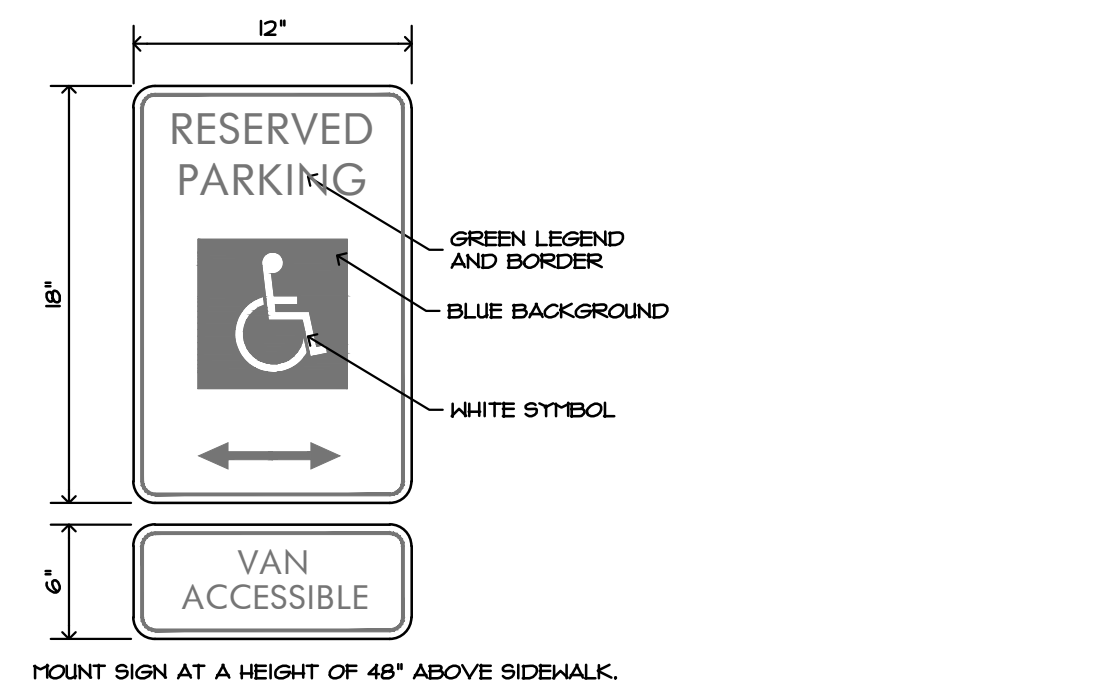
**Special Use Permit Approved: (pending)**

**LIGHTING**  
100 WATT DECORATIVE WALL LIGHT

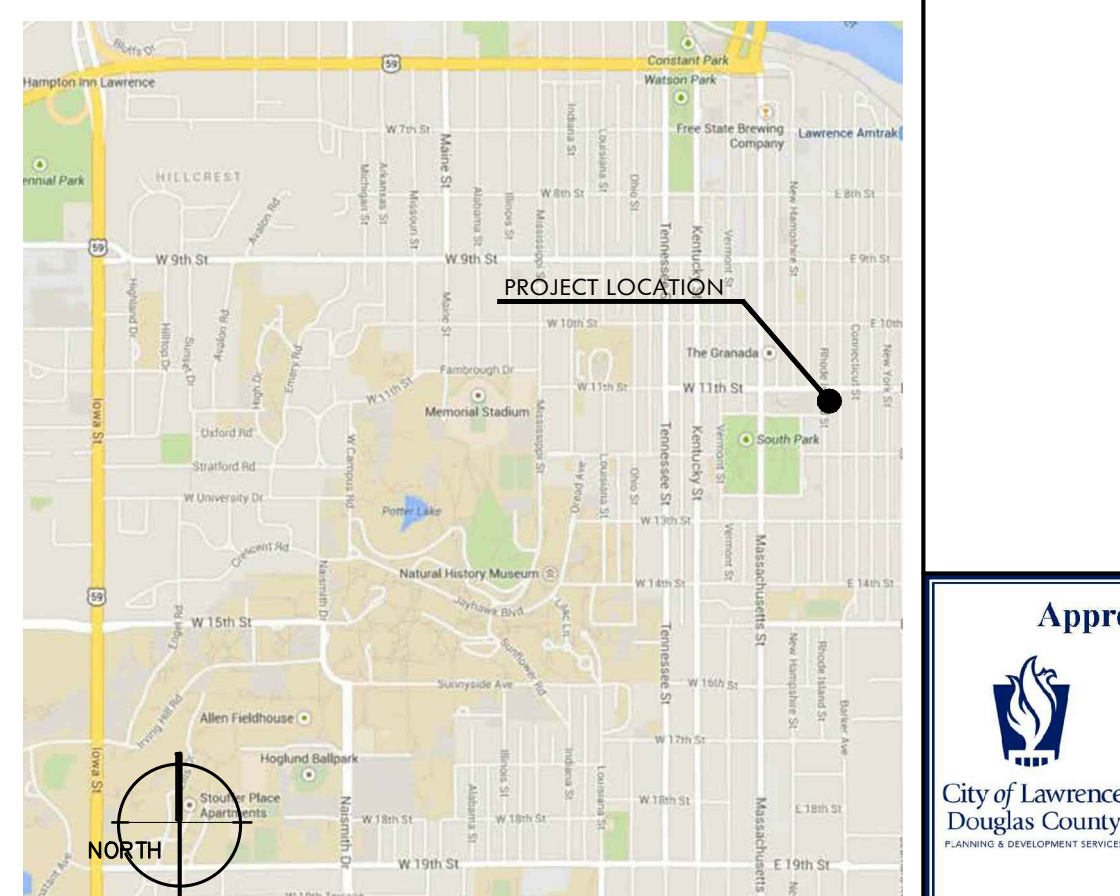
**KEY**

**NOTES**

**ADA NOTE**  
This site plan has been designed within reasonable professional efforts to comply with the provisions of The Americans With Disabilities Act Accessibility Guidelines (ADAAG) for Buildings and Facilities, Appendix A to 28 CFR Part 36. No warranty is given that this site complies with all interpretations of said provisions.



## SITE NOTES



## LOCATION MAP

# HISTORIC RHODY DELAHANTY COMPLEX

1100 - 1106 RHODE ISLAND  
LAWRENCE, KANSAS

Hernly  
ASSOCIATES

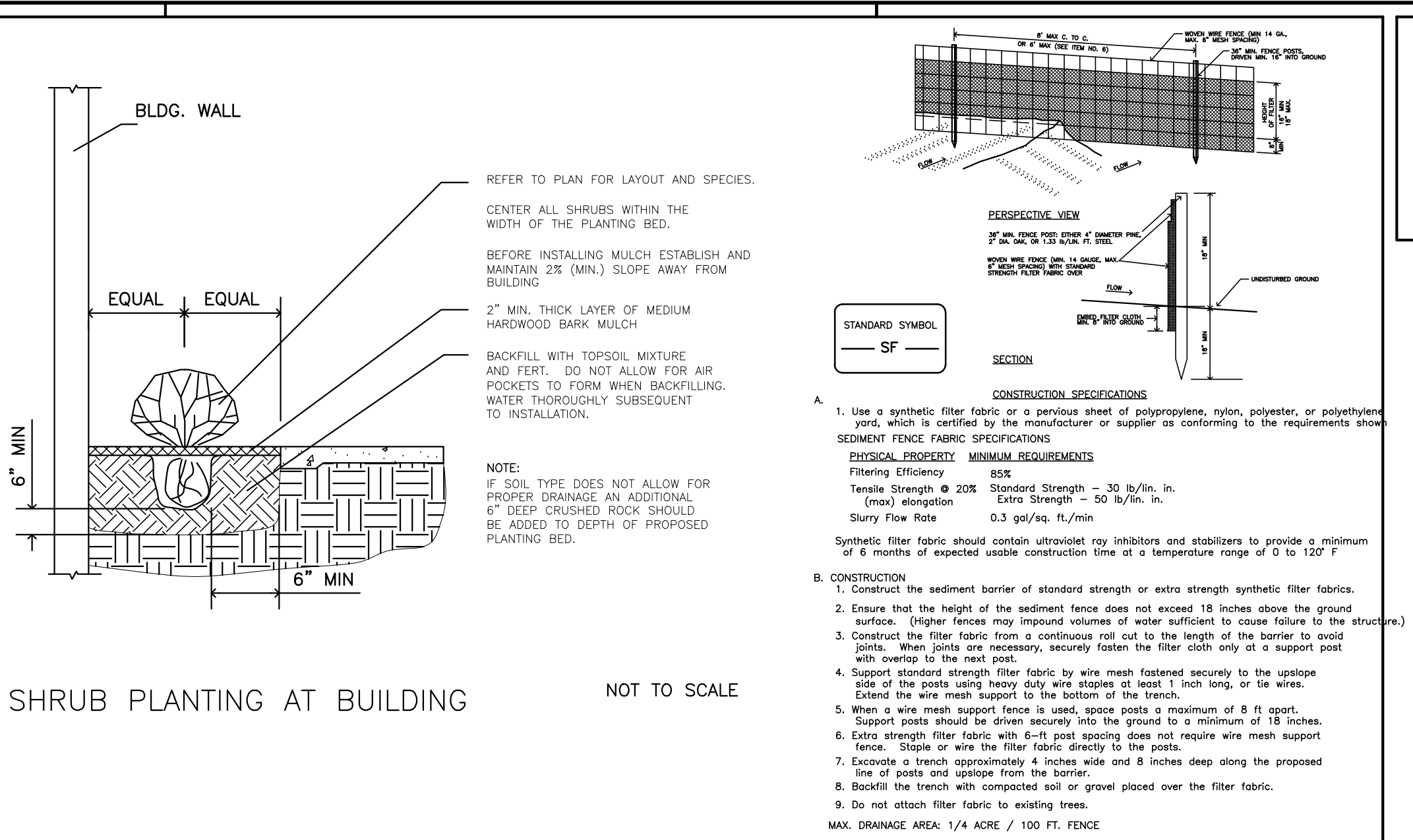
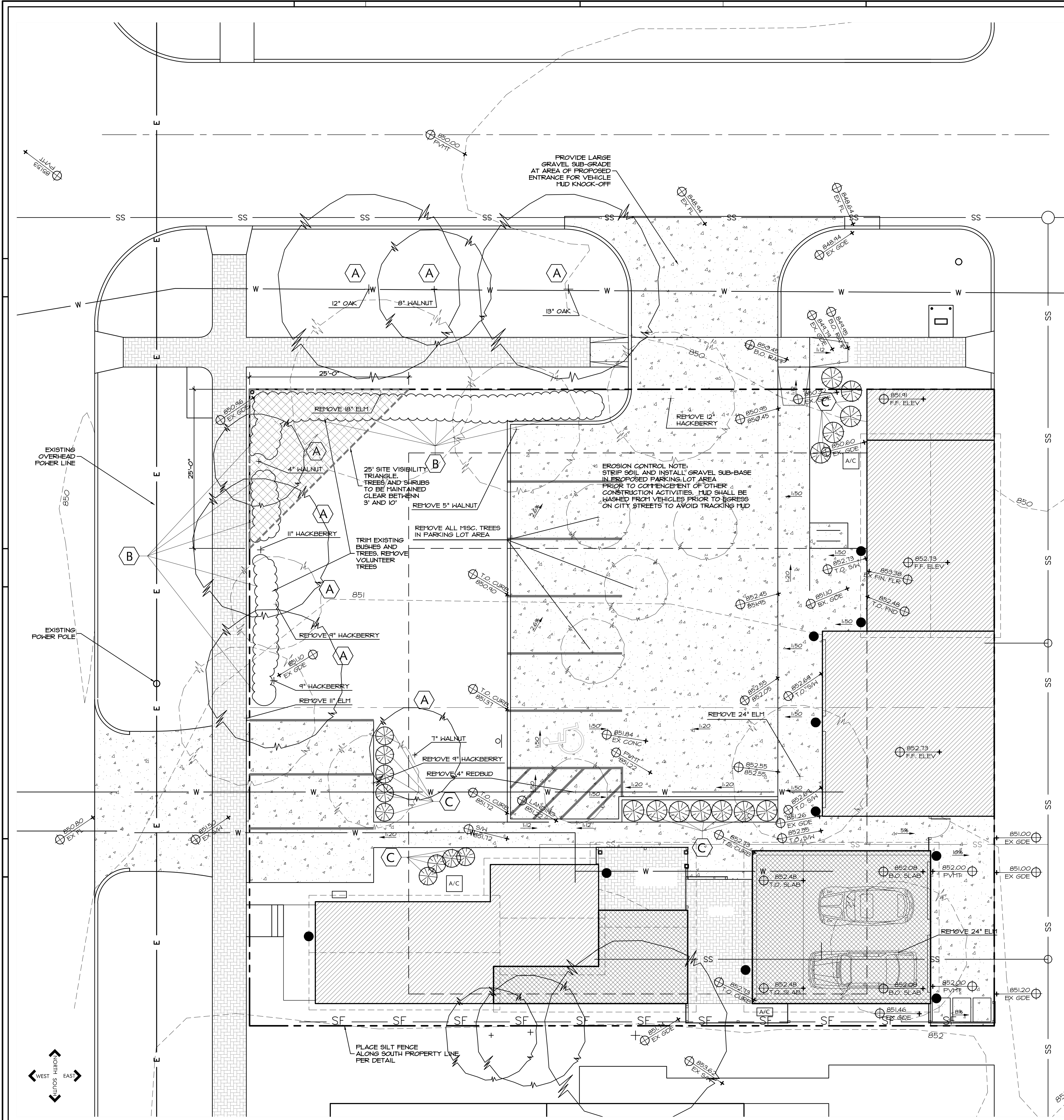
920 Massachusetts  
Lawrence, Kansas  
66044  
785 - 749 - 5806  
FAX 785 - 749 - 1515

SITE PLAN

Date: 2014/07/21  
Drawn by: SCH/RS  
Checked by:  
Revisions: 2014/08/26

C1.0





PROPERTY OWNER: City of Lawrence  
David Corliss, City Manager  
1106 Rhode Island, LLC, 920 Massachusetts, Suite 2, Lawrence, KS 66044  
Phone - 785-749-5806  
Email - mike@hernly.com

- EROSION CONTROL NOTES:
- All perimeter sediment and erosion control facilities are to be constructed prior to grading and they shall be in operational condition before grading construction begins. All sediment control measures are to be adjusted to meet field conditions at the time of construction.
  - Periodic inspection and maintenance of all sediment control structures must be provided to insure intended purpose is accomplished. The contractor shall insure that adjacent land area shall be protected from erosion and sediment. Sediment control measures shall be in working condition at the end of each day.
  - All areas of ingress-egress are to be protected to prevent the tracking of mud onto the public right-of-way.
  - Remove good topsoil from areas to be graded and filled, and preserve it for use in finishing the grading of all critical areas.
  - Clear and grub areas to be filled to remove trees, vegetation, roots or other objectionable material that would affect the planned stability of the fill.
  - Ensure that fill material is free of brush, rubbish, rock, logs, stumps, building debris, and other inappropriate materials for constructing stable fills.
  - Place all fill in layers not to exceed 9 inches in thickness and compact the layers as required to reduce erosions, slippage, settlement, or other related problems.
  - Do not incorporate frozen material or soft, mucky, or highly compressible materials into fill slopes. Do not place fill on frozen foundation, due to possible subsidence during all phases of development.
  - Handle seeps or springs encountered during construction in accordance with approved methods.
  - Scarify areas to be topsoiled to a minimum depth of 2 inches before placing topsoil.
  - The throats of all storm sewer inlets shall be protected and kept free of any deposits of sediment until the uphill areas have been stabilized and the streets have been paved.
  - The out falls of all storm sewers shall be provided with end sections and rip-rap to dissipate flow and control erosion.

LANDSCAPE CALCULATIONS:  
STREET TREES REQUIRED = 1 PER 40 FEET OF FRONTAGE 167/40' = 5 TREES  
STREET TREES PROVIDED = 3 EXISTING AT NORTH + 3 EXISTING AT WEST = 6 TREES

Note: Existing, mature trees on west side of property are at or inside property line location. An existing overhead power line prevents the public R.O.W. on the west from being an ideal place for new street trees.

PARKING LOT INTERIOR LANDSCAPING REQUIRED = 40 S.F. PER SPACE = 9x40 = 360 S.F.  
PARKING LOT INTERIOR LANDSCAPING PROVIDED = APPROX. 2,600 S.F.

Note: The lot contains many existing trees and shrubs that will be selectively thinned and trimmed. The large open space that surrounds the parking areas will contribute to the parking landscaping requirements. The parking lot will be adequately screened and shaded.

PARKING LOT PERIMETER LANDSCAPING REQUIRED:  
= 1 SHADE TREE/25 LIN. FT. OF PARKING LOT FRONTAGE = 83/25 = 4 TREES  
+ CONTINUOUS SCREENING

Note: As noted below we have requested alternate compliance for the Bufferyard provisions. We believe that the landscape plan submitted will meet the spirit and intent of the landscaping provisions of the Code and it will respect the historic nature and configuration of the site. Parking will be adequately screened and some views to the historic structures will be opened after careful trimming and thinning of existing vegetation. Additional shrubs have been added where necessary to augment the existing mature vegetation.

BUFFERYARD REQUIRED = A Type 2 Bufferyard is required between RM-O and GPI District to the west and a Type 1 Bufferyard is required between the RM-O and RS district to the north. A letter has been submitted to the planning director requesting alternate compliance to allow the existing dense vegetation along with some new plantings be allowed to suffice for the required Bufferyard. The existing mature vegetation will be selectively pruned and thinned to create an attractive and adequate buffer to the back side of the Law Enforcement Center while allowing desirable views to the historic structures.

LANDSCAPING				
KEY	NAME	QUAN	SIZE	NOTES
(A)	Existing Deciduous Tree	8	Varies	The perimeter of the lot on the west and north is densely vegetated with a continuous strip of mature trees and privet hedge. Primary screening of the lot will take the form of careful selection and removal of smaller trees and thinning/pruning the privet hedge to create a uniform and attractive 3' tall screen interspersed with mature trees. It is desirable to open views of the historic structures which are now completely obscured. Additional screening for new parking is as noted.
(B)	Existing Privet Hedge	Cont.	3'	
(C)	Proposed Winged Euonymus	21	24" ht.	

LANDSCAPE NOTES

HISTORIC RHODY DELAHUNTY COMPLEX  
1100 - 1106 RHODE ISLAND  
LAWRENCE, KANSAS

Hernly  
ASSOCIATES

920 Massachusetts  
Lawrence, Kansas  
66044  
785 - 749 - 5806  
FAX 785 - 749 - 1515

LANDSCAPE PLAN

Approved and Released  
Case No. \_\_\_\_\_  
Approval Date: \_\_\_\_\_  
Release Date: \_\_\_\_\_  
Planner: \_\_\_\_\_ of \_\_\_\_\_ Sheets  
City of Lawrence  
Douglas County  
Assistant Director: \_\_\_\_\_

Date: 2014/07/21  
Drawn by: SCH/PT  
Checked by: \_\_\_\_\_  
Revisions: 2014/08/26

C1.1



## **RESOLUTION NO. 7013**

**A RESOLUTION OF THE CITY OF LAWRENCE, KANSAS, DECLARING THE NECESSITY OF THE CITY OF LAWRENCE, KANSAS, A MUNICIPAL CORPORATION, TO APPROPRIATE THROUGH THE EXERCISE OF EMINENT DOMAIN CERTAIN INTERESTS IN REAL PROPERTY FOR THE USE OF SAID CITY, PURSUANT TO K.S.A. 2011 SUPP. 26-501b, AND GRANTING AUTHORIZATION TO OBTAIN A SURVEY AND DESCRIPTION OF THE LAND OR INTERESTS TO BE CONDEMNED, ALL IN ACCORDANCE WITH K.S.A. 2011 SUPP. 26-201.**

**WHEREAS**, on March 5, 2012, City of Lawrence Code Enforcement staff, in accordance with K.S.A. 2011 Supp.12-1750, et seq., and Chapter V, Article 11 of the Code of the City of Lawrence, Kansas 2011 Edition, and amendments thereto, filed with the Governing Body a statement in writing that the structures located on property commonly known as 1106 Rhode Island Street, Lawrence, Douglas County, Kansas are unsafe and dangerous.

**WHEREAS**, the Governing Body of the City of Lawrence, Kansas on March 13, 2012 adopted Resolution 6964, declaring the structures on property commonly located at 1106 Rhode Island Street as unsafe and dangerous and ordering a hearing before the Governing Body on May 15, 2012 to consider why said structures should not be ordered repaired or demolished as unsafe or dangerous structures;

**WHEREAS**, the Governing Body of the City of Lawrence, Kansas on May 15, 2012 held a hearing, finding the structures commonly located at 1106 Rhode Island, unsafe and dangerous and ordering the property owner to repair or remove the structures by July 17, 2012;

**WHEREAS**, the Governing Body of the City of Lawrence, Kansas on May 22, 2012 adopted Resolution 6972, declaring the structures on property commonly located at 1106 Rhode Island Street as unsafe and dangerous and ordered the repair or demolition of said structures by July 17, 2012;

**WHEREAS**, the Governing Body of the City of Lawrence, Kansas on February 5, 2013, directed initiation of condemnation proceedings by the City of Lawrence to obtain title to the property for purpose of rehabilitation pursuant to K.S.A. 2011 Supp. 26-501b(e);

**WHEREAS**, the Governing Body of the City of Lawrence, Kansas finds that it is necessary and in the public interest to acquire fee simple title to real property in Lawrence, Douglas County, Kansas, commonly located at 1106 Rhode Island Street, for the purpose of rehabilitation of said property so that it is no longer unsafe and dangerous as declared in Resolution 6972; and

**WHEREAS**, the Governing Body also authorizes the making of a survey and description of the land or interests to be condemned, by a licensed land surveyor or professional engineer, who shall be competent to conduct a land survey, and directs that said survey and description of the land or interests to be condemned be filed with the City Clerk of the City of Lawrence, Kansas.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:**

**SECTION 1.** The above-stated recitals are incorporated herein by reference and shall be as effective as if set forth in full.



**SECTION 2.** It is necessary and in the public interest to appropriate, through the exercise of eminent domain, fee simple title to private property interests for the use of the City for the purpose of rehabilitation of the structures commonly located at 1106 Rhode Island Street, Lawrence, Kansas and legally described as Lots 118 and 120 on Rhode Island Street in the Original Townsite of the City of Lawrence, Douglas County, Kansas.

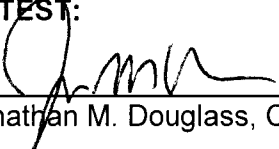
**SECTION 3.** A licensed land surveyor or a professional engineer, who is competent to conduct a land survey, shall be employed to provide a survey and description of the land or interests to be condemned. When completed, said survey and description of the land or interests to be condemned shall be filed with the City Clerk of the City of Lawrence, Kansas.

**PASSED** by the Governing Body of the City of Lawrence, Kansas, this 26<sup>th</sup> day of March, 2013.


**APPROVED:**

  
Robert J. Schumm, Mayor

**ATTEST:**

  
Jonathan M. Douglass, City Clerk

**APPROVED AS TO FORM AND LEGALITY:**

  
Toni R. Wheeler  
City Attorney







# East Lawrence Neighborhood Association

P.O. Box 442393  
Lawrence, KS 66044  
eastlawrence@yahoo.com

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September 16<sup>th</sup> 2014

To: City of Lawrence  
c/o Lynne Zollner, Historic Resources Officer  
Mayor Dever  
PO Box 708,  
Lawrence, KS 66044

Re: 1106 Rhode Island rezoning

To Whom it may concern,

The East Lawrence Neighborhood Association strongly supports the application for the rezoning of 1106 Rhode Island from RM12 to RMO.

The neighborhood is excited to see completion of the 1106 Rhode Island project as it will be a beneficial addition to the neighborhood and downtown area - as well as providing a beautiful historic renovation to the Cultural Arts District.

Thank you,  
East Lawrence Neighborhood Association  
PO Box 442393  
Lawrence, KS 66044

Aaron Paden  
ELNA President  
[aaronpaden@gmail.com](mailto:aaronpaden@gmail.com)  
785 840-6400





Tenants to Homeowners, Inc.

The Lawrence Community Housing Trust Program  
2518 Ridge Court, Suite 103, Lawrence, Kansas 66046

842.5494 ♦ FAX 785.842.7570 ♦ [lawrencelandtrust@yahoo.com](mailto:lawrencelandtrust@yahoo.com) ♦ [www.tenants-to-homeowners.org](http://www.tenants-to-homeowners.org)

To: The City of Lawrence Planning Department, Planning Commission, and City Commission

Re: 1106 Rhode Island Proposal by Hernly Associates

Tenants to Homeowners, Inc. voted unanimously at our July 24, 2014 Board Meeting to support the Hernly Associates Special Use Permit application, rezoning, and zoning variances for the property at 1106 Rhode Island Street.

Tenants to Homeowners, Inc. and the Lawrence Community Housing Trust owns and manages the properties directly adjacent to the south property line of 1106 Rhode Island - 1110, 1114, 1118, and our historic rehab at 1120 Rhode Island.

1106 Rhode Island has been a neglected, blighted property directly north of our Rhode Island properties since long before the construction of our project. Our adjacent rental properties have had some issues with critters in their trash due to the old blighted structure there and the redevelopment of this site would improve the quality of life for those in our affordable housing here. The property is on the edge of the Historic Downtown area, South Park, and the Douglas County Courthouse and Law Enforcement Center and is an important part of the neighborhood history. The proposed project will clean up a very visible corner and will also help support the neighborhood revitalization in East Lawrence that we are a part of. We think the mixed uses proposed on the site are compatible with the area and with our directly adjacent property. We will see direct benefits to our property assets as a result of the project.

We fully support the approval of the Special Use Permit and associated rezoning and zoning variances.

Respectfully,

A handwritten signature in cursive script that reads "Rebecca Buford".

Rebecca Buford,  
Executive Director  
Tenants to Homeowners, Inc.



**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item:**

PC Staff Report  
9/22/2014

**ITEM NO. 5B      SPECIAL USE PERMIT FOR RHODY DELAHUNTY COMPLEX; 1106  
RHODE ISLAND ST (LBZ)**

**SUP-14-00326:** Consider a Special Use Permit for Rhody Delahunty Complex for the development of two detached dwelling structures on a single lot in an RM District as required by Section 20-402 of the Land Development Code. The property is located at 1106 Rhode Island Street. Submitted by Hernly Associates on behalf of the City of Lawrence, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of SUP-14-00326 for two detached dwelling structures on a single lot in an RM District as required by Section 20-402 of the Land Development Code based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.

**Applicant's Reason for Request:** *The proposed project includes two detached dwellings along with a separate office structure on the same lot as part of a historic preservation/rehabilitation project. This is allowed through the Special Use procedures set out in 20-1306.*

**KEY POINTS**

- The proposed project will rehabilitate the existing structures on the property.
- The proposed project includes a mix of residential and office uses.
- Special Use Permit is required for detached dwelling structures in the RM District (20-402).

**FACTORS TO CONSIDER**

- Procedural requirements of Section 20-1306; Special Use Permits.
- Character of the Area – The proposed project continues the spacial relationships that characterize the East Lawrence Neighborhood.
- Conformance with *Horizon 2020*- The proposed project conforms with the key features of Chapter 3 in the plan as discussed in staff report Z-14-00314.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- City Commission approval and publication of a Special Use Permit ordinance per Section 20-1306(j).
- City Commission approval of the rezoning and publication of an ordinance rezoning the property.
- City Commission approval of the Special Use Permit and publication of an ordinance.
- DR-14-00291 – Design Review for the proposed project approved by the Historic Resources Commission on August 21, 2014.
- B-14-00323 – Variance requests to allow for the placement of structures and the new



parking area on the site approved with conditions by the Board of Zoning Appeals on September 4, 2014.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Communication from Tenants to Homeowners

**ATTACHMENTS**

1. Area Map
2. Site Plan

**GENERAL INFORMATION**

Current Zoning and Land Use:	RM12 (Multi-Dwelling Residential) District; existing residence and barn
Surrounding Zoning and Land Use:	RM12 (Multi-Dwelling Residential) District to the north and south; existing multi-family uses  RS5 (Single-Dwelling Residential) District to the east; existing multi-dwelling residential units and detached residential dwelling uses.  GPI (General Public and Institutional) District to the west; existing Judicial and Law Enforcement Building

**Summary of Special Use Request**

The applicant is requesting a Special Use Permit to allow for two detached residential structures on a single lot as part of a rehabilitation project at 1106 Rhode Island Street. The property is located within the East Lawrence Neighborhood and is listed as a contributing property to the North Rhode Island Street Historic Residential District, National Register of Historic Places. This application was submitted concurrently with an application for rezoning from RM12 to RMO to allow for the addition of an office use. The proposed project also includes the rehabilitation of the existing structures and construction of a new structure to be placed on the southeast corner of the property. A parking area will be established to the west of the barn to support the property uses.

**Review and Decision-Making Criteria (20-1306(i))**

NOTE: This review assumes approval of the proposed RMO District.

**1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE**

Applicant's Response: The project includes historic preservation of structures that predate the adopted Development Code. The uses are compatible and somewhat less intense than the historic use. The proposed uses are also found in the general area of the project. Applicable provisions of the Development Code will be met outright or through the appropriate processes.



The proposed development includes two detached dwellings and an office building. The RMO district allows for office and residential uses. The project complies with the density standards of the RMO district. Because the property was developed prior to the Development Code, the existing structures do not comply with all of the dimensional standards of 20-601 for the RMO district. The applicant has requested variances for these existing conditions which the Board of Zoning Appeals approved on September 4, 2014. In addition, the Board of Zoning Appeals approved a variance request for a reduction in the parking lot setback from the street right-of-way as identified in 20-908(b).

**Staff Finding** – Pending approval and publication of the RMO zoning, the proposed uses conform to the use standards of the RMO District. As conditioned, the proposed development complies with the provisions of the Development Code regarding specific site plan elements.

**2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS**

Applicant's Response: The proposed uses include low-density residential and professional office (architecture). These uses are found in the existing environs of the site. Hours of operation of the business will generally be daytime hours and it will not generate significant traffic, noise, odor, dust or other external impacts.

The proposed project will rehabilitate the existing structures on site that are character defining structures for the neighborhood. The new detached dwelling proposed for the southeast corner of the property is compatible in size, scale, massing and materials. The proposed site design will allow for open space on the northwest corner of the property. Historically, this has been open space. The proposed site design continues the spacial relationships of structure to green space found in the neighborhood.

The operating characteristics of the residential uses and the professional office use are compatible with the existing uses in the area. The traffic generated by the uses will be similar to the existing traffic as the office use is limited in size and the residential uses are one, three bedroom unit and one, one bedroom unit. Lighting proposed for the site is will be shielded and will complement the historic character of the property.

**Staff Finding** – The proposed uses are compatible with the existing uses in the neighborhood.

**3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**

Applicant's Response: Given that the current conditions of the subject property for many years have been described as blight, it is more likely that the values of other property would be increased rather than decreased with the proposed improvements.

On March 26, 2013, the City of Lawrence exercised the power of eminent domain in the public interest to acquire the property located at 1106 Rhode Island Street for the purpose of rehabilitation. The property had been deemed unsafe and dangerous due to conditions that were considered "injurious to the health, safety, and welfare of the community."



The proposed rehabilitation of the property will improve the neighborhood by returning the property to habitable conditions and removing the blight that has existed.

**Staff Finding** – The proposed use will not cause substantial diminution in the values of other property in the neighborhood. The rehabilitation of this property will visually enhance the neighborhood by transforming the blighted property into a property that is well preserved.

**4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT**

This property will be served by existing municipal water and sanitary sewer. No improvements are required for this infill redevelopment. Access points to the property exist on Rhode Island Street and 11<sup>th</sup> Street.

**Staff Finding** – Adequate public facilities and transportation access exist for this development. The redevelopment of property as infill rather than urban fringe development preserves efficient use of public services. The proposed use does not preclude the ability to service the existing uses in respect to public safety, transportation, and utilities.

**5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

This development includes two detached dwellings on a single parcel. The project is not designed to provide individual ownership of units. The Special Use Permit, if approved, will be the enforcement document for this site. The property owner will be responsible for maintaining the site consistent with the approved plan.

**Staff Finding** – Adequate assurances of continuing maintenance will be addressed with the site plan performance agreement.

**6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**

Applicant's Response: The existing lots are part of the original townsite plat and as such have been developed since 1871 or before. While the "natural environment" has made some progress on the lots in the last several decades of neglect we believe that the planned improvements will be generally beneficial through careful selection and care of natural elements on the lot that will remain.

The property has been developed at least since 1871. There are no natural/environmental features on the parcel.

**Staff Finding** – The proposed use will not cause significant adverse impacts on the natural environment.



**7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO WHAT THAT TIME PERIOD SHOULD BE.**

This Special Use Permit is required to accommodate a specific building type (detached dwellings) in the multi-family district. This building type exists in the neighborhood. The proposed redevelopment of the site will rehabilitate an existing detached dwelling that was built c.1871 and will add an additional detached dwelling to the site.

**Staff Finding** – Staff does not recommend a time limit on the Special Use Permit.

**STAFF REVIEW**

**A. Site Summary**

The proposed development includes two detached dwellings and one professional office building. The residential units will be a three bedroom unit and a one bedroom unit. Surface parking is proposed as part of the project. The historic open space at the northwest corner of the property will be maintained. The additional proposed impervious surface area is due to the construction of the second detached dwelling and the paved parking areas.

**PROPERTY SURFACE SUMMARY**

<u>EXISTING SUMMARY</u>		<u>SUMMARY AFTER PROJECT COMPLETION</u>	
TOTAL BUILDINGS	= 2,607 S.F.	TOTAL BUILDINGS	= 3,308 S.F.
TOTAL PAVEMENT	= 443 S.F.	TOTAL PAVEMENT	= 4,851 S.F.
TOTAL IMPERVIOUS	= 3,050 S.F.	TOTAL IMPERVIOUS	= 8,159 S.F.
TOTAL PERVIOUS	= 8,650 S.F.	TOTAL PERVIOUS	= 3,541 S.F.
TOTAL PROPERTY AREA	= 11,700 S.F.	TOTAL PROPERTY AREA	= 11,700 S.F.

**B. Access and Parking**

Vehicle access to the property is provided from an existing curb cut on 11<sup>th</sup> Street. The existing curb cut on Rhode Island Street will access three parking spaces. The new garage will provide two spaces accessed from the alley. A total of 11 spaces are provided on-site to support the two dwelling units and new office uses. Pedestrian access will be in the form of sidewalks that extend from the public sidewalks on Rhode Island and 11<sup>th</sup> Street to the structures on site. Bicycle parking is located to the west of the barn structure that will be converted to the office space.

***On-site Parking:***

This project includes surface parking only. The parking spaces are arranged to accommodate the number of parking spaces required by code while maintaining as much as possible the historic character of the property including the greenspace in the northwest corner of the property.



### PARKING

Per the requirements in Article 9 of the Development Code:

Administrative and Professional office	= 1 space per 300 SF
Detached Dwelling	= 2 per dwelling unit
Office: = 2,010S.F. 2,010/300	= 7 spaces req.
Dwellings: = 2 proposed 2x2	= 4 spaces req.
<u>Total Required</u>	<u>= 11 spaces</u>
Standard Stall	= 8 spaces
ADA Van Accessible	= 1 space
<u>Garage</u>	<u>= 2 spaces</u>
<u>Total Provided</u>	<u>= 11 spaces</u>

### **C. Design Standards**

The structures located on the property at 1106 Rhode Island Street are listed as contributing structures to the North Rhode Island Street Historic Residential District, National Register of Historic Places. The proposed project is therefore subject to review under the State Preservation Law (K.S.A. 75-2724, as amended). The design standards that must be used for the proposed project are the Secretary of the Interior's Standards for Rehabilitation. On August 21, 2014, the Historic Resources Commission reviewed the proposed project and found that the proposed project meets the standards.

The property is also located in the environs of the English Lutheran Church (1040 New Hampshire), Lawrence Register of Historic Places and is subject to review under Chapter 22 of the City Code. A Certificate of Appropriateness is required for the physical alterations to the exterior of the existing structures and the construction of the proposed detached dwelling. 22-505 lists the standards to be used for review of a Certificate of Appropriateness. At their meeting on August 21, 2014, the Historic Resources Commission approved the Certificate of Appropriateness for this project.

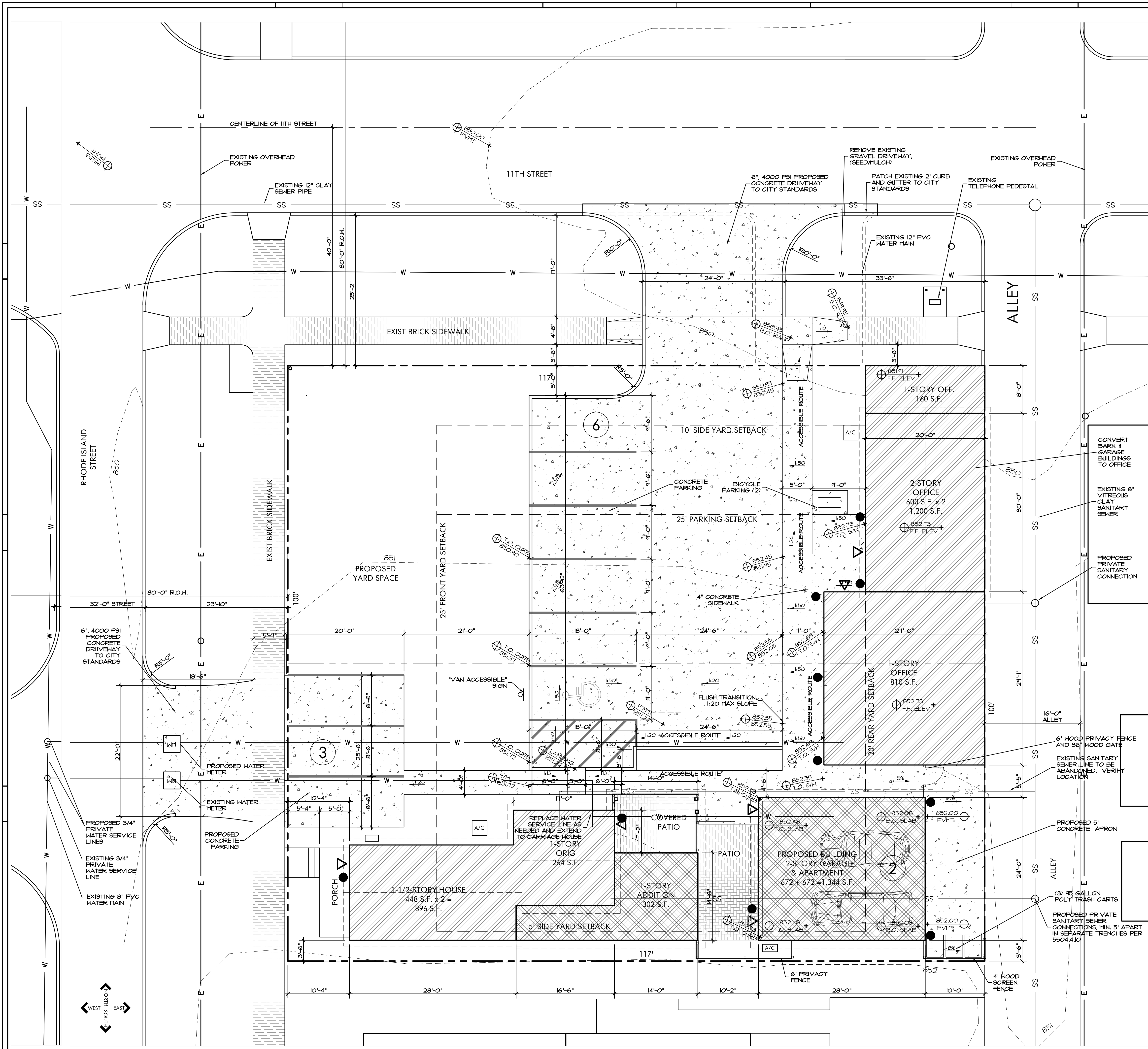
### **Conclusion**

Section 20-402 of the Land Development Code requires a Special Use Permit for detached dwellings in the RMO district. According to 20-508 of the Development Code,

*A detached dwelling shall only be permitted to be constructed in an RM or RMO district, after the effective date, by approval of a Special Use Permit. A detached dwelling may be permitted to be constructed without approval of a Special Use Permit if it is located on its own platted lot, and if the majority of the properties on the block face are constructed as detached dwellings.*

The proposed project includes a new detached dwelling on the same lot as an existing detached dwelling and a barn structure that will be rehabilitated into an office. Therefore, a Special Use Permit is required to allow for the new detached dwelling to be constructed on the lot with the existing structures.





**ZONING:** EXISTING RM-12, PROPOSED RM-O  
**LEGAL DESCRIPTION:** Lots 118 and 120, Rhode Island Street  
**PROJECT DESCRIPTION:** Historic preservation and new construction for a mixed-use property containing two residential rental units and an commercial office unit.  
**PROPERTY OWNER:** Current - City of Lawrence  
Pending - 1106 Rhode Island, LLC, 920 Massachusetts, Suite 2, Lawrence, KS 66044  
**ARCHITECT:** Hernly Associates, Inc.  
920 Massachusetts St. Suite 2  
Lawrence, KS 66044-2868

PROPERTY SURFACE SUMMARY	EXISTING SUMMARY	SUMMARY AFTER PROJECT COMPLETION
TOTAL BUILDINGS	= 2,407 S.F.	TOTAL BUILDINGS = 3,308 S.F.
TOTAL PAVEMENT	= 443 S.F.	TOTAL PAVEMENT = 4,851 S.F.
TOTAL IMPERVIOUS	= 3,050 S.F.	TOTAL IMPERVIOUS = 8,159 S.F.
TOTAL PERVIOUS	= 8,650 S.F.	TOTAL PERVIOUS = 3,541 S.F.
TOTAL PROPERTY AREA	= 11,700 S.F.	TOTAL PROPERTY AREA = 11,700 S.F.

**PROPOSED USES**  
Barn and Truck Shed - Administrative and Professional Office (Architects)  
Historic Dwelling - Detached Dwelling (3 Bedroom Rental)  
Proposed Dwelling - Detached Dwelling/Garage (1 Bedroom Rental)

**PARKING**  
Per the requirements in Article 9 of the Development Code:  
Administrative and Professional office = 1 space per 300 SF  
Detached Dwelling = 2 per dwelling unit  
Office: = 2,010 S.F. 2,010/300 = 7 spaces req.  
Dwellings: = 2 proposed 2x2 = 4 spaces req.  
Total Required = 11 spaces  
Standard Stall = 8 spaces  
ADA Van Accessible = 1 space  
Garage = 2 spaces  
Total Provided = 11 spaces

Bike Parking - 1 req. per 10 Office spaces = 1 space  
Bike Parking Provided = 2 spaces

**REFUSE DISPOSAL**  
(3) 95 gallon poly trash carts will be located in a screened enclosure adjacent to the alley.

**BENCHMARK:**  
Site grading is based on and tied to NGS benchmark T 368:  
A stainless steel rod in hand hole located 190.9' north of the centerline of East 13th Street and 23.6' east of the centerline of Oregon Street. Elevation is 827.39' (NAVD 88).  
Local Benchmark: center of intersection 11th and Rhode Island 851.53'

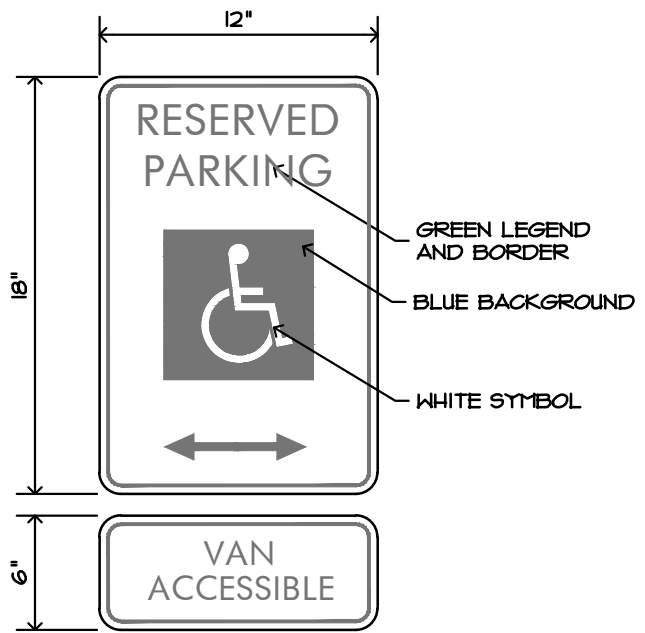
**Zoning Variances Approved: (pending)**  
Front Setback - reduction from 25 feet to 5 feet  
Rear Setback - reduction from 20 feet to zero feet  
South Side Setback - reduction from 5 feet to 3 feet  
North Side Building Setback - reduction from 10 feet to zero feet  
North Side Parking Setback - reduction from 25 feet to 5 feet

**Design Review Approved:**  
DR-14-00291 - The HRC approved the project on 8/21/2014.

**Special Use Permit Approved: (pending)**

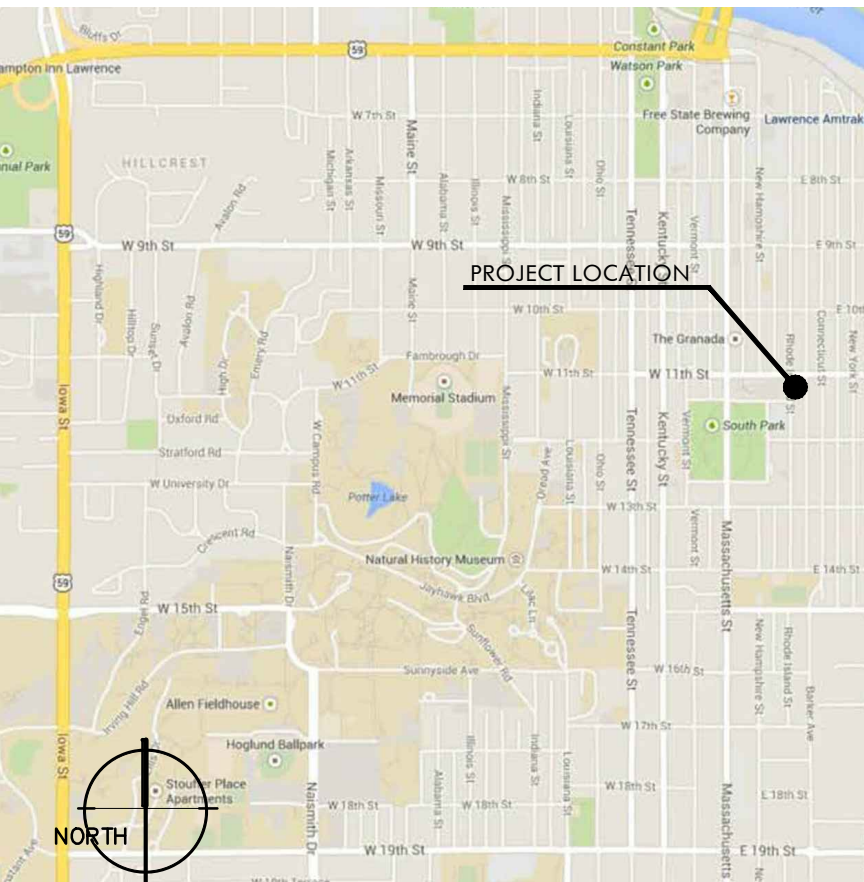
**LIGHTING**  
100 WATT DECORATIVE WALL LIGHT

**ADA NOTE**  
This site plan has been designed within reasonable professional efforts to comply with the provisions of The Americans With Disabilities Act Accessibility Guidelines (ADAAG) for Buildings and Facilities, Appendix A to 28 CFR Part 36. No warranty is given that this site complies with all interpretations of said provisions.



MOUNT SIGN AT A HEIGHT OF 48" ABOVE SIDEWALK.

## SITE NOTES



**Approved and Released**  
Case No. \_\_\_\_\_  
Approval Date: \_\_\_\_\_  
Release Date: \_\_\_\_\_  
Planner: \_\_\_\_\_ of \_\_\_\_\_ Sheets  
Asst./Director: \_\_\_\_\_

## LOCATION MAP

# HISTORIC RHODY DELAHANTY COMPLEX

1100 - 1106 RHODE ISLAND  
LAWRENCE, KANSAS

**Hernly ASSOCIATES**

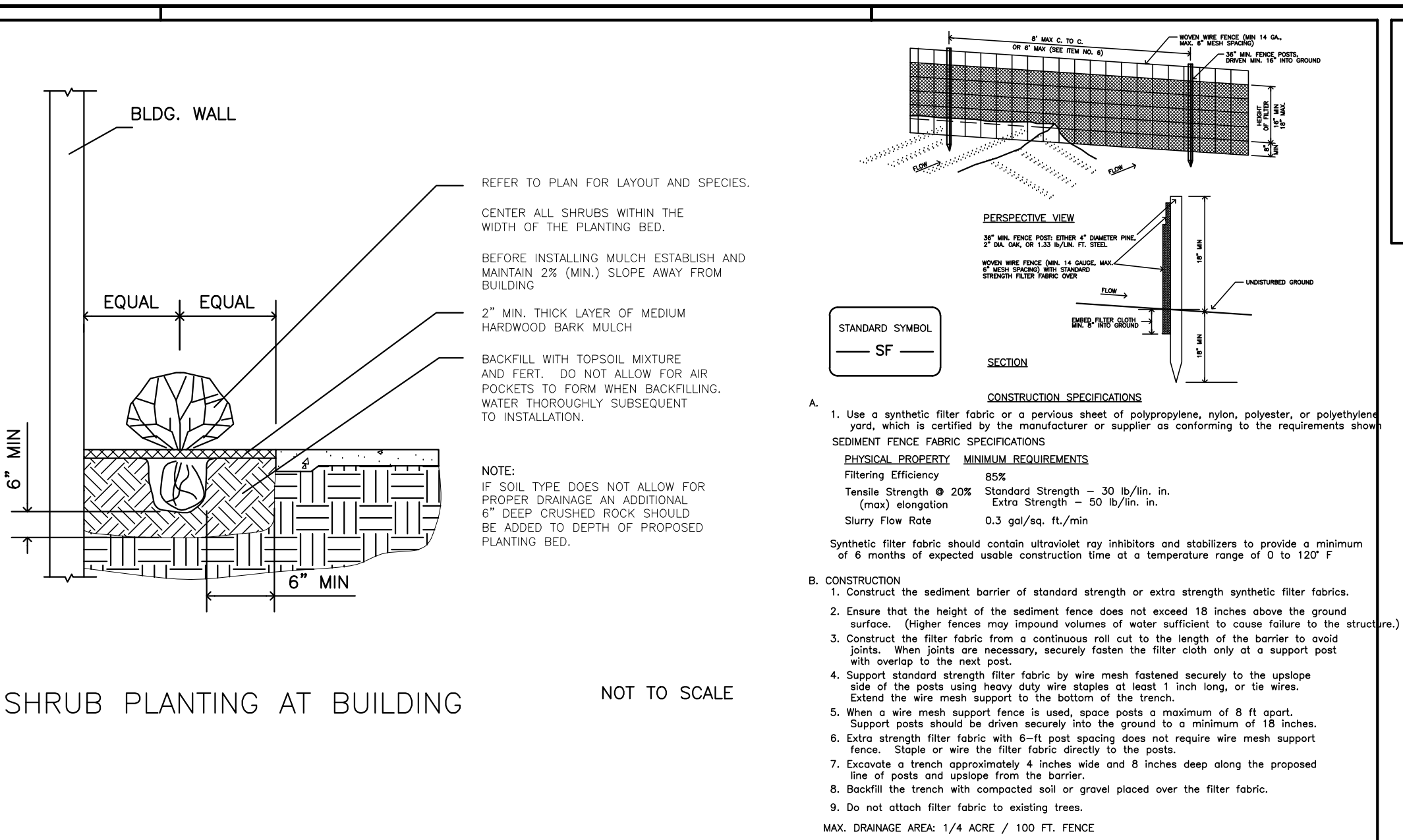
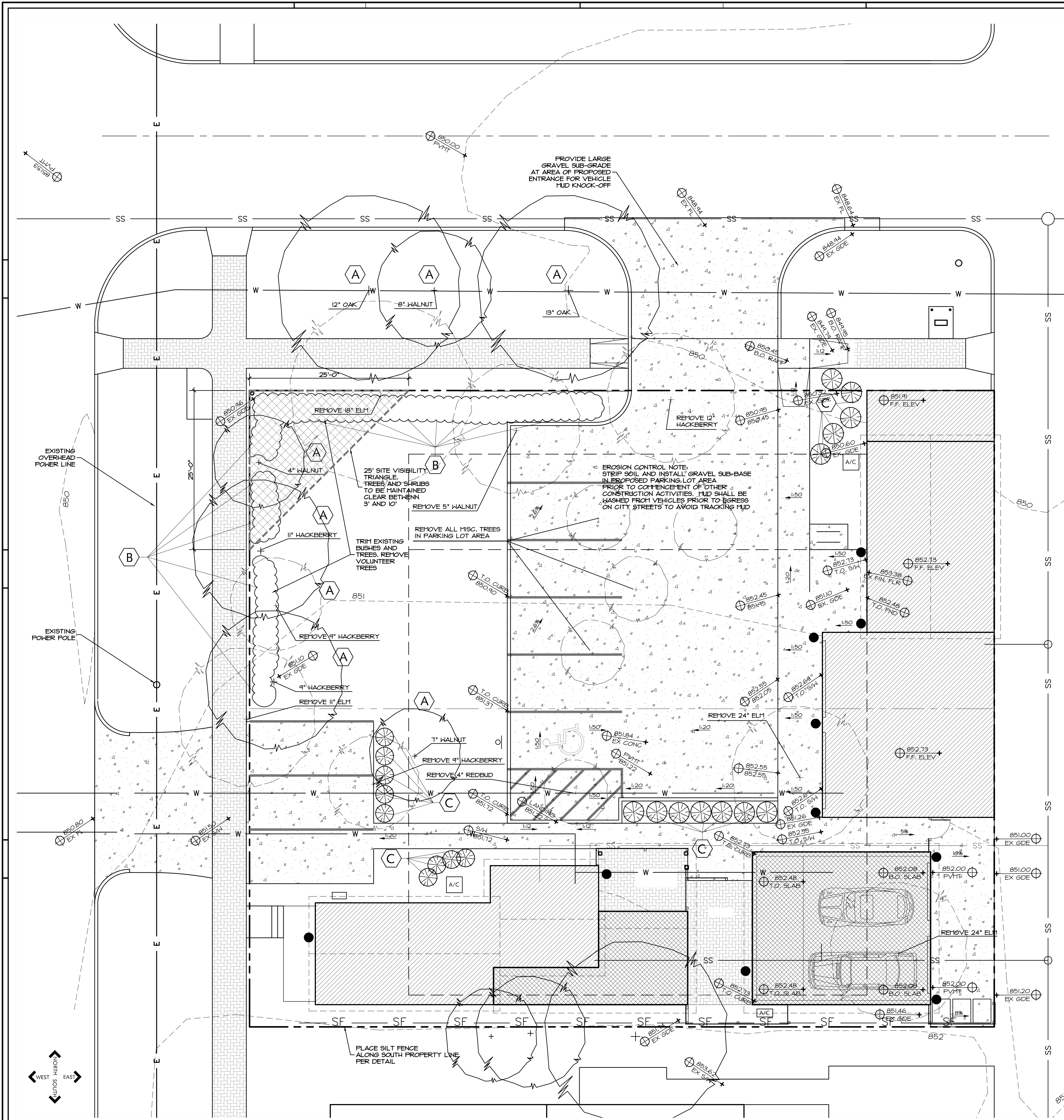
920 Massachusetts  
Lawrence, Kansas  
66044  
785 - 749 - 5806  
FAX 785 - 749 - 1515

SITE PLAN

Date: 2014/07/21  
Drawn by: SCH/RS  
Checked by: \_\_\_\_\_  
Revisions: 2014/08/26

C1.0





PROPERTY OWNER: City of Lawrence  
David Corliss, City Manager  
1106 Rhode Island, LLC, 920 Massachusetts, Suite 2, Lawrence, KS 66044  
Phone - 785-749-5806  
Email - mike@hernly.com

- EROSION CONTROL NOTES:
- All perimeter sediment and erosion control facilities are to be constructed prior to grading and they shall be in operational condition before grading construction begins. All sediment control measures are to be adjusted to meet field conditions at the time of construction.
  - Periodic inspection and maintenance of all sediment control structures must be provided to insure intended purpose is accomplished. The contractor shall insure that adjacent land area shall be protected from erosion and sediment. Sediment control measures shall be in working condition at the end of each day.
  - All areas of ingress-egress are to be protected to prevent the tracking of mud onto the public right-of-way.
  - Remove good topsoil from areas to be graded and filled, and preserve it for use in finishing the grading of all critical areas.
  - Clear and grub areas to be filled to remove trees, vegetation, roots or other objectionable material that would affect the planned stability of the fill.
  - Ensure that fill material is free of brush, rubbish, rock, logs, stumps, building debris, and other inappropriate materials for constructing stable fills.
  - Place all fill in layers not to exceed 9 inches in thickness and compact the layers as required to reduce erosions, slippage, settlement, or other related problems.
  - Do not incorporate frozen material or soft, mucky, or highly compressible materials into fill slopes. Do not place fill on frozen foundation, due to possible subsidence during all phases of development.
  - Handle seeps or springs encountered during construction in accordance with approved methods.
  - Scarify areas to be topsoiled to a minimum depth of 2 inches before placing topsoil.
  - The throats of all storm sewer inlets shall be protected and kept free of any deposits of sediment until the uphill areas have been stabilized and the streets have been paved.
  - The out falls of all storm sewers shall be provided with end sections and rip-rap to dissipate flow and control erosion.

LANDSCAPE CALCULATIONS:  
STREET TREES REQUIRED = 1 PER 40 FEET OF FRONTAGE 167'/40' = 5 TREES  
STREET TREES PROVIDED = 3 EXISTING AT NORTH + 3 EXISTING AT WEST = 6 TREES

Note: Existing, mature trees on west side of property are at or inside property line location. An existing overhead power line prevents the public R.O.W. on the west from being an ideal place for new street trees.

PARKING LOT INTERIOR LANDSCAPING REQUIRED = 40 S.F. PER SPACE = 9x40 = 360 S.F.  
PARKING LOT INTERIOR LANDSCAPING PROVIDED = APPROX. 2,600 S.F.

Note: The lot contains many existing trees and shrubs that will be selectively thinned and trimmed. The large open space that surrounds the parking areas will contribute to the parking landscaping requirements. The parking lot will be adequately screened and shaded.

PARKING LOT PERIMETER LANDSCAPING REQUIRED:  
= 1 SHADE TREE/25 LIN. FT. OF PARKING LOT FRONTAGE = 83'/25 = 4 TREES  
+ CONTINUOUS SCREENING

Note: As noted below we have requested alternate compliance for the Bufferyard provisions. We believe that the landscape plan submitted will meet the spirit and intent of the landscaping provisions of the Code and it will respect the historic nature and configuration of the site. Parking will be adequately screened and some views to the historic structures will be opened after careful trimming and thinning of existing vegetation. Additional shrubs have been added where necessary to augment the existing mature vegetation.

BUFFERYARD REQUIRED = A Type 2 Bufferyard is required between RM-O and GPI District to the west and a Type 1 Bufferyard is required between the RM-O and RS district to the north. A letter has been submitted to the planning director requesting alternate compliance to allow the existing dense vegetation along with some new plantings be allowed to suffice for the required Bufferyard. The existing mature vegetation will be selectively pruned and thinned to create an attractive and adequate buffer to the back side of the Law Enforcement Center while allowing desirable views to the historic structures.

LANDSCAPING			
KEY	NAME	QUAN	SIZE
(A)	Existing Deciduous Tree	8	Varies
(B)	Existing Privet Hedge	Cont.	3'
(C)	Proposed Winged Euonymus	21	24" ht.

The perimeter of the lot on the west and north is densely vegetated with a continuous strip of mature trees and privet hedge. Primary screening of the lot will take the form of careful selection and removal of smaller trees and thinning/pruning the privet hedge to create a uniform and attractive 3' tall screen interspersed with mature trees. It is desirable to open views of the historic structures which are now completely obscured. Additional screening for new parking is as noted.

LANDSCAPE NOTES

HISTORIC RHODY DELAHUNTY COMPLEX  
1100 - 1106 RHODE ISLAND  
LAWRENCE, KANSAS

Hernly  
ASSOCIATES

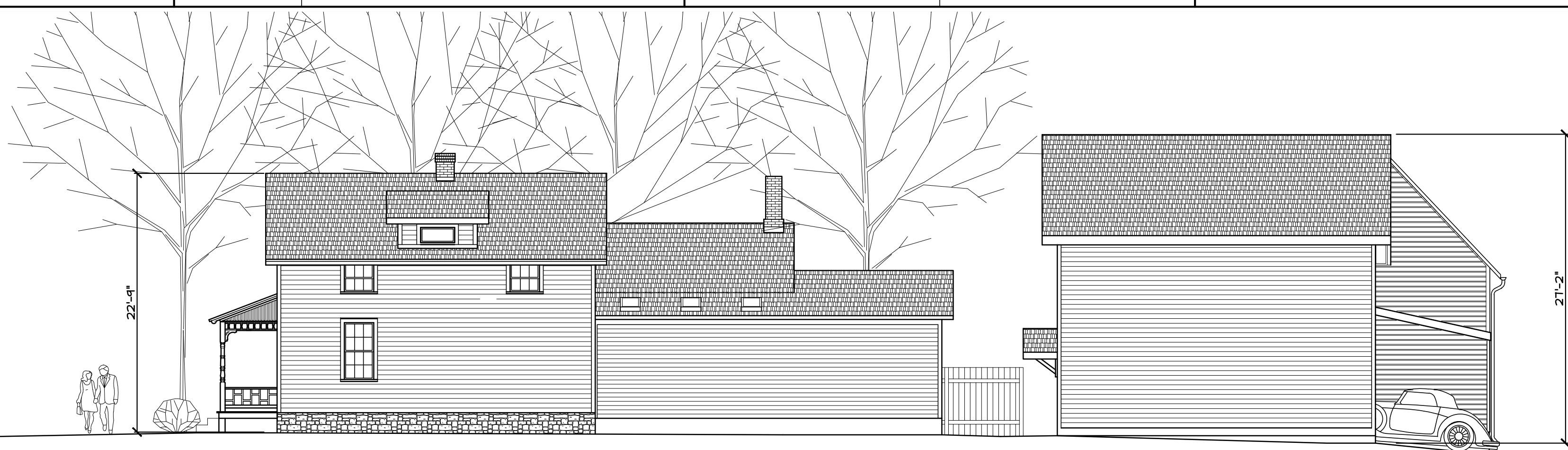
920 Massachusetts  
Lawrence, Kansas  
66044  
785 - 749 - 5806  
FAX 785 - 749 - 1515

LANDSCAPE PLAN

Date: 2014/07/21  
Drawn by: SCH/PT  
Checked by:  
Revisions: 2014/08/26

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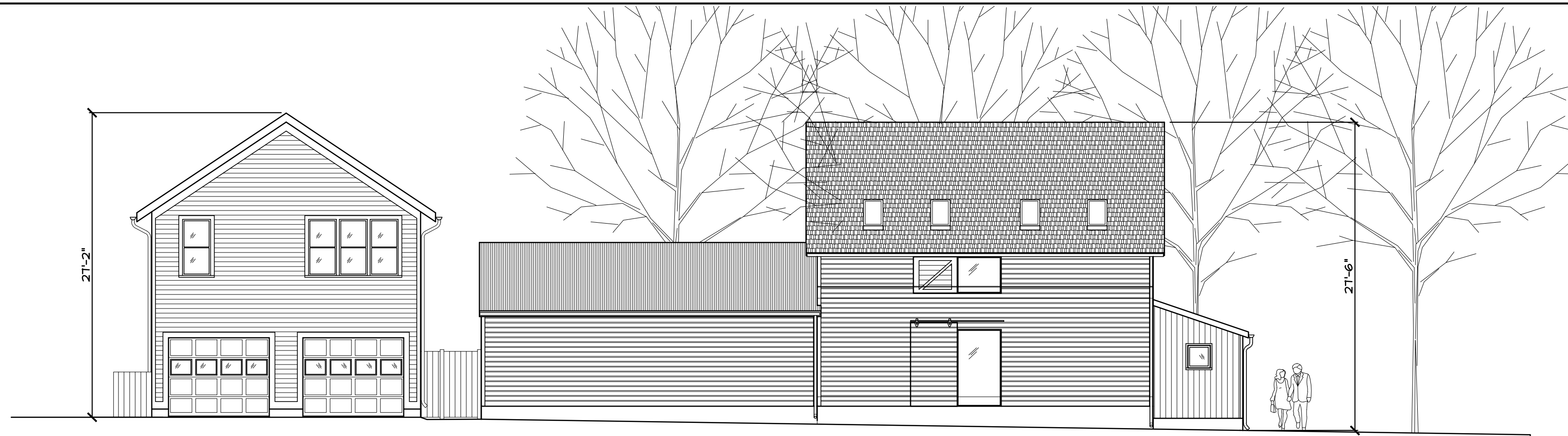




**1** SOUTH ELEVATION  
1/8" = 1'-0"



**2** NORTH ELEVATION  
1/8" = 1'-0"



**3** EAST ELEVATION  
1/8" = 1'-0"



**4** WEST ELEVATION  
1/8" = 1'-0"

HISTORIC RHODY DELAHUNTY COMPLEX  
HISTORIC HOUSE - ROOM ADDITION/REMODEL  
1100 - 1106 RHODE ISLAND, LAWRENCE, KANSAS

Hernly  
ASSOCIATES

920 Massachusetts  
Lawrence, Kansas  
66044  
785 - 749 - 5806  
FAX 785 - 749 - 1515

SITE ELEVATIONS

Date: 2014/08/26  
Drawn by: MUYERS  
Checked by:  
Revisions:


C2.0





**Z-14-00314: Rezone 0.269 acres from RM12 District to RMO District**  
**SUP-14-00326: Special Use Permit for Rhody Delahunty Complex**  
**Located at 1106 Rhode Island Street**

Lawrence-Douglas County Planning Office  
 September 2014

 Subject Property







**LEAGUE OF WOMEN VOTERS®**  
OF LAWRENCE/DOUGLAS COUNTY

September 21, 2014

RECEIVED

SEP 22 2014

City County Planning Office  
Lawrence, Kansas

*President*  
**Cille King**

*Vice President*  
**Carrie Lindsey**

*Secretary*  
**Caleb Morse**

*Treasurer*  
**Marjorie Cole**

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**Caroljean Brune**

**Debra Duncan**

**James Dunn**

**Midge Grinstead**

**Marlene Merrill**

**Austin Turney**

Mr. Bruce Liese, Chair, and Planning Commission Members  
Lawrence-Douglas County Metropolitan Planning Commission  
City Hall  
Lawrence, KS 66044

Dear Chairman Liese and Planning Commissioners:

RE: ITEM NO. 5B SPECIAL USE PERMIT FOR RHODY DELAHUNTY  
COMPLEX; 1106 RHODE ISLAND ST (LBZ)

We believe that the renovation of the subject historical structures into a residential-office complex would benefit the area and the city. However, we have a major concern that would be alleviated by placing a condition on the Special Use Permit (SUP) of this complex. Please add the condition that the individual dwellings will not be sold or transferred to individual (separate) owners.

The reason for our request is that there is nothing in the language of the SUP that requires that separate ownership of individual detached dwellings on the same lot in multiple family districts be prohibited; only that an SUP is required to allow multiple detached dwellings on the same lot in multiple family districts.

We realize that the regulations require that the current intended owners must not transfer the buildings to other owners within a 5-year period. However, after this time limit we see no continued restrictions; hence the need for the condition on the SUP.

We ask again that you place a condition on the SUP for this property that prohibits the transfer of the individual detached dwellings to separate owners.

Thank you.

Sincerely yours,

*Cille King*  
Cille King  
President

*Alan Black*  
Alan Black, Chairman  
Land Use Committee