

REVISED
City of Mission
Regular Meeting Agenda
Wednesday, July 17, 2019
7:00 p.m.
Mission City Hall

If you require any accommodations (i.e. qualified interpreter, large print, reader, hearing assistance) in order to attend this meeting, please notify the Administrative Office at 913-676-8350 no later than 24 hours prior to the beginning of the meeting.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

ROLL CALL

1. PUBLIC HEARING

- Roeland Court Townhomes Community Improvement District Proposed Assessments

2. SPECIAL PRESENTATIONS

- 2020 Budget Community Dialogue

3. ISSUANCE OF NOTES AND BONDS

- 3a. 2019A General Obligation Bonds Acceptance of Sale ([page 4](#))
- 3b. 2019A General Obligation Bonds Ordinance Authorizing Issuance ([page 11](#))
- 3c. 2019A General Obligation Bonds Resolution Prescribing Form and Details ([page 17](#))

4. CONSENT AGENDA

*NOTE: Information on consent agenda items has been provided to the Governing Body. These items are determined to be routine enough to be acted on in a single motion; however, this does not preclude discussion. **If a councilmember or member of the public requests, an item may be removed from the consent agenda for further consideration and separate motion.***

CONSENT AGENDA - GENERAL

- 4a. [Minutes of the June 19, 2019 City Council Meeting](#)

CONSENT AGENDA - Finance & Administration Committee

[Finance & Administration Committee Meeting Packet 7-10-19](#)
[Finance & Administration Committee Meeting Minutes 7-10-19](#)

- 4b. Resolution Designating Sunflower Festival as City Sponsored Festival Event
- 4c. Roeland Court Townhomes Development Agreement
- 4d. Mutual Release Agreement Between the City of Mission, Roeland Court Townhomes Association, and Johnson County Wastewater
- 4e. Kansas Statewide Housing Assistance Program Resolution and Cooperation Agreement

- 4f. Post Issuance Debt Compliance and Continuing Disclosure Policy and Procedures
- 4g. Surplus Property Resolution
- 4h. SFS Architecture Contract for Phase II Space Needs Analysis

CONSENT AGENDA - Community Development Committee

[Community Development Committee Meeting Packet 7-10-19](#)

[Community Development Committee Meeting Minutes 7-10-19](#)

- 4i. Contract Award for Sinkhole Repairs
- 4j. 50th & Dearborn Storm Sewer Repairs
- 4k. Task Order with GBA to Proceed with Foxridge Survey

5. PUBLIC COMMENTS

**6. ACTION ITEMS
Planning Commission**

- 6a. Amended Preliminary Development Plan / Final Development Plan, Tidal Wave Auto Spa, 6501 Johnson Drive ([page 53](#))

Miscellaneous

7. COMMITTEE REPORTS

Finance & Administration, Sollie Flora

[Finance & Administration Committee Meeting Packet 7-10-19](#)

[Finance & Administration Committee Meeting Minutes 7-10-19](#)

- 7a. Ordinance Certifying Roeland Court Townhomes Special Assessments ([page 197](#))
- 7b. Police Department Radio Replacement ([page 218](#))

Community Development, Hillary Thomas

[Community Development Committee Meeting Packet 7-10-19](#)

[Community Development Committee Meeting Minutes 7-10-19](#)

- 7c. BHC Rhodes Street Asset Inventory ([page 222](#))

8. UNFINISHED BUSINESS

9. NEW BUSINESS

- 9a. **Acceptance of Easements, Broadmoor Project - REMOVED**

10. COMMENTS FROM THE CITY COUNCIL

**11. MAYOR'S REPORT
Appointments**

12. CITY ADMINISTRATOR'S REPORT

13. EXECUTIVE SESSION

ADJOURNMENT

City of Mission	Item Number:	3a.
ACTION ITEM SUMMARY	Date:	July 2, 2019
Administration	From:	Laura Smith

Action items require a vote to recommend the item to full City Council for further action.

RE: Sale of General Obligation Bonds Series 2019A

RECOMMENDATION: Consider and approve the necessary bond documents to proceed with the sale of GO Bonds Series 2019A in the estimated amount of \$4,210,000 to fund improvements to the Rock Creek Channel from just east of Nall Ave. to Roeland Drive.

DETAILS: At the June 19 City Council meeting, staff was directed to undertake the next steps with our financial advisors and bond counsel to proceed to offer for sale General Obligation Bonds, Series 2019A. This issue will be used to finance repairs to the Rock Creek Channel from just east of Nall Ave to Roeland Drive. The project also includes repairs and restoration of the parking and common areas of the Roeland Court Townhomes damaged in August 2017 as a result of a subsidence. The portion of the project costs attributable to the Roeland Court Townhomes will be repaid to the City via a Community Improvement District established by Ordinance 1498. The City's portion of the debt service on these bonds is anticipated to be paid from special assessments (Gateway), stormwater utility and drainage district revenues.

Pursuant to the direction of the City Council, the sale of the bonds will be advertised and written bids accepted through 10:00 a.m. (CST) on Wednesday, July 17, 2019. In order to obtain the lowest interest cost, the City will solicit competitive bids from both local banks as well as regional and national bond underwriters. The Council will take three separate actions related to the Bond Sale at the City Council meeting that same evening:

1. Acceptance of the winning bid
2. Ordinance Authorizing the Sale
3. Resolution Prescribing the form and details of the bond sale

The City's financial advisor and bond counsel will be in attendance to present the information from the competitive bond sale and to answer any questions. The 2019A bonds will close on August 15, 2019. The enclosed documents will be updated with the specific details following receipt of the bids, and will appear on the July 17 Council agenda for Council consideration. A copy of the Preliminary Official Statement (POS) has been posted to the City's website.

The City participated in a rating call with Standard & Poor's on Tuesday, July 2. The rating report will be shared as soon as it becomes available.

CFAA CONSIDERATIONS/IMPACTS: N/A

Related Statute/City Ordinance:	KSA 12-631r <i>et seq.</i>
Line Item Code/Description:	NA
Available Budget:	NA

G.O. BASIC DOCUMENTS

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Summary Ordinance for Publication
- D. Bond Resolution

**EXCERPT OF MINUTES OF A MEETING
OF THE CITY COUNCIL OF
THE CITY OF MISSION, KANSAS
HELD ON JULY 17, 2019**

The City Council (the "Governing Body") met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

The City Administrator reported that pursuant to the Notice of Bond Sale duly given, bids for the purchase of General Obligation Bonds, Series 2019A, dated August 15, 2019, of the City had been received. A tabulation of said bids is set forth as *EXHIBIT A* hereto.

The Governing Body reviewed and considered the bids and it was found and determined that the bid of [_____, _____, _____], was the best bid for the Bonds, a copy of which is attached hereto as *EXHIBIT B*.

Thereupon, there was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF
GENERAL OBLIGATION BONDS, SERIES 2019A, OF THE CITY OF MISSION,
KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL
TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON
SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER
DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING
CERTAIN COVENANTS WITH RESPECT THERETO.**

Councilmember _____ moved that said Ordinance be passed. The motion was seconded by Councilmember _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____

Nay: _____

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. [____], was signed and approved by the Mayor and attested by the Clerk and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

Thereupon, there was presented a Resolution entitled:

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION BONDS, SERIES 2019A, OF THE CITY OF MISSION, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. [] OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Councilmember _____ moved that said Resolution be adopted. The motion was seconded by Councilmember _____. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____

Nay: _____

The Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. [] and was signed by the Mayor and attested by the Clerk.

(Other Proceedings)

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On motion duly made, seconded and carried, the meeting thereupon adjourned.

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of Mission, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Clerk

EXHIBIT A
BID TABULATION

EXHIBIT B

BID OF PURCHASER

ORDINANCE NO. [____]

OF

THE CITY OF MISSION, KANSAS

PASSED

JULY 17, 2019

**GENERAL OBLIGATION BONDS
SERIES 2019A**

ORDINANCE NO. []

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2019A, OF THE CITY OF MISSION, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Mission, Kansas (the “City”) is a city of the second class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to K.S.A. 12-631r *et seq.*, as amended, and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the City Council of the City (the “Governing Body”) has authorized the following improvements (the “Improvements”) to be made in the City, to-wit:

<i>Project Description</i>	<i>Ordinance No.</i>	<i>Authority</i>	<i>Amount</i>
Rock Creek Channel Project ; and	1501	K.S.A. 12-631r <i>et seq.</i>	\$5,255,737

WHEREAS, the Governing Body is authorized by law to issue general obligation bonds of the City to pay a portion of the costs of the Improvements; and

WHEREAS, the Governing Body has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date awarded the sale of such Bonds to the best bidder.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSION, KANSAS, AS FOLLOWS:

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“**Act**” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, and K.S.A. 12-631r *et seq.*, all as amended and supplemented from time to time.

“**Bond and Interest Fund**” means the Bond and Interest Fund of the City for its general obligation bonds.

“**Bond Resolution**” means the resolution to be adopted by the Governing Body prescribing the terms and details of the Bonds and making covenants with respect thereto.

“**Bonds**” means the City’s General Obligation Bonds, Series 2019A, dated August 15, 2019, authorized by this Ordinance.

“**City**” means the City of Mission, Kansas.

“**Clerk**” means the duly appointed and acting Clerk of the City or, in the Clerk’s absence, the duly appointed Deputy, Assistant or Acting Clerk.

“**Governing Body**” means the City Council of the City.

“**Mayor**” means the duly elected and acting Mayor of the City or, in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“**Ordinance**” means this Ordinance authorizing the issuance of the Bonds.

“**State**” means the State of Kansas.

“**Substitute Improvements**” means the substitute or additional improvements of the City authorized in the manner set forth in the Bond Resolution.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Bonds, Series 2019A, of the City in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements and (b) pay costs of issuance of the Bonds.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the Governing Body.

Section 5. Levy and Collection of Annual Tax. The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the paying agent for the Bonds. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the City Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

Section 6. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body, approval by the Mayor and publication of this Ordinance or a summary thereof in the official City newspaper.

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PASSED by the Governing Body on July 17, 2019 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Ronald E. Appletoft, Mayor

ATTEST:

Martha Sumrall, City Clerk

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[SUMMARY BOND ORDINANCE FOR PUBLICATION]

(PUBLISHED IN *THE LEGAL RECORD* ON JULY __, 2019)

SUMMARY OF ORDINANCE NO. [____]

On July 17, 2019, the governing body of the City of Mission, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2019A, OF THE CITY OF MISSION, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

The Series 2019A Bonds approved by the Ordinance are being issued in the principal amount of \$[PRINCIPAL AMOUNT], to finance certain internal improvements in the City, and constitute general obligations of the City payable as to both principal and interest, to the extent necessary, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City, 6090 Woodson, Mission, Kansas. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.missionks.org.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: July 17, 2019.

City Attorney

RESOLUTION NO. []

OF

CITY OF MISSION, KANSAS

ADOPTED

JULY 17, 2019

**GENERAL OBLIGATION BONDS
SERIES 2019A**

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EXHIBIT A – FORM OF BONDS A-1

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RESOLUTION NO. []

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION BONDS, SERIES 2019A, OF THE CITY OF MISSION, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. [] OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

WHEREAS, the Issuer has passed the Ordinance authorizing the issuance of the Bonds; and

WHEREAS, the Ordinance authorized the City Council of the Issuer (the “Governing Body”) to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSION, KANSAS, AS FOLLOWS:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms as used in this Bond Resolution shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“**Act**” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, and K.S.A. 12-631r *et seq.*, all as amended and supplemented from time to time.

“**Authorized Denomination**” means \$5,000 or any integral multiples thereof.

“**Beneficial Owner**” of the Bonds includes any Owner of the Bonds and any other Person who, directly or indirectly has the investment power with respect to such Bonds.

“**Bond and Interest Fund**” means the Bond and Interest Fund of the Issuer for its general obligation bonds.

“**Bond Counsel**” means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

“**Bond Payment Date**” means any date on which principal of or interest on any Bond is payable.

“Bond Register” means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

“Bond Registrar” means the State Treasurer, and any successors and assigns.

“Bond Resolution” means this resolution relating to the Bonds.

“Bonds” or “Bond” means the General Obligation Bonds, Series 2019A, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

“Business Day” means a day other than a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the Legislature of the State and on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

“Cede & Co.” means Cede & Co., as nominee of DTC and any successor nominee of DTC.

“City” means the City of Mission, Kansas.

“Clerk” means the duly appointed and/or elected Clerk or, in the Clerk’s absence, the duly appointed Deputy Clerk or Acting Clerk of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” means all costs of issuing the Bonds, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving ratings on the Bonds, and any premiums or expenses incurred in obtaining municipal bond insurance on the Bonds.

“Dated Date” means August 15, 2019.

“Debt Service Account” means the Debt Service Account for General Obligation Bonds, Series 2019A created within the Bond and Interest Fund pursuant to **Section 501** hereof.

“Debt Service Requirements” means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

“Defaulted Interest” means interest on any Bond which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody’s or Standard & Poor’s that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

“Derivative” means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

“Disclosure Undertaking” means the Continuing Disclosure Undertaking dated as of the Dated Date relating to certain obligations contained in the SEC Rule.

“DTC” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

“DTC Representation Letter” means the Blanket Letter of Representation from the Issuer and the Paying Agent to DTC which provides for a book-entry system, or any agreement between the Issuer and Paying Agent and a successor securities depository duly appointed.

“Event of Default” means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution (other than the covenants relating to continuing disclosure requirements contained herein and in the Disclosure Undertaking) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding.

“Federal Tax Certificate” means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

“Financeable Costs” means the amount of expenditure for an Improvement which has been duly authorized by action of the Governing Body to be financed by general obligation bonds, less: (a) the amount of any temporary notes or general obligation bonds of the Issuer which are currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

“Fiscal Year” means the twelve month period ending on December 31.

“Funds and Accounts” means funds and accounts created pursuant to or referred to in *Section 501* hereof.

“Governing Body” means the City Council of the Issuer.

“Improvement Fund” means the Improvement Fund for General Obligation Bonds, Series 2019A created pursuant to *Section 501* hereof.

“Improvements” means the improvements referred to in the preamble to the Ordinance and any Substitute Improvements.

“Independent Accountant” means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Bond Resolution.

“Interest Payment Date(s)” means the Stated Maturity of an installment of interest on any Bond which shall be March 1 and September 1 of each year, commencing March 1, 2020.

“Issue Date” means the date when the Issuer delivers the Bonds to the Purchaser in exchange for the Purchase Price.

“Issuer” means the City and any successors or assigns.

“Maturity” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

“Mayor” means the duly elected and acting Mayor, or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the Issuer.

“**Moody’s**” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“**Notice Address**” means with respect to the following entities:

(a) To the Issuer at:

6090 Woodson Road
Mission, Kansas 66202
Fax: (913)722-1415

(b) To the Paying Agent at:

State Treasurer of the State of Kansas
Landon Office Building
900 Southwest Jackson, Suite 201
Topeka, Kansas 66612-1235
Fax: (785) 296-6976

(c) To the Purchaser:

[_____

_____]

(d) To the Rating Agency:

S&P Global Ratings, a division of S&P Global Inc.
55 Water Street, 38th Floor
New York, New York 10004

or such other address as is furnished in writing to the other parties referenced herein.

“**Notice Representative**” means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Bond Registrar and Paying Agent, the Director of Bond Services.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.
- (d) With respect to any Rating Agency, any Vice President thereof.

“**Official Statement**” means Issuer’s Official Statement relating to the Bonds.

“**Ordinance**” means Ordinance No. [_____] of the Issuer authorizing the issuance of the Bonds, as amended from time to time.

“Outstanding” means, when used with reference to the Bonds, as of a particular date of determination, all Bonds theretofore authenticated and delivered, except the following Bonds:

- (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of *Article VII* hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

“Owner” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register. Whenever consent of the Owners is required pursuant to the terms of this Bond Resolution, and the Owner of the Bonds, as set forth on the Bond Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Bonds.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Paying Agent” means the State Treasurer, and any successors and assigns.

“Permitted Investments” shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Purchase Price” means the principal amount of the Bonds plus accrued interest to the date of delivery[, plus a premium of \$[_____][, less an underwriting discount of \$[_____][, less an original issue discount of \$[_____].

“Purchaser” means [_____, _____, _____], the original purchaser of the Bonds, and any successor and assigns.

“Rating Agency” means any company, agency or entity that provides, pursuant to request of the Issuer, financial ratings for the Bonds.

“Rebate Fund” means the Rebate Fund for General Obligation Bonds, Series 2019A created pursuant to *Section 501* hereof.

“Record Dates” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“Redemption Date” means, when used with respect to any Bond to be redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this Bond Resolution.

“Redemption Price” means, when used with respect to any Bond to be redeemed, the price at which such Bond is to be redeemed pursuant to the terms of this Bond Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“Replacement Bonds” means Bonds issued to the Beneficial Owners of the Bonds in accordance with *Section 210* hereof.

“SEC Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

“Securities Depository” means, initially, DTC, and its successors and assigns.

“Special Record Date” means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

“Standard & Poor's” or “S&P” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor's shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“State” means the state of Kansas.

“State Treasurer” means the duly elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“Stated Maturity” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Bond Resolution as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“Substitute Improvements” means the substitute or additional improvements of the Issuer described in *Article V* hereof.

[**“20__ Term Bonds”** means the Bonds scheduled to mature in the year 20__.

“**20__ Term Bonds**” means the Bonds scheduled to mature in the year 20__.

“**Term Bonds**” means collectively the 20__ Term Bonds and the 20__ Term Bonds.]

“**Treasurer**” means the duly appointed and/or elected Treasurer of the Issuer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

ARTICLE II

AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds. The Bonds have been authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements and (b) pay Costs of Issuance.

Section 202. Description of the Bonds. The Bonds shall consist of fully registered bonds in an Authorized Denomination, and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof, and shall bear interest at the rates per annum as follows:

SERIAL BONDS

<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>	<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
2020	\$ _____	_____ %	2025	\$ _____	_____ %
2021	_____	_____	2026	_____	_____
2022	_____	_____	2027	_____	_____
2023	_____	_____	2028	_____	_____
2024	_____	_____	2029	_____	_____

[TERM BONDS

<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
20__	\$ _____	_____ %
20__	_____	_____]

The Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in **Section 204** hereof.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as **EXHIBIT A** or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

Section 203. Designation of Paying Agent and Bond Registrar. The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Bonds and Bond Registrar with respect to the registration, transfer and exchange of Bonds. The Mayor of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Bond Registrar and Paying Agent for the Bonds.

The Issuer will at all times maintain a Paying Agent and Bond Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Bond Registrar by (a) filing with the Paying Agent or Bond Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Bond Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Bond Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Bond Registrar.

Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

Section 204. Method and Place of Payment of the Bonds. The principal of, or Redemption Price, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted

Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefore to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

Section 205. Payments Due on Saturdays, Sundays and Holidays. In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

Section 206. Registration, Transfer and Exchange of Bonds. The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. The Issuer shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Bond Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Article III* hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning

at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to this *Article II*.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

Section 207. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk, and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Bond Registrar for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as *EXHIBIT A* hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Bond Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Bond Registrar. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Bond Resolution. Upon authentication, the Bond Registrar shall deliver the Bonds to the Purchaser upon instructions of the Issuer or its representative.

Section 208. Mutilated, Lost, Stolen or Destroyed Bonds. If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to

the Issuer or the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Paying Agent may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Bond Resolution equally and ratably with all other Outstanding Bonds.

Section 209. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

Section 210. Book-Entry Bonds; Securities Depository. The Issuer and Paying Agent have entered into a DTC Representation Letter with DTC. The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the Beneficial Owners as described in the following paragraph.

The Issuer may decide, subject to the requirements of the Operational Arrangements of DTC (or a successor Securities Depository), and the following provisions of this section to discontinue use of the system of book-entry transfers through DTC (or a successor Securities Depository):

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds; or

(b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar

shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in an Authorized Denominations and form as provided herein.

Section 211. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four (4) years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 212. Preliminary and Final Official Statement. The Preliminary Official Statement dated July [], 2019, is hereby ratified and approved.

The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor and chief financial officer of the Issuer are hereby authorized to execute the Official Statement as so supplemented, amended and completed, and the use and

public distribution of the Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and Rule G-32 of the Municipal Securities Rulemaking Board.

Section 213. Sale of the Bonds. The sale of the Bonds to the Purchaser is hereby ratified and confirmed. The Mayor and Clerk are hereby authorized to execute the official bid form submitted by the Purchaser. Delivery of the Bonds shall be made to the Purchaser on the Issue Date (which shall be as soon as practicable after the adoption of this Bond Resolution), upon payment of the Purchase Price.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption by Issuer.

Optional Redemption. At the option of the Issuer, Bonds maturing on September 1 in the years 2028 and thereafter, will be subject to redemption and payment prior to their Stated Maturity on September 1, 2027, and thereafter, as a whole or in part (selection of maturities and the amount of Bonds of each maturity to be redeemed to be determined by the Issuer in such equitable manner as it may determine) at any time, at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest to the Redemption Date.

[**Mandatory Redemption.** (a) *20__ Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in **Article IV** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$ _____	20__
_____	20__
_____	*20__

*Final Maturity

(b) *20__ Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in **Article IV** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$ _____	20__
_____	20__
_____	*20__

*Final Maturity]

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity as designated by the Issuer, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.]

Section 302. Selection of Bonds to be Redeemed. Bonds shall be redeemed only in an Authorized Denomination. When less than all of the Bonds are to be redeemed and paid prior to their Stated Maturity, such Bonds shall be redeemed in such manner as the Issuer shall determine. Bonds of less than a full Stated Maturity shall be selected by the Bond Registrar in a minimum Authorized Denomination of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption a minimum Authorized Denomination of face value shall be treated as though it were a separate Bond of the denomination of a minimum Authorized Denomination. If it is determined that one or more, but not all, of a minimum Authorized Denomination of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem a minimum Authorized Denomination, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of a minimum Authorized Denomination of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on

the redemption date to the extent of a minimum Authorized Denomination of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. [The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.]

Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its intention to call and pay said Bonds to the Bond Registrar and the State Treasurer. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice

from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, the Issuer shall provide such notices of redemption as are required by the Disclosure Undertaking. Further notice may be given by the Issuer or the Bond Registrar on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed:

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2) the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Owners by first class, registered or certified mail or overnight delivery, as determined by the Bond Registrar, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the State or the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

ARTICLE IV

SECURITY FOR BONDS

Section 401. Security for the Bonds. The Bonds shall be general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby

irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account. The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by, to the extent necessary, levying and collecting the necessary taxes upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be transferred to the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due, taking into account any scheduled mandatory redemptions, and the fees and expenses of the Paying Agent.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the Issuer and to reimburse said general funds for money so expended when said taxes are collected.

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds and Accounts. Simultaneously with the issuance of the Bonds, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Improvement Fund for General Obligation Bonds, Series 2019A.
- (b) Debt Service Account for General Obligation Bonds, Series 2019A (within the Bond and Interest Fund).
- (c) Rebate Fund for General Obligation Bonds, Series 2019A.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Bond Resolution so long as the Bonds are Outstanding.

Section 502. Deposit of Bond Proceeds. The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) All accrued interest, if any, received from the sale of the Bonds shall be deposited in the Debt Service Account.
- (b) The remaining balance of the proceeds derived from the sale of the Bonds shall be deposited in the Improvement Fund.

Section 503. Application of Moneys in the Improvement Fund. Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor approved by the Governing Body and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable and approved by the Governing Body; (b) paying Costs of Issuance; and (c) transferring any amounts to the Rebate Fund required by this *Article V*. Upon completion of the Improvements, any surplus remaining in the Improvement Fund shall be deposited in the Debt Service Account.

Section 504. Substitution of Improvements; Reallocation of Proceeds.

(a) The Issuer may elect for any reason to substitute or add other public improvements to be financed with proceeds of the Bonds provided the following conditions are met: (1) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been duly authorized by the Governing Body in accordance with the laws of the State; (2) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Financeable Costs of the Substitute Improvement has been duly adopted by the Governing Body pursuant to this Section, (3) the Attorney General of the State has approved the amendment made by such resolution or ordinance to the transcript of proceedings for the Bonds to include the Substitute Improvements; and (4) the use of the proceeds of the Bonds to pay the Financeable Cost of the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law.

(b) The Issuer may reallocate expenditure of Bond proceeds among all Improvements financed by the Bonds; provided the following conditions are met: (1) the reallocation is approved by the Governing Body; (2) the reallocation shall not cause the proceeds of the Bonds allocated to any Improvement to exceed the Financeable Costs of the Improvement; and (3) the reallocation will not adversely affect the tax-exempt status of the Bonds under State or federal law.

Section 505. Application of Moneys in Debt Service Account. All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Bond Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Bond Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Bonds entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the Bonds shall be transferred and paid into the Bond and Interest Fund.

Section 506. Application of Moneys in the Rebate Fund.

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax

Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Bond Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 507. Deposits and Investment of Moneys. Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Bond Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may, at the discretion of the Issuer, be credited to the Debt Service Account.

ARTICLE VI

DEFAULT AND REMEDIES

Section 601. Remedies. The provisions of the Bond Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Bonds. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and

compel duties and obligations required by the provisions of the Bond Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Outstanding Bonds.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall, subject to any determination in such action or proceeding or applicable law of the State, be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Bond Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or

Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with *Article III* hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

ARTICLE VIII

TAX COVENANTS

Section 801. General Covenants. The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and Clerk are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

Section 802. Survival of Covenants. The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to *Article VII* hereof or any other provision of this Bond Resolution until such time as is set forth in the Federal Tax Certificate.

ARTICLE IX

CONTINUING DISCLOSURE REQUIREMENTS

Section 901. Disclosure Requirements. The Mayor and Clerk are hereby authorized and directed to execute the Disclosure Undertaking in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated

herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

Section 901. Failure to Comply with Continuing Disclosure Requirements. In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section. Notwithstanding any other provision of this Bond Resolution, failure of the Issuer to comply with its covenants contained in the preceding section shall not be considered an Event of Default under this Bond Resolution.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 1001. Annual Audit. Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the Governing Body shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Bond Resolution, the Issuer shall promptly cure such deficiency.

Section 1002. Amendments. The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by ordinance or resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Bond Resolution.

Any provision of the Bonds or of this Bond Resolution may, however, be amended or modified by ordinance or resolution duly adopted by the Governing Body at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Bond Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Improvements, to reallocate proceeds of the Bonds among Improvements, to provide for Substitute Improvements, to conform this Bond Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Bond Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution or ordinance adopted by the Governing Body amending or supplementing the provisions of this Bond Resolution and shall be deemed to be a part of this Bond Resolution. A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of this Bond Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Bond Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or resolution or of this Bond Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the ordinance or resolution of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Bond Resolution which affects the duties or obligations of the Paying Agent under this Bond Resolution.

Section 1003. Notices, Consents and Other Instruments by Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Bond Resolution,

Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Bond Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

Section 1004. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly mailed by registered or certified mail, postage prepaid; or (b) communicated via fax, with electronic or telephonic confirmation of receipt. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by: (a) certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed; (b) fax as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

Section 1005. Electronic Transactions. The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 1006. Further Authority. The officers and officials of the Issuer, including the Mayor and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1007. Severability. If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

Section 1008. Governing Law. This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1009. Effective Date. This Bond Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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ADOPTED by the Governing Body on July 17, 2019.

(SEAL)

Mayor

ATTEST:

Clerk

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**EXHIBIT A
(FORM OF BONDS)**

**REGISTERED
NUMBER** __

**REGISTERED
\$**

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF JOHNSON
CITY OF MISSION
GENERAL OBLIGATION BOND
SERIES 2019A**

**Interest
Rate:**

**Maturity
Date:**

**Dated
Date: August 15, 2019**

CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Mission, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above, unless called for redemption prior to the Maturity Date, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable semiannually on March 1 and September 1 of each year, commencing March 1, 2020 (the “Interest Payment Dates”), until the Principal Amount has been paid.

Method and Place of Payment. The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the principal office of the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Bond Registrar”). The interest payable on this Bond on any Interest Payment Date shall be paid to the person in whose name this Bond is registered on the registration books maintained by the Bond Registrar at the close of business on the Record Date(s)

for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding the Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Bonds shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Bond Resolution.

Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Bond Resolution.

Authorization of Bonds. This Bond is one of an authorized series of Bonds of the Issuer designated “General Obligation Bonds, Series 2019A,” aggregating the principal amount of \$[PRINCIPAL AMOUNT] (the “Bonds”) issued for the purposes set forth in the Ordinance of the Issuer authorizing the issuance of the Bonds and the Resolution of the Issuer prescribing the form and details of the Bonds (collectively, the “Bond Resolution”). The Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 12-631r *et seq.*, as amended, and all other provisions of the laws of the State of Kansas applicable thereto.

General Obligations. The Bonds constitute general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Redemption Prior to Maturity. The Bonds are subject to redemption prior to maturity, as set forth in the Bond Resolution.

Book-Entry System. The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Bond Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository’s participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Bond Registrar will recognize the Securities Depository nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer and the Bond Registrar will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the

Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements among the Issuer, the Bond Registrar and the Securities Depository.

Transfer and Exchange. EXCEPT AS OTHERWISE PROVIDED IN THE BOND RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Bond may be transferred or exchanged, as provided in the Bond Resolution, only on the Bond Register kept for that purpose at the principal office of the Bond Registrar, upon surrender of this Bond, together with a written instrument of transfer or authorization for exchange satisfactory to the Bond Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Bonds and the cost of a reasonable supply of bond blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Bonds are issued in fully registered form in Authorized Denominations.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the hereinafter defined Bond Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

IT IS HEREBY DECLARED AND CERTIFIED that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the Issuer, including this series of bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

CITY OF MISSION, KANSAS

[(Facsimile Seal)]

By: _____ (facsimile)
Mayor

ATTEST:

By: _____ (facsimile)
Clerk

BOND ASSIGNMENT

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

(Name and Address)

(Social Security or Taxpayer Identification No.)

the Bond to which this assignment is affixed in the outstanding principal amount of \$_____, standing in the name of the undersigned on the books of the Bond Registrar. The undersigned do(es) hereby irrevocably constitute and appoint _____ as agent to transfer said Bond on the books of said Bond Registrar with full power of substitution in the premises.

Dated _____

Name

Social Security or
Taxpayer Identification No.

Signature (Sign here exactly as name(s)
appear on the face of Certificate)

Signature guarantee:

By _____

LEGAL OPINION

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of such Bonds:

GILMORE & BELL, P.C.

2405 Grand Boulevard
Suite 1100
Kansas City, Missouri 64108

(PRINTED LEGAL OPINION)

City of Mission	Item Number:	6a.
ACTION ITEM SUMMARY	Date:	June 28, 2019
COMMUNITY DEVELOPMENT	From:	Brian Scott

RE: Amendment of Preliminary Development Plan for Tidal Wave Auto Spa - 6501 Johnson Drive

DETAILS: In 2017, Tidal Wave Auto Spa submitted an application for a preliminary development plan to construct an automobile wash facility at 6501 Johnson Drive, the site of the former Valero gas and convenience store.

The site is zoned “CP-2B” - Planned Retail and Service District. A car wash is a permitted use within this zoning district. The site is also located within the Form Based Code (FBC) overlay district. The FBC is not concerned about the use of the site, but rather the form of the structure(s) that will sit on the site. For this particular site, the FBC requires a building with a minimum of two-stories that sits to the front of the property at the sidewalk. The intent of the FBC is to create a public, or pedestrian, oriented environment along Johnson Drive defined by the built environment.

During the original review and approval process, the applicant attempted to design a car wash facility that would meet the intent of the FBC by proposing a two-story building at the front of the site and the car wash tunnel at the back. The two-story building would have stalls on the lower level that one could drive their vehicle into after being washed to dry and vacuum the vehicle. The second level would be the regional offices for the Tidal Wave company.

The proposed design, however, did not receive the required score to allow it to proceed on a “fast track” (review and approval by the Planning Commission only) for consideration, which is allowed under the FBC. Thus, it was decided that the applicant would have to file for a preliminary development plan that would be considered by the Planning Commission and City Council, and then a final development plan that would be considered by the Planning Commission. This is the more traditional review process for new development projects.

The Planning Commission considered the preliminary development plan in March of 2018 and recommended it for approval by the City Council. The City Council approved the preliminary development in April, and the final development plan was subsequently approved by the Planning Commission in May.

The applicant has since refined construction costs and evaluated their financing for this particular project. In doing so, they came to the conclusion that the two-story building was not financially feasible, and they made a request to amend the preliminary and final development plans for this project to provide only a one-story building, or structure, on

Related Statute/City Ordinance:	
Line Item Code/Description:	NA
Available Budget:	NA

City of Mission	Item Number:	6a.
ACTION ITEM SUMMARY	Date:	June 28, 2019
COMMUNITY DEVELOPMENT	From:	Brian Scott

the site. All other aspects of the final development plan would still be applicable including design, material, streetscape, and overall site plans.

Application of the FBC has proven to be challenging. While the intent of the code is worthy, it does not necessarily match with what a proposed development is able to provide. This project is a good case in point. This particular site is relatively small, so to require a multi-story building with the appropriate amount of parking in the back, is challenging. Staff believes that while the proposed project does not meet the true intent of the FBC, it does incorporate many elements that are sought in the FBC, primarily the structure will be sited at the front of the building with a zero setback. In addition, the development will incorporate trees and streetscape elements that are sought in the FBC and the Johnson Drive Design Guidelines. Generally, it will be an improvement over the current building and use, which has been there for many years.

The Planning Commission considered the request to amend the preliminary and final development plan for the proposed Tidal Wave Auto Spa at 6501 Johnson Drive at their regular meeting on June 24, 2019. The Commission approved recommending the amended preliminary development plan to the City Council for their consideration. The item was recommended by the Planning Commission with an 8-0 vote. One Commissioner was absent.

The minutes of the planning commission are included in the packet for review as well as the staff report and original planning commission minute from March of 2018.

CFAA CONSIDERATIONS/IMPACTS: NA

Related Statute/City Ordinance:	
Line Item Code/Description:	NA
Available Budget:	NA

MINUTES OF THE PLANNING COMMISSION MEETING

June 24, 2019

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The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:00 PM Monday, June 24, 2019. Members also present: Pete Christiansen, Jami Casper, Robin Dukelow, Stuart Braden, Brad Davidson, Charlie Troppito and Frank Bruce. Burton Taylor was absent. Also, in attendance: Brian Scott, Assistant City Administrator and Audrey McClanahan, Secretary to the Planning Commission.

Approval of Minutes from the May 20, 2019 Meeting

Comm. Dukelow moved and Comm. Troppito seconded a motion to approve the minutes of the May 20, 2019 Planning Commission meeting.

The vote was taken (8-0-1). The **motion carried**. Comm. Christiansen abstained from the vote.

New Business

Public Hearing - Application # 19-03: Amendment of Preliminary and Final Site Development Plan Review – Tidal Wave Auto Wash (Case # 17 -11)

Mr. Scott: This is preliminary and final site development plan review for Tidal Wave Auto Wash. This was originally Case #17-11, presented to you about a year ago. The property is located at 6501 Johnson Drive, which is the former site of Valero gas and convenience station. The property is within the Form Based Code. Currently, the property is zoned CP-2B, which is Planned Retail and Service District, and the proposed carwash is allowable in the zoning district. The property is also located within the Form Based Code district, specially Block 1 of the FBC. When first presented last year, in March of 2017, there was rather extensive discussion with staff and the Commission regarding the application of the Form Based Code. Staff has been working with Mr. Hardin, the applicant, for the better part of a year and a half to try to apply as much of the Form Based Code [coughing] project. Of course, we went through all of that. The Form Based Code is not so much about the use, but more about the design of the building, and how that design plays in with the corridor. Trying to bring buildings up to the sidewalk with a zero-setback line, try to create a more divergent feel along the Johnson Drive corridor from Lamar, west to Metcalf.

Doing the Form Based Code requires a two-story building in that particular block. I will compliment Mr. Hardin, who has attempted to make a two-story building into a car wash. He proposed having the car wash bays themselves be a tunnel at the back of the property. The front of the property would be the building, and the lower level of the building would be the final detailing of the cars, vacuuming, etc. The second level would be the regional offices for his company. There would be staff there, provide training, so forth.

So, that's what was agreed upon. He decided because he did not score the necessary score for a pass/review of the Planning Commission, that we treat it as preliminary and final development plan, a more traditional two-step property. So, we approved the

MINUTES OF THE PLANNING COMMISSION MEETING

June 24, 2019

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preliminary development plan. That was recommended to the City Council and they approved it on April of last year. The applicant came back the following day with a final development plan. We reviewed that, and we presented it to you all, and it was approved by you.

The conditions that were asked for in the preliminary development plan were met in terms of materials, landscaping, site layout, etc. Mr. Hardin can speak more to this in a second, but he's had difficulty making the numbers on this project work, building a two-story building. So, he is requesting this amendment to essentially remove the two-story building and replace it with a one-story building, which would be the bays where vehicles are vacuumed and detailed. Other than two-story versus one-story, everything else is the same. The same material, landscaping, same street scape would be called for. Johnson Drive design guidelines as well as the Form Based Code. The building essentially looks the same other than it's one story. I'm going to stop there, and I will give the floor to Mr. Hardin, and he can present the case.

Petty Hardin, Applicant, appeared before the Planning Commission and made the following comments:

Mr. Hardin: Thank you all for hearing me again. I know it's been about a year since we saw each other last. I know it looks like nothing has been happening with the property, but we have been working diligently behind the scenes to make it work. I know you know we've been working on it at least, I've owned it at least two and a half years, and dealing with the City and staff for at least a year and a half, like Mr. Scott mentioned. I don't want to go back the whole two and a half years and rehash it all, but about nine months ago, I guess, when we got approval for the project, at that point, we released contractor to remove the underground storage tanks from the gas station. So, that contractor did that. There were some concerns, and I heard grumblings about contamination. So, I waited and didn't do anything until we got the final results from that. We do have a "No Further Action" letter from the State of Kansas with no contaminations. That's the first thing. That could have killed the project at that point. So, once we got that clearance, then we went ahead and turned the architects and engineers and everybody loose to compile the full set of drawings that we would do two things with. Number one, submit to the City for a building permit, and at the same time, let out for bids for contractors to bid on the main parts of the project.

When we did get our bids back, we were absolutely shocked at the construction cost. Not the land cost, not the building of the car wash facility itself. It is a little more expensive with a retaining wall in the back, a large retaining wall we have to incorporate into our new car wash building, but it was really the building up front that caused us a lot of difficulty. If you'll remember about a year ago, I've always said in order to be in Mission, I realize it's going to cost a lot of money, and from the beginning I allowed an extra million dollars in the budget to hopefully compensate and offset some of the expenses that the Form Based Code would inform. I was shocked to find that my million didn't go very far, and we exceeded that million by another \$700,000 to \$800,000.

MINUTES OF THE PLANNING COMMISSION MEETING

June 24, 2019

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So, with that, I started scratching my head, started talking to our contractors, my partners, looking at other projects, talking with other car wash operators. One of my first calls was actually to Brian at the City. We're very transparent on what our costs are, and what's all involved in the project. So, he and I sat down, and I asked his opinion of what can we do to cut some cost, or find a way to make this work? And he had some good ideas. There's a lot of stacked stone on the building, and that's very expensive. The windows, the insulation, the sprinkler system, stairwells for the second story, HVAC systems. We looked at actually building from the outside that same building but leaving it unfinished up top and have the shell, have the complete look of it. But the more we stripped it out, the more we sacrificed functionality of not being able to use the upstairs, as well as the aesthetics were starting to suffer, too, when you start pulling out features that, the things that cost money look the best. Especially the stacked stone and the things we just mentioned.

So, we've never been over budget on a project to this magnitude. We've always been able to make the numbers for the actual construction work. There's been plenty of situations where we couldn't afford land cost, things of that nature, that killed deals. But we do have six other locations that are under various stages of development in the metro area. This is just a different animal. We've got over 40 projects in other parts of the country that we made work. In the last six months we've really spent a lot of time trying to do everything we can. I can't emphasize that enough. But we've run into these problems, and it's definitely a direct result of the Form Based Code. I'm not here to bash it or anything like that. It is what it is. But it's caused us a lot of problems. And I look in the mirror and say I don't want to be part of the problem; I want to be part of the solution. I know ways that we can make this work if we can redesign this building. That's what we've done in the last three months, is really focused on a complete overhaul of that building, and that's what we've come up with to be the only option that would make this project stay alive. Because it's kind of been derailed, so to speak. And I'm glad Mr. Scott called me a couple months ago and asked me about the status of it. That's when we were able to sit down and start talking about it.

So, that leads us to where we are tonight. One thing I'd like you all to please keep in mind is that this building, like Mr. Scott said, is not an income-producing building. The car wash in the back is the tunnel that generates the revenue. So, as the customers exit the car wash, included in their price, they can vacuum if they choose in the middle of a parking lot in an uncovered area, or up under this structure in the shade, if there's inclement weather, or if it's too hot, or whatever. The upstairs wasn't going to generate any money for us. The downstairs sure doesn't. We're used to spending, on a regular car wash, there are 11 vacuum stalls in this current design. We're used to spending maybe \$150,000 on a canopy, like a gas station, rectangular canopy. And plugging in \$1.7 to \$1.8 million for this building, the only option we had was to redesign it, and that's what I'm here for tonight, is to propose that to you. I think you may have seen some electronic versions. We've taken the original building, like Mr. Scott said, and left all the key features in it. Made it as nice as we could possibly make it. And that's the final product that we came up with. We can make that work and go fast on new drawings. In the big picture, with this redesigned

MINUTES OF THE PLANNING COMMISSION MEETING

June 24, 2019

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building, it's my belief that we can achieve everything that the building needs to achieve. There are three things in particular. Functionality – It will serve its purpose; the customers will still be able to vacuum like they need to. Aesthetically, it's going to look as good, in my opinion, as the other one, if not better. It's going to fit in just fine, and most importantly for me, it's the difference between a deal or not a deal – the economics we can make work with this. I think everybody involved with this project, if this is approved and we go forward, I think everyone wins. And what I mean by that is, I think that Tidal Wave builds another parking spot, we win. I believe the City will be very pleased with the final product of what we build. We've got several other locations that are going now. We've got one in Raytown you can look at, but that really wouldn't do a lot of good because this is such a different animal. But I've always tried to stress how we operate, in a Chik-fil-a type manner, customer service, aesthetics, curb appeal – all those things. So, I think the community will appreciate it, I think the customers will rave about it, and our employees will have a great place to work. So, I think it accomplishes all those goals. With that, it's pretty simple. I'm asking for your recommendation for approval to move forward with this redesigned building. That's really all I have tonight. Again, I appreciate your time, and I respect that. I'll be glad to answer any questions.

Chair Lee: Any questions? [None.] Thank you.

The Chairman opened the public hearing. There being no one to be heard, he closed the public hearing.

Comm. Bruce: Mr. Chairman, I am not a great proponent of Form Based Code. I'll put that right at the top. I have reviewed the Form Based Code. I don't see where there's any mechanism to address a business like this in the Form Based Code. That being said, if I lived across the street, I wouldn't want even a two, let alone a five-story building, across Johnson Drive from my residence. So, I don't really have a lot heartburn with a one-story building that replaces a blanket building that has been there for an extremely long time, not generating revenue to the City of Mission.

Also, if you go back to the minutes from the March 26, 2018 meeting, on pages 36 and 37, Mr. Heaven stated that the Form Based Code is a guideline, and he charged the Planning Commission with responsibility to make decisions for the best interests of the City/businesses in the City. And it's obvious to me that the people have gone way above and beyond a normal car wash motif to get something that would come close to the Form Based Code. And moving it up to Johnson Drive, having a ghost building face there, to start the car wash operation. Which otherwise I'm assuming wouldn't be visible to the public. Anyway, I really don't see a problem moving forward with the adjusted plan.

Comm. Troppito: As the other Ward 3 Planning Commissioner, we're pretty much in the same idea. I view this as an improvement over the previous plan that we reviewed. I also want to note that among those improvements, the key one of those isn't what you see, it's what occurred in terms of below ground, with the environmental remediation, and the expense of that. And it benefits the rest of the city, besides the revenues that were just mentioned. I believe, the way I interpret the Form Based Code, this is a fit, and an improvement.

MINUTES OF THE PLANNING COMMISSION MEETING

June 24, 2019

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Comm. Davidson: Brian, do you happen to have a drawing of the elevation of the original building? If not, that's okay. I agree with Charlie and Frank. I think that is a type of rendering, of taking off the top floor. I have no problem with it, as well. I have a question of the applicant. On most facilities that you have, the vacuum area, which is, in the case of this building, on Johnson Drive, it's basically just an open canopy in most cases?

Mr. Hardin: This is the first out of 46 locations that we've ever enclosed like this on three sides.

Comm. Davidson: Okay. So, there's a lot of added expense. I can see that with this structure, trying to meet the best you can with the Form Based Code. I have no issues with it either. I like the jut-out of the building material, the turret in the middle, the dormers that breaks up the rooflines. And is that a standing seam roof on that building?

Mr. Hardin: Yes.

Comm. Davidson: I think it looks absolutely great for what you had to work with, to bring it down to one level. The plate lines on the first, are they the exact same elevation height-wise?

Mr. Hardin: [inaudible-off microphone]

Comm. Davidson: But you're not raising the plate line of the first floor, like it was, let's just say on...

Mr. Hardin: I don't know offhand what that is. I can tell you that the height of the proposed... The highest point on top of this cupola here, that would be 28 feet, 7 ½ inches, all the way from the ground to the very top. Showing from the ground to the top, the main roof line shows to be 20 feet 10 ½ inches to the main roofline up here. Then from the ground to the gutter line or the eve would be 12 feet 8 ½ inches.

Comm. Davidson: Okay. So, I'm just looking at the original drawing of the first floor, you know, the elevation of the first-floor wall height is probably around [inaudible]. I think it looks great and I have no problem, Mr. Chairman.

Comm. Braden: Personally, I don't have an issue with a one-story car wash. I do wonder how, in future cases where we have a Form Based Code, for two stories, how that affects that. If that diminishes the regulations that we set forth. I'm struggling with the question. [inaudible] struggling with the question also of how that affects regulating the Form Based Code.

Comm. Troppito: Mr. Chairman, again, Mr. Heaven answered that question. I believe it was Robin asked that, if we would be setting a precedent. And the answer was no. We're professionals in our discipline here. And while I have the floor, I might also mention that having been a member of the sustainability committee, I was very pleased with the report that they gave, and with what Tidal Wave does in trying to protect the environment. It seems like that was very strong suit on their part and they seem to be a regular corporate citizen to boot.

Comm. Dukelow: I struggle with it because of the two-story requirement. I mean as it stated we came to the conclusion last time that while it didn't meet the Form Based Code,

MINUTES OF THE PLANNING COMMISSION MEETING

June 24, 2019

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it met the intent because the building fronting Johnson Drive was two stories. And I might add at this point, I don't see a building. It's a carport. A building would imply enclosed conditions. In my personal opinion, it's not a building, it's a carport. That I struggle with. There is also a provision in the Form Based Code for low-rise building types and that would be in the case where the site was no larger than half an acre. And honestly, I can't support the idea of it extending more anyway, so, like I said, I'm have a hard time... I'm having a hard time recommending or not recommending this because I feel it's not really the intent of what we want to see along the Johnson Drive corridor. And I'm at one story, although yes, it's a lovely car wash. I know it's an ugly site now and it's been an ugly site for several years. I mean, I don't mean an ugly site. It's not an ugly project. Don't get me wrong. My only concern is that we've got a lot of examples of developments that have occurred in the Gateway where we have required two stories or at least 60 or 40 percent. I mean, what is the square footage of the building, because the building is just [inaudible]. Technically. I struggle with that. How do you even say what the square footage of the building is when three-fourths of your construction is not technically a building? [inaudible]. Maybe the cupola would make up the 40 or 60 percent. I'll have to come up with something more intelligible by the time we call the roll, because, like I said, I'm struggling with it. Thank you.

Comm. Bruce: Mr. Chairman, Form Based Code is like telling everybody to wear an 8 ½ shoe. Some people are very happy with that; some aren't. I happen to know of people that have intended to create a business in Mission, in the West Gateway, that would have been very beneficial to Mission because it was on empty property that is currently over there. Revenue generate for the city. But, because of the Form Based Code, they choose to go to [inaudible] ridge to building their restaurant because restaurants don't lend themselves to Form Based Code, as well as this car wash. And it's nice to say that the Form Based Code is a wonderful thing, but it's also to say that the City of Mission is looking for corporate partners that are willing to come in here and invest in our cities, upgrade existing property, or vacant property that will revenue-generate for the city going forward.

Now, I'm personally not in favor of approving anything that is even marginal, but something that's certainly attractive to our business community is not a high-risk thing where I'm concerned.

Comm. Dukelow: That is an interesting perspective that Frank just shared. And I'm going to go off of what I said previously, and then what he said, because what he made me realize – and which I alluded to previously – is that our success with the Form Based Code has been more applicable to larger development parcels. The case being over there where we've got the chicken place, Mission Commons, and where we've got the Natural Grocers. Because those sites were big enough to give the developer more flexibility and the ability to go ahead and provide the restaurant, the nail salon, and those other places, along with their square footage, in a building type where they can generate revenue with that additional square footage above the first floor.

Comm. Casper: I'd like to say that I appreciate the effort that's been put forth so far, and also the effort in coming up with a solution that will work for you, and possibly the city. I

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don't have a problem with a one-story building. I think the location and placement of it on the project is what we're looking for and it will be one of the nicest-looking carwashes around, hopefully. I don't have an issue with the one-story. Thank you.

Comm. Christiansen: I want to thank you for having faith in our city and coming back and being willing to put in hours of effort to build in our city. I too don't have an issue with the single story, if we're calling it that, being a carport that's not occupiable. I don't know if I would consider it a building. I was in a couple areas where Form Based Code had been applied. I haven't seen much success in it either. Robin, you mentioned the Five Guys. I don't know if the space has ever been occupied above them.

Mr. Scott: Just within the last six months.

Comm. Christiansen: So, just recently. So, I see no issue with this. I think it is important to, even though the Form Based Code is a guideline, I do think we should set the correct precedent for other developers or business owners that come before us, to show them what we're envisioning and what the City is envisioning. [inaudible] line of work with this code. The Form Based Code might not have been thought about for a car wash, obviously, or having a two-story building on the front side of it, though.

Chair Lee: Well, I also have mixed feelings. I understand both parts of it. I will say that when I mentioned to others that we were going to have a two-story car wash, everybody seemed quite shocked and surprised. And if that's what you have, I think everybody in Kansas City would recognize it as that – a two-story car wash. I agree with Robin that the larger the projects, the easier the Form Based Code is to work with. We have one other bank that's going to go in on Johnson Drive [inaudible] down the street from the park. I have mixed feelings. I mean, I believe the Form Based Code could work. Certainly, it's easier to work with for a bigger project. So, I have mixed feelings. [inaudible].

Comm. Troppito: Well, if there's no further discussion, Mr. Chairman, I move that the Planning Commission recommend to City Council approval of Case #19-03: Amendment of the Preliminary and Final Site Development Plan for Tidal Wave Auto Spa at 6501 Johnson Drive, which entails removing the second floor of the building at the front of the property, with all conditions from the original preliminary and final development plan still required.

Comm. Bruce: I'll second that.

Unidentified: Do we need to address the fact that it is a canopy [inaudible]?

Mr. Scott: How do you define a building?

Comm. Dukelow: Condition of occupiable space.

Mr. Scott: It's an occupiable space.

Comm. Dukelow: Not my definition of it [inaudible].

Comm. Troppito: [inaudible] motion...

[crosstalk]

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Mr. Scott: Occupiable space?

Unidentified: Yeah. A structure, not so much.

Comm. Dukelow: [inaudible]

Comm. Troppito: I agree with substituting the word "structure."

The vote was taken (8-0). The **motion carried**.

Case #19-04 Non-Conforming Situation Permit, 5966 Barkley

Mr. Scott: This particular item is a non-conforming situation permit at 5966 Barkley. The applicant is Richard Jacobsen, president of Valvoline Instant Oil Change. The property is and has been since it was constructed back in the 1990's, an oil change/lube operation. I believe at one time it was a Valvoline then it was sold. Most recently it operated as a JC Speedy oil change. That particular business closed this winter. Mr. Jacobsen was interested in purchasing the property and reestablishing a Valvoline. He wants to make some changes to the building, minor changes. Replace the wood parapet around the roof line with an EFIS. One portion of that roof line would actually pop over just a bit to allow room for the Valvoline sign. That is within the amount of EFIS in the code. They want to paint the brick; I said no, we like the color of that brick, so they agreed to that. I asked for more landscaping on the site which they agreed to.

The parking lot needs a little help, so they're going to go in and patch it, seal coat it and stripe it. They are providing some parking spaces on site. There is also a drainage issue. I'm not sure where the water is coming from but it's going to drain across the front lawn on the south side and across the sidewalk. There's some moss on the sidewalk. They are aware of that and they'll make efforts to address that previous to the building. That is the case. The applicant is here tonight if you have any questions.

Chair Lee: [inaudible]

Mark Abeln, Architect, appeared before the Planning Commission and made the following comments:

Mr. Abeln: I'm an architect, working on this project. I'm really just here to answer any questions. I think you mentioned that even a half acre is not regulated by the Form Based Code...

Comm. Dukelow: I think there's [inaudible] to provide...

Mr. Abeln: We're even under that, so I guess we're non-conforming, but we're still conforming to the code. If you have any questions, I'd be happy to answer.

Unidentified: [inaudible]

Mr. Abeln: I don't know what the percentage is exactly. I can figure it up pretty easy. Can't hold me to it, but it's probably 20 percent, somewhere in that area.

Unidentified: So that's below the threshold.

Mr. Scott: Ballpark, right about 25 percent.

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Unidentified: Really, this is the same situation we just had last month.

Comm. Dukelow: In this case, this light area, that's half an acre?

Mr. Abel: Yes, 20,900. One hundred and ninety by 110.

Comm. Dukelow: I guess my biggest question is, what are the improvements you're going to make to the building?

Mr. Abel: We're going to put EFIS on the top band where there's certainly a wood band. That will help that quite a bit, I think. We're going to add new overhead doors, all glass. We're going to take down the wood deck. And new signage, obviously. We're going to have new landscaping. We worked it out with the City, you know, some groupings of plants and what-not. There's a pretty serious drainage issue at the front of the drive, south side, on the east side of the south side. The east two bays have a pretty serious water problem and the water problem is from a sump. That's going to be taken care of. We're going to have all new pavement, which is pretty expensive. Basically, what's there, but it's going to have to be taken apart and patched and coated. That's it.

Richard Jacobsen, Applicant, appeared before the Planning Commission and made the following comments:

Mr. Jacobsen: I own Westco Lube, which is a [inaudible] franchisee. One of the improvements that's important to us, and I believe would be important to everyone sitting here, is we'll replace all the oil storage tanks in the facility, both new and used. Some other things on the main level which doesn't quite meet code because you're supposed to have secondary containment, which they did not, so, all of ours will be in the basement. There's going to be no floor drains, so the basement acts as secondary containment. But we go a second step past that, in that all oil tanks that we purchase either for the storage of fresh oil or used oil, they are all double-wall tanks. In essence, we've got three layers of protection, and we've got two layers of double wall on the tank, and the containment of the basement with no floor drains. We do that because we want to be safe, too.

Comm. Braden: Do you have sensors for the tank to check for leaks?

Mr. Jacobsen: No, we do not. I'm not aware of any manufacturers in this field that have that. They do on gas, I know that, but on the oil, I don't. That's what we're doing that, and that's a substantial cost, but we do that in all of our facilities.

Comm. Bruce: Are there any floor drains in the basement?

Mr. Jacobsen: I don't believe there's any there now. I mean, I've been in that basement twice and I don't think there's any, but if we find any down there, you know, which we've had in previous circumstances, we go in and cement them over. They will definitely be contained because we don't want that either.

Mr. Abel: There's probably not in that there's water in the basement now.

Comm. Bruce: So, the water is being pumped out through the...

Mr. Abel: [inaudible].

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Comm. Bruce: And it's surface water?

Mr. Abeln: Yeah. From the foundation drain, I believe. [inaudible].

Comm. Dukelow: And this is a continued use?

Mr. Jacobsen: Correct.

Unidentified: On the green space on the north side, I guess, of the entrance, the north entrance, that green space right there, is that your property? Because the drive-through on the back side, that belongs to the barbecue, correct?

[inaudible, shuffling papers, crosstalk.]

Mr. Abeln: Yeah, the green space on the north side would be ours.

Unidentified: Okay.

[inaudible]

Mr. Abeln: Right. Since I don't have a site plan. But that green space to the north is ours.

Mr. Jacobsen: One of the things that we do on all our properties, we'll go in and put in an irrigation system in all the landscaped areas. We definitely will.

Comm. Davidson: And then, basically, the footprint of the parked surface, you were going to add some parking spaces some place in the project. That's mainly going to be fixing old curbs, and new curbing area to create a few more parking spaces, and then a mill and overlay, or something like that, or asphalt?

Mr. Abeln: It depends on what we find. If it's too far, we're going to put in a new surface all the way across, if it comes to that. We've got another project going right now and that's what we're doing there, too.

Comm. Davidson: My other question on that is, as far as drainage, like, not talking about the gravel and water that was coming over the sidewalk [inaudible]. As far as any of the sheeting of rainwater, is it all flowing in the right direction as far as stormwater, you know, and all that. Because I'm not sure when this structure was originally built, but there could have been some mistakes as far as rainwater direction...

[inaudible] [crosstalk]

Comm. Davidson: Well, I've just driven by that property for many, many years, so I'd like to bring it up.

Mr. Abeln: Yeah, and the reality is, there are mistakes, and it does kind of go into the building, which is why they have that foundation drain. That is, you know, you're observing it enough to have seen it, and it is a problem, and we intend to address that. [inaudible] So, I mean, we need to assess it, and we don't have our topo survey back yet, but we hope to address that in the redoing of the pavement. Anything we can do at that time to get any water away. We don't want to have any water in the building, obviously, or going towards the building. And we're going to pick up that sump pump in the interim also, and pump that straight into the sewer system.

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Comm. Davidson: What do you mean...?

Mr. Abel: If the sump pump is dumping all that water out on the sidewalk...

Comm. Davidson: Oh, that's what it's from. It's from the basement....

[crosstalk]

Mr. Abel: Well, it's an outside sump pump. An exterior sump pump going to the foundation drain. It must have had water infiltrating into...

[crosstalk]

Comm. Davidson: ... later point in time.

Mr. Abel: I don't know. But I believe [inaudible] problems, clearly, so they're pumping water [inaudible] outside on the foundation.

Comm. Davidson: That's all my questions.

Comm. Troppito: Do your facilities also have oil spill kits at the ready?

Mr. Jacobsen: Yes, we do. We have them under all of our storage. And not to get into the details, but under each of the pit openings there is a catwalk, you know, the individual is servicing the vehicle from underneath, and below that is a catch pan. But if any of the oil, if the catch pan doesn't catch it and they make a mistake, instead of it going down and going all over the floor, it hits the catch pan underneath this and runs to a containment bucket, if you will. It just makes a safer environment for our people working, too.

Comm. Braden: First of all, I'm understanding or just confirming that you're not adding any more pavement, just repairing.

Mr. Abel: Correct.

Comm. Braden: Okay. And then, for staff, I saw multiple signs. I don't look [inaudible] calculations but I assume we're in conformance with the code as far as area.

Mr. Scott: They actually submitted a sign package. I think they may be a little over in the front, so let's talk about shrinking that down a little bit.

Comm. Braden: Okay.

Mr. Scott: I was kind of kind of looking [inaudible].

Comm. Dukelow: One comment or question. So, you mentioned irrigation. Will those be smart controllers so they're not running when it's raining?

Mr. Jacobsen: I believe they're the smartest they've got. But yes, that's what we do. But I will say that we've had trouble with those in the past. Sometimes they're not performing like they should, but we do. That's part of our package.

Comm. Dukelow: A combination of planting appropriate plant material and smart controllers can make a big difference. My next question, I hate to ask this but, why is this non-conforming?

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Mr. Scott: It's within the Form Based Code district, and because of value of improvements greater than 10 percent. I think a \$1,000 is [inaudible]. Obviously, the improvements have been greater than \$1,000...

Comm. Dukelow: [inaudible] Thank you. That's all I have.

Chair Lee: Anything else? I'll entertain a motion.

Comm. Braden: Mr. Chair, I would move that the Planning Commission adopt the findings of fact contained in the staff report and grant a non-conforming situation permit for Case #19-04, 5966 Barkley; Permit for Non-Conforming Situation, with the following conditions: The surface of the lot will need to be patched, seal coated and re-stripped. Draining issues on the south side of the building where water runs across the existing sidewalk will need to be addressed.

Comm. Dukelow: Second.

The vote was taken (8-0). The motion carried.

Old Business

Follow-up on Case #19-02, Non-Conforming Situation Permit – 6591 Johnson Drive

Mr. Scott: This is from the application that we had last month for the former Taco Bell, which is going to be a Slim Chickens. Commissioner Dukelow suggested redoing the parking on the far west of the lot. The original suggestion was to have angled parking. The applicant did submit some drawings for angled parking. We discussed those. Their concern was that, that parking is not only for the proposed Slim Chickens, but also for some other uses in the shopping center, and folks might have difficulty coming into the shopping center from the north, and then swinging around to that angled parking. They might be forced to either drive through the shopping center to get to the angled parking or just skip it altogether. Try to reduce the amount of traffic going through the shopping center; it may be best to have straight perpendicular parking where somebody can pull right into that. They did provide a four-foot grass area or strip between the two parking rows. So, we agreed with that and thought that was a nice comprise to the project.

Comm. Braden: I guess I have one question, Mr. Chair. Is there a gap in there or some way for a person to walk across and back? Is there a sidewalk? I was wondering how to get from one part of that strip to the other without walking on the grass. [inaudible]

[No audible response]

Comm. Dukelow: I was going to ask about landscaping.

Mr. Scott: There's no landscaping proposed in the four-foot strip. We could certainly suggest that to the applicant with the final approval of the building permit. They may be putting in a crosswalk or something, avoiding walking in the grass.

Comm. Braden: [inaudible].

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Comm. Troppito: Mr. Chairman, if you look at that layout, the traffic coming in front of the gym, there's an island that extends quite a ways to the west from that flow of traffic. So, as far as backing into traffic flow, they have to come and then move over that way to get there. I don't know if you can see it on that; I have it here.

Comm. Dukelow: You need to say it's 3 or wide through there. The driveway? The northwest drive is about three cars wide.

Mr. Scott: Probably about three cars wide.

Comm. Troppito: Down in that area, right where the gym is.

Mr. Scott: Yeah, the gym would be a little further south.

Comm. Troppito: Yeah and then most people continue straight unless they're going to turn right, so I don't think there's a lot of conflict there.

Mr. Scott: Yeah, they should be able to move in easily to one of these stalls. As opposed to swinging around and coming in at an angle. I just wanted to give you an update on that.

PC Comments/CIP Committee Update

Mr. Scott provided the Commission with an update on the KC Climate Action Coalition. There is summit on September 14, 2019 at Johnson County Community College. There will be a number of keynote speakers. If anyone is interested in attending, please let him know. Comm. Troppito commented that he plans to attend. He urges the Sustainability Commission to look at bringing two technology companies to the Kansas City area that deal with sequestration and CO-2. That is one of his interests in attending this meeting.

Mr. Scott then mentioned the First Suburbs Coalition Regional Housing Summit to be held on Friday, July 19th, 2019. The City of Mission is a co-sponsor of this summit, along with the city of Gladstone. He can register anyone who is interested in attending.

Staff Updates

Mr. Scott then presented a proposal for update of the City of Mission's Comprehensive Land Use Plan. He has researched what other cities are doing and looked at the American Planning Association and looked through their examples, etc. Updates proposed include land use, scope of services, analysis of demographics and emerging trends, and other items. He also mentioned trends in housing development, analysis of commercial development and emerging trends, transportation network and natural environment.

Mr. Scott then brought up the Community Satisfaction Survey set for this summer or fall. Comm. Troppito asked about ways of accessing a cross-section, not just online, but also through mail [inaudible].... He asked if it is broad based. Mr. Scott responded that the survey will be done by ETC out of Olathe. They do telephone and mail surveys, as well as social media. He said ETC is very cautious about getting the appropriate number of applicants to establish validity of results.

Mr. Scott then provided an update on the East Gateway. He says the developer has turned all their attention to Synergy, a new tenant. Their goal is to open by May or June of next year. Plans have been reviewed and the developer has been preparing the pad

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site. They are waiting for approval from Johnson County Wastewater because the sewer line on the site has to be moved. Mr. Scott expects a building permit to be issued in the next week or so. The developer has been interviewing architects. Mr. Scott anticipates reviewing plans for the food hall next winter. Neighbors Construction pulled a building permit last summer on the apartments but they have pulled out of the project. Fogel-Anderson is now going to build the apartments. Developers are working on financing. Comm. Davidson asked if it's normal to begin working on a project before construction financing is in place. Mr. Scott responded that it is not out of the ordinary.

Comm. Dukelow asked about the progress in the brewery that was planned. Mr. Scott responded that the developer is still moving forward.

ADJOURNMENT

With no other agenda items, **Comm. Casper moved and Comm. Dukelow seconded a motion to adjourn.** (Vote was unanimous). The **motion carried.** The meeting adjourned at 8:15 P.M.

Mike Lee, Chair

ATTEST:

Audrey McClanahan, Secretary

STAFF REPORT
Planning Commission Meeting June 24, 2019

AGENDA ITEM NO.: 1

PROJECT NUMBER / TITLE: Application # 19-03: Amendment of Preliminary and Final Site Development Plan Review - Tidal Wave Auto Wash (Case # 17 -11)

LOCATION: 6501 Johnson Drive

PROPERTY OWNER/APPLICANT: Petty Hardin
TW Mission Real Estate
124 East Thompson Street
Thomaston, Georgia 30286

STAFF CONTACT: Brian Scott, Assistant City Administrator

ADVERTISEMENT: 5/28/2019-The Legal Record newspaper

PUBLIC HEARING: Planning Commission meeting 6/24/2019

Background

The subject project is the site of the former Valero's gas and convenience store. A land use application (Case # 17-11) was filed with the City two years ago for the construction of an automatic car wash tunnel, office building and ancillary uses on the property. The preliminary development plan (PDP) was approved by the Planning Commission on March 26, 2018 and by the City Council on April 18, 2018. The final development plan (FDP) was approved by the Planning Commission on May 29, 2018.

The PDP and FDP provide for the construction of an automatic car wash tunnel at the back of the property and a two-story building at the front of the property. The lower level of the two-story building at the front would consist of stalls where the customer can vacuum their car and do any final drying with a hand towel after their car has gone through the wash tunnel. The second level of the building would be regional offices for the car wash company.

The applicant now desires to amend their PDP and FDP. In particular, the applicant desires to, make the two-story building at the front of the property a one-story building, eliminating the offices.

Property Information

The subject property is a former gas and convenience store located at 6501 Johnson Drive. To the immediate east is the Exact Performance auto repair facility. To the immediate west is the former Taco Bell restaurant (soon to be a Slim Chickens). The property is .76 acres in size.



Figure 1: Subject Property-6501 Johnson Drive

The subject property is zoned “CP-2B” Planned Retail and Service District. The proposed car wash use is an allowed use in this zoning district.

The subject property is also located in Block “Y” of the West Gateway Form Based Code (FBC) Overlay District. And, the Johnson Drive Design Guidelines are applicable to the property as well.

Original Proposed Development Project

The PDP and FDP that were originally approved provided for the construction of an automatic car wash tunnel at the back of the property and a two-story structure at the front of the property. The two-story structure would consist of open bays on the first level where customers could drive their vehicle in and vacuum it after having gone through the car wash. The second level would consist of office space for the car wash company.

Approved Site Plan

Ingress to the site would be on the east side of the property - a shared driveway apron with the property to the east, Exact Performance. A left turn lane along westbound Johnson Drive already exists, but the edge would be moved back a few feet to provide better turning radius. Vehicles would pull in and queue along the east side of the property line to access the wash tunnel at the back of the property.

Once through the wash tunnel, the vehicles would egress the property on the west side, or pull into one of the bays underneath the building at the front of the property for vacuuming or further cleaning.

The development would utilize a surface parking lot located in the interior of the lot. The City's traffic engineer, GBA, did review the site access plans, vehicle queues, turning templates, sidewalks, and traffic study and was satisfied with the design. Please see the attached site plan.

Storm water drainage is gradually west across the site. The proposed redevelopment would reduce the overall impervious surface area by 5%. Therefore, according to city ordinances, stormwater detention and BMP treatment are not required.

Approved Landscaping Plan

A detailed landscape plan was submitted with the FDP and approved. The plan indicated Shantung Maple, Velvet Pillar, and Everclear Laceback Elm to be planted along the front of the building on Johnson Drive. Each tree will be 2" caliber. Trees will be planted every 30 feet with tree grates incorporated into the sidewalk around each tree.

Plans also indicate that two trash receptacles (Black 36 gallon steelsites RB-36) will be incorporated into the streetscape along Johnson Drive as well as two bike loops (creative pipe inverted "U"). There will also be one black, metal bench (72 inches). In addition, plans indicate the installation of a decorative style of street light to be installed along Johnson Drive to match what the City intends for this section of Johnson Drive. Plans are in accordance with the Form Based Code and the Johnson Design Drive Guidelines.

Plantings throughout the rest of the site include Boxwood, Hooks Juniper, Switch Grass, Dwarf European Viburnum, and Periwinkle. Ground cover includes tall fescue and river rock. Please see attached landscape plan.

Approved Exterior Building Plans

Plans indicate that the Johnson Drive frontage of the proposed building will have 61% glazing (storefront windows). EIFS will only be 8% and is located along the top of the wall and parapet (or partial wall) at either end of the building. Stone veneer in a style known as "Southern LedgeStone" will be predominate on the front facade of the building. Split face block in an "Old Castle" style will go up the facade of the building approximately two feet from the ground on the front facade of the building. Please see attached elevations.

Form Based Code & Plan Review

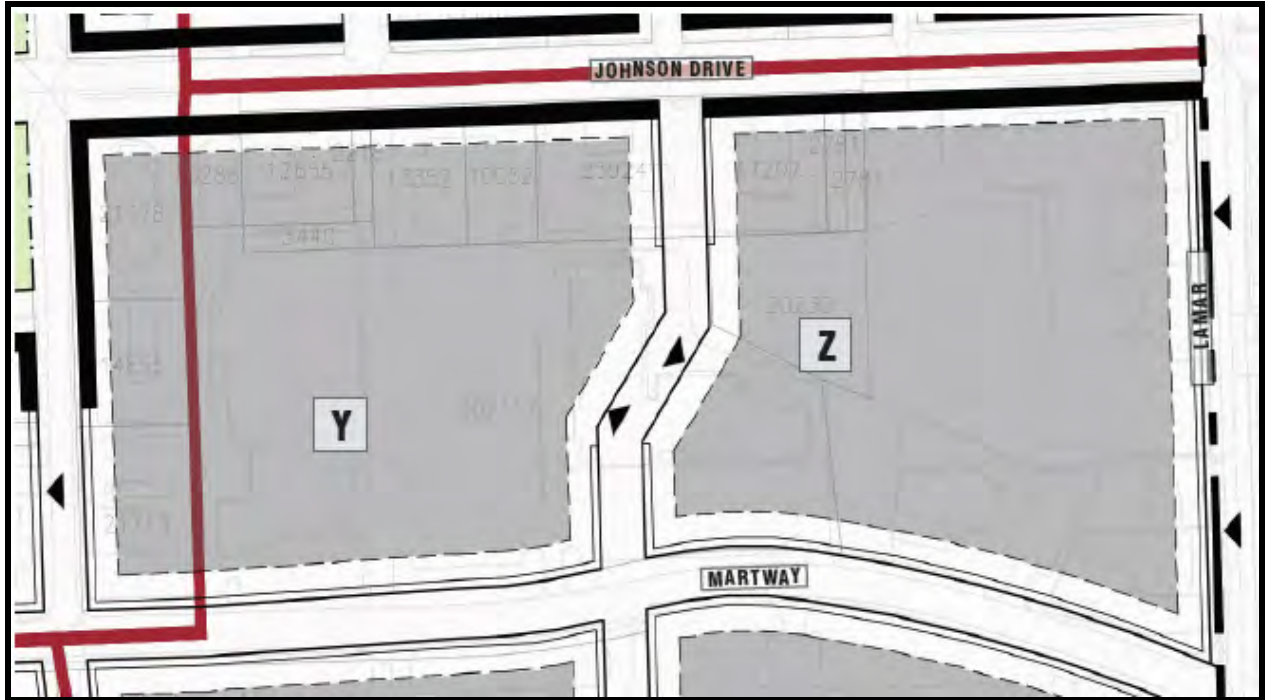
Sector & Regulating Plan

This property is subject to Form Based Code (FBC) for the West Gateway Study Area. It is located in the northern part of Block "Y" in the Martway Sector. The developer is not proposing to assemble any additional parcels into the project. In the event of a conflict between the provisions of the FBC and the City Code or Johnson Drive Design Guidelines, the FBC takes precedence.

Details from the current regulating plan for this entire block include the following:

- Contains a combination of small and large parcels, many with good visibility from Johnson Drive.
- Ground level retail uses are important facing Johnson Drive. Retail is required along the frontage facing Johnson Drive. Parking and service areas should be accommodated away from Johnson Drive.

- The entire block is large enough to accommodate structured parking which would be a good fit with the existing grade difference between Johnson Drive and Martway Street.
- The extension of Walmer Street to the south connecting with Martway Street would be required in conjunction with the development of the western half of Block Z.



Building Types Allowed

The following building types are allowed:

Townhouse type requires a minimum of two stories and a maximum of four. All floors to be residential.

Mid-rise building type requires a minimum of two stories and a maximum of four. Ground floor office or retail and upper floor office, retail or residential uses are permitted.

Parking Structure building type has no minimum or maximum floors. Ground floor commercial or office is required at principal and secondary frontages.

Low-rise building types are currently allowed in any sector, provided the site under development is no larger than $\frac{1}{2}$ acre. This site is $\frac{3}{4}$ of an acre. The total site area exceeds $\frac{1}{2}$ acre, but is less than 3 acres and would qualify for up to 60% of the gross square footage of development (in one or multiple buildings) to be Low-Rise building type. The applicant chose not to incorporate the extension of Walmer Street into their redevelopment plans. Such a street dedication may have reduced the area of this parcel below the $\frac{1}{2}$ acre threshold.

Application of the Form Based Code

The FBC was adopted in 2007 as a tool for implementing the West Gateway Vision Plan that had been created a few years before as a concept for the way future development in the west commercial area of the City should occur.

Whereas traditional zoning speaks to the permitted use(s) of a property, and specifically the regulations around those uses; the FBC speaks more to the character, look, and feel of the property through the built environment. In other words, it is not so much about the use as it is the building. The intent being that what is built on the site will last for many years through many generations of uses.

The developer is encouraged to work through their proposed development concept in consultation with the staff and the City's consultant so that the end product meets the desired outcome of the FBC. As an incentive for doing this, the proposed plan can be considered by the Planning Commission in one step instead of the more traditional two-step process - preliminary site development plan and final site development plan. And, once approved by the Planning Commission, the developer is eligible for a building permit with no approval from the City Council required.

Findings by staff are determined using the scoring system contained in the FBC. The FBC is structured hierarchically, understanding that certain elements are mandatory prerequisites, others are significant and others are minor.

During the development of the Code, it was reinforced that, in order to achieve the level of quality in the built environment as articulated in the West Gateway Vision Plan process, more attention should be paid to those elements that directly contribute to the public realm than to the individual elements of architectural design. Therefore, the review process is structured hierarchically, so that major elements are reviewed first. The early stages of review, including block configuration and building type, are more heavily weighted in the scoring process as they focus on elements that the FBC regards as inviolate or of significant importance. Conversely, lesser items may yield a lower score but not result in a finding for disapproval. All of the elements are important, but have different values to the public realm.

The threshold score for a recommendation of approval by staff as established by the FBC scoring system is 90 points or more, of a possible 100 points including the prerequisite passing scores in steps 1 and 2. Proposals which achieve this score should be considered to be in compliance with the intent of the FBC. They proceed on under the review steps outlined in the FBC. Development submittals which achieve a score of 89 points or lower will proceed through the more traditional approval process of the zoning code including full design review by the Planning Commission and City Council.

The FBC review that was conducted by staff and the City's consultant for this particular development project resulted in the original application receiving a score of 60 points, and thus failing several critical prerequisite steps. This was largely due to the proposed buildings failing to meet the required building type standards as provided for in the FBC for Block "Y." While the building fronting Johnson Drive did meet the requirement of two stories with a zero build line at the sidewalk, it failed in that the depth of the building was not enough, and the vacuum bays did not really meet the intent of ground floor retail.

Extensive discussion about the application of the FBC for this development occurred at the Planning Commission meeting on March 26, 2018. Please see the attached minutes.

It seems that the Planning Commission came to the conclusion that while the proposed development project did not receive a qualifying score under the FBC, it met the intent of the FBC in that the building fronting Johnson Drive was two-stories, and it did sit at the sidewalk,

and that it did incorporate those elements that were called out in the FBC and Johnson Drive Design Guidelines.

Planning Commission Recommendation

The Planning Commission, at their March 26, 2018 meeting, voted 8-0 to accept that all of the required findings of fact would be met through compliance with the following conditions, and therefore, recommended approval.

- 1) Complete information about percentages of EIFS and storefront glazing are to be provided for staff review and approval.
- 2) Along the Johnson Drive frontage, windows and doors shall meet the minimum 60% total coverage of the storefront and EIFS or stucco shall not be used within 8' of the ground nor comprise more than 25% of the first story.
- 3) Complete information regarding trash enclosures, retaining walls, other screening, pay canopy and pay kiosk in compliance with the Form Based Code standards shall be provided for staff review and approval.
- 4) Complete details regarding the site landscape and public streetscape including street lights, benches, trash receptacles and bike racks in compliance with the Form Based Code standards shall be provided to staff for review and approval.
- 5) The median break in eastern entrance driveway shall be relocated to allow vehicles to leave the wash tunnel queue before the pay station.
- 6) Complete details regarding the circulation of trash and other service vehicles on site shall be provided for staff review and approval.
- 7) Applicant and Developer agree to install a median break along the west edge of the entry drive into the car wash facility that aligns with the westbound parking lot aisle.
- 8) Applicant and Developer consent to the Commission conditioning approval of the plan on compliance with such streetscape improvements, as are required by applicable City regulations and as set forth in the Form Based Code for the West Gateway Study Area, Chapter 6 (Landscape Architectural Guidelines, Type II-Urban Blvd).
- 9) Applicant and Developer consent to the Commission conditioning the approval of the Plan upon the conveyance of right of way for sidewalks and landscaping along the site's Johnson Drive frontage in such dimensions as is required by City regulations and via conveyance language usually and customarily provided in similar circumstances by the City.
- 10) Applicant and Developer will consent to meeting with the Sustainability Commission and implementing mutually acceptable recommendations. Applicant and Developer are convinced that Developer operates the most environmentally sound and sustainable car washes in the country with emphasis on recycling and water conservation.
- 11) Applicant and Developer consent to the Commission making approval of the Plan

conditioned on delivery of Architectural Plans, with corresponding calculations which shall provide that windows and doors shall meet the minimum 60% requirement of the Mid-Rise building's northern face, in compliance with applicable City regulations and as set forth in the Form Based Code for the West Gateway Study Area, Chapter 5 (Architectural Guidelines).

- 12) Applicants and Developer will consent to the Commission conditioning approval of the Plan on delivery of requisite landscape details.

Proposed Amendment to the Preliminary and Final Development Plan

The applicant recently submitted a request (included in this packet) for an amendment to their PDP and FDP that would allow for the two-story building at the front of the property be a one-story building. The one-story building would be just the bays for vacuuming the vehicles. The office space originally proposed for the development project would not be included in the final development.

All other aspects of the proposed project as described previously would remain the same A approved with the final development plan.

Section 440.175 (4) and (5) of Mission Municipal Code states:

4. Once preliminary development plan approval has been granted, changes in the preliminary development plan may be made only after approval of a revised preliminary development plan. Changes in the revised preliminary development plan which are not significant may be approved by the Planning Commission and disapproval of such changes by the Community Development Director or his designee. Significant changes in the revised preliminary development plan may only be approved after rehearing by the Planning Commission and City Council, such rehearing shall be subject to the notice and protest provisions set forth in Section 440.140.
5. For purposes of this Chapter, "significant changes" shall mean any of the following:
 - a. Increases in the density or intensity of residential uses of more than five percent (5%).
 - b. Increases in the total floor area of all non-residential buildings covered by the plan of more than ten percent (10%).
 - c. Increases of lot coverage of more than five percent (5%).
 - d. Increases in the height of any building of more than ten percent (10%).
 - e. Changes of architectural style which will make the project less compatible with surrounding uses.
 - f. Changes in ownership patterns or stages of construction that will lead to a different development concept.
 - g. Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities.
 - h. Decreases of any peripheral setback of more than five percent (5%).
 - i. Decreases of areas devoted to open space of more than five percent (5%) or the substantial relocation of such areas.
 - j. Changes of traffic circulation patterns that will affect traffic outside of the project boundaries.

- k. Modification or removal of conditions or stipulations to the preliminary development plan approval which are considered significant in the opinion of the Community Development Director or his designee.

Staff believes that the proposed amendment is significant and thus, believes that this should be considered through the process as outlined in the Code.

Planning Commission

The Planning Commission held a public hearing at its regular meeting on June 24, 2019 to take comments on Application #19-03. After taking public input and giving due consideration, the Planning Commission voted (8-0) to recommend approval to the City Council of Application # 19-03: Amendment of Preliminary and Final Site Development Plan Review - Tidal Wave Auto Wash (Case # 17 -11).

City Council Recommendation

The City Council will consider the recommendation of the Planning Commission pertaining to Application # 19-03: Amendment of Preliminary and Final Site Development Plan Review - Tidal Wave Auto Wash (Case # 17 -11) at its regular meeting on July 17, 2019.

TIDAL WAVE AUTO SPA

124 East Thompson Street
P.O. Box 311
Thomaston, Georgia 30286
Office - 706.647.0414 Fax - 706.647.0474

May 9, 2019

City of Mission
Planning Department
6090 Woodson St.
Mission, KS 66202

Re: Amendment to Final Development Plan

Dear Mr. Scott:

I appreciate your recent follow up to check on the status of our project.

We've spent the last several months putting together construction pricing. Even after getting multiple bids and value engineering as much as possible, we've concluded with the current design, the project is not economically feasible.

In effort to make the project viable, we've been diligently working with our engineers, architects, and sub-contractors to redesign the building fronting Johnson Drive.

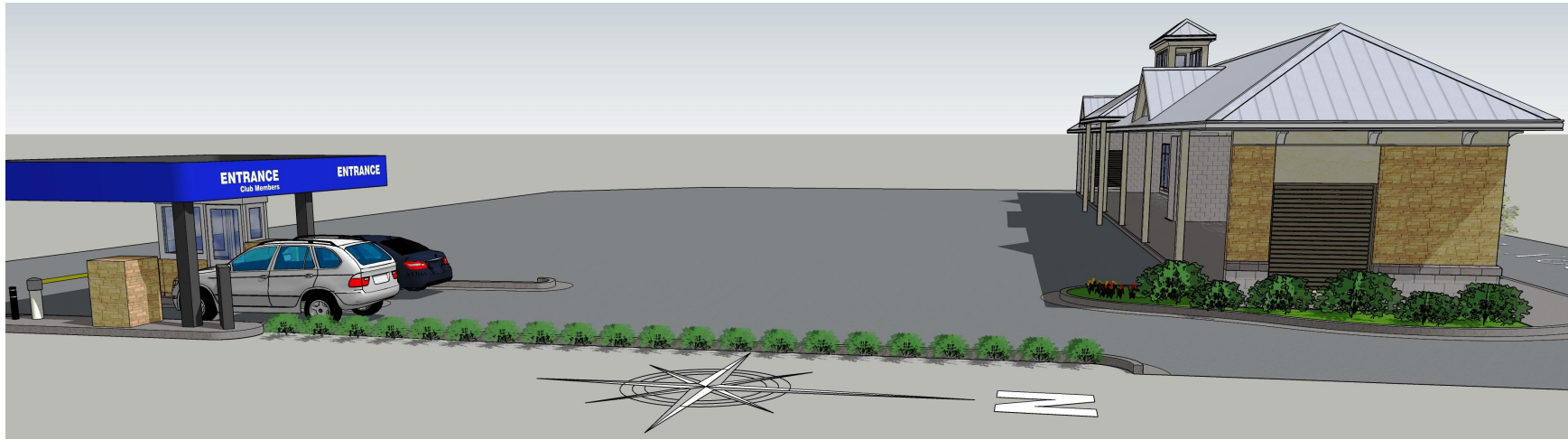
Per our conversation, Tidal Wave is respectfully requesting to amend the final development plan to allow for the re-designed building.

We ask to be put on the June 24th agenda to present the amended plan.
Please let me know if any additional items or information is needed from us.

Sincerely,



Pettey Hardin
Principal - K.C. markets



STAFF REPORT
Planning Commission Meeting May 29, 2018

AGENDA ITEM NO.: 3

PROJECT NUMBER / TITLE: Application # 17-11 Tidal Wave Auto Wash Final Site Development Plan Review

REQUEST: Site Plan review for the redevelopment of the former gas station site into a car wash

LOCATION: 6501 Johnson Drive

PROPERTY OWNER: CStore Investors Too, LLC
700 W 47th St, Ste 200
Kansas City, MO

APPLICANT: Steve Block
Block Real Estate Services, LLC
700 W 47th Ste, Ste 200
Kansas City, MO

STAFF CONTACT: Brian Scott, Assistant City Administrator

ADVERTISEMENT: 3/6/2018-The Legal Record newspaper

PUBLIC HEARING: Planning Commission meeting 3/26/2018

Property Information and Background

The subject property is located at 6501 Johnson Drive and has been used as a gas station / convenience store for many years. The property is currently zoned “CP-2B” Planned Retail and Service District, but is also within the West Gateway Form Based Code (FBC) Overlay District.



Figure 1: Subject Property-6501 Johnson Drive

The applicant, Mr. Steve Block, is a representative of the ownership group, CStore Investors Too, LLC of Kansas City, Missouri. They have a pending real estate contract to sell the property to Tidal Wave Auto Spa of Thomaston, Georgia. Upon purchase, Tidal Wave intends to demolish the existing structure(s) on site and develop a new, new automatic car wash tunnel and supporting services building totaling approximately 9,900 square feet. The proposed, new use is permitted with CP-2B zoned districts. However, because the property is within the West Gateway FBC Overlay District (identified as Block “Y” in the FBC), any new development would require conformance with the FBC.

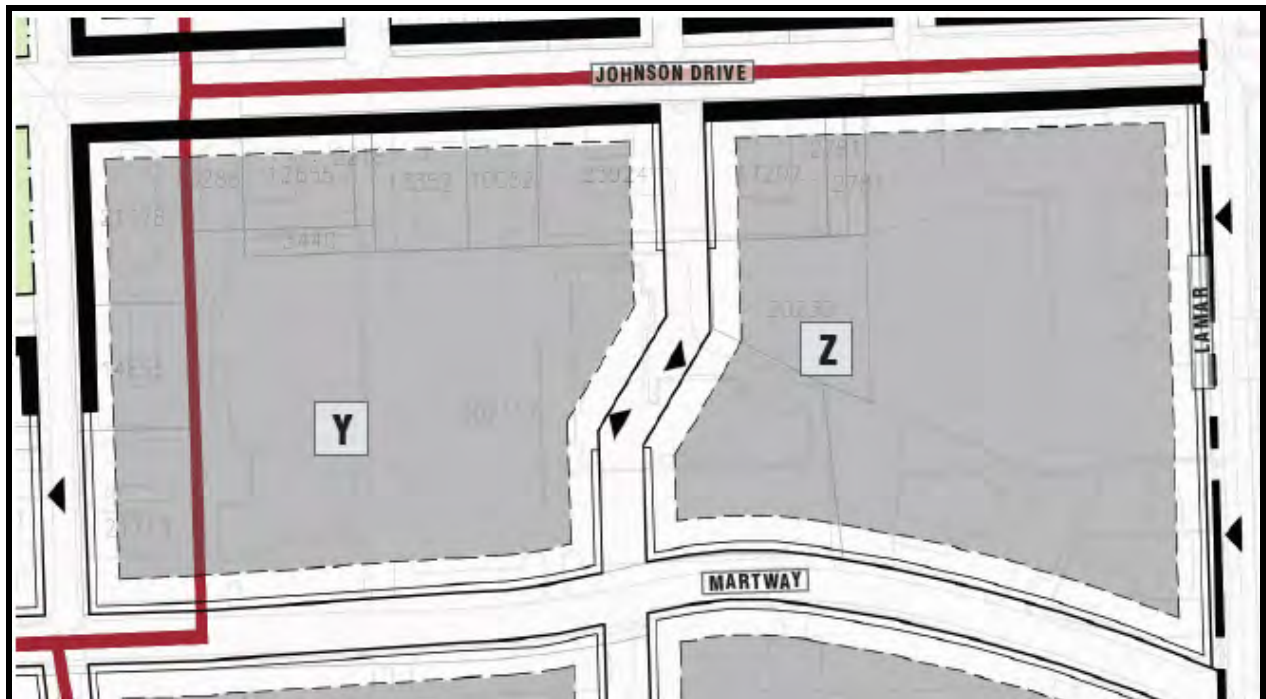
Form Based Code

Sector & Regulating Plan

This property is subject to the Form Based Code (FBC) as provided for in the West Gateway Overlay District. It is located in the northern part of Block “Y” in the Martway Sector. The applicant and developer are not proposing to assemble any additional parcels into the project. In the event of a conflict between the provisions of the FBC and the City Code or Johnson Drive Design Guidelines, the FBC takes precedence.

Details from the current regulating plan for this entire block include the following:

- Contains a combination of small and large parcels, many with good visibility from Johnson Drive.
- Ground level retail uses are important facing Johnson Drive. Retail is required along the frontage facing Johnson Drive. Parking and service areas should be accommodated away from Johnson Drive.
- The entire block is large enough to accommodate structured parking which would be a good fit with the existing grade difference between Johnson Drive and Martway Street.
- The extension of Walmer Street to the south connecting with Martway Street would be required in conjunction with development of the western half of Block Z.



Building Types Allowed

The following building types are allowed:

Townhouse type requires a minimum of 2 stories and a maximum of 4. All floors to be residential.

Mid-rise building type requires a minimum of 2 stories and a maximum of 4. Ground floor office or retail and upper floor office, retail or residential uses are permitted.

Parking Structure building type has no minimum or maximum floors. Ground floor commercial or office is required at principal and secondary frontages.

Low-rise building types are allowed in any sector of the FBC, provided the site under development is no larger than ½ acre. This particular site exceeds ½ acre, but is less than 3 acres and would qualify for up to 60% of the gross square footage of development (in one or multiple buildings) to be Low-Rise building type. The applicant has chosen not to incorporate the extension of Walmer Street into their redevelopment plans. Such a street dedication may have reduced the area of this parcel to below the ½ acre threshold.

Zoning of Surrounding Properties

North-"C-0" Office Building District, "C-1" Restricted Business District, "C2-B" Retail & Service District. Free standing medical office, fast food and coffee shop with drive-thru service.

East-"C-2B", Retail & Service District. Free standing auto repair shop.

South-"C2-A" Pedestrian Oriented Business District. Medical office, motor vehicle office, restaurant, fitness centers, discount stores and specialty retail located in a shopping center.

West-"C-2B", Retail & Service District. Free standing fast food restaurant.

Comprehensive Plan Future Land Use Recommendation

The future land-use map of the Comprehensive Plan designates the area as appropriate for mixed-use medium density re-development to include a pedestrian-friendly mix of housing, limited office and medium density retail to serve the residents of the surrounding neighborhood. It should serve as a transition zone between low to moderate density residential areas and higher intensity development.

Form Based Code & Plan Review

The West Gateway Form Based Code is a tool that assists in determining the appropriateness of development submittals to the City of Mission. Findings by Staff are determined using the scoring system contained in the FBC. The Form Based Code is structured hierarchically, understanding that certain elements are mandatory prerequisites, others are significant and others are minor. During the building of the Code, it was reinforced that, in order to achieve the level of quality in the urban environment that was envisioned from the vision plan process, more attention should be paid to those elements that directly contribute to the public realm than to the individual elements of architectural design.

Therefore, the review process is also structured hierarchically, so that major elements are reviewed first. This allows Staff and the City's consultants to provide the applicants with an opportunity to correct major flaws. Similarly, the early stages of review, including block configuration and building type, are more heavily weighted in the scoring process as they focus on elements that the Code regards as inviolate or of significant importance. Conversely, lesser items may yield a lower score but not result in a finding for disapproval. All of the elements are important, but have different values to the public realm.

The threshold score for a recommendation of approval by staff as established by the FBC scoring system is 90 points or more, of a possible 100 points including the prerequisite passing scores in steps 1 and 2. Proposals which achieve this score should be considered to be in compliance with the intent of the FBC. They proceed on under the review steps outlined in the FBC. Development submittals which achieve a score of 89 points or lower will proceed through the approval process of the zoning code including full design review by the Planning Commission and City Council.

Form Based Code review was conducted by the City's master developer and Staff. This application receives a score of 60 points and fails several critical prerequisite steps. This is largely due to all of the proposed buildings failing to meet the required building type standards. Buildings either failed to meet the minimum heights or were designed in a way that failed to reasonably accommodate the required building features. Additional points were lost as the applicant did not provide sufficient landscape, streetscape, or accessory structure information for review. Please see the attached letter from Core Design for additional details of this review.

The proposed development includes two buildings. One building is a two story, 6,699 square foot building fronting Johnson Drive to the north side of the property. The other is a 3,200 square foot building containing an automatic car wash tunnel along the south side of the property. The ground floor of the north building would consist of a series of drive-in parking stalls with vacuums for use by car wash customers. A small office would be on the second level and serve as the regional office and training facility for the company. The applicant has indicated that the depth of the north building is sufficient for use as retail space in the future if the proposed use as a car wash facility ceases.

Exterior building materials include split face block, stone veneer, standing seam metal, EIFS, metal awnings, and glass. Heavier materials such as block and brick are generally placed lower on the building walls. Partial information about percentages of EIFS and storefront glazing was provided. Windows and doors do not meet the minimum 60% requirement for storefronts in the north building along Johnson Drive. EIFS is used on 45% of the ground and upper floor of the north building. Dumpster, retaining wall, pay canopy and pay kiosk details were not provided in the initial review.

The development would utilize a surface parking lot located on the interior of the lot and accessed by two private driveways. A drive through lane for the wash tunnel is shown along the south side of the property. All traffic would enter the site via the easternmost driveway and exit to the west. The existing median on Johnson Drive will be altered to allow inbound and outbound turning movements. A median break is also shown after the payment kiosk to allow traffic to bypass the wash tunnel and enter the rest of the site.

The City's traffic engineer, GBA, has reviewed the site access plans, vehicle queues, turning templates, sidewalks, and traffic study and are generally satisfied with the design. GBA does recommend moving the median break to the west edge of the eastern drive entrance to allow vehicles to leave the wash tunnel queue before the pay station.

A landscape plan detailing streetscape improvements was not submitted with the initial review. The civil sheets generally show a sidewalk area meeting the FBC designs of 5' sidewalks with a 4' tree zones. Details of street trees and street furnishings like street lights, benches, trash receptacles and bike racks were not provided for initial review. All required streetscape

improvements shall be installed within the existing or proposed right-of-way. Final placement and configuration of these elements (street and pedestrian lighting system, site furnishings, trees, sidewalk paving, etc.) must be further coordinated with and approved by staff at the time of public improvement construction plans.

Storm water drainage is gradually west across the site. The proposed redevelopment would reduce the overall impervious surface area by 5%. Therefore, according to city ordinances, stormwater detention and BMP treatment are not required.

The Sustainability Commission has not yet reviewed this proposal for compliance with the Sustainability Scorecard tool. The scorecard contains a set of criteria intended to gauge the sustainability of new developments in Mission. It takes into account such factors as building materials, energy and water conservation, walkability, and light pollution. The score is then passed along to the City Council to help inform decisions about city incentives.

No development incentives are being requested by the applicant.

The project as submitted failed to receive a passing score in the FBC review as described above. Major flaws such as building types needed be addressed further and minor supporting details were not provided for review. Therefore, Staff recommended to the Planning Commission that recommend denial of the Preliminary and Final Site Development Plan Case # 17-11 for the Tidal Wave Auto Wash project.

Decision of The Planning Commission and City Council

An incentive for compliance with the FBC is that development projects can be sped through the development review process at a much quicker rate. Proposals which achieve a score of 90 or greater can be considered to be approved at the initial Preliminary Site Development plan review and do not require further design review by the Planning Commission (Final Site Development Plan Review) as would be the case with other development projects. The Planning Commission holds the authority for review and approval of form based code site plan applications. Those that do not receive a score of 90 or higher would be required to go through Final Site Development plan review. As with all Preliminary Site Development Plan Review, the City Council has final authority for review and approval.

The Planning Commission conducted a public hearing on March 26, 2018. At that time testimony from the City's Staff, the City's planning consultant for FBC, the applicant, and members of the public was taken. After due deliberations the Planning Commission voted 8-0 to accept that all of the required findings of fact as stipulated in the Staff's report would be met through compliance with the outlined below conditions, and therefore recommended approval of the development application.

The City Council meet in regular session on April 18, 2018 and voted 7-1 to uphold the decision of the Planning Commission.

Conditions to Be Met for Final Site Development Plan Review

The applicant has submitted materials for consideration of the Final Site Development Plan Review. Staff has reviewed the materials for conformance with the following conditions that were stipulated in the initial review and approval on March 26th. Staff's comments are in italics under each condition.

- 1) Complete information about percentages of EIFS and storefront glazing are to be provided for staff review and approval.

Approximate percentages of material coverings are summarized in the table below. Staff is satisfied that these meet the intent of the FBC.

North Building - Along Johnson Drive

Type of Finish	North	South	East	West
EIFS	8%	72%	32%	49%
Glazing	61%	20%	0%	13%
Stone Veneer	26%	6%	54%	27%
Split Face Block	5%	2%	14%	11%

South Building - Back of Property

Type of Finish	North	South	East	West
EIFS	39%	0%	23%	23%
Glazing	27%	67%	17%	17%
Stone Veneer	15%	22%	35%	35%
Split Face Block	20%	11%	26%	26%

- 2) Along the Johnson Drive frontage, windows and doors shall meet the minimum 60% total coverage of the storefront and EIFS or stucco shall not be used within 8' of the ground nor comprise more than 25% of the first story.

Plans indicate that the Johnson Drive Frontage of the proposed building will have 61% glazing (storefront windows). EIFS will only be 8% and is located along the top of the wall and parapet (or partial wall) at either end of the building. Stone veneer in a style known as "Southern LedgeStone" will be predominate on the front facade of the building. Split face block in an "Old Castle" style will go up the facade of the building. Approximately, two feet from the ground on the front facade of the building.

- 3) Complete information regarding trash enclosures, retaining walls, other screening, pay canopy and pay kiosk in compliance with the Form Based Code standards shall be provided for staff review and approval.

Information has been provided detailing trash enclosure, canopy, and pay kiosk. This information shows that material and style are in conformance with the FBC.

- 4) Complete details regarding the site landscape and public streetscape including street lights, benches, trash receptacles and bike racks in compliance with the Form Based Code standards shall be provided to staff for review and approval.

A landscape plan (sheet C-09) has been submitted indicating Shantung Maple, Velvet Pillar, and Everclear Laceback Elm to be planted along the front of the building on Johnson Drive. Each tree will be 2" caliber. Trees will be planted every 30 feet. Plans also indicate that tree grates will be incorporated into the sidewalk around each tree. Plantings through the rest of the site include Boxwood, Hooks Juniper, Switch Grass, Dwarf European Viburnum, and Periwinkle. Ground cover includes tall fescue and river rock.

Plans also indicate that two trash receptacles (Black 36 gallon steelsites RB-36) will be incorporated into the streetscape along Johnson Drive as well as two bike loops (creative pipe inverted "U"). There will also be one black, metal bench (72 inches). Details (pictures or drawings of these items were not provided).

In addition, plans indicate the installation of a decorative style of street light to be installed along Johnson Drive, but there are no pictures or drawings provided. A photometric plan (sheet E1.2) has been provided showing more standard parking light fixtures around the site (nothing on Johnson Drive), but no information about candlight is provided.

These later items will need to be confirmed and approved by staff at the time construction drawings are submitted to the City.

- 5) The median break in eastern entrance driveway shall be relocated to allow vehicles to leave the wash tunnel queue before the pay station.

Site plan sheet C-02 indicates that a median break has been created (note hash marks) to allow vehicles to exit the queue for the wash tunnel prior to reaching the pay kiosk.

- 6) Complete details regarding the circulation of trash and other service vehicles on site shall be provided for staff review and approval.

Site plan sheet C-02 also indicates circulation movements for trash pick-up. Developer has indicated that the truck will enter the western driveway and pull into the site and up to the trash enclosure. Once completed, the truck will leave through the eastern driveway.

- 7) Applicant and Developer agree to install a median break along the west edge of the entry drive into the car wash facility that aligns with the westbound parking lot aisle.

See response to condition 5.

- 8) Applicant and Developer consent to the Commission conditioning approval of the plan on compliance with such streetscape improvements, as are required by applicable City regulations and as set forth in the Form Based Code for the West Gateway Study Area, Chapter 6 (Landscape Architectural Guidelines, Type II-Urban Blvd).

See response to condition 4.

- 9) Applicant and Developer consent to the Commission conditioning the approval of the Plan upon the conveyance of right of way for sidewalks and landscaping along the site's Johnson Drive frontage in such dimensions as is required by City regulations and via conveyance language usually and customarily provided in similar circumstances by the City.

Site plans indicate appropriate setbacks for right-of-way for sidewalks and landscaping along the Johnson Drive frontage. These will be confirmed at the time detailed construction documents are submitted and corrections, if need be, made. Conveyance of right-of-way will take place through a separate mechanism and accepted by the City Council.

- 10) Applicant and Developer will consent to meeting with the Sustainability Commission and implementing mutually acceptable recommendations. Applicant and Developer are convinced that Developer operates the most environmentally sound and sustainable car washes in the country with emphasis on recycling and water conservation.

Applicant and Developer have been in contact with the Staff liaison to the Sustainability Commission to discuss submission requirements and times for presentation.

- 11) Applicant and Developer consent to the Commission making approval of the Plan conditioned on delivery of Architectural Plans, with corresponding calculations which shall provide that windows and doors shall meet the minimum 60% requirement of the Mid-Rise building's northern face, in compliance with applicable City regulations and as set forth in the Form Based Code for the West Gateway Study Area, Chapter 5 (Architectural Guidelines).

This has been indicated as such in the plans submitted. Staff will ensure this is still the case when final plans are submitted.

- 12) Applicants and Developer will consent to the Commission conditioning approval of the Plan on delivery of requisite landscape details.

See response to condition 4.

Additional Staff Comments

Though not specifically stated in the above conditions, it has been requested, and applicant and developer have stipulated to, the removing a portion of the traffic median in Johnson Drive so that the edge of the median aligns with the eastern edge of the east driveway. This will allow for

west bound traffic on Johnson Drive to make a left turn in to the site. Evidence should be shown in writing that the applicant and developer have gained approval with the property owner to the east for use of a shared driveway at the east entrance to the property.

The applicant and developer are proposing only one sign on the proposed building. This is to be located on the front of the building to the left. The sign is in accordance with the requirements of the sign code in that it cannot be more than 10% of the entire front facade. No other signs are indicated on the plans.

Attachments

- Item A - Street Rendering - 1
- Item B - Street Rendering - 2
- Item C - Tunnel Rendering
- Item D - Elevations of North Building
- Item E - Elevations of South Building (Car Wash Tunnel)
- Item F - Side Sections of Each Building
- Item G - Exterior Finishes
- Item H - Accessory Buildings
- Item I - Pay Canopy Detail
- Item J - Pay Canopy Picture
- Item K - Pre Canopy Detail
- Item L - Site Grading Plan
- Item M - Site Landscape Plan
- Item N - Ste Photometric Plan
- Item O - Site Circulation Plan

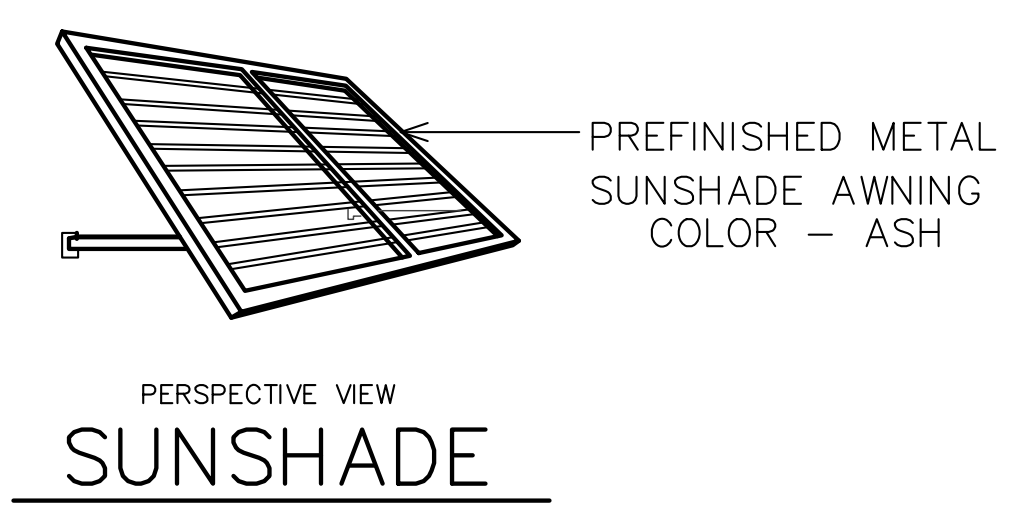
ALL GLAZING IS "CLEAR" GLAZING.



PREFERRED VIEW FROM SITE - SOUTH

SCALE: 3/16"=1'-0"

2562 SF WALL SURFACE EXCLUDING GABLES, ROOF, CUPOLA, & OPEN BAYS
 502 S.F. GLAZING (WINDOWS AND SF ENTRY)
 1834 S.F. EIFS OR HARD COAT STUCCO
 162 S.F. STONE
 64 S.F. SPLIT FACE BLOCK

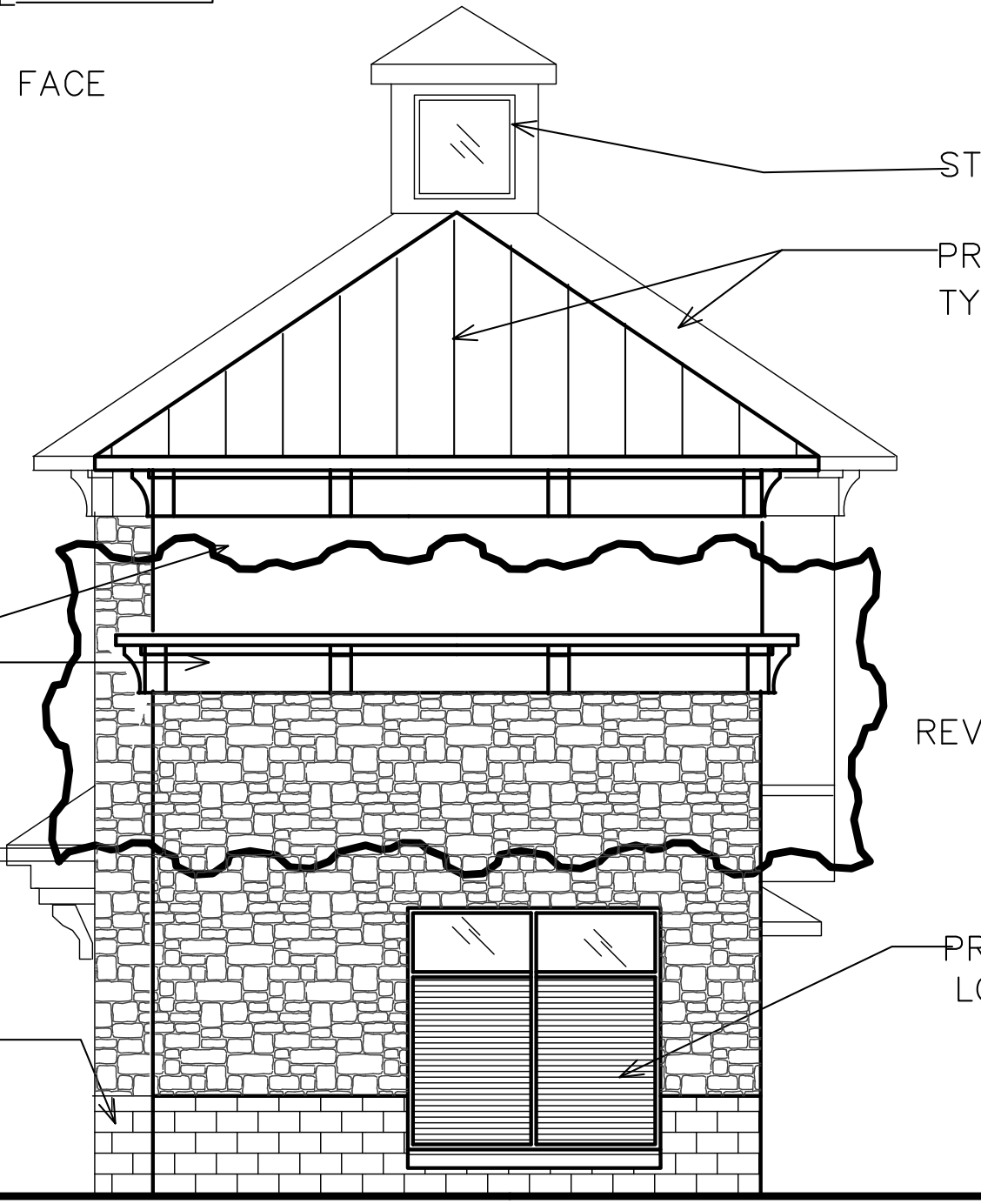
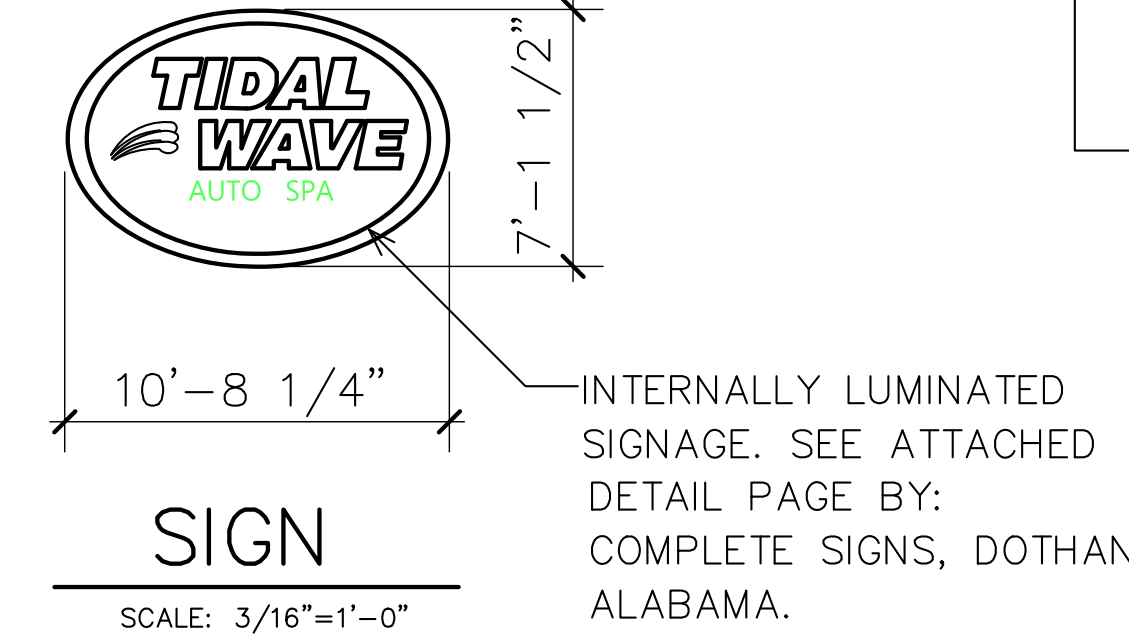


PREFERRED VIEW FROM JOHNSON DRIVE - NORTH

SCALE: 3/16"=1'-0"

OVERALL FRONT FACADE VENEER CALCULATIONS:
 3850 SF WALL SURFACE EXCLUDING GABLES, ROOF, CUPOLA.
 2337 S.F. GLAZING (WINDOWS AND SF ENTRY)
 313 S.F. EIFS OR HARD COAT STUCCO (LESS THAN 25% OF FRONTAGE AREA)
 1000 S.F. STONE
 200 S.F. SPLIT FACE BLOCK

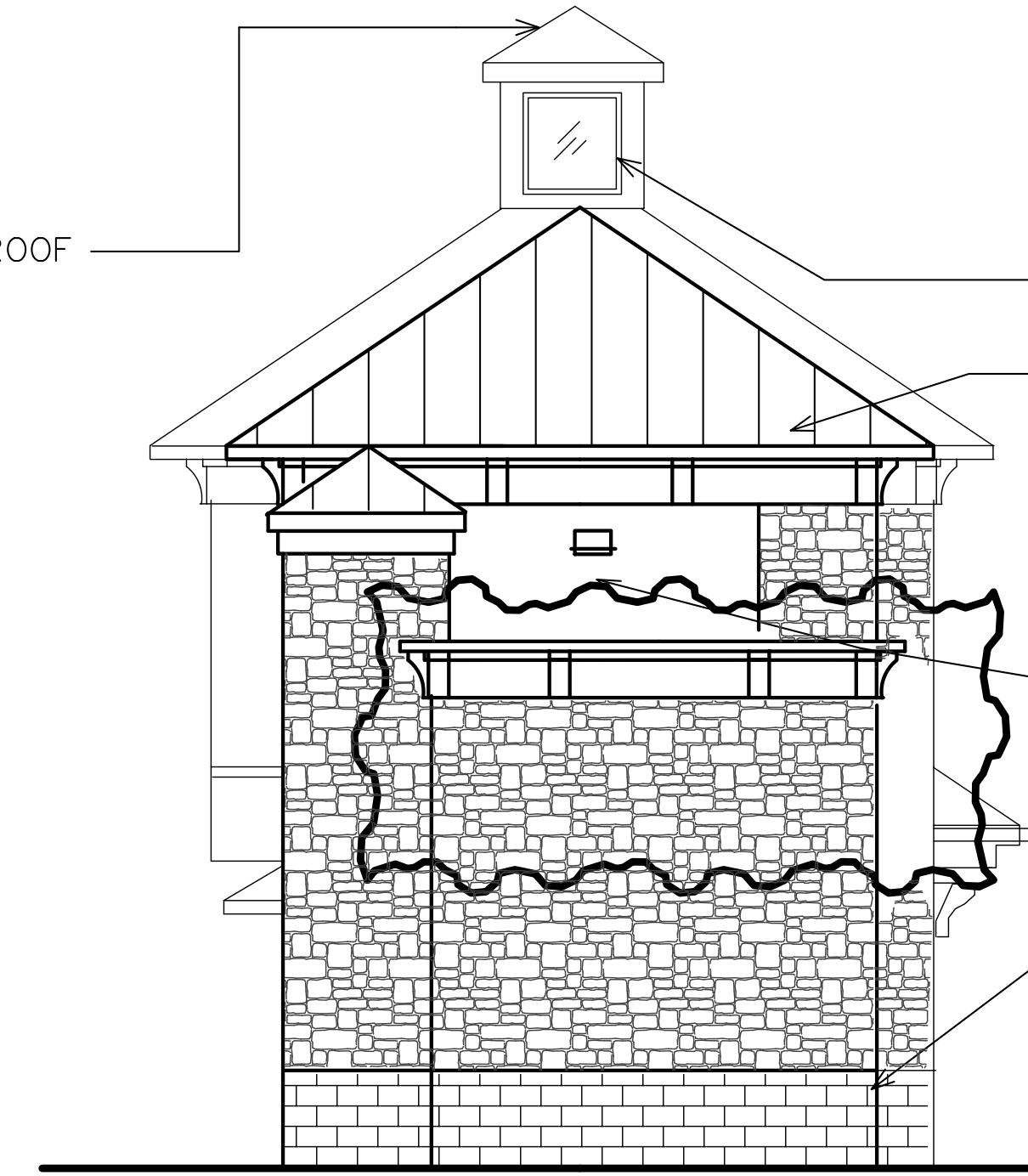
FIRST STORY FRONT FACADE VENEER CALCULATIONS:
 2,080 S.F. WALL SURFACE EXCLUDING GABLES, ROOF, CUPOLA.
 1393 S.F. GLAZING (WINDOWS AND SF ENTRY)
 100 S.F. EIFS OR HARD COAT STUCCO ACCENT (LESS THAN 25% OF FRONTAGE AREA)
 387 S.F. STONE
 200 S.F. SPLIT FACE BLOCK



PREFERRED SIDE ELEVATION WEST

SCALE: 3/16"=1'-0"

452 SF WALL SURFACE EXCLUDING GABLES, ROOF, CUPOLA.
 60 S.F. GLAZING (WINDOWS AND LOUVER)
 220 S.F. EIFS OR HARD COAT STUCCO
 122 S.F. STONE
 50 S.F. SPLIT FACE BLOCK



PREFERRED SIDE ELEVATION EAST

SCALE: 3/16"=1'-0"

514 SF WALL SURFACE EXCLUDING GABLES, ROOF, CUPOLA.
 0 S.F. GLAZING
 164 S.F. EIFS OR HARD COAT STUCCO
 280 S.F. STONE
 70 S.F. SPLIT FACE BLOCK

PROPOSED REVISIONS:
 THESE ITEMS DO NOT IMPACT THE OVERALL MATERIALS AND GLAZING AREA CALCULATIONS.
 THESE ITEMS DO NOT INCREASE THE ORIGINAL ARCHITECTURAL BUILDING FOOTPRINT.

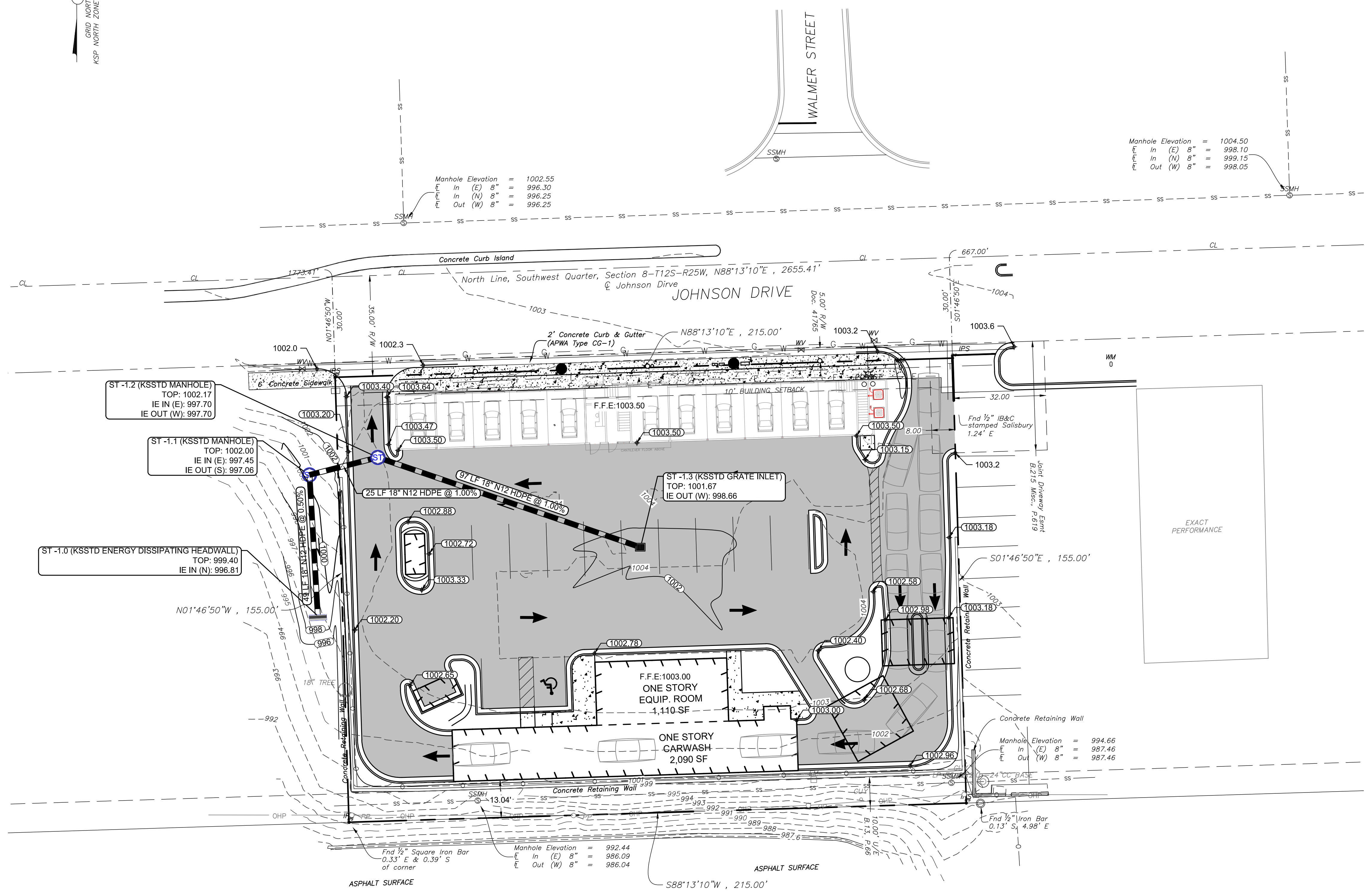
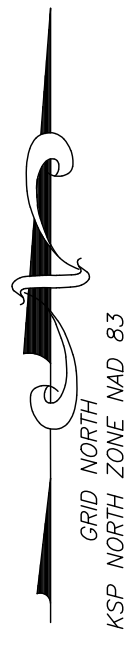
REV 1 IN LIEU OF SLOPING METAL ROOF AT WEST END 1 STORY AREA, PROVIDE FLAT ROOF AREA WITH PARAPET WALLS SCREENING MECHANICAL EQUIPMENT.

REV 2 IN LIEU OF UNCOVERED EQUIPMENT ENCLOSURE AT EAST END, PROVIDE ENCLOSED EQUIPMENT ROOM WITH PARAPET WALLS SCREENING MECHANICAL EQUIPMENT LOCATED ABOVE.

5/21/18

A NEW
TIDAL WAVE AUTO SPA
 MISSION, KANSAS

ARCHITECT:
M. TODD ALBRITTON
ARCHITECT
 202 EAST MAIN STREET
 THOMASTON, GEORGIA
 770-550-3275
 mtoddalbrittonarchitect@gmail.com
 KANSAS REGISTERED ARCHITECT
 #6993



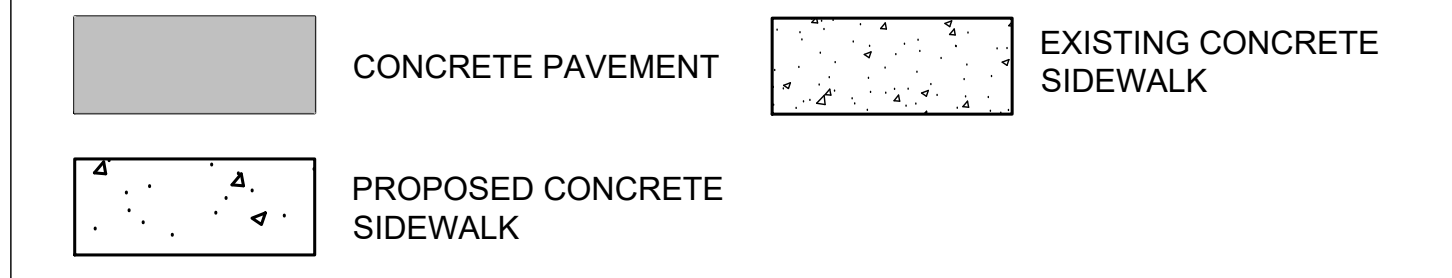
PAVING, GRADING, AND DRAINAGE NOTES

1. CONTRACTOR TO PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING.
2. ENTIRE SITE SHALL BE DRESSED TO UNIFORM, WELL DRAINED AND VISUALLY APPEALING SURFACE WITH A MINIMUM TOPSOIL LAYER OF FOUR INCHES.
3. MAXIMUM LONGITUDINAL SLOPE ON ALL ACCESSIBLE SIDEWALK SHALL BE 5.00%.
4. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO ENSURE THE SITE IS ADA ACCESSIBLE AS REQUIRED BY FEDERAL, STATE AND LOCAL GOVERNMENT.
5. FINISH GRADE ELEVATIONS INDICATE TOP OF PAVEMENT / FACE OF CURB UNLESS OTHERWISE NOTED.
6. REFER TO DETAILS FOR PAVEMENT TYPICAL SECTION.
7. SITE SHALL BE GRADED UNIFORMLY FOR POSITIVE DRAINAGE AS SHOWN FROM THE ELEVATIONS, PROPOSED CONTOURS, AND THE DRAINAGE SLOPE ARROWS.
8. MAXIMUM SIDEWALK CROSS SLOPE IS 2%. MAXIMUM SIDEWALK LONGITUDINAL SLOPE IS 5%. MAXIMUM PAVEMENT SLOPE IN HANDICAP PARKING AREA AND AISLE IS 2%. MAXIMUM HANDICAMP RAMP SLOPE IS 12H:1V.

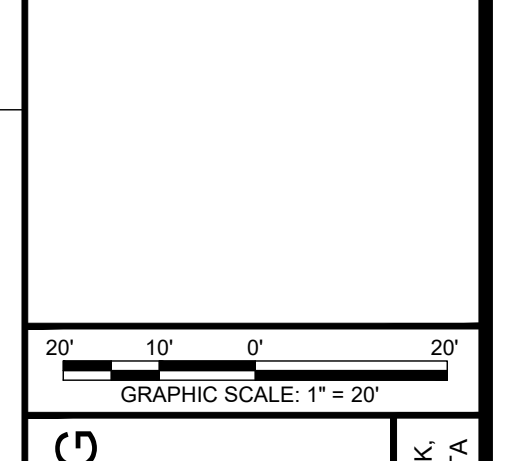
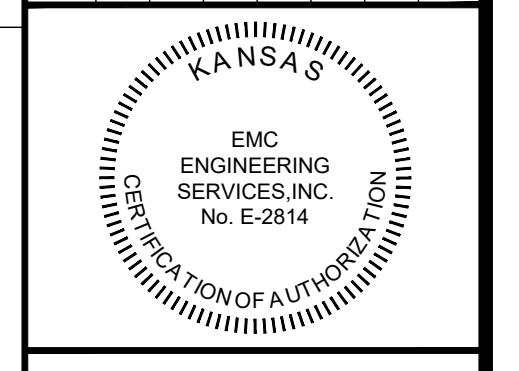
UTILITY NOTES:

1. THE LOCATION OF ALL EXISTING UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE-GROUND STRUCTURES AND IS APPROXIMATE AND SHOWN FOR INFORMATIONAL PURPOSES ONLY. NO CERTIFICATION IS MADE AS TO THE ACCURACY OR COMPLETENESS OF THIS INFORMATION.
2. ADDITIONAL BURIED UTILITIES / STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES / STRUCTURES.
3. BEFORE EXCAVATIONS ARE BEGUN, GIVE THREE WORKING DAYS NOTICE TO THE UTILITIES PROTECTION CENTER AT KANSAS 811 PRIOR TO ANY EXCAVATION IN ORDER THAT UNDERGROUND UTILITIES MAY BE LOCATED AND PROTECTED.

HATCH LEGEND:



NO.	REVISION DESCRIPTION	BY	DATE
1	PRELIMINARY DEVELOPMENT PLAN	DEM	04/11/18
2	FINAL DEVELOPMENT PLAN	DEM	06/09/18



EMC ENGINEERING SERVICES, INC.
 1344 US Hwy 19S, Suite A
 Leeburg, GA 31763
 Ph: (229) 435-6133
 alba@emc-eng.com
 www.emc-eng.com

CIVIL
 MARINE
 ENVIRONMENTAL

OFFICE LOCATIONS: ALBANY, ATLANTA, AUGUSTA, BRUNSWICK, COLUMBUS, SAVANNAH, STATESBORO, AND VALDOSTA

PAVING, GRADING, & DRAINAGE PLAN

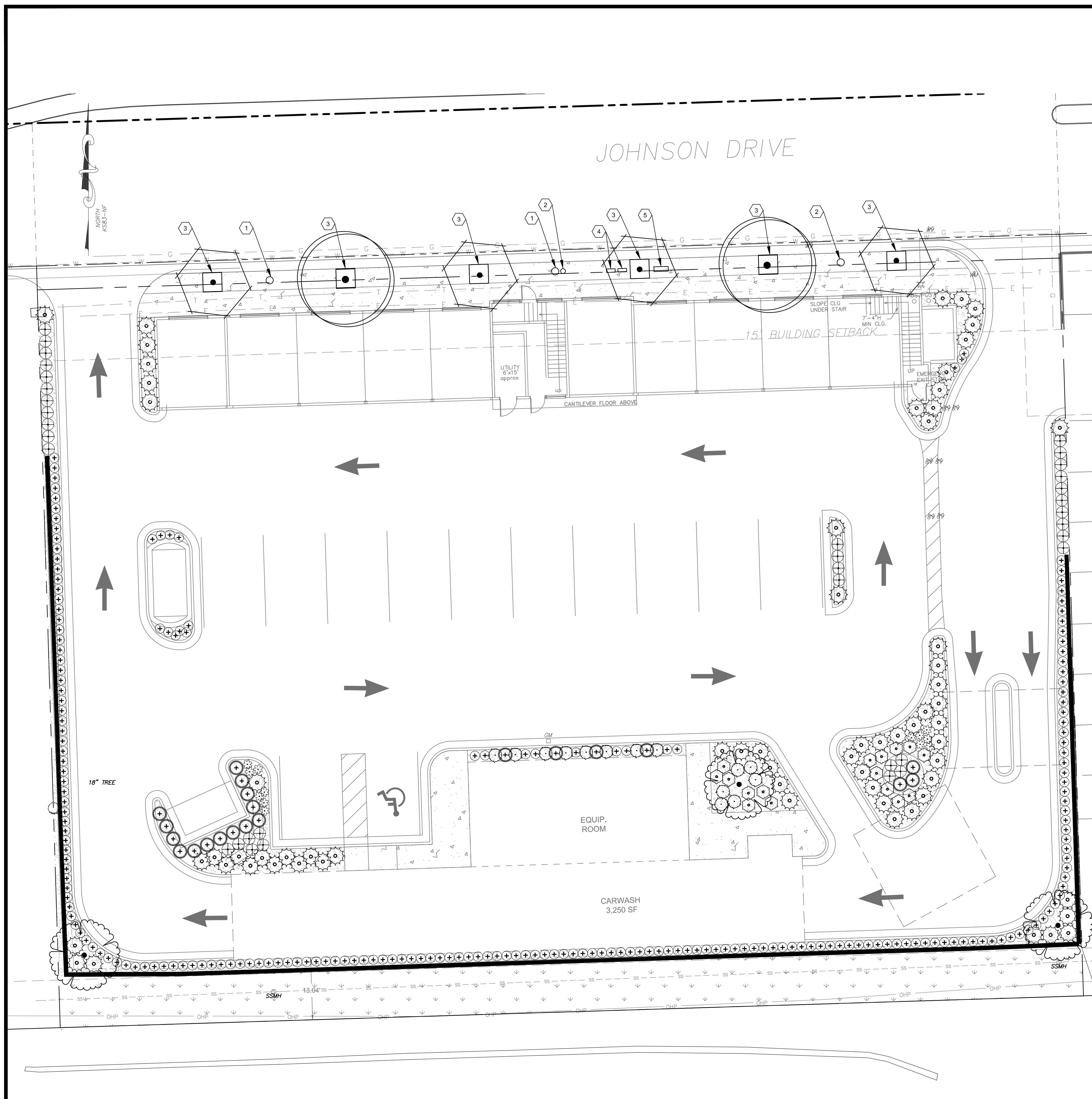
TIDAL WAVE AUTO SPA
 PROPERTY ID #: KP69500001 0003
 MISSION, JOHNSON COUNTY, KANSAS

Prepared for:
SHJ CONSTRUCTION GROUP

PROJECT NO.:	17-6044
DRAWN BY:	DEM
DESIGNED BY:	DEM
SURVEYED BY:	CFSE
SURVEY DATE:	05/30/2017
CHECKED BY:	BHB
SCALE:	1" = 20'
DATE:	05/14/2018



C:\2017\17-6044-SHJ - TIDAL WAVE JOHNSON DR MISSION, KS\DWG\17-6044C_B01.DWG 5/10/2018 1:13 PM



PLANT SCHEDULE

TREES	QTY	BOTANICAL NAME / COMMON NAME	CONT	CAL
	2	Acer truncatum / Shantung Maple	25 gal	2" Cal
	3	Malus x 'Velvetcole' / Velvet Pillar	B & B	2" Cal
	4	Ulmus parvifolia 'Everclear' / Everclear Lacebark Elm	25 gal	2" Cal
SHRUBS	QTY	BOTANICAL NAME / COMMON NAME	CONT	PLANT HT
	14	Buxus x 'Green Velvet' / Boxwood	5 gal	
	13	Hemerocallis x 'Little Business' / Little Business Daylily	1 gal	
	21	Juniperus chinensis 'Hooks' / Hooks Juniper FOR PLANTING SPECIFICATIONS SEE DETAIL 803 & 804, SHEET L2.1	B & B	6' Ht
	66	Juniperus virginiana 'Grey Guardian' / Greguard Juniper	5 gal	3' height
	35	Panicum virgatum 'Shenandoah' / Switch Grass FOR PLANTING SPECIFICATIONS SEE DETAIL 803 & 804, SHEET L2.1	1 gal	
	16	Viburnum opulus 'Nanum' / Dwarf European Viburnum FOR PLANTING SPECIFICATIONS SEE DETAIL 803 & 804, SHEET L2.1	5 gal	1.5' ht.
	211	Vinca major / Periwinkle	1 gal	
GROUND COVERS	QTY	BOTANICAL NAME / COMMON NAME	CONT	
	2,194 sf	Festuca arundinacea 'Heatwave+ Blend' / Heatwave+ Blend of Tall Fescue 5% Kelly Bluegrass 95% - 3 species Turf Fescue (Covenant II, Avenger, Garrison)	seed	
GROUND COVERS	QTY	BOTANICAL NAME / COMMON NAME	SIZE	DEPTH
	24 cy	Buffalo River Rock	1'-3" rock	3" deep

SITE DATA

	Data	Required	Provided
Site Area	0.76		
Site Trees			
1 tree/3,000 SF of landscaped open space	4,846.05	1.62	2
Street Trees			
1 tree/40 LF of street frontage	215	5,375	6
Parking Lot Trees			
1 tree/20 cars	12	0.6	1

HARDSCAPE NOTES:

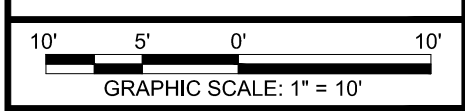
- STREET LIGHTS 60' O.C. (SENTRY SCP LUMINAIRE / NEW YORK BLACK POST WITH TWO KEYSTONE RIDGE BASKET PLANTER PER POLE)
- TRASH RECEPTACLE (BLACK 36 GALLON STEEL SITES RB-36 BY VICTOR STANLEY)
- STREET TREES (30' O.C. WITH A NEENAH FOUNDRY TREE GRATE #R-8726)
- TWO BIKE LOOPS (CREATIVE PIPE: BLACK INVERTED "U" BIKE RACK)
- BENCH (BLACK 72" SCARBOROUGH BY LANDSCAPE FORMS)

LANDSCAPE NOTES:

- THE CONTRACTOR SHALL VERIFY AND COORDINATE ALL FINAL GRADE WITH THE LANDSCAPE ARCHITECT AND OR DESIGN TEAM PRIOR TO COMPLETION.
- LOCATION AND PLACEMENT OF ALL PLANT MATERIAL SHALL BE COORDINATE WITH THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- LOCATION OF ALL UTILITIES ARE APPROXIMATE, THE CONTRACTOR SHALL FIELD VERIFY LOCATIONS PRIOR TO COMMENCEMENT OF CONSTRUCTION OPERATIONS.
- REFER TO CIVIL DRAWINGS FOR ALL GRADING AND BERMING, EROSION CONTROL, STORM DRAINAGE, UTILITIES AND SITE LAYOUT.
- PLANT QUANTITIES ARE FOR INFORMATION ONLY DRAWING SHALL PREVAIL IF CONFLICT OCCURS. CONTRACTOR IS RESPONSIBLE FOR CALCULATING OWN QUANTITIES AND BID ACCORDINGLY.
- THE CONTRACTOR IS TO NOTIFY LANDSCAPE ARCHITECT AFTER STAKING IS COMPLETE AND BEFORE PLANT PITS ARE EXCAVATE.
- TREE LOCATIONS IN AREAS ADJACENT TO DRIVES, WALKS, WALLS AND LIGHT FIXTURES MAY BE FIELD ADJUSTED AS APPROVED BY LANDSCAPE ARCHITECT.
- THE CONTRACTOR SHALL REPORT SUBSURFACE SOIL OR DRAINAGE PROBLEMS TO THE LANDSCAPE ARCHITECT.
- THE PLAN IS SUBJECT TO CHANGES BASED ON PLANT SIZE AND MATERIAL AVAILABILITY. ALL CHANGES OR SUBSTITUTIONS MUST BE APPROVED BY THE CITY OF MISSION, KANSAS AND THE LANDSCAPE ARCHITECT.
- ALUMINUM LANDSCAPE EDGING TO BE USED ON ALL LANDSCAPE BEDS ABUTTING TURF AREAS AS NOTED ON LANDSCAPE PLANS.
- LANDSCAPE CONTRACTOR IS TO BE RESPONSIBLE FOR WATERING ALL PLANT MATERIAL UNTIL THE TIME THAT A PERMANENT WATER SOURCE IS READY.
- THE CONTRACTOR SHALL SHOW PROOF OF PROCUREMENT, SOURCES, QUANTITIES AND VARIETIES FOR ALL SHRUBS, PERENNIALS ORNAMENTAL GRASSES AND ANNUALS WITHIN 21 DAYS FOLLOWING THE AWARD OF THE CONTRACT.
- CONTRACTOR SHALL PROVIDE FULL MAINTENANCE FOR NEWLY LANDSCAPED AREAS FOR A PERIOD OF 30 DAYS AFTER THE DATE OF FINAL ACCEPTANCE. AT THE END OF THE MAINTENANCE PERIOD, A HEALTHY, WELL-ROOTED, EVE-COLORED, VIABLE TURF AND LANDSCAPED AREA MUST BE ESTABLISHED. THE LANDSCAPED AREAS SHALL BE FREE OF WEEDS, OPEN JOINTS, BARE AREAS AND SURFACE IRREGULARITIES.
- LANDSCAPE CONTRACTOR SHALL PROVIDE ROCK MULCH SAMPLE TO OWNER FOR APPROVAL.

NO.	REVISION DESCRIPTION	BY	DATE

BHC RHODES
Civil Engineering - Surveying - Utilities
7101 College Blvd., Suite 400
Overland Park, Kansas 66210
p. (913) 663-1900 f. (913) 663-1633
BHC RHODES is a trademark of Brungarth Horowitz & Company, P.A.



EMC ENGINEERING SERVICES, INC.
1344 US Hwy 19S, Suite A
Leesburg, GA 31763
Ph: (229) 435-6133
Fax: (229) 439-7979
albanym@emc-eng.com
www.emc-eng.com

EMC ENGINEERING SERVICES, INC.
CIVIL ENVIRONMENTAL MARINE
OFFICE LOCATIONS: ALBANY, ATLANTA, AUGUSTA, BRUNSWICK, COLUMBUS, SAVANNAH, STATESBORO, AND VALDOSTA

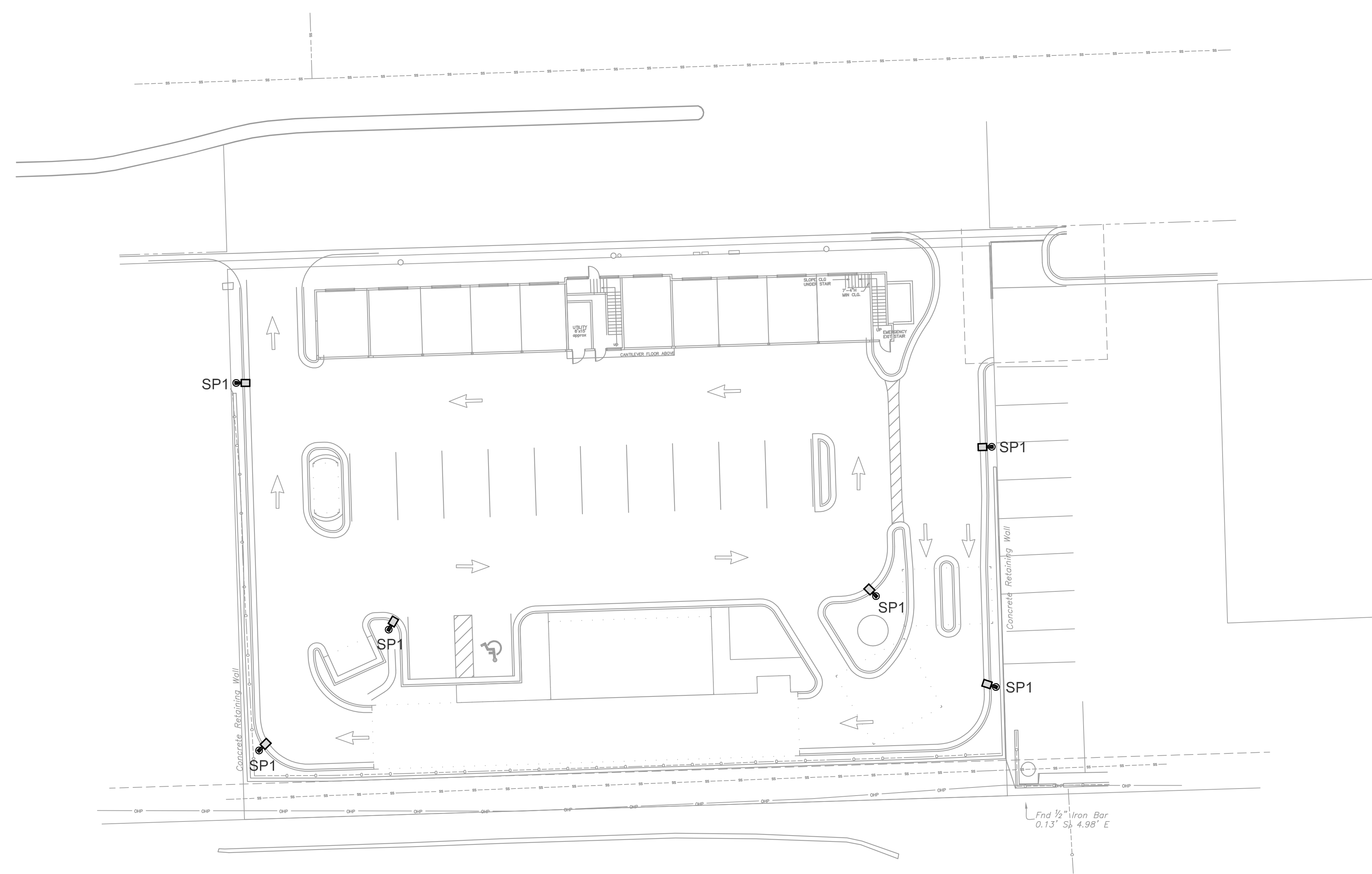
LANDSCAPE PLAN

TIDAL WAVE AUTO SPA
PROPERTY ID #: KP69500001 0003
MISSION, JOHNSON COUNTY, KANSAS
Prepared for:
SHJ CONSTRUCTION GROUP

PROJECT NO.: 17-6044
DRAWN BY: NAB
DESIGNED BY: NAB
SURVEYED BY: CFSE
SURVEY DATE: 05/30/2017
CHECKED BY: BHB
SCALE: 1" = 10'
DATE: 05/14/2018

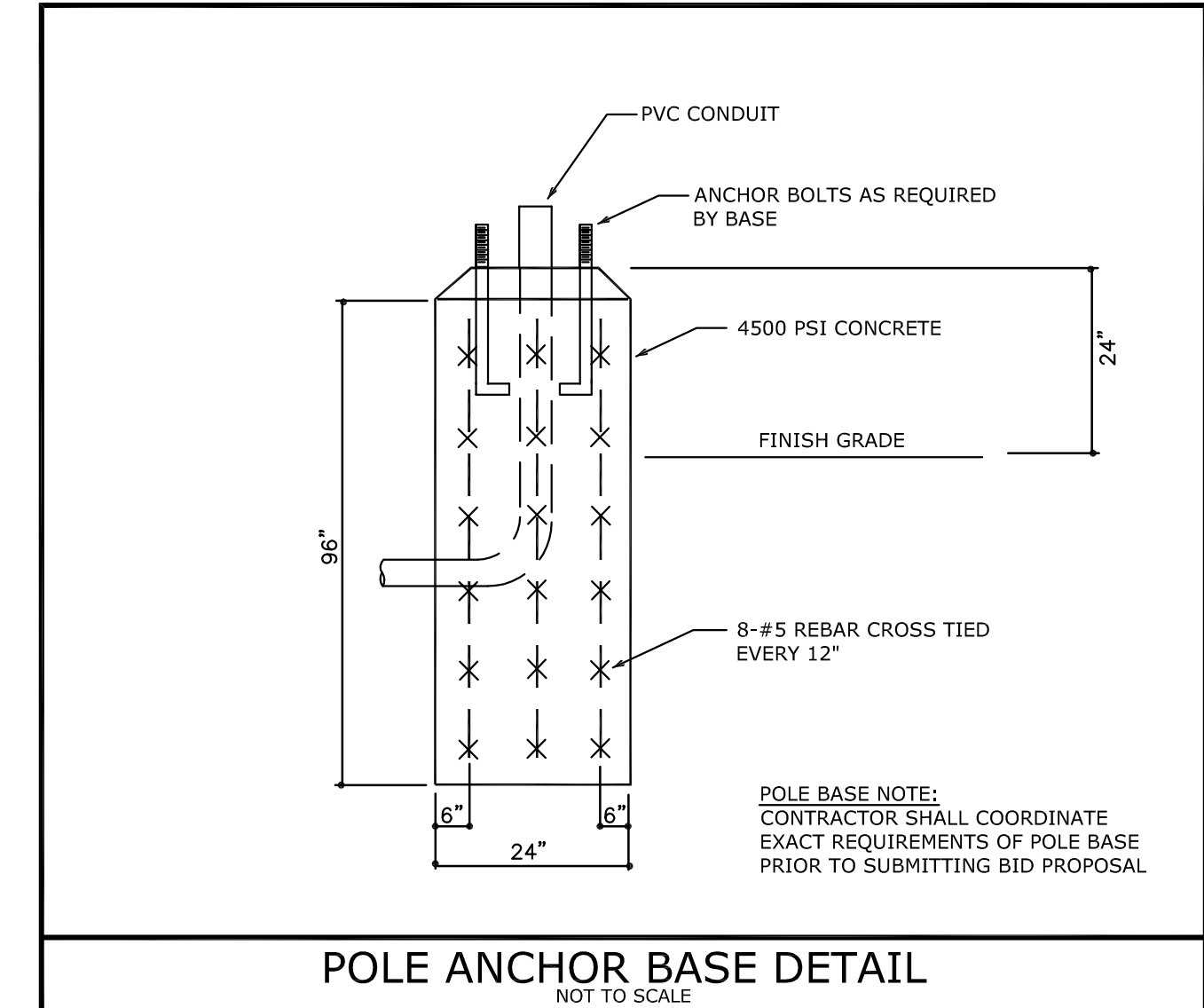
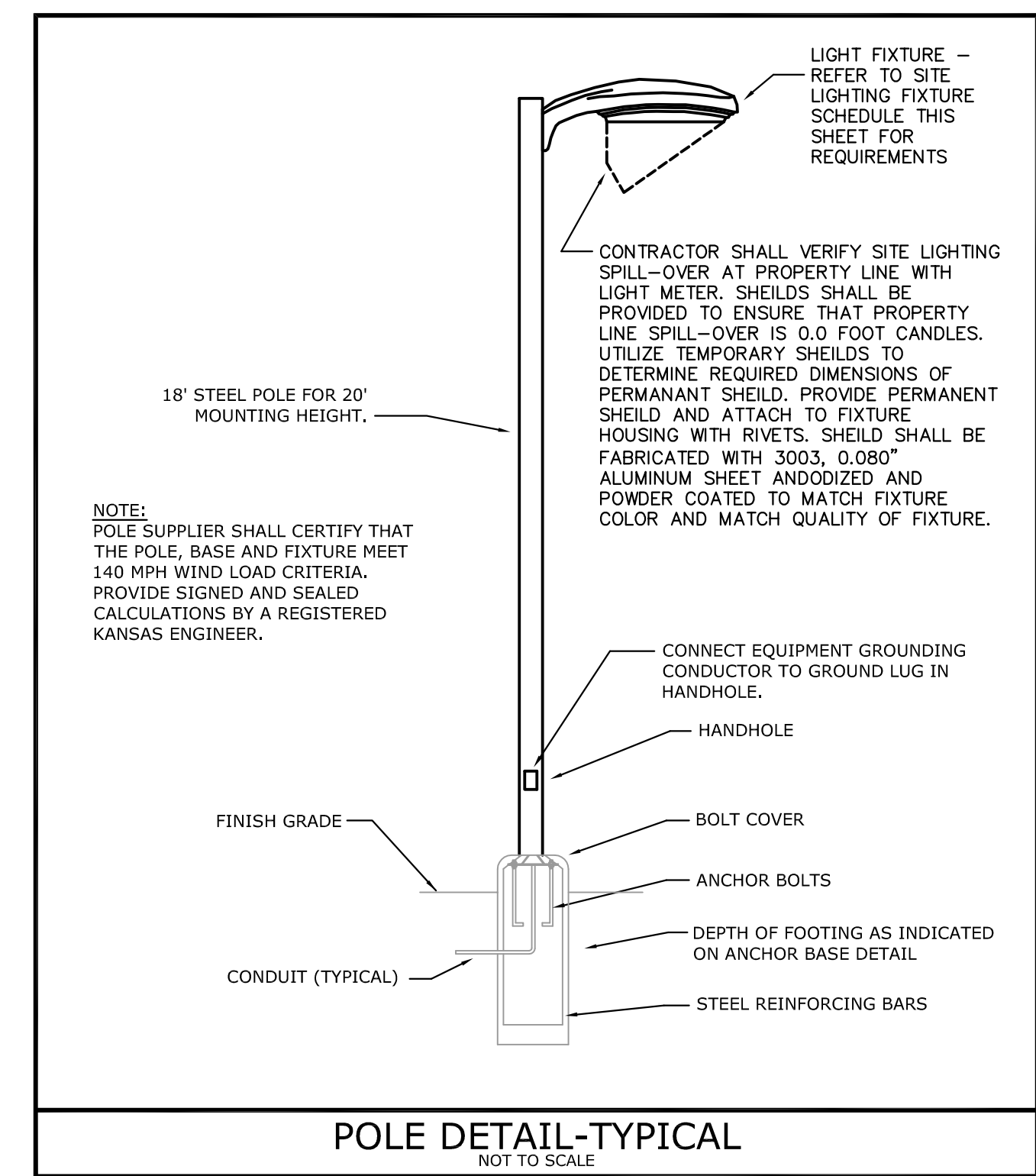
SITE LIGHTING FIXTURE SCHEDULE							
Symbol	Label	QTY	Manufacturer	Catalog Number	Description	Lamp	Wattage
	WM1	5	WILLIAMS OUTDOOR	WPTZ-L38-750	MEDIUM TRAPEZOID WALLPACK		3828.931
	SP1	6	Crow Inc	OSQ-A-xx-4ME-B-57K-ULxxxxx w/OSQ-BLSMF CONFIGURED FROM OSQ-A-xx-4ME-U-57K-ULxxxxx w/OSQ-BLSLF	Crow OSQ Series Area Luminaire, Type IV Medium w/ Backlight Shield, B Input Power Designator, 5700K	CONFIGURED FROM MDA	8950.428
							41.57

Statistics						
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Parking Lot	X	- fc	- fc	- fc	--	--
Parking Lot to Boundary	+	- fc	- fc	- fc	N/A	N/A
Property Line	+	- fc	- fc	- fc	N/A	N/A

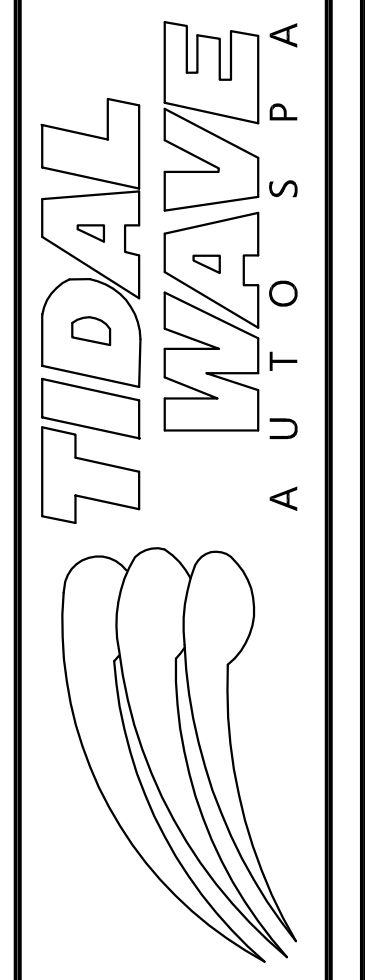


SITE PHOTOMETRIC PLAN

SCALE _____ 1"=20'-0"



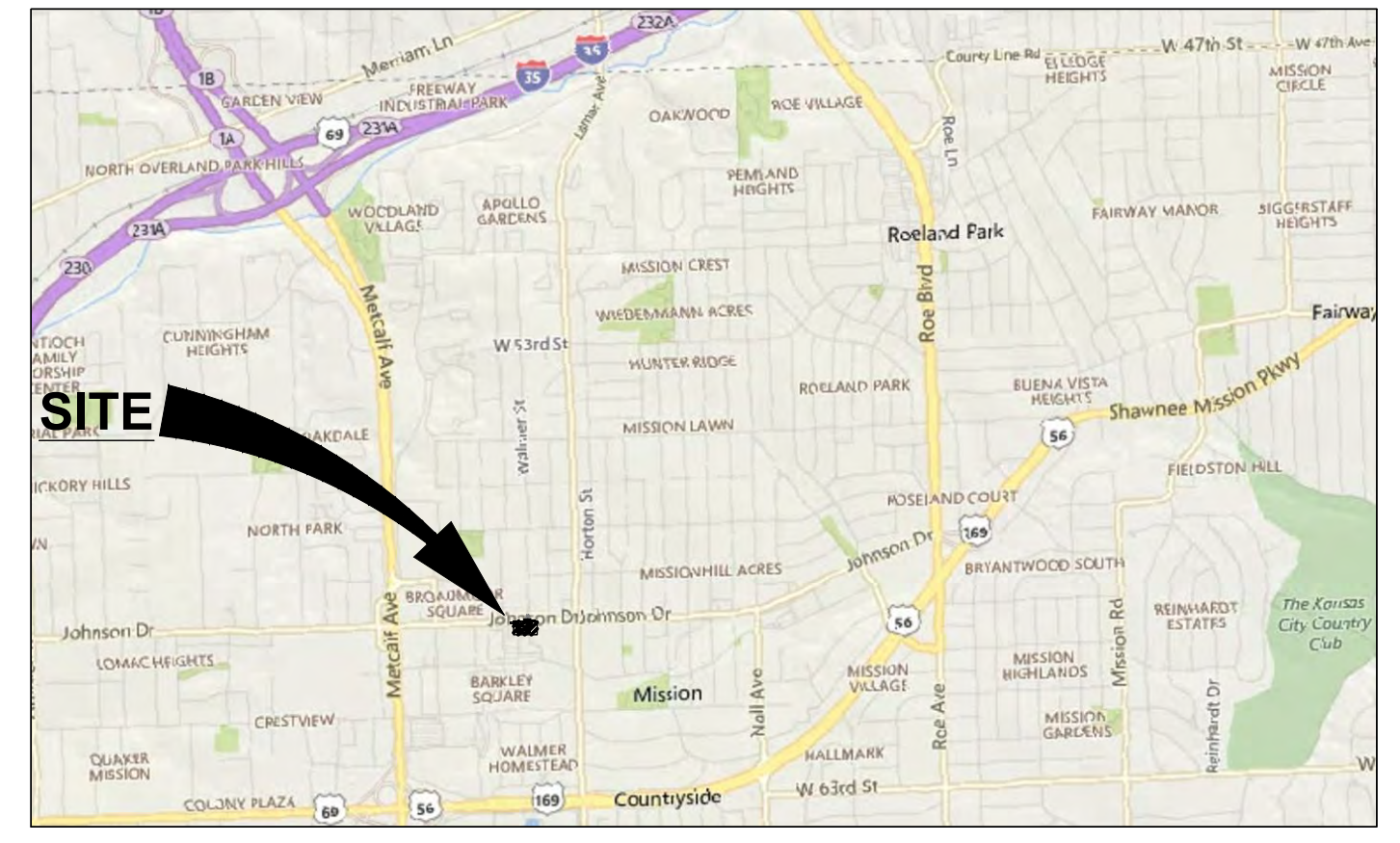
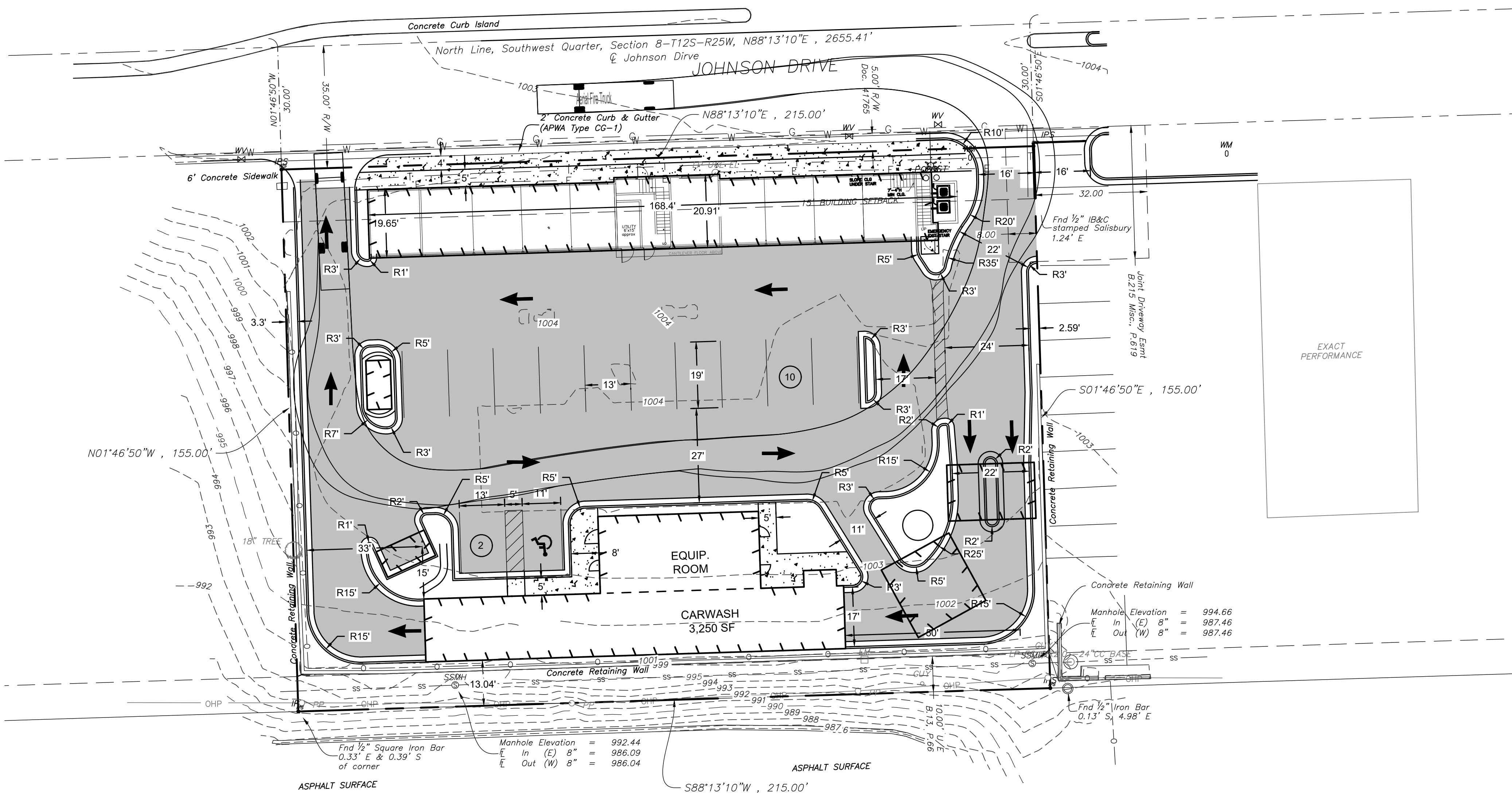
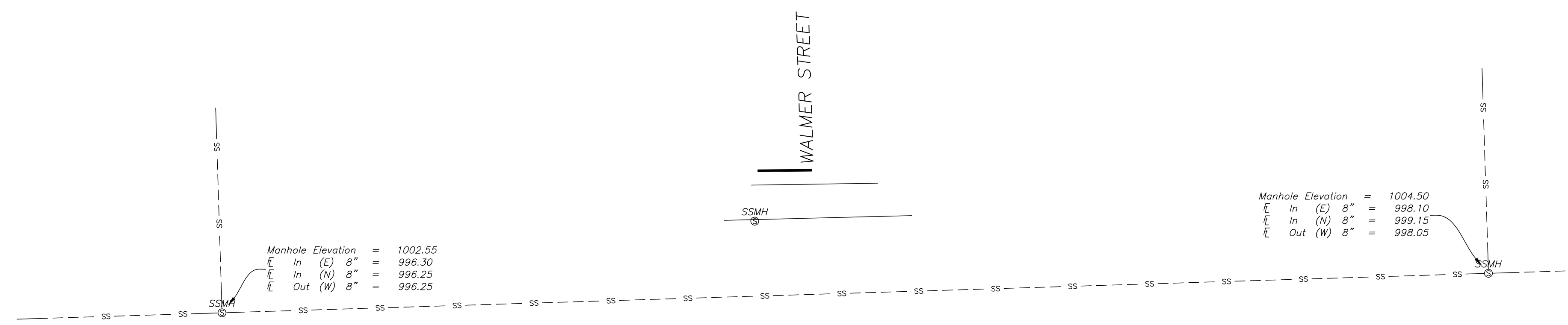
A NEW
 TIDAL WAVE AUTO SPA
 CAR WASH FACILITY
 MISSION, KANSAS



SHEET:
E1.2
 3 OF 4

ROBERT L. CONNORS, P.E.
 KANSAS LICENSE #23160
 12738 HIGHWAY 92 E
 WOODSTOCK, GA 30188
 PROJECT MANAGER: STEPHEN EDWARDS
 PHONE 678-466-7433

DATE: MAY 10, 2018 PROJECT DRAWN BY: SPE



VICINITY MAP
N.T.S.

OWNER INFORMATION

OWNER: CSTORE INVESTORS TOO, LLC
ADDRESS: 700 W 47TH ST, KANSAS CITY, MO 64118

APPLICANT INFORMATION

APPLICANT: TW MACON, LLC (d.b.a. TIDAL WAVE AUTO SPA)
ADDRESS: 124 THOMPSON STREET, THOMASTON, GEORGIA 30286
PHONE #: 770-271-5646

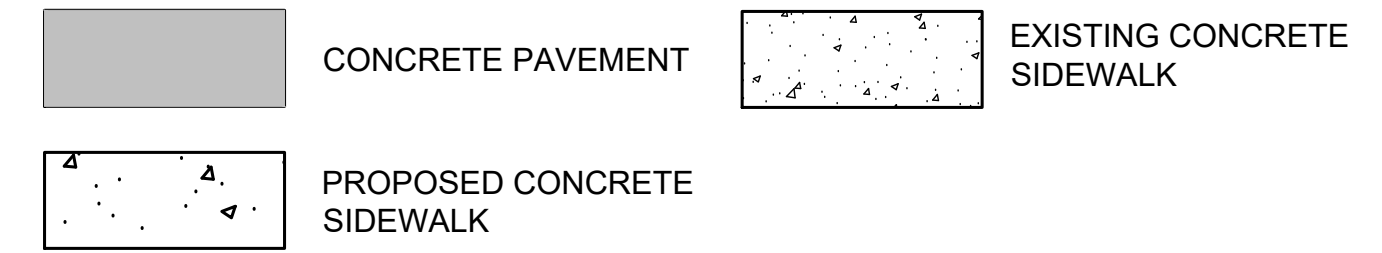
SITE INFORMATION

ADDRESS: 6501 JOHNSON DR., MISSION, KANSAS 66202
PROPERTY AREA: ±0.76 AC
PROPERTY ZONING: CP-2B
BUILDING SETBACKS:
FRONT: 0'-10"
SIDE: 0'
REAR: 0'

PARKING NOTE

PARKING REQUIRED: 3.5 SPACE PER 1,000 SF (3,250 / 1,000) X 3.5 = 12 SPACES
PARKING PROVIDE: 11 STANDARD SPACES + 1 HANDICAPPED SPACES 12 TOTAL SPACES

HATCH LEGEND:



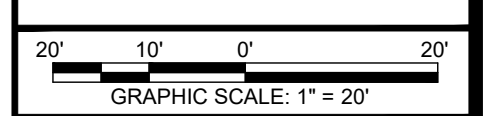
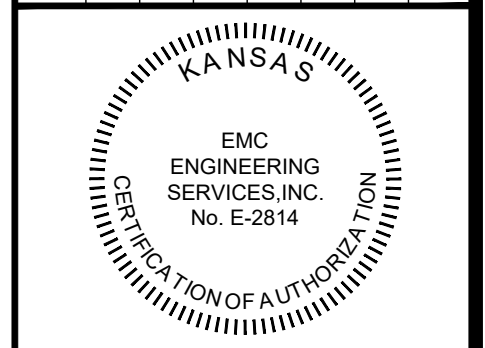
GENERAL NOTE:

- 1. ALL DEVELOPMENTS SHALL CONFORM TO THE REQUIREMENTS OF THE CITY OF MISSION'S STORM WATER MANAGEMENT CRITERIA INCORPORATED BY REFERENCE HEREIN.

STORMWATER NOTES:

EXISTING CONDITION PERVIOUS AREA = ± 0.05 AC (7%) IMPERVIOUS AREA = ± 0.71 AC (93%)
PROPOSED CONDITION PERVIOUS AREA = ± 0.08 AC (11%) IMPERVIOUS AREA = ± 0.68 AC (89%)

NO.	REVISION DESCRIPTION	BY	DATE

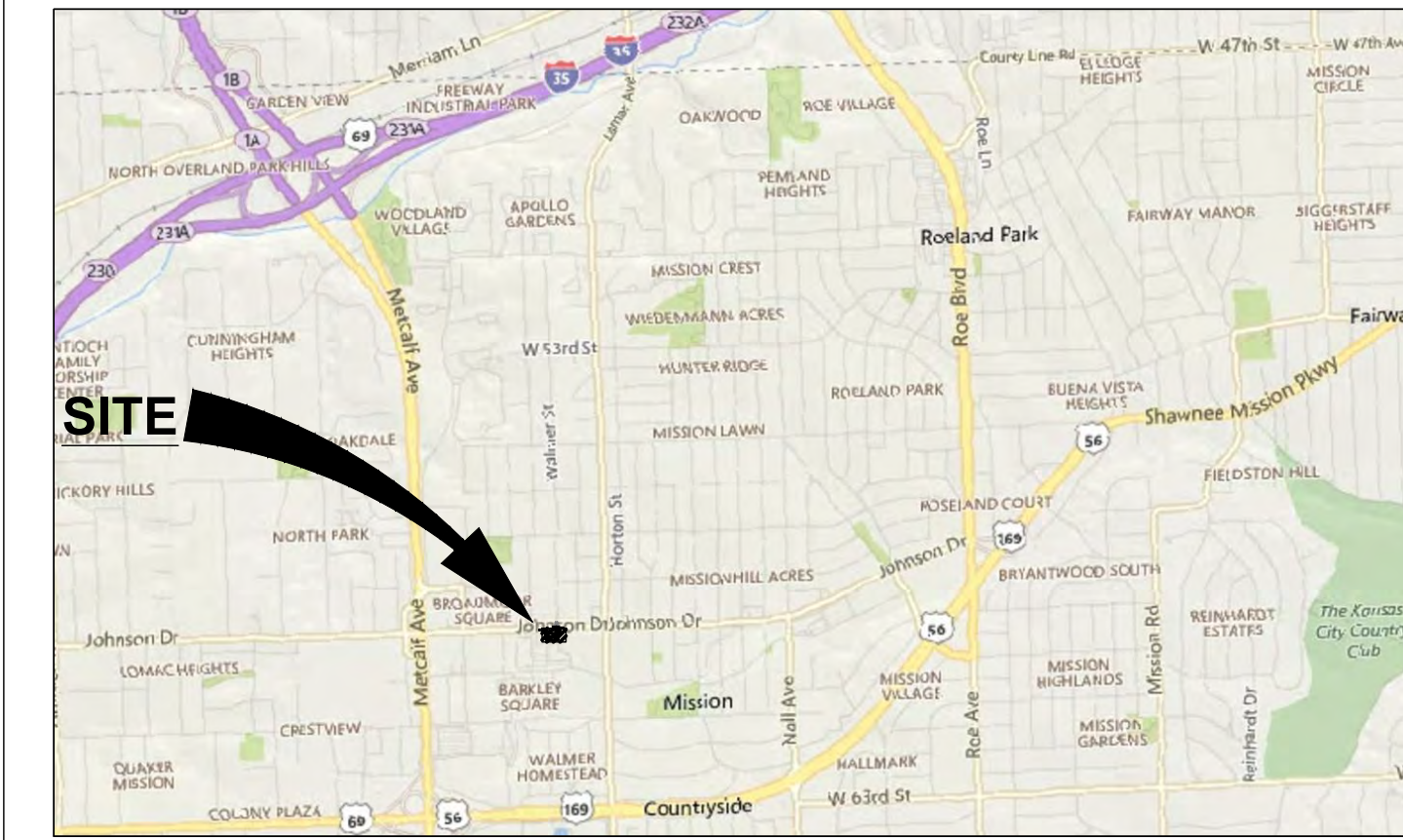
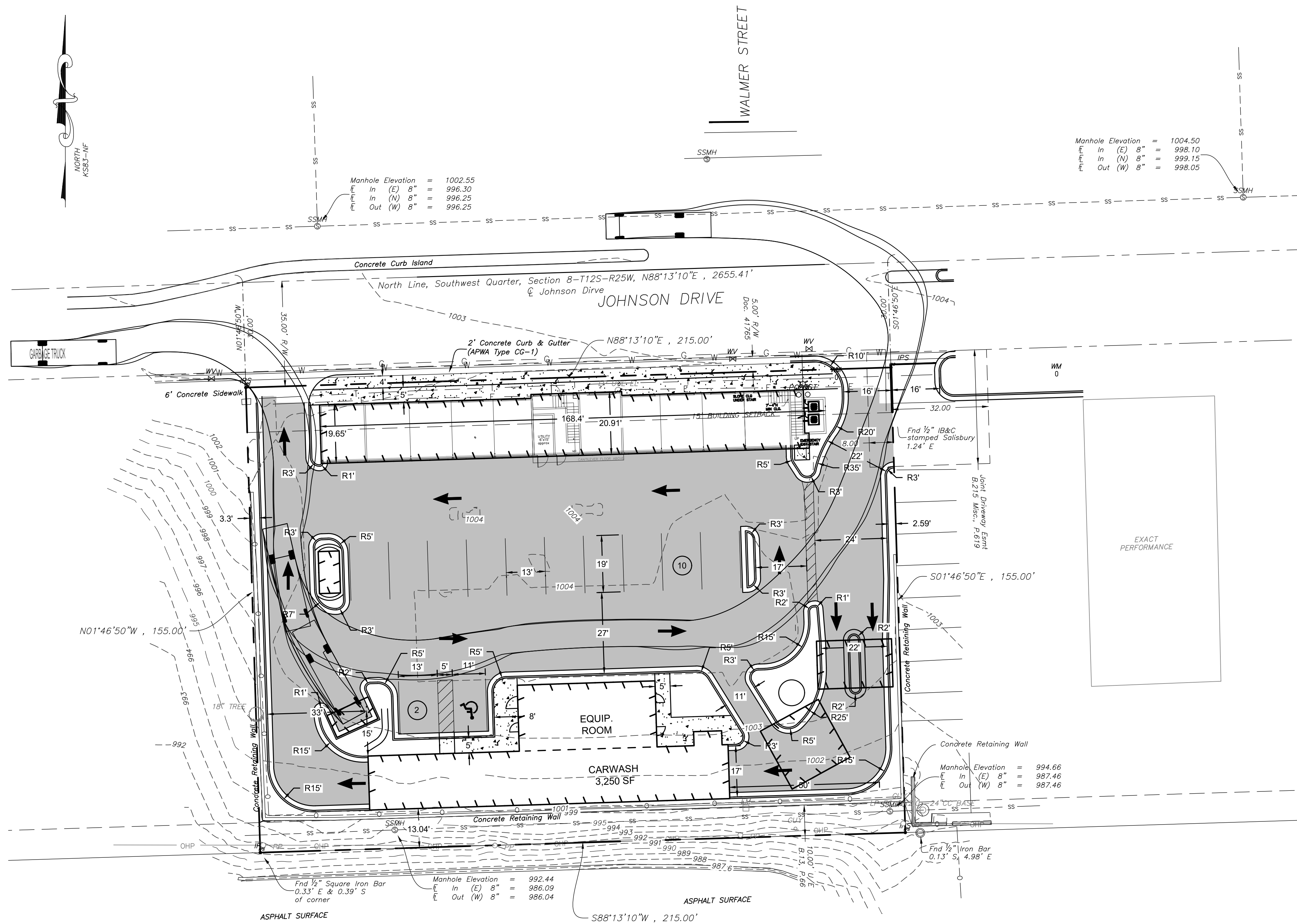


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1344 LIS Hwy, 105, Suite A
Leesburg, GA 31753
Ph: (229) 435-6133 Fax: (229) 439-7979
albanym@emc-eng.com www.emc-eng.com
CIVIL MARINE ENVIRONMENTAL
OFFICE LOCATIONS: ALBANY, ATLANTA, AUGUSTA, BRUNSWICK, COLUMBUS, SAVANNAH, STATESBORO, AND VALDOSTA

FIRE TRUCK AUTO TURN TEMPLATE
TIDAL WAVE AUTO SPA
PROPERTY ID #: KP6950001 0003
MISSION, JOHNSON COUNTY, KANSAS
Prepared for:
SHJ CONSTRUCTION GROUP

PROJECT NO.:	17-6044
DRAWN BY:	DEM
DESIGNED BY:	DEM
SURVEYED BY:	CFSE
SURVEY DATE:	05/30/2017
CHECKED BY:	BHB
SCALE:	1" = 20'
DATE:	04/11/2018





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 PARKING PROVIDE: 11 STANDARD SPACES + 1 HANDICAPPED SPACES = 12 TOTAL SPACES

HATCH LEGEND:

- CONCRETE PAVEMENT
- EXISTING CONCRETE SIDEWALK
- PROPOSED CONCRETE SIDEWALK

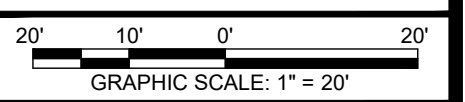
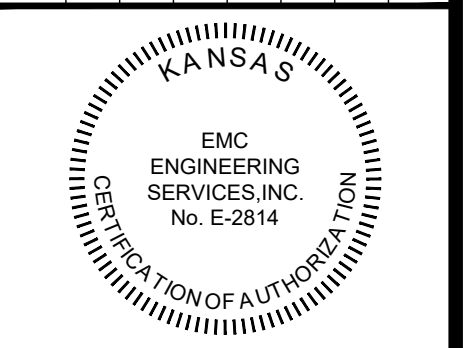
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IMPERVIOUS AREA = ± 0.71 AC (93%)	IMPERVIOUS AREA = ± 0.68 AC (89%)

NO.	REVISION DESCRIPTION	BY	DATE



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GARBAGE TUCK AUTO TURN TEMPLATE

TIDAL WAVE AUTO SPA
 PROPERTY ID #: KP6950001 0003
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MINUTES OF THE PLANNING COMMISSION MEETING

March 26, 2018

The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:00 PM Monday, March 26, 2018. Members also present: Stuart Braden, Brad Davidson, Robin Dukelow, Charlie Troppito, Frank Bruce, Burton Taylor and Pete Christiansen. Absent was Scott Babcock. Also in attendance: Danielle Sitzman, Planning & Development Services Manager; Brian Scott, Assistant City Administrator, Chris Cline, Core Design, Pete Heaven, Spencer Fane Attorney, and Ashley Elmore, Secretary to the Planning Commission.

Introduction of New Commissioners

Chairman Lee introduced the two new commissioners Burton Taylor and Pete Christiansen.

Approval of Minutes from the January 22, 2018 Meeting

Ms. Dukelow moved and Mr. Troppito seconded a motion to approve the minutes of the January 22, 2018, Planning Commission meeting.

The vote was taken (8-0). The **motion carried**.

Case # 17-08 Preliminary Site Plan – Martway Mixed Use

Chairman Lee: This has been before us before and has been sent back to us from the City Council to look at and discuss again. Staff?

Ms. Sitzman: Thank you, Mr. Chair. Joining us this evening is our attorney Pete Heaven. I'm going to let him start with a little direction to you all about the remand and what the process can be tonight.

Pete Heaven, Land Use Attorney, City of Mission, appeared before the Planning Commission and made the following comments:

Mr. Heaven: We have a little bit of an unusual process, and for the new planning commissioners, I wanted to step you through a remand. Under Kansas law, when a zoning matter comes before the Planning Commission, you make a recommendation to City Council. The City Council has the ability to either accept your recommendation, deny it, or remand the matter back to you for further consideration. A remand in Mission is a relatively rare event, so I wanted to step you through the process.

All the public hearings have now been held. This matter is now back before the Planning Commission. You may solicit information from the public or from the applicant. Basically, what the City Council has asked you to do is to look at three items in this particular proposal, that being height, density, and setback deviations. Now, as Danielle will explain to you, we've had some modifications to the application, and of the eight deviations that were first sought, there are only two left. The other six have been satisfied. I believe those have to do with density and the height of the building.

MINUTES OF THE PLANNING COMMISSION MEETING

March 26, 2018

With that, if you have questions, chime in. I'm happy to answer them. Tonight is a reflection upon what you've been asked by City Council to do, which is reconsider your thoughts and ideas about height and density. That's our process.

Ms. Sitzman: Mr. Chair, I'll go through the staff report, briefly. As Pete said, this is Case #17-08, a preliminary site plan for property located at 6005-6045 Martway Street. The applicant has submitted revisions from their December 18, 2017, plan and made adjustments to the overall height. Our height standards are both by overall feet and by number of stories, so, they are requesting a deviation to the number of stories. They also have made adjustments to the number of dwelling units and to the massing of the building. The revisions do not contain changes that were significant according to our applicable code standards, and as such, they're before you tonight as a continuation of the case that came before you, and directed back to you as a remand.

Onto the points of consideration that were referred to you by City Council. The first one is setbacks. The revised plans that are before you tonight have removed any need for a request to a deviation for rear-yard setbacks. Here is a map showing the property and surrounding zonings. What's highlighted on the screen are the properties owned by the City. The two that are yellow are City Hall and the pool campus and the tennis courts. This little tract in pink is Tract A, which was discussed previously. This is also owned by the City. The pink areas are what are zoned MS-2, and the standard for setbacks in MS-2 is that there are no rear yard setbacks required unless MS-2 is adjacent to Residential R-1. So, along the portion of the property where they are adjacent to an R-1 District, they have changed the massing of the building to withdraw it from that 25-foot requirement. On the areas of the site that are adjacent to MS-2, there is no rear yard setback, they actually alter the massing a little bit to extend it. Where they took away in one area to extend out to the other to make up for the difference. It does still meet the rear yard setback requirements, which are zero for MS-2 adjacent to MS-2. That deviation is no longer required.

Regarding building height, as I said, there are two standards in our code regarding height. One is the number of feet in height, and the other is the number of stories in height. I've been asked a couple of times, why both? I recently went to see the largest one-story building in the United States, which is 526 feet tall. But it's one story, and they build rockets inside of it at the Kennedy Space Center. So, the thought in planning is that you need to specify both height and stories when setting limits. So, our code has three stories and 45 feet as the base code requirement. It met the overall height in their revised plans, or actually showed slightly less than the 45 feet, but they still have that space divided up into four stories. Basically, they trimmed off a few feet on each one of those floors to make the overall height still fit the four stories. So, there's still a deviation required to allow that one additional story for the height. This also impacts density, the number of dwelling units that were in that additional story. Let's talk about that a little bit.

MINUTES OF THE PLANNING COMMISSION MEETING

March 26, 2018

The revised plan contains 27 fewer dwelling units and, therefore, increases the amount of lot area per dwelling in the calculation. The new unit count is 90 units, and the new density calculation is 807 feet per unit of lot area, or 53.98 units per acre. They're requesting a deviation to allow those 90 units, or approximately the square footage that they're showing. Of course, this is a preliminary site plan, so they're not tied to this exact floor plan. It can still flex a little bit in the number of units. That's why we're identifying both unit count and square footage, just to make sure that we don't need to come back and deal with these numbers again, between now and the final site plan. There's some additional ground floor space that's either to be utilized by the commercial tenants on the ground floor, additional storage for those businesses, or tenants as storage spaces. So, we've identified that as appurtenant ground floor space, allowing for a little bit of flexibility since they still haven't identified that space to use one way or the other.

There was a minor calculation error in the overall square footage of the lot in one of the previous versions. That's because we accidentally counted Tract A towards the land area of the development. We subtracted that out of the calculations and they've been re-run.

In your packet there's a density table that shows you how this specific density stacks up against other existing developments in similar zoning districts in the city of Mission, or in the downtown zoning district designation. It also compares this project to the zoning densities of the other current apartment construction going on in and around Johnson County, specifically highlighting projects in downtown Overland Park.

Staff reviewed the project again to make sure the other deviations had been taken care of and are no longer necessary. We went through the findings again and highlighted the exact findings that were being made for this case. We do have a recommendation for you tonight. Conditions 1, 2 - estimate in feet only - 4, 5, 6 7 and 10, from the Planning Commission's recommendation of December 18, 2017, have been withdrawn as they are now unnecessary. It is the opinion of staff that the proposed development, as revised, conforms with the Comprehensive Plan, meets the overall intent of the MS-2 zoning district, and complies with the required findings for section 405.090 and 440.160. Therefore, staff recommends the Planning Commission adopt the findings of fact contained in the staff report and recommend approval of the preliminary site development plan for this case to the City Council, with five conditions. The first two conditions relate to the deviations that are still required. The first one is approval of the requested deviation to height, to a maximum building height for mixed use. The second is approval of the requested deviation to waive the minimum lot area per dwelling unit to allow for the proposed design of 90 units, or 92,896 square feet of residential development and appurtenant ground floor space in a mixed-used building. The third and fourth conditions relate to the need to finalize some of the traffic studies and stormwater drainage reports, especially in light of the changes. So, a revised final traffic study must be submitted for review with the final site plan application. The appropriate data, text, maps, drawings and tables must be included per the Olsson Associates review comments dated September 20, 2017 and attached to this report. Staff reserves

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the right to provide additional comments based on those new studies, or stipulations based on those to address traffic, circulation, ADA, storm drainage, and floodplain related issues. Fifth, there is a condition that came up through some of the public comments made at the Planning Commission hearing pertaining to light pollution. We carried that condition over to our recommendation tonight. It states that light pollution must be addressed to the satisfaction of staff before construction can begin. That concludes staff's report.

Chairman. Lee: Any questions? I assume the applicant is here.

Mr. Troppito: Pete, I assume, just for the record, that you're contending that this application meets the intent of the Comprehensive Plan, it meets all the zoning and code requirements?

Mr. Heaven: Yes, it does.

Mr. Troppito: One of the issues that was an original concern to me was hexavalent chromium in the building products. This is a question for the developer. I'd like you to state for the record that it has been resolved, and no other building materials to be used on this project contain hexavalent chromium. Besides shaking your head, would you confirm that for the record?

Christian Arnold, Applicant, appeared before the Planning Commission and made the following comments:

Mr. Arnold: Sure. We did investigate that product, and that product cut sheet that was submitted previously was for a residential product. A product that we would propose is a commercial product, so the safety data sheet will be submitted to the City. That product that you referenced is not in that at all.

Mr. Troppito: Thank you. One other question for Danielle. Recommendation - it's the last one. Light pollution must be addressed to the satisfaction of staff before construction can begin. I'll just state, I have a problem with that, in the sense that light pollution has been a major concern. The problem is it pushes it down the line to staff, and possibly an unknown staff member that we have no experience with. Why would this not be phrased to require the satisfaction of the Planning Commission, rather than staff?

Ms. Sitzman: It can certainly be rephrased that way. I think the element of allowing additional time to resolve it is because lighting and light levels is not a detail that is normally presented as part of a preliminary site plan. There would be a photometric study required at the time of a final site plan, and there are standards about foot candles, etc., that any staff would check at that point. But we could certainly reword that condition to say, "to the Planning Commission's satisfaction," or "at time of final site plan." That would be appropriate.

Mr. Troppito: Thank you.

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Ms. Dukelow: I was going to ask Mr. Heaven for clarification on the, the plan that was remanded back to the Planning Commission. The plan that we previously recommended to City Council for approval, if I'm not mistaken, was the plan prior to a current plan that we are reviewing.

Mr. Heaven: That is correct. Yes.

Ms. Dukelow: That was the plan that we had seen in January, that was dated 11/26/17. Is that accurate?

Mr. Heaven: Yes.

Ms. Dukelow: Thank you. So, with regards to light pollution, I understand the photometric plan requirement - and this may be a question that we wait; this may be more appropriate for the applicant. I know that in previous meetings, the Commission has expressed concern about the headlights shining across the creek from the back parking area. I know that this is something that doesn't appear to have been addressed in this particular rendition of the plan. I just want to bring that up and make sure we address that through the course of this meeting.

Mr. Troppito: That was part of my concern.

Chairman Lee: Any other questions or comments?

Ms. Dukelow: This is probably a question for the applicant. I'm curious as to whether or not there will be bike storage for the residents.

Mr. Arnold: I can answer two of those questions at the same time. One, when we presented last time, this issue came up extensively at the City Council meeting. Once we looked at the topography of the site, the site is actually about 20 feet below the houses over there. So, we did a section study that was presented at the last meeting and showed that the tops of the houses were about in line with the top of the building because it is so far down. I think that has alleviated some of the concerns with headlights because they were so far down. Also, because we no longer have the parking lot pushed right up to the parking line - we're actually back six feet, which allows us to plant more vegetation along the back of the parcel, as well. So, when we last met, we said we were going to address these issues as we move through the process, and we have addressed these issues.

Bike storage? Yes. Because the first level is largely parking, there's ample storage for residents, as well as general bike storage. There's lots of space on the ground floor.

Chairman Lee: At this time, we will entertain a motion.

Mr. Braden: Mr. Chair, we have reconsidered the proposed height, density, and setback deviations within the Code as requested by the City Council, as well as the elimination of some of the originally requested deviations, and I believe the project should be returned to the City Council with our recommendation of approval. I therefore move we

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adopt the suggested findings of fact and recommendations of Staff as contained in the staff report and recommend **approval** of the Preliminary Site Development Plan for Case # 17-08 Martway Mixed Use to the City Council with the following stipulations, as amended:

- 1) Approval of the requested deviation to height to allow a maximum building height of four (4) stories.
- 2) Approval of the requested deviation to waive the minimum lot area per dwelling unit to allow for the proposed design of 90 units or 92,896 square feet of residential development and appurtenant ground floor space in a mixed-use building.
- 3) A revised final traffic study and final stormwater drainage designs must be submitted for review with the final site plan application. The appropriate data, text, maps, drawings and tables must be included per the Olsson Associates review comments dated September 20, 2017 and attached to this report.
- 4) Staff shall have the right to provide additional comments or stipulations on development plans until all traffic, circulation, ADA, storm drainage, and floodplain related issues have been satisfactorily addressed.
- 5) Light pollution must be addressed to the satisfaction of Planning Commission upon submittal of the final site development plan.

Mr. Troppito: Second.

The vote on the motion was taken (8-0). **The motion to approve this application carried.**

Case # 17-11 Preliminary & Final Site Plan-Tidal Wave Auto Wash-Block Real Estate - Public Hearing

Ms. Sitzman: Also with us tonight is Chris Cline of Core Design. Chris has been working with us for many years. He is our on-call architect that helps us perform our form-based code reviews. I asked him to give you a quick refresher on the Form Based Code since we have several new members since the last time we had an application, which was four years ago. I know the staff covers much of the same information, but I thought it would be good to have a quick refresher from Chris. He is also here to answer any questions as we go through this process.

Chris Cline, on-call Architect for the City of Mission, appeared before the Planning Commission and made the following comments:

Mr. Cline: We've been working with the City of Mission with the Form Based Code since the beginning of developing the code. I wanted to take a minute to take you back to what went into the code and how we've been applying that code throughout the West Gateway District.

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The West Gateway District is from Metcalf on the west side of town, basically from Shawnee Mission Parkway up to about Foxridge/54th Street. It's about 230 acres or so of development there. There are three things I want to touch on: The goals that were developed for creation of the Form Based Code, what the planning process was in creating the code and putting it in place, and then, some frequently-asked questions that get asked from time to time.

The goals for the code were to engage the community in the process, and create a form-based code that was consistent with the City's vision plan. The City had adopted a vision plan for this area similar to Vision Metcalf. This was done prior to Vision Metcalf. The same consultant actually worked on it. That vision called for engaging the community. There were lots of large charrettes and workshop meetings where folks were shown pictures of more of a suburban-type development that's out there today, or something that's a little more pedestrian-friendly and brings the buildings right up to the street. There was a strong movement and input and direction received from the community that they wanted something different in this part of town. They wanted something that wasn't as suburban, they wanted it urban, they wanted buildings up to the street, and to create a strong sense of streetscape and public realm. That's what we heard from engaging the community. Staying one step ahead was, if that's the type of development pattern that the City wanted to achieve in this area, how can we do that in a way that helped to guide developers to bring projects to the City that fit those guidelines? So, staying a step ahead was, let's put a code in place that really prescribed the type of development that's different than what's out there today, and hopefully encourage developers to bring projects that they could get approved faster. So, it's a proactive approach, and it's spelled out in the code.

In making the vision a reality, there were a lot of good ideas that were in the vision plan, but it didn't have all the details it needed to actually implement. We had to work through the details of taking those visions and turning it into a code that you could implement. In that process, we had 30-plus people on our advisory committee. It represented homeowners, property owners, commercial brokers, elected officials and community residents. A 10-month process. There were six meetings with the steering committee, lots of questions and things occurring throughout that process. We had three public meetings where folks came to look at the code as it was being developed and ask questions. Had two open house forums in March and July of 2007. And then, it went through a process where we got City Council and the Planning Commission together for a work session to walk through the bones of the plan, and then, took it to public hearings and adoption in October 2007. Really, took that vision plan, encouraging good projects by making them easier.

So, what that means is, in a lot of cases, a developer will bring a project and negotiate with staff on lots of things in a planned district project. And then, there are a lot of details that get worked out with staff, but sometimes the Planning Commission wants to talk about specific things in the project and make things better or different. Sometimes it

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gets cumbersome. The intent for the Form Based Code was to put all of that work at the front end and hopefully bring projects before the Planning Commission that have already been through that process. If they receive a passing score, then it's up to the Planning Commission to decide, well, if they followed the rules, should we approve this plan? And if you approve it, it doesn't have to go to City Council. They can immediately go into final development and construction. So, it alleviates the process a little bit, but it takes a little more work on the front end.

There were some questions asked about this. Will infrastructure serve it? At the time, we were talking about adding density to this district, different than what's out there today. There's a lot of low-story buildings. If we added more density, would the infrastructure that's out there be able to support it? We did that study as part of the Form Based Code, and most of the infrastructure can't support that. There were some things that were proposed and put into the CIP.

Can the market support it? There was an extensive market analysis done that looked to the future and what the feasibility and projections were for new development. The good thing is, Mission is well positioned for future growth. We did study lots of different areas for different density development, types of development, to make sure that the code recommendations were realistic.

Is the code flexible? Prior to the code, I think there were a number of commercial properties that back up to some of the residential properties up on the north end of the district, primarily. The experience there has been that several commercial developments have come in; I believe residents would file a protest petition, there would be a big fight, a huge meeting at Planning Commission or City Council, and it was very difficult to try to work through that process. So, in development of the code and engaging the residents, we said, look, if we put this new code in place and put all these rules in place, if a developer follows those rules, should they be able to go ahead and get their project approved without a public hearing? So, if we looked through everything and scored it, and they get a passing score and the Planning Commission approves it, they're not rezoning the project. They're just getting their plan approved. Is that okay? And they said yes. If they follow those guidelines and give us a project like what we think, then yes, they were supportive of that. The City was supportive of it. Basically, it was put in as an overlay district, so it does not require someone to rezone the property. Therefore, there doesn't have to be a public hearing. So, if they get a passing score, they don't have to have a public hearing for a rezoning.

Mr. Troppito: Excuse me. You referenced "scores" several times. What's the score? Ninety? Eighty? Seventy?

Mr. Cline: I'll get to that. Existing businesses can still do business in the district, and we've had several cases where folks that have a non-conforming building can still make improvements to their building and continue to do business in the district. And then, developers, again, it avoids that protest petition process. It allows for a variety of

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building types and uses. There are architectural and site design opportunities, and development phasing possibilities. This is one example of a larger site. You can see where access points are shown in those dark triangles. Buildings will be placed up next to the street. Surface parking could be placed behind. And then, eventually, more buildings could be built and that surface parking could become structured parking. So, there are opportunities in there for larger properties and other properties to phase things in over time, as well.

And then, when we talk about a scoring system, what we tried to do was to break things down since these were a new set of rules. We wanted to break it down so developers understood how to design their projects so that it fit the code requirements. There are a number of steps that you have to go through to look at each area -- the sector plan, the regulating plan, the building types, the setbacks, the early guidelines -- and then, looking at the building themselves, and the streetscape improvements. We put a score to each one of those so that, at the end of the day, if they submit the plans and they didn't get a passing score, instead of just saying, "You didn't pass, here's a list of 25 things that you didn't pass for," and they didn't really know, well, how important were some of these, and how not-important were other ones? So, we tried to put some kind of system in place that at least showed you what the relative level of importance was for each one of those items. They kind of go in a hierarchy fashion. You basically go through a four-step process. You look at the sector - in this case, that's Rock Creek. You look at the block in that area, which tells you what types of buildings are allowed in that block. You look at the building types themselves and it gives you some additional information about that building type. And then, you go through the architectural guidelines and the urban guidelines, which tell you where to place that building, how close to the street. And then, some of the streetscape improvements that need to be put in.

So, there is an extensive amount of information to get put in these plans, and there's usually a back-and-forth that happens with any applicant, where they may submit plans initially that don't have as much information and they don't get a passing score, but we give them a full listing of where they missed points, and where they could do better, and how they can improve their score when they re-submit and we score it again, and eventually, bring it before the Planning Commission.

Here are some examples of that: A bank proposal that was placed away from the building and was surrounding by parking. Eventually had the building pulled right up to the street corner and put all parking back behind. The Mission Crossing site. This was an initial proposal where the buildings were internally-oriented, pulled away from the streets. You can see how, in the concepts, the buildings started to move to the street corners, and eventually became a plan that looks pretty close to this, where the buildings all had that strong relationship with the street. Then, you can see what some of the renderings look like, and then, I've got a shot here, under construction. The last one is Cornerstone Commons, the grocery store and restaurants there on the corner.

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And then, the little two-story building that's on the southeast corner of that particular site. Again, buildings address each one of the streets adjacent to parking on the inside.

The Form Based Code is kind of a new thing in the metro, and Mission was one of the first to put it in place. It was done in 2007, right at recession time. And even with all of that in place, there's been more economic development activity and development here in this part of Mission than anywhere else in Mission. There have been a number of projects that have come through - and you've seen some of them here - and followed the code and gotten approved.

So, thankfully, I've been able to help the City not only create the code, but to help implement it. I'd be happy to answer any questions.

Ms. Sitzman: Thank you. With that, I'll present the staff report in this specific case. This is Case #17-11, Tidal Wave Auto Wash, a preliminary and final site development plan. The combination of preliminary and final plans is required so that all of the details for a full score are presented and can be awarded. This is how we do all of our Form Based Code cases. We can do this with applications outside of the District, but you have told us in the past that you find that a little overwhelming. So, for other areas of town, other developments like the Martway Mixed Use application, you'll see a preliminary site plan go through the entire process, and then come back to do a final site plan. In this case, they are combined so we can get all the level of detail necessary to get a full picture of the project and complete the scoring process.

The property is the site of a former gas station and is currently zoned CP-2B Planned Retail and Service District. It's located in Block Y. As Chris explained, the Form Based Code divides all of the land in the district into separate blocks, so you will be referencing Block Y for this one. It's also located in the Johnson County Design Guidelines district. This site is about three-quarters of an acre in size. The proposed car wash is an allowed use in the underlying zoning district.

In the past, some of the other Form Based Code developments, like the Mission Crossing project, made use of the fact that this overlay zone allows for cumulative zoning and additional use flexibility. So, in the example of Mission Crossing, that property was not zoned for those uses originally. But, because they had a Form Based Code compliant project, the overlay zone allowed for those other uses to happen without the need for a rezoning process. In this case, the underlying zoning would allow a car wash.

The regulating plan for this particular sector in the Form Based Code identifies this property as part of Block Y where ground-level retail uses facing Johnson Drive are important. This is not in the Downtown District of Johnson Drive; however it does continue to reinforce that retail is important along that street. There is an extension of Walmer Street shown in the Sector Plan. The future extension of Walmer Street between Block Y and Z would be triggered at the time that Block Z actually

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redeveloped. So, as that is not happening at this time, no proposed extension of Walmer Street is included in this proposal.

Both Block Y and Block Z are where the Mission West Shopping Center currently is with retail along its northern side. The Form Based Code is a long-range plan that envisions the eventual redevelopment of all of that area voluntarily by the owners of that property. The intent is to prepare for improvements to the street network, when that would eventually happen. Currently, that shopping center is in a really large block which is difficult to walk around on foot if you're a pedestrian. A goal of the future road extensions that are shown in the Form Based Code are really to make blocks smaller, more easy to navigate on foot by pedestrians. So, in summary, the Walmer Street extension not included in this plan, not required of this plan, but just noted as an element that's included for the long-range utility and usefulness of the district.

There are several building types that would be allowed in Block Y, anything from a townhouse development to a mid-rise building, a mid-rise building being something that's at least two stories tall. A parking structure-type building, which is really not just parking for cars, but envisions parking interior with retail wrapped around it. Also, low-rise buildings are currently allowed in any sector as long as the lot size of the development is less than a half acre. That gives additional flexibility for development of really small lots where it really wouldn't be feasible to do much of a large-scale development. As I said, this lot is larger than a half acre; it's about three-quarters of an acre. So, it does have to have a component of at least mid-rise development in it. For its lot size, it is allowed to have 60 percent of the gross square footage of development to be low-rise building type, but at least 40 percent of the development has to be something that's mid-rise, or larger building type.

The Comprehensive Plan helped inform the development of the Form Based Code. The Form Based Code is compliant with the Comprehensive Plan and encourages mixed-use median density redevelopment in this area. That would include housing, limited office, and medium-density retail in this situation.

Chris said that there is a score that is given to Form Based Code projects by staff. His review memo discusses how many points were available and how many points the project garnered through its design. As he said, there was a list of components that the scoring walks through, and they are hierarchically labeled on this list, number 1 being the most important, and having the most points required in order to score a passing grade at the end. The reason that this is done is because some elements of design are more important and have more impact on the public realm. The architecture of your building may not have as big an impact on what the public experiences near your development as where the building is placed on the lot does. So, things like where the building is placed on the lot is listed up front and the most key components of the scoring system. A passing score is a 90 out of 100 points. There are some prerequisite levels that go with this score, so you have to at least get all of the points in those early

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categories. Otherwise, it's impossible to get to a 90. The later categories - 4, 5 and 6 on this list - are definitely points there to be had, but it's not as critical that an application receive all of the points in those categories. They could still get to 90 points without doing every thing called out there.

In the memo that follows this, you'll see that our scoring on this application came up with 60 points, which is not the 90 points required to receive staff's endorsement at this point. It fails in several critical prerequisite steps, which is why it could not get to that 90-point threshold. This is largely due to the fact that all of the proposed buildings fail to meet the required building type standards. So, they have a mix of a two-story building and a one-story building in their proposal. However, the one-story building is still shorter in height than it needs to be to meet the Form Based Code standard for a single-story building.

The north building was designed around the footprint of a car, and we had trouble deciding what kind of building type that it should be evaluated as. We didn't feel that a building that was only the depth of a vehicle was truly going to have a lasting value as a retail space. The code says a certain depth of space would be needed for reuse of that building as retail in the future. A goal of the Form Based Code is for reuse of these buildings over time and having flexibility to allow that. Staff's feeling was that to have a building footprint solely designed around the footprint of one car was difficult to justify as meeting the intent of the code for a mid-rise building type.

Therefore, failing that we looked at other building types to see what it might resemble more closely. It was a poor fit for a parking structure building type in the code also, but we went with that because it's the closest thing to a building designed around automobile in the building types. Of course, we let the applicant know that there were concerns about the design of their building which would affect their score. Like I said, we tried our best to score it with what they had submitted to us after staff comments were given to them.

There were other points that were not attained because the submittal was missing elements of the proposal, specifically things that would typically be included in a site plan such as landscape, streetscape, or the accessory structures. Things like trash enclosures, planting plans, street lights, benches - all of the elements that go into the streetscape plan.

As I said, the proposed development does include two buildings. One building is a two-story 6,699 square foot building. The other one is a one-story 3,200 square foot building. That works out to about 68 percent of the buildings being a two-story and 32 percent being a one-story, which meets the Form Based Code requirement. However, as I said, we had difficulty determining that the two-story building was a mid-rise building type and truly compliant with the Form Based Code.

The ground floor of the northern building would contain parking stalls for vacuuming vehicles and some office space up above on the second floor. The applicant has

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indicated that the width of the northern building is sufficient to be used for retail space in the future if a car wash facility ceases. Again, the second story would be office and storage.

The Form Based Code says if there are not enough points earned within the prerequisite steps, we could stop review at that point. Staff feels that it's more important to give the applicant a chance to come before you tonight, so we went ahead and performed a review and scored the rest of their project so they could come with as much information as possible.

In our review of the exterior building materials we had some concerns about windows and doors not meeting the minimum of 60 percent requirement for storefronts. We also looked at some of the other exterior materials. They have proposed EIFS on the ground floor and upper floor of the northern building; 45 percent of the coverage of that space is EIFS. As you'll note, the Johnson Drive Design Guidelines actually put a limit on the amount of EIFS on building faces because it's a less-durable material. We certainly had concerns about how close to the ground it is located, where it can have a greater wear.

The development would utilize a surface parking lot located on the interior of the lot, behind the buildings, and would be accessed by two driveways. Basically, there is a one-way flow in and out through queuing up for the car wash tunnel, and then, circulating around the interior of the site, either for vacuuming bays or for parking for the office space, and then, existing in a one-way flow on the west side of the lot. There is an existing median along Johnson Drive that would need to be altered to allow inbound and outbound turning movements. There's also a median break interior to the site, so if you decide at the last minute you don't want to go through the car wash, there is a way to exit that queue. We've feel that the median break for getting out of the queue should be earlier in the flow, not after the pay kiosk.

Our traffic engineer, George Butler Associates, has looked at the site access, the vehicle queues, and the turning templates. They've also looked at sidewalks and the traffic study. They are generally satisfied with those designs. However, they do recommend moving the median break to earlier in the queue flow. Also, there were no turning movements provided for service vehicles, so it is unclear how trash and other service vehicles would maneuver through the site. If it's a one-way flow, they are going to be either coming in through the same areas that vehicles would be, or moving counter to the flow, which is not desirable.

A landscape plan detailing streetscape improvements was not submitted. Generally, we feel like there's sufficient width being allocated for the streetscape improvements in the five-foot sidewalk and a four-foot tree zone, which would be compliant. However, we were unable to check all the other details that we needed to check for the planting of street trees and street lights, benches and trash receptacles, and bike racks. As with other developments, those elements would be required to be constructed by the

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developer at the time that they do the project. Final placement and configuration of those elements must be confirmed before they could begin construction.

There would actually be a reduction in the impervious surface with redevelopment, so there is no stormwater treatment required at this time. The Sustainability Commission has not had a chance to review this application, so they've not made a recommendation to you. They have a separate scoring process that they go through. They have a sustainability checklist that they use, which would be a recommendation that would come to you from them.

Staff has included in the staff report suggested findings of fact, both for a preliminary and a final site plan. We feel that there are deficiencies in the site plan process, primarily due to absence of information. For example, the finding of fact that needs to be made for the final site plan has to do with landscaping and screening, which we were unable to make a determination on as the information was not provided. Also, we feel that because there was not a passing score achieved for the Form Based Code, that the findings that need to be made for consistency in good land planning and site engineering designs were also deficient.

According to Chapter 8 of the Form Based Code, applications are reviewed in that four-step process. They do need to comply with the requirements of the first two steps to automatically proceed. This is coming to you tonight without having met those prerequisites. You do have the authority to do the final review and approval of a Form Based Code application if it had garnered the 90-point score. This is what we would consider to be a non-compliant application, so it's back to you tonight for full review. The project as submitted fails to receive that passing score in the prerequisite steps. Staff feels that there are major flaws to the building types, and those should be addressed. And then, the minor supporting details should be provided for review as described.

Therefore, staff recommends the Planning Commission adopt the findings of fact contained in our staff report tonight and recommend denial of the preliminary and final site development plan for this case, for the Tidal Wave Auto Spa project. The applicant has requested to proceed with the meeting tonight with this failing score. They want to present their opinion on the project and its conformance to the code to you. You're certainly able to consider their opinion and consider making alternate findings of fact that you might determine based on what you've learned tonight. Included in your packet was some alternate motions that you could consider. Also, the applicant has actually provided a written statement, letting you know what they would be willing to agree to as conditions. If you were to take an action tonight to adopt alternate findings of fact and make a recommendation of approval, I would highly recommend that you do that with conditions, and consider those conditions provided by staff and the applicant. That concludes the staff report.

Chairman Lee: Thank you. Is the applicant here? Please introduce yourself.

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Paul Schepers, Attorney, Seigfreid Bingham, appeared before the Planning Commission and made the following comments:

Mr. Schepers: I technically represent the owners of the platted 6501 Johnson Drive, who are technically the applicants who have submitted the preliminary development plan for your consideration. With me is the principal owner of Block Real Estates Services, the owner of that site, Mr. Stephen Block, who is sitting here. I also am here representing the developer, Tidal Wave Auto Spa. From that organization is Thomas Wells, an independent consultant with a company called Keystone, which has been working with Tidal Wave to navigate our plan through the process. Also present is Marty Murphy, the project manager for Tidal Wave on this particular project. Also, the principal of Tidal Wave Kansas City, Petty Hardin, who will be taking over after I finish my remarks, to tell you in greater detail what our vision is for 6501 Johnson Drive.

I listened very carefully to Mr. Cline's recitation of the history and the creation of the Form Based Code, and I will be here to testify that I've practiced law for 36 years, and this is my first encounter with a Form Based Code process. I agree with Mr. Cline. It's a very unique overlay or addition to the zoning ordinances that I typically see in Kansas and Missouri. My research indicates - and I can't guarantee this - that Mission, Kansas, may be the only municipality in the whole state of Kansas that's adopted Form Based Code. Before I even make this statement, I want to assure you that my purpose here this evening is not to shake my fist and threaten to sue you, because that's the last thing that my client wants to happen. But, I would point out to you that there is no Kansas case which has held that a Form Based Code - and in particular, the way the Form Based Code has been applied to my client's application - is authorized by the Kansas Zoning Enabling Act. There's no case that holds that on its face or as applied, it's constitutional.

So, there are some questions with regard to the lawfulness of the Form Based Code for use to deny an application for development like the one that my client has been presenting to the City of Mission. But, I'm not here to tell you I'm going to sue you. I'm very hopeful that at the end of our presentation, you will look at what's there at 6501 Johnson Drive, and look at what's going to be there when Tidal Wave Auto Spa completes their project. And, in particular, I'd like you to look and take into account everything that Tidal Wave Auto Spa has done to try the best that they possibly could to bring this project within the spirit of the Form Based Code, if not the letter of the Form Based Code.

In addition to Mr. Hardin, who will be making some comments and explaining the project to you, I have a gentleman who I think some of you are familiar with, who has experience with the Form Based Code that I did not have. I brought Dave Olson on board our team because he certainly has experience with the Form Based Code, having represented the developer who successfully obtained approval of a development plan in the same West Gateway area as is covered by the Form Based Code. I believe that Mr.

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Olson's knowledge and experience with the Form Based Code entitled him to create a different Form Based Code scorecard than the one that Mr. Cline has created for our project. And at the close of this presentation, Mr. Olson will walk you through his own Form Based Code scorecard, which I'm pleased to tell you that Mr. Olson thought we had a 90 or a 91.

Again, the main area of disagreement, the main driving force behind the discrepancy with the grade we received from Mr. Cline, and the grade Mr. Olson gave us in his analysis of our compliance with the Form Based Code, rests virtually entirely with the two structures that are going to be located on the site. We received a failing Form Based Code score from Mr. Cline because he thinks that our two-story building that is going to front Johnson Drive is a parking garage. And if you read the Form Based Code, the definition of what a parking garage is, the first line states: *Parking structures or buildings which are specifically designed to store vehicles*. Not surprising. That's what I would have said a parking garage is. That's not what our two-story building is, at all. When you store your vehicle in a parking garage, you park it there, you get out, you go someplace, and then you come back and get in your car and drive away. That's not what's happening on the bottom floor of this two-story building. What's happening on the bottom floor of the two-story building is an extension of our retail operation. Because when you come into the Tidal Wave car wash, as part of your purchase price, you receive the right to use the vacuum cleaners, which everybody uses after they wash their cars.

We have designed the two-story building so that the vacuum cleaners will be on the first floor in a series of areas where you can pull in and vacuum your car, but you're not storing your car there. You're vacuuming it so it can be clean when you finally exit our facility. So, what we consider that building to be is a combination of offices on the top floor, and an extension of our retail operation on the bottom floor, which makes it a mid-rise structure. And if you grade that structure in accordance with the criteria you find in the code for mid-rise structures instead of the parking garage that's imaginary, you're going to get real close to a passing score. Because the main reason we failed the Form Based Code scorecard that Mr. Cline prepared is because our building isn't 40 foot deep. And parking garages under the Form Based Code are required to be 40 feet deep. There's no such requirement for a mid-rise structure. And our mid-rise structure is going to be plenty deep. If someday Title Wave goes off into the sunset and leaves that building there so that that bottom floor can be used for retail purposes, repurposed, if you will, for retail purposes, and if the Form Based Code had desired there to be some minimum depth of a mid-rise structure, why isn't it in there? It's not in there.

With respect to the car wash tunnel. Obviously, the Form Based Code doesn't have a couple pages that tell you what the criteria are in order to put an acceptable car wash tunnel on a site. There isn't any way to classify the car wash tunnel. If we were to classify it - as Mr. Cline has - as a low-rise structure, it still comes darn close to meeting the requirements in the Form Based Code. Not counting the cupola that's on top, which

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I think you'll find very attractive, the height of that is about 21 feet. So, we're five foot short of what Mr. Cline says the height of the car wash tunnel ought to be. What's the purpose of the 26-foot car wash tunnel compared to a 21-foot car wash tunnel? There's no purpose to be served by that. The City of Mission isn't in any way benefitted by that. In fact, if Tidal Wave leaves, they're going to take all the stuff in that car wash tunnel and it's just going to be a shell. And the next person that comes along and tries to develop that site is going to tear it down. So, it isn't as if there's a reason why we need to be concerned about whether the car wash tunnel complies with the low rise building structure. I suppose if somebody decided they wanted to use that shell and make it some sort of retail operation, they could do that, and they could do it if it's 21 feet tall or 26 feet tall.

So, the Form Based Code, at least in our experience - and I'm not trying to cast aspersions on Mr. Cline, or anybody that had anything to do with the creation of the Form Based Code - but I'm here to guarantee you, it hasn't made this process easier for us. The Tidal Wave Auto Spa company is nationwide, and Petty Hardin and Thomas Wells have been before boards like yourself all over the country, and they've never encountered anything like a Form Based Code. Mr. Block has been in the real estate development business a long time. He's never encountered anything like this. And, I hate to say it, but it's based upon more of an imaginary vision of what somebody decided they thought the city of Mission ought to look like than the real-life situation that's out there.

I want to emphasize that despite my reservations about the enforceability, the wisdom, and the rationale behind the Form Based Code, we did everything we were told we needed to do to try and meet the Form Based Code requirements. Mr. Olson will be the last person to speak on our behalf, and he will present to you what he views to be the proper way to grade our project under the Form Based Code, and he'll draw upon his understanding and experience of the Form Based Code that he gained when working on that development that's just diagonally southwest of 6501 Johnson Drive.

When Mr. Block was approached by Tidal Wave, he was ecstatic that someone would be interested in buying this old abandoned gas station site that he owned, and he was convinced that when this development of the Title Wave Auto Spa was presented to the Planning Commission, and ultimately the City Council, they would see it the same way we do. Let me start by showing you where our site is. It's outlined in purple there. It might be easier to orient yourself if you were to glance at the color aerial photos I brought.

That little red circle with the point on it is 6501 Johnson Drive. Let's go to slides 2 and 3. This is the front view of the existing structure. This is the rear view. This is the drop-off that is directly behind the site. That fence that I'm standing next to is the southern boundary of 6501 Johnson Drive. And I'm here to tell you, it's not easy to walk up that grassy slope. From the cement ground of 6501 Johnson Drive down to here is 15 feet.

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That 15-foot slope is contained in less than 6 feet of width. So, we've got a drop-off that's very, very dramatic, and that's going to become important when I explain to you the process that we've gone through so far to try to bring our project in as close to compliance with the Form Based Code as possible.

Go back to slide #2. This is what's there now. I'm old enough to remember when that was a Vicker's station. I grew up in Roeland Park, grew up driving up and down Johnson Drive. Most recently when we had a legitimate operator at that site, who was actually paying rent it was a Valero. That operation that was legit failed on Mr. Block in November 2015. We brought in a new operator to run that business. He had somewhat of a creative business plan that didn't really include paying rent. So, he operated it until April 2017 when Mr. Block finally put his foot down and said he had to go. No legitimate operator of a gas station and convenience store is interested in this site. The only real, viable use for this particular site, we are convinced, is the Tidal Wave Auto Spa that we're asking you to approve the development of today.

So, given what's there and what we think ought to be there with this two-story building on the front of Johnson Drive, winding around to the Taj Mahal of car wash tunnels, we were really thinking that when we showed up here and said we've got the greatest thing we could imagine to be done with this site, we were expecting to be patted on the back. That's not what happened. When we first showed up and were talking to staff, we had a car wash tunnel here with pretty nice landscaping and a way to get in and out, outdoor vacuums, etc. At that point, we were acquainted with the Form Based Code. And we were told, well, you're really not going to be allowed to do that because under the Form Based Code, we're going to need a structure, could have office, or retail use in that structure, but we had to have a building that fronts Johnson Drive. And if you could come up with a building that meets the Form Based Code - which we meant mid-rise structure - if you come up with a building and had it constructed on Johnson Drive frontage with a sidewalk there, for pedestrian access that isn't going to be there for years - If you could come up with this building, we think you're fine, and you can pass the Form Based Code, and we'll get you all developed, and everybody will live happily ever happy. Well, we did that. Drew up plans, paid a lot of money for architects to draw up plans for this two-story structure.

And, by the way, I should mention, the top floor of this structure has already been committed by Tidal Wave Auto Spa to be the offices for the Midwest region of Tidal Wave Auto Spa, a nationwide company. So, that second floor is going to be occupied from day one of the completion of this building. We couldn't come up with any kind of retail operator that we thought would be interested in this bottom floor. So, the idea was, well, you know, the vacuum cleaning part of our operation is retail. So, what we're going to do is have the greatest spot you could pull your car in and vacuum it out after we've finished cleaning it. There are 10 stalls for cars to come in to be vacuumed after they're finished. Petty will show the traffic flow that gets cars through the parking, through the site, through the car wash tunnel, and into those stalls. They don't have to put a coin in

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them like the old-fashioned ones. It is part of what you get for the fee to have your car washed. So, we see that as retail. So, it's combination office and retail, and it sure as heck is a lot more of a combination office and retail than it is a parking garage.

Then I think, as Mr. Olson will elaborate, we've met all FBC requirements with respect to that. This car wash tunnel, if you view it as a low-rise structure, is technically six feet shorter than what Mr. Cline thinks it ought to be, but it's really more of an accessory to the retail operations being conducted there. It's full of state-of-the-art equipment. It's the greenest car wash in the United States, using almost all recycled water, and we're very proud of it. We think if it's viewed as an accessory structure, it's not subject to being graded under the Form Based Code. If you wanted to view it as a low-rise structure, it's five feet shorter than it maybe ought to be, maybe lose a point there, two or three points there - I don't know. But it's not going to make any difference, now or in the future, whether that's 21 feet tall or 26 feet tall.

So, we do this, and we think we've got it. We present it to the Planning staff, and what do we hear next? "Yes, you're getting close, but by the way, the Form Based Code calls for the extension of Walmer Street to go across Johnson Drive, and in order for you to be allowed to proceed with your plan, you're going to have to lop off 10-12 feet of the eastern edge of the site, because that's where Walmer is going to go." And if you look at the aerial photo, you'll see that if you extend Walmer in a straight line, you're running right through the eastern portion of our site. That's when I raised my hand and I called Pete, and said, "Pete, you can't do that. You've taken my site. You're condemning me. If you're going to do that, you're going to pay me for the whole thing, because there is no feasible use." Tidal Wave is gone. This Tidal Wave development is using virtually every square inch of this three-quarter-acre site in order to conduct an efficient business. When we were hit with carving a bunch of land and giving it up for an extension of Walmer, that's when I did have to shake my fist and say, "Pete, we can't do that. That kills this deal. And, you've taken my property."

So, after a period of time, Pete and the staff got back to us and said, "We don't think you need that. We'll run Walmer, not across your site; we'll veer it off to the east." I'm not sure how that happens, etc. Then go to the third slide. How are you going to get it down there to a level where it can go down to Martway? And, by the way, there are a couple buildings in between that we're going to have to tear down in order to get Walmer over to Martway. So, is that ever going to happen? I don't think so. I think it's cost prohibitive. Is it going to happen in my lifetime? Surely not. But, that's somebody else's problem now because we've agreed with the City - and the City's agreed with us, I should say - that Walmer's not an impediment to our development.

Now, we think we've got it. We come back and submit our preliminary development plan, thinking that we've met what they told us we needed to do to comply with the Form Based Code, and then we got a scorecard back that said we got a 57. It's like, what the heck? And reading that scorecard, this part hasn't changed. We went from a 57 to a 60

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because of some tangential things. But we can't get a 90 as long as you're grading this as a parking garage. Because there's no way to put it out another 10 feet without destroying the whole traffic flow that you need to conduct a car wash operation.

So, when we got that 57 score back, we contacted Mr. Heaven and staff and said, "We give up. There's no way we're going to convince you that we should get a 90 Form Based Code." And we're told, and I think Danielle agrees, that if we can't make the Form Based Code, we can't use the expedited procedure in order to get approved without going before City Council. We said fine. Process this as you would any other preliminary development plan that's subject to the Form Based Code. Let's have our day before the Planning Commission, where we explain what we want to do, why it's a mystery to us that the City of Mission isn't jumping for joy about what we're trying to do. And then, we'll let City Council decide after we hopefully get Planning Commission approval of our preliminary development plan.

On the other hand, in the package we received along with our very disappointing Form Based Code grade card were several things that Danielle and her office thought we also needed to do. We then put together an enhanced supplement preliminary development plan that addressed many of those items raised. Other than, obviously, the Form Based Code scores that were attached to those two buildings, which made it impossible for us to get a passing grade there.

In addition - and I apologize for the late agreement to these things - again, this is apart from the Form Based Code provisions that Mr. Cline has applied to our buildings. We went together and came up with a list of conditions that we would be willing to meet in order to bring ourselves closer to compliance with the spirit of the Form Based Code, and which addressed many of the non-Form Based Code comments that we received from City staff. If you were to approve our preliminary development plan subject to these conditions, allow us to go forward in the normal process with the City Council, we're committed to satisfying these conditions.

So, we haven't thrown up our hands and said -- we did what we thought we could, what we were initially told we needed to do, to satisfy the Form Based Code. And I believe that the final development plans, if you look at the architectural plans and our site plan and some other information that Mr. Hardin is going to show you, I hope you'll come to the conclusion that this is pretty darn close to a totally-compliant Form Based Code development, but we're not asking for the expedited process. All we're asking is for you to approve the preliminary development plan and pass that on to City Council with your approval. Rest assured you're fully empowered to approve our preliminary development plan and pass it on to the City Council, despite what Mr. Cline's Form Based Code says we achieved. I believe you'll find Mr. Olson's comments enlightening. It boils down to, that's not a parking garage.

In closing, let me point out a couple of things. If we make that building 40 feet deep, the project is dead. You can't operate the car wash with the traffic flow if we make that thing

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40 feet deep. It doesn't help the first floor area to be developed in the future, and it certainly doesn't have any impact on the new Tidal Wave Auto Spa division headquarters on the second floor. I think you're going to be very impressed with the aesthetics of what you're going to see when we show you what this development is going to look like. Our plan is going to bring much-needed revenue to the city of Mission. You saw the picture of what's there. Look at the assessed property value. You can look at what's going to be there. You can pretty well project the assessed property value. The property taxes are going up, and a lot of that is going into the City of Mission's coffers. Same thing with sales tax. Right now, you're getting zero. But as I read the sales tax statutes, you're going to get 1.6-plus cents of every dollar that's spent by someone going through the car wash. Again, we're bringing Tidal Wave divisional headquarters to Mission, Kansas, on Day 1. We're not asking for a penny of incentives. We're not asking for any property tax breaks. We're not asking for help to pay for any of this, except there is a mention in our conditions, which is common, that the City should pay for the electricity and controls that are necessary to operate the street lights that are going to go along that sidewalk between Johnson Drive and our two-story building. There won't be any need for litigation if we can get approval.

Most important, I would urge you to look at what is an extremely detailed traffic study that was performed by BHC Rhodes, who is probably the most reputable survey firm here in the Kansas City area. They have stated, in no uncertain terms, that our car wash operation is not going to have any kind of negative impact on traffic going up and down Johnson Drive.

At this point, I will turn it over to Petty, who is going to explain all the marvelous features that will be associated with the Tidal Wave car wash development, which we're asking you with great respect and humility to approve tonight.

Chairman Lee: Thank you.

Mr. Troppito: Is it appropriate to ask some questions now? I'm just wondering, you referred several times to this being the Midwest headquarters. How many jobs, and how many new jobs?

Mr. Schepers: There's not that many jobs in the car wash tunnel. It's a highly-automated operation. There will be a couple people working there. That's really a question for Mr. Hardin.

Petty Hardin appeared before the Planning Commission and made the following comments:

Mr. Hardin: We'll have 10 to 12 full-time employees at this particular location.

Mr. Troppito: Who is going to be the owner of this after approval? You'll be acquiring the land?

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Mr. Murphy: Yes, sir. I'll be purchasing the land and am the principal owner of the car wash. Eighty-one percent, to be exact.

Mr. Troppito: And all the requisite environmental studies have already been done on that?

Mr. Schepers: Well, it's an old gas station, so there's going to be --

Mr. Troppito: That's why I'm asking.

Mr. Schepers: The tanks are going to have to go. We're not asking for any money to help pay for that. That's something that's going to have to happen.

Mr. Troppito: It hasn't happened yet.

Mr. Schepers: It hasn't happened yet.

Mr. Hardin: Upon approval of this, Mr. Block will be taking the tanks out at his expense.

Mr. Schepers: And that's probably a good thing, to get rid of them. Thank you very much for your attention.

Mr. Hardin: Thank you for hearing us tonight. I appreciate your time, and respect it, for sure. I'll just go through a few slides and tell you about who we are, what we do, where we started. I'll be as brief as possible because I know others want to speak, and I also see that there's other business owners in town that might want to speak at the public hearing. We first began washing cars out of Atlanta, Georgia, in 2004. We've been in business about 15 years. This location would be our 37th location. We have six other properties in the Kansas City metro area under contract and in various stages of development. We definitely want to build more locations, and we're excited about coming to Mission, which has been identified as having a good bit of opportunity. In 2009, we were voted Business of the Year by the Small Business Association. We're very serious about what we do.

A little bit about car washes of this magnitude. This concept is referred to as a spray-wash on the agenda there. It's not a self-service spray car wash. It's not a full-service detail wash, where you hand your keys over to folks and they detail the inside. The customer stays in possession of their vehicle. We've got four attendants on site most of the time. If it's a slow day, we could get down to as few as two. The customer stays in the vehicle. We assist with the payment process. They load their own vehicle onto a conveyor, keep their vehicle in neutral, and it pushes the customer through the tunnel. They come out clean and dry in roughly three minutes. As they exit the facility, they can opt to use our self-serve vacuum system, which is not individual canister vacuums. It's a centralized unit powered by a 25 horsepower motor, which we have in special enclosures that are not visible, and you're not able to hear them as well, the way we designed it. The customers have the option of whether they would like to vacuum their vehicle, or not.

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Like Paul said, we would have regional headquarters upstairs. We thought about the aspect of retail and just felt like, knowing what's on the market, we didn't want to compete in that space. We're not landlords, we don't want to be, but in the effort to satisfy a Form Based Code in the city and the vision to build a two-story building, to make use of that ourselves we felt was the best thing to do.

There's roughly 27,000 of these type of conveyor car washes in the country. There's an industry magazine that rates us every so often, called *Modern Car Care*. We've consistently been in the top 50 car washes over the year. It's something we're proud of. We're very serious about operating clean, friendly environments. We have a similar vision as Chick-fil-a as far as quality of service that we offer, the friendly staff, etc. Our goal is not to be the most attractive car wash in a market. Our goal is to be the most attractive business in the market. And I can tell you, at the 30-some-odd locations we've done over the years, we have not built one to this magnitude. This is - in Paul's words - a Taj Mahal, and it will be. Our average car wash is somewhere in the neighborhood of \$3 million. We haven't formally bid this out yet, but we're pretty sure it's going to go north of \$4 million. So, we've got our due diligence in what we think that car wash can generate, and we feel certain that we can afford to design that and make it work. We're very proud of it. There's nothing in the country that looks like that.

Having said that, we want to be the most attractive business in the community, not necessarily the most attractive car wash. There are other car washes out there. It's not hard to be more attractive than them. We want to be just as attractive, if not more attractive than some of the later, newer buildings that have been developed recently in Mission. Like Paul mentioned, we're definitely clean, green, recycled water. The chemicals are not hazardous to the environment. We discharge into the sanitary sewer system. We are open 7 days a week. Hours are not set in stone. Sometimes on Sunday we may open a little later. But point being that we're not open after dark. So, in the wintertime, when it gets dark earlier, we may shut down at 5:30 or 6:00 o'clock. In the summertime, we may stay open as late as 8:30. People generally don't wash after dark.

We talked about the recycling of the water a little bit. I'll tell you, you can't recycle 100 percent of the water because when you use fresh water to wash a vehicle and you recycle that water, it's somewhat dirty. So, even though you've recycled it through a really good, sophisticated filtration system, you can't ever really get it back to that quality of truly-fresh water. So, we're able to use that recycled water, about two-thirds of the car wash, in the early process. For instance, high-pressure water that cleans wheels or undercarriage, things like that. You really can't use recycled water to mix with chemicals, and you surely don't want to use recycled water at the end of a car wash. But, somewhat clean water in the final rinse processes. So, you're not able to obtain 100 percent. But, if we didn't recycle water, we'd use about 47 gallons of fresh water per vehicle. Over the years, the equipment has come along, we've gotten better. We're able to now use 14 to 20 gallons of fresh water per vehicle, as opposed to some folks who said if you run a garden hose out on your driveway, you might use north of 50 gallons,

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80 gallons - whatever it says. Point being, if someone washes their vehicle in their driveway, those chemicals and all that water is going down the storm drain, straight into streams and creeks. We capture all the water, recycle it, filter it through underground tanks, and discharge it into the sanitary sewer.

We definitely give back to the community. We're very big on donating to the 501(c) 3 organizations in each location. Site managers are responsible for finding who they want to donate to each year. The third Friday in September every year, at every location nationwide, we donate 100 percent of, not profits, not money we've made, or a portion of it, but every single dollar that comes in that day, we give to charities. The founder of our company has a disabled child, and that's kind of where this came from. It's really been effective over 15 years and been greatly appreciated. We definitely like to be partners in the community and good stewards of it.

This is our site plan. Johnson Drive is running east and west up this way. Customers will pull into here, the pay lane there. Pull under this canopy here, and there's two pay stations. It's more like an ATM style machine where the customers can pay. We have an attendant there at all times, assisting with payment. Once the customer pays, this is another canopy that we may or may not leave there, just because it's a little bit tight. If someone has ice on their vehicle, or some heavy-duty bugs, things that we know the automated equipment may not get off their vehicle, we can do some prep work here. We'll do it here, or we'll try to do it up front. Again, the customers stay in their vehicle. They've already paid. They put their vehicle in neutral. It pushes them through the tunnel, which takes about three minutes. As they exit the tunnel here, if they do not want to vacuum, they can leave straight out and go back on Johnson Drive. If they did want to vacuum, they take a right here and choose a vacuum in any of these spots. Or, this is an uncovered area, and if it's cold outside, people may want to be out in the sunshine. But if it's drizzly, or snowy, or what-not, and they want to be under the canopy, they can come under here, not a canopy, but a two-story building, and pick from one of the spots here. There's five spots over here, maybe six over here and five over here. This central area here is a stairwell, and we've got some vacuum equipment. The equipment that produces the suction will be housed inside the building, and it's piped out to both sides, which has the nozzles for each of those spots. After the customers finish vacuuming, they come out the same exit here. It's a consistent flow. It's one way in and it's one way out.

Staff had concern about trash or any other service vehicles that come. This is our proposed trash dumpster here. This exit is primarily during the daytime, 100 percent for customers or employees leaving. Trash comes at night. There's a gate here, and the trash guy can have a clicker and open that gate. He's coming after hours, so he's not going against traffic to pick up the trash. That's the general flow of the property.

Thomas Wells, Consultant, appeared before the Planning Commission and made the following comments:

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Mr. Wells: The other concern that was raised by the City's civil consultant is creating another median break or access point off the entrance drive into the retail/office area. We don't have an issue providing that secondary break.

Mr. Scheppers: And that is listed on the material that I just handed out. We reluctantly caved on that point.

Mr. Wells: This is a front view of Johnson Drive, our two-story mixed use. As stated before, the upper level would have the Tidal Wave division offices, training room, material storage. The lower level would be retail of vending machines, products associated with the car wash tunnel, as well as the retail vacuum spaces in conjunction with the tunnel wash itself. That's a side perspective.

The materials that we have proposed - and this has been an evolution, as well. One of the points that was brought up earlier is providing information on the storefront facing Johnson Drive, north-face to meet requirements of the architectural guidelines of the Form Based Code. In essence, 60 percent of that building façade has to be glass, doors, windows, between the sidewalk and 18 feet up. And we have no problem making revisions to the architectural plans in order to meet that.

Another concern raised is the amount of EIFS or stucco where that is located. Again, we can make revisions to address those concerns. Typically, at the lower level, we have a split-face concrete masonry unit, and then a precast work table that sits on top of it, roughly about three feet up. And then, either a combination of stucco, EIFS or veneer stone that is above it. So, there's basically three primary products on the face, plus the glass, and then, we use an engineered, prefinished standing seam metal roof.

This is the exterior finishes. The one you can't see is the clear glass glazing. On the left is a representation of the split face masonry unit, and the color would be on the very lower level. The top-middle is the water table, water ledge that sits on top of the split face. And then, top left is a color representation of the hard coat stucco and EIFS that would be above that, and the stacked veneer stone that is used above that water table. Top-right is actually a change in the traditionally roof color Tidal Wave blue, in order to try and be more attractive along this style, which is one and only, you know, for the mid-rise two-story that's planned on the front.

This is floor plans. The top one is the lower level. You can see some of the vacuum stalls, and in the central portion, there is an ADA-accessible office. There will be some equipment in there, as well as vending services. Off to the far right is another stairwell and lower-level HVAC units. On the bottom section is Level 2 floor plan. Central stairway there. Emergency egress on the right side and two restrooms and office/storage/training rooms.

This is a perspective view of the accessory tunnel in the back that's considered the one-story. That's basically shielded from any views from Johnson Drive because our two-story mid-rise goes drive to drive. So, unless you look backwards or around the

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corner. This is a similar architectural theme, with the split-faced concrete masonry unit, the precast water table, and then, the veneer stone on the tower, and then veneer stone columns and accents, accent on the mechanical room, and then some of the EIFS and hard coat stucco on the mechanical room, as well.

Again, this is just a view of the various materials that we went over on the previous slide. As Mr. Schepers alluded to earlier, the top of the cupola on this property is somewhere around 22 feet based on standard design. This is an actual vacuum enclosure. A lot of car washes, you'll see the large canisters nearby a space. A very noisy mechanical unit. This is standard for all Tidal Wave locations, to actually enclose that equipment in a vacuum enclosure so that we're able to control the noise. Here in a very urban and commercial area, it's not a major concern, but it still would be beneficial for our employees, our customers, our neighbors, and was brought up by Mr. Bennett, one of our neighbors to the east, to address that.

This is the express pay terminal - XPT - and this is the pay canopy. It has two lanes, it's basically like an ATM machine. You pick how many dollars you want to put in by the type of car wash you select.

Ms. Dukelow: Where on the site is the vacuum enclosure?

Mr. Wells: It's this building right here, in that landscape aisle.

Mr. Hardin: This uncovered island here, that enclosure would be there, and the other would be inside to service that portion.

Mr. Wells: We talked about the divisional office. In our initial meetings with staff, you know, having a functional two-story building up on Johnson Drive was going to be paramount to meeting the spirit and intent requirement of the Form Based Code. So, that quickly developed as a prime location, central location to a lot of the locations that we currently have in our development pipeline here in Mission. Quik Trip's division office is right around the corner. They didn't put it there just because there was an inexpensive office building. They put it there because it's centrally located to their stores and employees, and easy access. QuikTrip is another entity that Tidal Wave tries to emulate.

This particular site is .76 acres. We've got an 18-foot drop-off to the back. Part of Mission West shopping center that surrounds, is in the rear, wraps around, comes back onto the front. So, kind of land-locked on the west and the east. We've got Exact Performance to the south and west, and to the east we've got Exact Performance. We've been in dialog with Mr. Bennett, who owns Exact Performance. He doesn't have any plans to go anywhere. So, we're landlocked with what we're able to do and the size of the property that we have to work with. We're kind of a hybrid of a service and a retail-based operation, so we feel like from a pure retail standpoint, we've got better longevity. With Amazon and the Internet, pure retail is evolving quickly. We feel like the longevity of our business plan, even with Uber or Lyft, there will still be cars to wash.

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Also, we feel there are ways that we could adapt this mid-rise building on the front, that at such time - 15, 20, 50 years - that Tidal Wave ceases to operate, there could be some adaptation of this building. But, at the same time, with the evolution of retail that's taking place, it's hard to guess what that adaptation might look like, or what we need to incorporate into the building now for some 15, 20, 30 year period out. This is one of our existing locations. It shows the intensity of landscaping. And then, the vacuuming canopy that we've eliminated on this one, so it will be open-air out front. You can see the mechanical room on the side. I'll turn it back over to Mr. Schepers.

Mr. Schepers: I will follow Mr. Olson to make sure I can respond to any questions you might have. But, at this point, I'd like to turn it over to Dave Olson, to express his own views on compliance of our plans with the Form Based Code, and in particular, with respect to those structures. Dave?

Dave Olson, Monarch Acquisitions, appeared before the Planning Commission and made the following comments:

Mr. Olson: It was about four years ago that I worked with staff, worked with the City, and we completed a development on Johnson Drive. It took a lot of work, but I won't go into a lot of details on that project. I want to boil it down. We have their staff report, eight pages, going through the rationale. So, being an engineer by trade, I've boiled it down to its essence. I've created a single-sheet scorecard. Look at what's possible, what's required. And in my opinion, what I think should have come out of the evaluation.

In the staff summary they talk about the code being a tool to evaluate the appropriateness of a project. So, we're sitting on a very small parcel, and you think about what's appropriate. I want to look at three things. I heard it mentioned earlier, but they're proposing - in my opinion - a two-story structure, office on top, retail on bottom. Certainly not a parking garage. And, they're proposing to build that second-story office space without any incentives. I know the last development that came before you went kicking and screaming about second story office space above retail. It would be difficult to lease. It's still vacant today.

That hits two of the three items that I want to put in your foremind. The third item is, I look at the rear building, the tunnel, as an accessory structure. I've also heard mentioned, as far as visibility, because of the almost complete frontage of the two-story building and the height of the two-story structure, you won't see the accessory structure. So, taking the scorecard - before I pass that out, again, I apologize. I got the numbers wrong on the actual score given to us from, from Chris. I somehow got it to 64 instead of 60. I'll pass that out. I want you to look back at the conditions that Mr. Schepers has provided, and as you look down the scorecard, I made brief notes on what the issues were that we didn't receive a passing grade. In each section, it starts out, you know, the rear building is not 28 feet high; under the regulating plan, the front building is interpreted as a parking deck and not 40 feet deep. The third item did not provide a traffic or turning template. With the access and introduction of the median break as

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some of the conditions, I think we're satisfying the traffic turning template issues, and if in your mind you consider the rear building as accessory and the front building two-story structure office and retail, I think we get to 15 points in all three categories.

Under step 2, the building types, the basic essence of why we're not passing. Rear building is not 26 feet high, and the front building doesn't have commercial use on the ground floor. Which, again, is part of retail sales. If you're collecting sales tax on the services that are being sold, to me, it has to be considered commercial use.

Step 3, the Urban Guidelines. You don't have to get the perfect score under Step 3. There's some elements of - You don't have to get a perfect score. But, that was actually a category we did well in, and I didn't change or amend any of the scores, other than with parking area and using the conditions that we proposed, which were complying with the required streetscape, the landscaping that's required on the side and rear yards, and the one item that I suggested we add as a condition, which is the pedestrian connectivity. Tidal Wave chose not to agree to provide pedestrian connectivity through their parking and vacuum area, which I understand they're not really wanting to - if pedestrians don't have a car, they're not going to be using the facility. So, under Step 4, the architectural guidelines, the intent, the materials, the configuration and technique, again, considering the rear building as an accessory use subject to the 26 feet in height. And then, the north building storefront being 60 percent to the 18 feet level, they've agreed to do that. I think they've given you compliance. So, given that, I would estimate the score somewhere between 90 and 91. Thanks for your time.

Mr. Schepers: Ladies and gentlemen, I know it's late, and I fear we've tried your patience already. So, unless any of you have any questions, we'll submit the preliminary development plan and request that it be voted to be approved, subject to the list of conditions that we've agreed to abide by that are on the handout I gave you earlier today.

Chairman Lee: Any questions?

Mr. Troppito: Did staff review your list of conditions that you passed out tonight?

Mr. Schepers: I did not have a chance to finish that in time. I gave it to Pete before the hearing. I don't have any problem with staff taking time to look at it. But, I will say that each of those conditions were derived from comments that staff made in their recommendation, which they asked, which formed the basis for their disapproval of the plan. So, it's not as if we pulled those out of thin air. We took the staff comments and addressed as many as we could by agreeing to, what we interpreted those to be conditions to the staff's approval. So, they're not secret, but I didn't hand it out until just today.

Mr. Troppito: You mentioned that you wouldn't mind taking the time. Can you quantify that? Two weeks? Thirty days?

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Mr. Schepers: Wouldn't mind taking the time to have the staff review it?

Mr. Troppito: I thought you were indicating that you would willing to provide extended time for the review of what you propose tonight. Is that correct?

Mr. Schepers: I'd rather just get the plan approved, but if Danielle is in a position to say she needs to review those, then who am I to say you can't review them because you had 30 minutes to look at it before the meeting today? So, yes.

Mr. Davidson: I have a question. Those offices above, as far as - and the four employees that are on site, or so, where would that office people and employees, where's the parking for them? And I understand that is a very tight project on three-quarters of an acre. I think that's a nice job, getting everything in according to how your national plan is. But, where would those vehicles be parking?

Mr. Wells: Two options. Obviously, depending on how busy the site is, some of the vacuum spaces could be used for employees while they are there. There are also plans that would be engaged to lease or rent off-site parking spaces so that employees wouldn't be taking up a space. And the idea of, you know, a lot of the training, team meetings, etc., will much likely be taking place after normal operating hours, which would then open up the entire facility for employees and team meetings.

Mr. Davidson: You're saying those office spaces would not be used during car wash hours?

Mr. Wells: Not to full occupancy, no. They would be operational people there during normal business hours, but as far as having team meetings and 100 percent occupancy of the office space upstairs, that would most likely be after operational hours.

Mr. Troppito: A question for staff. The varying conditions for approval presented tonight, do you feel you'll have adequate time to address these tonight? Or will you need more time?

Ms. Sitzman: Well, with a quick review of them while the presentations were going on, against the staff report, I feel like we could be comfortable with these tonight. I do have concerns about number 2 and the meaning of the "City agrees to provide power control equipment." I feel the topics raised cover the issues. I'm not sure that they're adequately addressed as worded.

Mr. Braden: Out of curiosity, what is Mr. Olson's relationship with this property, other than just -?

Mr. Schepers: I retained him as a consultant.

Mr. Braden: Is he getting paid?

Mr. Schepers: Yes. He loves the City of Mission, but not enough to waste his Monday evening here without being compensated.

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Mr. Braden: In your wash bays, since it's enclosed on all three sides, is there any means - and this gets into the internal part of the building - for exhaust, for vehicle fumes? Has that been addressed?

Marty Murphy, Project Manager, Tidal Wave, appeared before the Planning Commission and made the following comments:

Mr. Murphy: With the open-roof system, there's no issue with exhaust. We have an open-roof system where at the end of the gables, it has a place for the exhaust to settle. That would be something your fire marshal would have to look into. We pass that everywhere we go. I've been developing these all across the United States. Every one that's been developed in the last few years, I've been there. We pass every inspection and review by fire marshals and by fire code standards everywhere we go. Once they see our architectural and our plans, we don't have any issues with that.

Mr. Braden: You said you haven't had one with offices on top.

Mr. Murphy: We've never had offices above the parking, which is our back stalls downstairs, but it's open on the back side. It's like an open garage on the back side. It's only enclosed on three sides. There's not an issue of exhaust. And it doesn't cover the car completely. The rear end of the car stays out. What we try to provide is shade for you at the doors, hit the side of the car. We don't provide shade for the entire car. So, your parking will actually stop at about the 14-foot mark, so you would only be able to enter into the back canopy or the two-story mid-rise building approximately 14 feet.

Ms. Dukelow: I have a few questions of staff. I have a question on Sheet A2.1. I could not figure out what these elevations are for. As far as I can tell --? Sheet A2.1 [*Looking for form.*] So, the top two elevations on that sheet, can anybody tell me how those line up with the plans.

Mr. Wells: Yes. This an accessory building located on the southern portion of the site. This is a single-story structure. The top one is one of the perspectives. You've got the tunnel, and the mechanical room. The middle elevation is the south side elevation.

Ms. Dukelow: Okay. I've got you now. Thank you for that clarification. And is all this glass along these elevations clear?

Mr. Wells: Yes, ma'am.

Ms. Dukelow: Also, I want to ask about the glass that fronts Johnson Drive. The intent is for that to also be clear?

Mr. Wells: Correct. It's required by the Form Based Code.

Ms. Dukelow: Yeah, I'm remembering that now. Thank you. Just a couple more questions. It appeared from one of the perspectives that we saw that there may be drinking fountains and restroom facilities also included in this accessory --?

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Mr. Wells: Correct, in the mechanical room on the side of the tunnel, yes. There is an ADA restroom there, and there is a high-low drinking fountain provided on the side of the mechanical room. Another ADA requirement.

Ms. Dukelow: I also noticed on the site plan that there is an accessible parking stall at the back of that building.

Mr. Wells: Yes, on the southwestern portion of the site, the required ADA accessible, van-accessible parking space.

Ms. Dukelow: I didn't notice if there's an elevator provided in up to the office --?

Mr. Wells: At this point, no, there is not an elevator. Per the architect, based upon the size and occupancy load, etc., that is not required. But, I would have to defer to him on that.

Ms. Dukelow: Thank you. I have a question for staff, Mr. Cline, Mr. Heaven. I know that the sector plan shows extension of Walmer. But, with regards to that, I have several questions. One of them has to do with, how much of the property to the west of Horizons is owned by the district? I'm wondering about the feasibility of ever extending Walmer because the school district - I don't know who owns that property, but it may be the school district. And we all know that there's a dramatic slope. The other question I have is, looks like the fire station is not, is clearly out of the way of that. I really wonder about the feasibility, and would be interested in hearing more about that.

Mr. Cline: Sure. There are a number of places in the Form Based Code area where street realignments were considered, and this was one of them. Danielle touched on one of the primary reasons for that initially, was the large block size. There's a lot of property here to work with. The slopes, all that engineering has to be worked out as to where that alignment falls and how to make it connect with Martway. But, it would be feasible to do that in a number of different configurations. So, the intent behind the original code showing some type of connection here was to try to provide a mid-block connection between Johnson Drive and Martway. So, you can see there, I believe right where the Z is, I believe that parcel of property is part of the school property. It wraps around that commercial business there that's located just to the north.

Ms. Dukelow: So, that's shown directly along the west side of the district property.

Mr. Cline: Correct. And the intent was to line up with Walmer across the street and try to, since Johnson Drive is the busier street, to try to create a four-way intersection at that location. So, there was consideration made on that end to make that alignment at that location versus one of the other two blocks. Split the difference between the other two streets, to the east and west. You can see where Walmer lines up just to the north. Any anticipation as a part of all of the Form Based Code is that at some point, some of these properties may redevelop. So, if there was an opportunity in conjunction with

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some other redevelopment that might occur to the south, all of those connections could be made and considered at that time.

Chairman Lee: How much of the cost of the car wash is reduced if I decide not to use the vacuum? What is the cost of going through the car wash if I opt not to use the vacuum? The reason I'm asking, you keep referring to the front being retail, which would be the vacuum. So, the value of that vacuum is how much in relationship to the cost of washing my vehicle? Which is really not being done in the accessory building. Isn't that where the retail actually is taking place?

Mr. Murphy: As you pay for the wash, that's part of the wash. It's not an option. If you need a percentage breakdown, I'd be glad to get you that information.

Chairman Lee: My point is that you refer to this front building as where retail at the first level is taking place. There is no retail being taken. If I can't pay for that service, where's the retail component?

Mr. Schepers: All I can tell you is that you pay for the right to use the vacuum when you buy your car wash.

Mr. Murphy: Yeah, there's retail sales and vending in that area.

Mr. Schepers: Yeah, there's going to be deodorizers, wipes...

[crosstalk]

Chairman Lee: Off the top of your head, what percentage of your business uses the vacuum?

Mr. Schepers: What percentage of the people who use the car wash? Use the vacuum?

[crosstalk]

Chairman Lee: Is that 10 percent of the sale? Five percent? Eighty percent?

[crosstalk]

Mr. Hardin: Of all of our revenues, how much is vending? It's not a huge portion.

[crosstalk]

Mr. Hardin: --- it's five percent, maybe?

Chairman Lee: So, you're saying retail that is taking place on the first floor is just that vended portion.

[crosstalk]

Mr. Schepers: As counsel, I would say that the retail service that you buy when you pay for your car wash includes the use of the vacuum.

Chairman Lee: I understand that.

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[crosstalk]

Chairman Lee: -- there's no reduction if I opt not --

Mr. Schepers: The only reduction would be fewer people might buy car washes if they didn't get a complimentary vacuum.

Mr. Murphy: If we had a car wash, which in some big metro areas, I know some folks in Houston, Texas, where they had a very small site, much smaller than this, and they don't have vacuums. They have just a tunnel car wash, and they're cheaper because they don't have to buy as much property, buy the equipment. There's definitely a lot of dollars saved with electricity, running motors, that type of thing, associated with the vacuums. And it's a huge part of our business. If the vacuums were not available, probably 60 to 70 percent of the customers do use the vacuums. They can use them for five minutes, or 20 minutes. It's a very significant business model.

Chairman Lee: At this time, we're going to call the public hearing. If there is anyone who wants to get up and speak either in favor or against, this would be the time to do it.

Ben Bennett, Exact Performance, appeared before the Planning Commission and made the following comments:

Mr. Bennett: I'm to the east of the project. My concerns are traffic, noise, but I'm also tired of looking at, just a desolate piece of property next to me. So, I feel like it's kind of up to you guys to make the proper choice. I don't feel that a car wash is a bad decision. I don't know if there's a better decision out there, but I don't think it's a bad one.

My concern is Walmer Street. The comment I heard from Pete is, "it's moved to the east".

Mr. Heaven: No, that wasn't Pete who said that. I'm Pete, and I'll tell you this. That is a futuristic street plan, and one of the reasons we didn't press it in this case is we don't see it happening in the near future. It may be when your building comes down. Whenever that might be. The City has no interest in trying to condemn land or take buildings down and build streets.

Mr. Bennett: Or move businesses.

Mr. Heaven: Right. Absolutely.

Mr. Bennett: Yeah. Because I feel like I'm established, for 20 years. Our birthday is coming up this week. I feel like I contribute to this community.

Mr. Heaven: Absolutely. There is absolutely no intention --

Mr. Bennett: So, if there's any threat to my business, I want to know about it. Other than that, I'm fine. I hope he gets some business.

Chairman Lee: Anybody else who would like to speak, either for or against?

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Sandi Russell appeared before the Planning Commission and made the following comments:

Ms. Russell: I'm a Mission resident, as well as a business owner. I have Twisted Sisters coffee shop on Johnson Drive. When you keep asking about the retail, isn't the cost of the charges for the car going through to get cleaned, is that not considered retail? I'm trying to get it clear in my head. So, they're paying money for a service, just like they would pay money for a service that they walked into. They're just driving in. So, I would consider that retail. I think it's an awesome-looking project against what's sitting there now, and has been there for years. We don't have much development on the west side, and that would be an awesome start. Unfortunately, Mission is kind of going through a phase now where people are moving out, businesses are moving out. So, for a business to come in, that would be awesome. And to have them not ask for any incentives, that's even more incredible. That's it.

Cathy Casey appeared before the Planning Commission and made the following comments:

Ms. Casey: I'm a business owner of two businesses in Mission, Casey's Auto Repair and Casey's Auto Repair on the Drive. I would just like to say, I challenge you to have the same landscaping that we offer at our shop. I agree with Sandi on everything she said. One thing I'm really troubled about is you're talking about Walmer going through. Why was it brought up? Why did he have to get a lawyer to come and talk to the City? Because it was brought up. Makes no sense to me. We have somebody who's going to have a beautiful building in Mission. Try and help them. Give them every chance to open up, instead of having them have to contact lawyers all the time to try and get something done. I would really like to hear that things are happening in Mission without having to get a lawyer to fight. That's what I'd like to say, and that's it.

Kevin Fullerton appeared before the Planning Commission and made the following comments:

Mr. Fullerton: I'm a resident of Mission, and I'm also a business owner. I own Springboard Creative down on Johnson Drive. One of the things I've been worried about, we have a Mission business partnership, of which I'm the president. We've been getting a lot of feedback from our businesses that our city has become very business-unfriendly. And as I sit here and look at the struggles they're having to go through to get in front of you all, to get in front of the City Council, that concerns me greatly as far as what other kinds of businesses are going to want to come to Mission.

It was mentioned earlier that we've got businesses that have been leaving. Bad timing. We've lost several. But, let's not make it harder for people to come into Mission, to start a business, to do it without asking for any incentives whatsoever. To me, all I had to hear was "no incentives," and that's great. And what they're doing, the way they've bent over backwards to get where we want them to be, has been amazing. So, I hope we can

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bring in a great business like this to be part of the Mission business community. Thank you.

Mr. Schepers: I'd like to add for the record, not a single one of those people who just spoke was compensated in any way.

[*Laughter.*]

Chairman Lee: With that said, I'll close the public hearing.

Ms. Dukelow: Mr. Chairman, I have a question regarding next steps. I'm wondering if we - I don't know what, what would be the preferred way. If we choose to deny versus table, would that enable the applicant more opportunity to -? Would they still be able to take advantage of the expedited procedures that would be provided by the Form Based Code? Is that desirable? I mean, I'm just trying to figure out through these options what the outcomes of them would be for this particular project, on this particular site, for this particular applicant.

Ms. Sitzman: With the score they have currently from staff, they would still need to go to City Council for a final determination. If you wanted to make a motion to table this and direct staff to apply a different building type, if you were to tell us you have listened to comments tonight and you think the mid-rise building height should be evaluated, we can certainly come back to you with a revised score based on that direction. If they were to get a score that was 90 or better at that point, they could go back to the Form Based Code review that ends at the Planning Commission. That would address the expedited versus the normal review.

Ms. Dukelow: And if they were to, if we were to do a mid-rise building type review and they achieve the 90 points, then they would be here in a month?

Ms. Sitzman: Right.

Ms. Dukelow: I'm just trying to figure out how these things are going to impact, be impacted by schedule.

Ms. Sitzman: The next meeting is April 16th, a little earlier than usual. It's the third Monday. I think there is still time to prepare a review and have it before you at that meeting.

Ms. Dukelow: And then, the alternative would be, if we choose to do that, if we were to proceed and send it to City Council, staff would have time to review and go on --?

Ms. Sitzman: Right, and the meeting for City Council would be the Wednesday of that same week April 18th.

Ms. Dukelow: So, from a schedule standpoint, it really doesn't make a difference.

Mr. Schepers: Excuse me, Ms. Dukelow, if I might make this quick point with respect to that. My concern is that we've been what we thought was very close to the finish line several times, only to have it moved. So, if what happens, based upon your suggestion,

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is we're back here on April 16th with the staff saying, "We've looked at it, it looks like a parking garage to us, no passing Form Based Code grade," now you've set us back even farther. And if that were the way it plays out, I would just prefer that you go ahead and approve it subject to our conditions and let the City Council make a final decision.

Ms. Dukelow: I have another question of staff. I'm not familiar with the history of this project, so I'm wondering, how long has it been, really? How long have we been -?

Ms. Sitzman: I don't have the timeline in front of me, but there was a period of time where the applicant took some time to consider how they wanted to proceed. They took several months to consider this.

Unidentified: Fourteen months.

Ms. Sitzman: That sounds correct.

Mr. Braden: I have a question of staff. Again, can we just go over what the big heartaches are? I remember reading that there was a tough time telling what kind of building this is, so it was assumed a parking structure.

Mr. Cline: This one has been challenging because it doesn't neatly fit into any of the building type considerations. So, when I'm interpreting what's in the code and how to rank this project and score it appropriately, I had to look at the information that's here in the code about this type of use. So, a car being inside part of the building. When looking at mid-rise, or parking structure, or low-rise, all of them say accessory units prohibited. So, when we talk about this, the car wash in the back being an accessory use that was part of the score, accessory uses are not permitted with any of those building types. So, if you were to direct us, that this is a mid-rise building and score it that way, when I look at a mid-rise building type, it still doesn't allow for an accessory use. So, the structures in the back really need to be considered as one of these building types, which I consider it as a low-rise building. And it doesn't meet the 26-foot requirement. We've had other submittals in the past that have come through a few times before they finally meet the 26 feet.

Mr. Braden: How short are we of the 26 feet?

Mr. Cline: There was one case where it was four inches short and it failed. So, that precedent was set. The intent behind a low-rise building having such a tall profile was to create a sense of scale out here, and to make sure that the building fit the area a little better. I've been very fair and consistent in the way that we've scored that throughout that, and that's why that back unit being less than 26 feet doesn't qualify as a mid-rise building.

But, when I look at the mid-rise building, even when I get to the urban guidelines that are located in Chapter 4, page 3, it says: [Reading] *Depending on lot size and block configuration, parking may be provided under the building (below grade) - not on the ground floor - in a structured garage behind the building or in a well-designed surface lot*

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behind the building. So, it provides three different options for how to address parking a vehicle as a part of the mid-rise building type, and none of those conditions say you can park directly underneath the building in the ground floor. So, when I look at what's written here, I don't consider this a mid-rise building based on this definition. So, the closest thing I could find in a building type to what's being proposed is a parking garage, and a parking garage, it says there has to be 40 foot of depth, a linear building, if you will, for retail use or some type of use out in front of the parking garage. That's where we came up with the 40 foot as a minimum depth. That's where it's referenced in the definition here for parking structure.

So, I've been trying to figure out how to adapt this to what's written and what's defined, and that's what I put in my report, is the way it stacks up with the way it's written right now.

Mr. Taylor: And I understand the challenge there, and I appreciate all the work that you all are doing to make this assessment. It occurs to me, I'm looking for other comparisons, types of businesses that might utilize this space and house cars. We have two others who spoke today who are mechanics or auto care companies, and I'm just curious, as a new member of the commission, how would those types of businesses qualify? Would they be parking structures? Can you speak to that at all?

Mr. Cline: Like I said, I'd have to see the floor plan and understand what it is --?

Mr. Taylor: It's not that simple?

Mr. Cline: Yes.

Mr. Taylor: Okay. The other question, I'm curious about the process. If we move forward and allow this plan, they would go outside of the Form Based Code and work with City Council. Not gaining any benefit. And they've spoken as though they accept that term.

Mr. Schepers: We came here resigned to the fact that we weren't going to get a passing score from Mr. Cline. Consequently, in my discussions with Mr. Heaven, we came to the conclusion that the path forward for us was to present this as any preliminary development plan outside of the Form Based Code areas where people presented, subject to your approval under the criteria that's set forth in the process for consideration of preliminary development plans. At that point, whether you vote it up or down, it goes to the City Council, which is really where we'd like to head.

Mr. Cline: I've done my best to be fair in the application of these standards to every application. I want the applicant and the City to know that I've tried to be very consistent and look for opportunities to score this as best I possibly can. I'm constrained by what's in this document just as much as anyone else.

Mr. Davidson: And I understand, you try to place a rubber stamp on something, you know, to keep uniformity throughout the city, through all these projects. And when we agree that we have this code on a property that we didn't want to say yes in this

MINUTES OF THE PLANNING COMMISSION MEETING

March 26, 2018

situation and no in another situation. But I think these gray areas that the Form Based Code is based upon, it is a gray area. Meaning it's not a parking garage, but that's the closest definition you have in your descriptions. I think it comes to a point in time when the Planning Commission, it becomes our place in a gray area to say, do we like this project, or not? I'm talking about that single structure, the accessory building being six feet short from that 26-foot height, or what-have-you. But when you see that structure from the south and you have an elevation drop of 16 feet, you're looking at that structure, you know, 16 feet up in the air. And a lot of times you're not going to be able to tell if it's six feet taller than it is, or that kind of thing. So, I'm just saying, the logistics for this piece of property, those are the kinds of things that we as a Planning Commission have to use our common sense.

As far as the project, I think what is there and what they are proposing is quite, I mean, a wonderful use of the property. And I am familiar with cities that sometimes can be very difficult for businesses, and we don't want Mission to be like that. I hear that resident loud and clear, as well.

Mr. Bruce: Mr. Chairman, I'd like to jump in on what Brad was saying. We've heard from our business community this evening. There seems to be a general feeling that we're not supporting the business community. I think that ought to be one of our highest priorities as a group here, and also as a group at the City Council meeting, is to support, encourage and develop our business community.

Now, it looks to me like they have gone through a lot of exercise here to meet the requirements of the Form Based Code. Mr. Cline, I apologize, but it seems like we have a legalistic issue that is dividing us from accepting a viable development here because of some wording that says, either the rise, or on something else. So, my personal feeling is that I would like to see this move on to City Council and let them determine how strongly they want to support the Form Based Code when you have a project of this quality sitting as a potential along this eyesore of Johnson Drive. Thank you.

Mr. Heaven: If I could try to put this in perspective. The Form Based Code is a vision. It's kind of a general vision for what we want our city to look like. And the reason that we adopted the Form Based Code was to accelerate the process. If you meet our criteria, you get a passing grade, you basically go straight to the Planning Commission then you get your building permit. The idea was to promote business, not slow it down. But we do hit these gray areas. So, when we do hit a gray area, we circumvent the Form Based Code. The fact that you don't get a passing grade doesn't mean you can't do your project. It just means you can't have the accelerated process. So, you have every right to approve this project tonight, recommend approval to the City Council. You don't have to worry about the Form Based Code. It doesn't pass the Form Based Code. So, get over that. Let's not try to make it pass something it can't pass. And that's our fault. Our code doesn't deal with this.

MINUTES OF THE PLANNING COMMISSION MEETING

March 26, 2018

I say, tonight, just make a decision. Decide whether you think the project is good and recommend it to the Council, or decide it may not be the best use and recommend denial. Really, the Form Based Code should be a guide, but - it's not deal-killer. It's something that would accelerate the process, and it doesn't qualify. So, I'd say go ahead and vote tonight if you can.

Mr. Braden: I have a question, and I know the Form Based Code kind of incorporates that, to not only speed up the process but give us an idea what this area is supposed to look like. In this case, maybe that's not sensible for this particular application. But what I want to make sure is that if we do go ahead and approve this, does that set a precedent for projects moving forward? That would be my main concern. Also, I would suggest that we find a definition in the Form Based Code that meets one of these kinds of structures. I think we need to look at that.

Mr. Heaven: Mr. Braden, I think the precedent you'll set tonight, if there is a precedent, is that you as a Planning Commission can rise above the Form Based Code and make decisions for the city. I don't think you're locking yourself into doing anything in the future that would be bad for the city. I think you're retaining your discretion to do what's good for the city.

Mr. Braden: Thank you, Pete.

Mr. Troppito: I have a question for Pete. Pete, you suggested we make a motion to approve this and move it to City Council. But, to what extent do you envision such motion would be including the conditions for approval that were passed out tonight?

Mr. Heaven: I believe in your packet, Danielle has given you a proposed motion with some conditions. One is to approve and send on. I have gone through what was prepared and handed out tonight by the applicant. I have no problem with it. I do have the same concern Danielle does. I don't understand exactly what it says, when we're going to agree to provide power and control equipment for street lights. I'd want to clarify that. But, I think with the conditions that Danielle suggested, and these conditions, in addition, I'm very comfortable with it.

Mr. Schepers: I have a question, Pete. Does the City not pay for the electricity for lights that are on public right-of-way?

Mr. Heaven: Yeah, but I don't know what you mean by control equipment. What is that?

[Overlapping comments.]

Mr. Schepers: The thing that turns it off and on. Like that photocell thing. The power and off-and-on thing.

Mr. Scott: You have to provide lights that conform to our design code. Beyond that, we pay for the power.

Mr. Schepers: Yeah. And we're applying for that. That's what we meant to say.

MINUTES OF THE PLANNING COMMISSION MEETING

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Ms. Dukelow: Mr. Chairman, I will make a motion.

Ms. Sitzman: Ms. Dukelow, I'm sorry, you're going to have to read some conditions into the record, however, if you don't want to read all of the ones in the applicant's handout, you can simply say "conditions 1 through 6 as provided in the handout." We will provide a full record to City Council as to what that means.

Ms. Dukelow: Provided by applicant?

Ms. Sitzman: Yes. Although staff would recommend you simply strike the last part of number 2, starting from the word, "provided, however, the City agrees to provide power and control equipment."

Ms. Dukelow: Okay, so, the suggestion is to strike the last portion of condition #2 after the semicolon, which says, "The City agrees to provide power and control equipment for the street lights."

Ms. Sitzman: Correct.

Ms. Dukelow: Okay. Mr. Chairman, I move to adopt the following findings of fact and recommend to the City Council to approve Case #17-11, the Preliminary and Final Site Development Plan for Tidal Wave Auto Wash development, with the following stipulations. And these are as written by staff:

Prior to the issuance of a building permit:

- Complete information about percentages of EIFS and storefront glazing are to be provided for staff review and approval.
- Along the Johnson Drive frontage, windows are doors shall meet the minimum 60% total coverage of the storefront and EIFs or stucco shall not be used within 8' of the ground nor comprise more than 25% of the first story.
- Complete information regarding trash enclosures, retaining walls, other screening, pay canopy and pay kiosk in compliance with the Form Based Code standards shall be provided for staff review and approval.
- Complete details regarding the site landscape and public streetscape including street lights, benches, trash receptacles and bike racks in compliance with the Form Based Code standards shall be provided to staff for review and approval.
- The median break in eastern entrance driveway shall be relocated to allow vehicles to leave the wash tunnel queue before the pay station.
- Complete details regarding the circulation of trash and other service vehicles on site shall be provided for staff review and approval.

In addition to those conditions provided by staff, those will also include those conditions as provided by the applicant, and the amendment to the conditions provided by the applicant. We shall strike the last portion of item #2, in which the City agrees to provide power and control equipment for the street lights.

Mr. Troppito: Second.

MINUTES OF THE PLANNING COMMISSION MEETING

March 26, 2018

Chairman Lee: Call the roll, please.

The vote on the motion was taken (8-0). **The motion to approve this application carried.**

Mr. Hardin: I want to personally thank staff for working through the challenges so far with this project. I know it's been a gray area, and I appreciate your willingness to work with us. Our work has just begun, but I want to personally thank everyone involved in this. Thank you so much.

Mr. Schepers: I echo that. Thank you.

Planning Commission Comments/CIP Updates

Mr Braden provided the Planning Commission with an update on the CIP Committee's activities.

Staff Update

Staff provided an update on current and upcoming projects and events.

ADJOURNMENT

With no other agenda items, **Mr. _____ moved and Mr. _____ seconded a motion to adjourn.** (Vote was unanimous). The **motion carried.** The meeting adjourned at _____ P.M.

Mike Lee, Chair

ATTEST:

Ashley Elmore, Secretary



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE SUMMARY PRESENTATION

April 4, 2018

FORM BASED CODE
SUMMARY PRESENTATION



REDEVELOPMENT INITIATIVES



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



FORM BASED CODE

1. Goals

- Proactive vs. Reactive

2. Planning Process

- HBA Tours / Examples

3. FBC – FAQ's

- Will the Infrastructure Serve It?
- Can the Market Support It?
- Is the Code Flexible?
- Using the FBC / Steps
- Other FBC's – Downtown OP



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



PLANNING PROCESS

- ADVISORY COMMITTEE MEETINGS

- 30+ / 6 meetings held
- 10-month process

- PUBLIC MEETINGS

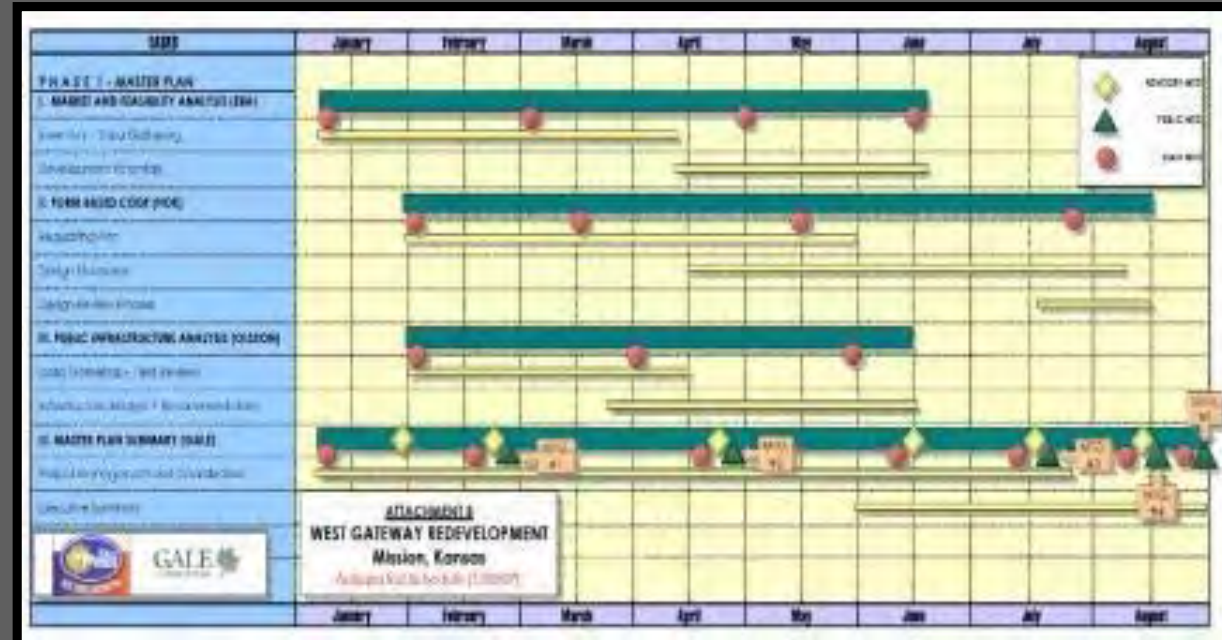
- 3 public meetings held

- OPEN HOUSE FORUMS

- 2 sessions held (March and July)

- PLANNING COMMISSION + CITY COUNCIL MEET

- Work Session
- Public Hearings
- Adoption (October 2007)



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



GOALS

- ENGAGE THE COMMUNITY
 - Create a “Form-Based Code” consistent with the Vision Plan
 - Successfully guide all parties through the planning process
- STAY “ONE STEP AHEAD”
 - Pro-active approach to attracting and guiding redevelopment opportunities
 - Capitalize on superior location – develop a framework that leads to success
- MAKE THE VISION A REALITY
 - Provide guidelines for design flexibility and long-term sustainability
 - Attract high-quality mixed-use projects that benefit the entire community

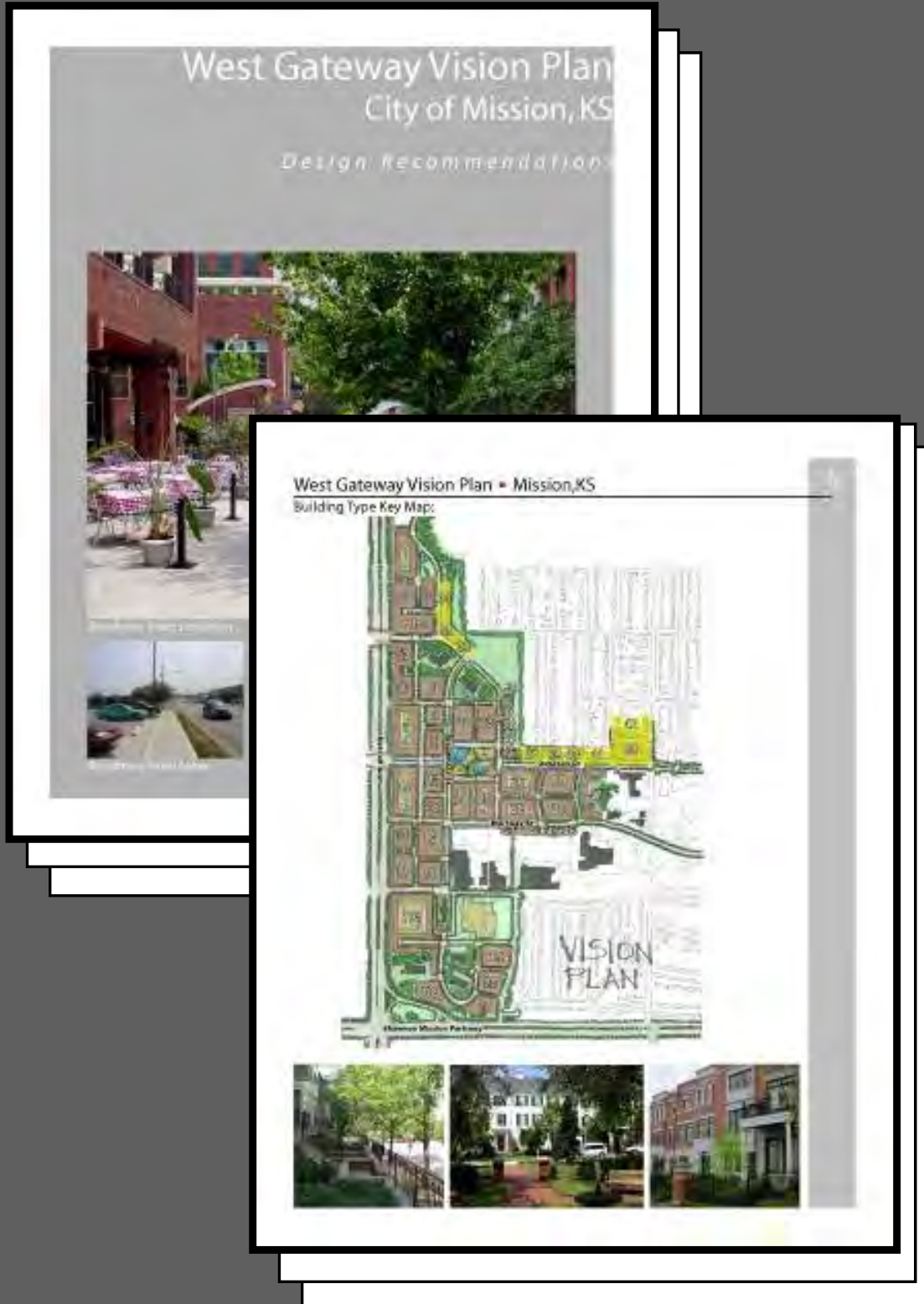


WEST GATEWAY REDEVELOPMENT AREA

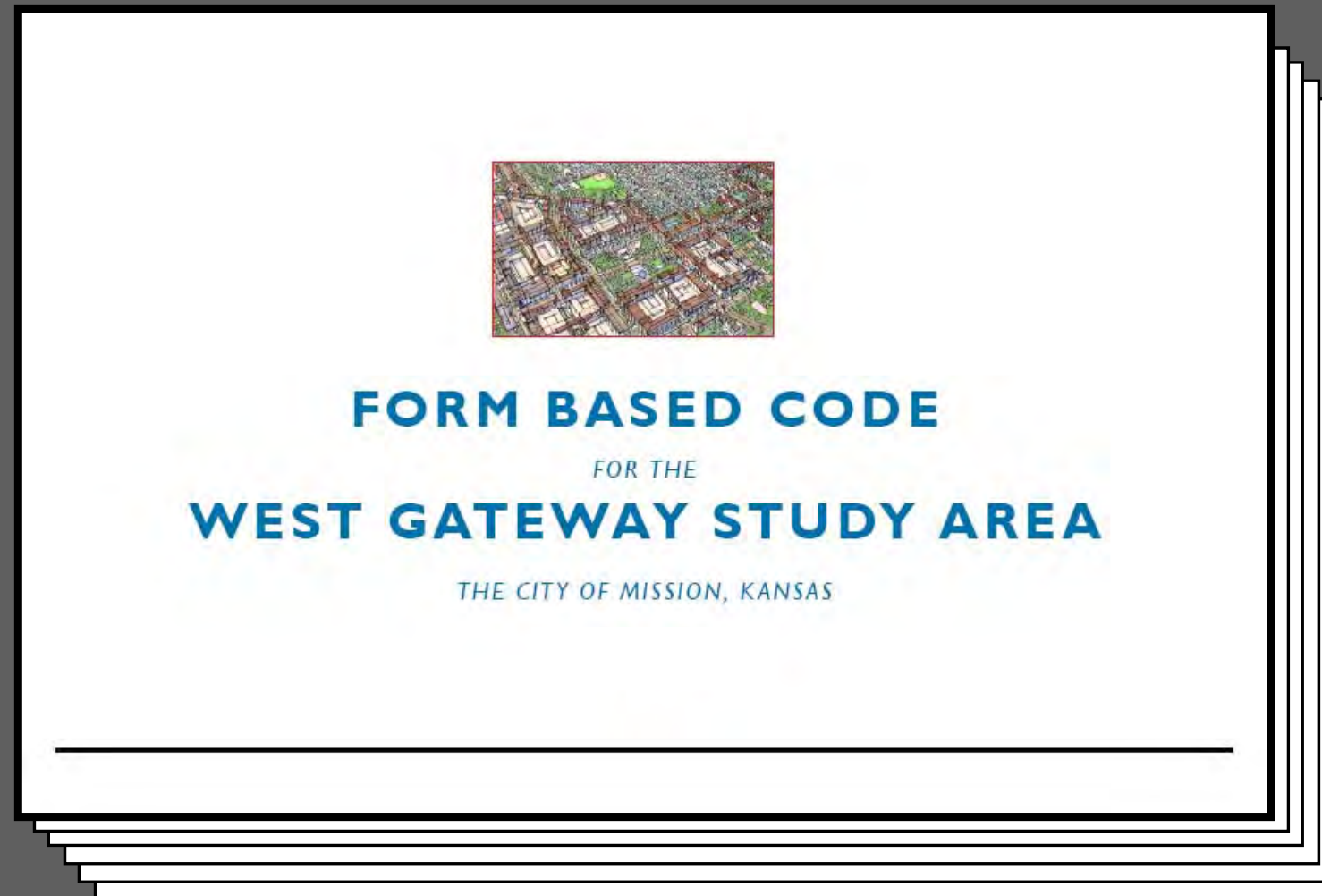
FORM BASED CODE
SUMMARY PRESENTATION



VISION PLAN



FORM BASED CODE



Encouraging "GOOD" projects by making them "EASIER"



**WEST
GATEWAY**
REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION





Will the Infrastructure Serve It?

Review Included:

- Sanitary Sewers
- Water Lines
- Gas + Electric Lines



MAJOR FINDINGS:

- Each utility is capable of serving the area
- Some improvements needed - detailed report
- Recommendations were incorporated into the City's CIP

**WEST
GATEWAY**
REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Can the Market Support It?

- **Scope of Analysis:**
 - Comprehensive review of existing market conditions
 - Anticipate future market demand
 - Test feasibility of various buildings and development scenarios
 - Identify opportunities for appropriate public incentives
- **Feasibility + Projections:**
 - The Form Based Code is a realistic regulatory control
 - Mission is well-positioned for future growth



WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Is the Code Flexible?

1. Residents

- Protects single family housing with building massing controls and linear parks

2. City

- Promotes desired redevelopment
- Overlay district
- No rezoning needed

3. Existing Businesses

- Allows maintenance of non-conforming building stock

4. Developers

- Considers transitional redevelopment with limited suburban construction (i.e. drive-thrus, 1-story buildings, surface parking)
- Avoids protest petition process



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Is the Code Flexible?

1. Allows for Variety of Building Types + Uses
2. Architectural + Site Design Opportunities
3. Development Phasing Possibilities



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION

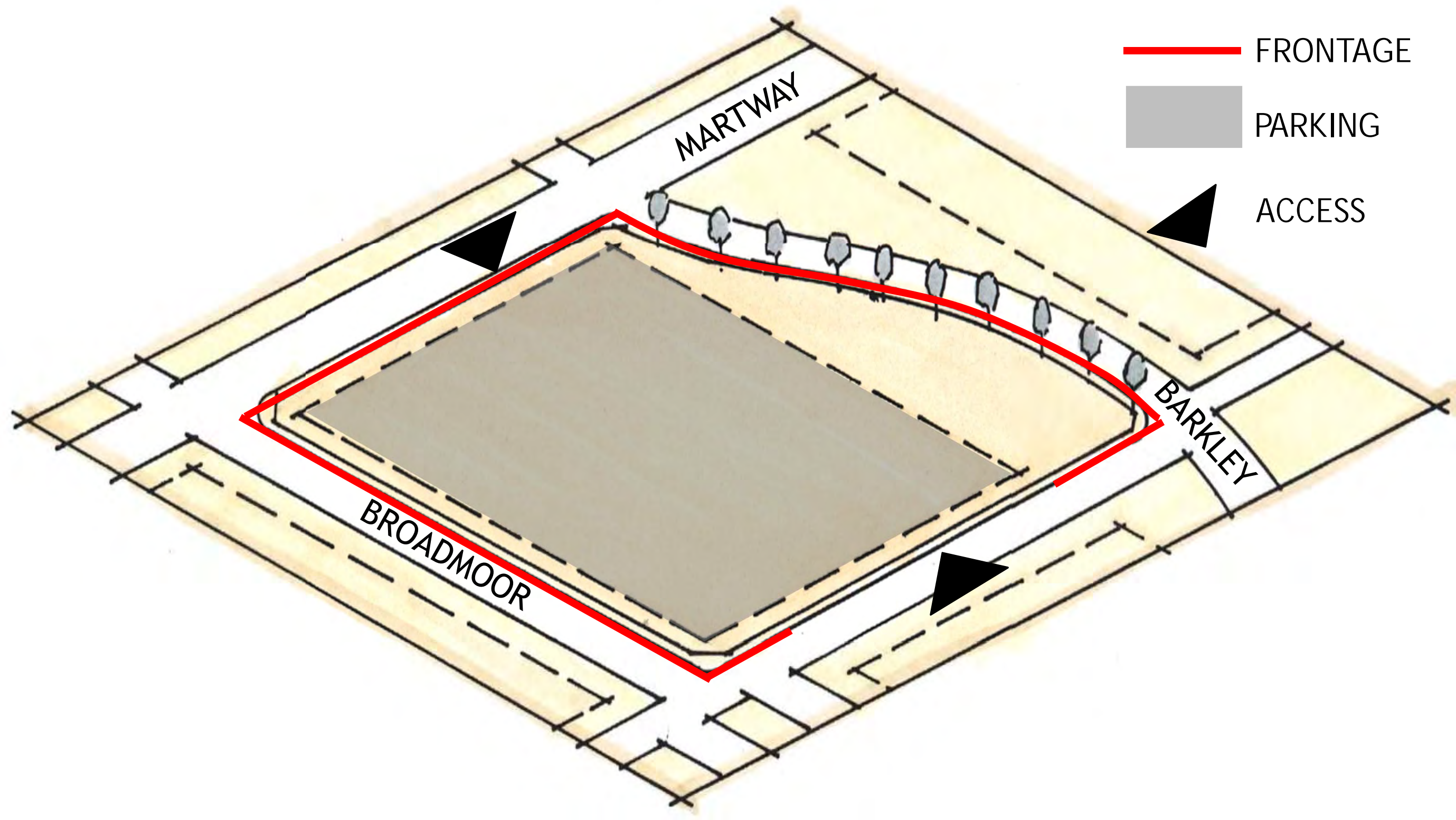


DEVELOPMENT PHASING POSSIBILITIES



WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



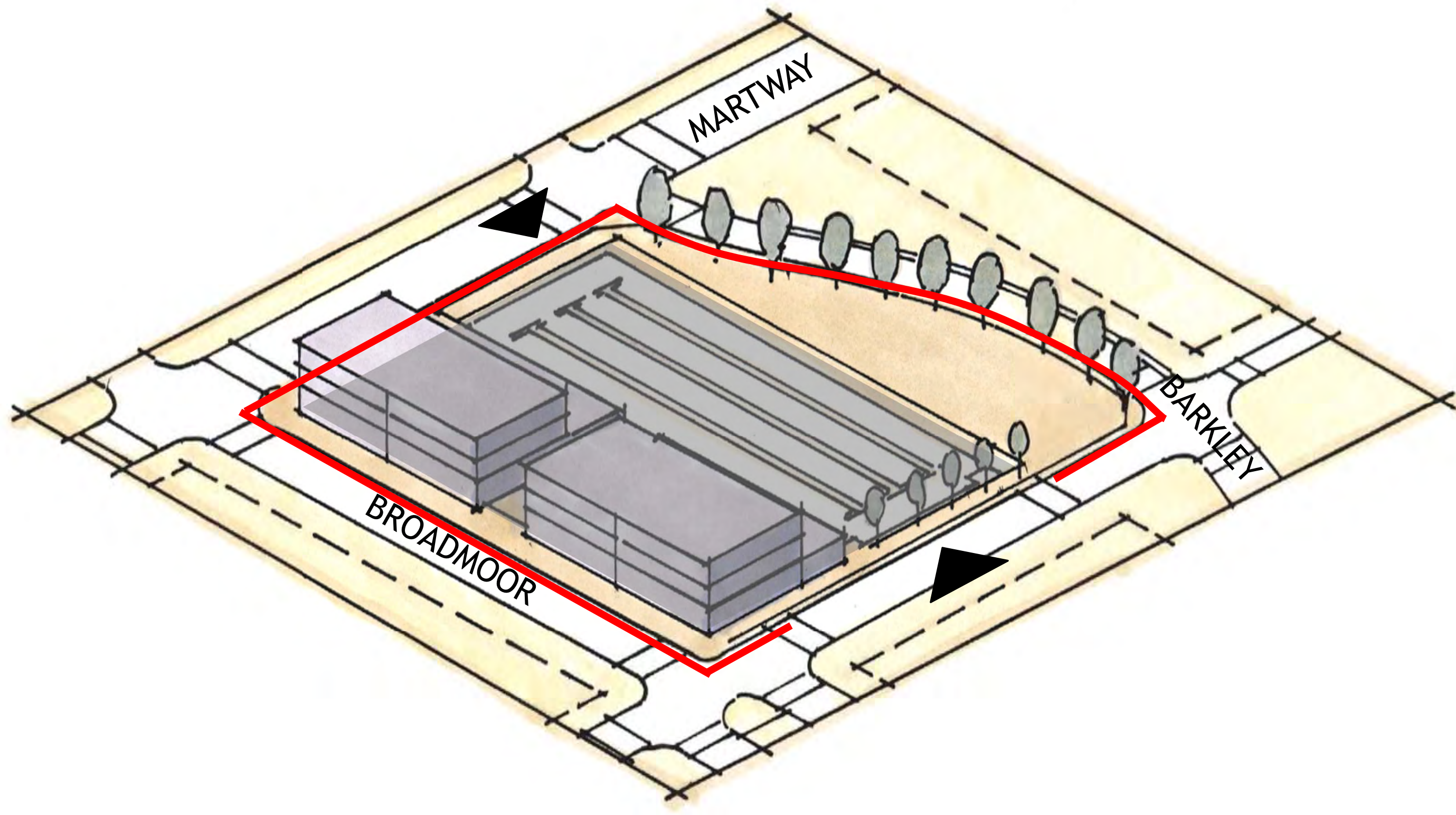
Example Block

DEVELOPMENT PHASING POSSIBILITIES



WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Scenario 1

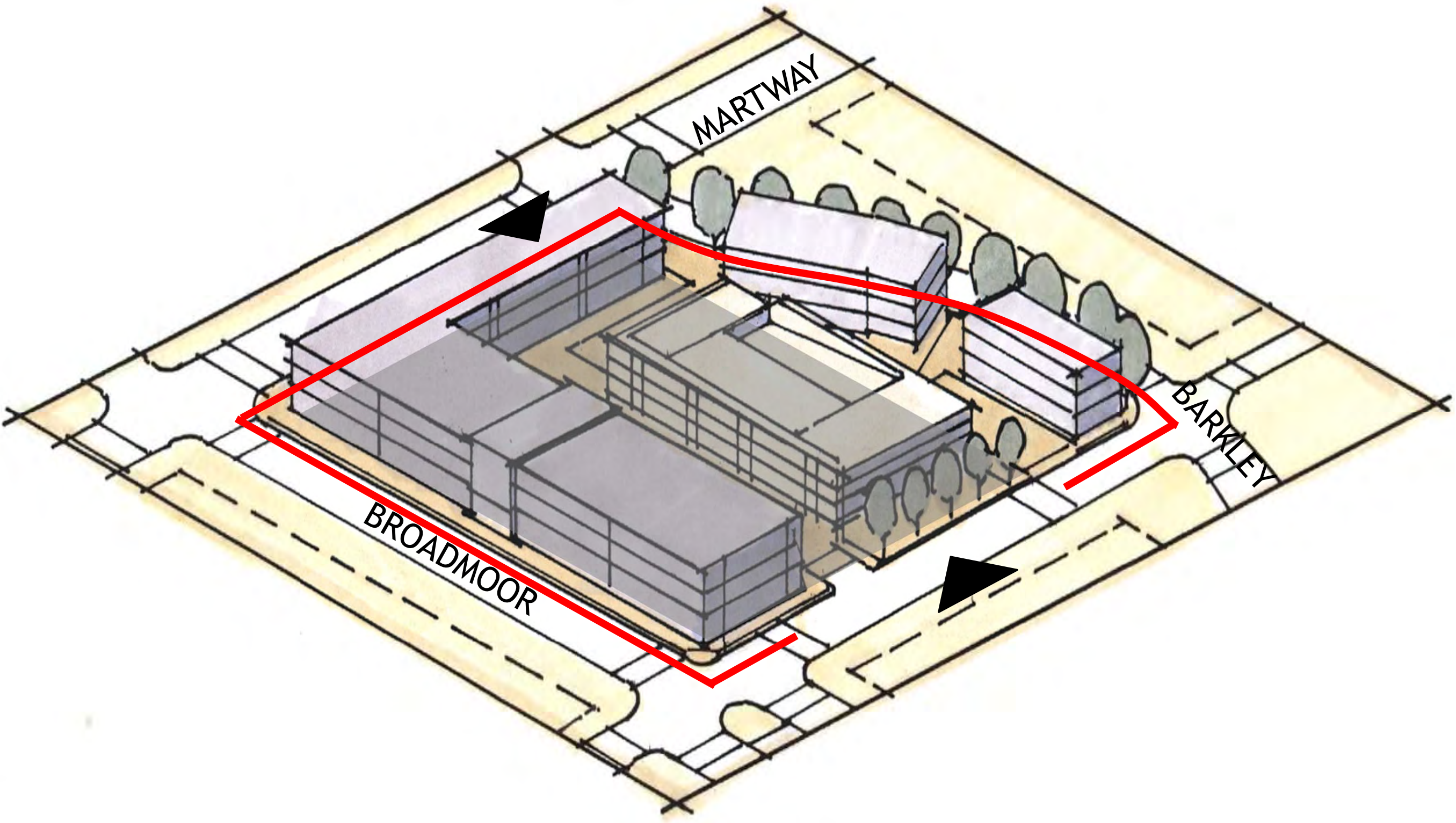


DEVELOPMENT PHASING POSSIBILITIES



WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Scenario 2



USING THE FORM BASED CODE

Elements of the Code

90 Points = Passing Score

1. Sector Plan / Regulating Plan
45 Points Possible / 45 Points Required
2. Building Types
10 Points Possible / 10 Points Required
3. Urban Guidelines
30 Points Possible / 25 Points Required
4. Architectural Guidelines
15 Points Possible / 10 Points Required



**WEST
GATEWAY**
REDEVELOPMENT AREA

**FORM BASED CODE
SUMMARY PRESENTATION**



USING THE FORM BASED CODE



WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE SUMMARY PRESENTATION

3 LOOK UP BUILDING TYPES IN BUILDING TYPES MATRIX

Resource: Building Types (Chapter 3)
 Building Types List: Townhouse, Mid-Rise, High-Rise

4 REVIEW URBAN + ARCHITECTURAL GUIDELINES FOR PERMITTED BUILDING TYPE

Resource: Urban Guidelines (Chapter 4) & Architectural Guidelines (Chapter 5)

BUILDING TYPE	FR
TOWNHOUSE	
LOW-RISE	
MID-RISE	

GALE COMMUNITIES theHOKPlanningGroup
FINAL REVISION

MISSION WEST GATEWAY FORM BASED CODE

USING THE FORM BASED CODE

The following pages identify the procedure to be followed when using the form based code

1 IDENTIFY PROPERTY LOCATION & NOTE ITS SECTOR

Resource: Sector Plan Map (Chapter 2, Page 1)
 Sector List: Broadmoor, Westgate, Johnson Corridor, Rock Creek, or Martway Corridor



SECTOR AND REGULATING PLAN
 CHAPTER 2: PAGE 1

2 DETERMINE BLOCK & NOTE PERMITTED BUILDING TYPES

Resource: Sector and Regulating Plan (Chapter 2)
 Block List: G
 Building Types List: Townhouse, Mid-Rise, High-Rise

MISSION WEST GATEWAY FORM BASED CODE

BLOCK F

- Higher density and intensity of uses are permitted on parcels located in this block.
- Higher residential density is permitted on parcels located in this block.
- Ground-level retail uses are encouraged on the site.
- The maximum height using Broadmoor is limited to three stories above the sidewalk.
- 20' minimum height for structures that are not subject to the Broadmoor.
- Building type appropriate for the block is:

MID-RISE, HIGH-RISE, LINER

BLOCK G

- The block is located in higher density (permitted) zoning districts within the block.
- Commercial and business uses are permitted on parcels located in this block.
- The maximum height using Broadmoor is limited to four stories above the sidewalk.
- Ground-level retail uses are encouraged on the site.
- 20' minimum height for structures that are not subject to the Broadmoor.
- Building type appropriate for the block is:

TOWNHOUSE, MID-RISE, HIGH-RISE, LINER

BLOCK H

- Higher density and intensity of uses are permitted on parcels located in this block.
- Higher residential density is permitted on parcels located in this block.
- Ground-level retail uses are encouraged on the site.
- The maximum height using Broadmoor is limited to three stories above the sidewalk.
- 20' minimum height for structures that are not subject to the Broadmoor.

ROCK CREEK SECTOR

SECTOR AND REGULATING PLAN
 CHAPTER 2: PAGE 5



USING THE FORM BASED CODE



WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE SUMMARY PRESENTATION

1 IDENTIFY PROPERTY LOCATION & NOTE ITS SECTOR

Resource: Sector Plan Map (Chapter 2, Page 1)
Sector List: Broadmoor, Westgate, Johnson Corridor, Rock Creek, or Martway Corridor.



SECTOR AND REGULATING PLAN
CHAPTER 2: PAGE 1



USING THE FORM BASED CODE



WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE SUMMARY PRESENTATION

2 DETERMINE BLOCK & NOTE PERMITTED BUILDING TYPES

Resource: Sector and Regulating Plan (Chapter 2)
Block List: G
Building Types List: **Townhouse, Mid-Rise, High-Rise**

MISSION WEST GATEWAY FORM BASED CODE

ROCK CREEK SECTOR

BLOCK F

- Higher building and density is permitted in this block, as shown in the block list and building types list.
- Higher density and building height is permitted in this block, as shown in the block list and building types list.
- Grouped multi-unit residential buildings are permitted in this block.
- The primary building form is a multi-story building with a variety of building heights.
- Grouped multi-unit residential buildings are permitted in this block.
- Building types approved for this block include:

MID-RISE, HIGH-RISE LINER

BLOCK G ←

- The block is designed to accommodate parking structures in the middle of the block.
- Commercial and residential buildings are permitted in this block.
- The primary building form is a multi-story building with a variety of building heights.
- Grouped multi-unit residential buildings are permitted in this block.
- Building types approved for this block include:

TOWNHOUSE, MID-RISE, HIGH-RISE, LINER

BLOCK H

- Higher building and density is permitted in this block, as shown in the block list and building types list.
- Higher density and building height is permitted in this block, as shown in the block list and building types list.
- Grouped multi-unit residential buildings are permitted in this block.
- The primary building form is a multi-story building with a variety of building heights.
- Grouped multi-unit residential buildings are permitted in this block.
- Building types approved for this block include:

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SECTOR AND REGULATING PLAN
CHAPTER 2: PAGE 5



USING THE FORM BASED CODE



4 REVIEW URBAN + ARCHITECTURAL GUIDELINES FOR PERMITTED BUILDING TYPE

Resource: Urban Guidelines (Chapter 4) & Architectural Guidelines (Chapter 5)

MISSION WEST GATEWAY FORM BASED CODE

TOWNHOUSE (OR ROWHOUSE)

Front setback: 5' - 10'

Side Street Setback: 5' - 20'

ARCHITECTURAL GUIDELINES

MATERIALS	CONFIGURATIONS	TECHNIQUES	BUILDING WALLS
<ul style="list-style-type: none"> Use a mix of materials. Use a mix of materials to create visual interest. Use a mix of materials to create visual interest. 	<ul style="list-style-type: none"> Use a mix of materials to create visual interest. Use a mix of materials to create visual interest. Use a mix of materials to create visual interest. 	<ul style="list-style-type: none"> Use a mix of materials to create visual interest. Use a mix of materials to create visual interest. Use a mix of materials to create visual interest. 	<p>INTENT</p> <p>Building walls should be a mix of materials and colors. Building walls should be a mix of materials and colors. Building walls should be a mix of materials and colors.</p>
<p>SIMPLE ENTRANCE</p>	<p>PROMINENT FRONT ENTRANCE</p>	<p>MULTI-LEVEL ENTRANCE</p>	<p>TEXTURED WALL</p>

WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE SUMMARY PRESENTATION



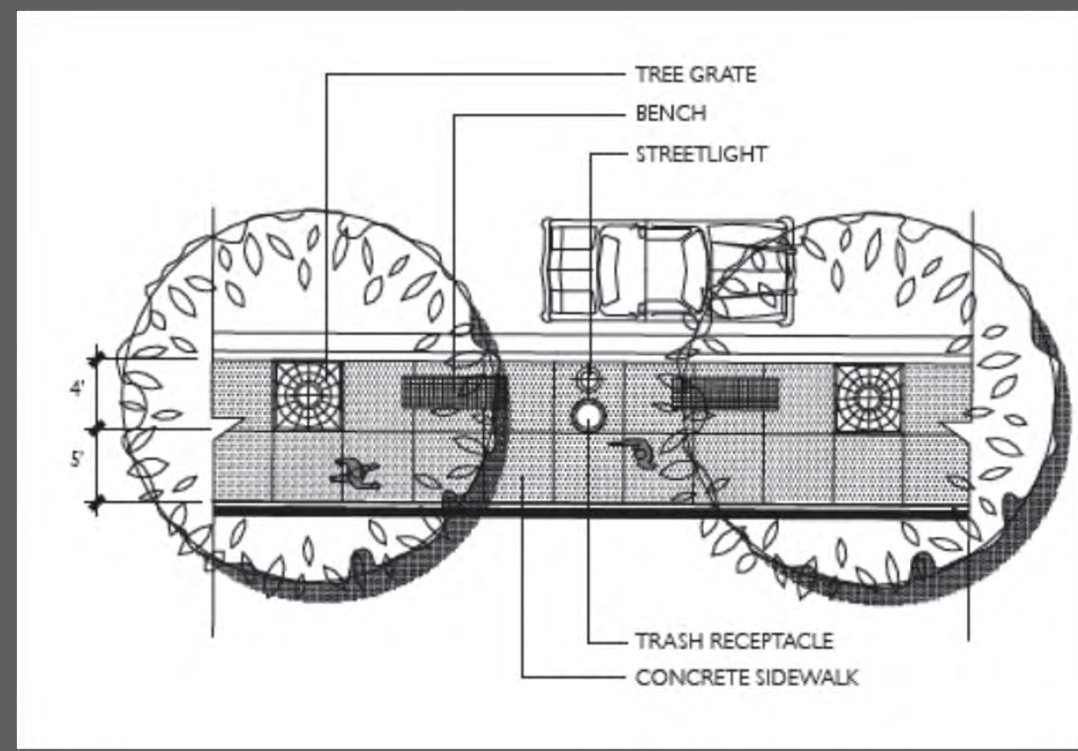


USING THE FORM BASED CODE

LANDSCAPE GUIDELINES - THE RULES FOR THE PUBLIC REALM



+ TYPICAL PARKING LOT PLANT SCREEN



+ CREATIVE PIPE: INVERTED "U" BIKE RACK
BU-20, flanged surface mount, black polyester powder coat finish



+ NEENAH FOUNDRY COMPANY: TREE GRATE #R-8726
48" square with 12" diameter expandable tree opening

MISSION WEST GATEWAY FORM BASED CODE

RIGHT-OF-WAY	56'
PAVEMENT	36'
TRAVEL LANES	2
PARKING	BOTH SIDES
SIDEWALK	6'
PLANTER TYPE	FITS
TREES	40' D.C. AVG.

STREET LAYOUT GUIDELINES
TYPE 70 - BARKLEY STREET FRONT

Section between 5th and Johnson Drive looking north

GALE | theHOKPlanningGroup
FINAL REVISION - 08.07.07

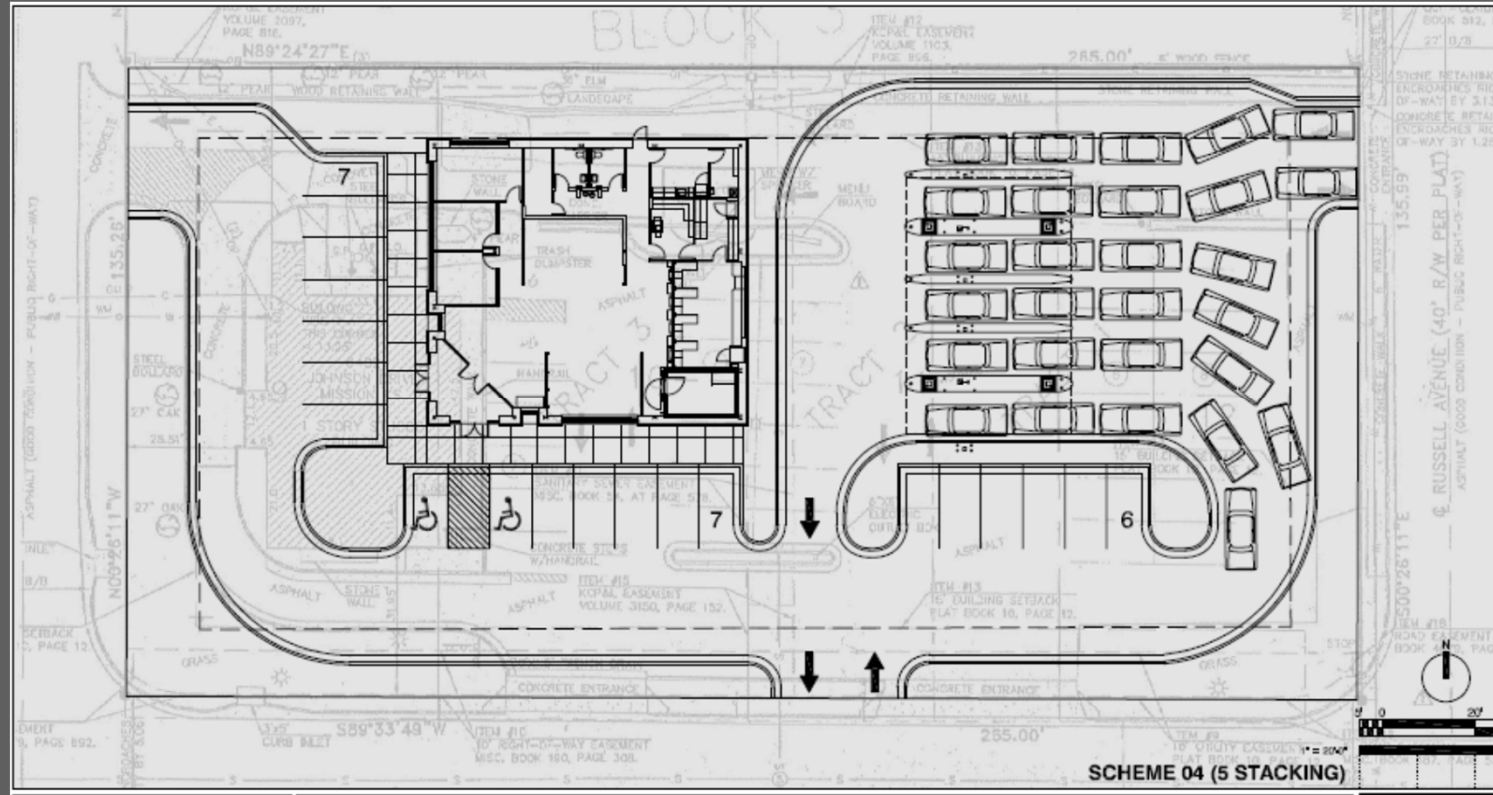
STREET LAYOUT GUIDELINES
CHAPTER 7: PAGE 8

WEST GATEWAY REDEVELOPMENT AREA

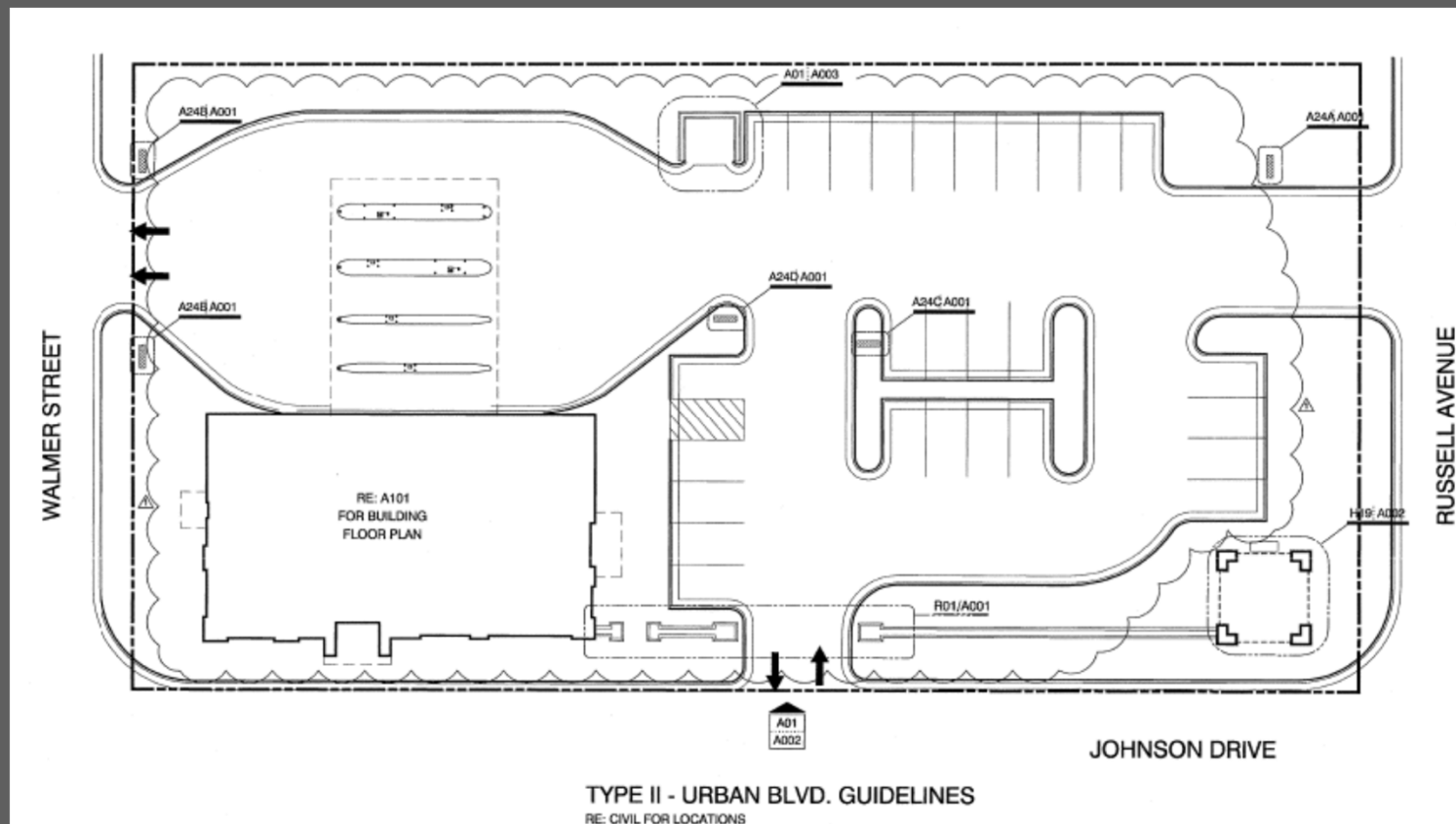
FORM BASED CODE SUMMARY PRESENTATION



Examples



Initial Plan - Conventional 1-story building, building set back from street



FBC Plan - 2-story building, at build-to line, pedestrian realm improvements

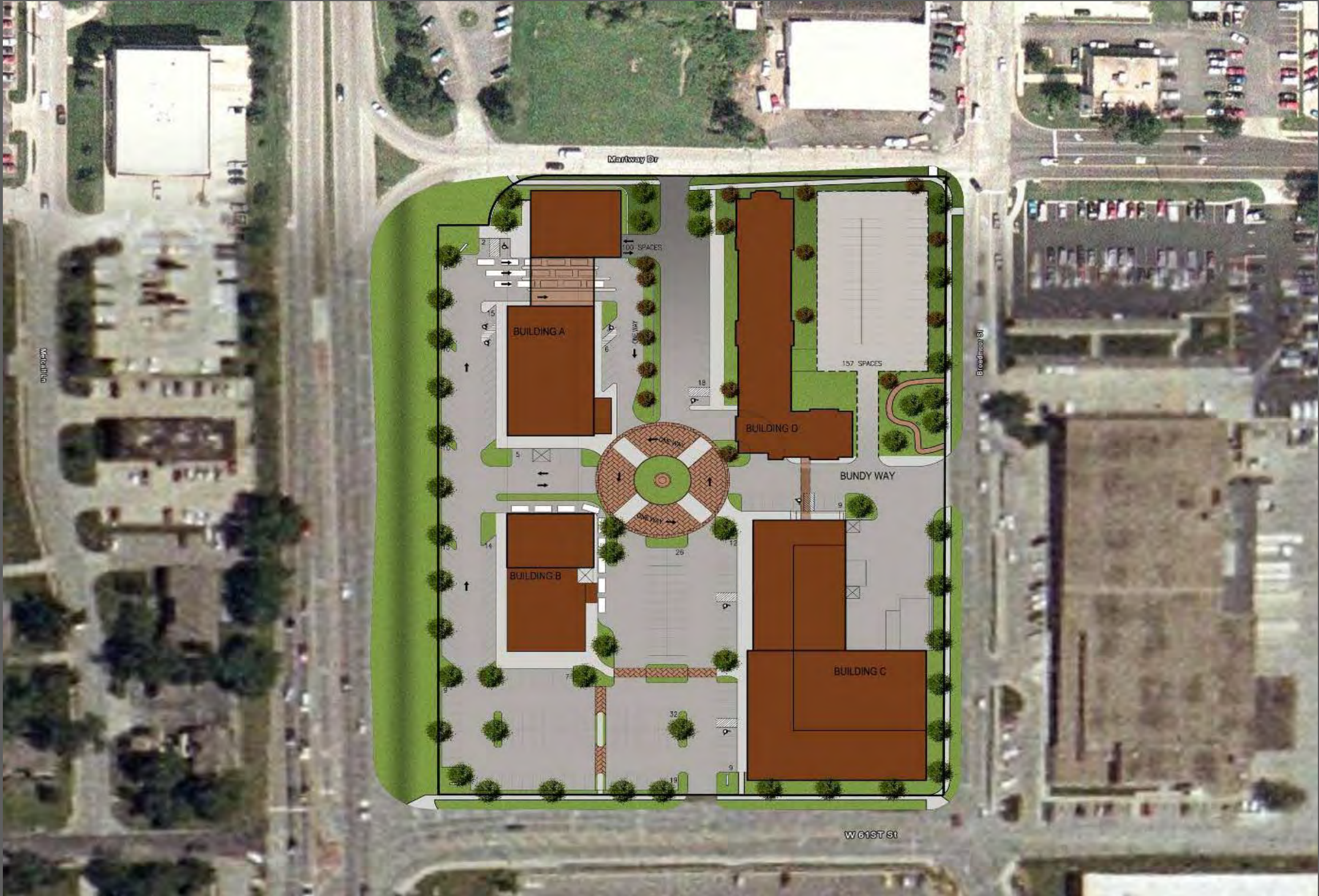


WEST GATEWAY REDEVELOPMENT AREA

FORM BASED CODE SUMMARY PRESENTATION



Mission Crossing



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Mission Crossing



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Mission Crossing



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Mission Crossing



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION



Mission Crossing



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION





Cornerstone Commons

Building Placement – All structures relate to and connect with adjacent streets

Pedestrian Realm – Streetscape improvements are provided on all adjacent public streets, including landscape plantings, site furnishings, lighting, etc.



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION





FORM BASED CODE SUMMARY PRESENTATION

April 4, 2018



WEST GATEWAY

REDEVELOPMENT AREA

FORM BASED CODE
SUMMARY PRESENTATION





February 27, 2018

Ms. Danielle Sitzman, AICP
City Planner
City of Mission
6090 Woodson
Mission, KS 66202

RE: Tidal Wave Auto Spa - Development Plan Submittal

Dear Danielle,

As master developer of the West Gateway Redevelopment District for the City of Mission, it is our responsibility to conduct a review of development plans and applications within this area, and to provide comments relative to their compliance with the recommendations outlined in the City's Form Based Code (FBC).

It is our understanding that this applicant, Mr. Steve Block and/or TW Macon LLC, wishes to obtain approval for an amended and supplemented preliminary site development plan submittal for a ~0.76 acre site located on the southwest of the intersection of Walmer Street and Johnson Drive. As indicated in the submitted plans, the proposed improvements are intended to remove an existing single-use building with a large surface parking lot and redevelop the site to incorporate a proposed drive-through auto spa, a structure containing vehicle vacuum bays and commercial offices, and related site improvements.

Our review of the plans is provided below, including our interpretation and recommendations regarding their conformance with specific requirements outlined in the FBC. Since the site is larger than 0.50 acres, the FBC allows for up to 60% of the gross square feet of development to utilize low-rise building(s) in conjunction with at least 40% of other identified building types (in this case Townhouse, Mid-Rise, High-Rise, or Parking Structure).

This application includes two proposed structures - neither of which are consistent with the building types identified in the FBC. The smaller of the two structures (the car wash) does not meet the identified height requirement for a low-rise building type. The larger of the two structures (the vacuum bays with office space above) does not meet any of the building types identified in the FBC. Due to the ground floor of this structure proposed primarily for vacuum bay parking with no doors or full enclosure, we interpreted the closest FBC building type for comparative purposes to be a Parking Structure - and have used this for the analysis outlined herein.

Please note the FBC regulating plan also calls for Walmer Street to be extended south from the existing Johnson Drive intersection. If the dedicated street extension and related right-of-way were to have been incorporated, the remaining development site area could be less than 0.50 acres and would then qualify for use of a low-rise building as part of an alternative redevelopment scenario. However; this application does not include the proposed extension of Walmer Street as identified in the FBC.

That said, the City has requested our review of this application be provided under a scenario wherein Walmer Street is interpreted to not be designated for extension to the south as part of the FBC requirements. Our review is provided with this understanding.

These comments are provided in accordance with the “steps” outlined in Chapter 8 of the FBC, including the FBC scoring system.

Step 1 - Regulating Plan (45 Points Required to Pass, 45 Possible Points)

- *Block Configuration and Frontage Type:* In our opinion, the proposed development generally respects the hierarchy of frontage types identified in the FBC, with the primary (taller) of the two proposed structures placed along the existing Johnson Drive frontage. The regulating plan identifies building types appropriate for this block as Townhouse, Mid-Rise, High-Rise, and Parking Structure; however, this taller structure does not meet the definition of any of these appropriate building types. There is also no indication of retail uses proposed for the ground floor of this structure along Johnson Drive as required in the regulating plan.

The FBC also allows for the use of Low-Rise buildings in certain circumstances, and these buildings are required to be 26' in height. The smaller one-story auto spa structure located on the south portion of the site does not meet the 26' height requirement, and therefore does not meet the definition of the Low-Rise building type.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design of these structures to comply with FBC building type requirements and continuing to place the tallest structure along the Johnson Drive frontage.

Score: 7/15 points

Parking: In our opinion, the proposed development generally meets the conditions identified in the FBC for placement of surface parking areas towards the interior of this development site; however, other parking proposed within a structure conflicts with provisions of the regulating plan. The taller structure proposed along Johnson Drive indicates vehicular parking in the ground floor space, with access provided from the interior of the site on the south side of this structure.

The use of the ground floor space of this structure for vehicular parking is not consistent with a mid-rise building type, and does not allow adequate space for retail uses along Johnson Drive as required in the FBC regulating plan. Because this building has parking included on the ground floor, it is interpreted to be reviewed as a Parking Structure building type; however, the size and configuration of this structure also doesn't meet the definition of a Parking Structure building type.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design of the taller structure to comply with the FBC building type requirements.

Score: 7/15 points

Access: In our opinion, the proposed development adequately addresses site access issues identified in the FBC. Access to the site is provided near the

Walmer Street and Johnson Drive intersection with the proposed removal of a portion of the existing Johnson Drive median island. There are no provisions for a driver to be able to exit the line or to access parking for the proposed office space without first entering through the pay kiosk. A "right-out only" egress drive connection to Johnson Drive is also provided on the west edge of the site.

The applicant has provided an auto turn template using a passenger car to illustrate the ability to enter the site through the pay kiosk and exit to Johnson Drive on the west side of the site. However; it is unclear if trash and/or other service vehicles are anticipated to access the site using this entry drive through the pay kiosk, or whether they are anticipated to access the site through the single exit lane (west side) connecting to Johnson Drive. If they are anticipated to use this exit lane, it should be considered for widening to accommodate two-way traffic.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant providing additional information regarding the ability of relevant vehicle types to access the interior portions of the site either through the pay kiosk lane or via alternative access points.

Score: 14/15 points

Total Score: 28/45 Points (NOT PASSED - 45 Points Required)

Note: According to Chapter 8 of the FBC, development submittals must comply with the requirements outlined in the regulating plan, and a score of 45 is required to automatically continue to the next review group in the process. At this point in the review process, the Community Development Department was notified of this issue/score, and it was determined that due to the nature and complexity of the overall project, the review should continue to be provided for the remaining steps of the FBC.

Step 2 - Building Types (10 Points Required to Pass, 10 Possible Points)

- *Building Type Matches Regulating Plan Text:* The taller structure is interpreted to be considered as a Parking Structure building type, but there is no ground floor commercial retail use along the Johnson Drive frontage as required in the FBC. The proposed height of the one-story structure (located along the south edge of the site) does not meet the minimum 26' height requirement to qualify for consideration as a Low-Rise building type.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design of these structures to comply with FBC building type requirements outlined in the regulating plan text. Two example scenario concepts are provided below.

One concept could include revising the taller structure to meet the Parking Structure building type by expanding the width/depth of the habitable portion of the building to a minimum of 40' along the entire length of the building and 20' tall to accommodate a variety of uses, while including the proposed covered vehicle parking vacuum bays along the rear of the building with commercial, office, or parking spaces above in a second story.

Another concept could include be revising the taller structure to meet the Mid-Rise building type by expanding the width/depth of the building to a minimum of 40' along the entire length of the two-story building with habitable space on both levels, and an option to place the vehicular parking vacuum bays either behind the building or in a basement below a portion of the rear of this building by sloping the site grading for vehicular access to this basement condition.

These and/or other scenario concepts could be explored further in collaboration with the applicant to address specific programmatic and development requirements associated with these or other alternative approaches.

Score: 2/5 points

- *Building Type Matches Chapter 3 Definition:* The proposed taller structure proposed for the northern edge of the site does not contain the ground floor commercial retail along the Johnson Drive frontage as required in the FBC Parking Structure building type definition. The proposed smaller auto spa building structure on the southern edge of the site does not meet the minimum 26' height requirement to qualify for consideration as a Low-Rise building type.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design of these structures to comply with FBC building type requirements as previously outlined herein. The auto spa structure needs to be increased in height to meet the 26' height requirement to qualify as a Low-Rise building type.

Score: 2/5 points

Total Score: 4/10 Points (NOT PASSED - 10 Points Required)

Step 3 - Urban Guidelines (25 Points Required to Pass, 30 Possible Points)

Intent: The development plan submitted by the applicant does not provide clearly outlined proposed building type designations for proposed structures. For a site this size, the FBC outlines "Low-rise buildings, built to low-rise building guidelines, may be developed as up to 60% of the gross square feet of development (in one or multiple buildings) ..." While the applicant has provided square footages of the proposed buildings, they do not meet the building type criteria as outlined below.

The proposed height of the one-story structure (located along the south edge of the site) does not meet the minimum 26' height requirement to qualify for consideration as a Low-Rise building type, and does not meet the intent.

The taller structure is interpreted to be considered as a Parking Structure building type, but there is no ground floor commercial retail use along the Johnson Drive frontage as required in the FBC. Above-ground Parking Garage structures must also include an inhabitable 20' high ground floor with a minimum depth of 40' along the entire length of the garage to accommodate a variety of uses. The proposed taller structure does not provide these features and does not meet the intent of this building type.

For these reasons, these structures do not comply with the written intent for these building types, and the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design of these structures to comply with the intent of the FBC building type requirements.

Score: 1/5 points

- *Front Setback - Johnson Drive:* As the proposed taller structure is considered to be a Parking Garage building type for the purposes of this submittal, it appears the front setback on Johnson Drive has not been provided appropriately. Since the Walmer Street extension and its related secondary frontage line was removed from consideration as part of this review, the placement of the taller structure with an integrated Parking Structure along the primary Johnson Drive frontage was considered to be an acceptable approach. The front setback to secondary frontage lines is 40' minimum with the intent to require a 40' deep building use at street level adjacent to this corridor. This is not included on the submitted revised site plan.

In addition, the application has submitted some additional (yet very limited) information regarding proposed streetscape improvements along Johnson Drive including a few tree, light, bench, and trash receptacle locations - but these plans are still missing numerous notations, the types of lighting and site furnishings, and other details associated with providing the required quantity and configuration of streetscape improvements and related landscape plans that should be included for the front setback area along Johnson Drive. Street trees are required at 40' maximum spacing, and the plans indicate two trees - but three additional trees are required. One bench is shown, but two additional benches are required. One trash receptacle is shown, but one additional receptacle is required. Hanging baskets/planters are to be utilized with the lighting (2 per pole), but none appear to be indicated on the plans. Tree grates are to be utilized with the street trees, but none appear to be indicated on the plans. Three bike rack loops are required, but none appear to be indicated on the plans.

The sidewalk area is proposed to be 9' in width on the application, which matches the width as outlined in the FBC requirements.

Some additional information related to FBC lighting requirements for the Johnson Drive Corridor is provided below:

- *Street Lights:* use of the same street light fixtures utilized along the west side of Broadmoor south of Martway (Lumec or City approved equivalent) located on a taller single shared pole for use along Broadmoor at approximately 120' intervals.
- *Pedestrian Lights:* use of the same pedestrian light fixtures utilized along the west side of Broadmoor south of Martway (Lumec or City approved equivalent) located on shorter single poles along Broadmoor at approximately 60' intervals.
- Prior to ordering and installing any of the lighting or site furnishings associated with this project, additional design coordination with the City of Mission may be necessary to ensure the appropriate fixtures and furnishings are selected to be consistent with the City's final streetscape design recommendations and previous selections for use in the West Gateway area.

The development plan also includes references to landscape features and a proposed dumpster enclosure location in the southwest corner of the property, but no details or landscape plans have been provided for these items as part of the application.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design of the taller structure along Johnson Drive to match one of the building types and placing it to correspond with the front setback outlined in the FBC, and also providing additional streetscape design, landscape, lighting and related Johnson Drive sidewalk area improvement details.

Score: 3/5 points

- *Side Street Setback:* Due to the Walmer Street extension being removed from consideration, there is no side street setback related to this proposal and the placement of structures appear to be generally acceptable.

Score: 5/5 points

- *Side Setback:* The locations of proposed structures along the east and west property lines generally meets the intent of the FBC relative to any side setback criteria, and thus complies. No landscape plans or details associated with proposed plantings along these areas have been submitted.

For this reason, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant providing appropriately detailed landscape plans.

Score: 4/5 points

- *Rear Setback:* The locations of proposed structures along the south property line generally meets the intent of the FBC relative to any rear setback criteria, and thus complies. No landscape plans or details associated with proposed plantings along these areas have been submitted.

For this reason, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant providing appropriately detailed landscape plans.

Score: 4/5 points

- *Parking Area:* The proposed development appears to meet the conditions identified in the FBC by placing the surface parking areas towards the interior of this development site. There are notations of landscape features and a trash enclosure located in the southwest area of the property, but no details associated with the proposed plantings and trash enclosure have been submitted. This enclosure needs to be architecturally compatible with the adjacent building's appearance and use of materials. There is also no provision currently for pedestrian sidewalks leading into the interior of the site and the proposed auto spa structure located in the southern portion of the site from the adjacent Johnson Drive corridor.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant providing appropriately detailed landscape plans and a pedestrian sidewalk connecting to the auto spa structure.

Score: 3/5 points

Total Score: 20/30 Points (NOT PASSED - 25 Points Required)

Step 4 - Architectural Guidelines (10 Points Required to Pass, 15 Possible Points)

- *Intent:* The proposed architectural treatments generally comply with these requirements, and the revised plans provide indications of proposed architectural materials.

Due to the aforementioned one-story structure not meeting the required 26' building height to be considered a Low-Rise building type, the taller structure not meeting the definition of a Parking Structure building type, and the material comments outlined above, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design and providing additional details for these structures to comply with the intent of the FBC building type and architectural treatment requirements.
Score: 2.5/6 points

- *Materials:* It appears the initial materials indicated for use on the proposed taller structure and the one-story structure generally complies with these requirements. It appears the vast majority of façade material for the taller structure is proposed to be stucco/EIFS. The use of EIFS material in lower elevations of the building (within reach of people) can present some maintenance concerns, and more durable options could be explored for use on lower portions of the building while still complimenting the overall architectural appearance of the structure. The use of E.F.S. (similar to the proposed EIFS?) on the one-story structure presents similar durability concerns as noted above. There are also no materials or finishes specified for the trash enclosure or the concrete retaining wall, including whether there will be a railing installed atop this wall.

For these reasons, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the elevations of these proposed structures, walls, and railings (if any are needed for safety) to reflect proposed materials and finishes, and by submitting samples of these materials for review.

Score: 2/3 points

- *Configuration:* It appears the proposed structures in some ways comply with these requirements; however, the aforementioned structure dimension and configuration changes associated with the taller structure are needed for it to be considered a Parking Garage building type, and the aforementioned structure height changes associated with the one-story structure are needed for it to be considered a Low-Rise building type. This will require substantial changes to the configuration of these structures - and additional review will be necessary at that time. Some additional observations on the application as submitted are noted below:

"Roofs":

- Provide calculations for the proposed cupola features to indicate they do not exceed 500 square feet in plan.

"Storefronts":

- Provide calculations indicating windows and doors of commercial establishments occupy no less than 60% of the total storefront, from sidewalk grade to a distance of 18' above the sidewalk grade.

The calculations provided appear to include the entire façade, and do not meet this 60% requirement.

"Awnings & Canopies":

- o The use of awnings is permitted along the base of a building. Those proposed on any upper floors will be further considered in conjunction with any revised elevations that adequately address other issues outlined herein.

For the reasons stated above, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the configuration of various components of the structures as outlined to comply with the FBC's configuration requirements.

Score: 1.5/3 points

- *Techniques:* It appears most of the structures generally comply with these requirements; however, the aforementioned structure dimension and configuration changes associated with the taller structure are needed in order for it to be considered a Parking Garage building type, and the aforementioned building height changes associated with the one-story structure are needed in order for it to be considered a Low-Rise building type. This will require substantial changes to the techniques used in the design of these structures - and additional review will be necessary at that time. Some additional observations on the application as submitted are noted below:

"Building Walls":

- o Please indicate where any air conditioners and other utility elements are intended to be placed to eliminate their placement on a building wall facing the street, and indicate techniques proposed to properly screen them from public view.

For the reasons stated above, the full score for this portion of the plan review has not been achieved. This can be rectified by the applicant revising the design of these structures to reflect the comments outlined above to comply with the FBC's technique requirements.

Score: 2/3 points

Total Score: 8/15 Points (NOT PASSED - 10 Points Required)

The overall score for this proposal is 60 out of a possible of 100 points, with an overall total of 90 points required to pass. If you have any questions about these comments, please don't hesitate to contact me to review in further detail.

Best Regards,



Wm. Christopher Cline, ASLA
Core Design Development, LLC



City of Mission, KS
6501 Johnson Drive

Planning Commission

March 26, 2018

Preliminary Development Plan



Starbucks

Johnson Dr

Johnson Dr

MISSION WEST
Shopping Ctr

Shawnee Missions
Horizon High School

Lamar Ave





NOTHING BUTT CAKES

HONDA



Project History

- History of prior Use – Vacant for a year
- Site is in a zoning district that permits car wash facilities
- Form Based Code Objectives
- City's expression that a functional two-story building directly adjoining Johnson Drive was paramount to meeting the primary objectives of the West Gateway FBC
- 2-story renderings
- Traffic Study
- Amended Preliminary Development Plan submittal

COMPANY HISTORY

- Tidal Wave first began washing cars in 2004 in Atlanta, GA.
- Tidal Wave was selected by the United States Small Business Administration as the Small Business of the Year for Georgia in 2009.



COMPANY OBJECTIVES

- To be the most attractive business in the community.
- Provide the cleanest, greenest and easiest car cleaning service.
- Maintain each location in a clean and beautiful manner with superior customer service.



OPERATIONS

- Open seven days per week, 8 AM to 8 PM.
- Recycled water used at all locations.
- Water conservation promoted by reducing the amount of 'fresh' water needed to provide a quality exterior wash vs. car washes at home. 14-20 gallons vs. 80-140 gallons.
- Waste water filtered prior to entry into the sanitary sewer system.



COMMUNITY

- Tidal Wave partners with local schools, athletic teams and their booster clubs, service organizations, churches and other 501(c)(3) organizations.
- The third Friday of September is designated as 'Charity Day' with 100% of ALL proceeds donated to special needs charities.







Building Material List – Mid-Rise



VIEW FROM JOHNSON DRIVE

3850 SF WALL SURFACE EXCLUDING GABLES, ROOF, CUPOLA.
1800 S.F. GLAZING (WINDOWS AND SF ENTRY)
1750 S.F. EIFS OR HARD COAT STUCCO
300 S.F. SPLIT FACE BLOCK

TIDAL WAVE AUTO SPA

EXTERIOR FINISHES



EIFS/STUCCO
SW 9102 QUINOA



WATERTABLE
BASCO PRECAST PRODUCTS
COLOR - BUFF



METAL ROOFING
COLOR - KHAKI



WATERTABLE
SPLIT FACE BLOCK
OLD CASTLE

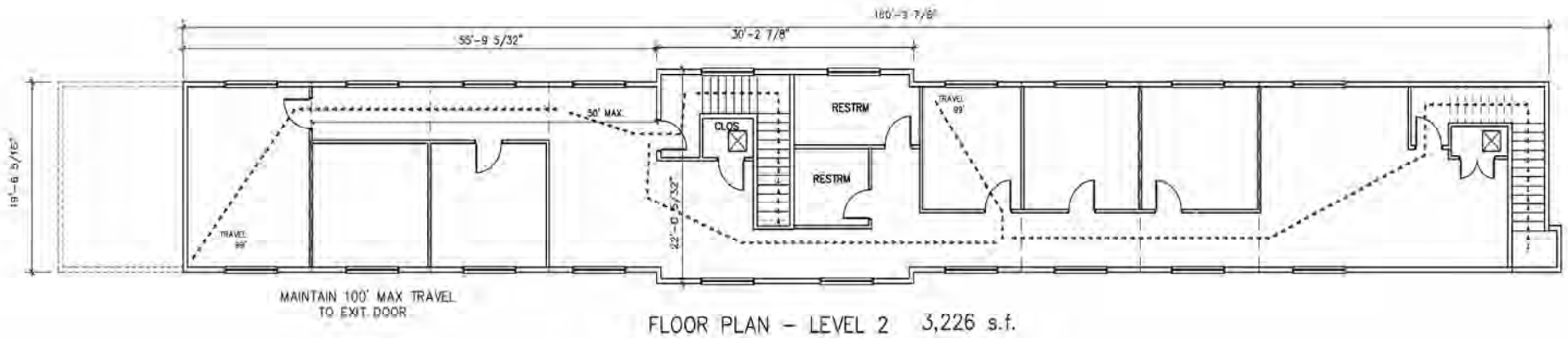
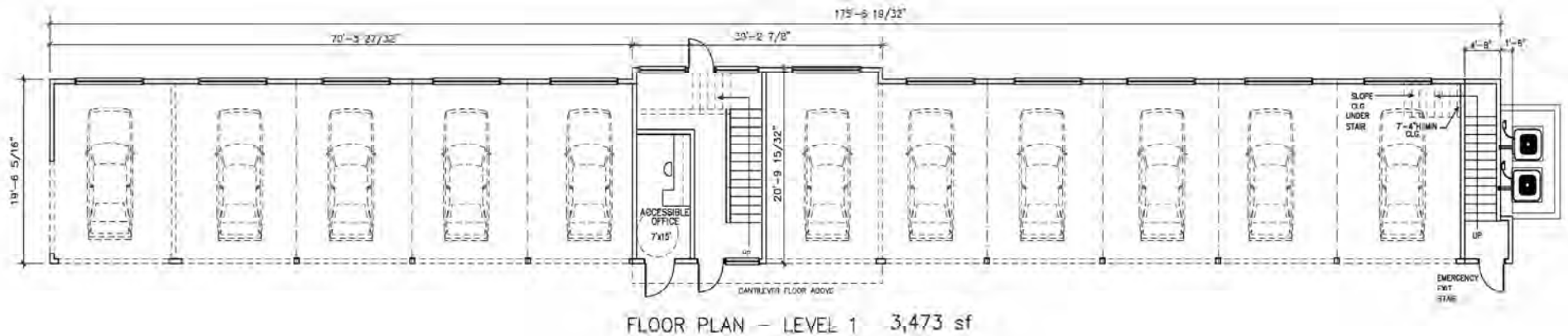


BORAL PROFIT
SOUTHERN LEDGESTONE
COLOR - BUCKS COUNTY



GLAZING
CLEAR GLASS

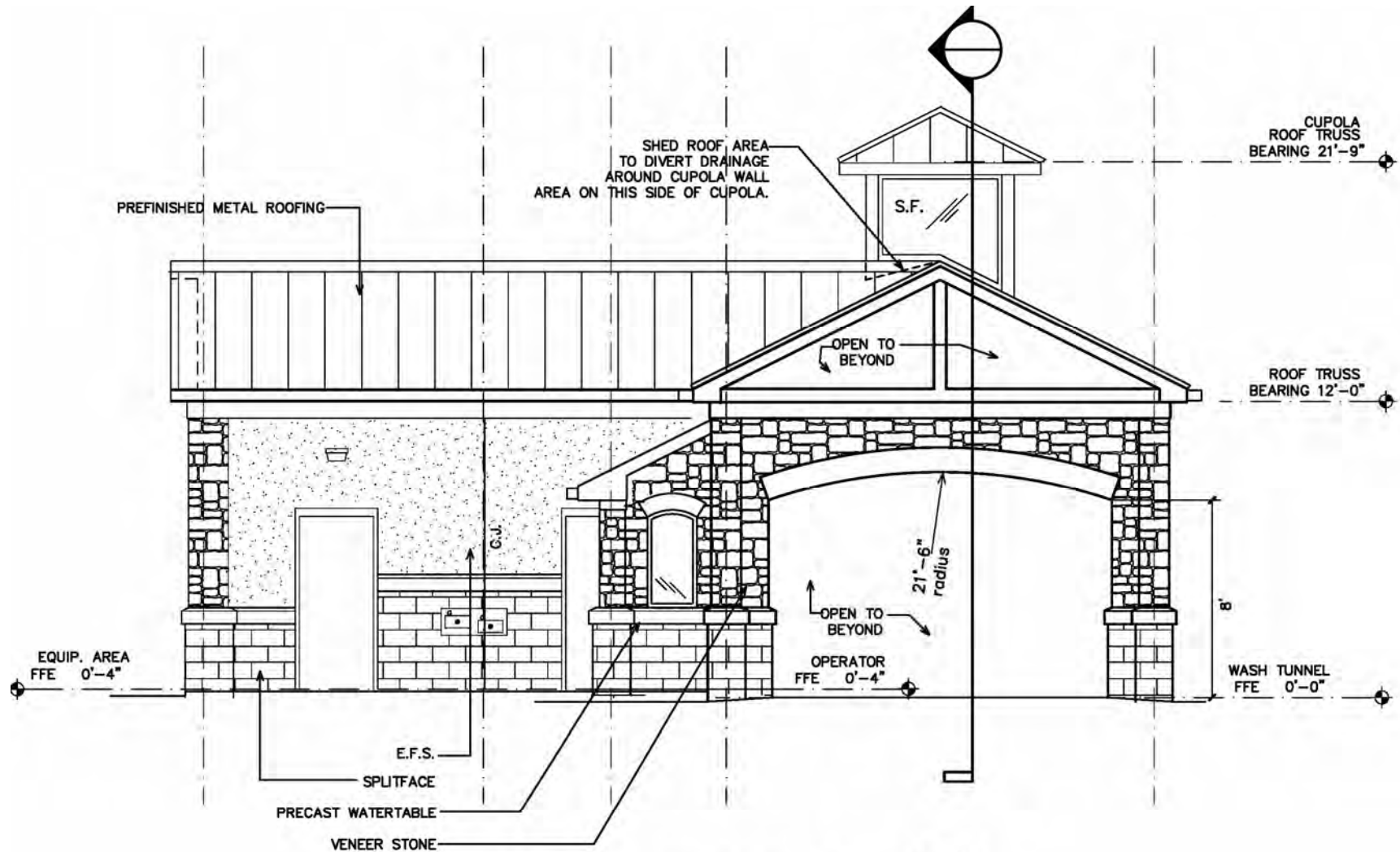
Floor Plan - Mid-Rise



Tunnel Entrance Perspective



Building Material List – Tunnel



REAR ELEVATION (ENTRY)

SCALE: 1/4"=1'-0"

5
A2.1

Vacuum Enclosure

(Height 11 Ft.)



Xpress Pay Terminal (Height 4.5 Ft.)



Project Future

- Planned for Tidal Wave Auto Spa's Divisional Office
- Site is on an "Island"
- Serviced Based Operation
- Future Retail Adaptation
- Building Type Designation (Mid-Rise vs. Parking Structure)





THANK YOU

Form Based Code Score Card

w. stipulations
proposed

	Possible Score	Required	Actual	Perceived
Step 1: Regulating Plan:				
Block Configuration and Building Type	15	15	7	15
Parking	15	15	7	15
Access	15	15	14	15
Total Step 1:	45	45	28	45

Notes:

Rear Building is not 26 feet High

Front Building is interpreted as parking deck and is not 40 feet deep.

Did not provide two way traffic or turning template.

Step 2: Building Types:

Building Type Matches Regulating Plan	5	5	2	5
Building Type Matches Chapter 3	5	5	2	5
Total Step 2:	10	10	4	10

Notes:

Rear Building is not 26 feet High

Front Building does not include commercial use on ground floor.

Step 3 Urban Guidelines:

Intent	5	5	1	1
Front Setback - Johnson Drive	5	5	3	5
Side Street Setback	5	5	5	5
Side Setback	5	5	4	5
Rear Setback	5	5	4	5
Parking Area	5	5	3	4
Total Step 3:	30	25	20	25

Notes:

Rear Building is not 26 feet High

Front Building is interpreted as parking deck and is not 40 feet deep.

Did not provide required Streetscape Details.

Did not provide required landscape plans along side and rear yard.

Did not provide required landscape details and pedestrian sidewalks for connectivity.

Step 4: Architectural Guidelines

Intent	6	6	4	3
Materials	3	3	3	3
Configuration	3	3	3	3
Techniques	3	3	2	2
Total Step 4:	15	10	12	11

Notes:

Rear Building is not 26 feet High

Front building does not provide 60% storefront to 18 feet aff.

Total Project Score:	100	90	64	91
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City of Mission	Item Number:	7a.
ACTION ITEM SUMMARY	Date:	July 1, 2019
Administration	From:	Laura Smith

Action items require a vote to recommend the item to full City Council for further action.

RE: Roeland Court Townhomes Community Improvement District (CID) Special Assessment Ordinance

RECOMMENDATION: Approve the ordinance levying special assessments for the Roeland Court Townhomes Community Improvement District.

DETAILS: The Roeland Court Townhomes CID was established at the April 2019 City Council meeting. With the project proceeding to design and construction, the next step in the CID Special Assessment process is for the Council to hold a public hearing and then pass an ordinance certifying the maximum assessments. This triggers a “Protest Period” that would expire on August 23, 2019.

Although the maximum amounts per property are certified via the ordinance, the assessments are not provided to the County Clerk for inclusion on the tax bill until **after** the project is completed and final costs can be confirmed and allocated. Approving this ordinance now ensures that there are no issues with property owners contesting the assessment after the project is already complete.

Notice of the public hearing was published in the legal record on July 2, 2019 and notices were mailed to all property owners within the Roeland Court Townhomes Community Improvement District.

CFAA CONSIDERATIONS/IMPACTS: NA

Related Statute/City Ordinance:	K.S.A. 12-6a01 <i>et seq.</i>
Line Item Code/Description:	NA
Available Budget:	NA

**CITY OF MISSION, KANSAS
ASSESSMENT PROCEEDINGS
ROELAND COURT TOWNHOMES CID**

Pre-Construction

- A. Schedule
- B. Estimate of Total Cost
- C. Maximum Assessment Roll Certification
- D. Notice of Public Hearing
- E. Notice of Hearing and Statement of Cost Proposed to be Assessed (Form Letter)
- F. Certificate of Mailing (Notice of Public Hearing)
- G. Excerpt of Minutes re Assessment Ordinance
- H. Ordinance
- I. Summary Ordinance for Publication

Post-Construction

- J. Certificate of Final Costs
- K. Notice of Assessment (Form Letter)
- L. Certificate of Mailing (Notice of Assessment)
- M. Certificate of City Treasurer

**CITY OF MISSION, KANSAS
ASSESSMENT PROCEEDINGS
ROELAND COURT TOWNHOMES CID**

SCHEDULE

<u>DATE</u>	<u>ACTION OR EVENT</u>
July 2, 2019	Publish Notice of Public Hearing in <i>The Legal Record</i> ; Mail Notice of Public Hearing and Statement of Costs Proposed to be Assessed
July 17, 2019	Governing Body Meeting Conduct Public Hearing; Pass Assessment Ordinance
July 23, 2019	Publish Summary Assessment Ordinance
August 23, 2019	Expiration of No Protest Period

Post-construction	Determine total costs and assessment amounts; Mail Notices of Assessment; 30-Day Prepayment Period; Certify assessments to County by August 25

**CITY OF MISSION, KANSAS
ROELAND COURT TOWNHOMES COMMUNITY IMPROVEMENT DISTRICT
(RESOLUTION NO. 1020)**

ESTIMATE OF TOTAL COST

Item Description	Quantity	Unit	Unit Cost	Project Cost
Mobilization	1	LS	\$200,000	\$200,000
Construction Staking	1	LS	\$17,500	\$17,500
Traffic Control	1	LS	\$4,000	\$4,000
Gravel Construction Entrance	4	Ea	\$1,580	\$6,320
Remove & Store Concrete Barrier	10	Ea	\$490	\$4,900
4' Temporary Fencing	1000	LF	\$4	\$4,000
Vegetation Clearing and Grubbing	64000	SF	\$2	\$128,000
Remove & Dispose 8" Asphalt	18000	SF	\$4	\$72,000
Remove & Dispose Flumes, Curbs and Sidewalk	441	SF	\$1	\$441
Excavation and Haul Off Unsuitable Soil	8185	CY	\$55	\$450,188
Raise Building on 60th Terrace	1	LS	\$67,000	\$67,000
4" Underdrain	4000	LF	\$10	\$40,000
Granular Backfill	7768	CY	\$52	\$403,953
Biaxial Geogrid	13000	SY	\$5	\$65,000
Big Block Retaining Wall	18000	SFF	\$70	\$1,260,000
Concrete Cantilever Retaining Wall	4700	SFF	\$155	\$728,500
Heavy Riprap	300	CY	\$115	\$34,538
Compaction of Imported Fills	694	CY	\$60	\$41,667
Concrete Flume	174	SF	\$12	\$2,088
Concrete Curb and Gutter	726	LF	\$24	\$17,424
12" AB-3 Pavement Subgrade	861	SY	\$24	\$20,661
6" Asphalt Base	3308	SY	\$24	\$79,389
2" Asphalt Surface	4956	SY	\$11	\$54,512
2" Asphalt Milling	1520	SY	\$10	\$15,200
5' Concrete Sidewalk	225	SF	\$6	\$1,350
Reset Landscaping Blocks	60	SFF	\$45	\$2,700
6' Wood Fence	310	LF	\$25	\$7,750
12" Imported Topsoil	1100	CY	\$50	\$54,985
Mulching / Seeding	50000	SF	\$2	\$100,000
8" Straw Waddles	1000	LF	\$11	\$11,000
2" Caliper Landscaping Tree	20	Ea	\$400	\$8,000
Construction Subtotal				\$3,903,068
Survey, Engineering and Permitting Services	9%			\$346,468
Geotechnical Services	3%			\$115,500
Construction Observation Services	6%			\$232,532
Consultant Services Subtotal				\$694,500
60th Terrace Property Purchase with Expenses				\$180,375
Contingency	10%			\$477,794
TOTAL POTENTIAL COST				\$5,255,737

City-at-Large Portion (92.37%)

\$4,854,937

Maximum CID Portion (7.63%, not to exceed \$400,800)

\$400,800

MAXIMUM ASSESSMENT ROLL CERTIFICATION

The undersigned having been designated by the City of Mission, Kansas (the “City”), to determine the amounts of the respective maximum assessments and to prepare the proposed Maximum Assessment Roll therefor in connection with certain internal improvements previously authorized by the governing body hereby reports that each and all of the respective maximum assessments have been determined to be as shown below:

**ROELAND COURT TOWNHOMES COMMUNITY IMPROVEMENT DISTRICT
(RESOLUTION NO. 1020)**

Description of Property	Amount of Proposed Maximum Assessment
4954 W 60th Ter Mission, KS 66205	\$20,040.00
4956 W 60th Ter Mission, KS 66205	20,040.00
4958 W 60th Ter Mission, KS 66205	20,040.00
4960 W 60th Ter Mission, KS 66205	20,040.00
4962 W 60th Ter Mission, KS 66205	20,040.00
4964 W 60th Ter Mission, KS 66205	20,040.00
4966 W 60th Ter Mission, KS 66205	20,040.00
4968 W 60th Ter Mission, KS 66205	20,040.00
4970 W 60th Ter Mission, KS 66205	20,040.00
4972 W 60th Ter Mission, KS 66205	20,040.00
4974 W 60th Ter Mission, KS 66205	20,040.00
4976 W 60th Ter Mission, KS 66205	20,040.00
4978 W 60th Ter Mission, KS 66205	20,040.00
4980 W 60th Ter Mission, KS 66205	20,040.00
4982 W 60th Ter Mission, KS 66205	20,040.00
4984 W 60th Ter Mission, KS 66205	20,040.00
4986 W 60th Ter Mission, KS 66205	20,040.00
4988 W 60th Ter Mission, KS 66205	20,040.00
4990 W 60th Ter Mission, KS 66205	20,040.00
4992 W 60th Ter Mission, KS 66205	<u>20,040.00</u>
Total	<i>\$400,800.00</i>

Dated June __, 2019.

CITY OF MISSION, KANSAS

By: _____
Martha Sumrall, City Clerk

(Published in *The Legal Record* on July 2, 2019)

NOTICE OF PUBLIC HEARING

TO: RESIDENTS OF THE CITY OF MISSION, KANSAS

You and each of you are hereby notified that the governing body of the City of Mission, Kansas (the “City”) will meet for the purpose of holding a public hearing, as provided by K.S.A. 12-6a01 *et seq.*, at City Hall, 6090 Woodson Road in the City, on July 17, 2019, at 7:00 p.m., or as soon thereafter as may be heard. The public hearing is for the purpose of hearing any and all oral or written objections to proposed maximum assessments in connection with the following described improvements:

Roeland Court Townhomes Community Improvement District (Resolution No. 1020)

Description of Improvements

Restoration of the parking and common areas shared by the Roeland Court Homes Association and its various members and to make improvements to the adjacent creek channel.

Property Description:

Lots 1 through 5, inclusive, Block 1; Lots 1 through 5, inclusive, Block 2; Lots 1 through 5, inclusive, Block 3; and Lots 1 through 5, inclusive, Block 4, ROELAND COURT, a subdivision in the City of Mission, Johnson County, Kansas;

And

The “Common Ground” as shown on the Plat of ROELAND COURT, a subdivision in the City of Mission, Johnson County, Kansas, which Plat was recorded on the 25th day of November, 1986 in the Office of the Register of Deeds of Johnson County, Kansas in Plat Book 64, at Page 26.

Cost of Improvements:

\$5,255,737.

7.63% to be assessed against the Improvement District (not to exceed \$400,800), and 92.37% to be paid by the City-at-large

A Maximum Assessment Roll prepared in accordance with the referenced Resolution approved by the governing body is on file in the Office of the City Clerk and may be examined by any interested party. At the conclusion of the public hearing, the governing body will consider an Ordinance levying such special assessments.

Pursuant to K.S.A. 12-6a11, property owners within the improvement district may bring an action to set aside the proposed maximum assessments or otherwise question the validity of the proceedings within 30 days of the publication of the ordinance fixing said maximum assessments.

DATED July 2, 2019.

/s/ Martha Sumrall, City Clerk

[CITY LETTERHEAD]

**NOTICE OF HEARING
AND
STATEMENT OF COST PROPOSED TO BE ASSESSED**

July 2, 2019
City of Mission, Kansas

Property Owner:

You are hereby notified, as owner of record of the property described on *Schedule I* attached hereto, that there is proposed to be assessed against the property certain amounts for the costs of internal improvements previously authorized by the governing body of the City of Mission, Kansas (the "City"), more particularly described as follows: Restoration of the parking and common areas shared by the Roeland Court Homes Association and its various members and to make improvements to the adjacent creek channel (the "Improvements").

The proposed amount of maximum assessment is set forth on *Schedule I* attached hereto.

You are hereby further notified that the governing body of the City will meet on **July 17, 2019**, at 7:00 p.m., at City Hall, 6090 Woodson Road, for the purpose of considering the proposed assessments.

The proposed Maximum Assessment Roll is on file in my office for public inspection. ***WRITTEN OR ORAL OBJECTIONS TO THE PROPOSED ASSESSMENTS WILL BE CONSIDERED AT THE PUBLIC HEARING.***

At the conclusion of the public hearing, the governing body of the City will consider an ordinance levying such maximum special assessments. When the Improvements are complete, a subsequent Notice of Assessment will be mailed to affected property owners at that time indicating the final total cost of the Improvements, the total final assessment, and that each property owner may pay the assessment in whole or in part within thirty (30) days from the date of such notice. Any amount not so paid within the prescribed time period will be collected in 22 annual installments.

Pursuant to K.S.A. 12-6a11, property owners within the improvement district may bring an action to set aside the proposed maximum assessments or otherwise question the validity of the proceedings within 30 days of the publication of the ordinance fixing said maximum assessments.

Martha Sumrall, City Clerk

SCHEDULE I

**ROELAND COURT TOWNHOMES COMMUNITY IMPROVEMENT DISTRICT
(RESOLUTION NO. 1020)**

Description of Property	Amount of Proposed Maximum Assessment
4954 W 60th Ter Mission, KS 66205	\$20,040.00
4956 W 60th Ter Mission, KS 66205	20,040.00
4958 W 60th Ter Mission, KS 66205	20,040.00
4960 W 60th Ter Mission, KS 66205	20,040.00
4962 W 60th Ter Mission, KS 66205	20,040.00
4964 W 60th Ter Mission, KS 66205	20,040.00
4966 W 60th Ter Mission, KS 66205	20,040.00
4968 W 60th Ter Mission, KS 66205	20,040.00
4970 W 60th Ter Mission, KS 66205	20,040.00
4972 W 60th Ter Mission, KS 66205	20,040.00
4974 W 60th Ter Mission, KS 66205	20,040.00
4976 W 60th Ter Mission, KS 66205	20,040.00
4978 W 60th Ter Mission, KS 66205	20,040.00
4980 W 60th Ter Mission, KS 66205	20,040.00
4982 W 60th Ter Mission, KS 66205	20,040.00
4984 W 60th Ter Mission, KS 66205	20,040.00
4986 W 60th Ter Mission, KS 66205	20,040.00
4988 W 60th Ter Mission, KS 66205	20,040.00
4990 W 60th Ter Mission, KS 66205	20,040.00
4992 W 60th Ter Mission, KS 66205	<u>20,040.00</u>
Total	<i>\$400,800.00</i>

CERTIFICATE OF MAILING

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

The undersigned, City Clerk of the City of Mission, Kansas (the “City”), does hereby certify that on July 2, 2019, I caused to be mailed to each and all of the owners of property affected thereby, at their last known post office address, a Notice of Public Hearing and Statement of the Cost Proposed to be Assessed in connection with certain improvements in the City.

A sample copy of the form of such Notice of Hearing and Statement of Cost Proposed to be Assessed is attached hereto.

WITNESS my hand and seal as of July 2, 2019.

(Seal)

Martha Sumrall, City Clerk

[attach sample copy of form]

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF MISSION, KANSAS
HELD ON JULY 17, 2019**

The governing body met in regular session at the usual meeting place in the City at 7:00 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

The Mayor opened a public hearing for the purpose of receiving written or oral objections and considering proposed assessments for the costs of certain internal improvements previously authorized by the governing body of the City. It was determined by the governing body that notice of the public hearing was duly published and mailed in accordance with K.S.A. 12-6a01 *et seq.* Thereafter, the Mayor adjourned the public hearing.

An Ordinance was presented entitled:

**AN ORDINANCE LEVYING SPECIAL ASSESSMENTS ON CERTAIN
PROPERTY TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE
CITY OF MISSION, KANSAS, AS PREVIOUSLY AUTHORIZED BY
RESOLUTION NO. 1020 OF THE CITY; AND PROVIDING FOR THE
COLLECTION OF SUCH SPECIAL ASSESSMENTS.**

The Ordinance was considered and discussed and on motion of Councilmember _____, seconded by Councilmember _____, the Ordinance was passed by the following vote:

Yea: _____.

Nay: _____.

The Mayor declared the Ordinance duly passed and the Ordinance was then numbered Ordinance No. ____, was signed and approved by the Mayor and attested by the City Clerk and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Mission, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

City Clerk

ORDINANCE NO. ____

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS ON CERTAIN PROPERTY TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE CITY OF MISSION, KANSAS, AS PREVIOUSLY AUTHORIZED BY RESOLUTION NO. 1020 OF THE CITY; AND PROVIDING FOR THE COLLECTION OF SUCH SPECIAL ASSESSMENTS.

WHEREAS, the governing body of the City of Mission, Kansas (the “City”) has previously authorized certain internal improvements to be constructed pursuant to K.S.A. 12-6a26 *et seq.*; and

WHEREAS, the governing body has conducted a public hearing in accordance with the K.S.A. 12-6a01 *et seq.* and desires to levy assessments on certain property benefited by the construction of the Improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION, KANSAS:

Section 1. Levy of Assessments. For the purpose of paying the costs of the following described Improvements:

**Roeland Court Townhomes Community Improvement District
Resolution No. 1020**

Restoration of the parking and common areas shared by the Roeland Court Homes Association and its various members and to make improvements to the adjacent creek channel (the “Improvements”);

there are hereby levied and assessed the maximum amounts (with such clerical or administrative amendments thereto as may be approved by the City Attorney) against the property described on *Exhibit A* attached hereto. Pursuant to K.S.A. 12-6a09(c), if the final cost of the completed Improvements is less than the maximum amount of assessments shown on *Exhibit A*, then the governing body of the City shall decrease the assessments to reflect the actual cost of the completed Improvements.

Section 2. Payment of Assessments. The amounts so levied and assessed in *Section 1* hereof shall be due and payable from and after the date of publication of this Ordinance. Such amounts may be paid in whole or in part within thirty (30) days from the date the City mails notice of the final costs of the Improvements, which shall occur after the completion of the Improvements as set forth in *Section 3*.

Section 3. Notification. After completion of the Improvements, the City Clerk shall notify the owners of the properties described in *Exhibit A* attached hereto (insofar as known to the City Clerk) of the amounts of their respective assessments. The notice shall also state that, unless such assessments are paid within thirty (30) days from the date such notice was mailed by the City Clerk, such assessment will be collected in installments.

Section 4. Certification. Any amount of special assessments not paid within the time prescribed in *Section 2* hereof shall be certified by the City Clerk to the Clerk of Johnson County, Kansas, in the same manner and at the same time as other taxes are certified and will be collected in 22 annual installments.

Section 5. Effective Date. This Ordinance shall take effect and be in force from and after its passage, approval and publication of the Ordinance or a summary thereof once in the official City newspaper.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

PASSED by the governing body of the City on July 17, 2019 and signed and **APPROVED** by the Mayor.

(SEAL)

Ronald E. Appletoft, Mayor

ATTEST:

Martha Sumrall, City Clerk

EXHIBIT A

**ROELAND COURT TOWNHOMES COMMUNITY IMPROVEMENT DISTRICT
RESOLUTION NO. 1020**

Description of Property	Amount of Proposed Maximum Assessment
4954 W 60th Ter Mission, KS 66205	\$20,040.00
4956 W 60th Ter Mission, KS 66205	20,040.00
4958 W 60th Ter Mission, KS 66205	20,040.00
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4962 W 60th Ter Mission, KS 66205	20,040.00
4964 W 60th Ter Mission, KS 66205	20,040.00
4966 W 60th Ter Mission, KS 66205	20,040.00
4968 W 60th Ter Mission, KS 66205	20,040.00
4970 W 60th Ter Mission, KS 66205	20,040.00
4972 W 60th Ter Mission, KS 66205	20,040.00
4974 W 60th Ter Mission, KS 66205	20,040.00
4976 W 60th Ter Mission, KS 66205	20,040.00
4978 W 60th Ter Mission, KS 66205	20,040.00
4980 W 60th Ter Mission, KS 66205	20,040.00
4982 W 60th Ter Mission, KS 66205	20,040.00
4984 W 60th Ter Mission, KS 66205	20,040.00
4986 W 60th Ter Mission, KS 66205	20,040.00
4988 W 60th Ter Mission, KS 66205	20,040.00
4990 W 60th Ter Mission, KS 66205	20,040.00
4992 W 60th Ter Mission, KS 66205	<u>20,040.00</u>
<i>Total</i>	<i>\$400,800.00</i>

(Published in *The Legal Record* on July __, 2019)

SUMMARY OF ORDINANCE NO. ____

On July 17, 2019, the governing body of the City of Mission, Kansas, passed an ordinance entitled:

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS ON CERTAIN PROPERTY TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE CITY OF MISSION, KANSAS, AS PREVIOUSLY AUTHORIZED BY RESOLUTION NO. 1020 OF THE CITY; AND PROVIDING FOR THE COLLECTION OF SUCH SPECIAL ASSESSMENTS.

The Ordinance levies special assessments on certain property located in the Roeland Court Townhomes which will be benefitted by certain internal improvements constructed pursuant to K.S.A. 12-6a26 *et seq.* A schedule of the amounts of the special assessments and the property benefitted are attached to the Ordinance. Any amount of special assessments not paid within the time prescribed in the Ordinance shall be certified by the City Clerk to the Clerk of Johnson County, Kansas, in the same manner and at the same time as other taxes are certified and will be collected in annual installments. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 6090 Woodson Road, Mission, Kansas. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.missionks.org.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: July 17, 2019.

City Attorney

CERTIFICATE OF FINAL COSTS

**CITY OF MISSION, KANSAS
ROELAND COURT TOWNHOMES COMMUNITY IMPROVEMENT DISTRICT
(RESOLUTION NO. 1020)**

Construction	\$ _____
Engineering	_____
[Other]	_____
<i>Total Project Costs</i>	<i>\$ _____</i>
City-at-Large Portion (92.37%)	
Maximum CID Portion (7.63%, not to exceed \$400,800)	

Dated: _____, 20__

City Clerk

[CITY LETTERHEAD]

NOTICE OF ASSESSMENT

_____, 20__
City of Mission, Kansas

Property Owner:

You are hereby notified, as owner of record of the property described on ***Schedule I*** attached hereto, that pursuant to Ordinance No. [_____] (the “Ordinance”) of the City of Mission, Kansas (the “City”) there has been assessed against the property the costs of certain internal improvements previously authorized by the governing body of the City (the “Improvements”). The description of the Improvements, the resolution number authorizing the same and the amount of assessment are set forth on ***Schedule I*** attached hereto.

You may pay this assessment in whole or in part to the City Treasurer of the City within thirty (30) days from the date hereof; and if the amount is not paid within the time period, the balance of such assessment will be collected in 22 annual installments.

_____, City Clerk

SCHEDULE I

**ROELAND COURT TOWNHOMES COMMUNITY IMPROVEMENT DISTRICT
(RESOLUTION NO. 1020)**

Description of Property	Amount of Proposed Assessment
4954 W 60th Ter Mission, KS 66205	
4956 W 60th Ter Mission, KS 66205	
4958 W 60th Ter Mission, KS 66205	
4960 W 60th Ter Mission, KS 66205	
4962 W 60th Ter Mission, KS 66205	
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4966 W 60th Ter Mission, KS 66205	
4968 W 60th Ter Mission, KS 66205	
4970 W 60th Ter Mission, KS 66205	
4972 W 60th Ter Mission, KS 66205	
4974 W 60th Ter Mission, KS 66205	
4976 W 60th Ter Mission, KS 66205	
4978 W 60th Ter Mission, KS 66205	
4980 W 60th Ter Mission, KS 66205	
4982 W 60th Ter Mission, KS 66205	
4984 W 60th Ter Mission, KS 66205	
4986 W 60th Ter Mission, KS 66205	
4988 W 60th Ter Mission, KS 66205	
4990 W 60th Ter Mission, KS 66205	
4992 W 60th Ter Mission, KS 66205	
Total	

CERTIFICATE OF MAILING

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

The undersigned, City Clerk of the City of Mission, Kansas, does hereby certify that on _____, 20__, I caused to be mailed to the owners of the properties liable for the assessments set out in Ordinance No. _____ of the City, at their last known post office addresses, a Notice of Assessment showing the respective assessments levied against their properties and stating the manner in which the assessments will be collected.

A sample copy of the form of such Notice of Assessment is attached hereto.

WITNESS my hand and seal as of _____, 20__.

(Seal)

City Clerk

[attach sample copy of form letter]

CERTIFICATE OF CITY TREASURER

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

The undersigned, City Treasurer of the City of Mission, Kansas (the "City"), does hereby certify that within the time allowed by Ordinance No. ____ of the City for the payment of special assessments in cash, property owners specially assessed for the costs of certain internal improvements previously authorized by the governing body of the City, paid in cash the amounts set forth below:

Property Description	Amount
TOTAL	\$ _____

WITNESS my hand on _____, 20__.

City Treasurer

City of Mission	Item Number:	7b.
ACTION ITEM SUMMARY	Date:	July 3, 2019
Police Department	From:	Chief Ben Hadley

Action items require a vote to recommend the item to full City Council for further action.

RE: Purchase and Replacement of the Portable and Mobile Radios for the Police Department

RECOMMENDATION: Authorize the purchase of 40 Harris XL185P portable radios and 18 harris XL185M mobiles, including all mics, batteries, ear pieces, belt clips, etc. for the Mission Police Department.

DETAILS: The Department's current portable and mobile radios are approximately fifteen (15) years old. In 2014, Motorola representatives began meeting with various Johnson County agencies to discuss phasing out the current XTL and XTS radios being used by a number of departments. The manufacturer announced that, by the end of 2019, these radios would no longer be supported. Service could continue to be performed as long as the necessary parts were available, but details on parts availability was vague.

The discussions with Motorola also addressed Project 25 (P25) requirements. P25 is the standard for the design and manufacture of interoperable digital two-way wireless communications products. Radio equipment that demonstrates compliance with P25 is able to meet a set of minimum requirements to fit the needs of public safety. The P25 standard was created by, and is intended for, public safety professionals. The Department of Homeland Security required all law enforcement agencies receiving (current or future) federal funding or grants ensure radios had this capability by 2020.

In 2017, the Mission Police Department began testing and evaluating radios from both Motorola and Harris. These two vendors were selected through an invitation extended by the Johnson County Emergency Management team for radio vendors to present their P25 products. Motorola and Harris were the only vendors that provided radios.

The differences in performance and handling of radios were negligible. Initial bids were requested after the testing and evaluation period. Initially, the Motorola coming in slightly lower than Harris. Over the next several months attempts were made to secure a set price for radios and peripheral equipment from Motorola. Staff was unsuccessful in securing this complete bid from Motorola and is recommending the purchase of the radios and all related equipment from Harris. The radio purchase was included in the 2019 adopted budget in the amount of \$225,000.

The bid for 40 portable radios and 18 mobile radios, and all associated equipment from Harris, supplied through KaComm, was \$231,433.30. This includes a \$9,000.00 trade in allowance for mobile radios and a \$17,400 trade in allowance for portable radios.

CFAA CONSIDERATIONS/IMPACTS: NA

Related Statute/City Ordinance:	
Line Item Code/Description:	01-30-404-04
Available Budget:	\$225,000.00



KA-COMM, INC

1201 W. Old 56 Highway
 Olathe, KS 66061
 (913) 764-7314
 (913) 764-7514 Fax
 www.ka-comminc.com
 joe@m@ka-comminc.com

Quote

Date	Quote #
4/16/2019	18885

Customer:
MISSION POLICE DEPARTMENT 6090 WOODSON RD. MISSION, KS 66202

P.O. No.	Terms	Rep	Freight Charges
	Due on receipt	DMD	FOB

Item	Description	Qty	Cost	Total
XS-PPS2M	HARRIS XL-185P PORTABLE RADIOS XS-PPS2M, PORTABLE,XL-185P 7/800MHZ, PKP,BLK,NRB	40	1,500.97	60,038.80
XS-NC8F	XS-NC8F, ANTENNA, WHIP, 1/4 WAVE, 762-870MHZ	40	25.20	1,008.00
XS-PKGPT	XS-PKGPT, FEATURE PACKAGE, P25 TRUNKING	40	1,079.97	43,198.80
XS-PKG8F	XS-PKG8F, FEATURE, 256-AES, 64-DES ENCRYPTION	40	500.38	20,015.20
XS-PL8Y	XS-PL8Y, FEATURE, ENCRYPTION LITE	40	0.00	0.00
XS-PA3V	XS-PA3V, BATTERY, LI-ION, 3100 MAH	40	108.00	4,320.00
XS-CH4X	XS-CH4X, CHARGER, 1-BAY, XL-185P	40	108.00	4,320.00
XS-AE4B	XS-AE4B, SPEAKER MICROPHONE, EMERGENCY	40	144.00	5,760.00
XS-AE1K	XS-AE1K, EARPHONE, SPEAKER MIC, RIGHT ANGLE, 2.5MM	40	46.80	1,872.00
XS-Y3EWP	XS-Y3EWP, WARRANTY, EXTENDED, 3 YR, PORTABLE	40	200.00	8,000.00
	TOTAL PER RADIO AS CONFIGURED ABOVE \$3,713.32 - \$435.00 PER TRADE PORTABLE = \$3278.32			
DISCOUNT - NO...	DISCOUNT - MBP# 16802 TRADE-IN PROGRAM ONE FOR ONE		-17,400.00	-17,400.00

Quote is valid for 90 days!	Subtotal
	Sales Tax (0.0%)
	Total

236,433.30

Signature:

Quote is valid for 90 days!



KA-COMM, INC

1201 W. Old 56 Highway
 Olathe, KS 66061
 (913) 764-7314
 (913) 764-7514 Fax
 www.ka-comminc.com
 joe@m@ka-comminc.com

Quote

Date	Quote #
4/16/2019	18885

Customer:
MISSION POLICE DEPARTMENT 6090 WOODSON RD. MISSION, KS 66202

Item	Description	Qty	P.O. No.		Terms		Rep		Freight Charges	
					Due on receipt		DMD		FOB	
Item	Description	Qty	Cost		Total					
XS-HC3L	XS-HC3L, BELT CLIP, METAL	10	18.00		180.00					
XS-NC8D	XS-NC8D, ANTENNA, WHIP, 1/2 WAVE 762-870MHZ OPTIONS NOT INCLUDED:	12	25.63		307.56					
XS-PL5L	XS-PL5L, FEATURE, P25 OTAR (OVER-THE-AIR-REKEYING)	0	428.39		0.00					
XS-PL9F	XS-PL9F, P25C FALLBACK/MS FAILSOFT	0	179.99		0.00					
XS-PL4F	XS-PL4F, FEATURE, P25 PHASE 2, TDMA	0	179.99		0.00					
XS-PPS2M-LTE	XS-PPS2M-LTE, PORTABLE, XL-185P, 7/8, PKP,BLK,NRB,LTE HARRIS XL-185M MOBILE RADIO	0	2,185.13		0.00					
XT-MPS1M	XT-MPS1M, MOBILE, XL-185M, 700/800 MHZ	18	2,519.92		45,358.56					
XT-PL4L	XT-PL4L, FEATURE, SINGLE BAND, 700/800 MHZ	18	0.00		0.00					
XT-AN6U	XT-AN6U, ANTENNA, BASE, STD ROOF MOUNT LOW LOSS	18	57.60		1,036.80					
AN-225001-004	AN-225001-004, ANTENNA, ELEMENT, 700/800 2dB, LOW PROFILE	18	43.20		777.60					
XT-PKGPT	XT-PKGPT, FEATURE, PACKAGE P25 TRUNKING	18	1,079.97		19,439.46					
XT-PKG8F	XT-PKG8F, FEATURE, 256 AES, 64-DES ENCRYPTION	18	500.38		9,006.84					
XT-PL8Y	XT-PL8Y, FEATURE, ENCRYPTION LITE	18	0.00		0.00					
XT-CP6A	XT-CP6A, CONTROL UNIT, XL-CH	18	1,079.97		19,439.46					

Quote is valid for 90 days!	Subtotal
	Sales Tax (0.0%)
	Total

Signature:

Quote is valid for 90 days!



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 Olathe, KS 66061
 (913) 764-7314
 (913) 764-7514 Fax
 www.ka-comminc.com
 joehm@ka-comminc.com

Quote

Date	Quote #
4/16/2019	18885

Customer:
MISSION POLICE DEPARTMENT 6090 WOODSON RD. MISSION, KS 66202

Item	Description	Qty	P.O. No.		Terms		Rep		Freight Charges	
					Due on receipt	DMD		FOB	Cost	Total
XT-MC6A	XT-MC6A, MICROPHONE, XL, STANDARD MOBILE	18								1,360.80
XT-MA4A	XT-MA4A, KIT, MOUNTING XL-MOBILE UNIVERSAL	18								7,775.82
XT-LS6A	XT-LS6A, SPEAKER, EXTERNAL MOBILE	18								777.60
XT-Y3EWP	XT-Y3EWP, WARRANTY, EXTENDED, 3 YR, MOBILE	18								3,600.00
	TOTAL PER RADIO AS CONFIGURED ABOVE									
	\$6031.83 - \$500 PER TRADE MOBILE = \$5531.83									
DISCOUNT - NO...	DISCOUNT - MBP# 16802 TRADE-IN PROGRAM ONE FOR ONE								-9,000.00	-9,000.00
	HANDHELD CONTROLLER OPTION NOT AVAILABLE YET									
	OPTIONS NOT INCLUDED:									
XT-PL4F	XT-PL4F, FEATURE, PHASE 2 TDMA	0							179.99	0.00
XT-PL5L	XT-PL5L, FEATURE, OTAR	0							428.39	0.00
SHIPPING	SHIPPING AND HANDLING	1							240.00	240.00

Quote is valid for 90 days!		Subtotal	\$231,433.30
		Sales Tax (0.0%)	\$0.00
		Total	\$231,433.30

Signature: _____

Quote is valid for 90 days!

City of Mission	Item Number:	7c.
ACTION ITEM SUMMARY	Date:	July 10, 2019
PUBLIC WORKS	From:	Brent Morton

Action items require a vote to recommend the item to full City Council for further action.

RE: BHC Rhodes Engineering and GIS Services for Asset Management (Streets)

RECOMMENDATION: Approve a task order with BHC Rhodes to perform services related to asset management, condition inventories, and conceptual program costs for Mission residential street network in an amount not to exceed \$9,000.

DETAILS: During the initial planning phases for the City's comprehensive Street Maintenance Program, all streets were given a Pavement Condition Index (PCI) score. PCI measures the condition of the pavement surface and the smoothness of the road. A numerical rating is assigned to each section of road, with 0 being the worst and 100 being the best.

At the time the program was developed, the Council set a goal of maintaining all streets in Mission at a PCI rating of 70 or higher. Using the PCI scores, street sections were assigned the treatment best suited for the road's current condition. This information was then used to develop budget estimates to aid the City in reaching its goal of touching/treating every residential street in the City within 8-10 years.

During the initial years of the street program staff discovered that about 50% of the residential streets targeted for a mill and overlay treatment could not structurally handle that treatment and would require full-depth reconstruction, which came with a substantial price tag.

Recognizing the original street program would need to be completely re-evaluated and reprioritized, the City worked to complete an updated pavement condition rating and geotechnical analysis. In 2019, the city signed a task order with BHC Rhodes to start compiling all asset information into one GIS location with the goal of building long-term planning, budgeting, and asset management tools. Initial work with BHC Rhodes focused on the stormwater system. The City is now ready to turn its attention to streets, in order to develop a new residential street maintenance program to determine which treatments will provide the best results for long term street preservation.

CFAA CONSIDERATIONS/IMPACTS: NA

Related Statute/City Ordinance:	
Line Item Code/Description:	01-20-207-03
Available Budget:	\$40,000



May 31, 2019

Ms. Laura Smith
City Administrator
City of Mission
6090 Woodson Street
Mission, Kansas 66202

**Re: Proposal for Engineering & GIS Services
Asset Management (Streets)
City of Mission, Kansas**

Dear Ms. Smith:

Brungardt Honomichl & Company, P.A. (BHC RHODES) is pleased to submit the following proposal for engineering and GIS services to the City of Mission.

PROJECT UNDERSTANDING

Based on the information provided, we understand that you are seeking engineering and Geographic Information System (GIS) services related to asset management regarding "street conditions", capital programming for street maintenance and improvements, and related tasks for the City of Mission.

SCOPE OF SERVICES

BHC RHODES proposes to provide professional services for the City on a time and expense basis that may involve the following activities requested by City staff focusing on "streets":

1. Data Input & Analysis
 - 1.1. Summarize provided data and prepare list of missing/incomplete/outdated information to be collected under subsequent City efforts
 - 1.2. Meet with City staff to ensure expectations of datasets are clearly understood
 - 1.3. Layout plan for future data collection and assembly/completion of final street-related datasets
 - 1.4. Assist City staff with preparation of RFQs/RFPs for future data collection/inventory/rating work
 - 1.5. Assist City staff and officials in evaluating available data, creation of ranking scenarios for potential street improvements, and provide conceptual program costs to assist in City funding decisions
2. Deliverables (to be requested by City)
 - 2.1. Written summary of provided data and incomplete/outdated system information related to streets that should be completed

- 2.2. Compiled version of available street-related data that can be assembled electronically in ESRI GIS format, along with exports of information to KMZ file format.
- 2.3. Conceptual cost estimates for identified City street replacement/reconstruction/enhancement to assist City in developing an overall program for infrastructure maintenance and upgrades.
- 2.4. Attend meetings with City staff and/or elected officials to discuss findings, criteria, needs, and alternatives.
- 2.5. Possible electronic and/or paper copies of specific maps to be identified by City.

ADDITIONAL SERVICES

The services provided for this project are limited to those listed in the Scope of Services and budget amount approved by the City. Any additional services will be performed at an hourly rate or a lump sum basis as agreed to prior to initiating the additional service.

FEEES

BHC RHODES will perform the Scope of Services described above utilizing the attached hourly rates (Exhibit B) with maximum limit of **\$9,000.00**. Reimbursable expenses such as mileage, printing, etc. will be billed inclusive to the maximum limit.

SCHEDULE

BHC RHODES proposes to commence work upon your acceptance of this proposal, written authorization to proceed, and receipt of reference documents. We will establish a mutually agreed upon schedule for the work as well as production of project deliverables prior to beginning the work.

PROVIDED BY CLIENT

Client will provide:

1. Any additional existing data, reports, analysis, input associated with the focus on street assets.

AGREEMENT

This proposal along with attached Exhibit A (Terms and Conditions) and Exhibit B (Standard Hourly Rates) represent the entire agreement between the Client and BHC RHODES. Your signature below will serve as acknowledgement of your acceptance of this proposal and the attached terms and conditions. Please return one signed copy of this proposal to us.

Thank you for the opportunity to provide this proposal for engineering and GIS services. We look forward to continuing to build our working relationship. If you have any questions concerning this proposal, please contact me at your convenience.

Sincerely,



Randall J. Gorton, PE, PTOE
Vice-President | Public Works Segment Lead



David Nolte, PE
Project Manager

Proposal Accepted By: _____

Type/Print Name: _____

Date: _____

Attachments: Exhibit A Terms and Conditions, Exhibit B Standard Hourly Rates

EXHIBIT A

Terms and Conditions

1.0 - COMPENSATION AND TERMS OF PAYMENT

Client shall pay Consultant for performance of services in accordance with fees presented in the proposal for professional services, which is attached hereto and incorporated by reference as part of this agreement. Consultant shall submit invoices every four weeks based on completion of the individual work items described in the Fee Schedule. Payment shall be made within 30 days after receipt of invoice.

If the Client is in breach of the payment terms or otherwise is in material breach of this Agreement, the Consultant may suspend the performance of services upon five (5) calendar days' notice to the Client. The Consultant shall have no liability to the Client, and the Client agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the Client. Upon receipt of payment in full for all outstanding amounts due the Client, or curing of other such breach which caused the Consultant to suspend services, the Consultant shall resume services and there shall be equitable adjustment to the remaining project schedule and fees as a result of such suspension.

2.0 - CHANGED CONDITIONS

If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the Consultant are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the Consultant may call for renegotiation of appropriate portions of this Agreement. The Consultant shall notify the Client of the changed conditions necessitating renegotiation, and the Consultant and the Client shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement in accordance with the Termination provision hereof.

Client may request changes to the scope of services by altering or adding to the Services to be performed. If Client so requests, Consultant will return Client an Agreement for Additional Services detailing the additional scope and fees. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties.

3.0 - GENERAL OBLIGATIONS OF CONSULTANT

Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily provided by members of the same profession currently practicing under similar circumstances in the performance of such services. All of the Services shall be performed by qualified personnel.

Consultant shall exercise usual and customary professional care in its effort to comply with all rules or regulations of the federal, state, or other government body or any administrative agency pertaining to the performance of the work hereunder.

4.0 - ACCEPTANCE

Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and condition of this agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party.

5.0 - GENERAL OBLIGATIONS OF THE CLIENT

The Client shall provide payment to the Consultant as provided in 1.0, Compensation and Terms of Payment.

The Client shall monitor the performance of the Consultant's work and shall notify them of any concerns and/or modifications required to the Services.

The Client shall make available to the Consultant any documents, drawings, electronic files, specifications, files or other information necessary in the execution and completion of the Services. The Client shall furnish, at the Client's expense, all information, requirements, reports, and instructions required by this Agreement. The Consultant may use such information, requirements, reports, and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof.

6.0 - OWNERSHIP OF DOCUMENTS

The Client acknowledges the Consultant's documents, including electronic files, as instruments of professional service. Nevertheless, the final documents prepared under this Agreement shall become the property of the Client upon completion of the Services and payment in full of all monies due to the Consultant. The Client shall not reuse or make any modification to the documents without the

Brungardt Honomichl & Company, P. A.
Engineering & GIS Services
Asset Management (Streets)
City of Mission, Kansas

prior written authorization of the Consultant. Client shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

7.0 - INSURANCE

Consultant shall carry and maintain throughout the performance of the Services insurance acceptable to the Client in the following amounts:

1. Workers Compensation, including occupational disease.
(Statutory Limits)
2. General (Public) Liability
Bodily Injury \$1,000,000
Property Damage \$1,000,000
3. Automobile Liability (hired, owned, non-owned)
Bodily Injury \$1,000,000
Property Damage \$1,000,000
4. Professional Liability \$1,000,000

Upon Clients request, the Consultant shall provide the Client with certificates of insurance evidencing the coverage in effect. After such policies become effective, none of such policies shall be canceled by the insurance company except after ten days notice in writing to the Client.

8.0 - INDEMNIFICATION

The Consultant shall indemnify the Client and hold him and his officers harmless from any damage, expense, and liability or claim therefore on account of any injury, including death, resulting therefrom, or damage sustained by any person or persons (including the Consultant's employees) by reason of any negligent act, omission or neglect on the part of the Consultant's employees.

The Client shall also indemnify the Consultant and hold him and his officers harmless from any damage, expense, and liability or claim therefore on account of any injury, including death resulting therefrom, or damage sustained by any person or persons (including the Client's employees) by reason of any negligent act, omission, or neglect on the part of the Client's employees.

Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

9.0 - LIMITATION OF LIABILITY

To the maximum extent permitted by law, the Client agrees to limit the Consultant's liability for the Client's damages to the sum of \$25,000 or the Consultants Fee, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

10.0 - TERMINATION

Either party may terminate this Agreement at any time by giving the other party five days written notice of such termination. Immediately upon receipt of Notice of Termination, the Consultant shall discontinue Services and incur no further obligation or expenses. The Consultant shall be paid for all work completed prior to the effective date of such termination.

The Consultant shall not assign, transfer, or sublet this Agreement or any interest herein without the prior written consent of the Client.

11.0 - NON-DISCRIMINATION

There shall be no discrimination against any person employed pursuant to this Agreement in any manner forbidden by law.

12.0 - STATUS

The Consultant shall, during the entire term of this Agreement, be construed to be an independent contractor, and in no event shall any of its personnel be construed to be an employee of the Client.

13.0 - GOVERNING LAW AND JURISDICTION

The Client and Consultant agree that this Agreement and any legal actions concerning its validity, interpretation, and performance shall be governed by the laws of Kansas. It is further agreed that any legal action between the Client and the Consultant arising out of this Agreement or the performance of the services shall be brought in a court of competent jurisdiction in Kansas.

Exhibit B
Standard Hourly Rates (2019)

Title	Rate
Principal Program Manager	\$170.00
Project Manager	165.00
Sr. Traffic Engineer	165.00
Sr. Project Engineer	165.00
Traffic Engineer	135.00
Utilities Manager	135.00
Project Engineer	135.00
Resident Project Engineer	135.00
Design/Staff Engineer	110.00
Staff Engineer	110.00
Sr. Designer	110.00
Designer	95.00
Senior Eng. Technician	115.00
Engineering Technician	95.00
GIS Supervisor	120.75
GIS Analyst 1	78.75
GIS Analyst 2	89.25
GIS Analyst 3	99.75
Intern	55.00
Clerical	50.00
Sr. Land Surveyor	150.00
Survey Manager	150.00
Project Surveyor	125.00
Sr. Survey Technician	110.00
Survey Technician	75.00
Drafter	70.00
Crew Chief	95.00
Crew Member	75.00

Reimbursable Expenses:

<u>DESCRIPTION</u>	<u>UNIT</u>	<u>PRICE</u>
A. Passenger Vehicle	Per mile	IRS rate
B. Survey Vehicle	Per mile	\$0.70
C. Telephone/Cellular/Long Distance		Actual Cost
D. In House Reproduction	Sq. Ft.	\$0.15
F. Freight & Postage		Actual Cost
G. Total Station Equipment fee	Per Hour	\$15.00
H. GPS Equipment fee	Per Hour	\$30.00
I. Robotic Total Station	Per Hour	\$40.00
J. Laser Scanning	Price per Project	