



**The City of Lee's Summit**  
**Final Agenda**  
**City Council - Regular Session**

Thursday, April 5, 2018

6:15 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

(816) 969-1000

**REGULAR SESSION NO. 60**

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INVOCATION

PLEDGE OF ALLEGIANCE

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

**1. PUBLIC COMMENTS:**

*(NOTE: Total time for Public Comments will be limited to 10 minutes.)*

**2. COUNCIL COMMENTS:**

*(NOTE: Total time for Council Comments will be limited to 5 minutes.)*

**3. APPROVAL OF CONSENT AGENDA:**

*Items on the Consent Agenda are routine business matters; were previously discussed in a Council Committee and carry a recommendation for approval; or, proposed ordinances approved unanimously by the Council on First Reading. Consent agenda items may be removed by any Councilmember for discussion as part of the regular agenda.*

A. [2018-1967](#) Approval of Action Letters from March 1 and March 15, 2018.

B. [BILL NO. 18-56](#) AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR IN HOME MASSAGE THERAPY IN DISTRICT R-1 ON LAND LOCATED AT 1613 SE 2ND TERRACE FOR A PERIOD OF TEN (10) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: First reading on March 15, 2018. Passed by unanimous vote).

**4. PROCLAMATIONS:**

A. [2018-1971](#) Fair Housing Month Proclamation

**5. PRESENTATIONS:**

- A. [2018-1779](#) Lee's Summit CARES "State of the Youth" Presentation

**7. PROPOSED ORDINANCES FORWARDED FROM COMMITTEE:**

*The following proposed ordinances were considered by a Council Committee and are presented to the Council for two readings and adoption.*

- A. [BILL NO. 18-58](#) AN ORDINANCE APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49. (PWC 3/20/18)
- B. [BILL NO. 18-59](#) AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2. (PWC 3/20/18)
- C. [BILL NO. 18-60](#) AN ORDINANCE AWARDED BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME. (PWC 3/20/18)

**8. PUBLIC HEARINGS:**

*Proposed ordinances considered after a public hearing will be read for the first time and forwarded to a future City Council meeting for second reading, unless deemed to be an emergency as defined in Sec. 3.13(f) of the Lee's Summit Charter. Five affirmative votes are required for approval of second reading.*

- A. [2018-1846](#) PUBLIC HEARING - Appl. #PL2017-234 - REZONING from AG to RLL - 5261 NE Maybrook Rd.; Derek D. Collins, applicant.
- 1) [BILL NO. 18-61](#) AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM DISTRICT AGRICULTURAL (AG) TO DISTRICT RESIDENTIAL LARGE LOT (RLL), APPROXIMATELY 3.85 ACRES LOCATED AT 5261 NE MAYBROOK ROAD, ALL IN ACCORDANCE WITH THE PROVISIONS OF UNIFIED DEVELOPMENT ORDINANCE NO. 5209 FOR THE CITY OF LEE'S SUMMIT, MISSOURI.
- B. [2018-1957](#) PUBLIC HEARING - Appl. #PL2017-257 - SPECIAL USE PERMIT for outdoor secondary sales of motor vehicles - Genuine Auto Repair, 520 SW 3rd Street; Gary Serville, Jr., applicant.

- 1) [BILL NO.](#) AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR AUTOMOTIVE  
[18-62](#) SALES, GENUINE AUTO, IN DISTRICT CP-2 (PLANNED COMMUNITY COMMERCIAL DISTRICT) ON LAND LOCATED AT 520 SW 3rd ST FOR A PERIOD OF FIVE (5) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

**9. PROPOSED ORDINANCES - FIRST READING:**

*The proposed ordinances presented for first reading may include items with a previous hearing; an item brought directly to the City Council without a recommendation from a Council Committee; or, items forwarded from citizen Boards or Commissions. Five affirmative votes are required for approval of second reading.*

- A. [BILL NO.](#) AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS  
[18-40](#) ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: This item was CONTINUED on March 1, 2018 per City Council vote.)
- B. [BILL NO.](#) AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF  
[18-41](#) ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.  
(Note: This item was CONTINUED on March 1, 2018 per City Council vote.)
- C. [BILL NO.](#) AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT  
[18-63](#) AGREEMENT BETWEEN DYMON WOOD AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR SIDEWALK IMPROVEMENT OBLIGATIONS RELATING TO THE PLAT HEARNE'S ADDITON, LOTS 18A, 18B, AND 18C DEVELOPMENT
- D. [BILL NO.](#) AN ORDINANCE ACCEPTING FINAL PLAT ENTITLED "ASH GROVE, TRACT  
[18-64](#) A-1", AS A SUBDIVISION TO THE CITY OF LEE'S SUMMIT, MISSOURI.

**10. PROPOSED ORDINANCES - SECOND READING:**

*The proposed Ordinances were advanced from First Reading without a unanimous vote of the City Council.*

- A. [BILL NO.](#) AN ORDINANCE APPROVING THE TAX INCREMENT FINANCING  
[18-57](#) REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT AND PARROT PROPERTIES, LLC, FOR THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN.  
(Note: First reading by Council on March 15, 2018).

- B. [BILL NO.](#)      Reconsideration of Bill No. 18-48 previously vetoed by the Mayor. AN  
[18-48](#)                      ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S  
SUMMIT, MISSOURI, CHAPTER 16, LEE'S SUMMIT PROPERTY  
MAINTENANCE CODE, BY ADOPTING REGULATIONS PERTAINING TO  
VEHICLE PARKING AND STORAGE REGULATIONS FOR PRIVATE PROPERTY.  
(Note: First reading on March 1, 2018. Passed by unanimous vote. Second  
Reading on March 15, 2018. Mayor Vetoed.)

11. **COMMITTEE REPORTS (Committee chairs report on matters held in Committee):**

12. **COUNCIL ROUNDTABLE:**

13. **STAFF ROUNDTABLE:**

14. **ADJOURNMENT**

*Unless determined otherwise by the Mayor and City Council, no new agenda items shall be considered after 11:00 p.m.*

For your convenience, City Council agendas, as well as videos of City Council and Council Committee meetings, may be viewed on the City's Internet site at "www.cityofls.net".

## Packet Information

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**File #:** 2018-1967, **Version:** 1

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Approval of Action Letters from March 1 and March 15, 2018.



**The City of Lee's Summit**  
**Action Letter**  
**City Council - Regular Session**

Thursday, March 1, 2018

6:15 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

(816) 969-1000

**REGULAR SESSION NO. 58**

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INVOCATION

PLEDGE OF ALLEGIANCE

CALL TO ORDER

Mayor Rhoads called Regular Session No. 58 to order at 6:16 p.m.

ROLL CALL

(Note: Councilmember Carlyle arrived at 6:21 p.m.)

**Present:** 8 - Councilmember Rob Binney  
Councilmember Trish Carlyle  
Councilmember Phyllis Edson  
Councilmember Craig Faith  
Councilmember Diane Forte  
Councilmember Dave Mosby  
Councilmember Diane Seif  
Councilmember Fred DeMoro

APPROVAL OF AGENDA

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember Edson, to approve the published agenda. The motion carried by the following vote:**

**Aye:** 8 - Mayor Rhoads  
Councilmember Binney  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Absent:** 1 - Councilmember Carlyle

**1. PUBLIC COMMENTS:**

Ms. Geraldine Amato spoke again on her feelings on the fall of the Republic and the state of the United States.

Ms. Jennifer Jenkins, Payroll Specialists for the City of Lee's Summit, spoke regarding Substitute Bill No. 18-20 and the possible effects it will have on Core Employees (Exempt and Non-Exempt employees). She feels it is risky and could cause many problems with Core General Employees to adopt this Bill. She also spoke regarding the grades of the plan and how they were determined and many are being demoted through the grade plan. She feels this should be reviewed by the future Human Resources Director and should not be rushed.

Mr. Chad Anderson with Case Enterprise LLC spoke in opposition to Bill No. 18-40 and 18-41, which includes the Access Management Code and condemnation of their property to widen the road. The price offered for his property was not comparable to what they could buy a building for in another city. He would like to be able to keep the building as the easements do not interfere with their business.

Mr. Randy Fields spoke regarding eminent domain within in Lee's Summit and his feelings on the beautification of Lee's Summit at the cost of local businesses. He would like the City to review the offers as they are not being given a comparable price for their buildings and properties. He would like the businesses to stay local, but with eminent domain they will not be able to do so.

Mr. Mark Epstein, Epstein Law Firm, stated Bill No. 18-40 and 18-41 did not provide the correct value for the properties and would like to see a mechanism to make sure local businesses stay in Lee's Summit. He proposed ways this could be done.

**2. COUNCIL COMMENTS:**

Councilmember Binney stated this is an example of businesses trying to stay here and believes the City should look at how to be helpful in keeping businesses and jobs in Lee's Summit.

Councilmember Faith thanked Ms. Jenkins for speaking regarding Core Employees and it will be taken into consideration.

**3. APPROVAL OF CONSENT AGENDA:**

- A. [2018-1835](#) Approval of Action Letters from February 1, February 8 and February 15, 2018.

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember DeMoro, to approve the Action Letters as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- B. [BILL NO. 18-28](#) AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR IN HOME MASSAGE THERAPY IN DISTRICT R-1 ON LAND LOCATED AT 751 SW OLD PRYOR ROAD FOR A PERIOD OF TEN (10) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember DeMoro, that Bill No. 18-28 be adopted and numbered 8348 as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- C. [BILL NO. 18-31](#) AN ORDINANCE ACCEPTING FINAL PLAT ENTITLED "EAGLE CREEK, 15TH PLAT, LOTS 661-707 AND TRACTS O, P AND Q", AS A SUBDIVISION TO THE CITY OF LEE'S SUMMIT, MISSOURI.

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember DeMoro, that Bill No. 18-31 be adopted and numbered Ord. No. 8349 as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro



**4. PROPOSED ORDINANCES FORWARDED FROM COMMITTEE:**

- A.**     [BILL NO.](#)            AN ORDINANCE AMENDING ARTICLE II, DIVISION 1, SECTION 15-21, OF  
[18-35](#)                    THE CITY OF LEE'S SUMMIT CODE OF ORDINANCES PERTAINING TO THE  
                              HUMAN RELATIONS COMMISSION FOR THE PURPOSE OF MODIFYING  
                              THE TYPE AND NUMBER OF MEMBERS, ESTABLISHING AN ATTENDANCE  
                              POLICY, AND DEFINING A QUORUM. (Rules 2-12-18)

**ACTION: A motion was made by Councilmember Binney, seconded by Councilmember Seif, that Bill No. 18-35 be second read. The motion carried by the following vote:**

**Aye:** 8 -    Councilmember Binney  
              Councilmember Carlyle  
              Councilmember Edson  
              Councilmember Faith  
              Councilmember Forte  
              Councilmember Mosby  
              Councilmember Seif  
              Councilmember DeMoro

**ACTION: A motion was made by Councilmember Binney, seconded by Councilmember Seif, that Bill No. 18-35 be adopted and numbered Ord. No. 8350. The motion carried by the following vote:**

**Aye:** 8 -    Councilmember Binney  
              Councilmember Carlyle  
              Councilmember Edson  
              Councilmember Faith  
              Councilmember Forte  
              Councilmember Mosby  
              Councilmember Seif  
              Councilmember DeMoro

- B.**     [BILL NO.](#)            AN ORDINANCE AMENDING SECTION 2-60.23-RULE 2.3 COUNCIL  
[18-36](#)                    COMMENTS AND ENACTING TWO NEW SECTIONS; SEC. 2-60.24.-RULE  
                              2.4 COUNCIL ROUNDTABLE. AND SEC. 2-60.25.-RULE 2.5 STAFF  
                              ROUNDTABLE. OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S  
                              SUMMIT, MISSOURI TO PROVIDE GUIDANCE FOR THE ORDER AND  
                              CONDUCT OF BUSINESS FOR THE COUNCIL OF THE CITY OF LEE'S  
                              SUMMIT, MISSOURI. (Rules 2-12-18)

**ACTION: A motion was made by Councilmember DeMoro, seconded by Councilmember Forte, that Bill No. 18-36 be second read. The motion for a second reading carried by the following vote:**

**Aye:**  
**Councilmember Binney**  
**Councilmember Carlyle**  
**Councilmember Edson**  
**Councilmember Faith**  
**Councilmember Forte**  
**Councilmember Seif**  
**Councilmember DeMoro**

**Nay:**  
**Councilmember Mosby**

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After discussion, a motion was made by Councilmember Mosby, seconded by Councilmember Edson, that Bill No. 18-36 be amended by striking the sentence that starts with "Legislative" in Section 2-60-24 Rule 2.4 Council Roundtable and insert "Council may ask for clarification or give direction about agenda items or discuss items of an emerging nature." The motion carried by the following vote:

**Aye:**

Councilmember Edson  
Councilmember Faith  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:**

Councilmember Binney  
Councilmember Carlyle  
Councilmember Forte

A motion was made by Councilmember DeMoro, seconded by Councilmember Seif, that Bill No. 18-36 be adopted and numbered Ord. No. 8351 as amended. The motion carried by the following vote:

**Aye:** 5 - Councilmember Edson  
Councilmember Faith  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 3 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Forte

**5. PUBLIC HEARINGS:**

- A. [2018-1843](#) PUBLIC HEARING - Application #PL2018-013 - VACATION OF RIGHT-OF-WAY - portions of SW Longview Blvd and SW Fascination Dr, generally located at the intersection of SW Longview Blvd and SW Fascination Dr; City of Lee's Summit, applicant

**This Public Hearing - Sworn was received and filed.**

- 1) [BILL NO. 18-37](#) AN ORDINANCE VACATING DEDICATED RIGHTS-OF-WAY FOR PORTIONS OF SW LONGVIEW BLVD AND SW FASCINATION DR, GENERALLY LOCATED AT THE INTERSECTION OF SW LONGVIEW BLVD AND SW FASCINATION DR, IN THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**ACTION:** A motion was made by Councilmember Mosby, seconded by Councilmember Seif, that Bill No. 18-37 be advanced to second reading. The motion carried by the following vote:

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**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- B.**      [2017-1752](#)      PUBLIC HEARING - Appl. #PL2018-012 - UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT #65 - Article 7 Design Standards, proposed amendments to the Downtown Design Standards, lighting standards and trash enclosure gate requirements; City of Lee's Summit, applicant

**This Public Hearing - Sworn was received and filed.**

- 1)**      [BILL NO. 18-38](#)      AN ORDINANCE APPROVING APPLICATION #PL2018-012 - AMENDMENT #65 TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) - ARTICLE 7 DESIGN STANDARDS, PROPOSED AMENDMENTS TO THE DOWNTOWN DESIGN STANDARDS, LIGHTING STANDARDS AND TRASH ENCLOSURE GATE REQUIREMENTS; CITY OF LEE'S SUMMIT, APPLICANT.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**ACTION: A motion was made by Councilmember Edson, seconded by Councilmember Seif, that Bill No. 18-38 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- C)**      [2018-1845](#)      PUBLIC HEARING - Appl. #PL2018-014 - UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT #66 - Article 12 Parking, amendment to clarify and move standards for storage and parking of RVs, boats, and utility trailers from Article 12 of the UDO to Chapter 16 of the Lee's Summit Code of Ordinances; City of Lee's Summit, applicant.

**This Public Hearing - Sworn was received and filed.**

- 1)**      [BILL NO. 18-39](#)      AN ORDINANCE APPROVING APPLICATION #PL2018-014- AMENDMENT #66 TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) - ARTICLE 12 PARKING, AMENDMENT TO CLARIFY AND MOVE STANDARDS FOR STORAGE AND PARKING OF RVS, BOATS, AND UTILITY TRAILERS FROM ARTICLE 12 OF THE UDO TO CHAPTER 16 OF THE LEE'S SUMMIT CODE OF ORDINANCES; CITY OF LEE'S SUMMIT, APPLICANT.

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(Note: First reading by Council on March 1, 2018.)

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember Seif, that Bill No. 18-39 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 2 - Councilmember Edson  
Councilmember Mosby

**6. PROPOSED ORDINANCES - FIRST READING:**

- A.**     [SUBSTITUTE](#)     AN ORDINANCE APPROVING AMENDMENT NO. 9 TO THE BUDGET FOR  
[BILL NO.](#)           THE FISCAL YEAR ENDING JUNE 30, 2018, AS ADOPTED BY ORDINANCE  
[18-20](#)             NO. 8162, BY REVISING THE AUTHORIZED EXPENDITURES FOR THE CITY  
OF LEE'S SUMMIT, MISSOURI, AND ESTABLISHING A NEW PAY AND  
CLASSIFICATION PLAN.

**ACTION: A motion was made by Councilmember Faith, seconded by Councilmember Binney, that Substitute Bill No. 18-20 as amended be advanced to second reading. The motion carried by the following vote:**

**Aye:** 5 - Councilmember Edson  
Councilmember Faith  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 3 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Forte

**ACTION: A motion was made by Councilmember Faith, seconded by Councilmember Edson, that Substitute Bill No. 18-20 be amended in Section 5 to revise the IAFF amount to \$1.25 Million and Section 3 to revise the amount for core employees to \$2 Million. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 2 - Councilmember Binney  
Councilmember Forte

**ACTION: A motion was made by Councilmember Mosby, seconded by Councilmember Edson, that Substitute Bill No. 18-20 be further amended to include a new Subsection 5(a) That the future allocation of Appendix A and step plans and other increases are prepared and evaluated in advance of the adoption of the FY 2019/2020 Budget. The motion carried by the following vote:**

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**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 2 - Councilmember Binney  
Councilmember Forte

- B.** [BILL NO. 18-32](#) AN ORDINANCE REPEALING ORDINANCE NO. 7428 AND ESTABLISHING NEW GENERAL FUND RESERVE BALANCE GUIDELINES TO ENSURE THE CONTINUED ECONOMIC STABILITY AND COMPETITIVENESS OF THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading by Council on March 1, 2018.)

**ACTION: On motion of Councilmember Faith, seconded by Councilmember Edson, that Bill No. 18-32 be advanced for second reading. Motion carried by the following vote:**

**Aye:** 5 - Councilmember Edson  
Councilmember Faith  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 3 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Forte

- C.** [BILL NO. 18-40](#) AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: This item was CONTINUED on March 1, 2018 per City Council vote.)

**ACTION: A motion was made by Councilmember Carlyle, seconded by Councilmember Binney, that Bill No. 18-40 be continued to a date certain of March 15, 2018. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- D.** [BILL NO. 18-41](#) AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER

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AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

(Note: This item was CONTINUED on March 1, 2018 per City Council vote.)

**ACTION: A motion was made by Councilmember DeMoro, seconded by Councilmember Faith, that Bill No. 18-41 be continued to a date certain of March 15, 2018. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- E.**      [BILL NO. 18-42](#)      AN ORDINANCE AUTHORIZING THE EXECUTION OF ADDENDUM NO. 3 TO AN AGREEMENT BY AND BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND BURNS AND MCDONNELL ENGINEERING COMPANY, INC. FOR MAY BROOK SANITARY SEWER FLOW MONITORING IN THE AMOUNT OF \$101,420 AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE AN AGREEMENT FOR THE SAME WITH BURNS & MCDONNELL ENGINEERING COMPANY, INC. BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**ACTION: A motion was made by Councilmember DeMoro, seconded by Councilmember Binney, that Bill No. 18-42 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- F.**      [BILL NO. 18-43](#)      AN ORDINANCE VACATING A CERTAIN EASEMENT LOCATED WITHIN THE PLAT ENTITLED "RAINTREE NORTH SHOPPING CENTER, LOTS 1 THRU 6," IN THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**ACTION: A motion was made by Councilmember Edson, seconded by Councilmember Seif, that Bill No. 18-43 be advanced to second reading. The motion carried by the following vote:**



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**Aye:** 7 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Recused:** 1 - Councilmember Faith

- J.** [BILL NO. 18-47](#) AN ORDINANCE VACATING A CERTAIN SANITARY SEWER EASEMENT LOCATED WITHIN THE PLAT ENTITLED "JOHN KNOX RETIREMENT VILLAGE, 13TH PLAT", IN THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember Seif, that Bill No. 18-47 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Recused:** 1 - Councilmember Faith

- K.** [BILL NO. 18-48](#) AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, CHAPTER 16, LEE'S SUMMIT PROPERTY MAINTENANCE CODE, BY ADOPTING REGULATIONS PERTAINING TO VEHICLE PARKING AND STORAGE REGULATIONS FOR PRIVATE PROPERTY.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**ACTION: A motion was made by Councilmember Seif, seconded by Councilmember Carlyle, that Bill No. 18-48 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- L.** [BILL NO. 18-49](#) AN ORDINANCE AMENDING ARTICLE III. OFFICERS AND EMPLOYEES. CHAPTER 2. ADMINISTRATION OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT BY REPEALING SECTION 2-61 AND ENACTING TEN NEW SECTIONS RELATING TO A CODE OF ETHICS, FINANCIAL DISCLOSURE AND CODE OF CONDUCT. (Rules 2-12-18)(Note: First reading by Council on March 1, 2018.)



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**ACTION: A motion was made by Councilmember Carlyle, seconded by Councilmember Forte, that Bill No. 18-49 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**ACTION: A motion was made by Councilmember Edson, seconded by Councilmember Seif, that Bill No. 18-49 be amended by striking through the first portion of the sentence under Official Authority or Official Influence that reads "The direct or indirect use of position, title, privilege or". The motion carried by the following vote:**

**Aye:** 6 - Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 2 - Councilmember Binney  
Councilmember Carlyle

**7. PROPOSED ORDINANCES - SECOND READING:**

- A.**     [BILL NO. 18-29](#)     AN ORDINANCE APPROVING APPLICATION #PL2017-260 - AMENDMENT #64 TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) - ARTICLE 2 RULES OF INTERPRETATION AND DEFINITIONS, ARTICLE 9 USES PERMITTED WITH CONDITIONS AND ARTICLE 10 SPECIAL USE PERMITS, ESTABLISHING REGULATIONS FOR SHORT TERM RENTALS; CITY OF LEE'S SUMMIT, APPLICANT.

**ACTION: A motion was made by Councilmember Faith, seconded by Councilmember Seif, that Bill No. 18-29 be adopted and numbered Ord. No. 8352. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

- B.**     [BILL NO. 18-30](#)     AN ORDINANCE RESCINDING ORDINANCE NO. 8094 AND APPROVING A DEVELOPMENT AGREEMENT AND LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY REDEVELOPMENT PROJECT, BRIDGE SPACE PROJECT, PURSUANT TO THE PROVISIONS OF THE LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY LAW, SECTIONS 99.300 TO 99.660 RSMo.

**ACTION: A motion was made by Councilmember Edson, seconded by Councilmember Seif, that Bill No. 18-30 be adopted and numbered Ord. No. 8353. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Abstain:** 1 - Councilmember Binney

**8. COMMITTEE REPORTS (Committee chairs report on matters held in Committee):**

Mayor Pro Tem Binney announced the next regularly scheduled meeting of the Finance and Budget Committee will be Monday, March 5, 2018. An additional meeting has been added for Monday, March 12, 2018 at 5:30 p.m. to focus on total compensation, salaries, benefits and expenses.

Councilmember Edson announced that there will be an Intergovernmental Relations Committee meeting on March 7, 2018 at 6:00 p.m.

**9. COUNCIL ROUNDTABLE:**

Councilmember Faith announced that March 6, 2018 is the Missouri state-wide tornado drill at 10:00 a.m. and asked everyone to use that time to review their severe weather action plan and to sign up for Nixel alerts. He then spoke about the Mayoral Candidate forum at the Missouri Innovation Campus and announced the next forum is March 14, 2018 for City Council Candidates.

Mayor Rhoads asked for an update on hiring a full time Human Resources Director. Mr. Steve Arbo, City Manager, responded that recruiting is taking place and the deadline for applications is in a few weeks.

**10. STAFF ROUNDTABLE:**

Mr. Steve Arbo, City Manager, announced that the City of Lee's Summit is kicking off a three year planning strategy called the Complex Coordinated Terrorist Attack Program.

Mrs. Trisha Fowler-Arcuri, City Clerk, introduced Mrs. Stacy Lombardo as the new Deputy City Clerk.

**11. ADJOURNMENT**

Mayor Rhoads adjourned Regular Session No. 58 at 9:38 p.m.

For your convenience, City Council agendas, as well as videos of City Council and Council Committee meetings, may be viewed on the City's Internet site at "www.cityofls.net".



**The City of Lee's Summit**  
**Action Letter**  
**City Council - Regular Session**

Thursday, March 15, 2018

6:15 PM

\*\*\*Amended\*\*\* City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

(816) 969-1000

**REGULAR SESSION NO. 59**

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INVOCATION  
PLEDGE OF ALLEGIANCE  
CALL TO ORDER  
ROLL CALL

Mayor Rhoads called Regular Session No. 59 to order at 6:32 p.m.

**Councilmember Mosby arrived at 7:26 p.m.**

**Present:** 7 - Councilmember Rob Binney  
Councilmember Trish Carlyle  
Councilmember Phyllis Edson  
Councilmember Craig Faith  
Councilmember Diane Forte  
Councilmember Diane Seif  
Councilmember Fred DeMoro

**Absent:** 1 - Councilmember Dave Mosby

APPROVAL OF AGENDA

Mayor Rhoads amended the published agenda to move Bill No. 18-40 and 18-41 to this portion of the agenda in order to entertain a motion to continue them to a date certain of April 5, 2018.

**ACTION: A motion was made by Councilmember Edson, seconded by Councilmember Seif, to approve the published agenda as amended. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**A.** [BILL NO. 18-41](#) AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND

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TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

(Note: This item was CONTINUED on March 1, 2018 per City Council vote.)

**ACTION: A motion was made by Councilmember Edson, seconded by Councilmember Binney, that Bill No. 18-41 be continued to a date certain of April 5, 2018. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Absent:** 1 - Councilmember Mosby

- B.** [BILL NO. 18-40](#) AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: This item was CONTINUED on March 1, 2018 per City Council vote.)

**A motion was made by Councilmember Edson, seconded by Councilmember Binney, that this Bill No. 18-40 be continued to a date certain of April 5, 2018. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Absent:** 1 - Councilmember Mosby

**1. PUBLIC COMMENTS:**

Mr. Michael Decker, Director of Pharmacy at Lee's Summit Medical Center, addressed the City Council asking for their support of the Canibus Resolution. He provided data in support of his position on the subject.

Ms. Beverly Kirkpatrick, Lee's Summit Resident, stated her opposition to the proposed revisions to the Code of Ordinances as it relates to the storage of boats, trailers and RV's.

Ms. Emma Wisen, Lee's Summit West High School Student, shared survey results with the City Council on marijuana usage by Lee's Summit teens.

Mr. Ron Baker, Lee's Summit Educator, urged the City Council to take steps to keep the legalization of marijuana under local control. He requested that ordinances be enacted now and not wait to see what steps are taken at the State level.

Mr. Charlie Johnson, Landmark 2 Skate Center, also expressed his support of the Resolution opposing the legalization of marijuana.

Ms. Geraldine Amoto again expressed her opinions regarding the state of the Republic.

**2. COUNCIL COMMENTS:**

Councilmember Carlyle requested clarification regarding Bill No. 18-39 addressing the storage and parking of RVs, boats, and utility trailers. Mr. Mark Dunning, Assistant City Manager, provided the requested information. Mr. Brian Head, City Attorney, added that the City's standards are minimum standards and an HOA can apply stricter standards if they choose to do so.

**3. APPROVAL OF CONSENT AGENDA:**

- A. [2018-1952](#) Approval of G3 & S Liquor License for new owners of Llywelyn's Pub, 301 SE Douglas Street.

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, to approve this Liquor License as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

- B. [2018-1953](#) Approval of G3 & S Liquor License for Hu Hot Mongolian Grill, 632 NE 291 Highway.

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, to approve this Liquor License as part of the Consent Agenda. The motion carried by the following vote:**

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**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

- C.**     [BILL NO.](#)     AN ORDINANCE VACATING DEDICATED RIGHTS-OF-WAY FOR PORTIONS  
[18-37](#)           OF SW LONGVIEW BLVD AND SW FASCINATION DR, GENERALLY  
LOCATED AT THE INTERSECTION OF SW LONGVIEW BLVD AND SW  
FASCINATION DR, IN THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-37 be adopted and numbered Ord No. 8354 as part of Consent Agenda. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

- D.**     [BILL NO.](#)     AN ORDINANCE APPROVING APPLICATION #PL2018-012 - AMENDMENT  
[18-38](#)           #65 TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) - ARTICLE 7  
DESIGN STANDARDS, PROPOSED AMENDMENTS TO THE DOWNTOWN  
DESIGN STANDARDS, LIGHTING STANDARDS AND TRASH ENCLOSURE  
GATE REQUIREMENTS; CITY OF LEE'S SUMMIT, APPLICANT.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-38 be adopted and numbered Ord. No. 8355 as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

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- E. [BILL NO.](#) AN ORDINANCE AUTHORIZING THE EXECUTION OF ADDENDUM NO. 3  
[18-42](#) TO AN AGREEMENT BY AND BETWEEN THE CITY OF LEE'S SUMMIT,  
MISSOURI AND BURNS AND MCDONNELL ENGINEERING COMPANY, INC.  
FOR MAY BROOK SANITARY SEWER FLOW MONITORING IN THE  
AMOUNT OF \$101,420 AND AUTHORIZING THE CITY MANAGER TO  
ENTER INTO AND EXECUTE AN AGREEMENT FOR THE SAME WITH  
BURNS & MCDONNELL ENGINEERING COMPANY, INC. BY AND ON  
BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-42 be adopted and numbered Ord No. 8356 as part of the Consent Agenda. The motion carried by the following vote:**

- Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro
- Nay:** 1 - Councilmember Binney
- Absent:** 1 - Councilmember Mosby

- F. [BILL NO.](#) AN ORDINANCE VACATING A CERTAIN EASEMENT LOCATED WITHIN THE  
[18-43](#) PLAT ENTITLED "RAINTREE NORTH SHOPPING CENTER, LOTS 1 THRU 6,"  
IN THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-43 be adopted and numbered Ord. No. 8357 as part of the Consent Agenda. The motion carried by the following vote:**

- Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro
- Nay:** 1 - Councilmember Binney
- Absent:** 1 - Councilmember Mosby

- G. [BILL NO.](#) AN ORDINANCE VACATING A CERTAIN EASEMENT LOCATED AT 4801 SW  
[18-44](#) RRAINTREE PKWY IN THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-44 be adopted and numbered Ord. No. 8358 as part of the Consent Agenda. The motion carried by the following vote:**

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**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

- H. [BILL NO. 18-45](#) AN ORDINANCE ACCEPTING FINAL PLAT ENTITLED "FASCINATION AT NEW LONGVIEW, LOTS 1A-1E & TRACT A", AS A SUBDIVISION TO THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-45 be adopted and numbered Ord. No. 8359 as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

- I. [BILL NO. 18-46](#) AN ORDINANCE VACATING A CERTAIN EASEMENT LOCATED WITHIN THE PLAT ENTITLED "JOHN KNOX RETIREMENT VILLAGE, 13TH PLAT", IN THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-46 be adopted and numbered Ord. No. 8360 as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

- J. [BILL NO. 18-47](#) AN ORDINANCE VACATING A CERTAIN SANITARY SEWER EASEMENT LOCATED WITHIN THE PLAT ENTITLED "JOHN KNOX RETIREMENT VILLAGE, 13TH PLAT", IN THE CITY OF LEE'S SUMMIT, MISSOURI.



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(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-47 be adopted and numbered Ord. No. 8361 as part of the Consent Agenda.**

**The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

- K.** [BILL NO. 18-48](#) AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, CHAPTER 16, LEE'S SUMMIT PROPERTY MAINTENANCE CODE, BY ADOPTING REGULATIONS PERTAINING TO VEHICLE PARKING AND STORAGE REGULATIONS FOR PRIVATE PROPERTY.

(Note: First reading on March 1, 2018. Passed by unanimous vote.)

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember Binney, that Bill No. 18-48 be adopted and numbered Ord. No. 8362 as part of the Consent Agenda. The motion carried by the following vote:**

**Aye:** 6 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

**Absent:** 1 - Councilmember Mosby

**4. PRESENTATIONS:**

- A.** [2018-1942](#) Mr. Jim Durham, Legislative Lobbyist, will provide an mid-year update on the State of Missouri legislation.

**This Presentation was received and filed.**

**5. RESOLUTIONS:**

- A.** [2018-1943](#) A RESOLUTION ACCEPTING THE REPORT FROM THE HEALTH EDUCATION ADVISORY BOARD; EXPRESSING THE OPPOSITION OF THE CITY COUNCIL TO ALL FORMS OF MARIJUANA LEGALIZATION; RECEIVING TWO DRAFT ORDINANCES PROHIBITING THE SALE OF ALL FORMS OF MARIJUANA IN THE CITY OR IN THE ALTERNATIVE TO AMEND THE

UNIFORM DEVELOPMENT ORDINANCES; AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO TAKE SUCH ACTIONS AS MAY BE NECESSARY IN THE EVENT OF LEGALIZATION OF ANY TYPE IN THE STATE OF MISSOURI

**ACTION: A motion was made by Councilmember Carlyle, seconded by Councilmember Forte, that this Resolution be adopted and numbered 18-03. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**6. PROPOSED ORDINANCES FORWARDED FROM COMMITTEE:**

[BILL NO.](#)  
[18-50](#)

AN ORDINANCE AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO A REAL PROPERTY AND ANTENNA SUPPORT STRUCTURE SITE LEASE BY AND BETWEEN THE CITY OF LEE'S SUMMIT AND T-MOBILE CENTRAL, LLC EXTENDING THE LEASE TERM, INCREASING THE ANNUAL RENTAL PAYMENT, AND ESTABLISHING VARIOUS NEW PROVISIONS. (F&BC 3-5-18)

**A motion was made by Councilmember Edson, seconded by Councilmember Carlyle, that Bill No. 18-50 be second read. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**ACTION: A motion was made by Councilmember Edson, seconded by Councilmember Binney, that Bill No. 18-50 be adopted and numbered Ord No. 8363. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**B.** [BILL NO.](#)  
[18-51](#)

AN ORDINANCE APPROVING THE SOLE SOURCE ANNUAL MAINTENANCE CONTRACT BY AND BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND PARAGON TACTICAL COMPANY FOR MAINTENANCE SERVICES AND SOFTWARE LICENSING FOR THE POLICE FIRING RANGE FOR A PERIOD OF FIVE YEARS IN THE AMOUNT OF \$69,200.00 AND AUTHORIZING THE

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CITY MANAGER TO ENTER INTO THE SAME BY AND ON BEHALF OF THE CITY. (F&BC 3-5-18)

**ACTION: A motion was made by Councilmember Mosby, seconded by Councilmember Faith, that Bill No. 18-51 be second read. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**ACTION: A motion was made by Councilmember Mosby, seconded by Councilmember Seif, that Bill No. 18-51 be adopted and numbered 8364. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**C.** [BILL NO. 18-52](#)

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR LAW ENFORCEMENT SERVICES FOR THE JACKSON COUNTY DRUG TASK FORCE BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND THE CITIES OF BLUE SPRINGS, BUCKNER, GRAIN VALLEY, GRANDVIEW, GREENWOOD, INDEPENDENCE, LAKE LOTAWANA, LAKE TAPAWINGO, LONE JACK, OAK GROVE, RAYTOWN, AND SUGAR CREEK, ALL OF THE STATE OF MISSOURI; MISSOURI HIGHWAY PATROL; AND JACKSON COUNTY, MISSOURI, INCLUDING THE JACKSON COUNTY SHERIFF'S OFFICE. (F&BC 3-5-18)

**ACTION: A motion was made by Councilmember Carlyle, seconded by Councilmember Seif, that Bill No. 18-52 be second read. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**ACTION: A motion was made by Councilmember Carlyle, seconded by Councilmember Seif, that Bill No. 18-52 be adopted and numbered Ord. No. 8365. The motion carried by the following vote:**

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**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- D.**      [BILL NO. 18-53](#)      AN ORDINANCE REPEALING PREVIOUS ORDINANCES RELATED TO THE SCHEDULE OF FEES AND CHARGES FOR THE CITY OF LEE'S SUMMIT AND ESTABLISHING THE CITY OF LEE'S SUMMIT SCHEDULE OF FEES AND CHARGES. (F&BC 3-5-18)

**ACTION: A motion was made by Councilmember Binney, seconded by Councilmember Forte, that Bill No. 18-53 be second read. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Edson

**ACTION: A motion was made by Councilmember Binney, seconded by Councilmember Faith, that Bill No. 18-53 be adopted and numbered Ord. No. 8366. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Edson

**7.      EMERGENCY ORDINANCES:**

- A.**      [BILL NO. 18-54](#)      AN ORDINANCE REAUTHORIZING A ONE-HALF OF ONE PERCENT (1/2 OF 1/%) CAPITAL IMPROVEMENT SALES TAX FOR A PERIOD OF FIFTEEN (15) YEARS AS APPROVED BY THE VOTERS OF THE CITY OF LEE'S SUMMIT AT THE APRIL 4, 2017 ELECTION, IMPOSING SAME UNTIL MARCH 31, 2033, AND CONTAINING AN EMERGENCY CLAUSE.

**ACTION: A motion was made by Councilmember DeMoro, seconded by Councilmember Seif, that Bill No. 18-54 be second read. The motion carried by the following vote:**

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**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**ACTION: A motion was made by Councilmember DeMoro, seconded by Councilmember Seif, that Bill No. 18-54 be adopted and numbered Ord. 8367. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- B.**      [BILL NO. 18-55](#)      AN ORDINANCE REAUTHORIZING A ONE-QUARTER OF ONE PERCENT (1/4 OF 1/%) SALES TAX FOR LOCAL PARKS FOR A PERIOD OF FIFTEEN (15) YEARS AS APPROVED BY THE VOTERS OF THE CITY OF LEE'S SUMMIT AT THE AUGUST 2, 2016 ELECTION, IMPOSING THE SAME UNTIL MARCH 31, 2033, AND CONTAINING AN EMERGENCY CLAUSE.

**ACTION: A motion was made by Councilmember Seif, seconded by Councilmember Forte, that Bill No. 18-55 be second read. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**ACTION: A motion was made by Councilmember Seif, seconded by Councilmember Forte, that Bill No. 18-55 be adopted and numbered Ord. No. 8368. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**8.      PUBLIC HEARINGS:**

- A.**      [2018-1885](#)      PUBLIC HEARING - Application #PL2018-003 - SPECIAL USE PERMIT for in-home massage therapy - 1613 SE 2nd Terrace; Rona Schwarz, applicant

City Council - Regular Session

Action Letter

March 15, 2018

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- 1) [BILL NO.](#)  
[18-56](#) AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR IN HOME MASSAGE THERAPY IN DISTRICT R-1 ON LAND LOCATED AT 1613 SE 2ND TERRACE FOR A PERIOD OF TEN (10) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: First reading on March 15, 2018. Passed by unanimous vote).

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember Seif, that Bill No. 18-56 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

9. **PROPOSED ORDINANCES - FIRST READING:**

- C. [BILL NO.](#)  
[18-57](#) AN ORDINANCE APPROVING THE TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT AND PARROT PROPERTIES, LLC, FOR THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN.

(Note: First reading by Council on March 15, 2018).

**ACTION: A motion was made by Councilmember Forte, seconded by Councilmember Seif, that Bill No. 18-57 be advanced to second reading. The motion carried by the following vote:**

**Aye:** 7 - Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**Nay:** 1 - Councilmember Binney

10. **PROPOSED ORDINANCES - SECOND READING:**

- A. [BILL NO.](#)  
[18-39](#) AN ORDINANCE APPROVING APPLICATION #PL2018-014- AMENDMENT #66 TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) - ARTICLE 12 PARKING, AMENDMENT TO CLARIFY AND MOVE STANDARDS FOR STORAGE AND PARKING OF RVS, BOATS, AND UTILITY TRAILERS FROM ARTICLE 12 OF THE UDO TO CHAPTER 16 OF THE LEE'S SUMMIT CODE OF ORDINANCES; CITY OF LEE'S SUMMIT, APPLICANT.

(Note: First reading by Council on March 1, 2018.)

**ACTION: A motion was made by Councilmember Binney, seconded by Councilmember Carlyle, that Bill No. 18-39 be adopted and numbered Ord. No. 8369. The motion failed by**

City Council - Regular Session

Action Letter

March 15, 2018

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the following vote:

**Aye:** 3 - Councilmember Carlyle  
Councilmember Faith  
Councilmember Forte

**Nay:** 5 - Councilmember Binney  
Councilmember Edson  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

- B.** [SUBSTITUTE BILL NO. 18-20](#) AN ORDINANCE APPROVING AMENDMENT NO. 9 TO THE BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2018, AS ADOPTED BY ORDINANCE NO. 8162, BY REVISING THE AUTHORIZED EXPENDITURES FOR THE CITY OF LEE'S SUMMIT, MISSOURI, AND ESTABLISHING A NEW PAY AND CLASSIFICATION PLAN.

**ACTION:** A motion was made by Councilmember Mosby, seconded by Councilmember Faith, that Substitute Bill No. 18-20 be adopted and numbered Ord. No. 8370. Due to a tie vote, the Mayor voted "Nay". The motion failed by the following vote:

**Aye:** 4 - Councilmember Edson  
Councilmember Faith  
Councilmember Mosby  
Councilmember DeMoro

**Nay:** 4 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Forte  
Councilmember Seif

- C.** [BILL NO. 18-32](#) AN ORDINANCE REPEALING ORDINANCE NO. 7428 AND ESTABLISHING NEW GENERAL FUND RESERVE BALANCE GUIDELINES TO ENSURE THE CONTINUED ECONOMIC STABILITY AND COMPETITIVENESS OF THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: First reading by Council on March 1, 2018.)

Mayor Rhoads struck Bill No. 18-32 from the agenda because the companion ordinance (Substitute Bill No. 18-20) failed.

**This Ordinance was withdrawn.**

- D.** [BILL NO. 18-49](#) AN ORDINANCE AMENDING ARTICLE III. OFFICERS AND EMPLOYEES. CHAPTER 2. ADMINISTRATION OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT BY REPEALING SECTION 2-61 AND ENACTING TEN NEW SECTIONS RELATING TO A CODE OF ETHICS, FINANCIAL DISCLOSURE AND CODE OF CONDUCT. (Rules 2-12-18)(Note: First reading by Council on March 1, 2018.)

**ACTION:** A motion was made by Councilmember DeMoro, seconded by Councilmember Binney, that Bill No. 18-49 be adopted and numbered 8372. The motion carried by the following vote:

Aye: 8 - Councilmember Binney  
Councilmember Carlyle  
Councilmember Edson  
Councilmember Faith  
Councilmember Forte  
Councilmember Mosby  
Councilmember Seif  
Councilmember DeMoro

**11. COMMITTEE REPORTS (Committee chairs report on matters held in Committee):**

Councilmember Binney reported that, at the March 12, 2018 Finance and Budget Committee meeting, an update was provided regarding Human Resources information and how it relates to the budget.

Councilmember DeMoro announced there will be a Public Works Committee meeting on Tuesday, March 20, 2018 at 5:30 p.m.

Councilmember Forte announced there will be a CEDC meeting on Wednesday, March 21, 2018 at 4:30 p.m.

**12. COUNCIL ROUNDTABLE:**

Councilmember Edson congratulated the students at all three Lee's Summit High Schools that are being inducted into the National Honor Society this week.

Councilmember Binney shared his thoughts on how to move forward after the defeat of Substitute Bill No. 18-20.

Councilmember Faith shared his thoughts on the defeat of Substitute Bill No. 18-20.

Councilmember Carlyle congratulated Lee's Summit High School's Robotics Team for already running their ticket for the World Championships.

Mayor Rhoads suggested the following courses of action:

- (a) Institute an immediate hiring freeze for all new and replacement personnel, except a new Human Resources Director, unless the positions are determined to be mission critical.
- (b) Perform an in-depth analysis of the City's budget to attempt to identify potential sources of excess and/or unnecessary expenditures.
- (c) Institute a feasibility and desirability study of a property tax increase.
- (d) Institute a feasibility and desirability study of a sales tax increase, including the concept of a dedicated sales tax.
- (e) Institute a feasibility and desirability study of a use tax on out of state internet sales.



(f) Immediately reduce the planned compensation increases for elected officials and maintain at the current level.

**13. STAFF ROUNDTABLE:**

Mr. Brian Head, City Attorney, asked the Council if they are interested in receiving updates from Mr. Jim Durham on the State of Missouri legislation.

Mr. Stephen Arbo, City Manager, asked Mr. Mark Dunning, Assistant City Manager, to address the impact of the failure of Bill No. 18-39 to the companion ordinance 18-48 that passed as part of the consent agenda. The two ordinances will be in conflict of each other.

Mr. Arbo asked Councilmember DeMoro about a District Four forum that he and Councilmember Mosby will be holding on March 26, 2018 at 7:00 p.m. at Prairie View Elementary School.

Mr. Arbo announced that a private farewell reception will be held to thank Mayor Rhoads for his service.

**ADJOURNMENT**

Mayor Rhoads adjourned Regular Session No. 59 at 8:48 p.m.

For your convenience, City Council agendas, as well as videos of City Council and Council Committee meetings, may be viewed on the City's Internet site at "[www.cityofls.net](http://www.cityofls.net)".

## Packet Information

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**File #:** BILL NO. 18-56, **Version:** 1

---

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR IN HOME MASSAGE THERAPY IN DISTRICT R-1 ON LAND LOCATED AT 1613 SE 2<sup>ND</sup> TERRACE FOR A PERIOD OF TEN (10) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: First reading on March 15, 2018. Passed by unanimous vote).

Proposed City Council Motion:

I move for second reading of AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR IN HOME MASSAGE THERAPY IN DISTRICT R-1 ON LAND LOCATED AT 1613 SE 2<sup>ND</sup> TERRACE FOR A PERIOD OF TEN (10) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

## **BILL NO. 18-56**

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AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR IN HOME MASSAGE THERAPY IN DISTRICT R-1 ON LAND LOCATED AT 1613 SE 2<sup>ND</sup> TERRACE FOR A PERIOD OF TEN (10) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Application #PL2018-003, submitted by Rona Schwarz, requesting a special use permit for in home massage therapy in District R-1 on land located at 1613 SE 2<sup>nd</sup> Terrace, was referred to the Planning Commission to hold a public hearing; and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the request on February 27, 2018, and rendered a report to the City Council containing findings of fact and a recommendation that the special use permit be approved; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on March 15, 2018, and rendered a decision to grant said special use permit.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the application pursuant to Section 10.400 of the Unified Development Ordinance to allow in home massage therapy in District R-1 with a Special Use Permit is hereby granted for a period of TEN (10) years, with respect to the following described property:

*Lot 13, Indian Creek, 1<sup>st</sup> Plat, Lee's Summit, Jackson County, Missouri*

SECTION 2. That the following conditions of approval apply:

1. Massage therapy to be conducted as a home occupation shall meet all the requirements of Chapter 28 Division 2 of the Code of Ordinances of the City of Lee's Summit.
2. The applicant shall acquire a massage therapist business license with the City of Lee's Summit prior to operating the business at this location.
3. There shall be only one licensed therapist operating out of the home.
4. No more than one room shall be used for massage therapy.
5. Appointments shall be spaced out to eliminate patients waiting for their appointments.
6. Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m.
7. A special use permit shall be valid for a period of 10 years.

SECTION 3. That failure to comply with all of the provisions contained in this ordinance shall constitute violations of both this ordinance and the City Unified Development Ordinance, enacted by Ordinance No. 5209, amended from time to time.

SECTION 4. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

**BILL NO. 18-56**

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PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian Head*

# City of Lee's Summit

## Development Services Department

February 23, 2018

TO: Planning Commission  
PREPARED BY: Jennifer Thompson, Planner  
CHECKED BY: Hector Soto, Jr., AICP, Current Planning Manager  
RE: **PUBLIC HEARING – Application #PL2018-003 – SPECIAL USE PERMIT for in-home massage therapy – 1613 SE 2<sup>nd</sup> Terrace; Rona Schwarz, applicant**

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### Commentary

The applicant requests a special use permit to operate a massage therapy practice as a home occupation. The applicant is a licensed massage therapist that proposes to relocate her practice to her place of residence. The hours and days of operation will be between 10am and 7pm on Monday, Tuesday, Thursday, Friday, and Saturday, by appointment only. The applicant requests a special use permit be granted for a period of 10 years. Staff supports the requested time period.

### Recommendation

Staff recommends **APPROVAL** of the special use permit, subject to the following:

1. The special use permit shall be granted for a period of 10 years.

### Zoning and Land Use Information

**Location:** 1613 SE 2<sup>nd</sup> Terrace

**Zoning:** R-1 (Single-family Residential)

**Surrounding Zoning and Use:**

**North (across SE 2<sup>nd</sup> Terrace and SE Winburn Trl):** R-1 (Single-family Residential) – single family homes

**South:** R-1 (Single-family Residential) – single family homes

**East (across SE Winburn Trl):** R-1 (Single-family Residential) – single family homes

**West:** R-1 (Single-family Residential) – single family homes

**Site Characteristics.** The property is developed with a one-story, single-family residence with an attached two-car garage.

**Description and Character of Surrounding Area.** The surrounding area is developed as a single-family residential subdivision.

### Project Information

**Current Use:** single-family residence

**Proposed Use:** massage therapy as a home occupation

**Land area:** 13,316 sq. ft. lot (0.3 acres)

**Parking Spaces Provided:** 2-car garage plus 4-car driveway capacity

## Public Notification

**Neighborhood meeting conducted:** n/a

**Newspaper notification published:** February 10, 2018

**Radius notices mailed to properties within 185 feet:** February 8, 2018

## Process

**Procedure:** The Planning Commission makes a recommendation to the City Council on the proposed special use permit. The City Council takes final action on the special use permit.

**Duration of Validity:** A special use permit shall be valid for a specific period of time if so stated in the permit.

## Unified Development Ordinance

Applicable Section(s)	Description
10.020, 10.030, 10.040, 10.050, 10.400	Special Use Permit

## Comprehensive Plan

Focus Areas	Goals, Objectives and Policies
Economic Development	Objective 2.2

## Background

- April 13, 1982 – The City issued a building permit (Building Permit #B82-79) for construction of a single-family residence.

## Analysis of Special Use Permit

### Conditions of Use for In-Home Massage Therapy

Section 10.400 of the UDO lists the following conditions that apply to massage therapy as a home occupation:

1. Massage therapy to be conducted as a home occupation where the therapy is to take place in the home of the licensed massage therapist shall meet all requirements of Chapter 28 Division 2 of the Code of Ordinances of the City of Lee's Summit. **The applicant will comply with all Code of Ordinance requirements.**
2. The massage facility shall be available for inspection in accordance with Chapter 28 Division 2 of the Code of Ordinances of the City of Lee's Summit. **The applicant will make the facility available for inspection in accordance with the Code of Ordinances.**
3. There shall be only one licensed massage therapist per address operating at the home. No more than one room shall be used for massage therapy and the appointment times shall be spaced out during the day to eliminate patients waiting for their massage therapy appointment. **The applicant, a licensed massage therapist, will be the only individual providing massage therapy at the home. Only one room will be used for massage therapy. The applicant schedules no more than 4 appointments throughout the course of the day.**

4. Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m. **Hours of operation will be 10am to 7pm on Monday, Tuesday, Thursday, Friday and Saturday.**

**Time Period.**

- Request – The applicant requests a 10 year time period.
- Recommendation – A total of three special use permits to provide massage therapy as a home occupation have been previously approved, with one currently pending City Council approval. The first permit was approved in 2007 for a period of 5 years. The most recent permits were approved in 2011 and 2017, each for a period of 10 years.

Address	Ordinance No.	Time Period	Approval	Expiration
244 NW Whitlock Dr	6457	5	8/2/2007	8/2/2012
523 SE 4 <sup>th</sup> St	7094	10	9/1/2011	9/1/2021
1508 SW 9 <sup>th</sup> St	8296	10	12/14/2017	12/14/2027
751 SW Old Pryor Rd	Pending approval	Staff recommends 10 years	Pending approval	Pending approval

The applicant has requested a 10 year time period. Staff recommends a 10 year time period to keep consistent with the most recently approved special use permits for in-home massage therapy.

**Ordinance Criteria.** The criteria enumerated in Article 10 were considered in analyzing this request.

- The property is currently zoned R-1. In-home massage therapy is allowed in the R-1 district with approval of a special use permit.
- No exterior changes to the residence or the property as a whole are proposed as part of the proposed home occupation, so the use will not negatively impact the aesthetics of the property or adjoining properties.
- The development of the property will not impede the normal and orderly development of the surrounding properties. The subject property is located within a standard single-family residential subdivision.
- The potential traffic impact of the proposed home occupation on the existing street network is expected to be negligible. The applicant schedules no more than 4 appointments throughout the course of the day.

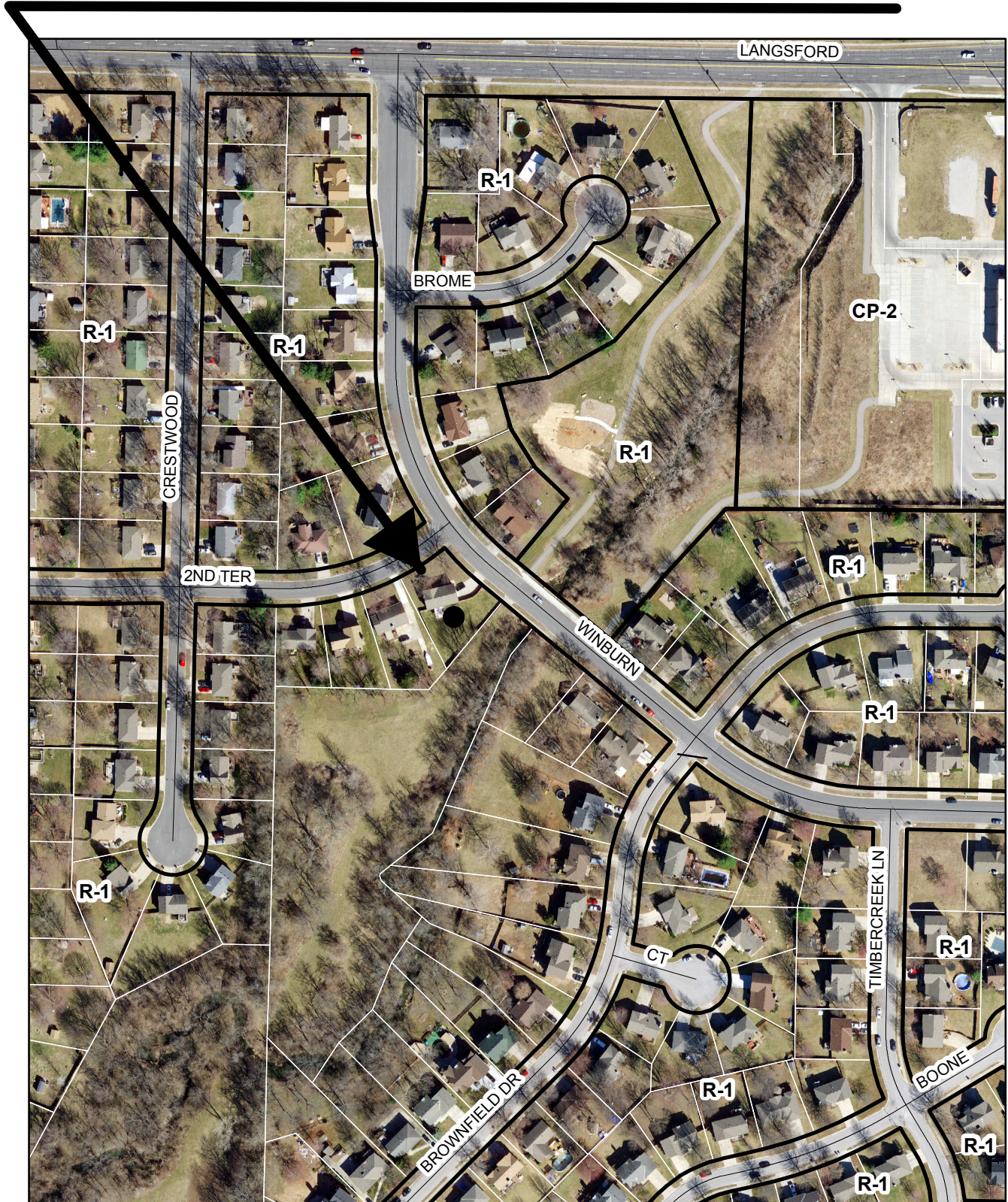
**Attachments:**

1. Use Narrative provided by applicant, date stamped January 4, 2018 – 1 page
2. Special Use Permit Explanation, provided by applicant, date stamped January 4, 2018 – 1 page
3. Photos of Subject and Surrounding Properties, date stamped January 4, 2018 – 5 pages
4. Special Use Permit Criteria -1 page
5. Special Use Permit Criteria response, provided by applicant, date stamped January 4, 2018 – 1 page
6. City Business License – 1 page
7. Massage Therapy licenses – 3 pages

8. Location Map



# PL#2018-003 SPECIAL USE PERMIT IN-HOME MASSAGE THERAPY RONA SCHWARZ, APPLICANT



## Packet Information

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**File #:** 2018-1971, **Version:** 1

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Fair Housing Month Proclamation

Issue/Request:

This year marks the 50th Anniversary of the Fair Housing Act being enacted into law on April 11, 1968, recognizing that no American should have the right to purchase or rent shelter of choice abridged because of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. Mayor Rhoads is issuing a proclamation in honor of the 50th Anniversary of this law.

# PROCLAMATION



**WHEREAS**, the month of April has been designated as Fair Housing Month by the United States Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity; and,

**WHEREAS**, this is the 50<sup>th</sup> anniversary of a “Year to Remember: 1968” celebrating the Fair Housing Act enacted on April 11, 1968 prohibiting discriminatory housing practices; and,

**WHEREAS**, “The Fair Housing Act 50 years of Opening Doors” has been selected as this year’s theme; and,

**WHEREAS**, the Fair Housing Act ensures all individuals regardless of sex, race, color, sexual orientation, disability, national origin, marital status, lawful source of income, age, ancestry, familial status or domestic abuse, sexual assault and stalking victims, receive equitable treatment in the pursuit of their housing choices; and,

**WHEREAS**, the City of Lee’s Summit finds that decent and safe housing is part of the American dream; and,

**WHEREAS**, Lee’s Summit citizens have the right to choose where to live without discrimination; and,

**WHEREAS**, it is important to affirm the commitment of the City of Lee’s Summit regarding citizens’ right to buy, sell, rent or otherwise secure housing in the City in conformance with the Title VIII of the Civil Rights Act of 1968 a/k/a/ the Federal Fair Housing Law and State Open Housing Law.

**NOW, THEREFORE**, by virtue of the authority vested in me as Mayor of the City of Lee’s Summit, Missouri, I hereby proclaim April 2018 as

## ***FAIR HOUSING MONTH***

and encourage all housing providers to support and affirm their commitment to Fair Housing.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Lee’s Summit, Missouri, this 23rd day of March, 2018.

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***MAYOR RANDALL L. RHOADS***

## Packet Information

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**File #:** 2018-1779, **Version:** 1

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Lee's Summit CARES "State of the Youth" Presentation

Last spring, Lee's Summit CARES worked in partnership with LSR7 to gather extensive data from 8th, 10th, and 12th graders regarding their overall health and wellness. Working with the Youth Advisory Board students, the data was then analyzed and a presentation was prepared for community leaders.

Timeline:

15 minutes

Lee's Summit CARES Youth Advisory Board students under the direction of Rachel Segobia, Executive Director



# 2017 State of the Youth



**OUR MISSION:** Lee's Summit CARES is a non-profit community coalition dedicated to preventing youth substance use and violence, empowering positive parenting and promoting exemplary character.





**Drug & Alcohol Prevention**

**Bully & Suicide Prevention**

**Parenting Education**

**Character Education**

---

**We ask youth: what are the things that help you succeed and make healthy choices?**

**Data from Search Institute (April 2017) &**

**Community Focus Groups (fall 2017)**








## 40 Developmental Assets

1,275 8<sup>th</sup>, 10<sup>th</sup>, 12<sup>th</sup> graders in LSR7 schools were surveyed in April 2017.

### WHAT ARE ASSETS?

-  Support
-  Empowerment
-  Boundaries & Expectations
-  Constructive Use of Time
-  Commitment to Learning
-  Positive Values
-  Social Competencies
-  Positive Identity

## WHY DO WE CARE?

The more assets young people experience across the contexts of their lives, the more likely they are to:

- Be healthier, safer and more caring;
- Do better in school;
- Be prepared for post-high school education and careers;
- Contribute more to their communities and society; and
- Avoid high-risk behaviors, such as violence and substance use.

# Sample questions (58 Total)

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Check If item is true: not at all, sometimes, often, almost always

I...

I have.....

Feel good about myself

A safe neighborhood

Build friendships with other people

Parent(s) who try to help me succeed

Do my homework.

A school that cares about kids and encourages them

Seek advice from my parents

Support from adults other than my parents

Think it is important to help other people

Friends who set good examples for me

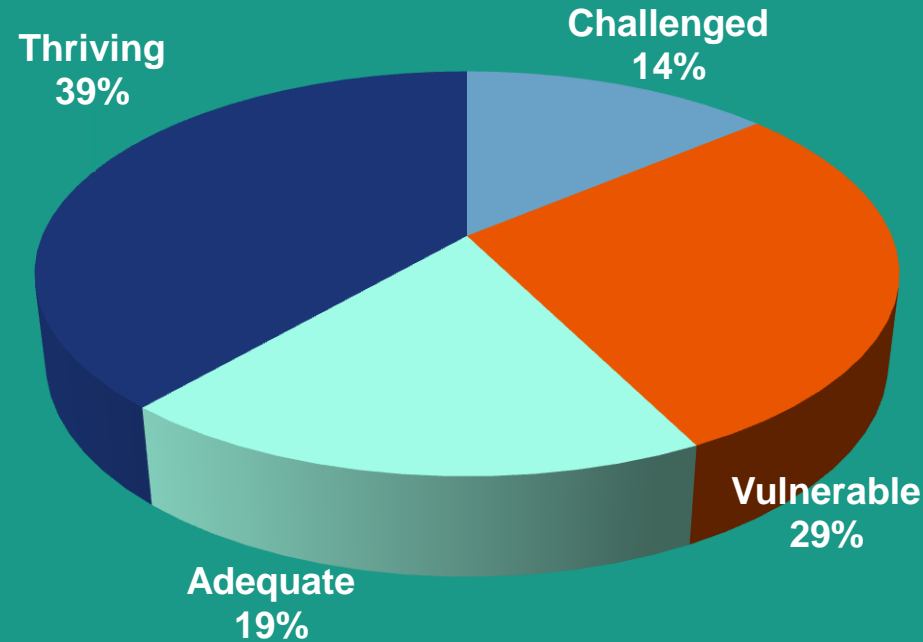
Feel safe at school



# Support

Young people need to be surrounded by people who love, care for, appreciate and accept them.

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**Strong Asset**



# Support

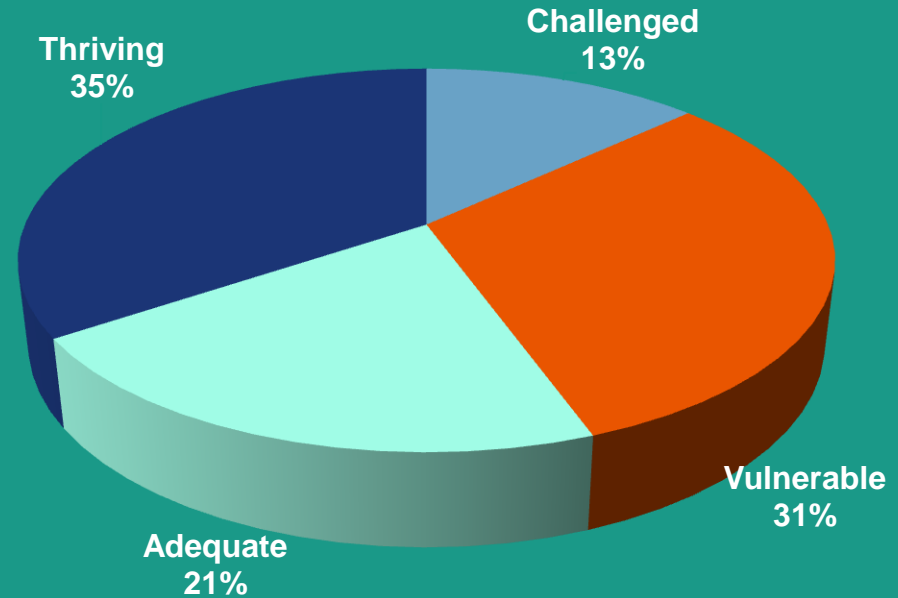
## FOCUS GROUP THEMES

- Strong parent support
- Need for outside supports
- Peer influence
- Vulnerable and hard-to-reach youth
- Mentors



# Boundaries and Expectations

Young people need clear rules, consistent consequences for breaking rules, and encouragement to do their best.



**Moderate Asset**



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# Boundaries and Expectations

## FOCUS GROUP THEMES

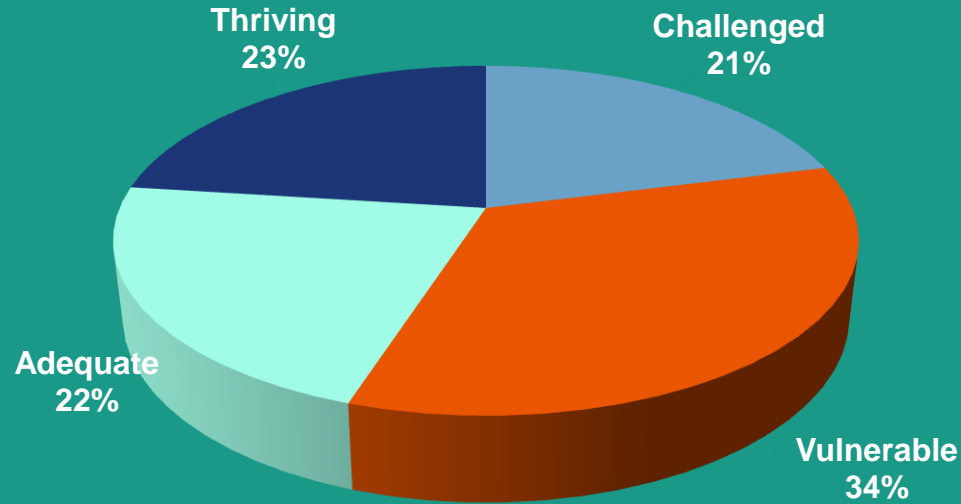
- High achieving community
- High levels of stress and anxiety
- Difficulties finding balance
- Need for family resources



# Commitment to Learning

Young people need a sense of the lasting importance of learning and a belief in their own abilities.

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**Moderate Asset**





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# Commitment to Learning

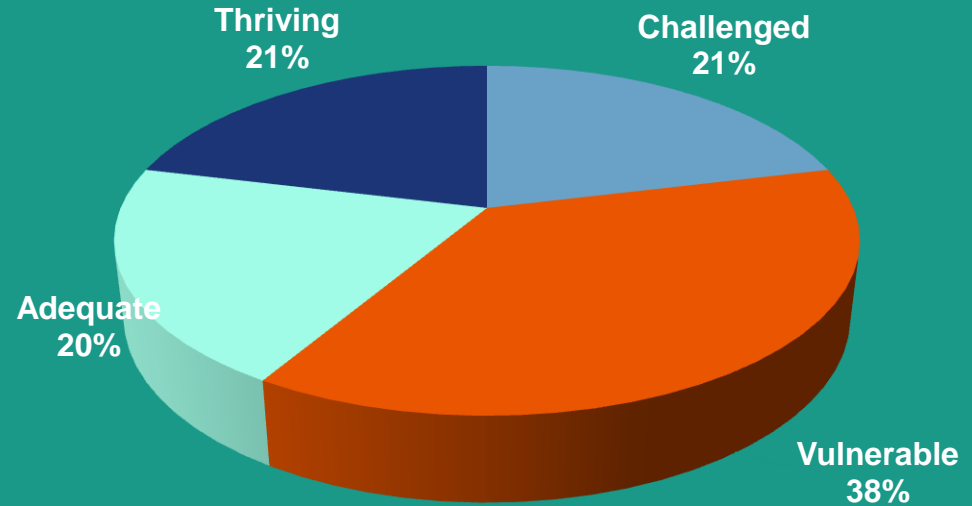
## FOCUS GROUP THEMES

- Positive and negative teacher impact
- Engaging instruction
- Career path pressure
- Shadowing and vocational programs
- Social media distraction



# Positive Identity

Young people need to believe in their own self-worth and to feel that they have control over things that happen to them.



**Weak Asset**



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# Positive Identity

## FOCUS GROUP THEMES

- Misguided expectations
- Low self-esteem as norm
- Comparisons to social media
- Negative self-talk
- Isolation and marginalization of minorities

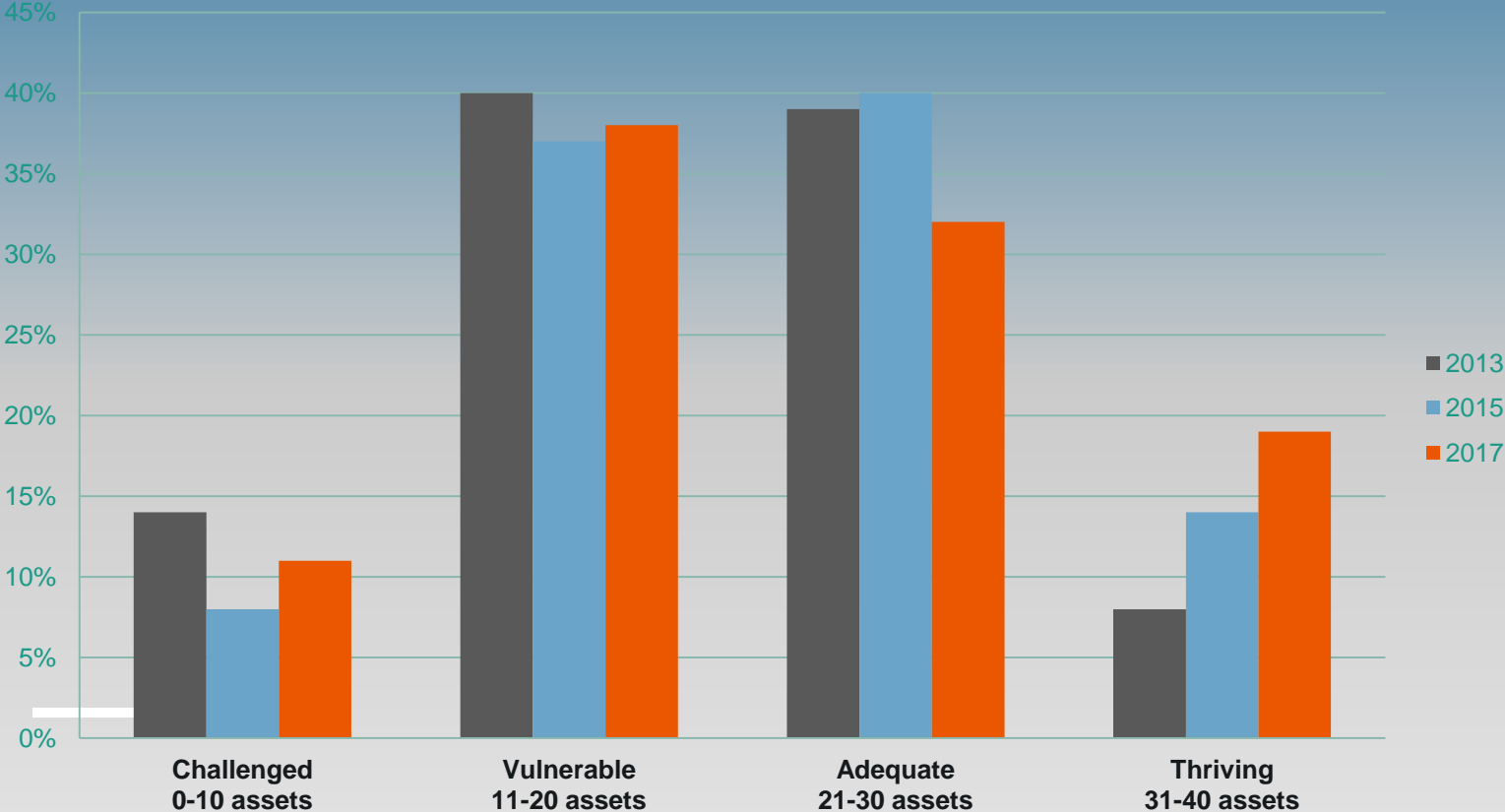


# 40 Developmental Assets

## General Themes

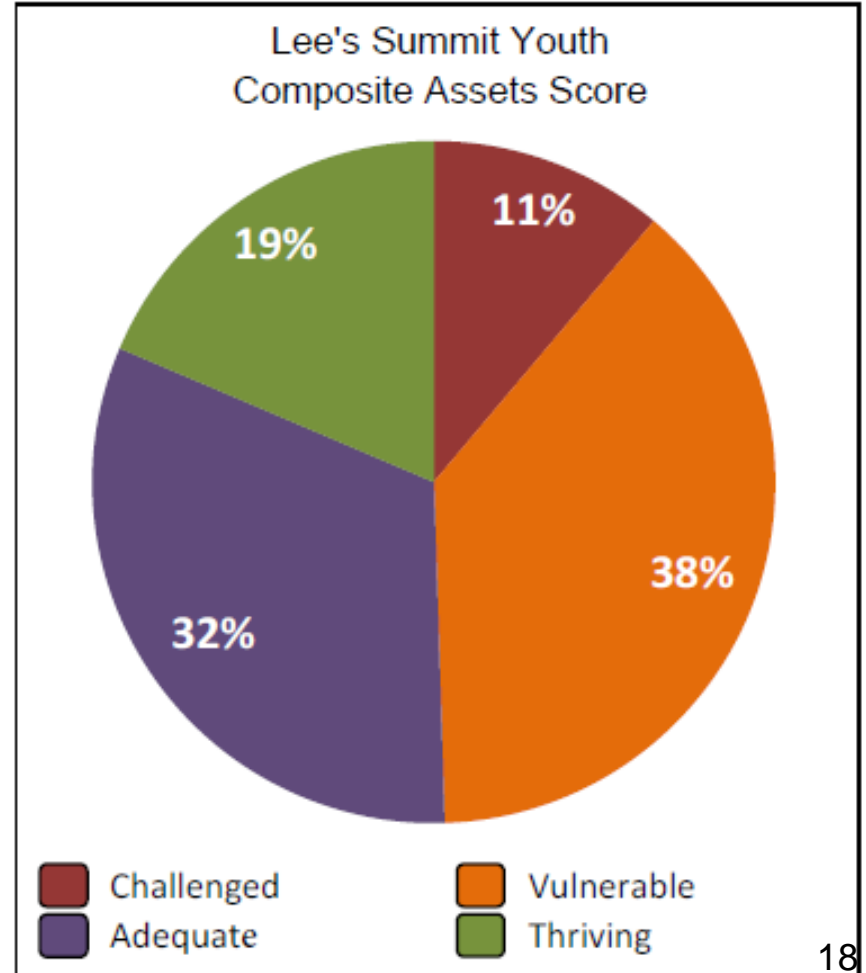
- High empowerment and support
- Low constructive use of time and positive identity
- Assets decline with age
- Females report more assets than males
- Some groups report the fewest supports

# Composite Score Comparison

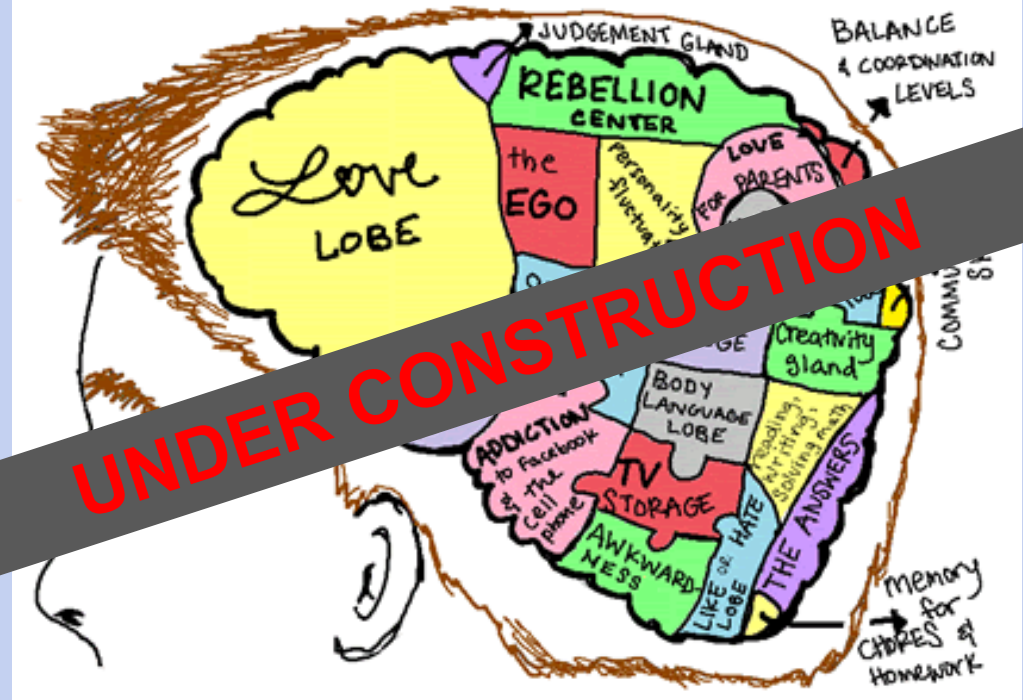


## Why do teens engage in risky behaviors?

- Stressors from school, work, homelife
- Fitting in
- Escaping anxieties or fears
- Disengaged



# Why We Care



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# Substance Use Data



# First Time Alcohol Use in Missouri

## QUESTION



On average, at what age does a child take their first drink of alcohol?

# First Time Alcohol Use in Missouri

## QUESTION



On average, at what age does a child take their first drink of alcohol?

## ANSWER



**13** YEARS OLD

Source: 2016 Missouri Student Survey data

# First Time Marijuana Use in Missouri

## QUESTION



On average, at what age does a child first try marijuana?

# First Time Marijuana Use in Missouri

## QUESTION



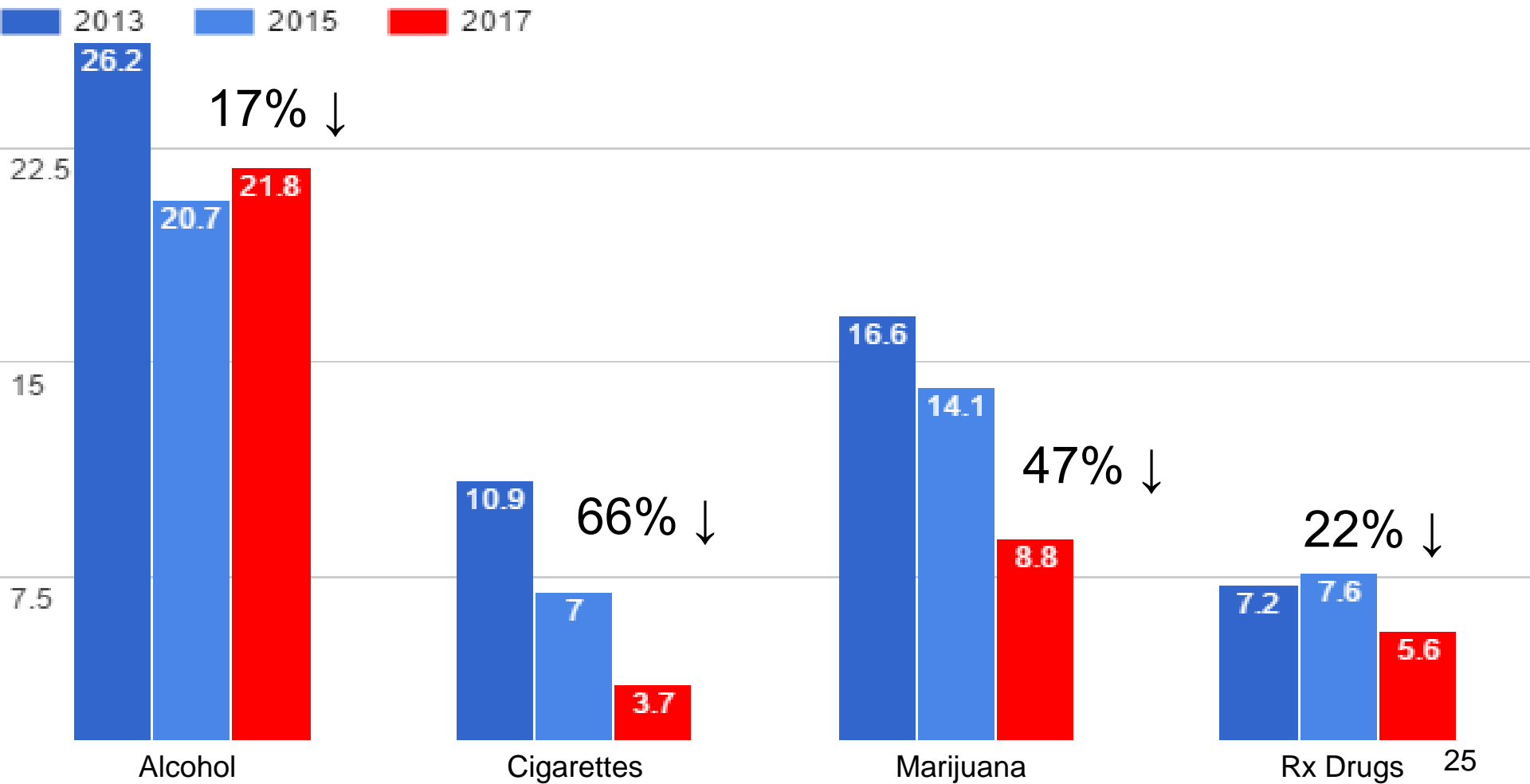
On average, at what age does a child first try marijuana?

## ANSWER

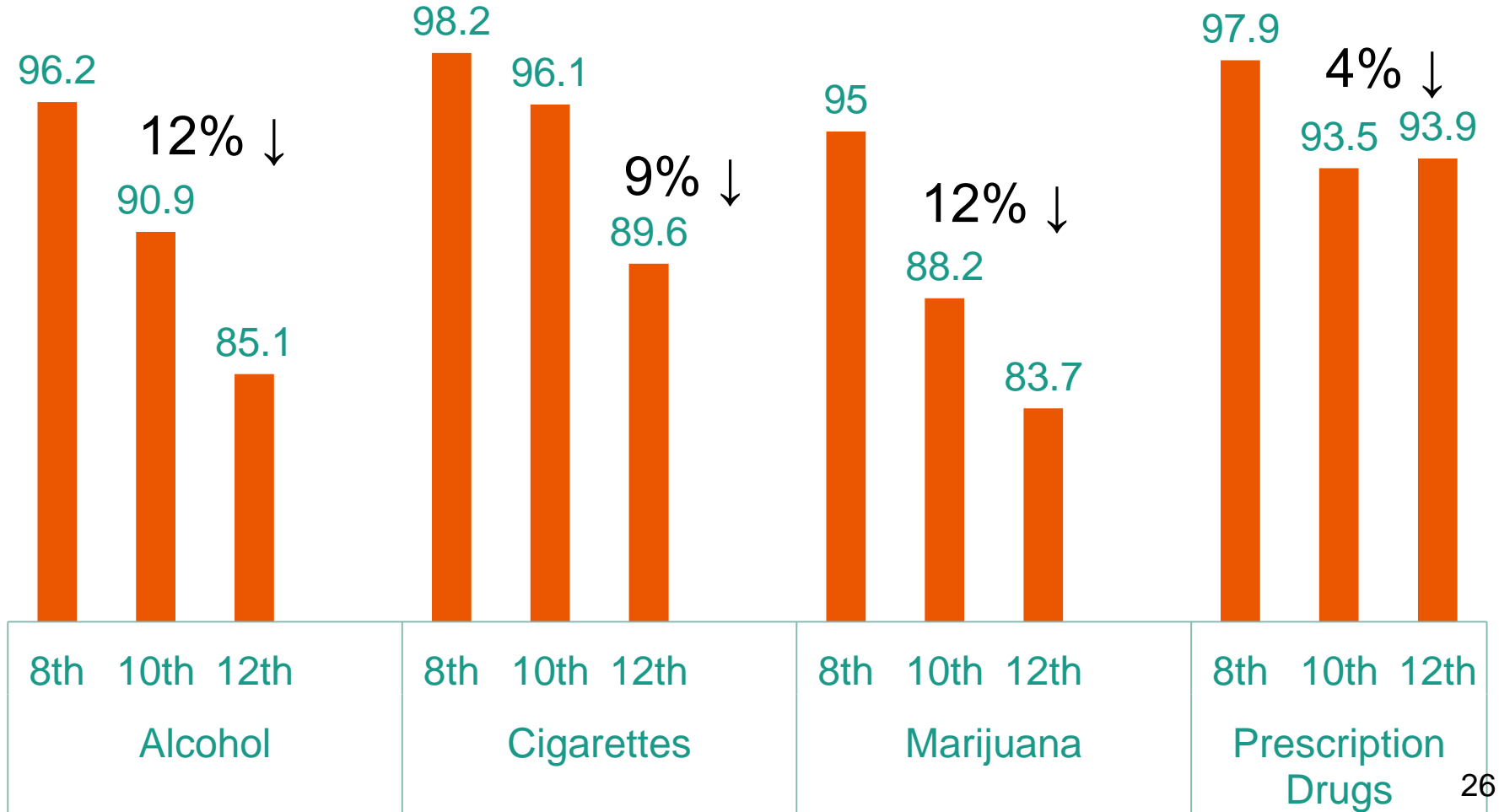


Source: 2016 Missouri Student Survey data

# 5 Year Fluctuation of Past 30 Day Use



# 2017 Perception of Parental Disapproval (in %)



# LS students report on friend use:

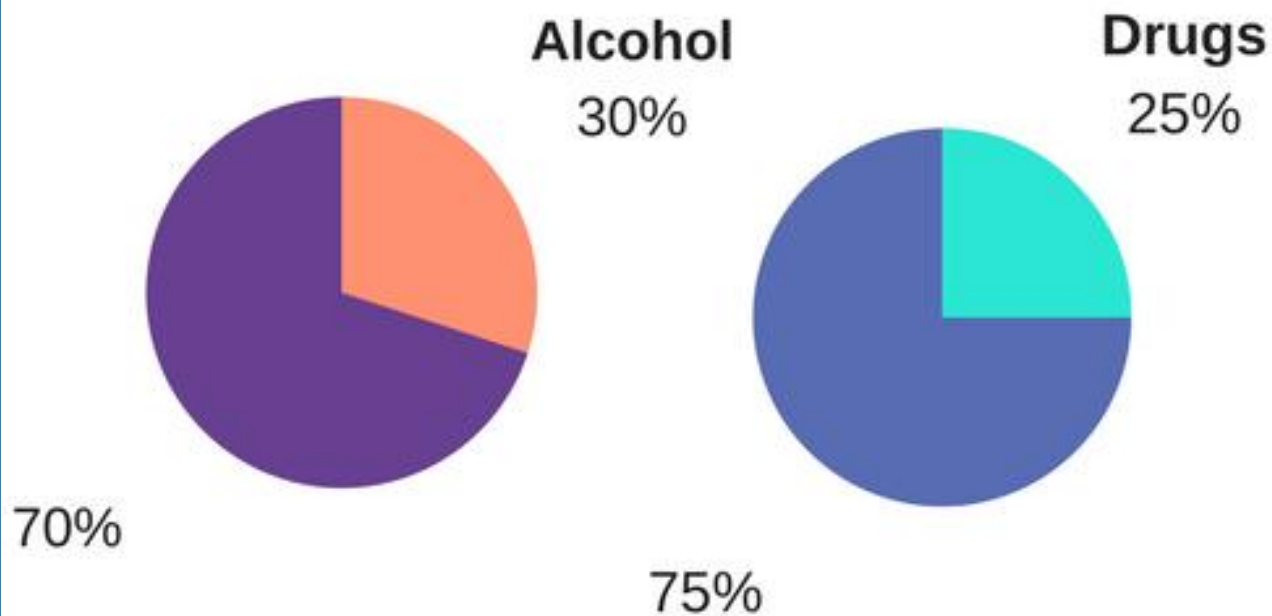
friends who drink alcohol once a week or more:



friends who have ever used drugs:



# % of LS students who have been to a party where kids were using:





under the influence of **alcohol or drugs**  
in the last year

**Driven**

**Ridden**

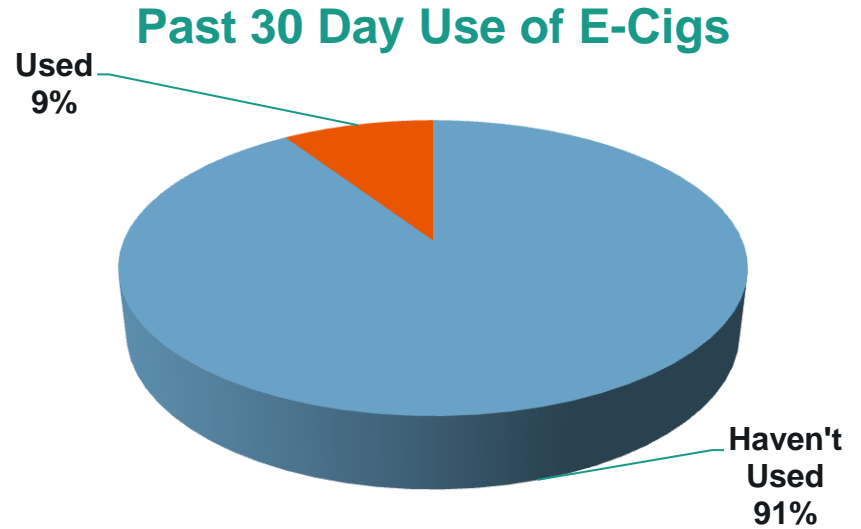
**6%**



**19%**

# Lee's Summit Statistics

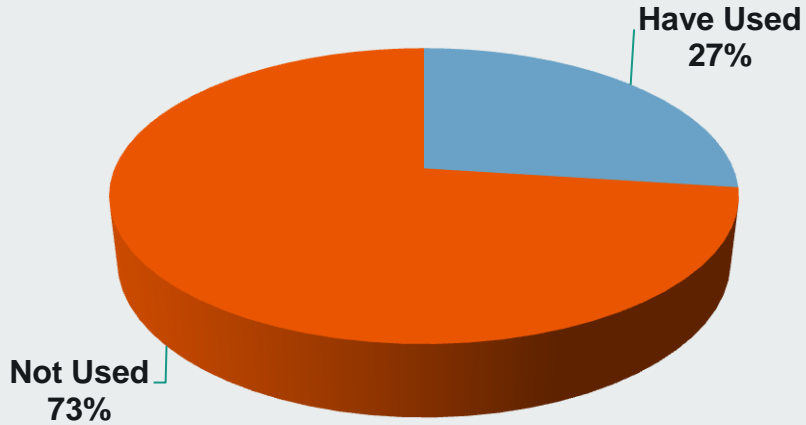
Electronic cigarette use in the past  
30 days



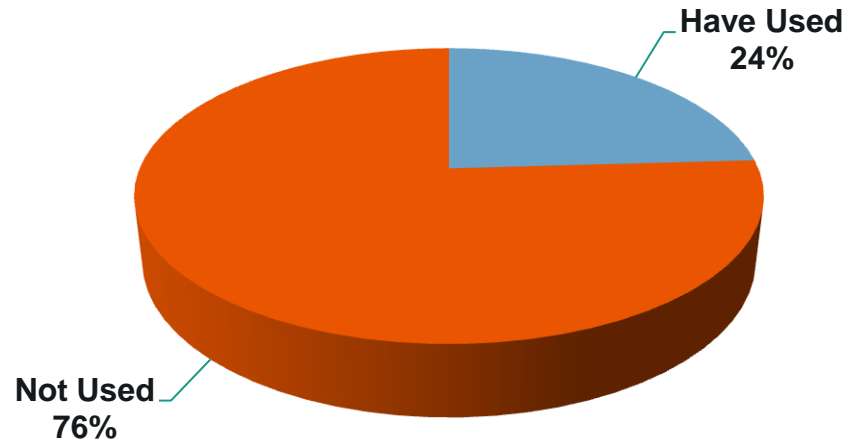
# Use Triples



## E-Cigarettes



## Marijuana





# Lee's Summit Statistics

## 2016 Underage Alcohol Enforcement

Provided by LSPD

### 2016 Underage Alcohol Enforcement

- 78 Minors in Possession of Alcohol
- 2 Social Host Ordinance violations
- 22 Alcohol Retailer Compliance Check violations

*Note: Lee's Summit youth are also traveling to surrounding communities to access alcohol.*



# Lee's Summit Statistics

## 2016 Sex Offenses Against Youth

Provided by LSPD

### 2016 Youth Victims of Sex Offenses

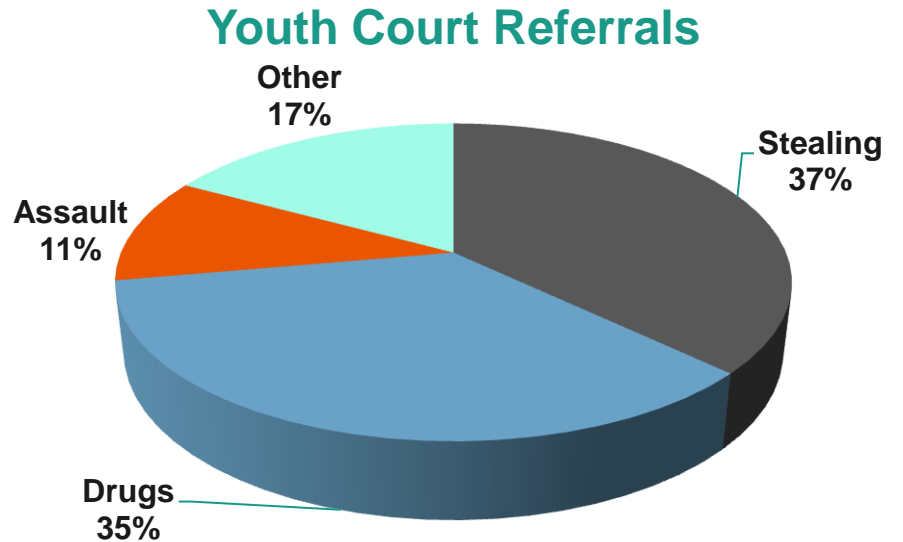
- Approx. 200 youth, ages 11 – 16
- Offense reported about every two days
- Most incidents involve 11 year old youth
- Frequently occur during summer months

*Note: Only about 1 in 3 sexual offenses are reported.*

# Lee's Summit Statistics

2016 Youth Court Referrals

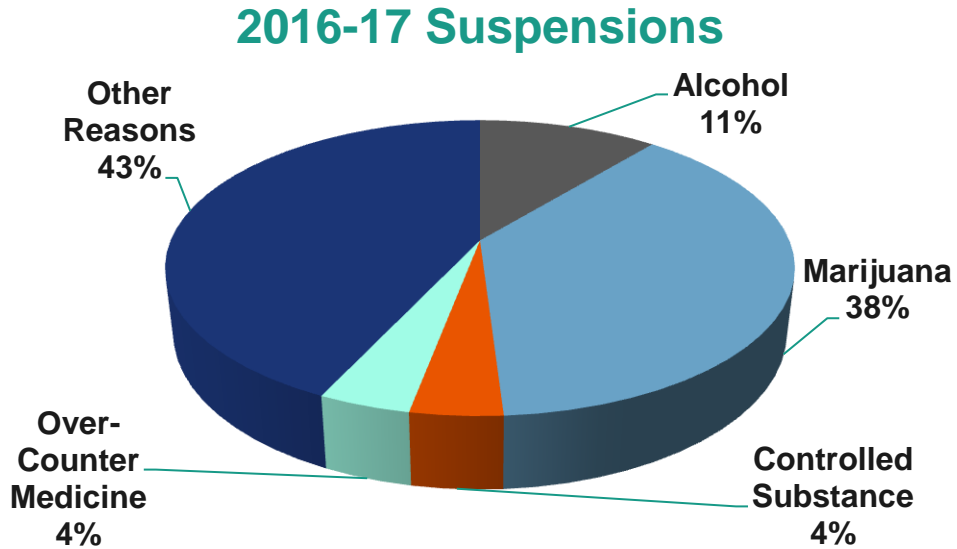
Provided by LSPD



# Lee's Summit Statistics

2016-2017 Substance Related  
Suspension Data

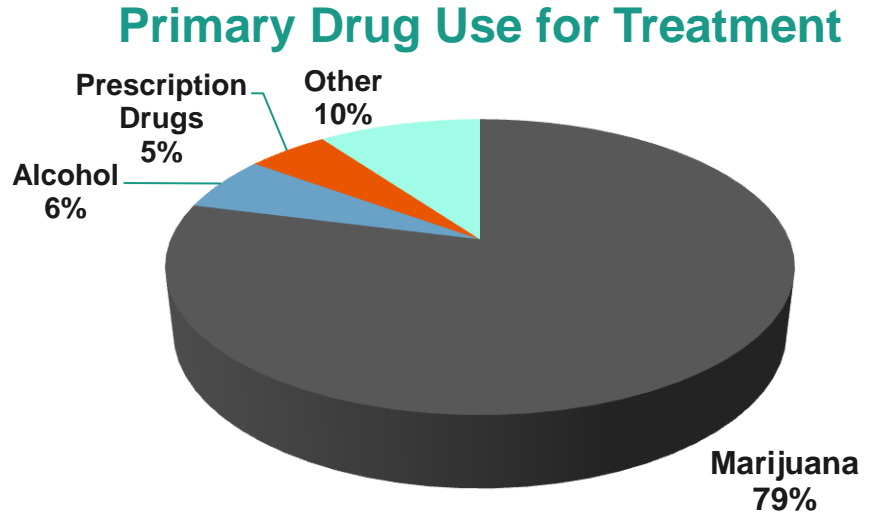
Provided by LSR7



# Lee's Summit Statistics

2016 Treatment Data

provided by Preferred Family  
Healthcare





# 2017 Lee's Summit Past Month Use Among 8<sup>th</sup>, 10<sup>th</sup> & 12<sup>th</sup> Graders

21.8%



9.3%



8.8%



5.6%



3.7%



LS students **grade 8-12** who used alcohol in the last month



LS students in **grade 12** who used alcohol in the last month



# 8th Grade

# 12th Grade



2.4%

5 X

greater use



16%

Less than half (44.7% ) of 12<sup>th</sup> graders perceive **marijuana** to be harmful

A silhouette of a tree with a thick trunk and many thin, bare branches. The tree is leaning significantly to the right, its trunk and branches curving in that direction. The background is a dramatic sky with large, dark, heavy clouds. A bright light source, likely the sun, is positioned behind the clouds, creating a strong backlighting effect and illuminating the edges of the clouds with a golden or yellowish glow. The overall scene is in silhouette, with the tree and the ground below appearing as dark shapes against the lighter, cloudy sky.


Do You Bend or Break?

**RESILIENCE**



*Celebrate*  
**SOBER**





# How can adults support youth?

Suggestions from Search Institute

- Open communication
- Support disconnected youth
- Consistent messages through teen years
- Recognize personal best
- Offer parent and family resources
- Focus on mastery, not memorization
- Identify mentors
- Value diversity

---

## Here's what YOU can do



Ask us for details!

## Join

- Lee's Summit CARES
- LSC Business of Character
- Youth Mental Wellness/Suicide Prevention Committee




## Attend

- Trauma Informed Care training
- Youth Mental Health First Aid
- Partnership to Prevent Risky Behaviors committee
- Parenting Committee




# LEE'S SUMMIT CARES

*prevention - parenting - character*

- Follow us on   
- Access resources and register for classes at [LSCares.org](https://LSCares.org)





**LSC**  
Youth Advisory Board

**2017 State of the Youth**

*YOU Make a Difference.*




**LEE'S SUMMIT CARES**  
Community Parenting Alliance

**OUR MISSION:** Lee's Summit CARES is a non-profit community coalition dedicated to preventing youth substance use and violence, empowering positive parenting and promoting exemplary character.



2




**Drug & Alcohol Prevention**  
**Bully & Suicide Prevention**  
**Parenting Education**  
**Character Education**

*YOU Make a Difference.*

**We ask youth: what are the things that help you succeed and make healthy choices?**

Data from Search Institute (April 2017) & Community Focus Groups (fall 2017)









4



**40 Developmental Assets**

1,275 8<sup>th</sup>, 10<sup>th</sup>, 12<sup>th</sup> graders in LSR7 schools were surveyed in April 2017.

**WHAT ARE ASSETS?**

-  Support
-  Empowerment
-  Boundaries & Expectations
-  Constructive Use of Time
-  Commitment to Learning
-  Positive Values
-  Social Competencies
-  Positive Identity

5

**WHY DO WE CARE?**  
**The more assets young people experience across the contexts of their lives, the more likely they are to:**

- Be healthier, safer and more caring;
- Do better in school;
- Be prepared for post-high school education and careers;
- Contribute more to their communities and society; and
- Avoid high-risk behaviors, such as violence and substance use.

6

### Sample questions (58 Total)

Check If item is true: not at all, sometimes, often, almost always

I...	I have.....
Feel good about myself	A safe neighborhood
Build friendships with other people	Parent(s) who try to help me succeed
Do my homework.	A school that cares about kids and encourages them
Seek advice from my parents	Support from adults other than my parents
Think it is important to help other people	Friends who set good examples for me
Feel safe at school	

7

### Support

Young people need to be surrounded by people who love, care for, appreciate and accept them.

Asset Level	Percentage
Thriving	39%
Adequate	19%
Challenged	14%
Vulnerable	29%

**Strong Asset**

8

### Support

FOCUS GROUP THEMES

- Strong parent support
- Need for outside supports
- Peer influence
- Vulnerable and hard-to-reach youth
- Mentors

9

### Boundaries and Expectations

Young people need clear rules, consistent consequences for breaking rules, and encouragement to do their best.

Asset Level	Percentage
Thriving	35%
Adequate	21%
Challenged	13%
Vulnerable	31%

**Moderate Asset**

10

### Boundaries and Expectations

FOCUS GROUP THEMES

- High achieving community
- High levels of stress and anxiety
- Difficulties finding balance
- Need for family resources

11

### Commitment to Learning

Young people need a sense of the lasting importance of learning and a belief in their own abilities.

Asset Level	Percentage
Thriving	23%
Adequate	22%
Challenged	21%
Vulnerable	34%

**Moderate Asset**

12

### Commitment to Learning

FOCUS GROUP THEMES

- Positive and negative teacher impact
- Engaging instruction
- Career path pressure
- Shadowing and vocational programs
- Social media distraction

13

### Positive Identity

Young people need to believe in their own self-worth and to feel that they have control over things that happen to them.

**Weak Asset**

14

### Positive Identity

FOCUS GROUP THEMES

- Misguided expectations
- Low self-esteem as norm
- Comparisons to social media
- Negative self-talk
- Isolation and marginalization of minorities

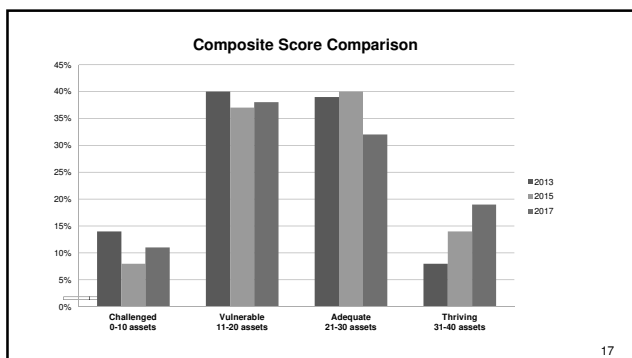
15

### 40 Developmental Assets

General Themes

- High empowerment and support
- Low constructive use of time and positive identity
- Assets decline with age
- Females report more assets than males
- Some groups report the fewest supports

16



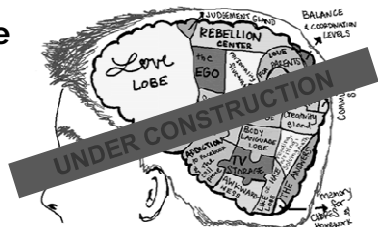
### Why do teens engage in risky behaviors?

- Stressors from school, work, homelife
- Fitting in
- Escaping anxieties or fears
- Disengaged

Lee's Summit Youth Composite Assets Score

18

## Why We Care



19

## Substance Use Data

20

### First Time Alcohol Use in Missouri

#### QUESTION



On average, at what age does a child take their first drink of alcohol?

21

### First Time Alcohol Use in Missouri

#### QUESTION



On average, at what age does a child take their first drink of alcohol?

#### ANSWER



Source: 2016 Missouri Student Survey data

22

### First Time Marijuana Use in Missouri

#### QUESTION



On average, at what age does a child first try marijuana?

23

### First Time Marijuana Use in Missouri

#### QUESTION



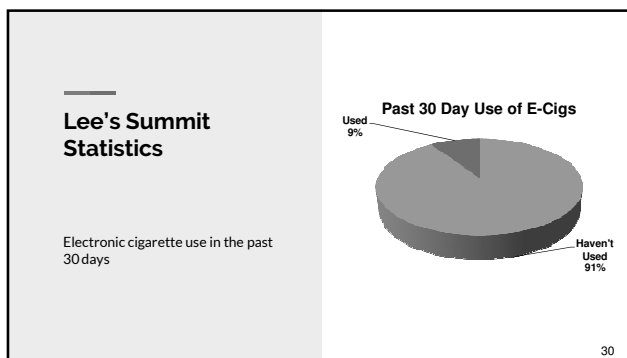
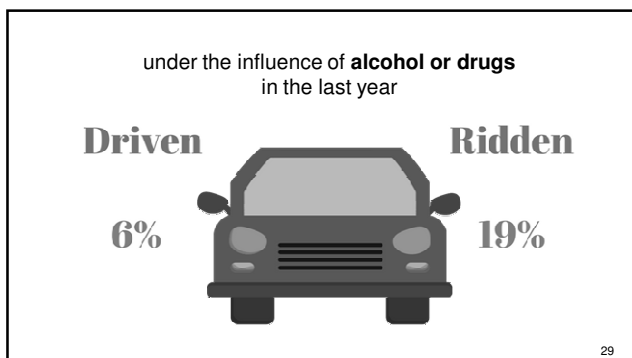
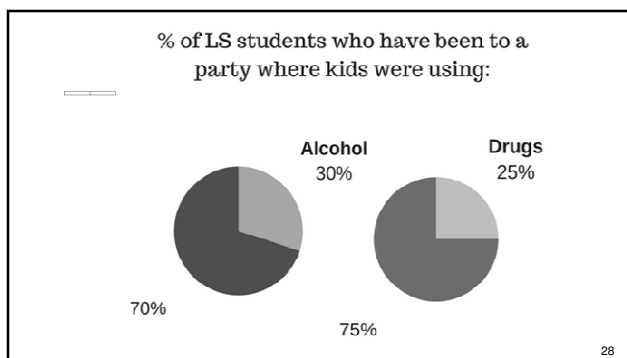
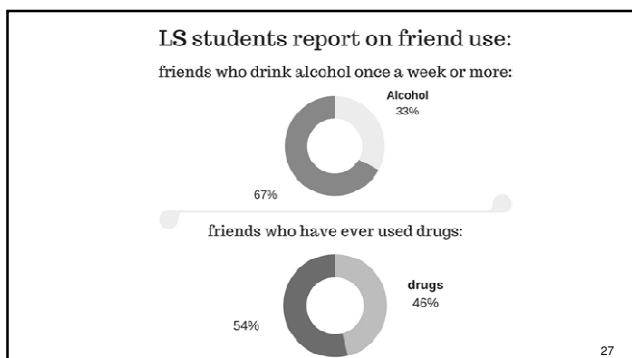
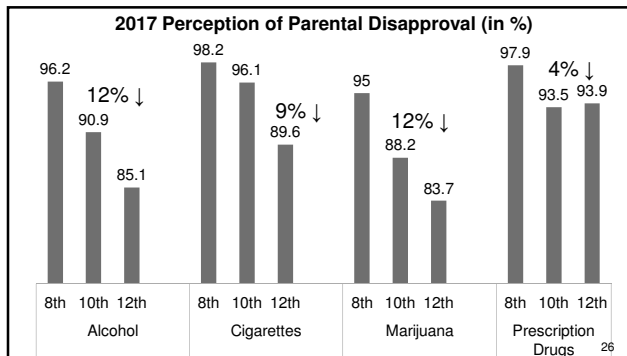
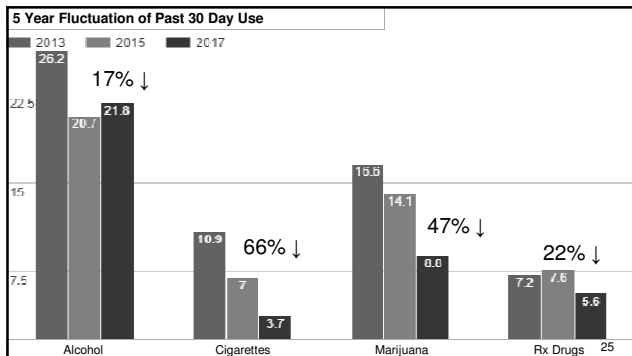
On average, at what age does a child first try marijuana?

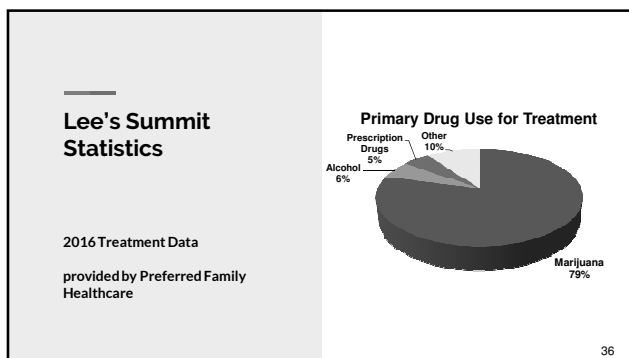
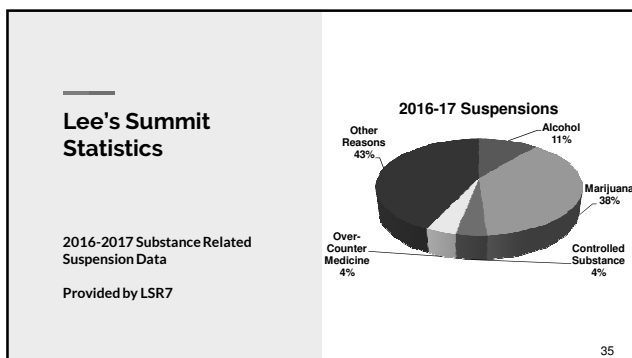
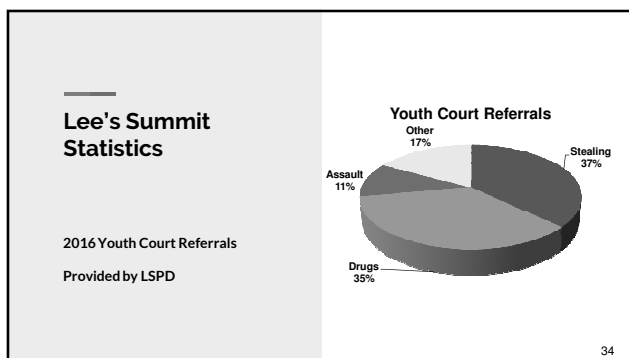
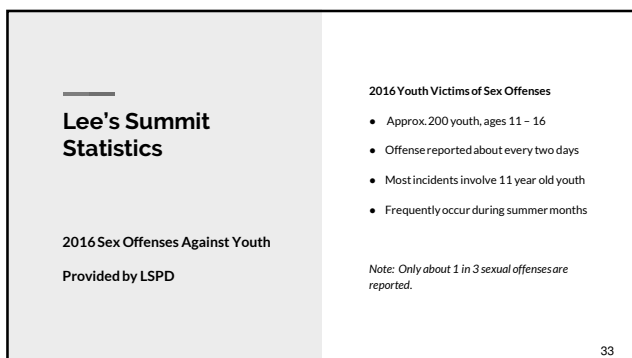
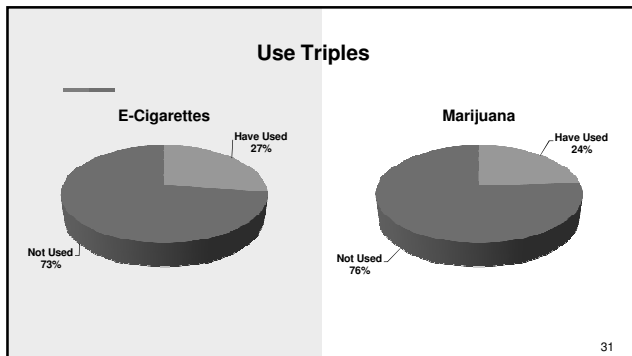
#### ANSWER

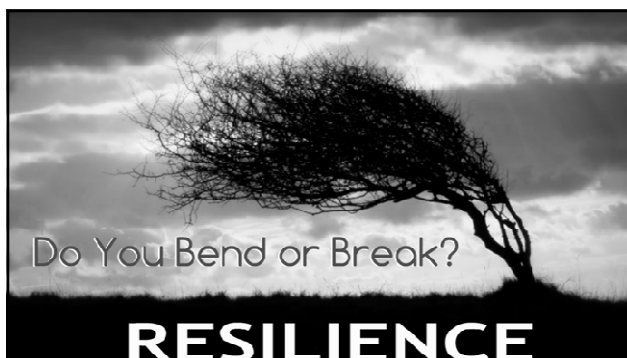
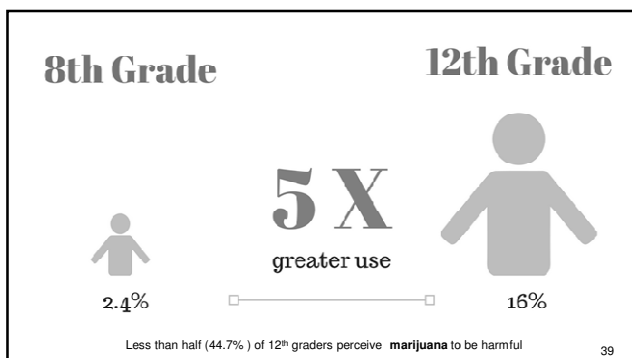
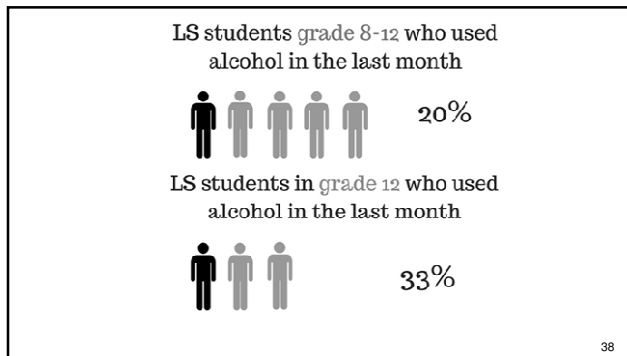
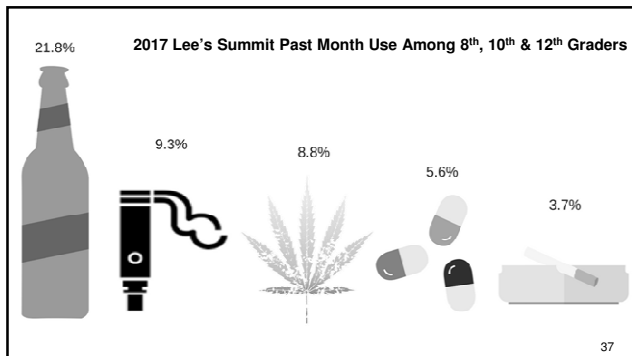


Source: 2016 Missouri Student Survey data

24







LSC Youth Advisory Board

Celebrate SOBER

Launch

BULLYING

in-school therapy

41


How can adults support youth?

Suggestions from Search Institute

- Open communication
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- Consistent messages through teen years
- Recognize personal best
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- Value diversity

42

**Here's what YOU can do**



Ask us for details!

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- LSC Business of Character
- Youth Mental Wellness/Suicide Prevention Committee

**Attend**

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- Youth Mental Health First Aid
- Partnership to Prevent Risky Behaviors committee
- Parenting Committee

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• Follow us on   

• Access resources and register for classes at [LSCares.org](http://LSCares.org)

*YOU Make a Difference*<sub>44</sub>



## Packet Information

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**File #: BILL NO. 18-58, Version: 1**

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AN ORDINANCE APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49. (PWC 3/20/18)

### Issue/Request:

AN ORDINANCE APPROVING CHANGE ORDER #1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49

### Key Issues:

- Due to initial funding limitations, this project was split into two phases with the first phase being T-hangars constructed in FY 18 and the second phase, a taxiway to serve a portion of the hangars, constructed in FY 19.
- Based upon the current project schedule, Phase 1 should be completed in June or July 2018
- After consultation with the Finance Department regarding cash flow, it is possible to accelerate the construction of Phase 2.
- Since the paving unit prices have already been established by bid, Phase 2 can be added by change order and an additional seven T-hangar units will be available four to six months earlier than if the construction is done in two phases.

### Proposed City Council Motion:

FIRST MOTION: I move for a second reading of AN ORDINANCE APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49.

SECOND MOTION: I move for adoption of AN ORDINANCE APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49.

### Background

The Northwest Quadrant T-Hangar Development Project was to provide replacement hangars to some of the existing tenants being displaced as part of the Taxiway A project that demolished four open t-hangar buildings and three enclosed t-hangar buildings.

Due to funding limitations, this project was split into two phases. The first phase to be constructed in FY 18 provided for two t-hangar units consisting of 28 single units (21 usable in phase 1) and two taxilanes for a total project cost of \$2.2M.

Phase 2 planned originally for FY 19, consisted of the construction of a third taxi lane allowing access the seven unusable units and vehicle parking for a total project cost of \$525,000. Based upon the current project schedule, Phase 1 should be completed in June or July of this year. Base upon the contractors construction schedule and after consultation with the Finance Department regarding cash flow, it is possible to accelerate the construction of Phase 2 into this fiscal year so that the third taxi lane is completed and seven individual units are available this fiscal year and the entire project is completed this summer.

Impact/Analysis:

The funding for Phase 2 would only be accelerated by one or two months, and the cash flow for the fund remains positive. In addition, we will be able to accelerate the relocation of seven tenants that have been displaced due to their hangar being demolished.

The FY 18 CIP showed a Phase 2 project budget of \$525,000. This change order of \$395,084.44, plus the design and inspection contract modification with CMT of \$66,630.00 results in a total phase 2 cost of \$461,714.44, or under budget by 63,285.56 for phase 2.

If approved, the CIP budget will be modified in a future budget amendment.

Timeline:

Start: \_\_\_\_

Finish: \_\_\_\_

Other Information/Unique Characteristics:

[Enter text here]

Presenter: Bob Hartnett, Deputy Director of Public Works

Recommendation: Staff recommends Approval of AN ORDINANCE APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49.

Committee Recommendation: The Public Works Committee voted unanimously 4-0 to recommend to City Council approval of AN ORDINANCE APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49.

**BILL NO. 18-58**

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AN ORDINANCE APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH B. DEAN CONSTRUCTION COMPANY FOR THE NORTHWEST QUADRANT T-HANGAR DEVELOPMENT PROJECT, AN INCREASE OF \$395,084.44 FOR A REVISED CONTRACT PRICE OF \$2,547,940.49.

WHEREAS, the City of Lee's Summit, Missouri ("City") has previously entered into a contract with B. Dean Construction Company("B. Dean") for the Northwest Quadrant T-Hangar Development Project (the "Project") being undertaken by the City's Public Works Department; and

WHEREAS, an additional change order to the contract with B. Dean is necessary to begin phase 2 of the project; and

WHEREAS, this Change Order No. 1 authorizes the construction of a taxilane and vehicle parking; and

WHEREAS, this Change Order No. 1 authorizes the necessary quantity adjustments; and

WHEREAS, Council approval is required because the cumulative value of Change Order No. 1 exceed 5% of the awarded base contract amount.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the Change Order No. 1 to the contract between the City of Lee's Summit, Missouri and B. Dean Construction Company for the Northwest Quadrant T-Hangar Development, for an increase in price of \$395,084.44 for a revised contract price of \$2,547.940.49, a true and accurate copy attached hereto as Change Order No. 01 and incorporated by reference as if fully set forth herein, be and the same is hereby approved. The City Manager is hereby authorized to execute the same by and on behalf of the City of Lee's Summit, Missouri.

SECTION 2. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**BILL NO. 18-58**

---

ATTEST:

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*

# Change Order

No. 01

Date of Issuance: 3/13/2018

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

Contract: NW Quadrant T-Hangar Development	Owner: City of Lee's Summit	Owner's Project No.: 47632185
Project: NW Quadrant T-Hangar Development		Date of Contract:
Contractor: B. Dean Construction LLC		Engineer's Project No.: 174430100

**The Contract Documents are modified as follows upon execution of this Change Order:**

**Description:**

Addition of "Phase 2" components of NW Quadrant T-Hangar Development to original contract. Phase 2 components consist of western taxilane for access to west side of west T-hangar & vehicular parking pads.

**Attachments (list documents supporting change):**

Breakdown of Phase II costs attached

**CHANGE IN CONTRACT PRICE:**

**CHANGE IN CONTRACT TIMES:**

Original Contract Price:

**\$ 2,152,856.05**

Increase from previously approved Change Orders:

**\$0.00**

Contract Price prior to this Change Order:

**\$ 2,152,856.05**

Increase of this Change Order:

**\$ 395,084.44**

Contract Price incorporating this Change Order:

**\$ 2,547,940.49**

Original Contract Times:  Working days  Calendar days

Phase 2 Calendar Days: **28**

Increase from previously approved Change Orders:

Phase 2 Calendar Days: **0**

Contract Times prior to this Change Order:

Phase 2 Calendar Days: **28**

Increase of this Change Order:

Phase 2 Calendar Days: **15**

Contract Times with all approved Change Orders:

Phase 2 Calendar Days: **43**

RECOMMENDED:

By: \_\_\_\_\_  
Engineer (Authorized Signature)

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

Approved by Funding Agency (if applicable):  
\_\_\_\_\_

ACCEPTED:

By: \_\_\_\_\_  
Owner (Authorized Signature)

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

ACCEPTED:

By: \_\_\_\_\_  
Contractor (Authorized Signature)

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

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

# Change Order

## Instructions

### A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

### B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

# LEE'S SUMMIT MUNICIPAL AIRPORT

## NW Quadrant T-Hangar Development - Phase II

### Phase II Cost Breakdown

Base: Addition of West Taxilane: Includes Bituminous Pavement for Parking Pads

Item No.	Item Description	Unit	Quantity	As-Bid Unit Price	Amount
SP-1-4.1	Mobilization	LS	0	\$116,400.00	\$0.00
SP-1-4.2	Mobilization - Phase II	LS	1	\$8,893.54	\$8,893.54
2103.3.A	6" PCC Removal	SY	0	\$13.14	\$0.00
2103.3.B	Unclassified Excavation*	CY	7000	\$7.94	\$55,580.00
2154.5.B	Silt Fence	LF	300	\$1.77	\$531.00
2154.14.D	Inlet Protection	EA	0	\$91.39	\$0.00
2202.9.C	Manipulation of Subgrade	SY	4332	\$1.77	\$7,667.64
2202.9.A	Lime	TON	149	\$434.10	\$64,680.90
2203.6.A	4" Crushed Aggregate Base Course	SY	3219	\$8.00	\$25,752.00
2203.6.B	6" Crushed Aggregate Base Course	SY	1113	\$9.34	\$10,395.42
2204.6.A	Bituminous Prime Coat	GAL	340	\$11.25	\$3,825.00
2204.11.A	Bituminous Surface Course	TON	250	\$103.79	\$25,947.50
2208.8.A	6" PCC Pavement	SY	3046	\$57.92	\$176,424.32
2606.1.A.1	15" RCP	LF	0	\$58.89	\$0.00
2606.1.A.2	18" RCP	LF	0	\$85.96	\$0.00
2606.1.A.3	24" RCP	LF	0	\$73.00	\$0.00
2606.1.B.1	24" RCP FES	EA	0	\$1,822.08	\$0.00
2606.1.D.1	Type I In Turf Inlet	EA	0	\$5,783.83	\$0.00
2606.1.D.2	Type II In Pavement Inlet	EA	0	\$9,024.74	\$0.00
2606.1.I.1	RIP RAP	SY	120	\$46.78	\$5,613.60
2404.3	Seeding	AC	1.5	\$2,604.61	\$3,906.92
3905.A	12" Cut and Cap	EA	0	\$1,269.00	\$0.00
3905.B	6" PVC C900 DR 18 Water Main with Tracer Wire	LF	0	\$60.19	\$0.00
3905.C	8" PVC C900 DR 18 Water Main with Tracer Wire	LF	0	\$106.70	\$0.00
3905.D	12" PVC C900 DR 18 Water Main with Tracer Wire	LF	0	\$51.69	\$0.00
3905.E	12" Water Main Connect to Existing 12" Water Main	EA	0	\$3,417.98	\$0.00
3905.F	Install 12"X 8" TEE	EA	0	\$1,647.30	\$0.00
3905.G	8" Butterfly Valve with V Box	EA	0	\$2,003.72	\$0.00
3905.H	12" Butterfly Valve with V Box	EA	0	\$2,859.36	\$0.00
3905.I	Install Relocated Fire Hydrant Assembly	EA	0	\$6,013.45	\$0.00
3905.J	Remove Existing Fire Hydrant	EA	0	\$2,312.16	\$0.00
3905.K	Remove Existing Water Vault	LS	0	\$2,477.23	\$0.00
3905.L	Remove Existing Water Main	LF	0	\$35.98	\$0.00
P-620-5.1	Waterborne Paint, Yellow, with Reflective Media	SF	540	\$3.35	\$1,809.00
P-620-5.2	Waterborne Paint, Black, without Reflective Media	SF	650	\$2.92	\$1,898.00
13000.1.13	14 Unit Group I T-Hangar Building	EA	0	\$677,290.00	\$0.00
13000.1.13A	4" PVC (Schedule 40) Sanitary Stubout Extension	LF	40	\$53.99	\$2,159.60
				Total:	\$395,084.44

\* Quantity of Excavation is a preliminary estimate. Actual quantity will vary from estimate and be determined upon completion of the design

Original Contract: \$2,152,856.05  
Total: \$2,547,940.49

PWC 3/20  
CC 4/5

REVISIONS		
NUMBER	BY	DATE

0 1 2  
THIS BAR IS EQUAL TO 2"  
AT FULL SCALE (34X22).  
PLOT 1

LEE'S SUMMIT MUNICIPAL AIRPORT  
LEE'S SUMMIT, MISSOURI  
NORTHWEST QUADRANT T-HANGAR  
DEVELOPMENT - PHASE 2

LEE'S SUMMIT PROJECT #47632185

ONE MEMORIAL DRIVE, SUITE 500  
ST. LOUIS, MO 63102  
(314) 438-5500



FILE: phase 2 pavements.dgn

DESIGN BY: BDB

DRAWN BY: BDB

CHECKED BY: TCS

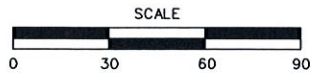
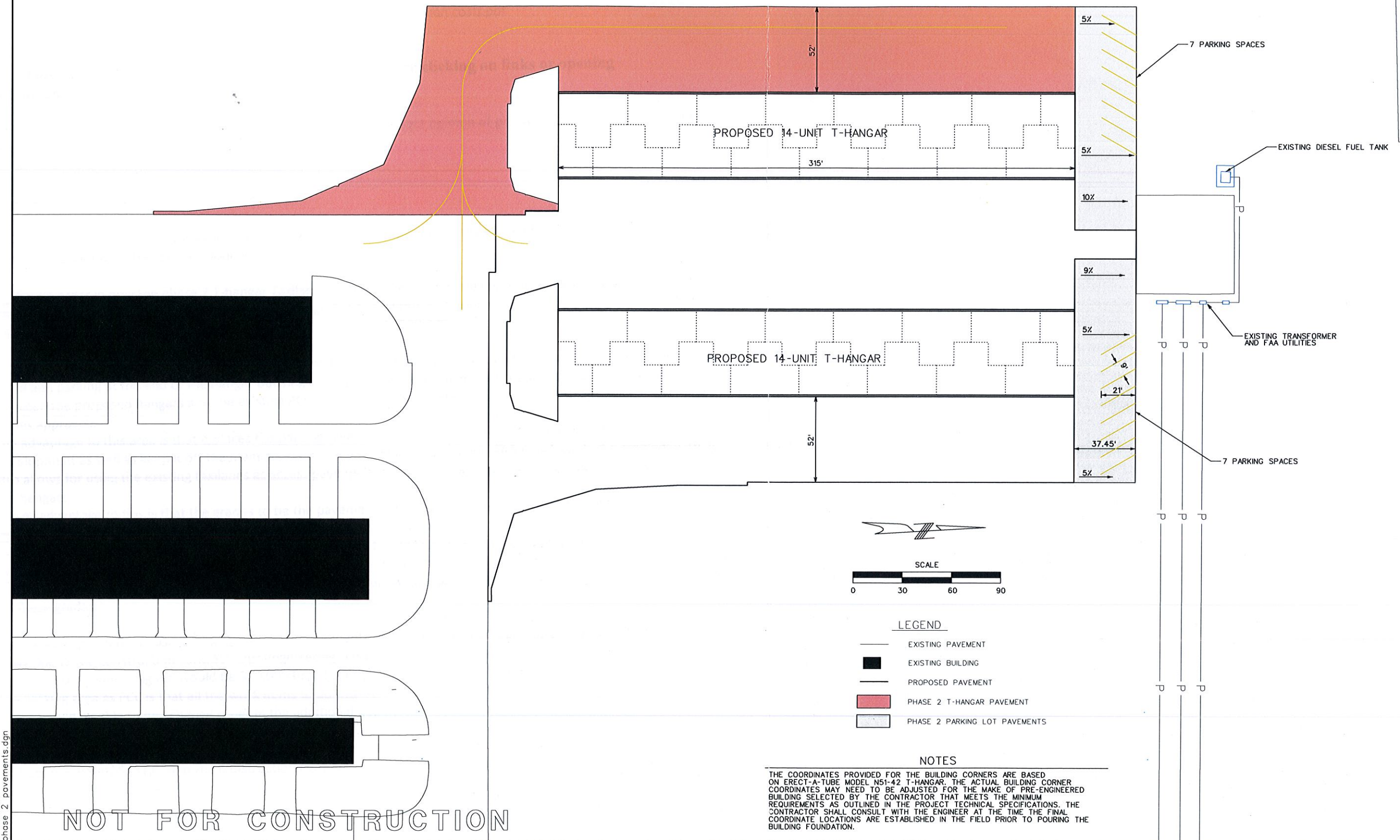
APPROVED BY: TCS

DATE: NOVEMBER 10, 2017

JOB No: 17443-01

LAYOUT PLAN

SHEET 08 OF 28 SHEETS



LEGEND

- EXISTING PAVEMENT
- EXISTING BUILDING
- PROPOSED PAVEMENT
- PHASE 2 T-HANGAR PAVEMENT
- PHASE 2 PARKING LOT PAVEMENTS

NOTES

THE COORDINATES PROVIDED FOR THE BUILDING CORNERS ARE BASED ON ERECT-A-TUBE MODEL N51-42 T-HANGAR. THE ACTUAL BUILDING CORNER COORDINATES MAY NEED TO BE ADJUSTED FOR THE MAKE OF PRE-ENGINEERED BUILDING SELECTED BY THE CONTRACTOR THAT MEETS THE MINIMUM REQUIREMENTS AS OUTLINED IN THE PROJECT TECHNICAL SPECIFICATIONS. THE CONTRACTOR SHALL CONSULT WITH THE ENGINEER AT THE TIME THE FINAL COORDINATE LOCATIONS ARE ESTABLISHED IN THE FIELD PRIOR TO POURING THE BUILDING FOUNDATION.

12/21/2017  
Phase 2 pavements.dgn

NOT FOR CONSTRUCTION



## Packet Information

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**File #:** BILL NO. 18-59, **Version:** 1

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AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2. (PWC 3/20/18)

AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2.

Issue/Request:

AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2.

Key Issues:

- This modification is for both design and construction phase services to accelerate phase 2 of the NW T-hangars and Taxilane Development.
- The benefit is that the Airport saves project costs since the unit prices for paving are already established in a current contract and the taxilane paving can be done for those same prices. This will result in an additional seven T-hangar units available four to six months earlier than if the construction is done in two phases.

Proposed City Council Motion:

FIRST MOTION: I move for a second reading of AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2.

SECOND MOTION: I move for adoption of AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2.

Background:

This project includes the design for a single new T-hangar taxilane to be located on the west side of the proposed T-hangars on the Northwest side of the Lee's Summit Municipal Airport. The project also includes the design of a parking area north of the existing T-hangars. The scope does not include a full set of documents for a separate bid phase since it can be incorporated as a change order to the current construction contract.

Presenter: Curt Powelson, Right-Of-Way Agent

Recommendation: Staff recommends approval of AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2.

Committee Recommendation: The Public Works Committee voted unanimously 4-0 to recommend to City Council approval of AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2.

AN ORDINANCE AUTHORIZING EXECUTION OF MODIFICATION NO. 10 TO THE AGREEMENT WITH CRAWFORD, MURPHY AND TILLY, INC. FOR ON-CALL ENGINEERING SERVICES FOR THE AIRPORT (RFQ 2015-300) IN THE AMOUNT OF \$66,630.00 FOR THE DESIGN AND CONSTRUCTION PHASE OF NORTHWEST T-HANGAR AND TAXILANE DEVELOPMENT - PHASE 2.

WHEREAS, the City and Engineer entered into an On-Call Agreement dated September 3, 2015 (RFQ No. 2015-300) for professional engineering services for the Airport (hereinafter "Base Agreement"); and

WHEREAS, City and Engineer desire to amend the provisions of the Base Agreement as modified, as provided herein; and

WHEREAS, the amended engineering services contained in this Modification No. 10, were services originally contemplated by the City and the Engineer when entering into the Base Agreement, and which were included in the request for qualifications, and considered in the review that was conducted by the City when awarding the contract for the Base Agreement; and

WHEREAS, Engineer has submitted a proposal for the amended engineering services and an estimate of engineering costs to perform said services; and

WHEREAS, the City Manager is authorized and empowered by the City to execute contracts providing for engineering services.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the City Council of the City of Lee's Summit hereby authorizes the execution, by the City Manager on behalf of the City of Lee's Summit, of Modification No. 10 to On-Call Agreement Dated September 3, 2015 (RFQ No. 2015-300) for professional engineering services for the Lee's Summit Municipal Airport, which is attached hereto and incorporated by reference as if fully set forth herein.

SECTION 2. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk Trisha Fowler Arcuri

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk Trisha Fowler Arcuri  
APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy Yendes, Chief Counsel of  
Infrastructure and Planning  
Office of the City Attorney

**MODIFICATION NO. 10 TO ON-CALL AGREEMENT  
DATED SEPTEMBER 3, 2015  
(RFQ NO. 2015-300)**

**FOR PROFESSIONAL ENGINEERING SERVICES FOR THE AIRPORT**

**THIS MODIFICATION TO ON-CALL AGREEMENT** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Lee's Summit, Missouri (hereinafter "City"), and Crawford, Murphy and Tilly, Inc. (hereinafter "Engineer").

**WITNESSETH:**

**WHEREAS**, City and Engineer entered into an On-Call Agreement dated September 3, 2015 (RFQ No. 2015-300) for professional engineering services for the Airport (hereinafter "Base Agreement"); and

**WHEREAS**, the Base Agreement was modified with Modification No. 1 dated September 23, 2015; and

**WHEREAS**, the Base Agreement was modified with Modification No. 2 dated December 21, 2015; and

**WHEREAS**, the Base Agreement was modified with Modification No. 3 dated April 4, 2016; and

**WHEREAS**, the Base Agreement was modified with Modification No. 4 dated October 6, 2016; and

**WHEREAS**, the Base Agreement was modified with Modification No. 5 dated November 17, 2016; and

**WHEREAS**, the Base Agreement was modified with Modification No. 6 dated July 19, 2017; and

**WHEREAS**, the Base Agreement was modified with Modification No. 7 dated November 17, 2017; and

**WHEREAS**, the Base Agreement was modified with Modification No. 8 dated January 2, 2018; and

**WHEREAS**, the Base Agreement was modified with Modification No. 9 dated January 2, 2018; and

**WHEREAS**, City and Engineer desire to amend the provisions of the Base Agreement, as modified, as provided herein; and

**WHEREAS**, the amended engineering services contained in this Modification No. 10, were services originally contemplated by the City and the Engineer when entering into the Base Agreement, and which were included in the request for qualifications review that was conducted by the City when awarding the contract for the Base Agreement; and

**WHEREAS**, Engineer has submitted a proposal for the amended engineering services and an estimate of engineering costs to perform said services; and

**WHEREAS**, the City Manager is authorized and empowered by City to execute contracts providing for engineering services.

**NOW THEREFORE**, in consideration of the mutual covenants and considerations herein contained, **IT IS HEREBY AGREED** by the parties hereto to amend the following Articles contained in the Base Agreement as follows:

**ARTICLE I  
SCOPE OF SERVICES TO BE PROVIDED BY ENGINEER**

The Base Agreement is hereby modified and amended to include the following scope of services for the Northwest T-Hangar and Taxilane Development – Phase 2:

This project shall include the design of construction documents for a single new T-hangar taxilane to be located on the west side of the proposed T-hangars on the Northwest side of the Lee's Summit Municipal Airport. The project shall also include the design of a parking area north of the existing T-hangars with a PCC and Asphalt pavement option. The scope shall not include a full set of documents for a separate bid phase but be incorporated as a change order to the current construction contract. The scope of services for this work shall include:

- Design of all pavements described above including pavement design, typical sections, grades and jointing plans.
- Provide any additional material specifications required for the change order work.
- Modification of the existing T-Hangar project Construction Safety and Phasing Plan meeting the requirements of FAA AC 150/5370-2F.
- Grading, drainage, marking and erosion control.
- Coordinate the change order with the Contractor.
- Request prices for any change order items not previously bid on by the contractor and run ICA on any prices given for the work items. This will include working with the contractor to negotiate prices if the proposed prices from the contractor are found to be higher than would be expected.

Submittals include:

- 95% Pre-final Construction Documents
- 100% Final Construction Documents
- Final Design Report (letter format)

Construction Phase services shall be in accordance with the scope of work for Modification No. 9.

All other terms of the Base Agreement not amended by the Modification to On-Call Agreement shall remain in full force and effect.

**ARTICLE IV  
PAYMENTS TO THE ENGINEER**

Payment for the design will be made upon a lump sum basis in the amount of \$35,060 based upon the estimate of effort provided in Exhibit A. Payment for the construction phase services will be made based upon hourly and direct expenses as shown in Exhibit B attached to this Modification No.10 with a Not to Exceed Maximum Payment of \$31,570. This value shall be added to the Not to Exceed value provided for in Modification No. 9 for a revised total Not to

Exceed for construction phase services of \$123,663. All other terms of the Base Agreement not amended by the Modification to the On-Call Agreement shall remain in full force and effect.

This Modification No. 10 to On-Call Agreement shall be binding on the parties thereto only after it has been duly executed and approved by the City and Engineer.

**IN WITNESS WHEREOF**, the parties have caused this Modification to On-Call Agreement to be executed on the \_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF LEE'S SUMMIT**

\_\_\_\_\_  
Stephen A. Arbo, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Office of the City Attorney

**ENGINEER:**

\_\_\_\_\_  
BY: Dan Meckes  
TITLE: President

ATTEST:

\_\_\_\_\_





CRAWFORD, MURPHY & TILLY, INC.  
 CONTRACT ATTACHMENT - EXHIBIT B - 2017 PROFESSIONAL SERVICES COST ESTIMATE

CLIENT Lee's Summit Municipal Airport  
 PROJECT NAME Northwest T-Hangar and Taxilane Development - Phase 2  
 CMT JOB NO. To Be Determined

Prep By Tcs  
 DATE 03/07/18

Apprvd   
 DATE 03/07/18

TASK NO.	TASKS \ CLASSIFICATIONS	PRINCIPAL	SENIOR PROJECT ENGINEER / MANAGER	PROJECT ARCHITECT	PROJECT MANAGER	SENIOR ENGINEER / LAND SURVEYOR	SENIOR ARCHITECT	SENIOR ENGINEER MANAGER	SENIOR TECHNICAL GIS SPECIALIST	SENIOR PLANNER	ARCHITECT	ENGINEER	SENIOR TECHNICIAN	TECHNICAL PLANNER	TECHNICIAN MGR	TECHNICIAN II	TECHNICIAN I	ADMIN ASSISTANT ACCOUNTANT	LABOR SUMMARY	MAN HOURS & LABOR SUMMARY	
																					TOTAL
	CURRENT YEAR 2017 HOURLY RATES	\$200	\$195	\$165	\$135	\$125	\$115	\$115	\$125	\$80	\$100	\$75	\$50								
1	Prepare Copies of Plans/Specs for Contractor																				
2	Prepare Electronic Files for Contractor									2											2
3	Set up Construction Documents, File Folder, Binders etc.																				
4	Attend and Conduct pre construction Conference and Pre Pave																				
5	Review shop drawings, material certifications					4				2											6
6	Part Time Inspection (One Visit Per 2 Week during Hangar Phase)																				
7	Full time Onsite R.E. #1 (10 hour days for 5 days/week for 2 weeks)									100											100
8	Onsite Assistant R.E. #2 (8 hour days, 5 days)					40															40
9	Office Support					4															4
10	Material Testing																				
11	Prepare change orders, pay requests									4											4
12	Senior Project Engineer Site Visits																				
13	Respond to field issues throughout duration of project			2		2															4
14	Attend and conduct final inspection					1				1											2
15	Verify completion of punch list (conducted by RE)					1				2											3
16	Prepare and submit record drawings									4											4
17	Prepare and submit Final Testing Report / Closeout Report									4											4
	TOTAL MAN HOURS		2		52					119											173
	SUBTOTAL - BASE LABOR EFFORT		\$390		\$7,020				\$13,685												\$21,095

TASKS (CONTINUED)	TOTAL LABOR EFFORT	DIRECT EXPENSE & REIMBURSABLES											TOTAL EXPENSE	TOTAL FEE										
		TRAVEL MILEAGE	MEALS & LODGING	PRINTING	EQUIP-MENT	MISC	SURVEY MTL	SUBS	SUBS ADMIN	OTHER EXP	OTHER EXP	TOTAL EXPENSE												
1 Prepare Copies of Plans/Specs for Contractor																								
2 Prepare Electronic Files for Contractor	\$230																							\$230
3 Set up Construction Documents, File Folder, Binders etc.																								
4 Attend and Conduct pre construction Conference and Pre Pave																								
5 Review shop drawings, material certifications	\$770																							\$770
6 Part Time Inspection (One Visit Per 2 Week during Hangar Phase)																								
7 Full time Onsite R.E. #1 (10 hour days for 5 days/week for 2 weeks)	\$11,500	\$80				\$650																\$730	\$12,230	
8 Onsite Assistant R.E. #2 (8 hour days, 5 days)	\$5,400																							\$5,400
9 Office Support	\$540																							\$540
10 Material Testing										\$5,000	\$500											\$5,500	\$5,500	
11 Prepare change orders, pay requests	\$460																							\$460
12 Senior Project Engineer Site Visits																								
13 Respond to field issues throughout duration of project	\$660																							\$660
14 Attend and conduct final inspection	\$250																							\$250
15 Verify completion of punch list (conducted by RE)	\$365																							\$365
16 Prepare and submit record drawings	\$460																							\$460
17 Prepare and submit Final Testing Report / Closeout Report	\$460																							\$460
TOTALS	\$21,095	\$80			\$650					\$5,000	\$500										\$6,230	\$27,325		
TIME PERIOD OF PROJECT	2017	2018	2019	2020	TOTAL	EST % OF OT HRS INCLUDED ABOVE						10%	MULTI-YEAR + OT											
PERCENTAGE OF WORK TO BE PERFORMED BY YEAR		100%			100%	AVERAGE OVERTIME RATE PREMIUM						15%	MLTPLR & AMT											
WEIGHTING FACTOR FOR 5% ANNUAL ADJUSTMENT		1.0500			1.0500	OT ADJUSTMENT FACTOR						0.0150	1.0650	\$1,375										
ESTIMATED CONTINGENCY																					10%	\$2,870		
ROUNDING																								
TOTAL FEE	<b>MATH CROSS CHECK IS OK</b>																					\$31,570		

Man Hrs Lbr & Exp All

## Packet Information

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**File #:** BILL NO. 18-60, **Version:** 1

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AN ORDINANCE AWARDDING BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME . (PWC 3/20/18)

AN ORDINANCE AWARDDING BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME.

### Key Issues:

The water mains included in this project have exhibited increased break rates in recent years and are now due for replacement.

In total, there are approximately 18,300 feet of existing water mains that will be replaced utilizing a combination of trench and trenchless installation methods. The majority of the water mains will be installed by pipe bursting.

### Proposed City Council Motion:

FIRST MOTION: I move for a second reading of AN ORDINANCE AWARDDING BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME.

SECOND MOTION: I move for adoption of AN ORDINANCE AWARDDING BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME.

### Background:

This water main replacement entails performing work in the following areas: NW Carroll Street between NW Village Drive and NW Chipman Road, NW Kay Drive between NW Carroll Drive and NW Chipman Road, NW Frances Drive between NW Carroll Drive and NW Ward Road, NW Ward Road between NW Carroll Drive and NW Chipman Road, NW Ward Circle west of NW Ward Road, SW Donovan Road and SW Robin Road north of SW 2<sup>nd</sup> Street, NW Little Road between NW Walnut Street and NW Lakeview Boulevard, NW Lakeview Boulevard north of NW 1<sup>st</sup> Street, NW 1<sup>st</sup> Street between NW Lakeview Boulevard and SW Madison Street, NW Market Place northeast of NW Lakeview Boulevard, SW 1<sup>st</sup> Street between SW Madison Street and SW Market Street, East Main Street between SW 2<sup>nd</sup> Street and NW Forest Avenue, NE Lynn Street between NE Maggie Street and NE Chipman Road, the intersection of NE Lynn Street and NE Maggie Street to NE Applewood Street, continuing along NE Applewood Street to NE Magnolia Street, continuing along NE Magnolia Street to NE Orchard Street, NE Wicklow Court east of NE Dick Houser Drive and the parking lot southeast of the intersection of NE Rice Road and NE Scruggs Road.

Impact/Analysis:

Funding Source Encumbrances	Current Project Budget		Direct Expense	Prior
	This Request/Contract	Remaining Balance		
20231683-C & \$2,313,313.00	4,400,000.00 \$2,062,437.82		\$14,239.18	0
20431683-C				

Other Information/Unique Characteristics:

Public Works Engineering issued Bid No. 20331683-C and 20431683-C on February 16, 2018. The bid was advertised and potential bidders were notified through QuestCDN, on the City website and in a broadcast e-mail to known contractors. A pre-bid conference was held on February 28, 2018. Five (5) responsive bids were received by the March 13, 2018 bid opening date. Havens Construction Company, Inc., was determined to be the lowest and most responsible bidder by City Staff. Public Works Engineering and Water Utilities staff have reviewed the bids and recommend awarding the contract to Havens Construction Company, Inc., in the amount of \$2,313,313.00.

Jeff Thorn, Assistant Director of Engineering Services Lee's Summit Water Utilities

**Staff Recommendation:**

Staff recommends approval of AN ORDINANCE AWARDED BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME.

**Committee Recommendation:**

The Public Works Committee voted unanimously 4-0 to recommend to City Council approval of AN ORDINANCE AWARDED BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME.

**BILL NO. 18-60**

**ORDINANCE NO.**

AN ORDINANCE AWARDED BID NO. 20331683-C AND 20431683-C, FOR THE WATER MAIN REPLACEMENT-FY17 AND FY18 TO HAVENS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$2,313,313.00 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE SAME.

WHEREAS, approximately 18,300 feet of existing water mains are planned to be replaced, pursuant to this project; and

WHEREAS, the water mains included in this project have exhibited increased break rates in recent years and are now due for replacement; and,

WHEREAS, water main will be replaced using a combination of trench and trenchless installation methods, with most water mains being installed by pipe bursting; and,

WHEREAS, Public Works Engineering issued Bid No. 20331683-C and 20431683-C on February 16, 2018.

WHEREAS, Havens Construction Company, Inc., was determined to be the lowest and most responsible bidder by City Staff.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the City Council of the City of Lee's Summit, Missouri hereby authorizes the award of bid no. 2031683-C and 20431683-C to Havens Construction Company, Inc., in the amount of \$2,313,313.00.

SECTION 2. That the City Council of the City of Lee's Summit hereby authorizes the execution, by the City Manager, of an agreement with Havens Construction Company, Inc. for the services contained in bid no. 20331683-C and 20431683-C in an amount of \$2,313,313.00. Said contract is on file with the City of Lee's Summit Public Works Department and is incorporated by reference as if fully set forth herein.

SECTION 3. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk, Trisha Fowler Arcuri

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_,  
2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk, Trisha Fowler Arcuri

APPROVED AS TO FORM:

\_\_\_\_\_  
Brian W. Head, City Attorney

**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR FOR  
CONSTRUCTION CONTRACT (STIPULATED PRICE)**

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

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Endorsed by



CONSTRUCTION SPECIFICATIONS INSTITUTE

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American Society of Civil Engineers  
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Associated General Contractors of America  
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(703) 548-3118  
[www.agc.org](http://www.agc.org)

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**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Lee's Summit, Missouri ("Owner") and  
Havens Construction Company, Inc. ("Contractor").

Owner and Contractor hereby agree as follows:

**ARTICLE 1 – WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Installation of 18,300 feet of water main, hydrants, valves, fittings, service lines, service connections, connections to existing water mains, surface restoration including all materials, labor, equipment, testing, supervision, and any and all other items necessary to complete the work.

**ARTICLE 2 – THE PROJECT**

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Bid No. 20331683-C and 20431683-C Water Main Replacement – FY17 and FY18

**ARTICLE 3 – ENGINEER**

3.01 The Project has been designed by the City of Lee's Summit Public Works Department (Engineer), which is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

A. The Work will be substantially completed within 240 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and



completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 270 days after the date when the Contract Times commence to run.

- B. The work associated with the following Milestones, including all site restoration, shall be completed within the timeframes set forth below for each Milestone, with such timeframes being either a period of consecutive calendar days or a completion date; provided, however, that the counting of days for Milestones may be suspended in order to accommodate sod placement and seeding work in the manner specified in this paragraph. Sod shall not be placed during a drought nor during the period from June 1 to September 1, unless authorized by the Engineer, and shall not be placed on frozen ground. The Engineer will make all determination of whether drought or frozen ground conditions exist. All seeding work shall be done between the dates of February 1 and April 15 for the spring planting or August 15 and October 15 for the fall planting. If the Contractor is unable to place sod or seed due to these conditions, then the counting of days to achieve the Milestone shall be suspended only for placing sod or seed until such time sod or seed can be placed. Contract time shall not be suspended for any other work except for placing sod or seed. The days to achieve Milestones are as follows:
1. NW Carroll Drive through NW Ward Road Milestone: All work shall be completed along NW Carroll Road, NW Kay Drive, NW Frances Drive, NW Ward Circle and NW Ward Road as shown in the plans within 150 calendar days of the date work commences within the area. The plans pertaining to this Milestone are marked accordingly and are shown on sheet 3 and in sheets 5-12.
  2. SW Donovan Road and SW Robin Road Milestone: All work shall be completed along SW Donovan Road and SW Robin Road as shown in the plans within 90 calendar days of the date work commences within the area. The plans pertaining to this Milestone are marked accordingly and are shown on sheet 3 and in sheets 13 and 14.
  3. NW Little Avenue through SW 1<sup>st</sup> Street Milestone: All work shall be completed along NW Little Avenue, NW Lakeview Boulevard, NW 1<sup>st</sup> Street and SW 1<sup>st</sup> Street as shown in the plans within 100 calendar days of the date work commences within the area. The plans pertaining to this Milestone are marked accordingly and are shown on sheet 3 and in sheets 15-19.
  4. SE Main Street and NE Main Street Milestone: All work shall be completed along SE Main Street as shown in the plans within 90 calendar days of the date work commences within the area. The plans pertaining to this Milestone are marked accordingly and are shown on sheet 3 and in sheets 20-22.
  5. NE Lynn Street through NE Magnolia Street Milestone: All work shall be completed along NE Lynn Street, NE Applewood Street and NE Magnolia Street as shown in the plans within 120 calendar days of the date work commences within the area. The plans pertaining to this Milestone are marked accordingly and are shown on sheet 3 and in sheets 23-25.
  6. NE Wicklow Court Milestone: All work shall be completed along NE Wicklow Court as shown in the plans within 40 calendar days of the date work commences within the area.

The plans pertaining to this Milestone are marked accordingly and are shown on sheet 3 and in sheet 26.

7. NE Scruggs Road and NE Rice Road Milestone: All work shall be completed near the intersection of NE Scruggs Road and NE Rice Road as shown in the plans within 40 calendar days of the date work commences within the area. The plans pertaining to this Milestone are marked accordingly and are shown on sheet 3, and in sheet 27.

#### 4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$500.00 for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. For each Milestone, Contractor shall pay Owner \$250.00 per day for each day that expires after the times specified in Paragraph 4.02 for completion of the Milestones until the work associated with the respective Milestone is complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$1000.00 for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment. In addition, Contractor shall be liable to Owner for all other damages, including, but not limited to attorney's fees and expenses, additional engineering fees and expenses, and time, costs, and/or expense of Owner's personnel.

### ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

- A. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
1	Mobilization	LS	1	\$30,000.00	\$30,000.00
2	Clearing and Grubbing	LS	1	\$2,500.00	\$2,500.00
3	Demolition and Removal	LS	1	\$2,500.00	\$2,500.00
4	Potholing Water Main	EA	4	\$1,700.00	\$6,800.00

5	Water Line Pipe - 2" HDPE	LF	796	\$34.00	\$27,064.00
6	Water Line Pipe - 2" HDPE by HDD	LF	440	\$50.00	\$22,000.00
7	Water Line Pipe - 4" HDPE	LF	96	\$61.00	\$5,856.00
8	Water Line Pipe - 4" PVC	LF	10	\$61.00	\$610.00
9	Water Line Pipe - 6" HDPE	LF	547	\$63.00	\$34,461.00
10	Water Line Pipe - 6" PVC	LF	10,709	\$63.00	\$674,667.00
11	Water Line Pipe - 6" PVC by HDD	LF	2,928	\$93.00	\$272,304.00
12	Water Line Pipe - 8" PVC	LF	2,563	\$85.00	\$217,855.00
13	Water Line Pipe - 12" PVC	LF	291	\$114.00	\$33,174.00
14	Lowering Water Main – 6”	LF	282	\$300.00	\$84,600.00
15	Lowering Water Main – 8”	LF	34	\$340.00	\$11,560.00
16	Water Service Line - 3/4" and 1" Copper	LF	3,001	\$33.00	\$99,033.00
17	Water Service Line - 2" Copper	LF	7	\$39.00	\$273.00
18	Water Service - Re-Connections (All Sizes)	EA	383	\$575.00	\$220,225.00
19	Water Meter Well	EA	111	\$600.00	\$66,600.00
20	Water Meter Relocation With Reuse Of Existing Water Meter	EA	71	\$1,600.00	\$113,600.00
21	Water Meter Well Adjustment	EA	20	\$290.00	\$5,800.00
22	Water Meter Adjustment	EA	8	\$500.00	\$4,000.00
23	Water Line Valve – 2” Gate	EA	1	\$500.00	\$500.00
24	Water Line Valve – 4” Gate	EA	1	\$600.00	\$600.00
25	Water Line Valve – 6” Gate	EA	36	\$1,300.00	\$46,800.00
26	Water Line Valve – 8” Gate	EA	8	\$1,500.00	\$12,000.00
27	Water Line Valve – 12” Butterfly	EA	3	\$2,900.00	\$8,700.00
28	Fire Hydrant Assembly	EA	31	\$3,000.00	\$93,000.00
29	Blowoff Assembly	EA	2	\$1,250.00	\$2,500.00
30	Pavement Repair	SY	378	\$119.00	\$44,982.00
31	Driveways – Concrete Residential	SY	98	\$95.00	\$9,310.00
32	Driveways – Gravel Residential	SY	14	\$18.00	\$252.00
33	Driveways – Concrete Commercial	SY	8	\$137.00	\$1,096.00
34	Parking Lot - Asphalt	SY	226	\$115.00	\$25,990.00
35	Pavement Marking – 4” Solid Yellow	LF	110	\$15.00	\$1,650.00
36	Curb and Gutter	LF	345	\$58.00	\$20,010.00
37	Sidewalk – Concrete	SY	363	\$66.00	\$23,958.00
38	ADA Ramps - Type A	EA	7	\$2,000.00	\$14,000.00
39	ADA Ramps - Type A For Multi Use Path	EA	1	\$2,000.00	\$2,000.00

40	ADA Ramps - Type B	EA	3	\$2,000.00	\$6,000.00
41	Sod	SY	7,664	\$7.50	\$57,480.00
42	Erosion Control	LS	1	\$2,003.00	\$2,003.00
43	Traffic Control	LS	1	\$5,000.00	\$5,000.00
Total of All Bid Prices					\$2,313,313.00

The Bid prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions.

## ARTICLE 6 – PAYMENT PROCEDURES

### 6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ~~Engineer~~ Owner as provided in the General Conditions.

### 6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment monthly ~~on or about the 1st day of each month~~ during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.
    - a. 95 percent of Work completed (with the balance being retainage); ~~and, If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and~~
    - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 150 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

### 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

## **ARTICLE 7 – INTEREST**

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate as specified by Missouri State Statute, RSMo 34-057. ~~of \_\_\_\_\_ percent per annum.~~

## **ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
  - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (~~except Underground Facilities~~), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."
  - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by

Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## **ARTICLE 9 – CONTRACT DOCUMENTS**

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to 10, inclusive).
  - 2. Performance bond (pages 1 to 3, inclusive).
  - 3. Payment bond (pages 1 to 3, inclusive).
  - 4. Other bonds (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
    - a. \_\_\_\_\_ (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
    - b. \_\_\_\_\_ (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
    - c. \_\_\_\_\_ (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
  - 5. General Conditions (pages 1 to 66, inclusive).
  - 6. Supplementary Conditions (pages 1 to 5, inclusive).
  - 7. Specifications as listed in the table of contents of the Project Manual.
  - 8. Drawings consisting of 34 sheets with each sheet bearing the following general title: Water Main Replacement – FY17 and FY18 [or] the Drawings listed on attached sheet index.

9. Addenda (numbers 1 to 3, inclusive).
  10. Exhibits to this Agreement (enumerated as follows):
    - a. Documentation submitted by Contractor prior to Notice of Award (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
    - b. *[List other required attachments (if any), such as documents required by funding or lending agencies].*
  11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    - a. Notice to Proceed (pages 1 to 1, inclusive).
    - b. Work Change Directives.
    - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

## **ARTICLE 10 – MISCELLANEOUS**

### 10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### 10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal

representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

#### 10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### 10.06 *Other Provisions*

- A. This Agreement and all work related to this Project shall be governed by the laws of the State of Missouri and shall be litigated and/or mediated in Jackson County, Missouri.



IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on \_\_\_\_\_ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR

City of Lee's Summit, Missouri \_\_\_\_\_

\_\_\_\_\_

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

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

Title: City Manager \_\_\_\_\_

Title: \_\_\_\_\_

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Approved as to Form: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: Chief Counsel of Infrastructure and Planning \_\_\_\_\_

Title: \_\_\_\_\_

Address for giving notices: 220 SE Green Street \_\_\_\_\_

Address for giving notices: \_\_\_\_\_

Lee's Summit, MO 64063 \_\_\_\_\_

\_\_\_\_\_

License No.: \_\_\_\_\_

(Where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Agent for service of process: \_\_\_\_\_

\_\_\_\_\_



# LEE'S SUMMIT MISSOURI

This is an unofficial bid tabulation.

Bid No. 20331683-C and 20431683-C

Project: Water Main Replacement-FY17 and FY18

Bid Opening Date and Time: March 13, 2018 10:00 a.m.

BIDDER	BID PRICE
Havens Construction Company, Inc.	\$2,313,313.00
Wiedenmann, Inc.	\$3,287,916.00
Redford Construction, Inc.	\$3,325,794.00
Pyramid Excavation & Construction, Inc.	\$3,366,138.00
Lamke Trenching and Excavating, Inc.	\$3,630,139.78

Engineer's Estimate = \$3,380,665.49
Recommended Award Amount = \$2,313,313.00

This is an unofficial bid tabulation.

Item No.	Description	Unit	Est. Qty.	BIDDER			BIDDER			BIDDER		
				Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	Bid Unit Price	Bid Price	
				Havens Construction Company, Inc. Liberty, MO			Wiedenmann, Inc. Belton, MO			Reedford Construction, Inc. Raymore, MO		
1	MOBILIZATION	LS	1	\$30,000.00	\$30,000.00	\$265,000.00	\$265,000.00	\$68,000.00	\$68,000.00	\$68,000.00	\$68,000.00	
2	CLEARING AND GRUBBING	LS	1	\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	
3	DEMOLITION AND REMOVAL	LS	1	\$2,500.00	\$2,500.00	\$68,000.00	\$68,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	
4	POTHOLING WATER MAIN	EA	4	\$1,700.00	\$6,800.00	\$3,000.00	\$12,000.00	\$1,600.00	\$1,600.00	\$1,600.00	\$6,400.00	
5	WATER LINE PIPE - 2" HDPE	LF	796	\$34.00	\$27,064.00	\$65.00	\$51,740.00	\$100.00	\$100.00	\$100.00	\$79,600.00	
6	WATER LINE PIPE - 2" HDPE BY HDD	LF	440	\$50.00	\$22,000.00	\$50.00	\$22,000.00	\$115.00	\$115.00	\$115.00	\$50,600.00	
7	WATER LINE PIPE - 4" HDPE	LF	96	\$61.00	\$5,856.00	\$100.00	\$9,600.00	\$105.00	\$105.00	\$105.00	\$10,080.00	
8	WATER LINE PIPE - 4" PVC	LF	10	\$61.00	\$610.00	\$200.00	\$2,000.00	\$110.00	\$110.00	\$110.00	\$1,100.00	
9	WATER LINE PIPE - 6" HDPE	LF	547	\$63.00	\$34,461.00	\$105.00	\$57,435.00	\$110.00	\$110.00	\$110.00	\$60,170.00	
10	WATER LINE PIPE - 6" PVC	LF	10709	\$63.00	\$674,667.00	\$100.00	\$1,070,900.00	\$120.00	\$120.00	\$120.00	\$1,285,080.00	
11	WATER LINE PIPE - 6" PVC BY HDD	LF	2928	\$93.00	\$272,304.00	\$85.00	\$248,880.00	\$130.00	\$130.00	\$130.00	\$380,640.00	
12	WATER LINE PIPE - 8" PVC	LF	2563	\$85.00	\$217,855.00	\$120.00	\$307,560.00	\$140.00	\$140.00	\$140.00	\$358,820.00	
13	WATER LINE PIPE - 12" PVC	LF	291	\$114.00	\$33,174.00	\$150.00	\$43,650.00	\$200.00	\$200.00	\$200.00	\$58,200.00	
14	LOWERING WATER MAIN - 6"	LF	282	\$300.00	\$84,600.00	\$200.00	\$56,400.00	\$200.00	\$200.00	\$200.00	\$56,400.00	
15	LOWERING WATER MAIN - 8"	LF	34	\$340.00	\$11,560.00	\$225.00	\$7,650.00	\$250.00	\$250.00	\$250.00	\$8,500.00	
16	WATER SERVICE LINE - 3/4" COPPER	LF	3001	\$33.00	\$99,033.00	\$35.00	\$105,035.00	\$20.00	\$20.00	\$20.00	\$60,020.00	
17	WATER SERVICE LINE - 2" COPPER	LF	7	\$39.00	\$273.00	\$150.00	\$1,050.00	\$110.00	\$110.00	\$110.00	\$770.00	
18	WATER SERVICE - RE-CONNECTIONS (ALL SIZES)	EA	383	\$575.00	\$220,225.00	\$800.00	\$306,400.00	\$510.00	\$510.00	\$510.00	\$195,330.00	
19	WATER METER WELL	EA	111	\$600.00	\$66,600.00	\$600.00	\$66,600.00	\$400.00	\$400.00	\$400.00	\$44,400.00	
20	WATER METER RELOCATION WITH REUSE OF EXISTING WATER METER	EA	71	\$1,600.00	\$113,600.00	\$1,400.00	\$99,400.00	\$520.00	\$520.00	\$520.00	\$36,920.00	
21	WATER METER WELL ADJUSTMENT	EA	20	\$290.00	\$5,800.00	\$430.00	\$8,600.00	\$100.00	\$100.00	\$100.00	\$2,000.00	
22	WATER METER ADJUSTMENT	EA	8	\$500.00	\$4,000.00	\$500.00	\$4,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$80,000.00	
23	WATER LINE VALVE - 2" GATE	EA	1	\$500.00	\$500.00	\$1,000.00	\$1,000.00	\$700.00	\$700.00	\$700.00	\$700.00	
24	WATER LINE VALVE - 4" GATE	EA	1	\$600.00	\$600.00	\$1,200.00	\$1,200.00	\$800.00	\$800.00	\$800.00	\$800.00	
25	WATER LINE VALVE - 6" GATE	EA	36	\$1,300.00	\$46,800.00	\$1,500.00	\$54,000.00	\$900.00	\$900.00	\$900.00	\$32,400.00	
26	WATER LINE VALVE - 8" GATE	EA	8	\$1,500.00	\$12,000.00	\$1,650.00	\$13,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$9,600.00	
27	WATER LINE VALVE - 12" BUTTERFLY	EA	3	\$2,900.00	\$8,700.00	\$2,500.00	\$7,500.00	\$2,000.00	\$2,000.00	\$2,000.00	\$6,000.00	
28	FIRE HYDRANT ASSEMBLY (WITH NEW HYDRANT)	EA	31	\$3,000.00	\$93,000.00	\$4,000.00	\$124,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$155,000.00	
29	BLOWOFF ASSEMBLY	EA	2	\$1,250.00	\$2,500.00	\$1,500.00	\$3,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$2,000.00	

Bid No. 20331683-C and 20431683-C

Project: Water Main Replacement-FY17 and FY18

Bid Opening Date and Time: March 13, 2018 10:00 a.m.

30	PAVEMENT REPAIR	SY	378	\$119.00	\$44,982.00	\$150.00	\$56,700.00	\$50.00	\$18,900.00
31	DRIVEWAYS - CONCRETE RESIDENTIAL	SY	98	\$95.00	\$9,310.00	\$150.00	\$14,700.00	\$75.00	\$7,350.00
32	DRIVEWAYS - GRAVEL RESIDENTIAL	SY	14	\$18.00	\$252.00	\$25.00	\$350.00	\$10.00	\$140.00
33	DRIVEWAYS - CONCRETE COMMERCIAL	SY	8	\$137.00	\$1,096.00	\$200.00	\$1,600.00	\$100.00	\$800.00
34	PARKING LOT - ASPHALT	SY	226	\$115.00	\$25,990.00	\$100.00	\$22,600.00	\$125.00	\$28,250.00
35	PAVEMENT MARKING - 4" SOLID YELLOW	LF	110	\$15.00	\$1,650.00	\$10.00	\$1,100.00	\$15.00	\$1,650.00
36	CURB AND GUTTER (ALL TYPES)	LF	345	\$58.00	\$20,010.00	\$45.00	\$15,525.00	\$32.00	\$11,040.00
37	SIDEWALK - CONCRETE	SY	363	\$66.00	\$23,958.00	\$75.00	\$27,225.00	\$50.00	\$18,150.00
38	ADA RAMPS - TYPE A	EA	7	\$2,000.00	\$14,000.00	\$1,300.00	\$9,100.00	\$1,700.00	\$11,900.00
39	ADA RAMPS - TYPE A FOR MULTI USE PATH	EA	1	\$2,000.00	\$2,000.00	\$1,600.00	\$1,600.00	\$2,000.00	\$2,000.00
40	ADA RAMPS - TYPE B	EA	3	\$2,000.00	\$6,000.00	\$1,600.00	\$4,800.00	\$1,700.00	\$5,100.00
41	SOD	SY	7664	\$7.50	\$57,480.00	\$6.50	\$49,816.00	\$6.00	\$45,984.00
42	EROSION CONTROL	LS	1	\$2,003.00	\$2,003.00	\$15,000.00	\$15,000.00	\$25,000.00	\$25,000.00
43	TRAFFIC CONTROL	LS	1	\$5,000.00	\$5,000.00	\$45,000.00	\$45,000.00	\$50,000.00	\$50,000.00
<b>Total</b>				<b>\$2,313,313.00</b>		<b>\$3,287,916.00</b>		<b>\$3,325,794.00</b>	



30	PAVEMENT REPAIR	SY	378	\$70.00	\$26,460.00	\$145.00	\$54,810.00	\$110.00	\$41,580.00	
31	DRIVEWAYS - CONCRETE RESIDENTIAL	SY	98	\$70.00	\$6,860.00	\$92.00	\$9,016.00	\$88.00	\$8,624.00	
32	DRIVEWAYS - GRAVEL RESIDENTIAL	SY	14	\$40.00	\$560.00	\$25.00	\$350.00	\$19.00	\$266.00	
33	DRIVEWAYS - CONCRETE COMMERCIAL	SY	8	\$100.00	\$800.00	\$215.00	\$1,720.00	\$147.00	\$1,176.00	
34	PARKING LOT - ASPHALT	SY	226	\$125.00	\$28,250.00	\$79.50	\$17,967.00	\$147.00	\$33,222.00	
35	PAVEMENT MARKING - 4" SOLID YELLOW	LF	110	\$8.00	\$880.00	\$5.00	\$550.00	\$5.00	\$550.00	
36	CURB AND GUTTER (ALL TYPES)	LF	345	\$28.00	\$9,660.00	\$57.00	\$19,665.00	\$46.00	\$15,870.00	
37	SIDEWALK - CONCRETE	SY	363	\$45.00	\$16,335.00	\$82.50	\$29,947.50	\$72.00	\$26,136.00	
38	ADA RAMPS - TYPE A	EA	7	\$2,000.00	\$14,000.00	\$2,350.00	\$16,450.00	\$1,302.00	\$9,114.00	
39	ADA RAMPS - TYPE A FOR MULTI USE PATH	EA	1	\$3,000.00	\$3,000.00	\$3,100.00	\$3,100.00	\$2,600.00	\$2,600.00	
40	ADA RAMPS - TYPE B	EA	3	\$3,000.00	\$9,000.00	\$2,875.00	\$8,625.00	\$1,942.00	\$5,826.00	
41	SOD	SY	7664	\$5.50	\$42,152.00	\$13.50	\$103,464.00	\$10.00	\$76,640.00	
42	EROSION CONTROL	LS	1	\$2,500.00	\$2,500.00	\$12,600.00	\$12,600.00	\$19,211.75	\$19,211.75	
43	TRAFFIC CONTROL	LS	1	\$15,000.00	\$15,000.00	\$46,500.00	\$46,500.00	\$23,859.76	\$23,859.76	
Total							<b>\$3,366,138.00</b>	<b>\$3,630,139.78</b>	<b>\$3,380,665.49</b>	

## Packet Information

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**File #:** 2018-1846, **Version:** 1

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PUBLIC HEARING - Appl. #PL2017-234 - REZONING from AG to RLL - 5261 NE Maybrook Rd.; Derek D. Collins, applicant.

Issue/Request:

This application is to request approval for rezoning of approximately 3.85 acres from AG (Agricultural) to RLL (Residential Large Lot) for the purposes of bringing the property into compliance with the zoning ordinance and for the construction of a single-family residence on the property. Under the Unified Development Ordinance (UDO), the minimum lot size for property zoned AG is 10 acres. Since the property is 3.85 acres, the applicant was advised to rezone to either RDR (Rural Density Residential) or RLL (Residential Large Lot), which have minimum lot sizes of 1 acre and 0.5 acres, respectively.

The former property owner obtained a special use permit in 2009, for the primary use of the property as a private baseball field for his family. A special use permit is not required for the continued use of the field by the current property owner once a house is constructed on the premises because the house would then become the primary use and the ballfield would serve as an accessory use per Section 8.050.O of the UDO (Recreational facility, non-commercial (outdoor), Residential Districts-Permitted accessory uses and structures). The use requirements for the baseball field as an accessory use are the same as those required under the existing special use permit.

A protest petition has been filed and is attached.

Proposed City Council Motion: I move to direct staff to present an ordinance approving Appl. #PL2017-234 - REZONING from AG to RLL - 5261 NE Maybrook Rd.; Derek D. Collins, applicant.

Recommendation: Staff recommends APPROVAL of the rezoning from AG to RLL.

Committee Recommendation: On motion of Ms. Arth and seconded by Mr. Gustafson, the Planning Commission voted two "yes" (Mr. Funk and Ms. Arth) and three "no" (Ms. Roberts, Mr. Sims and Mr. Gustafson) by voice vote to **RECOMMEND APPROVAL** of **Appl. #PL2017-234 - REZONING from AG to RLL - 5261 NE Maybrook Rd;** Derek D. Collins, applicant, subject to staff's letter dated March 9, 2018. The motion failed.



**The City of Lee's Summit**  
**Action Letter**  
**Planning Commission**

Tuesday, March 13, 2018

5:00 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

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CALL TO ORDER

ROLL CALL

**Present:** 5 - Board Member Colene Roberts  
Board Member Dana Arth  
Board Member Don Gustafson  
Board Member Donnie Funk  
Board Member Jeff Sims

**Absent:** 4 - Board Member Carla Dial  
Board Member Jason Norbury  
Board Member J.Beto Lopez  
Board Member Herman Watson

APPROVAL OF AGENDA

**A motion was made by Board Member Roberts, seconded by Board Member Gustafson, that the agenda be approved. The motion carried unanimously.**

PUBLIC COMMENTS

1 APPROVAL OF CONSENT AGENDA

**A** [2018-1937](#) Minutes of the February 27, 2018 Planning Commission meeting

**ACTION: A motion was made by Board Member Roberts, seconded by Board Member Gustafson, that the Minutes be approved. The motion carried by a unanimous vote.**

PUBLIC HEARINGS

2 [2018-1846](#) Continued PUBLIC HEARING - Appl. #PL2017-234 - REZONING from AG to RLL - 5261 NE Maybrook Rd.; Derek D. Collins, applicant

**Vice Chairperson Funk opened the hearing at 5:07 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.**

**Mr. Robert Allen gave his address as 1637 NE Woodland Shores Circle in Lee's Summit; and stated that he was a contractor for the construction of a new home on this property. He was representing the Collins family in this application.**



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Vice Chairperson Funk asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-14 into the record. She noted that the subject property and adjacent properties in all directions were zoned AG. The proposed new zoning for the property would be the RLL designation for large lots. The property was 3.85 acres, with the minimum size for AG being ten acres and the minimum for RLL being .5 acres. The applicants had submitted a survey for the property as well as a site plan that showed the existing structures. The Comprehensive Plan for 2005 showed this area as low-density residential. The adjacent AG properties actually had a mixture of agricultural and large lot single-family uses. A single-family home could be built on the subject property with no rezoning if it was at least 10 acres; and the reason for the rezoning was that it would not meet the 10-acre minimum requirement for AG zoning. The applicants had also submitted a preliminary design for a stormwater retention system; however, staff would need more information to determine whether the storm drain system would be adequate before issuing a building permit.

Ms. Stanton summarized other key items. The applicant had not been able to get the easements for a connection to the existing sanitary sewer. The City's Water Utilities department agreed that a connection to the public water supply was not feasible. The owners would be required to submit a copy of approval from Jackson County for an on site septic system before they could get a building permit. Ms. Stanton then referred the Commissioners to the specific issues addressed in the Codes and Ordinances section of staff's report. The applicants were required to submit a site plan and storm drainage study, as well as a drainage map, calculations for existing and proposed conditions, a cross-section view of the retention pond, riprap with calculations showing that the riprap was adequate for the expected flow.

Ms. Stanton concluded that staff considered the proposed rezoning an appropriate fit with the surrounding uses, so there were no concerns regarding zoning and land use. Staff had received a protest petition, which was included in the Commissioners' packets.

Following Ms. Stanton's comments, Vice Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Ms. Teresa Vollenweider gave her address as 5201 NE Maybrook Road in Lee's Summit. She asserted that the proposed construction was not in character with the neighborhood. As it was, the neighborhood included a horse stable, cattle ranching operation, a hayfield, gardens, and wildlife including geese, deer, coyotes, foxes, bobcats, hawks and turkeys. What the applicant was proposing was a house with a baseball field and indoor training facility.

The previous owners, who had formed "Horn Baseball LLC" had obtained a Special Use Permit under false pretenses, and had violated the SUP's intent. The neighbors had no assurance that the new owners would not do the same thing. The field was theoretically used for occasional backyard games; the activities had produced an annoying level of noise. Nor were they supposed to encounter increased traffic and the neighborhood was not a public park. The former owners had operated a sports field that might as well be a commercial operation and the neighbors did not want this to happen again. Their impression was that they were part of an experiment that had not been successful; and the zoning change could make it even more difficult to address any violations of the Special Use Permit.

Ms. Vollenweider mentioned the proposed indoor training facility, a 35'X80' building, which a neighbor had been told would be for storage of a tractor and other equipment. Mr. Horn had never owned a tractor; and the person who had done the mowing and

Planning Commission

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weedeating had his own equipment. She stated that she had spoken with one of the engineers and had told him that the building was constructed in a hole; and as a consequence water was draining into a stagnant pool at the southwest corner that was sure to be a disease hazard. She had been told that this was what was intended, rather than have the water drain onto the baseball field.

Ms. Ellen Pantaenius, of the Husch Blackwell law firm gave her business address as 4801 Main Street in Kansas City. She summarized the concerns about the rezoning and use. The septic tank was an issue in addition to the stormwater problem. It would mean additional standing water on the property, with drainage problems and mosquitoes as a consequence that would affect the neighborhood in general. The baseball field was currently under a Special Use Permit but that would no longer be required when a residence was built on the property. Traffic generated by people using the facility had already created difficulties, as well as noise and disruption. Sometimes parked cars had lined the streets. There had also been complaints about use of the ballfield, and none of these complaints had been addressed.

Vice Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Ms. Arth asked staff if they knew how many complaints had been filed. Ms. Stanton answered that the permit database included code enforcement, and it had indicated three complaints. The first one was the one in 2009 that had resulted in an SUP application. Of the other two, a 2014 complaint asserted that a trench had been dug along the east side of the outfield, from the base of the nearest power pole; and it had PVC and wiring for lighting. In 2015, a concern was raised about the building being used for indoor recreation in addition to storage of maintenance equipment. The Codes officers had taken pictures on the property several times, and did not see any evidence; however, they did not live in the neighborhood. If a complaint was not called to the Neighborhood Services division, staff could not open the case and send a staff person out to take photos. That could explain complaints made that were not followed up.

Ms. Vollenweider pointed out that the parking was on a one-lane road, and it worsened the water situation since the water was pushed over to the west side. The parking was on both sides of the road and it did not take long for "No Parking" signs to show up. The signs had gone up on her road as well but there were still about 25 vehicles. She added that they had not known who to call, though she had called Ms. Stanton; and that the City needed a hotline. She especially wanted to know what the City was going to do about these situations. She had not paid for her house and property to be the neighborhood police.

Ms. Roberts noted that staff's letter indicated all the adjacent properties as being zoned AG but the uses for those to the south and east were indicated as "Large Lot Single-Family Residential". Ms. Stanton acknowledged that this was the use for much of the neighboring properties, with single-family residential developments beyond. Ms. Stanton acknowledged that much of the property had been split up, and she had not done a search through the County records for when this was done. Ms. Roberts stated that what she saw on the aerial map was the property to the east, while zoned AG, was a residential use. It did not look on the map like it was large enough to meet the 10-acre AG minimum. Mr. Soto mentioned that the property to the east, with a pond at the east end, was a horse farm zoned AG. Some of these anomalies were due to the 5-acre minimum for AG under the previous Ordinance 715, before the UDO was adopted in 2001. Ms. Roberts asked if the applicants would need to bring construction plans to the City before building a home on the property; and Mr. Soto answered that it would be approved administratively with a residential building permit and a plot plan.

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Ms. Roberts asked if it could be built without connecting to the sanitary sewer, and Mr. Monter replied that it could be. The property was close enough for the owners to connect to the City sewer but they had not been able to get the necessary easements. They would be allowed to apply to Jackson County for approval of a private septic system. The County's minimum lot size was 3 acres. The City would be provided with a copy of the written approval.

Ms. Roberts stated that the connection should be required due to the property's proximity to the sewer line. Mr. Monter explained that staff at the Water Utilities Department agreed that the connection could not be made without the easements, and these had not been granted. Staff had confirmed with the Legal Department that if a property owner was unable to access the public system, they could request permission from Jackson County for an on-site sewer system assuming they had enough acreage.

Ms. Roberts asked if an owner of a property without access to the street could get permission to build on the property without putting in a driveway. Ms. Yendes explained that under State statutes, the owner could go to court and get an "easement by necessity" to connect to the street. No equivalent mechanism existed for a sewer connection. Ms. Roberts commented that there should be, as the failure rate of septic systems in Missouri was 30 to 50 percent. The City was being asked to approve one on the basis of not being able to get the easement; however, that was because they had no legal recourse. Ms. Yendes responded that this was correct. Concerning the rezoning, the decision was whether the property could be used for the zoning designation's purpose and whether infrastructure existed to support the rezoning. The Commission could choose to include lack of available infrastructure in their recommendation to the City Council. The question was whether it was appropriate to change the zoning from AG to RLL in order to allow for a house. They could not put a house on the property with AG zoning as the property was too small. The County would make the decision whether to approve a septic system for the subject property. Ms. Roberts emphasized that the applicants would be asking for a septic system that was not needed, as a sanitary sewer line was nearby.

Mr. Gustafson asked what were the conditions of the existing SUP. Ms. Stanton read the conditions listed in the SUP approved on December 17, 2009: (1) a term of 10 years; (2) the baseball field was to be used "for family and friends as a practice field only, and there shall be no baseball games played at the site"; (3) No signs were allowed; (4) The existing gravel access drive and parking area would be allowed to remain unpaved; (5) Access was limited to "one driveway located near the northwest corner of the site"; (6) Parking along Maybrook Road was prohibited; (7) The existing backstop installed behind home plate, which is designed to contain foul balls, and the fencing along the first baseline shall be maintained; and (8) "Since the applicant's residential lot does not have direct access to the baseball field property, the applicant shall either obtain an access easement from his lot to the ballfield or not cross, or allow anyone else to cross, any other property to access the ballfield for any reason."

Mr. Gustafson asked if the complaints focused on the ballfield's use. Ms. Stanton answered that some of the complaints that came in to the Neighborhood Services division were about whether lighting would be installed. This would require another SUP application; however, no lighting was installed. Another complaint, in 2015, was a concern over whether the large storage facility was being used for indoor training. The Code Enforcement officer visited several times and did not see any additional vehicles. Ms. Stanton acknowledged that this could have been happening after hours. Mr. Gustafson then asked if the lot size was legal for its current zoning, and if it had been grandfathered in from the old ordinance. Mr. Soto answered that since it was now under four acres, the lot did not meet the standard for either the UDO or the previous ordinance. It had been subdivided at some point prior to the UDO. Mr. Gustafson asked how it could have a

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building permit for a house, and Mr. Soto answered that it did not have one at present, which was a reason for the rezoning request. It would be issued when the property was zoned appropriately for its size.

Ms. Arth asked Mr. Allen if he knew what Mr. Collins' intent was as the property owner in regard to the baseball field. Mr. Allen replied that it would be only for family use. Mr. Collins had been informed that this was a legal obligation; and was making an effort to resolve the water problems. The sewer access was a matter of crossing only five feet of property; however, this was the easement that a neighbor had refused to grant. Ms. Arth noted that the SUP would expire in December of 2019 and then would need to be renewed. She also observed that the issue and the protest appeared to be the history of the ballfield rather than the proposed house.

Ms. Yendes pointed out that if the property were rezoned, the ballfield would not need a Special Use Permit. Vice Chairperson Funk asked if this meant that at a family reunion, they could have a baseball game and there would be no City violation, assuming that no one parked on the street. Ms. Yendes said that was correct. The distinction was whether any commercial activity on residential property, which would be a neighborhood or zoning enforcement issue.

Ms. Vollenweider stated that a house and its parking area and driveway would generate more water runoff. She had that same situation with the horse barn on her property. She emphasized that water runoff was an ongoing problem, as was the pool of stagnant water that accumulated in the corner. Other than in extra dry summers, that spot was rarely dry. She did not see a solution to these problems.

Mr. Sims noted that a detailed drainage study was required before a building permit was issued. He asked if the City would require the applicant to detain additional runoff. Mr. Monter replied that staff had already requested the applicant to employ a design professional, who had already provided a drawing for a stormwater retention pond and a preliminary stormwater report. Staff's report listed additional information staff had asked the applicant to provide in order to do a more detailed analysis and design.

Vice Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:40 p.m. and asked for discussion among the Commission members.

Ms. Roberts asked whether the City would want another parcel that lacked access to utilities to be rezoned for residential use. She did not consider a private septic system an acceptable alternative. Underground storage tanks were the most common cause of groundwater contamination and septic systems were the second most common. While she understood that it was not the property owner's fault, a site that had access to a sanitary sewer line should not have a septic system.

Hearing no further discussion, Vice Chairperson Funk called for a motion.

**ACTION:** A motion was made by Board Member Arth, seconded by Board Member Gustafson, that this Public Hearing - Sworn be recommended for approval to the City Council - Regular Session, due back on 4/5/2018 The motion carried by the following vote:

**Aye:** 2 - Board Member Arth  
Board Member Funk

**Nay:** 3 - Board Member Roberts  
Board Member Gustafson  
Board Member Sims

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**Absent:** 4 - Board Member Dial  
Board Member Norbury  
Board Member Lopez  
Board Member Watson

- 3**      [2018-1957](#)      PUBLIC HEARING - Application #PL2017-257 - Appl. #PL2017-257 - SPECIAL USE PERMIT for outdoor secondary sales of motor vehicles - Genuine Auto Repair, 520 SW 3rd St; Gary Serville, Jr., applicant

Vice Chairperson Funk opened the hearing at 5:50 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Ms. Burgess Serville gave her address as 7903 Southview Drive in Grandview, Missouri. She stated that the business was an auto sales and repair shop, and they were applying for a renewal of their Special Use Permit. They did not plan any substantial changes to the business.

Vice Chairperson Funk asked for staff comments.

Mr. McGuire entered Exhibit (A), list of exhibits 1-15 into the record. He confirmed that the applicant operated a tire and auto service business that also sold vehicles under a Special Use Permit. It was previously granted for five years, under Ordinance 7263. Surrounding lots to the east, west and south were zoned CP-2 and RP-4 for the property to the north, which had an apartment complex.

The applicant proposed to use the parking spaces along the south property line to display the vehicles for sale. All notices had been sent out. The newspaper legal notice was on February 24, 2018 and the mailings had gone out to properties within 185 feet the day before, February 23. Staff had received no comments. They had evaluated the Special Use Permit application based on the SUP criteria established in Section 10.460 of the UDO, and found that the business complied with the conditions for outdoor sales of motor vehicles. The Commissioners' packets included information about the requirements. The applicant had requested a 25-year period; however, staff recommended five years, to stay consistent with the previously approved SUPs for vehicle sales at this location. Additionally the history of current and previous City Council approval of SUPs was to stay with five-year terms or less along the 3rd Street corridor, in view of the long-term redevelopment potential of this area. It was the gateway and primary route into Downtown. While auto sales had been approved for short terms, they might not be the highest and best use in the long term. The vehicles for sale would be limited to five or fewer [Recommendation Item 2] and the parking lot screening would be installed [Recommendation Item 3].

Ordinances 7100 and 7263 required installing shrubs in the green space along 3rd Street, and this had not yet been done. It was a condition of this particular application.

Following Mr. McGuire's comments, Vice Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Mr. Elvin Bell stated that he owned the subject property. He was in favor of the SUP renewal.

Vice Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Ms. Arth noted that the SUP was first issued in 2012. She asked why the shrubbery had not been planted. Mr. Bell answered that the applicants had acquired the building four

Planning Commission

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March 13, 2018

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years ago, a year after the SUP was approved. He added that he had owned the property for about three years and had not been aware of the requirement but was willing to comply.

Mr. McGuire confirmed for Ms. Roberts that the plantings were a condition of approval for the past two SUPs. The current SUP had expired in December; and it was the first time the applicant had ever gone through this process. Ms. Roberts asked what would be the consequence if the shrubs still were not planted; and Mr. McGuire replied that it would be a Neighborhood Services case of a Special Use Permit violation.

Vice Chairperson Funk noted that after the initial approval, there was apparently no enforcement action for the first few years. Mr. McGuire had not been involved in the initial approval. Ms. Roberts remarked that this might have been because there had been no complaint made; and Mr. McGuire doubted that Neighborhood Services still had the history. Ms. Serville stated that the area currently had a juniper type ground cover. They did plan to install shrubs if that was a requirement.

Vice Chairperson Funk then asked Ms. Serville if the applicants agreed with staff's three Recommendation Items. Ms. Serville answered that they did.

Ms. Arth noted that this property went through two SUPs and the shrubbery had not been planted. She commended the applicants on their intent to comply, but this did seem to be difficult to enforce with the City's current resources. Mr. Soto acknowledged that the average citizen would not know that this was a condition of approval, and staff should have checked after the business license was approved. If landscaping was planted but then died, the follow-up would have to be complaint based.

Vice Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:56 p.m. and asked for discussion among the Commission members.

Ms. Roberts remarked that the SUP term might be reduced to a year if the City wanted to be sure it was done in this case.

Vice Chairperson Funk re-opened the hearing at 5:58 p.m., and Mr. Bell stated that am SUP cost about \$1,200. He was willing to put a deposit in escrow, but having to pay \$1,200 twice in two years would not be feasible. Vice Chairperson Funk then re-closed the hearing and called for a motion.

Ms. Arth made a motion to recommend approval of Application PL2017-257, Special Use Permit for outdoor secondary sales of motor vehicles: Genuine Auto Repair, 520 SW 3rd St.; Gary Serville, Jr., applicant subject to staff's letter of March 9, 2018, specifically Recommendation Items 1 through 3. Ms. Roberts seconded.

Vice Chairperson Funk asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Arth, seconded by Board Member Roberts, that this application was recommended for approval to the City Council - Regular Session, due back on 4/5/2018 The motion carried unanimously.

## OTHER AGENDA ITEMS

### ROUNDTABLE

### ADJOURNMENT

For your convenience, Planning Commission agendas, as well as videos of Planning Commission meetings, may be viewed on the City's Internet site at "[www.cityofls.net](http://www.cityofls.net)".

**Planning Commission**

**Action Letter**

**March 13, 2018**

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# City of Lee's Summit

## Development Services Department

March 9, 2018

TO: Planning Commission  
PREPARED BY: Christina Stanton, AICP, Senior Planner  
CHECKED BY: Hector Soto, AICP, Current Planning Manager  
RE: **Continued PUBLIC HEARING – Appl. #PL2017-234 – REZONING from AG to RLL – 5261 NE Maybrook Rd.; Derek D. Collins, applicant**

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### Commentary

This application is to request approval for rezoning of approximately 3.85 acres from AG (Agricultural) to RLL (Residential Large Lot) for the purposes of bringing the property into compliance with the zoning ordinance and for the construction of a single-family residence on the property. Under the Unified Development Ordinance (UDO), the minimum lot size for property zoned AG is 10 acres. Since the property is 3.85 acres, the applicant was advised to rezone to either RDR (Rural Density Residential) or RLL (Residential Large Lot), which have minimum lot sizes of 1 acre and 0.5 acres, respectively.

The former property owner obtained a special use permit in 2009, for the primary use of the property as a private baseball field for his family. A special use permit is not required for the continued use of the field by the current property owner once a house is constructed on the premises because the house would then become the primary use and the ballfield would serve as an accessory use per Section 8.050.O of the UDO (Recreational facility, non-commercial (outdoor), Residential Districts—Permitted accessory uses and structures). The use requirements for the baseball field as an accessory use are the same as those required under the existing special use permit.

### Recommendation

Staff recommends **APPROVAL** of the rezoning from AG to RLL.

### Zoning and Land Use Information

**Location:** 5261 NE Maybrook Rd.

**Current Zoning:** AG (Agricultural)

**Proposed Zoning:** RLL (Residential Large Lot)

**Surrounding zoning and use:**

**North:** AG – Agricultural

**South (across NE Maybrook Rd.):** AG – Large Lot Single-Family Residential

**East:** AG – Large Lot Single-Family Residential

**West (across NE Maybrook Rd.):** AG – Agricultural

**Site Characteristics.** The subject property is the site of an existing private baseball field which was approved as a special use in 2009 for the previous owner.

**Description and Character of Surrounding Area.** The surrounding area is comprised of large tracts of land that are used for either agricultural or residential purposes. NE Maybrook Road is a narrow street and is signed for “No Parking”.



## Project Information

**Current Zoning:** AG

**Proposed Zoning:** RLL

**Land Area:** 167,706 sq. ft.; 3.85 acres

## Public Notification

**Neighborhood meeting conducted:** n/a

**Newspaper notification published:** February 3, 2018

**Radius notices mailed to properties within 185 feet:** February 22, 2018

## Process

**Procedure:** The Planning Commission makes a recommendation to the City Council on the proposed rezoning application. The City Council takes final action on the rezoning application.

## Unified Development Ordinance

Applicable Section(s)	Description
4.240, 4.250, 4.260	Rezoning
8.050.O	Accessory Uses and Structures. Recreational facility, non-commercial (outdoor).

## Background

- May 19, 2009 – A neighborhood services compliant (#NS20090652) was logged with the Codes Administration Department (now Development Services) regarding the construction of a baseball field on agricultural property. The property owner at the time (Mr. Horn) was subsequently notified of the UDO requirement for a Special Use Permit in order to keep the ball field in place.
- December 17, 2009 – The City Council approved a special use permit (Appl. #2009-067) for outdoor recreation (Horn Baseball Field) for a period of 10 years, expiring December 17, 2019.
- November 12, 2014 – A building permit (#PRRES2014-3176) was issued for a 40' x 80' pole barn.
- July 21, 2017 – The warranty deed transferring the property from Mr. Horn to Mr. Collins was recorded with Jackson County.

## Analysis of Rezoning

**Comprehensive Plan.** The 2005 Lee's Summit Comprehensive Plan shows the area as low-density residential.

**Surrounding Uses.** The surrounding properties to the north, east, west and south are presently zoned AG (Agricultural). However, the uses of the property are a mix of agricultural and large-lot single-family residential.

**Engineering – Stormwater.** During the construction of the existing barn in 2014, it was identified that, due to the relative elevation of the groundwater table, the construction of the barn allowed an avenue for groundwater to be released overland creating a negative impact to

the City's existing public road (NE Maybrook Rd) at the southwest corner of the property.

Therefore, prior to completion of the barn, the applicant was required to design and construct a detention area to capture and recirculate the groundwater to the adjacent baseball field. In reference to the proposed application, City staff is uncertain of the potential impact of an additional structure, on the existing detention / recirculation system. The applicant's design engineer has submitted a preliminary design for a stormwater retention system. Additional information will be required to determine the adequacy of the proposed storm drainage system prior to issuance of any building permit.

**Engineering – Sanitary Sewer.** The property of the proposed residence is within 150 ft of an existing public sanitary sewer, therefore they would be required to connect to the public sanitary sewer system unless extenuating circumstances exist. The applicant has indicated that they currently are unable to obtain the necessary easements to gain access to the public sanitary sewer system, therefore the City's Water Utilities Department concurs that connection to the public system is not feasible and won't be required provided that the applicant is able to get approval from Jackson County for an onsite septic system. A copy of this approval will be required to be submitted to the City prior to the issuance of a building permit.

### **Code and Ordinance Requirements**

*The items in the box below are specific to this development and must be satisfactorily addressed in order to bring the plan into compliance with the Codes and Ordinances of the City.*

#### **Engineering**

1. Prior to issuance of a building permit, approval of the storm drainage study shall be required. To complete the review, the following storm drainage information is required in addition to the storm drainage study and site plan submitted with this rezoning: (A) drainage map; (B) drainage calculations for both existing and proposed conditions; (C) cross-sectional view of the retention pond; (D) rip-rap size; and (E) calculations showing the rip-rap is adequately designed for the expected flow.
2. All required engineering plans and studies, including water lines, sanitary sewers, storm drainage, streets and erosion and sediment control shall be submitted along with the final development plan. All public infrastructure must be substantially complete, prior to the issuance of any certificates of occupancy.
3. The private water service line shall connect to an existing 6-inch fire line located on the south side of NE Maybrook Road.

#### **Planning**

4. A minor or final plat shall be approved and recorded prior to the issuance of any building permits.

#### **Attachments:**

1. Site Plan, date stamped January 23, 2018 – 1 page
2. Certificate of Survey, date stamped November 1, 2017 – 1 page
3. Protest to Rezoning from Teresa Vollenweider, date stamped March 9, 2018 – 4 pages
4. Location Map

**Site Plan**  
**5261 NE Maybrook Road**  
 Section 6, Township 48, Range 31  
 Lee's Summit, Jackson County, Missouri

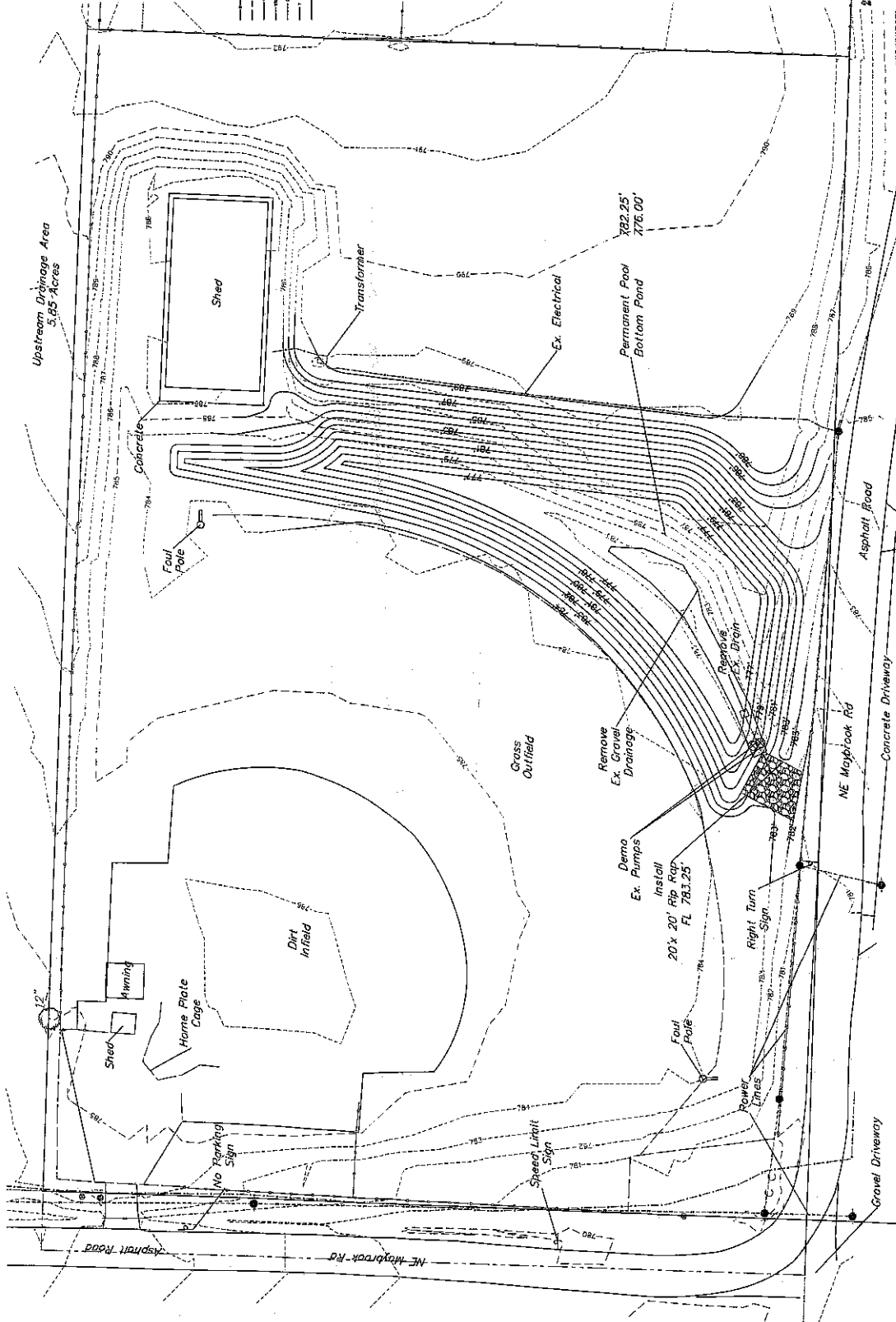
Upstream Drainage Area  
 5.65 Acres



**LEGEND**

These standard symbols will be found in this drawing.

- Set 1/2" Rebar & Cap (LS-218)
- Found Survey Monument (As Noted)
- ⊕ Exemption Document Location
- Existing Water Line - Chain Link
- Existing Sanitary Sewer Main
- Existing Storm Sewer Main
- Existing Gas Line
- Existing Underground Telephone
- Existing Underground Electric



REVISIONS

NO.	DATE	DESCRIPTION

Pond Site Plan  
 5261 NE Maybrook Road  
 Lee's Summit, MO

**Site Plan**

SHEET	DRAWING NO.	DATE	SCALE	PROJECT	CLIENT	DESIGNER	CHECKER	DATE OF PUBLICATION
1	100	January 23, 2018	1"=20'	5261 NE Maybrook Road	Lee's Summit, MO	M. Schmitt, PLS, PE		



**ENGINEERING SOLUTIONS**  
 ENGINEERING & SURVEYING  
 200 S. STATE STREET  
 LEES SUMMIT, MISSOURI 64063  
 PHONE (816) 781-1111 FAX (816) 781-1112

RECEIVED  
 JAN 23 2018  
 ENGINEERING SOLUTIONS

2017-234



March 8, 2018

Planning Commission  
City of Lee's Summit  
City Hall  
220 SE Green Street  
Lee's Summit, MO 64063



FILED IN THE OFFICE OF  
THE CITY CLERK FOR THE  
CITY OF LEE'S SUMMIT, MISSOURI

DATE: 3-9-18  
TIME: 1:00 pm SL

RECEIVED

MAR 09 2018

Development Services

**RE: PL2017-234 Zoning Change from AG to RLL**

To Whom it May Concern:

I am writing to express my opposition to the proposed change in zoning for 5261 NE Maybrook Road from Agricultural to Residential Large Lot (RLL). As an adjacent property owner, I am concerned with the potential impact of such a change and would like to strongly urge the Planning Commission to reject the rezoning application.

The change from an Agricultural District to RLL is not compatible with the character of the neighborhood and the existing zoning and property uses of the surrounding area; the surrounding area is zoned Agricultural and is used for agricultural purposes—including a horse stable, a cattle ranching operation, and hay fields. The rezoning of a single parcel of land to RLL is not in conformance with the existing zoning and property uses and contravenes the purpose of the Agricultural District. As provided in the United Development Ordinance, the purpose of the Agricultural District is to “reduce the impact of urban development on rural areas” and to “conserve rural character and reduce the demand for urban services.” A rezoning of one parcel to RLL disrupts the rural character of the area, which is the reason the surrounding property owners and I moved to this area in the first place.

I am especially concerned with the lack of adequate facilities and public infrastructure to support a RLL District. It is my understanding that the applicant wishes to build a house on the lot. The property's current use as an uninhabited lot with a baseball complex already generates excessive storm water runoff, which causes large amounts of water to pool on the one lane road at the southwest corner of the baseball complex and to run over the road from that corner down to the northwest corner of the baseball complex. In addition to causing potholes, the persistent pool of water at the corner and the puddles on either side of the road create the perfect breeding environment for insects, especially mosquitoes, which are a serious health concern, not only for humans and their pets, but in an agricultural district are a serious health concern for livestock and horses. Horses are particularly susceptible to mosquito-borne diseases and parasites. What's the first line of prevention for mosquito-borne problems? Eliminate standing water, and an ounce of prevention is worth a pound of cure. Experience has taught those of us that live on this once quaint one lane road that once a house and driveway are built on that lot, it is inevitable that this existing water runoff issue and the problems it creates WILL get worse. What's that saying? Fool me once, shame on you; fool me twice, shame on me. Additionally, I understand that the applicant may have been granted permission to install a septic system to serve the property, and I am concerned that along with the pooling water, there will be a sewage drainage and/or odor

issue as well. Could we neighbors get a guarantee from the City of Lee's Summit that that will not become a problem?

As mentioned above, the property currently is uninhabited except for a baseball complex—complete with a baseball field with a permanent backstop (>\$3000), two professional foul poles (>\$3000), a permanent outfield grand slam fence (>\$2500), a small wood-framed field equipment and maintenance storage shed (>\$1000), a covered dugout (>\$500), and a ~ 80' x 35' metal pole building indoor baseball training facility (>\$50,000 excluding the cost of any training equipment that may be inside the facility)—all built by the previous owner and purchased by the new owner—the applicant. A conservative estimate of the cost of this complex excluding all the initial groundwork and the construction of infield and any indoor training equipment is \$57,500. The previous owner acquired a special use permit to use this complex as a practice field for friends and family. Since the special use permit was granted in 2009, the baseball field has consistently been used in violation of and beyond the scope allowed by the permit. Though the permit expressly requires that the field only be used as a practice field for friends and family and forbids baseball games or leagues, the field has been used for games and leagues countless times. The general public has been allowed access to the field since the special use permit was granted, which generates excessive noise and traffic in the neighborhood. The resulting heavy traffic is not supported by rural, one-lane Maybrook Road, which provides the only access to the field—nor is there sufficient parking, and of course, the construction of a parking lot will add to the water runoff problem. If the rezoning is approved, the applicant would be permitted to build a house on the same lot as the field and would no longer require a special use permit because the field would be a permitted accessory use to the residence (as is allowed in a RLL District, but not an Agricultural District). This is especially troubling because without the requirement that the applicant receive a special use permit, there will be no recourse for the neighboring property owners to contest the use of the baseball field or to ensure that the field is not used inappropriately or beyond the scope permitted by the Unified Development Ordinance. As we have already experienced the misuse of the field for years—even with a special use permit—this is especially troubling. Again, fool me once, shame on you; fool me twice, shame on me with “me” being we the neighbors and the City of Lee's Summit.

Finally, this change in zoning will negatively affect the aesthetics of the surrounding neighborhood and detrimentally impact the appropriate use of neighboring properties. This is a truly agricultural district and provides a haven of peace and quiet away from the city's more densely developed areas and I wish for it to remain so. The surrounding properties are being used for their appropriate agricultural purposes, and the change in zoning of one parcel to RLL will disrupt the agricultural, rural character of the area, as well as put a significant strain on public facilities and infrastructure in the area. For these reasons I would again urge you to deny the application. Thank you for your time and consideration.

Sincerely,



Teresa Vollenweider

**PROTEST TO APPLICATION**

Teresa Vollenweider, as owner of the real property  
(print or type name of person signing protest) Lee's Summit MO  
5201 NE Maybrook Rd 64064, hereby protests the  
(address or legal description of person signing protest)

rezoning \_\_\_\_\_ for the property  
(rezoning, special use permit, or preliminary development plan)

described in Application # PL, 2017-234

rezoning from AG to RLL

(description of application)

for the following reasons:

The proposed rezoning is not compatible with the existing zoning, is not supportable  
based on current facilities and public infrastructure available to the property, and will  
detrimentally impact the appropriate use of adjacent properties.

Signatures: \_\_\_\_\_

State of Missouri  
County of Jackson

On this 8th day of March in the year 2018, before me,

Nicole Ervin (notary name), a Notary Public in and for said state,

personally appeared Teresa Vollenweider (individual(s) name),

known to me to be the person(s) who executed this protest, and acknowledged to me that he/she executed the same for the purposes therein stated.

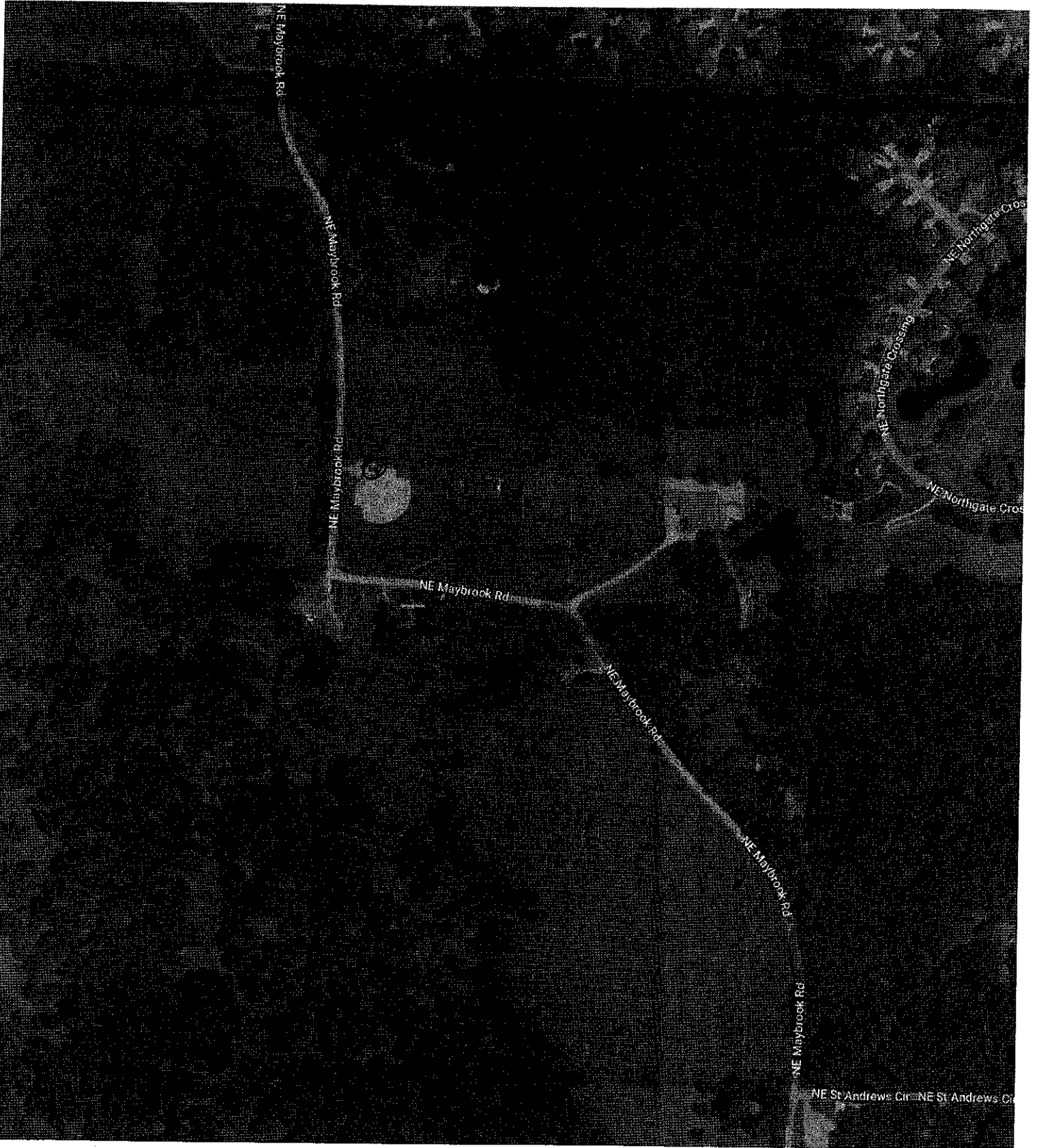
Subscribed to and sworn by me this 8th day of March, 2018.

Nicole Ervin  
Notary Public

My Commission Expires:  
April 6th 2019

NICOLE ERVIN  
Notary Public-Notary Seal  
STATE OF MISSOURI  
Cass County  
My Commission Expires April 6, 2019  
Commission # 15169179

\* Structure circled in black is the indoor training facility.



\*\* These structures are the covered dugout and the small wood-framed equipment and maintenance storage shed.



#PL2017-234 --REZONING  
5261 NE Maybrook Road  
Derek D. Collins, applicant



## Packet Information

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**File #:** BILL NO. 18-61, **Version:** 1

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AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM DISTRICT AGRICULTURAL (AG) TO DISTRICT RESIDENTIAL LARGE LOT (RLL), APPROXIMATELY 3.85 ACRES LOCATED AT 5261 NE MAYBROOK ROAD, ALL IN ACCORDANCE WITH THE PROVISIONS OF UNIFIED DEVELOPMENT ORDINANCE NO. 5209 FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

Proposed City Council Motion:

I move for a second reading of AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM DISTRICT AGRICULTURAL (AG) TO DISTRICT RESIDENTIAL LARGE LOT (RLL), APPROXIMATELY 3.85 ACRES LOCATED AT 5261 NE MAYBROOK ROAD, ALL IN ACCORDANCE WITH THE PROVISIONS OF UNIFIED DEVELOPMENT ORDINANCE NO. 5209 FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

## **BILL NO. 18-61**

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AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM DISTRICT AGRICULTURAL (AG) TO DISTRICT RESIDENTIAL LARGE LOT (RLL), APPROXIMATELY 3.85 ACRES LOCATED AT 5261 NE MAYBROOK ROAD, ALL IN ACCORDANCE WITH THE PROVISIONS OF UNIFIED DEVELOPMENT ORDINANCE NO. 5209 FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Application #PL2017-234, requesting a change in zoning classification from District Agricultural (AG) to District Residential Large Lot (RLL), approximately 3.85 acres located at 5261 NE Maybrook Road; submitted by Derek D. Collins, was referred to the Planning Commission to hold a public hearing; and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the request on March 13, 2018, and by a vote of 2 to 3 Commission voted not to recommend approval of the zoning requested; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on April 5, 2018, and rendered a decision to rezone said property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the following described property is hereby rezoned from District AG to District RLL:

*ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 48, RANGE 31, IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION; THENCE NORHT 87 DEGREES, 37 MINUTES, 52 SECONDS EAST, A DISTANCE OF 323.85 FEET; THENCE SOUTH 87 DEGREES, 36 MINUTES, 14 SECONDS EAST, A DISTANCE OF 518.3 FEET; THENCE SOUTH 02 DEGREES, 13 MINUTES, 53 SECONDS WEST, A DISTANCE OF 323.7 FEET TO A POINT ON THE SOUTH LINE OF SAID QUARTER QUARTER SECTION, THENCE NORTH 87 DEGREES, 37 MINUTES, 14 SECONDS WEST ALONG THE SOUTH LINE OF SAID QUARTER QUARTER SECTION, A DISTANCE OF 494.98 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PART IN ROADS.*

*CONTAINING 3.85 ACRES.*

SECTION 2. That failure to comply with all of the provisions contained in this ordinance shall constitute violations of both this ordinance and the City's Unified Development Ordinance, enacted by Ordinance No. 5209 and amended from time to time.

SECTION 3. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

**BILL NO. 18-61**

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PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian Head*



**The City of Lee's Summit**  
**Action Letter**  
**Planning Commission**

Tuesday, March 13, 2018  
5:00 PM  
City Council Chambers  
City Hall  
220 SE Green Street  
Lee's Summit, MO 64063

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CALL TO ORDER  
ROLL CALL

- Present:** 5 - Board Member Colene Roberts  
Board Member Dana Arth  
Board Member Don Gustafson  
Board Member Donnie Funk  
Board Member Jeff Sims
- Absent:** 4 - Board Member Carla Dial  
Board Member Jason Norbury  
Board Member J.Beto Lopez  
Board Member Herman Watson

APPROVAL OF AGENDA

A motion was made by Board Member Roberts, seconded by Board Member Gustafson, that the agenda be approved. The motion carried unanimously.

PUBLIC COMMENTS

1 APPROVAL OF CONSENT AGENDA

- A** [2018-1937](#) Minutes of the February 27, 2018 Planning Commission meeting

**ACTION:** A motion was made by Board Member Roberts, seconded by Board Member Gustafson, that the Minutes be approved. The motion carried by a unanimous vote.

PUBLIC HEARINGS

- 2** [2018-1846](#) Continued PUBLIC HEARING - Appl. #PL2017-234 - REZONING from AG to RLL - 5261 NE Maybrook Rd.; Derek D. Collins, applicant

Vice Chairperson Funk opened the hearing at 5:07 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Robert Allen gave his address as 1637 NE Woodland Shores Circle in Lee's Summit; and stated that he was a contractor for the construction of a new home on this property. He was representing the Collins family in this application.

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Vice Chairperson Funk asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-14 into the record. She noted that the subject property and adjacent properties in all directions were zoned AG. The proposed new zoning for the property would be the RLL designation for large lots. The property was 3.85 acres, with the minimum size for AG being ten acres and the minimum for RLL being .5 acres. The applicants had submitted a survey for the property as well as a site plan that showed the existing structures. The Comprehensive Plan for 2005 showed this area as low-density residential. The adjacent AG properties actually had a mixture of agricultural and large lot single-family uses. A single-family home could be built on the subject property with no rezoning if it was at least 10 acres; and the reason for the rezoning was that it would not meet the 10-acre minimum requirement for AG zoning. The applicants had also submitted a preliminary design for a stormwater retention system; however, staff would need more information to determine whether the storm drain system would be adequate before issuing a building permit.

Ms. Stanton summarized other key items. The applicant had not been able to get the easements for a connection to the existing sanitary sewer. The City's Water Utilities department agreed that a connection to the public water supply was not feasible. The owners would be required to submit a copy of approval from Jackson County for an on site septic system before they could get a building permit. Ms. Stanton then referred the Commissioners to the specific issues addressed in the Codes and Ordinances section of staff's report. The applicants were required to submit a site plan and storm drainage study, as well as a drainage map, calculations for existing and proposed conditions, a cross-section view of the retention pond, riprap with calculations showing that the riprap was adequate for the expected flow.

Ms. Stanton concluded that staff considered the proposed rezoning an appropriate fit with the surrounding uses, so there were no concerns regarding zoning and land use. Staff had received a protest petition, which was included in the Commissioners' packets.

Following Ms. Stanton's comments, Vice Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Ms. Teresa Vollenweider gave her address as 5201 NE Maybrook Road in Lee's Summit. She asserted that the proposed construction was not in character with the neighborhood. As it was, the neighborhood included a horse stable, cattle ranching operation, a hayfield, gardens, and wildlife including geese, deer, coyotes, foxes, bobcats, hawks and turkeys. What the applicant was proposing was a house with a baseball field and indoor training facility.

The previous owners, who had formed "Horn Baseball LLC" had obtained a Special Use Permit under false pretenses, and had violated the SUP's intent. The neighbors had no assurance that the new owners would not do the same thing. The field was theoretically used for occasional backyard games; the activities had produced an annoying level of noise. Nor were they supposed to encounter increased traffic and the neighborhood was not a public park. The former owners had operated a sports field that might as well be a commercial operation and the neighbors did not want this to happen again. Their impression was that they were part of an experiment that had not been successful; and the zoning change could make it even more difficult to address any violations of the Special Use Permit.

Ms. Vollenweider mentioned the proposed indoor training facility, a 35'X80' building, which a neighbor had been told would be for storage of a tractor and other equipment. Mr. Horn had never owned a tractor; and the person who had done the mowing and

Planning Commission

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March 13, 2018

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weedeating had his own equipment. She stated that she had spoken with one of the engineers and had told him that the building was constructed in a hole; and as a consequence water was draining into a stagnant pool at the southwest corner that was sure to be a disease hazard. She had been told that this was what was intended, rather than have the water drain onto the baseball field.

Ms. Ellen Pantaenius, of the Husch Blackwell law firm gave her business address as 4801 Main Street in Kansas City. She summarized the concerns about the rezoning and use. The septic tank was an issue in addition to the stormwater problem. It would mean additional standing water on the property, with drainage problems and mosquitoes as a consequence that would affect the neighborhood in general. The baseball field was currently under a Special Use Permit but that would no longer be required when a residence was built on the property. Traffic generated by people using the facility had already created difficulties, as well as noise and disruption. Sometimes parked cars had lined the streets. There had also been complaints about use of the ballfield, and none of these complaints had been addressed.

Vice Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Ms. Arth asked staff if they knew how many complaints had been filed. Ms. Stanton answered that the permit database included code enforcement, and it had indicated three complaints. The first one was the one in 2009 that had resulted in an SUP application. Of the other two, a 2014 complaint asserted that a trench had been dug along the east side of the outfield, from the base of the nearest power pole; and it had PVC and wiring for lighting. In 2015, a concern was raised about the building being used for indoor recreation in addition to storage of maintenance equipment. The Codes officers had taken pictures on the property several times, and did not see any evidence; however, they did not live in the neighborhood. If a complaint was not called to the Neighborhood Services division, staff could not open the case and send a staff person out to take photos. That could explain complaints made that were not followed up.

Ms. Vollenweider pointed out that the parking was on a one-lane road, and it worsened the water situation since the water was pushed over to the west side. The parking was on both sides of the road and it did not take long for "No Parking" signs to show up. The signs had gone up on her road as well but there were still about 25 vehicles. She added that they had not known who to call, though she had called Ms. Stanton; and that the City needed a hotline. She especially wanted to know what the City was going to do about these situations. She had not paid for her house and property to be the neighborhood police.

Ms. Roberts noted that staff's letter indicated all the adjacent properties as being zoned AG but the uses for those to the south and east were indicated as "Large Lot Single-Family Residential". Ms. Stanton acknowledged that this was the use for much of the neighboring properties, with single-family residential developments beyond. Ms. Stanton acknowledged that much of the property had been split up, and she had not done a search through the County records for when this was done. Ms. Roberts stated that what she saw on the aerial map was the property to the east, while zoned AG, was a residential use. It did not look on the map like it was large enough to meet the 10-acre AG minimum. Mr. Soto mentioned that the property to the east, with a pond at the east end, was a horse farm zoned AG. Some of these anomalies were due to the 5-acre minimum for AG under the previous Ordinance 715, before the UDO was adopted in 2001. Ms. Roberts asked if the applicants would need to bring construction plans to the City before building a home on the property; and Mr. Soto answered that it would be approved administratively with a residential building permit and a plot plan.

Planning Commission

Action Letter

March 13, 2018

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Ms. Roberts asked if it could be built without connecting to the sanitary sewer, and Mr. Monter replied that it could be. The property was close enough for the owners to connect to the City sewer but they had not been able to get the necessary easements. They would be allowed to apply to Jackson County for approval of a private septic system. The County's minimum lot size was 3 acres. The City would be provided with a copy of the written approval.

Ms. Roberts stated that the connection should be required due to the property's proximity to the sewer line. Mr. Monter explained that staff at the Water Utilities Department agreed that the connection could not be made without the easements, and these had not been granted. Staff had confirmed with the Legal Department that if a property owner was unable to access the public system, they could request permission from Jackson County for an on-site sewer system assuming they had enough acreage.

Ms. Roberts asked if an owner of a property without access to the street could get permission to build on the property without putting in a driveway. Ms. Yendes explained that under State statutes, the owner could go to court and get an "easement by necessity" to connect to the street. No equivalent mechanism existed for a sewer connection. Ms. Roberts commented that there should be, as the failure rate of septic systems in Missouri was 30 to 50 percent. The City was being asked to approve one on the basis of not being able to get the easement; however, that was because they had no legal recourse. Ms. Yendes responded that this was correct. Concerning the rezoning, the decision was whether the property could be used for the zoning designation's purpose and whether infrastructure existed to support the rezoning. The Commission could choose to include lack of available infrastructure in their recommendation to the City Council. The question was whether it was appropriate to change the zoning from AG to RLL in order to allow for a house. They could not put a house on the property with AG zoning as the property was too small. The County would make the decision whether to approve a septic system for the subject property. Ms. Roberts emphasized that the applicants would be asking for a septic system that was not needed, as a sanitary sewer line was nearby.

Mr. Gustafson asked what were the conditions of the existing SUP. Ms. Stanton read the conditions listed in the SUP approved on December 17, 2009: (1) a term of 10 years; (2) the baseball field was to be used "for family and friends as a practice field only, and there shall be no baseball games played at the site"; (3) No signs were allowed; (4) The existing gravel access drive and parking area would be allowed to remain unpaved; (5) Access was limited to "one driveway located near the northwest corner of the site"; (6) Parking along Maybrook Road was prohibited; (7) The existing backstop installed behind home plate, which is designed to contain foul balls, and the fencing along the first baseline shall be maintained; and (8) "Since the applicant's residential lot does not have direct access to the baseball field property, the applicant shall either obtain an access easement from his lot to the ballfield or not cross, or allow anyone else to cross, any other property to access the ballfield for any reason."

Mr. Gustafson asked if the complaints focused on the ballfield's use. Ms. Stanton answered that some of the complaints that came in to the Neighborhood Services division were about whether lighting would be installed. This would require another SUP application; however, no lighting was installed. Another complaint, in 2015, was a concern over whether the large storage facility was being used for indoor training. The Code Enforcement officer visited several times and did not see any additional vehicles. Ms. Stanton acknowledged that this could have been happening after hours. Mr. Gustafson then asked if the lot size was legal for its current zoning, and if it had been grandfathered in from the old ordinance. Mr. Soto answered that since it was now under four acres, the lot did not meet the standard for either the UDO or the previous ordinance. It had been subdivided at some point prior to the UDO. Mr. Gustafson asked how it could have a



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building permit for a house, and Mr. Soto answered that it did not have one at present, which was a reason for the rezoning request. It would be issued when the property was zoned appropriately for its size.

Ms. Arth asked Mr. Allen if he knew what Mr. Collins' intent was as the property owner in regard to the baseball field. Mr. Allen replied that it would be only for family use. Mr. Collins had been informed that this was a legal obligation; and was making an effort to resolve the water problems. The sewer access was a matter of crossing only five feet of property; however, this was the easement that a neighbor had refused to grant. Ms. Arth noted that the SUP would expire in December of 2019 and then would need to be renewed. She also observed that the issue and the protest appeared to be the history of the ballfield rather than the proposed house.

Ms. Yendes pointed out that if the property were rezoned, the ballfield would not need a Special Use Permit. Vice Chairperson Funk asked if this meant that at a family reunion, they could have a baseball game and there would be no City violation, assuming that no one parked on the street. Ms. Yendes said that was correct. The distinction was whether any commercial activity on residential property, which would be a neighborhood or zoning enforcement issue.

Ms. Vollenweider stated that a house and its parking area and driveway would generate more water runoff. She had that same situation with the horse barn on her property. She emphasized that water runoff was an ongoing problem, as was the pool of stagnant water that accumulated in the corner. Other than in extra dry summers, that spot was rarely dry. She did not see a solution to these problems.

Mr. Sims noted that a detailed drainage study was required before a building permit was issued. He asked if the City would require the applicant to detain additional runoff. Mr. Monter replied that staff had already requested the applicant to employ a design professional, who had already provided a drawing for a stormwater retention pond and a preliminary stormwater report. Staff's report listed additional information staff had asked the applicant to provide in order to do a more detailed analysis and design.

Vice Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:40 p.m. and asked for discussion among the Commission members.

Ms. Roberts asked whether the City would want another parcel that lacked access to utilities to be rezoned for residential use. She did not consider a private septic system an acceptable alternative. Underground storage tanks were the most common cause of groundwater contamination and septic systems were the second most common. While she understood that it was not the property owner's fault, a site that had access to a sanitary sewer line should not have a septic system.

Hearing no further discussion, Vice Chairperson Funk called for a motion.

**ACTION:** A motion was made by Board Member Arth, seconded by Board Member Gustafson, that this Public Hearing - Sworn be recommended for approval to the City Council - Regular Session, due back on 4/5/2018 The motion carried by the following vote:

**Aye:** 2 - Board Member Arth  
Board Member Funk

**Nay:** 3 - Board Member Roberts  
Board Member Gustafson  
Board Member Sims

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**Absent:** 4 - Board Member Dial  
Board Member Norbury  
Board Member Lopez  
Board Member Watson

- 3**      [2018-1957](#)      PUBLIC HEARING - Application #PL2017-257 - Appl. #PL2017-257 -  
SPECIAL USE PERMIT for outdoor secondary sales of motor vehicles -  
Genuine Auto Repair, 520 SW 3rd St; Gary Serville, Jr., applicant

Vice Chairperson Funk opened the hearing at 5:50 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Ms. Burgess Serville gave her address as 7903 Southview Drive in Grandview, Missouri. She stated that the business was an auto sales and repair shop, and they were applying for a renewal of their Special Use Permit. They did not plan any substantial changes to the business.

Vice Chairperson Funk asked for staff comments.

Mr. McGuire entered Exhibit (A), list of exhibits 1-15 into the record. He confirmed that the applicant operated a tire and auto service business that also sold vehicles under a Special Use Permit. It was previously granted for five years, under Ordinance 7263. Surrounding lots to the east, west and south were zoned CP-2 and RP-4 for the property to the north, which had an apartment complex.

The applicant proposed to use the parking spaces along the south property line to display the vehicles for sale. All notices had been sent out. The newspaper legal notice was on February 24, 2018 and the mailings had gone out to properties within 185 feet the day before, February 23. Staff had received no comments. They had evaluated the Special Use Permit application based on the SUP criteria established in Section 10.460 of the UDO, and found that the business complied with the conditions for outdoor sales of motor vehicles. The Commissioners' packets included information about the requirements. The applicant had requested a 25-year period; however, staff recommended five years, to stay consistent with the previously approved SUPs for vehicle sales at this location. Additionally the history of current and previous City Council approval of SUPs was to stay with five-year terms or less along the 3rd Street corridor, in view of the long-term redevelopment potential of this area. It was the gateway and primary route into Downtown. While auto sales had been approved for short terms, they might not be the highest and best use in the long term. The vehicles for sale would be limited to five or fewer [Recommendation Item 2] and the parking lot screening would be installed [Recommendation Item 3].

Ordinances 7100 and 7263 required installing shrubs in the green space along 3rd Street, and this had not yet been done. It was a condition of this particular application.

Following Mr. McGuire's comments, Vice Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Mr. Elvin Bell stated that he owned the subject property. He was in favor of the SUP renewal.

Vice Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Ms. Arth noted that the SUP was first issued in 2012. She asked why the shrubbery had not been planted. Mr. Bell answered that the applicants had acquired the building four

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years ago, a year after the SUP was approved. He added that he had owned the property for about three years and had not been aware of the requirement but was willing to comply.

Mr. McGuire confirmed for Ms. Roberts that the plantings were a condition of approval for the past two SUPs. The current SUP had expired in December; and it was the first time the applicant had ever gone through this process. Ms. Roberts asked what would be the consequence if the shrubs still were not planted; and Mr. McGuire replied that it would be a Neighborhood Services case of a Special Use Permit violation.

Vice Chairperson Funk noted that after the initial approval, there was apparently no enforcement action for the first few years. Mr. McGuire had not been involved in the initial approval. Ms. Roberts remarked that this might have been because there had been no complaint made; and Mr. McGuire doubted that Neighborhood Services still had the history. Ms. Serville stated that the area currently had a juniper type ground cover. They did plan to install shrubs if that was a requirement.

Vice Chairperson Funk then asked Ms. Serville if the applicants agreed with staff's three Recommendation Items. Ms. Serville answered that they did.

Ms. Arth noted that this property went through two SUPs and the shrubbery had not been planted. She commended the applicants on their intent to comply, but this did seem to be difficult to enforce with the City's current resources. Mr. Soto acknowledged that the average citizen would not know that this was a condition of approval, and staff should have checked after the business license was approved. If landscaping was planted but then died, the follow-up would have to be complaint based.

Vice Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:56 p.m. and asked for discussion among the Commission members.

Ms. Roberts remarked that the SUP term might be reduced to a year if the City wanted to be sure it was done in this case.

Vice Chairperson Funk re-opened the hearing at 5:58 p.m., and Mr. Bell stated that am SUP cost about \$1,200. He was willing to put a deposit in escrow, but having to pay \$1,200 twice in two years would not be feasible. Vice Chairperson Funk then re-closed the hearing and called for a motion.

Ms. Arth made a motion to recommend approval of Application PL2017-257, Special Use Permit for outdoor secondary sales of motor vehicles: Genuine Auto Repair, 520 SW 3rd St.; Gary Serville, Jr., applicant subject to staff's letter of March 9, 2018, specifically Recommendation Items 1 through 3. Ms. Roberts seconded.

Vice Chairperson Funk asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Arth, seconded by Board Member Roberts, that this application was recommended for approval to the City Council - Regular Session, due back on 4/5/2018 The motion carried unanimously.

## OTHER AGENDA ITEMS

### ROUNDTABLE

### ADJOURNMENT

For your convenience, Planning Commission agendas, as well as videos of Planning Commission meetings, may be viewed on the City's Internet site at "[www.cityofls.net](http://www.cityofls.net)".

**Planning Commission**

**Action Letter**

**March 13, 2018**

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# Site Plan

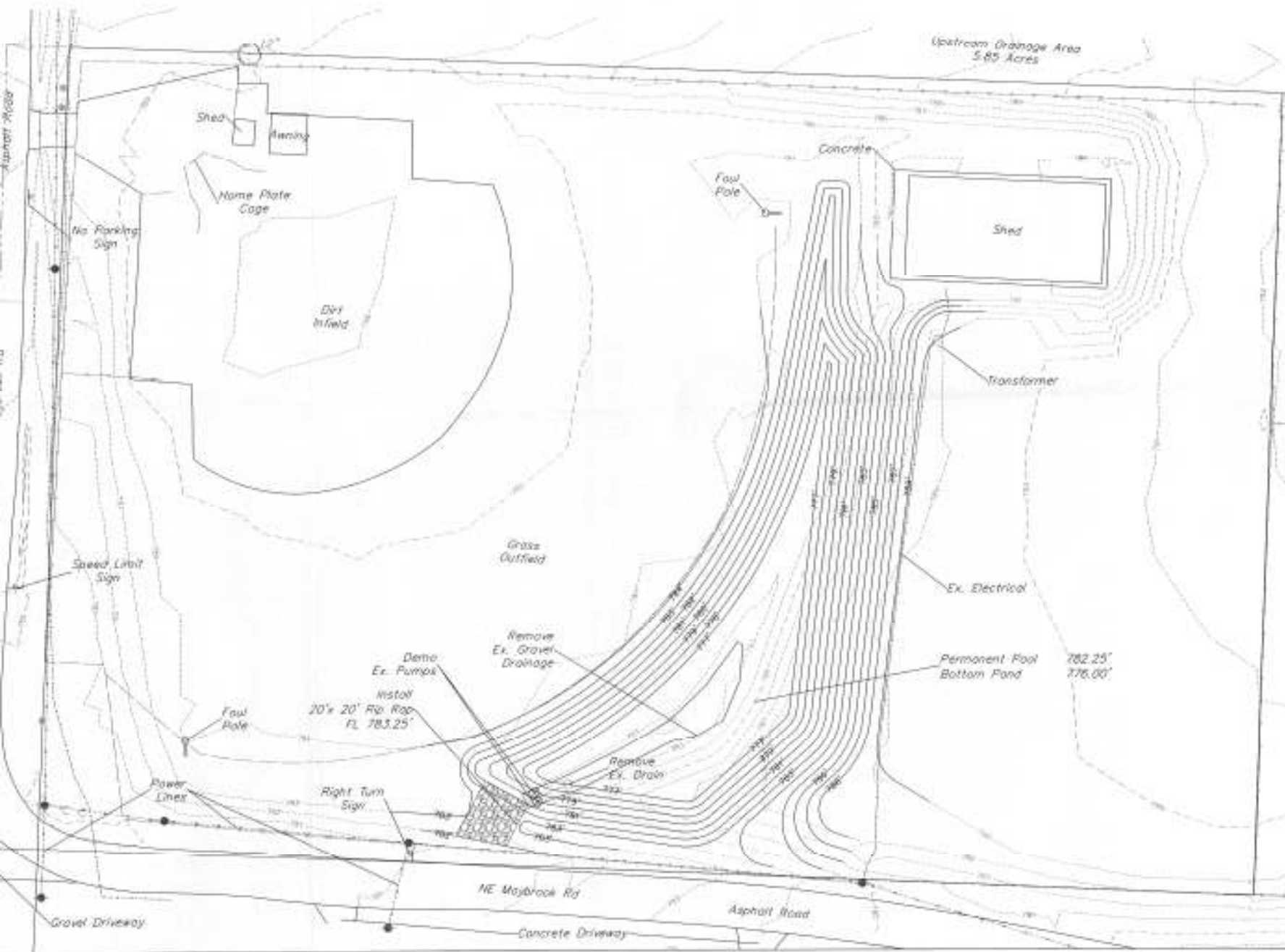
## 5261 NE Maybrook Road

Section 6, Township 48, Range 31  
Lee's Summit, Jackson County, Missouri



### LEGEND

- These standard symbols will be used in the drawing:
- Set 1/2" Rebar @ Cap (3-210)
  - ⊙ Found Survey Monument (As Noted)
  - ⊙ Elevation Monument Location
  - Existing Fence Line - Chain Link
  - - - Existing Water Line
  - - - Existing Storm Sewer Man
  - - - Existing Gas Line
  - - - Existing Underground Telephone
  - - - Existing Underground Electric

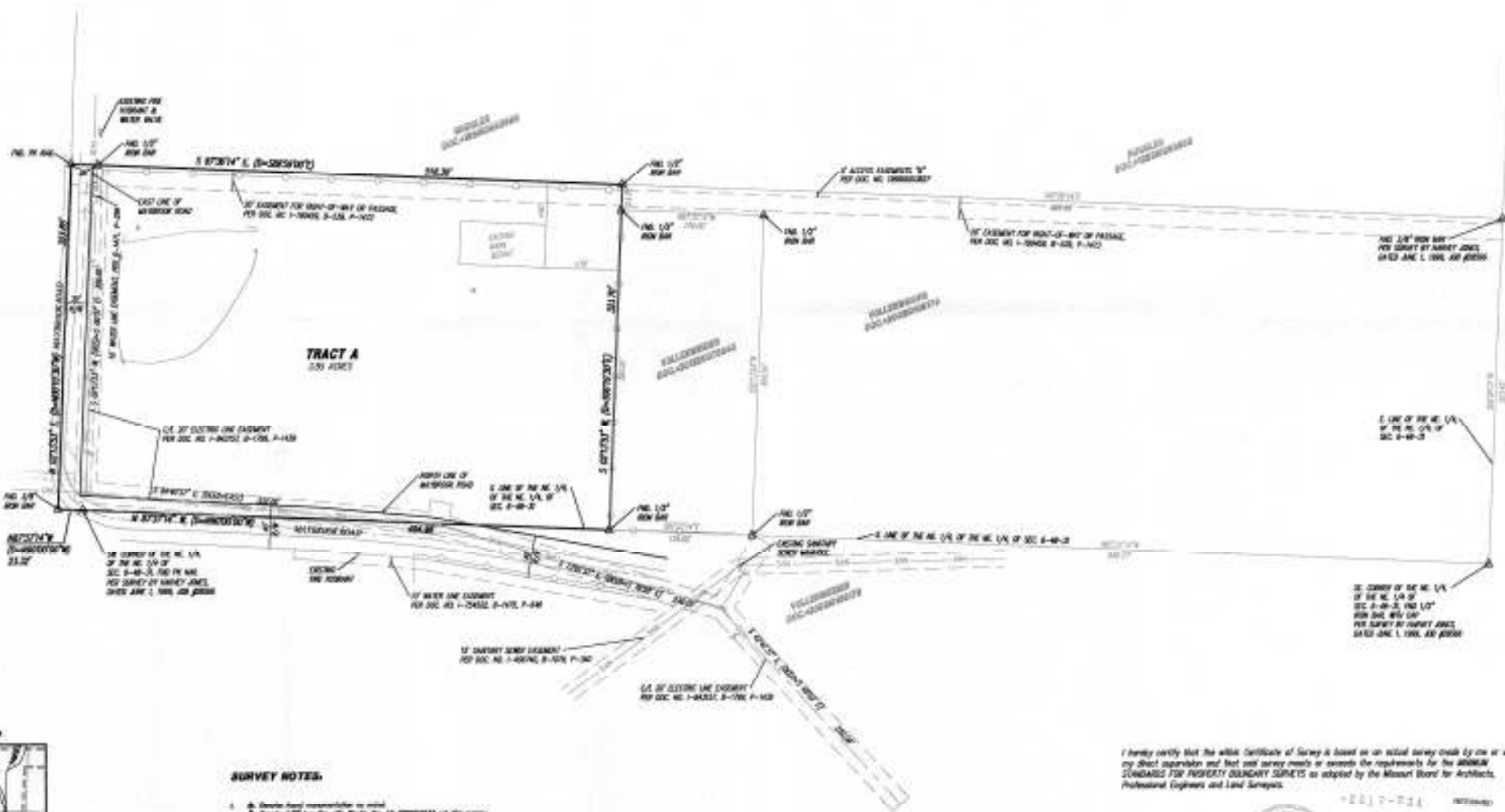


1/4 SECTION  
 1/2 SECTION  
 3/4 SECTION  
 SECTION  
 1/4 SECTION  
 1/2 SECTION  
 3/4 SECTION  
 SECTION



**SURVEYORS DESCRIPTION (TRACT A)**

All that part of the northwest quarter of Section 6, Township 46, Range 24, in the City of Leas Summit, Jackson County, Missouri, more particularly described as follows:  
 Beginning at the southwest corner of the northwest quarter of said section;  
 thence North 07 degrees 37 minutes 14 seconds West a distance of 22.20 feet; thence North 02 degrees 12 minutes 22 seconds East, a distance of 311.60 feet; thence South 07 degrees 38 minutes 14 seconds East, a distance of 228.20 feet; thence South 02 degrees 12 minutes 22 seconds West, a distance of 311.70 feet, to a point on the South line of said quarter section; thence North 87 degrees 07 minutes 14 seconds West, along the South line of said quarter section, a distance of 483.80 feet, to the point of beginning, closing said part to round, containing 3.00 acres.



**SURVEY NOTES**

1. All bearings and distances are as noted.
2. Section 1/4" Fee for all Plans (a) 2-2000000000 of this survey.
3. All survey lines are shown in Missouri State Plane 500.
4. This survey meets or exceeds the accuracy standards of the Texas "Class" Survey as defined by the Missouri Standards for Property Boundary Surveys.
5. Printed form of this survey as recorded in Document No. 2074825700 is returned to the Jackson County Recorder of Deeds Office.
6. This document is the Survey, the Certificate No. 1949432, dated January 29, 2010, may used in the preparation of this survey of records as shown per said file number.

I hereby certify that the within Certificate of Survey is based on an actual survey made by me or under my direct supervision and that said survey meets or exceeds the requirements for the ABOVE SAID STANDARDS FOR PROPERTY BOUNDARY SURVEYS as adopted by the Missouri Board for Architects, Professional Engineers and Land Surveyors.



2010-7-224  
 2010-7-224  
 2010-7-224  
 2010-7-224



Surveyed For:  
 Hans Raabold, L.L.C.  
 5301 MO. Maywood Rd.  
 Leas Summit, MO. 64664

**LADWIG & ASSOCIATES, L.L.C.**  
 LAND SURVEYORS  
 5308 E. 210th Street  
 Pleasant Hill, Missouri 64088

**CERTIFICATE OF SURVEY**

1

#PL2017-234 --REZONING  
5261 NE Maybrook Road  
Derek D. Collins, applicant



## Packet Information

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**File #:** 2018-1957, **Version:** 2

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PUBLIC HEARING - Appl. #PL2017-257 - SPECIAL USE PERMIT for outdoor secondary sales of motor vehicles - Genuine Auto Repair, 520 SW 3<sup>rd</sup> Street; Gary Serville, Jr., applicant.

Issue/Request:

This application is for a special use permit (SUP) renewal for auto sales as an accessory use at 520 SW 3<sup>rd</sup> St. The applicant operates a tire and auto service business, but also sells vehicles under a special use permit (Appl. #PL2012-099) previously granted for a period of five (5) years by Ord. #7263.

The applicant requests the renewal for a time period of 25 years. Staff recommends a 5 year time period keeping consistent with the previously approved special use permit for vehicle sales at this location. The previously approved SUP ordinances (#7100 and #7263) required shrubs to be installed in the green space along 3rd Street, which has not been done; a similar requirement for shrubs is included in the conditions of approval.

Recommendation: Staff recommends APPROVAL of the special use permit, subject to the following:

1. The special use permit shall be granted for a period of 5 years.
2. The number of vehicles for sale at any given time shall be limited to five (5) vehicles.
3. Parking lot screening, consisting of one (1) shrub per three (3) linear feet, shall be installed within the green space along 3rd Street.



**LEE'S SUMMIT PLANNING COMMISSION**

**Minutes of Tuesday, March 13, 2018**

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The Tuesday, March 13, 2018, Lee's Summit Planning Commission meeting was called to order by Vice Chairperson Funk at 5:05 p.m., at City Council Chambers, 220 SE Green Street, Lee's Summit, Missouri.

**OPENING ROLL CALL:**

Chairperson Jason Norbury	Absent	Mr. Herman Watson	Absent
Mr. Donnie Funk, Vice Chair	Present	Mr. Beto Lopez	Absent
Ms. Colene Roberts	Present	Ms. Carla Dial	Absent
Mr. Don Gustafson	Present	Mr. Jeffrey Sims	Present
Ms. Dana Arth	Present		

Also present were Hector Soto, Planning Division Manager; Christina Stanton, Senior Staff Planner; Shannon McGuire, Staff Planner; Nancy Yendes, Chief Counsel Infrastructure and Zoning; Kent Monter, Development Engineering Manager; Jim Eden, Assistant Fire Chief I, Fire Department; and Kim Brennan, Planning Administrative Assistant.

**1. APPROVAL OF CONSENT AGENDA**

**A. Minutes** of the February 27, 2018, Planning Commission meeting

On the motion of Ms. Roberts, seconded by Mr. Sims, the Planning Commission voted unanimously by voice vote to **APPROVE** the Consent Agenda, Item 1A as published.

**APPROVAL OF AGENDA:**

Vice Chairperson Funk announced that there were no changes to the agenda, and asked for a motion to approve. On the motion of Ms. Roberts, seconded by Mr. Sims, the Planning Commission voted unanimously by voice vote to **APPROVE** the agenda as published.

**PUBLIC COMMENTS**

There were no public comments at the meeting.

**2. Continued Application #PL2017-234 -- REZONING** from AG to RLL -- 5261 NE Maybrook Rd.; Derek D. Collins, applicant

Vice Chairperson Funk opened the hearing at 5:07 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Robert Allen gave his address as 1637 NE Woodland Shores Circle in Lee's Summit; and stated that he was a contractor for the construction of a new home on this property. He was representing the Collins family in this application.

Vice Chairperson Funk asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-14 into the record. She noted that the subject property and adjacent properties in all directions were zoned AG. The proposed new zoning for the property would be the RLL designation for large lots. The property was 3.85 acres, with the minimum size for AG being ten acres and the minimum for RLL being .5 acres. The applicants had submitted a survey for the property as well as a site plan that showed the existing structures. The Comprehensive Plan for 2005 showed this area as low-density residential. The adjacent AG properties actually had a mixture of agricultural and large lot single-family uses. A single-family home could be built on the subject property with no rezoning if it was at least 10 acres; and the reason for the rezoning was that it would not meet the 10-acre minimum requirement for AG zoning. The applicants had also submitted a preliminary design for a stormwater retention system; however, staff would need more information to determine whether the storm drain system would be adequate before issuing a building permit.

Ms. Stanton summarized other key items. The applicant had not been able to get the easements for a connection to the existing sanitary sewer. The City's Water Utilities department agreed that a connection to the public water supply was not feasible. The owners would be required to submit a copy of approval from Jackson County for an on site septic system before they could get a building permit. Ms. Stanton then referred the Commissioners to the specific issues addressed in the Codes and Ordinances section of staff's report. The applicants were required to submit a site plan and storm drainage study, as well as a drainage map, calculations for existing and proposed conditions, a cross-section view of the retention pond, riprap with calculations showing that the riprap was adequate for the expected flow.

Ms. Stanton concluded that staff considered the proposed rezoning an appropriate fit with the surrounding uses, so there were no concerns regarding zoning and land use. Staff had received a protest petition, which was included in the Commissioners' packets.

Following Ms. Stanton's comments, Vice Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Ms. Teresa Vollenweider gave her address as 5201 NE Maybrook Road in Lee's Summit. She asserted that the proposed construction was not in character with the neighborhood. As it was, the neighborhood included a horse stable, cattle ranching operation, a hayfield, gardens, and wildlife including geese, deer, coyotes, foxes, bobcats, hawks and turkeys. What the applicant was proposing was a house with a baseball field and indoor training facility.

The previous owners, who had formed "Horn Baseball LLC" had obtained a Special Use Permit under false pretenses, and had violated the SUP's intent. The neighbors had no assurance that the new owners would not do the same thing. The field was theoretically used for occasional backyard games; the activities had produced an annoying level of noise. Nor were they supposed to encounter increased traffic and the neighborhood was not a public park. The former owners had operated a sports field that might as well be a commercial operation and the neighbors did not want this to happen again. Their impression was that they were part of an

experiment that had not been successful; and the zoning change could make it even more difficult to address any violations of the Special Use Permit.

Ms. Vollenweider mentioned the proposed indoor training facility, a 35'X80' building, which a neighbor had been told would be for storage of a tractor and other equipment. Mr. Horn had never owned a tractor; and the person who had done the mowing and weedeating had his own equipment. She stated that she had spoken with one of the engineers and had told him that the building was constructed in a hole; and as a consequence water was draining into a stagnant pool at the southwest corner that was sure to be a disease hazard. She had been told that this was what was intended, rather than have the water drain onto the baseball field.

Ms. Ellen Pantaenius, of the Husch Blackwell law firm gave her business address as 4801 Main Street in Kansas City. She summarized the concerns about the rezoning and use. The septic tank was an issue in addition to the stormwater problem. It would mean additional standing water on the property, with drainage problems and mosquitoes as a consequence that would affect the neighborhood in general. The baseball field was currently under a Special Use Permit but that would no longer be required when a residence was built on the property. Traffic generated by people using the facility had already created difficulties, as well as noise and disruption. Sometimes parked cars had lined the streets. There had also been complaints about use of the ballfield, and none of these complaints had been addressed.

Vice Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Ms. Arth asked staff if they knew how many complaints had been filed. Ms. Stanton answered that the permit database included code enforcement, and it had indicated three complaints. The first one was the one in 2009 that had resulted in an SUP application. Of the other two, a 2014 complaint asserted that a trench had been dug along the east side of the outfield, from the base of the nearest power pole; and it had PVC and wiring for lighting. In 2015, a concern was raised about the building being used for indoor recreation in addition to storage of maintenance equipment. The Codes officers had taken pictures on the property several times, and did not see any evidence; however, they did not live in the neighborhood. If a complaint was not called to the Neighborhood Services division, staff could not open the case and send a staff person out to take photos. That could explain complaints made that were not followed up.

Ms. Vollenweider pointed out that the parking was on a one-lane road, and it worsened the water situation since the water was pushed over to the west side. The parking was on both sides of the road and it did not take long for "No Parking" signs to show up. The signs had gone up on her road as well but there were still about 25 vehicles. She added that they had not known who to call, though she had called Ms. Stanton; and that the City needed a hotline. She especially wanted to know what the City was going to do about these situations. She had not paid for her house and property to be the neighborhood police.

Ms. Roberts noted that staff's letter indicated all the adjacent properties as being zoned AG but the uses for those to the south and east were indicated as "Large Lot Single-Family Residential". Ms. Stanton acknowledged that this was the use for much of the neighboring properties, with single-family residential developments beyond. Ms. Stanton acknowledged that much of the property had been split up, and she had not done a search through the County records for when this was done. Ms. Roberts stated that what she saw on the aerial map was the property to the east, while zoned AG, was a residential use. It did not look on the map like it

was large enough to meet the 10-acre AG minimum. Mr. Soto mentioned that the property to the east, with a pond at the east end, was a horse farm zoned AG. Some of these anomalies were due to the 5-acre minimum for AG under the previous Ordinance 715, before the UDO was adopted in 2001. Ms. Roberts asked if the applicants would need to bring construction plans to the City before building a home on the property; and Mr. Soto answered that it would be approved administratively with a residential building permit and a plot plan.

Ms. Roberts asked if it could be built without connecting to the sanitary sewer, and Mr. Monter replied that it could be. The property was close enough for the owners to connect to the City sewer but they had not been able to get the necessary easements. They would be allowed to apply to Jackson County for approval of a private septic system. The County's minimum lot size was 3 acres. The City would be provided with a copy of the written approval.

Ms. Roberts stated that the connection should be required due to the property's proximity to the sewer line. Mr. Monter explained that staff at the Water Utilities Department agreed that the connection could not be made without the easements, and these had not been granted. Staff had confirmed with the Legal Department that if a property owner was unable to access the public system, they could request permission from Jackson County for an on-site sewer system assuming they had enough acreage.

Ms. Roberts asked if an owner of a property without access to the street could get permission to build on the property without putting in a driveway. Ms. Yendes explained that under State statutes, the owner could go to court and get an "easement by necessity" to connect to the street. No equivalent mechanism existed for a sewer connection. Ms. Roberts commented that there should be, as the failure rate of septic systems in Missouri was 30 to 50 percent. The City was being asked to approve one on the basis of not being able to get the easement; however, that was because they had no legal recourse. Ms. Yendes responded that this was correct. Concerning the rezoning, the decision was whether the property could be used for the zoning designation's purpose and whether infrastructure existed to support the rezoning. The Commission could choose to include lack of available infrastructure in their recommendation to the City Council. The question was whether it was appropriate to change the zoning from AG to RLL in order to allow for a house. They could not put a house on the property with AG zoning as the property was too small. The County would make the decision whether to approve a septic system for the subject property. Ms. Roberts emphasized that the applicants would be asking for a septic system that was not needed, as a sanitary sewer line was nearby.

Mr. Gustafson asked what were the conditions of the existing SUP. Ms. Stanton read the conditions listed in the SUP approved on December 17, 2009: (1) a term of 10 years; (2) the baseball field was to be used *"for family and friends as a practice field only, and there shall be no baseball games played at the site"*; (3) No signs were allowed; (4) The existing gravel access drive and parking area would be allowed to remain unpaved; (5) Access was limited to *"one driveway located near the northwest corner of the site"*; (6) Parking along Maybrook Road was prohibited; (7) *The existing backstop installed behind home plate, which is designed to contain foul balls, and the fencing along the first baseline shall be maintained;* and (8) *"Since the applicant's residential lot does not have direct access to the baseball field property, the applicant shall either obtain an access easement from his lot to the ballfield or not cross, or allow anyone else to cross, any other property to access the ballfield for any reason."*

Mr. Gustafson asked if the complaints focused on the ballfield's use. Ms. Stanton answered that some of the complaints that came in to the Neighborhood Services division were about whether lighting would be installed. This would require another SUP application; however, no lighting was installed. Another complaint, in 2015, was a concern over whether the large storage facility was being used for indoor training. The Code Enforcement officer visited several times and did not see any additional vehicles. Ms. Stanton acknowledged that this could have been happening after hours. Mr. Gustafson then asked if the lot size was legal for its current zoning, and if it had been grandfathered in from the old ordinance. Mr. Soto answered that since it was now under four acres, the lot did not meet the standard for either the UDO or the previous ordinance. It had been subdivided at some point prior to the UDO. Mr. Gustafson asked how it could have a building permit for a house, and Mr. Soto answered that it did not have one at present, which was a reason for the rezoning request. It would be issued when the property was zoned appropriately for its size.

Ms. Arth asked Mr. Allen if he knew what Mr. Collins' intent was as the property owner in regard to the baseball field. Mr. Allen replied that it would be only for family use. Mr. Collins had been informed that this was a legal obligation; and was making an effort to resolve the water problems. The sewer access was a matter of crossing only five feet of property; however, this was the easement that a neighbor had refused to grant. Ms. Arth noted that the SUP would expire in December of 2019 and then would need to be renewed. She also observed that the issue and the protest appeared to be the history of the ballfield rather than the proposed house.

Ms. Yendes pointed out that if the property were rezoned, the ballfield would not need a Special Use Permit. Vice Chairperson Funk asked if this meant that at a family reunion, they could have a baseball game and there would be no City violation, assuming that no one parked on the street. Ms. Yendes said that was correct. The distinction was whether any commercial activity on residential property, which would be a neighborhood or zoning enforcement issue.

Ms. Vollenweider stated that a house and its parking area and driveway would generate more water runoff. She had that same situation with the horse barn on her property. She emphasized that water runoff was an ongoing problem, as was the pool of stagnant water that accumulated in the corner. Other than in extra dry summers, that spot was rarely dry. She did not see a solution to these problems.

Mr. Sims noted that a detailed drainage study was required before a building permit was issued. He asked if the City would require the applicant to detain additional runoff. Mr. Monter replied that staff had already requested the applicant to employ a design professional, who had already provided a drawing for a stormwater retention pond and a preliminary stormwater report. Staff's report listed additional information staff had asked the applicant to provide in order to do a more detailed analysis and design.

Vice Chairperson Funk asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:40 p.m. and asked for discussion among the Commission members.

Ms. Roberts asked whether the City would want another parcel that lacked access to utilities to be rezoned for residential use. She did not consider a private septic system an acceptable alternative. Underground storage tanks were the most common cause of groundwater contamination and septic systems were the second most common. While she understood that it

was not the property owner's fault, a site that had access to a sanitary sewer line should not have a septic system.

Hearing no further discussion, Vice Chairperson Funk called for a motion.

Ms. Arth made a motion to recommend approval of Application PL2017-234, Rezoning from AG to RLL: 5261 NE Maybrook Rd.; Derek D. Collins, applicant; subject to staff's letter of March 9, 2018. Mr. Sims seconded.

Ms. Yendes clarified that making a motion of this kind did not obligate either the motioner or second to vote in favor.

Vice Chairperson Funk asked if there was any discussion of the motion. Hearing none, he called for a vote. The motion did not pass, with two "yes" (Vice Chair Funk and Ms. Arth) and three "no" (Ms. Roberts, Mr. Sims and Mr. Gustafson).

Ms. Yendes stated that this would go forward in the same way as a recommendation for denial.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

<p>3. <b>Application #PL2017-257 -- SPECIAL USE PERMIT</b> for outdoor secondary sales of motor vehicles: Genuine Auto Repair, 520 SW 3rd St.; Gary Serville, Jr., Derek D. Collins, applicant</p>
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Vice Chairperson Funk opened the hearing at 5:50 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Ms. Burgess Serville gave her address as 7903 Southview Drive in Grandview, Missouri. She stated that the business was an auto sales and repair shop, and they were applying for a renewal of their Special Use Permit. They did not plan any substantial changes to the business.

Vice Chairperson Funk asked for staff comments.

Mr. McGuire entered Exhibit (A), list of exhibits 1-15 into the record. He confirmed that the applicant operated a tire and auto service business that also sold vehicles under a Special Use Permit. It was previously granted for five years, under Ordinance 7263. Surrounding lots to the east, west and south were zoned CP-2 and RP-4 for the property to the north, which had an apartment complex.

The applicant proposed to use the parking spaces along the south property line to display the vehicles for sale. All notices had been sent out. The newspaper legal notice was on February 24, 2018 and the mailings had gone out to properties within 185 feet the day before, February 23. Staff had received no comments. They had evaluated the Special Use Permit application based on the SUP criteria established in Section 10.460 of the UDO, and found that the business complied with the conditions for outdoor sales of motor vehicles. The Commissioners' packets included information about the requirements. The applicant had requested a 25-year period; however, staff recommended five years, to stay consistent with the previously approved

SUPs for vehicle sales at this location. Additionally the history of current and previous City Council approval of SUPs was to stay with five-year terms or less along the 3rd Street corridor, in view of the long-term redevelopment potential of this area. It was the gateway and primary route into Downtown. While auto sales had been approved for short terms, they might not be the highest and best use in the long term. The vehicles for sale would be limited to five or fewer [Recommendation Item 2] and the parking lot screening would be installed [Recommendation Item 3].

Ordinances 7100 and 7263 required installing shrubs in the green space along 3rd Street, and this had not yet been done. It was a condition of this particular application.

Following Mr. McGuire's comments, Vice Chairperson Funk asked if there was anyone present wishing to give testimony, either in support for or opposition to the application.

Mr. Elvin Bell stated that he owned the subject property. He was in favor of the SUP renewal.

Vice Chairperson Funk then asked if the Commission had questions for the applicant or staff.

Ms. Arth noted that the SUP was first issued in 2012. She asked why the shrubbery had not been planted. Mr. Bell answered that the applicants had acquired the building four years ago, a year after the SUP was approved. He added that he had owned the property for about three years and had not been aware of the requirement but was willing to comply.

Mr. McGuire confirmed for Ms. Roberts that the plantings were a condition of approval for the past two SUPs. The current SUP had expired in December; and it was the first time the applicant had ever gone through this process. Ms. Roberts asked what would be the consequence if the shrubs still were not planted; and Mr. McGuire replied that it would be a Neighborhood Services case of a Special Use Permit violation.

Vice Chairperson Funk noted that after the initial approval, there was apparently no enforcement action for the first few years. Mr. McGuire had not been involved in the initial approval. Ms. Roberts remarked that this might have been because there had been no complaint made; and Mr. McGuire doubted that Neighborhood Services still had the history. Ms. Serville stated that the area currently had a juniper type ground cover. They did plan to install shrubs if that was a requirement.

Vice Chairperson Funk then asked Ms. Serville if the applicants agreed with staff's three Recommendation Items. Ms. Serville answered that they did.

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Ms. Arth made a motion to recommend approval of Application PL2017-257, Special Use Permit for outdoor secondary sales of motor vehicles: Genuine Auto Repair, 520 SW 3rd St.; Gary Serville, Jr., applicant subject to staff's letter of March 9, 2018, specifically Recommendation Items 1 through 3. Ms. Roberts seconded.

Vice Chairperson Funk asked if there was any discussion of the motion. Hearing none, he called for a vote.

On the motion of Ms. Arth, seconded by Ms. Roberts, the Planning Commission members voted unanimously by voice vote to recommend **APPROVAL** of Application PL2017-257, Special Use Permit for outdoor secondary sales of motor vehicles: Genuine Auto Repair, 520 SW 3rd St.; Gary Serville, Jr., applicant subject to staff's letter of March 9, 2018, specifically Recommendation Items 1 through 3.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

## **ROUNDTABLE**

Regarding the rezoning application, Mr. Gustafson asked if the Commission needed to list reasons for not recommending approval. Ms. Yendes answered that the records of the application and meeting would provide enough information. Commissioners were not required to explain their votes, whether for approval or not. Generally, the Commission made recommendations and the Council made the final decision. Mr. Soto listed the situations in which the Commission had final authority: the Comprehensive Plan, preliminary plats and sign applications.

Mr. Soto reminded the Commission of Planning Commissioner training on April 17th at the new Water Utilities building on Hamblen Road. It was a joint training session with Independence and Blue Springs. This was a Tuesday evening but not a regular meeting night.

Mr. Monter noted that staff had added a "Process" section to staff's report; and this mentioned the Commission making a recommendation to the City Council.

## **ADJOURNMENT**

There being no further business, Vice Chairperson Funk adjourned the meeting at 6:05 p.m.

PC 031318



# City of Lee's Summit

## Development Services Department

March 9, 2018

TO: Planning Commission  
PREPARED BY: C. Shannon McGuire, Planner  
CHECKED BY: Hector Soto, Jr., AICP, Current Planning Manager  
RE: **PUBLIC HEARING – Application #PL2017-257 – Appl. #PL2017-257 – SPECIAL USE PERMIT for outdoor secondary sales of motor vehicles – Genuine Auto Repair, 520 SW 3<sup>rd</sup> St; Gary Serville, Jr., applicant**

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### Commentary

This application is for a special use permit (SUP) renewal for auto sales as an accessory use at 520 SW 3<sup>rd</sup> St. The applicant operates a tire and auto service business, but also sells vehicles under a special use permit (Appl. #PL2012-099) previously granted for a period of five (5) years by Ord. #7263.

The applicant requests the renewal for a time period of 25 years. Staff recommends a 5 year time period keeping consistent with the previously approved special use permit for vehicle sales at this location. The previously approved SUP ordinances (#7100 and #7263) required shrubs to be installed in the green space along 3rd Street, which has not been done; a similar requirement for shrubs is included in the conditions of approval.

### Recommendation

Staff recommends **APPROVAL** of the special use permit, subject to the following:

1. The special use permit shall be granted for a period of 5 years.
2. The number of vehicles for sale at any given time shall be limited to five (5) vehicles.
3. Parking lot screening, consisting of one (1) shrub per three (3) linear feet, shall be installed within the green space along 3rd Street.

### Zoning and Land Use Information

**Location:** 520 SW 3<sup>rd</sup> St.

**Zoning:** CP-2 (Planned Community Commercial District)

**Surrounding Zoning and Use:**

**North:** RP-4 (Planned Apartment Residential District.) – Robin Hills Apartments

**South (across SW 3<sup>rd</sup> St.):** CP-2 (Planned Community Commercial District) – general office spaces

**East:** CP-2 (Planned Community Commercial District) – Pinnacle Auto Sales)

**West:** CP-2 (Planned Community Commercial District) – general office and commercial spaces

**Site Characteristics.** The property is developed with single story 5,000 sq. ft. commercial building. The subject building has historically housed auto repair shops.

**Description and Character of Surrounding Area.** The surrounding area is primarily developed with office/retail uses to the east, west and south. More specifically, the two adjacent properties to the east house auto sales and a gas/auto service station. The property to the north is the Robin Hills Apartments.

### Project Information

<b>Current Use:</b> auto repair and auto sales
<b>Proposed Use:</b> accessory sales of cars/vehicles
<b>Land Area:</b> 42,823 sq. ft.
<b>Building Area:</b> approximately 5,000 sq. ft.
<b>FAR:</b> 0.12
<b>Number of Buildings:</b> 1
<b>Number of Stories:</b> 1
<b>Parking Spaces:</b> 29 spaces required; 42 spaces provided

### Public Notification

<b>Neighborhood meeting conducted:</b> n/a
<b>Newspaper notification published:</b> February 24, 2018
<b>Radius notices mailed to properties within 185 feet:</b> February 23, 2018

### Process

<b>Procedure:</b> The Planning Commission makes a recommendation to the City Council on the proposed special use permit. The City Council takes final action on the special use permit.
<b>Duration of Validity:</b> A special use permit shall be valid for a specific period of time if so stated in the permit.

### Unified Development Ordinance

Applicable Section(s)	Description
10.020, 10.030, 10.040, 10.050, 10.400	Special Use Permit

### Comprehensive Plan

Focus Areas	Goals, Objectives and Policies
Economic Development	Objective 2.2

### Background

- January 4, 1983 – Ordinance 2380 was approved by the City Council to amend the zoning ordinance to require a Special Use Permit for “automobile, truck, mobile homes and/or boat sales rooms or yards...” in commercial zoning districts. Car sales businesses legally operating prior to 1983 became legal non-conforming, and are

allowed to continue as long as the use is not discontinued for more than 6 months. No evidence has been found of any car sales business on the subject property prior to 1996.

- June 18, 1996 – A special use permit was approved by the City Council for vehicle sales for 520-522 SW 3<sup>rd</sup> Street for 10 years, Ord. #4297 (Appl. #1996-028), which expired in 2006, and was not renewed.
- October 6, 2011 – A special use permit was approved by the City Council for car/vehicle sales and U-Haul leasing at 520 SW 3<sup>rd</sup> Street for 5 years, Ord. #7100 (Appl. #PL2011-108).
- December 15, 2011 – Ordinance 7119 was approved by the City Council to amend the special use permit section of the UDO (Amendment #40) to restrict accessory car sales to an auto-related primary use, subject to certain locations and limits on number of vehicles and signs.
- December 6, 2012 – A special use permit was approved by the City Council for car/vehicle sales at 520 SW 3<sup>rd</sup> Street for 5 years, Ord. #7263 (Appl. #PL2012-099).

## Analysis of Special Use Permit

**Ordinance Requirements.** Under the Unified Development Ordinance (UDO) a special use permit is required for outdoor secondary sales of motor. According to Section 10.460, of the UDO the following conditions apply to outdoor sales of motor vehicles:

1. Primary motor vehicle related business shall include:
  - a. Motor vehicle parts and supply;
  - b. Motor vehicle repair services, both minor and major. **The existing use is an auto repair shop.**
2. Number and placement/display of accessory motor vehicles shall:
  - a. Be limited to a maximum of five vehicles at any time; **No more than five (5) vehicles for sale shall be located on the site at any one time.**
  - b. Be limited to existing parking spaces, for display purposes, in excess of the required parking spaces for the primary business use as determined by the Director on a case by case basis. **A total of 29 parking spaces are required for the multitenant building. A total of 42 parking spaces are provided on the site, yielding a parking space surplus of 13 parking spaces.**
3. Motor vehicle accessory sale locations shall be limited to specific areas identified in Figure 10-1 as follows:
  - a. Major Arterials – Allowed only within 1/4 mile wide strip measured 1/8 mile from centerline on each side of the arterial. **The site is located outside a 1/4 mile buffer area from an arterial. Special use permits have been granted for vehicle sales at this located since 1996, which pre-exist the proximity requirement to an arterial street.**
  - b. Entry Gateways – Prohibited within 1/4 mile radius. **The site is located greater than 1/4 mile from the nearest entry gateway. The gateways are defined as the areas where I-470, M-150 Hwy, M-291 Hwy and US 50 Hwy enter the city limits.**

- c. Primary Intersections – Prohibited within 1/8 mile radius. **The site is located greater than 1/8 mile from the nearest primary intersection (SW 3<sup>rd</sup> St and US 50 Hwy)**
- 4. Minimum landscaping shall be required:
  - a. Between street right-of-way and parking lot display of motor vehicles; **1 shrub shall be planted per 3 linear feet along the green space along SW 3<sup>rd</sup> St.**
  - b. To include a 30 inch high berm with shrubbery and ornamental trees as approved by the Governing Body. **The existing parking lot is constructed up to the right-of-way line. Therefore, a berm cannot be constructed between the right-of-way and existing parking lot boundary along SW 3<sup>rd</sup> St.**
- 5. Signage.
  - a. One sign per motor vehicle. **The applicant will comply with this and the other signage requirements below.**
  - b. 6 square feet maximum area
  - c. Located inside motor vehicle

**Time Period.**

- Request – The applicant requests a 25 year time period.
- Recommendation – A total of nine special use permits for vehicle sales as an accessory use have been previously approved.

Address	Ordinance No.	Time Period	Approval	Expiration
190 NW Oldham Pkwy	6779	7	4/16/2009	4/16/2016
201 SE Green Street	6981	5	10/7/2010	10/7/2015
1115 SW Oldham Parkway	7106	7	11/3/2011	11/3/2018
520 SW 3rd Street	7263	5	12/6/2012	12/6/2017
1300 SW Market St	7383	5	10/10/2013	10/10/2018
1308 SW Market St	7418	5	1/9/2014	1/9/2019
1000 SE Blue Pkwy	7445	10	4/3/2014	4/3/2024
957 SE Oldham Pkwy	7552	10	11/18/2014	11/18/2024
190 NW Oldham Pkwy	7941	7	8/4/2016	4/16/2029

The applicant has requested a 25 year time period. Staff recommends a 5 year time period keeping consistent with the previously approved special use permits for vehicle sales at this location. Additionally, the history of current and previous City Councils approving SUPs for periods not to exceed 5 years along the SW 3<sup>rd</sup> St corridor is tied to the long-term redevelopment potential of the area. The corridor is the gateway and primary connection to downtown from the west. While auto sales have been viewed as an acceptable short-term use for the area, auto sales may not be highest and best use from a long-term perspective as the area redevelops.

**Ordinance Criteria.** The criteria enumerated in Section 10.050 as well as the regulations in Section 10.460 addressed above were considered in analyzing this request.

- The lot is zoned CP-2. The adjacent property to the east and west are zoned CP-2. Automotive sales as a primary or accessory use are allowed in the CP-2 zoning districts with a special use permit.
- The proposed auto sales at this location will not detrimentally affect the appropriate use of neighboring property.
- The proposed use is not expected to negatively impact traffic and/or parking in the area.

In considering all the criteria and regulations, staff finds the use to be appropriate and recommends approval of the special use permit.

Attachments:

1. Use Narrative provided by Applicant, date stamped January 10, 2018 – 3 pages
2. Special Use Permit Explanation, provided by Applicant, date stamped January 10, 2018 – 1 page
3. Photos of Subject and Surrounding Properties, date stamped January 10, 2018 – 5 pages
4. Proposed sale vehicle parking location map
5. Location Map

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR VEHICLE SALES IN DISTRICT CP-2 ON LAND LOCATED AT 520 SW 3<sup>RD</sup> STREET FOR A TERM OF FIVE YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE FOR THE CITY OF LEE'S SUMMIT, MISSOURI, AND RESCINDING ORDINANCE NO. 7100 AND THE SPECIAL USE PERMIT GRANTED THEREUNDER.

WHEREAS, on October 6, 2011, the City Council adopted Ordinance No. 7100 which granted a special use permit for vehicle sales and U-Haul leasing at 520 SW 3<sup>rd</sup> Street for a term of five years, as an accessory use to the primary auto repair use, and since that time the business operations on said property have changed, and conditions of Ordinance No. 7100 have not been met; and,

WHEREAS, Application #PL2012-099, submitted by Mike Stanton, requesting a new special use permit for vehicle sales in District CP-2 on land located at 520 SW 3<sup>rd</sup> Street, as a primary use, was referred to the Planning Commission to hold a public hearing; and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the request on October 23, 2012, and rendered a report to the City Council containing findings of fact and a recommendation that the special use permit be approved; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on November 15, 2012, and rendered a decision to grant said special use permit.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Application #PL2012-099, filed pursuant to Section 10.450.A of the Unified Development Ordinance to allow vehicle sales in District CP-2 with a Special Use Permit, is hereby granted for a term of five (5) years, with respect to the following described property:

*Tract I*

*Los 1 and 2, L.H. HIGGINS PLACE, a subdivision in Lee's Summit, Jackson County, Missouri, according to the recorded plat thereof.*

*Tract II:*

*Beginning at a point 561.88 feet West of the Southeast corner of the Southwest Quarter of Section 6, Township 47, Range 3 1; thence West 58 feet; thence North 248.91 feet; thence East 58 feet; thence South 248.91 feet to beginning; except that part thereof dedicated for right-of-way for 3rd Street.*

SECTION 2. That the following conditions of approval apply:

1. The term of this special use permit is five (5) years from the date of passage of this ordinance, as shown below.
2. Vehicles for sale shall be limited to one row along the 3rd Street frontage, and along the east property line.
3. No vehicles shall obstruct any driveway(s) into the property off 3<sup>rd</sup> Street, or any parking lot aisles.
4. Vehicles for sale shall be displayed in an orderly manner, in striped spaces.

5. No more than 10 vehicles for sale may be displayed outside at any one time.
6. Adequate employee and customer parking spaces shall be maintained on the site.
7. A fire lane of 20 feet shall be maintained on the front, east side and rear of the building at all times to provide adequate access for fire apparatus.
8. No vehicles for sale or scheduled for repair shall be parked on any property other than the property included in this special use permit.
9. If a driveway is closed to provide additional parking spaces for either customers or car sales display area, it shall be the west driveway off 3rd Street. Alternatively, closure of both driveways and construction of a more centrally located driveway upon the property off 3rd Street is another option to provide additional parking spaces and improve traffic conditions along 3rd Street.
10. Parking lot screening, consisting of one (1) shrub per three (3) linear feet, shall be installed within the green space along 3<sup>rd</sup> Street.

SECTION 3. That Ordinance No. 7100, and the special use permit granted thereunder, is hereby rescinded.

SECTION 4. That failure to comply with all of the provisions contained in this ordinance shall constitute violations of both this ordinance and the City Unified Development Ordinance, enacted by Ordinance No. 5209, amended from time to time.

SECTION 5. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this 6<sup>th</sup> day of December, 2012.

  
\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

  
\_\_\_\_\_  
City Clerk Denise R. Chisum

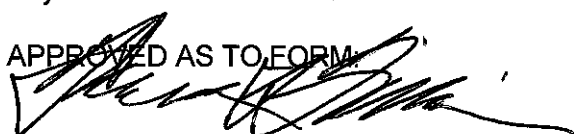
APPROVED by the Mayor of said city this 11<sup>th</sup> day of December, 2012.

  
\_\_\_\_\_  
Mayor Randall L. Rhoads

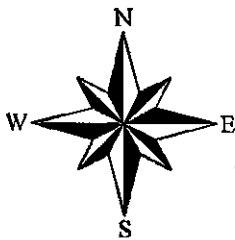
ATTEST:

  
\_\_\_\_\_  
City Clerk Denise R. Chisum

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney Teresa S. Williams

**#PL2012-099 SPECIAL USE PERMIT  
for vehicle sales  
Sinclair of Lee's Summit - 520 SW 3rd Street  
Mike Stanton, applicant**





1. The Character of the neighborhood is held by quality standards and will be kept up to these standards by which is asked of us.
2. The property will be kept up with the adjacent properties and zoning as said in article 10 section 10.450.
3. The property at 520 SW 3<sup>rd</sup> street will be used strictly for auto sales and vehicle mechanic use. We at Genuine Auto Repair will adhere to this Special Use Permit by not exceeding the amount of cars being presented on the lot at one time. We will be sure to keep the property well-manicured.
4. Genuine Auto Repair will not to any extent negatively impact the surrounding aesthetics or surrounding properties. For we plan to keep and only enhance the Surrounding area.
5. We plan to keep the property at the same level of use and to not injure the surrounding property.
6. Our property is supplied with enough parking on the lot that will leave customers room to park and will not affect the traffic flow on 520 SW 3<sup>rd</sup> Street.
7. Every year we will be sure to have the backflow tested to make sure that we do not impact the quality of the water.
8. We will continue to work at the level of work we have been under the hours of operation to not create a noise pollution for the adjacent properties.
9. We will not have a negative impact on the property value by following what is asked of us by the City of Lee's Summit and our Land Lord.
10. We are obtaining a Special Use Permit to be able to have a Dealership of used quality cars. By having a Auto dealership we will provide the people of Lee's Summit an opportunity to purchase a safe vehicle for the road.
11. We will bring economic growth in the area because of the quality of service that we offer to the community.
12. The services that we offer make it convenient for the City of Lee's Summit to be able to get their transportation needs from us and have the comfort of a genuine family working man. By this we would satisfy the demand generated by the Special Use Permit.
13. n/a
14. We plan to keep the 2 bushes and accompanying trees along the front of the property on 520 SW 3<sup>rd</sup> Street.
15. Our professional staff is kept at high standards to provide the public with exceptional service to be sure their vehicle is running efficiently for the road. This is our priority to be sure our customers are satisfied with all of the services we offer.
16. We plan on keeping the use of the Special Use permit consistent with what we are to adhere by such as keeping the property well-manicured and keeping the parking of the automobiles for sale at what is asked of us.

Genuine Auto Repair provides a unique car buying experience to the customers in Lee's Summit, MO. One that focuses on customer satisfaction first. We understand that vehicle purchasing is a necessary, but sometimes unpleasant experience. Our goal is to provide the customer with an enjoyable, honest service by satisfying individual customers practical transportation needs with a quality product.

We also believe it is important to have quality vehicles at a low cost, yet reliable means of transportation. Our company will make a profit by generating sales. It will provide job satisfaction and fair compensation to its employees, and a fair return to its owners. Hard work and performance is rewarded through bonuses and commissions. Job satisfaction is very important for employees and owners, we will create a work environment that is enjoyable and profitable for all.

Our dealership will be open from 0800-1800 Monday – Saturday. We will have 5 or less cars on the property for sale facing 3<sup>rd</sup> street. We are asking for a time period of 25 years for the special use permit.

## Objectives

1. 100% customer satisfaction, measured through repeat customers, referrals and surveys.
2. To achieve and surpass the industry average profit margin within the first two-years.
3. To achieve a respectable net profit by year two.

## Mission

Genuine Auto Repair provides a unique car buying experience to the customers in Lee's Summit, MO. One that focuses on customer satisfaction first. We understand that vehicle purchasing is a necessary, but sometimes unpleasant experience. Our goal is to provide the customer with an enjoyable, honest service by satisfying individual customers practical transportation needs with a quality product.

We also believe it is important to have quality vehicles at a low cost, yet reliable means of transportation. Our company will make a profit by generating sales. It will provide job satisfaction and fair compensation to its employees, and a fair return to its owners. Hard work and performance is rewarded through bonuses and commissions. Job satisfaction is very important for employees and owners, we will create a work environment that is enjoyable and profitable for all.

To succeed in this business we must:

- Put together a team of experienced professionals.
- Secure an excellent high-traffic location.
- Establish a network of suppliers, in order to buy and sell products that are of the highest reliability and quality, at a competitive price.
- Ensure customer satisfaction by encouraging the two most important values, honor and integrity.
- Create high morale by rewarding employee success with monetary compensation.



**GENUINE AUTO REPAIR**

TIRE/OIL

BRAKES

SHOCKS/STRUTS

24 HRS  
PAY DAY  
LOANS

24 HRS  
PAY DAY  
LOANS





GENUINE AUTO REPAIR

PINNACLE  
AUTO CARE



GENUINE AUTO REPAIR

BRAKES CONCA/STENTS TUNE UPS

520 SW 3<sup>RD</sup>

TUNE UPS  
OIL CHANGES  
MAJOR & MINOR ENGINE REPAIR  
TRANSMISSION SERVICE  
BRAKES  
PIONEER  
1874 HENRI DR

TITLE & PAYDAY LOANS  
816-884-2823

**THE AUTO REPAIR**

SHOCKS/STRUTS

TUNE UPS

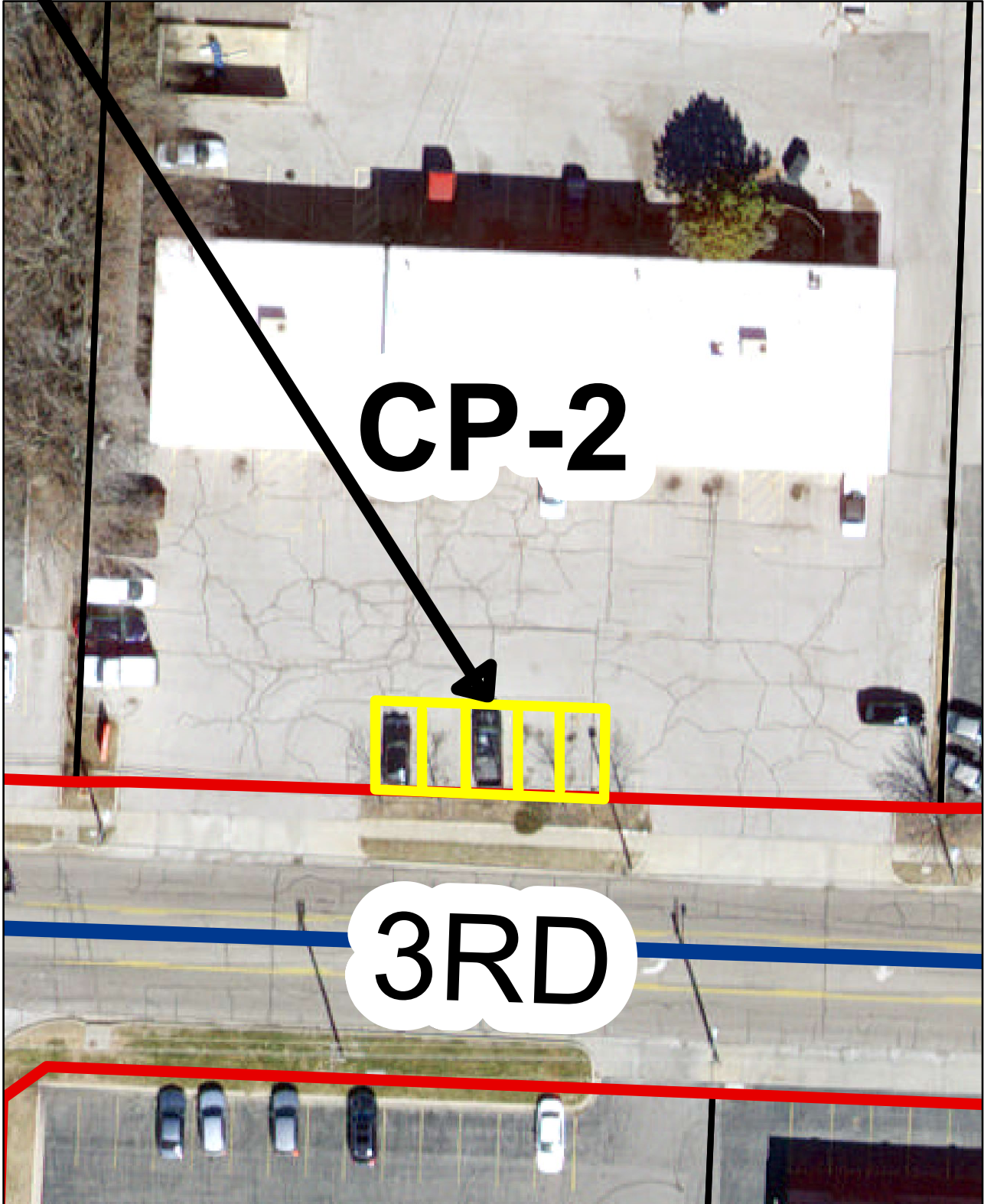


ANY  
TYPE  
OIL





# Proposed Parking Location of Sale Vehicles



**Appl. #PL2017-257 – SPECIAL USE PERMIT for  
automobile sales and major auto repair  
Genuine Auto Repair, 520 SW 3rd St  
Gary Serville, Jr., applicant**



## Packet Information

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**File #:** BILL NO. 18-62, **Version:** 1

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AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR AUTOMOTIVE SALES, GENUINE AUTO, IN DISTRICT CP-2 (PLANNED COMMUNITY COMMERCIAL DISTRICT) ON LAND LOCATED AT 520 SW 3<sup>rd</sup> ST FOR A PERIOD OF FIVE (5) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

Proposed City Council Motion:

I move for a second reading of AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR AUTOMOTIVE SALES, GENUINE AUTO, IN DISTRICT CP-2 (PLANNED COMMUNITY COMMERCIAL DISTRICT) ON LAND LOCATED AT 520 SW 3<sup>rd</sup> ST FOR A PERIOD OF FIVE (5) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

## **BILL NO. 18-62**

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AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR AUTOMOTIVE SALES, GENUINE AUTO, IN DISTRICT CP-2 (PLANNED COMMUNITY COMMERCIAL DISTRICT) ON LAND LOCATED AT 520 SW 3<sup>rd</sup> ST FOR A PERIOD OF FIVE (5) YEARS, ALL IN ACCORDANCE WITH ARTICLE 10 WITHIN THE UNIFIED DEVELOPMENT ORDINANCE, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Application #PL2017-257 submitted by Gary Serville, Jr., requesting a special use permit for automotive sales, Genuine Auto, in District CP-2 (Planned Community Commercial District) on land located at 520 SW 3<sup>rd</sup> St, was referred to the Planning Commission to hold a public hearing; and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the request on March 13, 2018 and rendered a report to the City Council containing findings of fact and a recommendation that the special use permit be approved; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on April 5, 2018, and rendered a decision to grant said special use permit.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the application pursuant to Section 10.450 and Section 10.020.A of the Unified Development Ordinance to allow automotive sales in District CP-2 with a Special Use Permit is hereby granted for a period of 5 years, with respect to the following described property:

*HIGGINS L H PLACE LOTS 1 & 2 & PT TR IN SEC 6 DAF: BEG PT 561.88' W OF SE SW 1/4 TH W 58' TH N 248.91' TH E 58' TH S 248.91' TO POB*

SECTION 2. That the following conditions of approval apply:

1. The special use permit shall be granted for a period of five (5) years.
2. The number of vehicles for sale at any given time shall be limited to five (5) vehicles.
3. Parking lot screening, consisting of one (1) shrub per three (3) linear feet, shall be installed within the green space along 3<sup>rd</sup> Street.

SECTION 3. That failure to comply with all of the provisions contained in this ordinance shall constitute violations of both this ordinance and the City Unified Development Ordinance, enacted by Ordinance No. 5209, amended from time to time.

SECTION 4. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**BILL NO. 18-62**

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\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian Head*

# City of Lee's Summit

## Development Services Department

March 9, 2018

TO: Planning Commission  
PREPARED BY: C. Shannon McGuire, Planner  
CHECKED BY: Hector Soto, Jr., AICP, Current Planning Manager  
RE: **PUBLIC HEARING – Application #PL2017-257 – Appl. #PL2017-257 – SPECIAL USE PERMIT for outdoor secondary sales of motor vehicles – Genuine Auto Repair, 520 SW 3<sup>rd</sup> St; Gary Serville, Jr., applicant**

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### Commentary

This application is for a special use permit (SUP) renewal for auto sales as an accessory use at 520 SW 3<sup>rd</sup> St. The applicant operates a tire and auto service business, but also sells vehicles under a special use permit (Appl. #PL2012-099) previously granted for a period of five (5) years by Ord. #7263.

The applicant requests the renewal for a time period of 25 years. Staff recommends a 5 year time period keeping consistent with the previously approved special use permit for vehicle sales at this location. The previously approved SUP ordinances (#7100 and #7263) required shrubs to be installed in the green space along 3rd Street, which has not been done; a similar requirement for shrubs is included in the conditions of approval.

### Recommendation

Staff recommends **APPROVAL** of the special use permit, subject to the following:

1. The special use permit shall be granted for a period of 5 years.
2. The number of vehicles for sale at any given time shall be limited to five (5) vehicles.
3. Parking lot screening, consisting of one (1) shrub per three (3) linear feet, shall be installed within the green space along 3rd Street.

### Zoning and Land Use Information

**Location:** 520 SW 3<sup>rd</sup> St.

**Zoning:** CP-2 (Planned Community Commercial District)

**Surrounding Zoning and Use:**

**North:** RP-4 (Planned Apartment Residential District.) – Robin Hills Apartments

**South (across SW 3<sup>rd</sup> St.):** CP-2 (Planned Community Commercial District) – general office spaces

**East:** CP-2 (Planned Community Commercial District) – Pinnacle Auto Sales)

**West:** CP-2 (Planned Community Commercial District) – general office and commercial spaces

**Site Characteristics.** The property is developed with single story 5,000 sq. ft. commercial building. The subject building has historically housed auto repair shops.

**Description and Character of Surrounding Area.** The surrounding area is primarily developed with office/retail uses to the east, west and south. More specifically, the two adjacent properties to the east house auto sales and a gas/auto service station. The property to the north is the Robin Hills Apartments.

### Project Information

<b>Current Use:</b> auto repair and auto sales
<b>Proposed Use:</b> accessory sales of cars/vehicles
<b>Land Area:</b> 42,823 sq. ft.
<b>Building Area:</b> approximately 5,000 sq. ft.
<b>FAR:</b> 0.12
<b>Number of Buildings:</b> 1
<b>Number of Stories:</b> 1
<b>Parking Spaces:</b> 29 spaces required; 42 spaces provided

### Public Notification

<b>Neighborhood meeting conducted:</b> n/a
<b>Newspaper notification published:</b> February 24, 2018
<b>Radius notices mailed to properties within 185 feet:</b> February 23, 2018

### Process

<b>Procedure:</b> The Planning Commission makes a recommendation to the City Council on the proposed special use permit. The City Council takes final action on the special use permit.
<b>Duration of Validity:</b> A special use permit shall be valid for a specific period of time if so stated in the permit.

### Unified Development Ordinance

Applicable Section(s)	Description
10.020, 10.030, 10.040, 10.050, 10.400	Special Use Permit

### Comprehensive Plan

Focus Areas	Goals, Objectives and Policies
Economic Development	Objective 2.2

### Background

- January 4, 1983 – Ordinance 2380 was approved by the City Council to amend the zoning ordinance to require a Special Use Permit for “automobile, truck, mobile homes and/or boat sales rooms or yards...” in commercial zoning districts. Car sales businesses legally operating prior to 1983 became legal non-conforming, and are

allowed to continue as long as the use is not discontinued for more than 6 months. No evidence has been found of any car sales business on the subject property prior to 1996.

- June 18, 1996 – A special use permit was approved by the City Council for vehicle sales for 520-522 SW 3<sup>rd</sup> Street for 10 years, Ord. #4297 (Appl. #1996-028), which expired in 2006, and was not renewed.
- October 6, 2011 – A special use permit was approved by the City Council for car/vehicle sales and U-Haul leasing at 520 SW 3<sup>rd</sup> Street for 5 years, Ord. #7100 (Appl. #PL2011-108).
- December 15, 2011 – Ordinance 7119 was approved by the City Council to amend the special use permit section of the UDO (Amendment #40) to restrict accessory car sales to an auto-related primary use, subject to certain locations and limits on number of vehicles and signs.
- December 6, 2012 – A special use permit was approved by the City Council for car/vehicle sales at 520 SW 3<sup>rd</sup> Street for 5 years, Ord. #7263 (Appl. #PL2012-099).

## Analysis of Special Use Permit

**Ordinance Requirements.** Under the Unified Development Ordinance (UDO) a special use permit is required for outdoor secondary sales of motor. According to Section 10.460, of the UDO the following conditions apply to outdoor sales of motor vehicles:

1. Primary motor vehicle related business shall include:
  - a. Motor vehicle parts and supply;
  - b. Motor vehicle repair services, both minor and major. **The existing use is an auto repair shop.**
2. Number and placement/display of accessory motor vehicles shall:
  - a. Be limited to a maximum of five vehicles at any time; **No more than five (5) vehicles for sale shall be located on the site at any one time.**
  - b. Be limited to existing parking spaces, for display purposes, in excess of the required parking spaces for the primary business use as determined by the Director on a case by case basis. **A total of 29 parking spaces are required for the multitenant building. A total of 42 parking spaces are provided on the site, yielding a parking space surplus of 13 parking spaces.**
3. Motor vehicle accessory sale locations shall be limited to specific areas identified in Figure 10-1 as follows:
  - a. Major Arterials – Allowed only within 1/4 mile wide strip measured 1/8 mile from centerline on each side of the arterial. **The site is located outside a 1/4 mile buffer area from an arterial. Special use permits have been granted for vehicle sales at this located since 1996, which pre-exist the proximity requirement to an arterial street.**
  - b. Entry Gateways – Prohibited within 1/4 mile radius. **The site is located greater than 1/4 mile from the nearest entry gateway. The gateways are defined as the areas where I-470, M-150 Hwy, M-291 Hwy and US 50 Hwy enter the city limits.**



- c. Primary Intersections – Prohibited within 1/8 mile radius. **The site is located greater than 1/8 mile from the nearest primary intersection (SW 3<sup>rd</sup> St and US 50 Hwy)**
- 4. Minimum landscaping shall be required:
  - a. Between street right-of-way and parking lot display of motor vehicles; **1 shrub shall be planted per 3 linear feet along the green space along SW 3<sup>rd</sup> St.**
  - b. To include a 30 inch high berm with shrubbery and ornamental trees as approved by the Governing Body. **The existing parking lot is constructed up to the right-of-way line. Therefore, a berm cannot be constructed between the right-of-way and existing parking lot boundary along SW 3<sup>rd</sup> St.**
- 5. Signage.
  - a. One sign per motor vehicle. **The applicant will comply with this and the other signage requirements below.**
  - b. 6 square feet maximum area
  - c. Located inside motor vehicle

**Time Period.**

- Request – The applicant requests a 25 year time period.
- Recommendation – A total of nine special use permits for vehicle sales as an accessory use have been previously approved.

Address	Ordinance No.	Time Period	Approval	Expiration
190 NW Oldham Pkwy	6779	7	4/16/2009	4/16/2016
201 SE Green Street	6981	5	10/7/2010	10/7/2015
1115 SW Oldham Parkway	7106	7	11/3/2011	11/3/2018
520 SW 3rd Street	7263	5	12/6/2012	12/6/2017
1300 SW Market St	7383	5	10/10/2013	10/10/2018
1308 SW Market St	7418	5	1/9/2014	1/9/2019
1000 SE Blue Pkwy	7445	10	4/3/2014	4/3/2024
957 SE Oldham Pkwy	7552	10	11/18/2014	11/18/2024
190 NW Oldham Pkwy	7941	7	8/4/2016	4/16/2029

The applicant has requested a 25 year time period. Staff recommends a 5 year time period keeping consistent with the previously approved special use permits for vehicle sales at this location. Additionally, the history of current and previous City Councils approving SUPs for periods not to exceed 5 years along the SW 3<sup>rd</sup> St corridor is tied to the long-term redevelopment potential of the area. The corridor is the gateway and primary connection to downtown from the west. While auto sales have been viewed as an acceptable short-term use for the area, auto sales may not be highest and best use from a long-term perspective as the area redevelops.

**Ordinance Criteria.** The criteria enumerated in Section 10.050 as well as the regulations in Section 10.460 addressed above were considered in analyzing this request.

- The lot is zoned CP-2. The adjacent property to the east and west are zoned CP-2. Automotive sales as a primary or accessory use are allowed in the CP-2 zoning districts with a special use permit.
- The proposed auto sales at this location will not detrimentally affect the appropriate use of neighboring property.
- The proposed use is not expected to negatively impact traffic and/or parking in the area.

In considering all the criteria and regulations, staff finds the use to be appropriate and recommends approval of the special use permit.

Attachments:

1. Use Narrative provided by Applicant, date stamped January 10, 2018 – 3 pages
2. Special Use Permit Explanation, provided by Applicant, date stamped January 10, 2018 – 1 page
3. Photos of Subject and Surrounding Properties, date stamped January 10, 2018 – 5 pages
4. Proposed sale vehicle parking location map
5. Location Map

1. The Character of the neighborhood is held by quality standards and will be kept up to these standards by which is asked of us.
2. The property will be kept up with the adjacent properties and zoning as said in article 10 section 10.450.
3. The property at 520 SW 3<sup>rd</sup> street will be used strictly for auto sales and vehicle mechanic use. We at Genuine Auto Repair will adhere to this Special Use Permit by not exceeding the amount of cars being presented on the lot at one time. We will be sure to keep the property well-manicured.
4. Genuine Auto Repair will not to any extent negatively impact the surrounding aesthetics or surrounding properties. For we plan to keep and only enhance the Surrounding area.
5. We plan to keep the property at the same level of use and to not injure the surrounding property.
6. Our property is supplied with enough parking on the lot that will leave customers room to park and will not affect the traffic flow on 520 SW 3<sup>rd</sup> Street.
7. Every year we will be sure to have the backflow tested to make sure that we do not impact the quality of the water.
8. We will continue to work at the level of work we have been under the hours of operation to not create a noise pollution for the adjacent properties.
9. We will not have a negative impact on the property value by following what is asked of us by the City of Lee's Summit and our Land Lord.
10. We are obtaining a Special Use Permit to be able to have a Dealership of used quality cars. By having a Auto dealership we will provide the people of Lee's Summit an opportunity to purchase a safe vehicle for the road.
11. We will bring economic growth in the area because of the quality of service that we offer to the community.
12. The services that we offer make it convenient for the City of Lee's Summit to be able to get their transportation needs from us and have the comfort of a genuine family working man. By this we would satisfy the demand generated by the Special Use Permit.
13. n/a
14. We plan to keep the 2 bushes and accompanying trees along the front of the property on 520 SW 3<sup>rd</sup> Street.
15. Our professional staff is kept at high standards to provide the public with exceptional service to be sure their vehicle is running efficiently for the road. This is our priority to be sure our customers are satisfied with all of the services we offer.
16. We plan on keeping the use of the Special Use permit consistent with what we are to adhere by such as keeping the property well-manicured and keeping the parking of the automobiles for sale at what is asked of us.

Genuine Auto Repair provides a unique car buying experience to the customers in Lee's Summit, MO. One that focuses on customer satisfaction first. We understand that vehicle purchasing is a necessary, but sometimes unpleasant experience. Our goal is to provide the customer with an enjoyable, honest service by satisfying individual customers practical transportation needs with a quality product.

We also believe it is important to have quality vehicles at a low cost, yet reliable means of transportation. Our company will make a profit by generating sales. It will provide job satisfaction and fair compensation to its employees, and a fair return to its owners. Hard work and performance is rewarded through bonuses and commissions. Job satisfaction is very important for employees and owners, we will create a work environment that is enjoyable and profitable for all.

Our dealership will be open from 0800-1800 Monday – Saturday. We will have 5 or less cars on the property for sale facing 3<sup>rd</sup> street. We are asking for a time period of 25 years for the special use permit.

## **Objectives**

1. 100% customer satisfaction, measured through repeat customers, referrals and surveys.
2. To achieve and surpass the industry average profit margin within the first two-years.
3. To achieve a respectable net profit by year two.

## **Mission**

Genuine Auto Repair provides a unique car buying experience to the customers in Lee's Summit, MO. One that focuses on customer satisfaction first. We understand that vehicle purchasing is a necessary, but sometimes unpleasant experience. Our goal is to provide the customer with an enjoyable, honest service by satisfying individual customers practical transportation needs with a quality product.

We also believe it is important to have quality vehicles at a low cost, yet reliable means of transportation. Our company will make a profit by generating sales. It will provide job satisfaction and fair compensation to its employees, and a fair return to its owners. Hard work and performance is rewarded through bonuses and commissions. Job satisfaction is very important for employees and owners, we will create a work environment that is enjoyable and profitable for all.

To succeed in this business we must:

- Put together a team of experienced professionals.
- Secure an excellent high-traffic location.
- Establish a network of suppliers, in order to buy and sell products that are of the highest reliability and quality, at a competitive price.
- Ensure customer satisfaction by encouraging the two most important values, honor and integrity.
- Create high morale by rewarding employee success with monetary compensation.

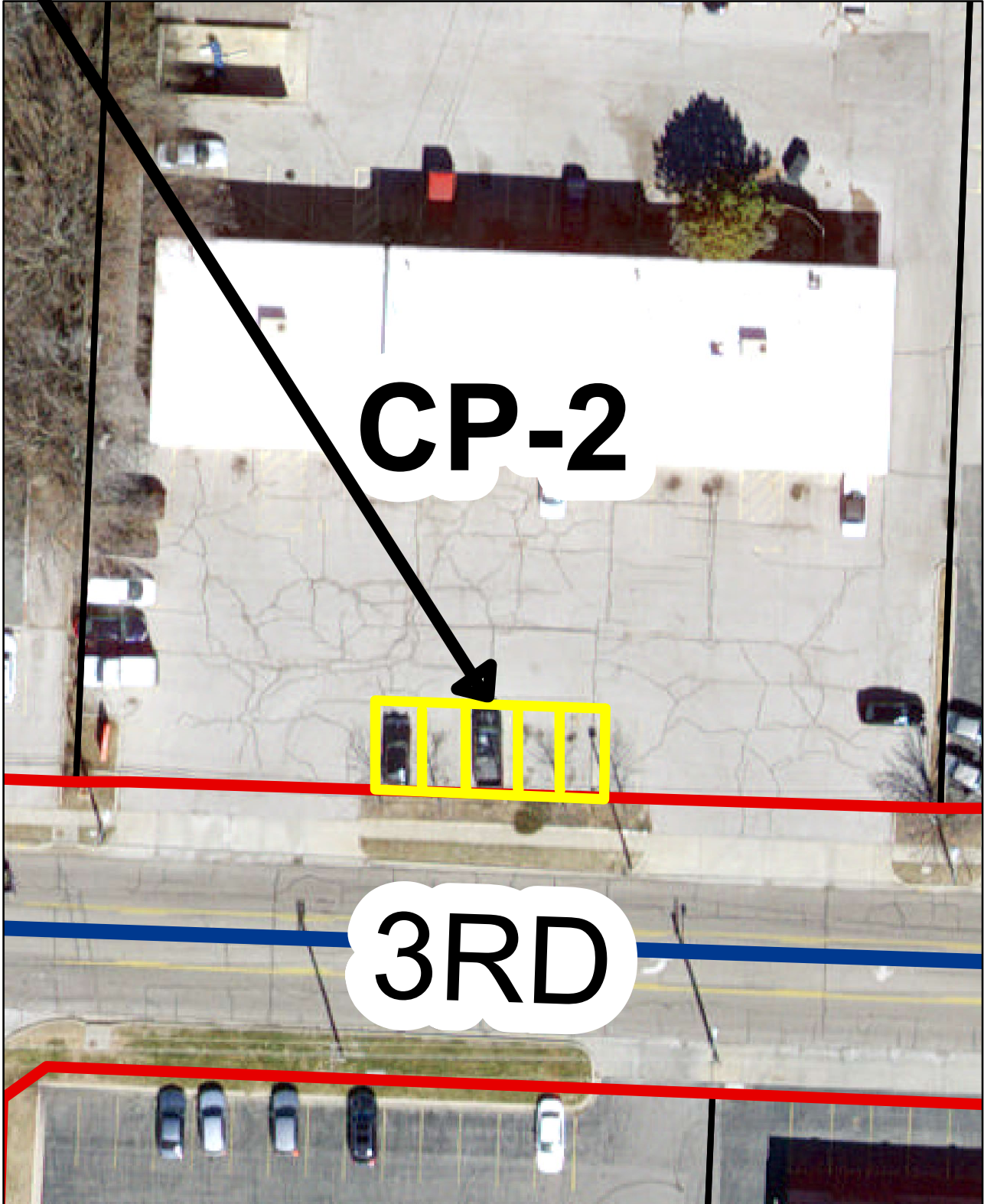








# Proposed Parking Location of Sale Vehicles



**Appl. #PL2017-257 – SPECIAL USE PERMIT for  
automobile sales and major auto repair  
Genuine Auto Repair, 520 SW 3rd St  
Gary Serville, Jr., applicant**



## Packet Information

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**File #:** BILL NO. 18-40, **Version:** 1

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AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: This item was CONTINUED on March 1, 2018 per City Council vote.)

Issue/Request:

AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.

Key Issues:

- The original Access Management Code was adopted in November 2004. This is the first proposed amendment of the Access Management Code.
- The purpose, benefits, and applicability of the Access Management Code have not been amended.
- Various provisions of the Access Management Code have been updated to reflect current industry best practices and consistency with years of application in Lee's Summit.
- Proposed changes are generally less restrictive and more practical than originally drafted. No significant alterations or adverse impacts foreseen.

Proposed City Council Motion:

FIRST MOTION: I move for a second reading of AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.

Background:

The Access Management Code (AMC) was adopted by Ordinance 5832 and incorporated in Chapter 26 of the Code of Ordinances, Article IV. It was drafted and approved in 2004 and has not been amended since then. The Access Management Code applies to all development and redevelopment applications and is used in capital project planning and design. The Access Management Code provides criteria, standards, and conditions for access along the City's rights-of-way to protect the function, efficiency and safety of all right-of-way users.

Changes primarily clarify language, update the AMC to incorporate current industry standards, and codify the past 10 years of local practice. Clarifications focus on grammar, typos, expanding on statements to better describe the intent of the AMC, and better clarify the roles of City Staff. Updates to current standards generally incorporate more recent industry references. The AMC was changed to incorporate references to

the most recent Highway Capacity Manual, Trip Generation Manual and other best practices used in traffic engineering. The only new requirement in the AMC specifies that evaluations for installing a roundabout shall be conducted when new work will cause a signal to be warranted at an intersection. This means a comparison of the traffic impacts of a signal versus roundabout will be conducted at these locations.

Updating the AMC to match past practices generally makes the code less restrictive. For the past ten years, numerous waivers have been granted to development work because requirements in the manual created work not warranted by the impacts of a project. For example, turn lanes on minor arterials streets were routinely waived, so that AMC requirement increased the cars per hour that would trigger installing a turn lane on minor arterial streets. The requirement for traffic impact studies was modified so that many studies for small projects no longer require a 20 to 40 year long-range outlook.

Access Management is a proven safety measure and can mitigate costly capacity and delay deficiencies. The Access Management Code also clearly defines the City's expectations of managed right-of-way, turn lane requirements, traffic study conditions, etc. for the development community. These updates will improve the clarity and use of the AMC.

Impact/Analysis:

[Enter text here]

Other Information/Unique Characteristics:

[Enter text here]

Presenter: Michael Park, PE, PTOE, City Traffic Engineer

Recommendation:

Staff recommends approval of AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.

Committee Recommendation: The Public Works Committee February 20, 2018 was cancelled due to forecasted weather conditions.

## **BILL NO. 18-40**

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AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, the current Access Management Code (AMC) was originally adopted in November 2004; and,

WHEREAS, the Access Management Code has never been updated or amended since originally adopted; and,

WHEREAS, revisions to the Access Management Code must be done by ordinance; and,

WHEREAS, certain sections and paragraphs of the Access Management Code should be amended to comply with current advances in industry standards, advances in access management practices, changes to referenced documents and manuals, and provide better consistency with years of the City's application of AMC regulations and waivers or modifications granted; and,

WHEREAS, several sections and paragraphs of the Access Management Code have been amended to correct typographical, grammatical errors, or provide clarification.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the City of Lee's Summit, Missouri's Access Management Code, as adopted and made a part of the Code of Ordinances by Chapter 26 of the Code of Ordinances of the City of Lee's Summit, Missouri, Streets, Sidewalks and Other Public Places, Article IV, Access Management Code, Section 26-308, Access Management Code Adopted, is hereby amended to reference the attached hereto Access Management Code dated March 2018 and to adopt and incorporate such Access Management Code as revised and dated March 2018 into Chapter 26 as fully as if set forth therein. Section 26-308 shall read:

"The City of Lee's Summit, Missouri, Access Management Code, dated March, 2018, is hereby adopted and incorporated in this chapter as fully as if set forth herein."

SECTION 2: Severability Clause. That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 3: Savings Clause. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby, nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 4: That it is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.

**BILL NO. 18-40**

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SECTION 5: That this ordinance shall be in full force and effect from and after the date of its passage, and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*City Clerk Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*City Clerk Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
*City Attorney Brian W. Head*

# **Lee's Summit, Missouri Access Management Code**



**March 2018**

Originally Drafted by TranSystems Corp. and Adopted by Ordinance #5832 on November 4, 2004  
Revisions Drafted by Staff and Amended by Ordinance #XXXX on Date, 2018

## **Section 1 - Introduction**

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### **1.1. Introduction**

Throughout the country, problems on our street system such as midblock crashes and delays to through traffic caused by turning vehicles can be traced to the access provided to abutting property via side streets and driveways. Historically, decisions to allow access were typically made relative to individual properties and not the function and characteristic of the street to which access was allowed. This piece-meal approach to access planning has frequently resulted in an illogical and excessive number of access points that have led to increased congestion and crashes.

“Access management” takes a comprehensive view of property access relative to the function of the streets from which it is provided. The objective of access management is to optimize, or find that right balance, between property access and traffic safety and efficiency, particularly along arterial streets. In other words, access is viewed in the context of the street system instead of just the individual property. Even further, access should be viewed in the context of the ultimate traffic volumes. What might appear acceptable one day may well be perceived differently in a long-term perspective.

Access management is the careful planning and design of driveways, median openings, interchanges, and street connections to a roadway. It also involves the application of median treatments and turning lanes, and the appropriate separation of traffic signals. This is done to maintain the viability of major roadways to safely and efficiently accommodate traffic volumes commensurate with their function. It is the arterial street network that is key to the success of transportation within a community and it represents perhaps the greatest financial infrastructure investment.

Access management requires that all properties have reasonable access to the public roadway system. Existing access may be improved as to comply with best practices in access management as redevelopment, surrounding development or capital projects occur, but due to existing constraints, some access may never be fully improved. The objective of this Access Management Code is to avoid further degradation caused by access in already developed areas and to prevent the creation of problems in the future. The net effect of access management along arterial streets is that the supporting networks of collector and local streets, and even inter-parcel connectivity, become more critical to effective circulation and property access.

The ultimate configuration of a street and its function are typically the result of land use planning, transportation planning, and traffic engineering. The concept of access management integrates these activities in order to optimize the safety and performance of the public street network, a significant infrastructure investment vital to the public health, safety and well-being of the community.

### **1.2. Experience**

Every community has experienced safety and traffic operational problems associated with too much or poorly planned access to abutting properties. Many have also found it necessary to retrofit solutions to solve these problems. In the course of this experience, it has been discovered that managing access to major roadways has significant positive effects, including reducing crash frequency, minimizing crash severity, lessening congestion, facilitating economic growth, enhancing community character, and improving air quality.



Studies to date indicate that an effective access management program can result in significant decreases in crashes and travel delays. Obviously the degree of impact will vary based on the specific circumstances of any street segment, but this experience has provided valuable insight into the factors that have a negative influence on traffic safety and efficiency. Some of these factors include:

- Driveways or side streets in close proximity to major intersections;
- Driveways or side streets spaced too close together;
- Lack of left-turn lanes to store turning vehicles;
- Deceleration of turning traffic in through lanes; and
- Traffic signals too close together.

Sometimes congestion and crash experience on major streets have unintended and undesirable consequences such as encouraging drivers to find alternate routes on collector and local streets.

Requirements for well-designed road and access systems further the orderly layout and use of land and help improve the design of residential subdivisions and commercial circulation systems. However, the “change” to a system of shared or unified access to property along major roadways often causes concern among property owners or business operators, due to the perception that loss of individual driveway access could adversely impact property values or income.

The appearance of corridors and gateways is also critical to the image of a community and its overall attractiveness to investors. Minimizing the number of curb cuts, consolidating access drives, constructing landscaped medians, and buffering parking lots from adjacent thoroughfares results in a visually pleasing and efficient corridor that, in turn, can help attract new investment. Effective management of roadway corridors also protects property values over time and fosters healthy economies.

### **1.3. Conflicts and Revisions**

While every effort has been made to ensure that this Access Management Code has no conflicts with the Code of Ordinances, Unified Development Ordinance or the Design and Construction Manual, there may be occasions where discrepancies between these documents arise. Upon such an occasion, the City Engineer (or designee) shall determine the more restrictive provision and it shall apply. This decision can be appealed to the City Council.

Should a discrepancy be identified, city staff will work to modify the affected ordinances in a timely manner.

## **Section 2 - Glossary**

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**AASHTO** - The American Association of State Highway and Transportation Officials.

**Access** - Any way or means of approach to provide vehicular or pedestrian entrance to a property.

**Access Management** - Measures to assure the appropriate location, design, and operation of driveways, median openings, interchanges, and street connections to a roadway, as well as the application of median treatments and turning lanes in roadway design, and the appropriate separation of traffic signals for the purpose of maintaining the safety and operational performance of roadways.

**Access Management Program** - The whole of all actions taken by a governing council, board, or agency to maintain the safety and traffic carrying capacity of its roadways.

**At Grade** - When two or more facilities that meet in the same plane of elevation.

**Auxiliary Lane** - A lane adjoining a roadway that is used for acceleration, deceleration, or storage of turning vehicles.

**Average Daily Traffic (ADT)** - The average two-way daily traffic volume on a route.

**Backage Road** - A local road that is used to provide alternative access to a road with higher functional classification; backage roads typically run parallel with the main route and provide access at the back of a line of adjacent properties. Also known as a "Reverse Frontage Road" or "Parallel Access Road".

**Change in Use** - A change in use may include, but is not limited to, structural modifications, remodeling, a change in the type of business conducted, expansion of an existing business, a change in zoning, or a division of property creating new parcels, but does not include modifications in advertising, landscaping, general maintenance or aesthetics that do not affect internal or external traffic flow or safety.

**City Engineer** - City staff position that is responsible for directing the technical engineering element of the Public Works Department. Staff position in responsible charge of design and construction criteria and specifications, inspections and interpretations for public transportation infrastructure.

**City Traffic Engineer** - City staff position established by ordinance with powers and duties with respect to traffic. Staff position that is responsible for determining and directing the installation and operation of traffic control devices and management of transportation, including access management, development related traffic/transportation impacts, traffic engineering, transportation planning, operations and maintenance for transit, bicycle, pedestrian, and vehicular transportation/traffic operations. The City Engineer shall act as the City Traffic Engineer in his or her absence. The City Traffic Engineer may delegate duties with respect to this code to a qualified professional engineer as appropriate.

**Commercial** - Property developed for the purpose of retail, wholesale, recreation, med- and high-density multi-family, educational or industrial activities. Generally, not residential property as residential is defined with limited uses herein.

**Conflict** - A traffic-related event that causes evasive action by a driver to avoid a collision.

**Conflict Point** - Any point where the paths of two through or turning vehicles diverge, merge, or cross and create the potential for conflicts.

**Congestion** - A condition resulting from more vehicles trying to use a given road during a specific period of time than the road is designed to handle with what are considered acceptable levels of delay or inconvenience.

**Connection/Connector** - Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

**Connection Spacing** - The distance between connections, measured from centerline to centerline (center of right-of-way for public streets) along the edge of the traveled way.

**Controlled-Access Highway** - Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

**Cross Access** - A service drive that provides vehicular access between two or more abutting sites so that the driver need not enter the public street system to move between them.

**Deceleration Lane** - A speed-change lane that enables a vehicle to leave the through traffic lane and decelerate to stop or make a slow-speed turn.

**Directional Median Opening** - An opening in a raised median that provides for specific traffic movements and physically restricts other movements. For example, a directional median opening may allow only right turns at a particular location.

**Design Traffic Volume** - The traffic volume which a roadway or driveway was designed to accommodate, and against which its performance is evaluated.

**Downstream** - The next feature (e.g. a driveway) in the same direction as the traffic flow.

**Downtown Core** - An area defined in the Unified Development Ordinance for Downtown Central Business District (CBD).

**Driveway** - A (typically) private roadway or entrance used to access residential, commercial, or other property from an abutting roadway.

**Driveway Density** - The number of driveways divided by the length of a particular roadway.

**Driveway Spacing** - (see **Connection Spacing**)

**Driveway Width** - The width of a driveway measured from one side to the other at the point of tangency.

**Easement** - A grant of one or more property rights by a property owner. For example, one property owner may allow a neighbor to access public roads across his or her property.

**Entering (or Intersection) Sight Distance** - The distance of minimum visibility needed for a passenger vehicle to safely enter a roadway and accelerate without unduly slowing through traffic.

**Facility** - A transportation asset designed to facilitate the movement of traffic, including roadways, intersections, auxiliary lanes, frontage roads, backage roads, bike paths, etc.

**FHWA** - The Federal Highway Administration of the U.S. Department of Transportation.

**Flag Lot** - A lot not meeting minimum frontage requirements where access to a public road is provided by a narrow strip of land carrying a private driveway.

**Frontage** - The length of a property that directly abuts a highway.

**Frontage Road** - A roadway that is used to provide alternative access to property from a roadway with higher functional classification; frontage roads typically run parallel to the mainline roadway and provide access at the front of a line of adjacent properties.

**Functional Area** - The area surrounding an interchange or intersection that includes the space needed for drivers to make decisions, accelerate, decelerate, weave, maneuver, and queue for turns and stop situations.

**Functional Classification System** - A system used to categorize the design and operational standards of roadways according to their purpose in moving vehicles; higher functional classification implies higher traffic capacity and speeds, and typically longer traveling distances.

**Functional Integrity** - Incorporating appropriate access management standards and controls that allow a roadway to maintain its classified purpose.

**Geometric Design Standards** - The acceptable physical measurements that allow a facility to maintain functional integrity.

**Grade Separated** - Two or more facilities that intersect in separate planes of elevation.

**Highway** - The entire width between the boundary lines of every way maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**Highway Capacity** - The maximum number of vehicles a roadway can handle during a particular amount of time and at a given level of service.

**Highway Network** – Collectively all roadways, including controlled access highways, interstates, freeways, expressways, arterials, collectors, and local streets that facilitate vehicular movement within the transportation system.

**Industrial/Commercial Collector** - Roadway that collects traffic to and from commercial or industrial areas and distributes it to arterials.

**Industrial/Commercial Local Street** – Street that carries traffic between commercial or industrial lots to industrial/commercial collector streets or arterial streets.

**Interchange** - A grade-separated facility that provides for movement between two or more roadways.

**Internal Circulation** - Traffic flow that occurs inside a private property.

**Internal Site Design** - The layout of a private property, including building placement, parking lots, service drives, and driveways.

**Intersection** - An at-grade facility that provides mobility between two or more roadways.

**Interstate** - A federally-designated roadway system for relatively uninterrupted, high-volume mobility between states.

**Joint (or Shared) Access** - A private access facility used by two or more adjacent sites.

**Lane** - The portion of a roadway used in the movement of a single line of vehicles.

**Left-Turn Lane** - A lane used for acceleration, deceleration, and/or storage of vehicles conducting left-turning maneuvers.

**Level of Service** - The factor that rates the performance of a roadway by comparing operating conditions to ideal conditions described in the Highway Capacity Manual; "A" is the best to "F," which is worst.

**Major Arterial** - Roadway that serves the highest traffic volume corridors and the longest trips. Typically provides travel between business districts and outlying residential areas, between major inner city communities and between major suburban centers, and connects communities to major state and interstate highways. Access is generally limited and partially controlled. Spacing of major arterials is typically from one to five miles.

**Median** - A barrier that separates opposing flows of traffic. Raised medians (with curbs and a paved or landscaped area in the center) are generally used in urban areas. Raised medians should not be confused with more obtrusive Jersey barriers. Flush median (with no curbs and a grass-covered area in the center) are generally used in rural areas. Medians can be both functional and attractive.

**Median Width** - The distance between the near edge of the through travel lanes in each direction when separated by a median.

**Mid-Block Crossing** - A crossing that is provided so that pedestrians can conveniently cross a roadway in the middle of a block or segment of roadway.

**Minor Arterial** - Roadway that interconnects and augments the major arterials. Accommodates trips of moderate length at a lower level of travel mobility than major arterial streets with typically similar operating speed and less volume. Access is generally limited and mostly controlled. Spacing of minor arterials in combination with major arterials is generally from one-half mile to three miles.

**Shared-Use Path** - A paved surface typically constructed parallel to a street to serve pedestrian and bicycle traffic.

**NCHRP** - The National Cooperative Highway Research Program, a program that sponsors research on highway safety, operations, standards, and other topics.

**Peak Hour Traffic** - The number of vehicles passing over a section of roadway during its most active 60-minute period each day.

**Police Power** - The general power vested in the legislature to make reasonable laws, statutes and ordinances where not in conflict with the Constitution that secure or promote the health, safety, welfare and prosperity of the public.

**Private Street** - A highway, street or road, open for use by the general public and which is under private jurisdiction or control. A private street is generally constructed to the same standards as a public street, named and used in reference addressing property.

**Public Street** - A highway, street or road, open for use by the general public and which is under the jurisdiction or control of a public body. Public Streets are generally classified as various highways, arterials, collectors, local and access based on function.

**Queue Storage** - That portion of a traffic lane that is used to temporarily hold traffic that is waiting to make a turn or proceed through a traffic control device such as a stop sign or traffic signal.

**Raised Median** - The elevated section of a divided road that separates opposing traffic flows.

**Residential** - Property developed for the purpose of single family, low-density multi-unit, agricultural or other housing quarters.

**Residential Access Street** - Roadway that carries traffic between residential lots and residential local street or residential collector streets. Residential access streets usually carry no through traffic and include short loop streets, cul-de-sacs, and courts that provide direct access to property. Desirable maximum ADT = 200 for cul-de-sacs and 400 for loop streets.

**Residential Collector** - Roadway that collects traffic to and from residential areas via residential local and residential access streets and distributes it to arterial streets. Limited access is allowed from residential lots when no local street or access street is available. Desirable maximum ADT = 3,000.

**Residential Local Street** - Street that usually carry through traffic having its origin or destination within the immediate neighborhood and provide direct access to property. Desirable maximum ADT = 1,500.

**Reviewing Engineer** - An individual or individuals designated by the City Engineer to review development projects and make decisions as outlined in this Policy. The review should include input from the appropriate departments (fire, police, public works, planning & development, etc.).

**Right-In, Right-Out (RIRO)** - A driveway where left turns and cross-overs at an intersection are prohibited.

**Right-of-Way** - Land reserved, used, or slated for use for a highway, street, alley, walkway, drainage facility, or other public purpose related to transportation or utilities.

**Roadway** - The portion of a highway improved, designed or ordinarily used for vehicular travel. That portion of a street which only includes the travel lanes.

**Roadway Classification System** - See "Functional Classification System"

**Service Street** - A local street that is used to provide alternative access to a street with higher functional classification; service roads may include internal circulation systems, frontage roads, or backage roads.

**Shared Driveway** - A single, private driveway serving two or more lots.

**Side Friction** - Driver delays and conflicts caused by vehicles entering and exiting driveways.

**Sidewalk** - A paved surface designed specifically to serve permitted non-motorized transportation users. Refer to sidewalk definitions in the Code of Ordinances.

**Sight Distance** - The distance visible to the driver of a passenger vehicle measured along the normal travel path of a roadway to a specified height above the roadway when the view is unobstructed to oncoming traffic. Sight distance would include intersection sight distance, roadway sight distance, stopping sight distance, passing sight distance, etc.

**Spacing** - For purposes of this policy, the distance between two roadways and or drives measured from the center of one roadway to the center of the next roadway, unless otherwise defined for a specific application.

**Speed Differential** - The difference in travel speed between through traffic, and traffic entering or exiting a roadway.

**Stopping Sight Distance** - The minimum distance required for a vehicle traveling on a roadway to come to a complete stop upon the driver seeing a potential conflict; it includes driver reaction and braking time and is based on a wet pavement.

**Storage Length** - see Queue Length.

**Street** - The pavement and sub-grade of an access, local, collector or arterial roadway, inclusive of shoulder, curb, on-street parking, etc.

**Strip Development** - A linear pattern of roadside commercial development, typically with relatively shallow lots and frequent drives. Also typically lacks a network of side streets permitting efficient traffic circulation between adjacent developments.

**Taper** - The transitional area of a roadway where lanes are added or dropped.

**Throat Length** -The distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right-turn or a left turn. On roadways with curb and gutter, the throat length shall be measured from the back of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the shoulder.

**Through Street** –A through street shall be defined as any part of any roadway or street functionally classified as a Local, Collector, Arterial, Frontage Road, or Highway that assumes priority or which may be designated priority over another roadway at intersections based on the highest functional classification of intersecting roadways, except when otherwise may be determined by the City Traffic Engineer upon the basis of an engineering and traffic study and such condition is appropriately signed or controlled to give notice thereof.

**Traffic Flow** - The actual amount of traffic movement.

**Transportation Impact Study** - A report that compares relative roadway conditions with and without a proposed development; typically including an analysis of mitigation measures.

**Trip Generation** - The estimated volume of entering and exiting traffic caused by a particular development.

**Turning Radius** - The radius of an arc that approximates the turning path of a vehicle.

**Two-Way Left-Turn Lane (TWLTL)** – A lane located between opposing traffic flows which provides a transition area for left-turning vehicles.

**Uncontrolled Access** - A situation that results in the incremental development of an uncontrolled number, spacing, and/or design of access facilities.

**Upstream** - Against (behind) the direction of the traffic flow.

**Vehicle Trip** - A vehicle moving from a point of origin to a point of destination.

**Warrant** - The standardized condition under which traffic management techniques are justified.

**Weaving** - Crossing of traffic streams moving in the same general direction through merging and diverging, for instance near an interchange or intersection.



## **Section 3 - Street Classification System**

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### **3.1. Street Classifications**

Safe and efficient operation of roadways requires that these facilities be classified and designed for the functions that they will perform. The entire highway network is traditionally classified by relating the proportion of through movement to the proportion of access. Interstates and freeways, which have full control of access and serve only the movement function, are at one end of the scale; access and local streets, which predominately provide for land connections, are at the other end of the scale because they have little or no through movement. Collector and arterial streets normally must provide a balance between movement and access functions; it is along these streets that access management actions become most important.

Interstates, freeways and expressways in Lee's Summit are generally the responsibility of the Missouri Department of Transportation (MoDOT). As such, those facilities should generally reference the state and federal classification systems and applicable requirements. City streets generally range from access streets to arterial streets. Seven roadway classifications are defined in Section 2; also referenced in more detail and context in the Thoroughfare Master Plan. These include:

- Major Arterial
- Minor Arterial
- Industrial/Commercial Collector
- Residential Collector
- Industrial/Commercial Local
- Residential Local
- Residential Access

A number of highway frontage roads exist in Lee's Summit, some owned by MoDOT and some by the City. These frontage roads are unique by their proximity to fully-controlled highways but the function of each may be categorized by one of the seven aforementioned classifications.

### **3.2. Typical Sections**

A typical section for each classification is described in the Lee's Summit Public Works Department Design and Construction Manual. Some of the considerations that go into defining the needed cross section of any given street segment are described below.

- 3.2.A. Traffic Lanes  
The number and types of lanes on any street should be determined by existing and projected traffic volumes and the nature of land use activity adjacent to it. Turn lanes are essential at many intersections. Reference the Thoroughfare Master Plan and Access Management Code for lane requirements and planning.
- 3.2.B. Bicyclists  
Bicycle routes are established on some city streets. Considerations for bicyclists could include a wider traffic lane, marked bike lanes, or shared-use paths. Reference the

Bicycle Transportation Plan and Greenway Master Plan for bicyclist accommodation types and locations.

3.2.C. Pedestrians

Sidewalks or shared-use paths are generally required on one or both sides of a public street. Requirements are outlined in the Design and Construction Manual and the Unified Development Ordinance. Reference the Greenway Master Plan for shared-use path locations.

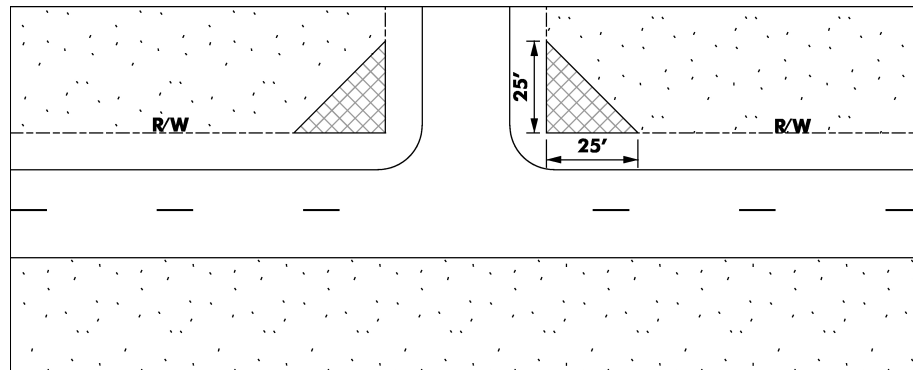
3.2.D. Right-of-Way

Providing sufficient right-of-way to meet the long term growth potential of a street is one of the most important elements of the transportation system. Once development occurs adjacent to the street, additional expansion of the roadway may become very expensive or impractical if sufficient right-of-way is not available. This may in turn limit additional development if sufficient capacity cannot be provided.

In addition to the basic number of through lanes, street elements that influence the amount of right-of-way required include left-turn lanes (double left-turn lanes at some arterial street intersections), right-turn lanes, bike lanes, medians, sidewalks and shared-use paths.

3.2.E. Corner Right-of-Way Triangles

A minimum 25-foot triangle of additional right-of-way shall be provided at the corners of two intersecting streets as noted in the Unified Development Ordinance. The triangle is determined by measuring along both right-of-way lines 25 feet from their point of intersection and striking a line to connect the two points (see **Figure 3-1**). A larger triangle may be required at intersecting streets that both have a designated classification of arterial or collector and/or where any street alignments require additional sight distance. A triangle of additional right-of-way may be required at intersections with driveways if the conditions are deemed appropriate by the City Traffic Engineer. The purpose of this triangle is to allow room for utilities, traffic control devices, sight distance, sidewalks and shared-use paths behind the corner radius of the intersection.



**Figure 3-1  
Corner Right-of-Way Triangle**

## **Section 4 - Street Planning**

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The location and spacing of arterial streets should reference the Thoroughfare Master Plan. Arterials have highly controlled alignments associated with long-term community planning considerations and predetermined connectivity to fully-controlled highways. Collectors are also depicted in the Thoroughfare Master Plan, but to a much lesser extent than arterials with more flexibility in location and alignment to better accommodate development activity. Collector streets are the backbone of effective access management. These streets, both those classified as collector streets and those within or adjacent to developments that serve in this capacity, allow many developments to be efficiently served from a limited number of connections to the arterial street network.

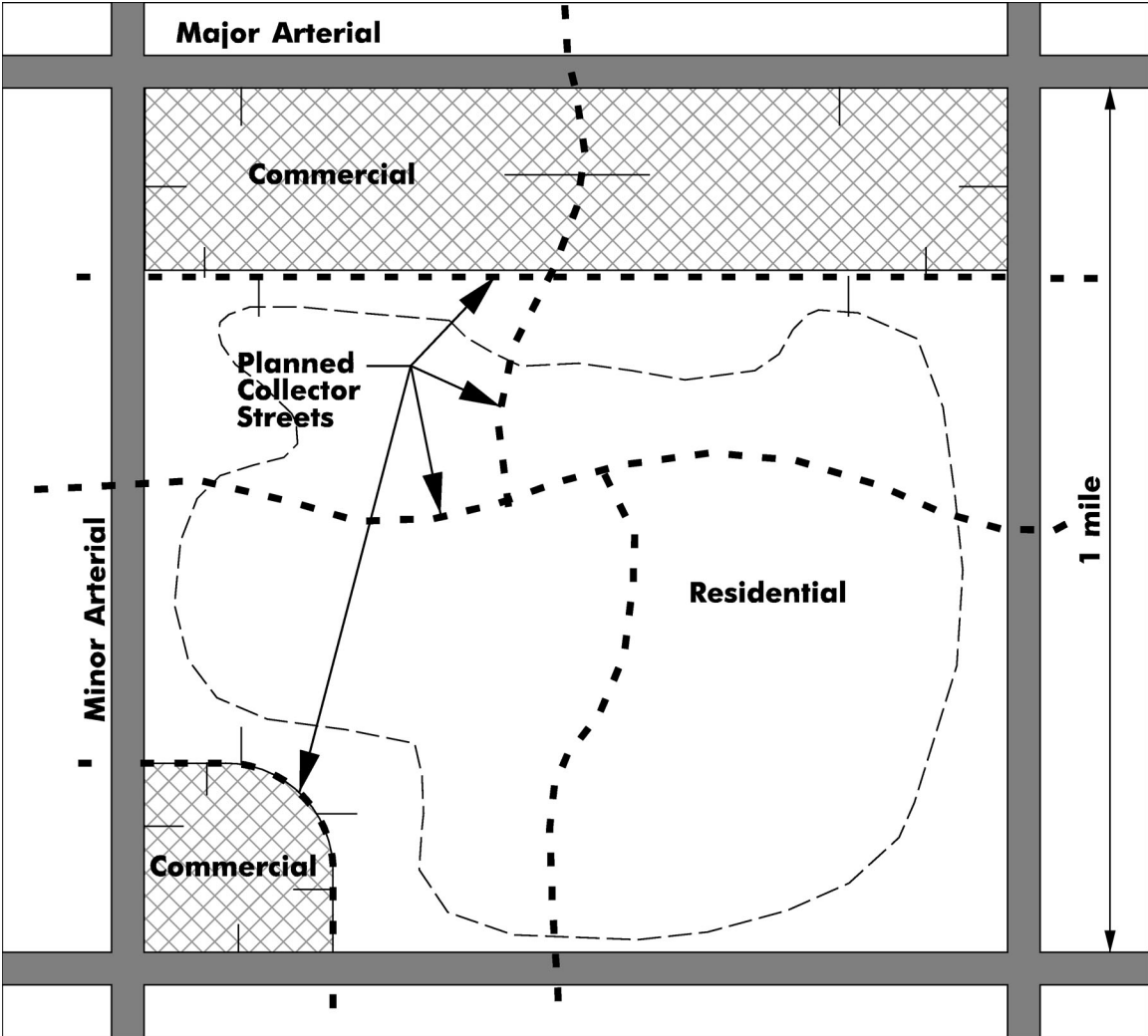
### **4.1. Planning Requirements**

The following requirements shall be applied in the development of the collector street network.

- 4.1.A. Prior to the approval of any new development, the Thoroughfare Master Plan shall be reviewed and the development compared with consideration of the planned conceptual collector street network, or the modification thereto that maintains continuity thereof, for the area bounded by the arterial streets or section lines containing the development and projected future land uses based on zoning and supporting transportation system within the area. Consideration must also be given to existing or planned connections and collector streets in adjacent sections, nearby developments, existing property lines and topographic features.
- 4.1.B. The proposed development plan may propose an alternative collector street network as long as the principles described above are followed. The alternative collector street network must be approved along with the development plan. Within exclusively residential areas, continuous collector streets are desirable, but not essential. In these areas, a less defined collector network may be utilized, but should provide connectivity between developments and relatively direct access between the designated collector street connections to the arterial street network (note that access at other connections to the arterial street network may be restricted per this policy).
- 4.1.C. Collector streets shall be public streets.
- 4.1.D. A collector street may serve both residential and non-residential development, but should be planned to discourage use by commercial traffic into residential areas.
- 4.1.E. Collector streets should connect to arterial streets at full median opening locations in accordance with the standards in this policy. Where feasible, the connection should also be made at a location suitable for a traffic signal.

### **4.2. Example**

An example of a collector street network is shown on *Figure 4-1*. Note that in order to maintain good connection spacing on the arterial roadways, commercial development areas should be at least 1/4 mile by 1/4 mile in size, larger where adjacent to major arterial streets.



**Figure 4-1**  
**Collector Street Planning Example**

## **Section 5 - Review/Exceptions Process**

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Flexibility is essential when administering access spacing requirements to balance access management objectives with the needs and constraints of a development site. The following administrative procedures are intended to provide flexibility, while maintaining a fair, equitable and consistent process for access management decisions. The exception/waiver process described below applies to all of the standards in this policy.

### **5.1. Approval Required**

- 5.1.A. No person shall construct or modify any access connection to a Lee's Summit street without approval from the City. Approval is typically granted through the preliminary and final development plan processes, plats and/or engineering approval of construction plans for streets. All requests for connections to a roadway, including those requests by Right-of-Way permit, within the City shall be reviewed for conformance with this Access Management Code.
- 5.1.B. Access connections that do not conform to this policy and were constructed before the effective date of this policy, as may be applicable to the original policy of 2004, shall be considered legal nonconforming connections and may continue until a change occurs as provided in Section 8. Temporary access connections are legal nonconforming connections until such time as the temporary condition expires. Access connections and legal nonconforming conditions do not limit the City's ability to restrict access or relocate access as the extent, number and location of access, whether full or partial, for existing legal conforming or legal nonconforming conditions is not guaranteed at any time.
- 5.1.C. Any access connection constructed without approval after the adoption of this policy shall be considered an illegal nonconforming connection and shall be issued a violation notice and may be closed or removed.

### **5.2. Requests for Modification**

- 5.2.A. Access connections deemed in conformance with this policy may be authorized by the City Traffic Engineer. Any requests for modification shall require approval by the City Traffic Engineer. Any appeal of the decision of the City Traffic Engineer shall be to the city council which has final authority. Note: some access restrictions are also described on the recorded plat and the subject plat should be referenced in review of any request for modification.
- 5.2.B. Modifications of greater than 10 percent of the allowable spacing standard or 100 feet, whichever is less, shall require documentation justifying the need for the modification and an access management plan for the site that includes site frontage plus the distance of connection spacing standards from either side of the property lines. The analysis shall address existing and future access for study area properties, evaluate impacts of the proposed plan versus impacts of adherence to standards, and include improvements and recommendations necessary to implement the proposed plan.

### **5.3. Waiver for Nonconforming Situations**

Where the existing configuration of properties and driveways in the vicinity of the subject site precludes spacing of an access point in accordance with the spacing standards of this policy, the City

Traffic Engineer, in consultation with appropriate City departments, shall be authorized to waive the spacing requirement if all of the following conditions have been met:

- 5.3.A. No other reasonable access to the property is available.
- 5.3.B. The connection does not create a potential safety or operational problem as reasonably determined by the City Traffic Engineer based on a review of a transportation impact study prepared by the applicant's professional engineer.
- 5.3.C. The access connection along the property line farthest from the intersection may be allowed. The construction of a median may be required on the street to restrict movements to right-in/right-out and only one drive shall be permitted along the roadway having the higher functional classification.
- 5.3.D. Joint access shall be considered with the property adjacent to the farthest property line. In these cases:
  - A joint-use driveway with cross-access easements will be established to serve two abutting building sites,
  - The building site is designed to provide cross access and unified circulation with abutting sites; and
  - The property owner agrees to close any pre-existing curb cuts after the construction of both sides of the joint use driveway.

Where the spacing requirement is waived, the requirements for turn lanes may also be amended accordingly at the discretion of the City Traffic Engineer due to physical constraints and limitations of access separation.

#### **5.4. Temporary Access**

A development that cannot meet the connection spacing standards of this policy and has no reasonable alternative means of access to the public road network may be allowed a temporary connection. When adjoining parcels develop which can provide joint or cross access, permission for the temporary connection shall be rescinded and the property owner must remove the temporary access and apply for another connection.

Conditions shall be included in the approval of a temporary connection including, but not limited to the following:

- Applicants must sign an agreement to participate in any future project to consolidate access points.
- Applicants must sign an agreement to abandon the interim or temporary access when adequate alternative access becomes available.
- The transportation impact study should consider both the temporary and final access/circulation plan.

A limit may be placed on the development intensity of small corner properties with inadequate corner clearance, until alternative access becomes available.

## **Section 6 - Access Management and Subdivision Practices**

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The design of property access is established when land is subdivided for commercial or residential development. Therefore, all new lot splits and commercial and residential plats will be reviewed to assure that property access is designed in accordance with the access management code. The following standards shall also apply.

### **6.1. Creation of New Lots**

New lots shall not be created on any arterial or collector street unless they comply with the access spacing standards of this plan through existing, shared, or alternative access.

### **6.2. Subdivision Access**

- 6.2.A. When a subdivision is proposed that would abut or contain an arterial or collector street, it shall be designed to provide lots abutting the classified roadway with access from an interior local or access street. On arterial streets, appropriate measures may be required to buffer residential properties from the noise and traffic of the through street.
- 6.2.B. Direct residential driveway access to individual one-family and two-family dwellings shall be avoided from any arterial or collector street.
- 6.2.C. Residential corner lots shall obtain access from the street with the lowest functional classification, and access shall be placed as far from the intersection as possible to achieve the maximum available corner clearance. Residential corner lots located at the intersection of two local or access streets may have one access from each street so long as minimum corner clearances are met, the access does not impact the intersection functional area, or encroach the sight distance triangle. Access shall also reference the connection spacing standards in Section 15 and consider any restrictions that may be noted on the recorded plat.
- 6.2.D. Access locations to subdivisions shall provide appropriate sight distance, driveway spacing, and include a review of related considerations.

### **6.3. Connectivity of Supporting Streets**

As the City of Lee's Summit continues to grow and land is subdivided for development, it will be essential to provide for a balanced network of local and collector streets to avoid traffic congestion on arterial roadways. Without a supporting well connected minor street network, all local trips are forced onto a few major streets resulting in significant traffic delays and driver frustration. Reasonable connectivity of the local street network is important. Fragmented street networks impede emergency access, focus congestion, diminish operational and maintenance efficiencies (e.g. snow removal, service deliveries, etc.) and increase the number and length of individual trips. A network of residential local and access streets should be designed in a manner that fosters appropriate operating speeds, diversity of routes, access to collectors, shorter block lengths, and fewer through trips, without eliminating connectivity.

To accomplish these objectives, the following standards shall apply:

- 6.3.A. New residential subdivisions shall be designed to coordinate with existing, proposed and anticipated streets.

- 6.3.B. All new developments shall be designed to discourage the use of access and local roadways by non-local traffic while maintaining the overall connectivity with the surrounding system of roadways. This may be accomplished through the use of well-connected local streets to centrally located collectors, shorter block lengths between streets that increase route choice, modified grid systems, T-intersections, roadway jogs, or other appropriate traffic calming or street design measures within the development.
- 6.3.C. Proposed streets should be extended to the boundary lines of the proposed development where such an extension would connect with streets in another existing, platted, approved, planned or potential development. The extension or connection should be based upon traffic circulation and/or public safety enhancement opportunities and compatibility of adjacent land uses, development requirements for access and to reasonably support the highest and best anticipated use of the property in conformance with the Comprehensive Plan.
- 6.3.D. When a proposed development abuts unplatted land or a future development phase of the same development, stub streets should be provided to provide access to abutting properties or to logically extend the street network into the surrounding areas. All street stubs serving more than two residential units (or exceeds the allowable maximum length of dead-end street considering provisions of the Fire Code or Unified Development Ordinance) should be provided with a temporary cul-de-sac, and the restoration and extension of the street would be the responsibility of any future developer of the abutting land.



## **Section 7 - Unified Access and Circulation**

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Internal connections between neighboring properties and shared driveways allow vehicles to circulate from one business or development to the next without having to reenter a collector or arterial street. Unified access and circulation improves the overall ease of access to development and reduces the need for individual driveways. The purpose of this section is to accomplish unified access and circulation systems for commercial development.

### **7.1. Outparcels and Shopping Center Access**

Outparcels are lots on the perimeter of a larger parcel that break its frontage along a roadway. They are often created along arterial street frontage of shopping center sites, and leased or sold separately to businesses that desire the visibility of major street locations. Outparcel access policies foster unified access and circulation systems that serve outparcels as well as interior development, thereby reducing the need for driveways on an arterial street.

In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall prepare a unified access and circulation plan. In addition, the following shall apply:

- 7.1.A. The number of connections shall be the minimum number necessary to provide reasonable access to the overall development site and not the maximum available for that frontage under the connection spacing requirements in this policy.
- 7.1.B. Access to outparcels shall be internalized using the shared circulation system of the principal development.
- 7.1.C. All necessary easements and agreements shall be recorded in an instrument that runs with the deed to the property.
- 7.1.D. Unified access for abutting properties under different ownership and not part of an overall development plan shall be addressed through the Joint and Cross Access provisions below.
- 7.1.E. Where properties are under the same ownership or consolidated for the purposes of development, the shared access, driveway or street(s) shall be constructed by the developer.

### **7.2. Joint and Cross Access**

- 7.2.A. Joint and cross access policies promote connections between developments, interactions of land use varieties, as well as continuity of properties along a corridor without thoroughfare conflicts. These policies help to achieve unified access and circulation systems for individual developments under separate ownership that could not otherwise meet access spacing standards or that would benefit from interconnection, i.e., adjacent shopping centers or office parks that abut shopping centers, apartments and restaurants. Adjacent commercial or office properties and major traffic generators, e.g. shopping plazas, shall provide a cross-access drive and pedestrian access way to allow circulation between adjacent properties. This requirement shall also apply to a building site that abuts an existing developed property unless the City Traffic Engineer finds that this would be impractical.

- 7.2.B. To promote efficient circulation between smaller development sites, the City Traffic Engineer may require dedication of a 30-foot easement that extends to the edges of the property lines of the development site under consideration to provide for the development of shared access. The shared access shall be of sufficient width to accommodate two-way travel aisles and incorporate stub-outs and other design features that make it visually obvious that abutting properties may be tied in to it. Abutting properties shall be required to continue the shared access as they develop or redevelop in accordance with the requirements of this policy. The easement may be provided to the front or rear of the site or across the site where it connects to a public roadway.
- 7.2.C. Property owners shall record all necessary easements and agreements, including an easement allowing cross access to and from the adjacent properties, an agreement to close driveways provided for access in the interim after construction of the joint use driveway(s) or shared access (or private road), and a joint maintenance agreement defining maintenance responsibilities of property owners that share the joint-use driveway and cross-access system (or private road).
- 7.2.D. Joint and cross access requirements may be waived by the City Traffic Engineer for special circumstances such as incompatible uses, e.g. a gas station next to a child care center, or major physical constraints, e.g. change in grade between properties makes connection impractical.

## **Section 8 - Redevelopment**

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Access management policies are not retroactive, but existing legal non-conforming access is not immune to the problems associated with inept access management; and the absence of access management policies in the past does not diminish the benefits of proactive improvement. Existing nonconforming properties may continue in the same manner as they existed before this policy was adopted and until such time redevelopment of the property, significant change of property use or street improvement occurs. This allowance, commonly known as “grandfathering”, protects the substantial investment of property owners and recognizes the expense a property owner may incur bringing nonconforming properties into conformance.

Yet nonconforming access situations may pose safety dilemmas, contribute to traffic congestion, deter economic development, or undermine community character. To address the public interest in these matters, without posing an undue burden on property owners, access to existing nonconforming properties is addressed when a change in use, expanded use or redevelopment occurs so applicants can finance access improvements as part of the overall property improvement. In some instances, opportunities to improve the location or design of property access can also occur during the public roadway improvement process. The extent of access to a property is not guaranteed and such access may be limited directly by improvements to the street where access exists or indirectly through access restrictions to the subject street at intersecting streets. This plan includes the following conditions or circumstances where property owners or permittees may be required to relocate or reconstruct nonconforming access features and/or pursue alternative access measures.

### **8.1. Requirements**

Properties with nonconforming access connections shall be allowed to continue, but must be brought into compliance with this Access Management Code to the maximum extent possible when modifications to the roadway are made or when a change in use or density results in one or more of the following conditions:

- 8.1.A. When a new connection is requested or required.
- 8.1.B. When a preliminary and/or final development plan is required.
- 8.1.C. When a preliminary and/or final plat is required.
- 8.1.D. When a site experiences an increase of ten percent (10%) or greater in peak hour trips or 100 vehicles per hour in the peak hour, whichever is less, as determined by any one of the following methods:
  - 8.1.D.1. An estimation based on the ITE Trip Generation manual (latest edition) for typical land uses, or
  - 8.1.D.2. Traffic counts made at similar traffic generators in the metropolitan area, or
  - 8.1.D.3. Actual traffic monitoring conducted during the peak hour of the adjacent roadway traffic for the property.
- 8.1.E. If the principal activity on a property is discontinued for a period of one year or more, or construction has not been initiated for a previously approved final development plan or final plat within a period of one year from the date of approval, or the previously approved preliminary

development plan or preliminary plat has expired in accordance with the Unified Development Ordinance, then that property must thereafter be brought into conformance with all applicable access management requirements of this policy (unless otherwise exempted by the permitting authority) and any previous waivers granted through prior approvals are nullified. This shall include the need to update any previously approved transportation impact study where new traffic projections are available for the proposed development or redevelopment project. For uses or approved plats in existence upon adoption of this policy, the initial one-year period for the purposes of this section already ended as the effective date of these requirements was established in 2004.

- 8.1.F. Access to all change-in-use or change-in-density activities shall require approval by the City Traffic Engineer. All relevant requirements of this policy shall apply. When a development has been approved with a waiver or modification to these access management requirements, the final development plan and or final plat carries the approval of such waiver or modification in accordance with the approved preliminary plan and or preliminary plat provided by City Council until such time as the preliminary plan and or preliminary plat has expired in accordance with the Unified Development Ordinance. Conformance to these requirements may otherwise be dictated by the remaining provisions of Section 8.1.

## **Section 9 - Transportation Impact Study Requirements**

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### **9.1. Background and Purpose**

Land use and transportation are strongly interdependent. Transportation facilities and services are essential for development to occur, and high levels of mobility and accessibility are needed to attract the economic development to provide and maintain a high quality of life.

The primary purpose for evaluating the impact of development through transportation impact studies is to protect the integrity of the transportation systems and ensure adequate transportation infrastructure exists to support not only the proposed development but existing users. Neither public nor private interests are well served if transportation systems needlessly degrade due to poor planning and design.

In order to accomplish this objective, the review of transportation systems associated with development needs to be extensively scrutinized and needs to take a long-term perspective. What might be acceptable today may not be as an area develops and matures. This is certainly consistent with the City's long-range planning for land use, streets and other infrastructure.

A transportation impact study, and the resulting work products, will allow for more informed decision-making and could lead to necessary mitigation measures for the impacts created by development to maintain or provide safe and adequate performance of the transportation systems.

### **9.2. Extent of Study Required**

The necessity to review all land development applications from a transportation perspective as well as the wide variety of land use types and intensities suggest that multiple thresholds or triggers be established to warrant a transportation impact study. The following thresholds and associated scope of study will be followed.

#### 9.2.A. All Applications

9.2.A.1. Identify the specific development plan under study and any existing development on and/or approved plans for the site (land use types and intensities and the arrangement of buildings, parking and access). Also identify land uses (including types and the arrangement of buildings, parking and access) on property abutting the proposed development site, including property across public streets.

9.2.A.2. Identify the land uses shown in the Lee's Summit Comprehensive Plan for the proposed development site under study, as well as the ultimate arterial and collector street network in the vicinity of the site.

9.2.A.3. Identify the functional classification of the public street(s) within the development, bordering the site and those streets on which access for the development is proposed.

9.2.A.4. Identify allowable access to the development site as defined by the City Design and Construction Manual, Unified Development Ordinance and/or Access Management criteria.

9.2.A.5. Document current public street characteristics adjacent to the site, including the nearest arterial and collector streets (number and types of lanes, speed limits or 85th percentile speeds, and sight distances along the public street(s) from proposed access).

9.2.A.6. Compare proposed access with established standards and criteria (driveway spacing, alignment with other streets and driveways, width of driveway, and minimum sight distances). Identify influences or impacts of proposed access to existing access for other properties. If appropriate, assess the feasibility of access connections to abutting properties, including shared access with the public street system.

9.2.A.7. Estimate the number of trips generated by existing and proposed development on the site for a typical weekday, weekday commuter peak hours (commonly referred to as A.M. and P.M. peak hours), and other peak hour(s). Calculate the net difference in trips between existing and proposed uses. If the development site already has an approved plan, also estimate the number of trips that would be generated by the approved land uses. If the development application is proposing a land use different than indicated in the Comprehensive Plan, also estimate the number of trips that would be generated by the land use indicated in the Comprehensive Plan. The Director of Planning & Development shall approve the potential land use intensity in such cases.

9.2.B. Rezoning, Preliminary Development Plan, Preliminary Plat, and Conceptual Development Plan applications.

9.2.B.1. Development or Site Plan Generates 100 to 499 Trips in a Peak Hour  
A transportation impact study will be required. The study area may tend to be confined to the street or streets on which access is proposed but should be extended to at least the first major intersection in each direction.

9.2.B.2. Development or Site Plan Generates 500 or More Trips in a Peak Hour  
A transportation impact study will be required. The study area will include the street or streets on which access is proposed to at least the first major intersection in each direction but may also extend beyond the first major intersection and/or include other streets.

9.2.B.3. Proposed Land Use Modifies the Comprehensive Plan  
Determine the extent of a transportation impact study based on anticipated trip generation. Conduct comparative analyses using the proposed land use and the land use identified in the comprehensive plan.

**Table 9-1** lists several land use types and the approximate amount of development that would generate 100 or 500 trips in a typical weekday peak hour.

ITE Code	Land Use	Units	Size to Generate 100 Trips	Size to Generate 500 Trips
110	Light Industry	Sq. Ft.	160,000	800,000
130	Industrial Park	Sq. Ft.	250,000	1,250,000
140	Manufacturing	Sq. Ft.	140,000	750,000
150	Warehouse	Sq. Ft.	500,000	2, 650,000
210	Single Family	Units	100	510
220	Apartments	Units	180	n/a
310	Hotel	Units	170	n/a
565	Daycare	Sq. Ft.	9,000	n/a
712	Small Office	Sq. Ft.	40,000	n/a
720	Medical Office	Sq. Ft.	30,000	n/a
812	Bldg Materials	Sq. Ft.	50,000	n/a
813	Discount Superstore	Sq. Ft.	all	115,000
816	Hardware Store	Sq. Ft.	40,000	n/a
820	Shopping Center	Sq. Ft.	10,000	90,000
932	Sit Down Rest.	Sq. Ft.	10,000	n/a
934	Fast Food w/DT	Sq. Ft.	3,000	n/a
945	Gas Sta. w/Conv. Store	Sq. Ft.	all	n/a
881	Pharmacy w/DT	Sq. Ft.	9,500	n/a
912	Bank w/DT	Lanes	4	n/a
912	Bank w/DT	Sq. Ft.	5,000	n/a

Institute of Transportation Engineers (ITE) *Trip Generation*, 10<sup>th</sup> Edition

### 9.3. Qualifications to Conduct and Review a Study

The parties involved in a land development application sometimes have different objectives and perspectives. Further, the recommended elements of a transportation impact study require skills found only in a trained professional engineer with specific experience in the field of traffic engineering and transportation planning.

For these reasons, the person conducting and the person reviewing the study must be registered professional engineers licensed in the State of Missouri with at least five years of demonstrated experience either in the preparation or review of transportation impact studies for land development. A registered Professional Traffic Operations Engineer, certified by the Transportation Professional Certification Board, is preferred.

The City Traffic Engineer shall determine whether an individual professional engineer is qualified to conduct a transportation impact study. Credentials shall be provided upon request. Any appeal shall be made to the City Council.

### 9.4. Review and Use of a Study

A transportation impact study should be viewed as a technical assessment of existing and projected transportation conditions. The extent to which individual professional judgment has to

be applied will be minimized by provision of community policies and practices with respect to street and traffic control design and land development.

Ultimately, a transportation impact study will be used by professional staff to make recommendations to the Planning Commission and City Council. Transportation is one element amongst many that must be considered.

City personnel charged with reviewing transportation impact studies have several functions to consider:

- 9.4.A. Determine whether the impacts of development have been adequately assessed.
- 9.4.B. Ensure that proposed access is properly coordinated with existing and planned facilities, fits into the ultimate configuration of the street network, and is appropriately designed at its connection to the public street network.
- 9.4.C. Determine whether proposed improvements for the public street network are necessary and sufficient to mitigate the impacts created, that the improvements meet local requirements, and that adequate transportation infrastructure is available to support the existing transportation users as well as the proposed development in the interest of protecting public health, safety and welfare. The expectations for adequate infrastructure relate to safety and operations in reference to not only the Access Management Code, but also the other standards, policies and ordinances of the City; including but not limited to the Level of Service Policy and Unimproved Road Policy.
- 9.4.D. Ensure that the development plan considers the needs of pedestrians, bicyclists, and transit users.
- 9.4.E. Determine whether the development layout can accommodate all anticipated vehicle types and that such vehicles can be accommodated on-site without adverse impact to the public street network.
- 9.4.F. Invite other responsible and applicable transportation agencies or entities, e.g., Missouri Department of Transportation, to participate in the study and review processes.
- 9.4.G. Provide consistent, fair, and legally defensible reviews.

## **9.5. Standard Transportation Impact Study Procedures**

- 9.5.A. Study Methodology Determination  
Prior to conducting any transportation impact study it is necessary to determine the minimum technical responsibilities and analyses that will be performed. It is the applicant's responsibility to ensure that the study utilize the techniques and practices accepted by the City and other participating agencies.

The following items shall be considered, discussed and agreed to by the City Traffic Engineer and the applicant for transportation impact studies. The City Traffic Engineer can provide a general scope of services for a traffic impact study upon request from the applicant or applicant's traffic engineer.



- Definition of the proposed development, including type and intensity of the proposed land uses and proposed access.
- Study area limits based on the magnitude of the development.
- Impact or influence on access for adjacent and nearby properties.
- Time periods to be analyzed, e.g., weekday A.M. and P.M. peak hours.
- Scenarios or conditions to be analyzed, e.g. existing conditions, existing plus approved/unbuilt, existing plus approved/unbuilt plus development conditions, and future conditions (consistent with horizon year in City traffic model).
- Future analysis year(s), including special study procedures for multi-phase development plans.
- General assumptions for trip generation, trip distribution, mode split, and traffic assignment.
- Traffic analysis tools and acceptable parameters.
- Availability and applicability of known data.
- Traffic data collection requirements and responsibilities, including time periods in which traffic counts will be collected.
- Transportation system data, e.g. traffic signals, transit stops, etc.
- Planned transportation system improvements, including the anticipated schedule, for all modes of transportation, e.g. street widening, bicycle trails, transit stops, etc.
- Planned/Approved development in the vicinity and any associated improvement conditions/mitigations.
- Methodology for projecting future traffic volumes.
- Current level of service, road condition and access management requirements.
- Acceptable mitigation strategies.

9.5.B. Study Area

The study area and the intersections and street segments to be included will vary for a number of reasons - the type and intensity of the development, the maturity of other development in the vicinity, the condition of the street network, etc. The study area should be large enough to assess the impact or influence of proposed access along street segments and to evaluate the ability of streets and intersections to absorb the additional traffic.

The study area should at least include those street segments onto which access is proposed and should typically extend to the next major intersection (arterial/arterial, arterial/collector, or collector/collector) in each direction.

9.5.C. Analysis Periods

Transportation impact studies should be based on peak-hour analyses. The analysis period(s) should be based on the peaking characteristics of both the public transportation systems and development traffic. The typical analysis periods for most development are the weekday A.M. and P.M. peak hours, often coincidental with peak commuter activity. Retail development that is typically not open early in the morning may not warrant study for the A.M. peak hour. On the other hand, intense retail activity in an area may warrant study during the Saturday peak hour. Some development generates its highest traffic volumes outside these time periods, such as Church and Recreation/Entertainment Facilities, and may require unique study to ascertain the impact of its peak traffic activity.

9.5.D. Analysis Years

In general, the analysis years should be the current period, development build-year, and the horizon year in the City's traffic model. Not all development will require a horizon year analysis; depending on the scale and land use proposed, consistency with the Comprehensive Plan and

Thoroughfare Master Plan, rights-of-way impact for ultimate buildout of adjacent and inclusive roadways and other factors that may be considered by the City Traffic Engineer for its waiver.

9.5.E. Method of Determining Future Traffic Volumes

Future traffic volumes on arterial and collector streets may be identified from the City's traffic model used to develop the long-range transportation plan for each arterial and collector street segment in the study area. The City Traffic Engineer shall provide future traffic projections based on the long-range transportation model or provide a method of derivation to be used in the analysis based on the scope of services. Some large-scale projects that significantly change the land use or transportation network may require long-range transportation modeling, in which case the City may share its transportation demand model for reference. Future traffic volumes are not applicable if the analysis of future year is not included in the scope of study.

## **9.6. Transportation Impact Assessment**

Once the parameters for the transportation impact study have been established, the steps in the study process require the applicant to collect relevant data, assess existing conditions, assess the impact of development, and project future conditions. Actually, two baseline conditions will be studied for existing conditions unless there are no approved developments in the vicinity - one called "Existing Conditions" that is based on conditions in the study area at the time of the study and another called "Existing Plus Approved/Unbuilt Conditions" that is comprised of existing conditions plus traffic forecasts linked to development projects in the vicinity that have been approved but not yet built.

9.6.A. Data Collection

The applicant is responsible for collecting, assembling, analysis and presentation of all data. Typically, the following types of data are required for the study area.

9.6.A.1. Proposed Site Development Characteristics

Identify the specific development plan under study and any existing development on and/or approved plans for the site. This includes land use types and intensities and the arrangement of buildings, parking and access. Also identify land uses (including types and the arrangement of buildings, parking and access) on property abutting the proposed development site, including property across public streets.

Information for the proposed development shall be displayed on a scaled drawing. If detailed information regarding abutting property is not shown on the development plan, it may be exhibited on a current aerial photograph, or other drawing, along with the proposed development.

This information is needed to assess the proposed access in relation to existing driveways and side streets at the site and along the street corridors on which access is proposed. This process should also take into account potential access for undeveloped land in the vicinity.

9.6.A.2. Transportation System Data

This includes the physical and functional characteristics of the transportation systems in the study area. Data to be collected includes:

- The functional classification and jurisdiction responsible for each street.
- The number and types of lanes for all intersections and street segments.

- Traffic control devices such as traffic signals (including left-turn control type(s) and phasing), other intersection control, and speed limits.
- Transit, bicycle, and pedestrian routes and facilities.
- Available sight distances to/from each proposed point of access.
- Planned streets not yet built.
- Planned transit, bicycle and pedestrian routes and facilities not yet built.
- Planned improvements for each street and/or intersection (either programmed for construction or included in the long-range transportation plan).

9.6.A.3. Transportation Demand Data

This includes current traffic volumes (intersection turning movement counts), percent trucks, peak hour factors, transit patronage, bicycle usage, and pedestrian usage. For some studies, additional data such as right-turn-on-red usage, traffic distribution by lane, or other similar data may be required.

Intersection turning movement counts shall be taken on a typical Tuesday, Wednesday, and/or Thursday for weekday conditions. It is preferred that morning and afternoon counts be taken on the same day. For a study requiring traffic counts at several intersections that cannot be accomplished all in one day, the counting program should be organized so that adjacent intersections are counted as close in time as possible and volumes adjusted to balance the highest movements measured. As a minimum, traffic volumes should be measured at any existing site driveway and on the adjacent streets, including the nearest arterial/arterial or arterial/collector intersection in each direction along streets bordering the development site. If a proposed driveway or street will line up with an existing driveway or street opposite it, traffic volumes shall be collected at the existing intersection. The time periods in which existing traffic is counted should generally coincide with the highest combination of existing traffic plus traffic expected to be generated by the proposed development. A minimum of one hour is required but the count periods should extend at least 15 minutes before and at least 15 minutes beyond the anticipated peak hour to ensure that the highest one hour of traffic is identified. Traffic volume counts at intersections shall document left-turn, through and right-turn movements on all approaches and shall be tabulated in no greater than 15-minute increments. The City Traffic Engineer shall determine, based on the nature of the development, additional time periods and locations in which current traffic volumes shall be documented.

9.6.A.4. Traffic Forecasts for Approved/Unbuilt Development

The City Traffic Engineer will determine which approved but unbuilt development influences the study area and will provide the traffic forecasts from those developments for each intersection and street segment in the study area.

9.6.A.5. Land Use Data

Identify the land use(s) shown in the Lee's Summit Comprehensive Plan for the proposed development site under study.

9.6.B. Operational Analysis

Capacity analyses shall be performed for each intersection in the study area. All capacity analyses shall be performed using a method or software approved by the City Traffic Engineer. In general, capacity analyses must be based on methodologies outlined in the latest edition of the Highway Capacity Manual (HCM). Planning level methods of analysis will not be accepted.

While other types of capacity analyses such as roundabout operations may be required for some transportation impact studies, most will include only signalized and unsignalized intersections.

9.6.B.1. Signalized Intersections

9.6.B.1.a. Analysis programs require input of intersection-specific information such as traffic volumes, number and types of lanes, signal phasing, etc., but also include a number of parameters reflecting traffic characteristics and signal operations that typically have preset default values. Care must be exercised to ensure that these parameters provide a true reflection of actual traffic operations and are based on normal practices of the City.

9.6.B.1.b. Cycle lengths used in these analyses must be reasonable based on the signal phasing and traffic demand at the intersection. For example, an arterial/arterial intersection with 8-phase control and protected-only left-turn phasing would likely use a cycle length of at least 100 seconds but possibly as high as 120 to 140 seconds. The cycle length to be used for the analyses shall be based on either existing operations or a cycle length optimization available with most capacity analysis software. Likewise, the green time (or cycle split) allocated to each phase must provide an accurate reflection of existing conditions. For isolated intersections, it is preferred that green times be determined through an optimization program in order to show how well the intersection could operate. For signalized intersections in coordination, actual timings should be used. Other means of developing green times shall be reviewed in advance with the City Traffic Engineer.

9.6.B.1.c. Other considerations in most analyses include the peak hour factor (PHF), percent trucks, clearance intervals, and the queuing model. The PHF should reflect the actual counts taken at the intersection. Some percentage of trucks should be input - either the amount measured or an estimate agreed to with the City Traffic Engineer. Clearance intervals shall be calculated based on practices recommended by the Institute of Transportation Engineers (ITE). These practices will typically yield clearance intervals (yellow plus all red) in the range of 5 to 6 seconds. Other clearance intervals related to pedestrian crossings shall also be accurately represented and comply with MUTCD, ADA and other requirements of the City. The type of queue model used should be applicable to the conditions and queue estimate should provide at least a 90 percent confidence level of the maximum anticipated queue.

9.6.B.1.d. On occasion, the lane utilization factor may need to be adjusted. Under some circumstances, near an interchange for example, the lane utilization may be imbalanced to such an extent that default values would not provide a likely representation of actual conditions.

9.6.B.1.e. The most important outputs of these analyses are the overall intersection level of service and the anticipated vehicle queuing in each lane.

9.6.B.1.f. Under some circumstances, traffic simulation modeling may be necessary or more appropriate to assess a street corridor. Closely-spaced traffic signals or corridors that employ traffic signal coordination are good candidates for simulation modeling. Any such model, however, must produce outputs comparable to HCM methodologies in order to estimate levels of service.

9.6.B.2. Unsignalized Intersections

9.6.B.2.a. The analysis on an unsignalized intersection is actually an analysis of only those movements that must yield to another movement. For example, at a two-way stop controlled intersection, the through and right-turn movements on the uncontrolled street are allowed free flow and are not subject to any delay.

9.6.B.2.b. Analysis results shall never be expressed as an overall intersection level of service; the term is meaningless.

9.6.B.2.c. The most important outputs of these analyses are the levels of service by lane or lane group and the anticipated vehicle queuing in each lane.

9.6.B.3. Acceptable Levels of Service

*Refer to the City's Level of Service Policy adopted by City Council Resolution.*

9.6.B.4. Vehicle Queuing Considerations

At signalized intersections, vehicle queues should be contained within turn lanes and should not extend into adjacent intersections. Vehicle queues in through lanes may influence the ability to access turn lanes and should be considered in assessing traffic operations.

At unsignalized intersections, vehicle queues should be contained within turn lanes. In the case of a side street or driveway serving a development site, vehicle queues should not impede site circulation, particularly inbound movements from public streets.

9.6.C. Background Traffic Growth

Background traffic is the expected increase in traffic volumes over time except for the specific development under study. Background traffic can be estimated out to the applicable horizon year in order to assess future traffic conditions. When the horizon year analysis is required, the Lee's Summit traffic model should be used to estimate background traffic growth in the following manner.

The model will need to be run four times to identify turning movement data for:

- Base Year Traffic Volumes;
- Base Year Select Zone Traffic Volumes;
- Future Year Traffic Volumes; and
- Future Year Select Zone Traffic Volumes.

Both the base year and future year models will need to be run two times. The first run will save the traffic volumes at the study intersections, as well as the select zone matrix for the TAZ's in which the development is being evaluated (the TAZ's under consideration will be identified by the City Traffic Engineer prior to the study). The model will need to be re-run using an all-or-nothing assignment of the select zone matrix based on the adjusted travel times for the previous runs. Details of this procedure are included in the model guideline documentation.

The City Traffic Engineer will establish the acceptable procedure for determining background traffic growth and future traffic volumes. Said procedure may be updated or revised from time to time at the discretion of the City Traffic Engineer.

The City Traffic Engineer may provide the applicant or applicant's traffic engineer background traffic growth for the horizon year.

9.6.D. Trip Generation

Trip generation is the process used to estimate the amount of travel associated with a specific land use or development. Trip generation is estimated through the use of "trip rates" that are based on some measure of the intensity of development, such as gross floor area (GFA).

Trip Generation, published by the Institute of Transportation Engineers (ITE), is the most comprehensive collection of trip generation available. The rates provided are based on nationwide data and numerous case studies. This manual is generally accepted as the industry standard and the latest edition shall be used for studies in the City of Lee's Summit. Caution needs to be applied when limited data points exist for a land use category. Local trip generation characteristics may be used if deemed to be properly collected, provide a broad and statistically valid collection of measures that represent the proposed land use, and are consistent with, but not exclusively unique to, the subject development application. The City Traffic Engineer shall make this determination.

In making the estimate of trips, the instructions and recommendations included in Trip Generation shall be followed. Typically, the trip generation equations, where available, provide the best estimates. Where data is provided for multiple independent variables, the one yielding the highest number of trips and is based on at least 10 samples (studies) shall be used.

Trip generation shall be estimated for the proposed development for daily, A.M. peak hour, and P.M. peak hour conditions. Other time periods may be necessary based on the land use and/or the inclusion of additional analysis periods in a particular study.

If the development site already has an approved plan, also estimate the number of trips that would be generated by the approved land uses. If the development application is proposing a land use that requires an amendment to the comprehensive plan, also estimate the number of trips that would be generated by the land use indicated in the Comprehensive Plan. The Director of Planning & Development shall approve the potential land use intensity in such cases for the purpose of estimating vehicle trips.

If internal capture rates and/or pass-by and diverted trips are used by the applicant, the applicable rates must be justified by the applicant and subject to approval by the City Traffic Engineer prior to use. In general, where pass-by trips are applicable, the number of pass-by trips should not exceed 10 percent of the adjacent street traffic during a peak hour or 25 percent of the development's external trip generating potential, whichever is less, and trips internally captured is highly dependent on proximity between compatible trip sharing land uses within a mixed-use development.

9.6.E. Trip Distribution

Trip distribution is the general direction of approach and departure to/from a development site. Trip distribution will typically be estimated using existing travel patterns exhibited in the area,

the position of the development in the community, capacity and classification of surrounding streets and the likely market area of the development. Data from similar development in the immediate vicinity could be useful as well. Good judgment is necessary to develop reasonable estimates of trip distribution.

9.6.F. Mode Split

Mode split is the estimate of number of travelers anticipated to use transportation modes other than automobiles. Data associated with most transportation impact studies is taken from suburban locations where there is little to no commuting alternative to automobile transportation. Further, the trip generation rates are based on the actual number of vehicles, not persons, entering and departing a particular land use. Therefore, mode split will not be applicable to most transportation impact studies.

Mode split, or modified trip generation rates, can be applied where the influence of alternative transportation modes is clearly demonstrated and documented. Prior approval must be received from the City Traffic Engineer.

9.6.G. Trip Assignment

Trip assignment involves the determination of traffic that will use each access point and route on the street network. While it certainly uses the trip distribution estimates, it is a different process. This is also the step where trip-reduction factors such as pass-by and diverted traffic are applied.

The assignments should reflect the conditions anticipated to occur in the analysis year. Assignments are estimates of how drivers will travel and need to account for physical and operational characteristics of the roadway and the habits of typical drivers. Some of these factors might include:

- The type of traffic control device at an intersection. For example, drivers might avoid a protected left-turn movement if they can reach their destination via the through movement and the left-turn phase has expired on approach.
- The design of internal circulation systems on the development site.
- The number of opportunities to enter from the same street. Typically, most drivers will use the first opportunity to enter but exiting trips tend to be more balanced.
- The difficulty turning left onto a major street at an unsignalized intersection.
- Drivers tend to travel in the most direct path towards their destination. In other words, drivers tend to avoid backtracking unless conditions either require it or an overall gain in safety and efficiency is expected.

Since some of these factors conflict, good judgment is necessary. Further, an iterative process might be necessary based on internal circulation alternatives and/or traffic mitigation alternatives considered. For example, the initial access plan may show a full-access driveway but the mitigation may call for it to be limited to right turns in and out.

9.6.H. Existing, Existing Plus Approved/Unbuilt, Existing Plus Development, and Existing Plus Approved/Unbuilt Plus Development Conditions Analysis

The analysis of existing plus approved/unbuilt, existing plus development, and existing plus approved/unbuilt plus development conditions are based on the combination of existing traffic,

traffic estimated for approved development yet to be built, and development traffic anticipated on opening. The development may be phased and have corresponding analysis scenarios to assess independent and compounding degrees of its completion. The methods of analysis shall be consistent and as described above.

Two sets of conditions should be analyzed for the Existing Plus Development and/or Existing Plus Approved/Unbuilt Plus Development scenarios:

- Existing Plus Development Traffic with No Improvements
- Existing Plus Development Conditions with Improvements
- Existing Plus Approved/Unbuilt Plus Development Traffic with No Improvements
- Existing Plus Approved/Unbuilt Plus Development Conditions with Improvements

In the first scenario for each condition, existing plus development and/or existing plus approved/unbuilt plus development traffic is analyzed with the current street geometry and traffic control except for the proposed access. The purpose is to demonstrate likely traffic conditions before mitigation and improvement measures are considered.

The second scenario is typically an iterative process where mitigation and improvement measures are necessary to achieve compliance with the Access Management Code, acceptable levels of service and/or to manage vehicle queuing. The final results of that process are to be documented along with the mitigation and improvement measures associated with those results. Improvements that become warranted by City design criteria or access management codes shall be identified and included in this process.

Mitigation measures might include:

- Additional turn lanes on the public streets and/or the site access.
- Additional through lanes on public streets.
- Revised traffic control, including new traffic signals.
- Access management strategies, e.g. build a raised median on the public street.
- Site plan or land use changes.

Mitigation and improvement measures should be logical for the conditions at a specific location, consistent with the corridor design and operations, and should contribute towards or at least be consistent with the ultimate configuration of the public street. The ramifications of mitigation and improvement measures must be clearly identified. For example, adding a second left-turn lane on one approach to an intersection will typically necessitate widening of the opposite approach.

In addition to achieving acceptable levels of service, anticipated vehicle queuing needs to be assessed to ensure that turn lanes are properly designed and that queues from one intersection do not impact operations at other intersections. This applies to the development site where access driveways connect to the public street system. In general, the site circulation layout should not create conditions where entering traffic might queue back onto the public street and/or the efficiency of exiting traffic is diminished. Further, the site plan and design should allow for all vehicle circulation to take place on-site and not on the public streets.

#### 9.6.I. Future Conditions Analysis



The analysis of future conditions is important to further assess proposed access in relation to the configuration of the public streets at a more mature stage of development. What might be deemed acceptable today might not fit with the long-range configuration of a street corridor. It may also prove useful in determining when significant improvements to major streets need to be planned.

The analyses should reflect street improvements planned to occur prior to the horizon year. Traffic associated with approved/unbuilt development is included in the background traffic growth of a future horizon.

#### 9.6.J. Pedestrian, Bicyclist, Transit and Truck Considerations

While transportation impact studies primarily address automobile traffic, recognition of other vehicle types and travel modes is appropriate, particularly in a community that strives for multi-modal choice and complete streets (livable streets). The following text by no means represents a comprehensive list of site planning elements but each must be addressed.

##### 9.6.J.1. Pedestrians

Sidewalks along public streets or off-street paths provide mobility for pedestrians. Pedestrians should be provided the opportunity to readily travel between these public infrastructure and adjacent land uses. Pedestrians should also have efficient and safe mobility within the development and minimize conflicts with vehicular traffic. All development plans should provide this accessibility, connectivity and mobility.

##### 9.6.J.2. Bicyclists

Similar to pedestrians, development sites should provide reasonable opportunities to travel between adjacent public streets, shared-use paths or bicycle trails and the land use. This does not imply that separate facilities are always needed; rather, the conditions within a development site should be comparable to conditions adjacent to and near the site. Adequate and properly placed parking facilities for bicycles are a key component to encouraging bicycle travel. At a minimum, bicycle accommodations identified in the Bicycle Transportation Plan and/or Greenway Master Plan shall be incorporated in the development.

##### 9.6.J.3. Public Transportation

Bus transportation is currently provided by several private and publicly funded agencies. More widespread public transit, whether demand service models, fixed routes and/or mass commute systems, could be implemented or expanded in the future. Site development should account for both current and potential transit services. Some of these considerations are similar to trucks due to the relatively large size of vehicle; however, the primary difference is that transit vehicles need to circulate with customer traffic flow. Turnouts may be planned for specific corridors or intersections, or adjacent to major trip generators.

##### 9.6.J.4. Trucks

Site driveways and internal circulation must be designed to accommodate the largest truck anticipated to serve the development or potential land use. Vehicle turning paths need to be provided such that trucks do not encroach over curbs and medians. Encroachment into opposing turning lanes should be minimized, but can be consistent with the scale of the development, the frequency and timing of truck movements and roadway functional classification. Truck circulation through a development site should minimize conflicts with

customer traffic and loading docks should be configured such that parked trucks do not impede normal traffic flow.

9.6.K. Documentation

The transportation impact study shall be documented in a typewritten, bound report outlining the findings and conclusions of the study, including exhibits illustrating the site plan, traffic volumes for each analysis scenario, and existing and proposed street conditions (lane configurations and intersection traffic controls). Exhibits shall also include level of service, delay and vehicle queuing results for each analysis scenario. The report, or an appendix, shall include all analysis worksheets and traffic volume count spreadsheets listing data by the minimum time increment in which the data was collected (not less than 15-minute increments). Two (2) bound copies, one unbound copy and one electronic disk/media containing all of the analysis files and a PDF of the final report shall be submitted with the development application. The bound copies and electronic disk/media will be routed internally by City staff to the Public Works Department - Traffic Engineering Division.

The report shall be well organized and generally follow the study process chronology. The report should be divided into sections to clearly distinguish between the site plan details, assessment of existing conditions, assessment of existing plus development conditions, and the assessment of future conditions. The concluding section of the report shall summarize the significant findings and outline the mitigations and improvements needed to meet accepted standards. Trip generation information, trip distribution assumptions, and analysis results should be organized in tables or exhibits and page numbering should be used.

Documentation of the mitigation and improvement measures shall include a detailed description of the proposed improvements. For example, turn lanes shall include a recommended length. It is expected that sufficient due diligence has been conducted to reasonably conclude that the mitigation and improvement measures can be implemented without disruption to existing roadside facilities, other public street facilities, e.g., another turn lane, and/or existing access. If proposed access or a mitigation or improvement measure will cause such a disruption, the impact shall be clearly described.

It is not appropriate to define or suggest funding responsibilities in the study report.

Any deviation from established guidelines/policies shall be clearly identified and justification provided as to the basis for such a condition and its potential ramifications on the public street system.

All assumptions and analysis methodologies should also be identified. The final report should be complete to the extent that the reviewer could find all information necessary to understand how analyses were conducted and could even recreate those analyses and achieve the same results.

The professional engineer responsible for completing the study shall sign and seal the final report.

## Section 10 - Interchange Areas

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The purpose of this section is to preserve the safe and efficient operation of traffic on interchange crossroads and interchanges, while preserving the accessibility of interchange areas for economic development. Specific purposes are to ensure adequate storage and maneuver distances for drivers between the first signalized intersection and the highway ramp and to avoid access connections to interchange crossroads that would interfere with traffic operations at interchange ramps. In addition, this section seeks to promote the development of local streets and service roads for access in the functional area of interchanges as an alternative to individual driveway access.

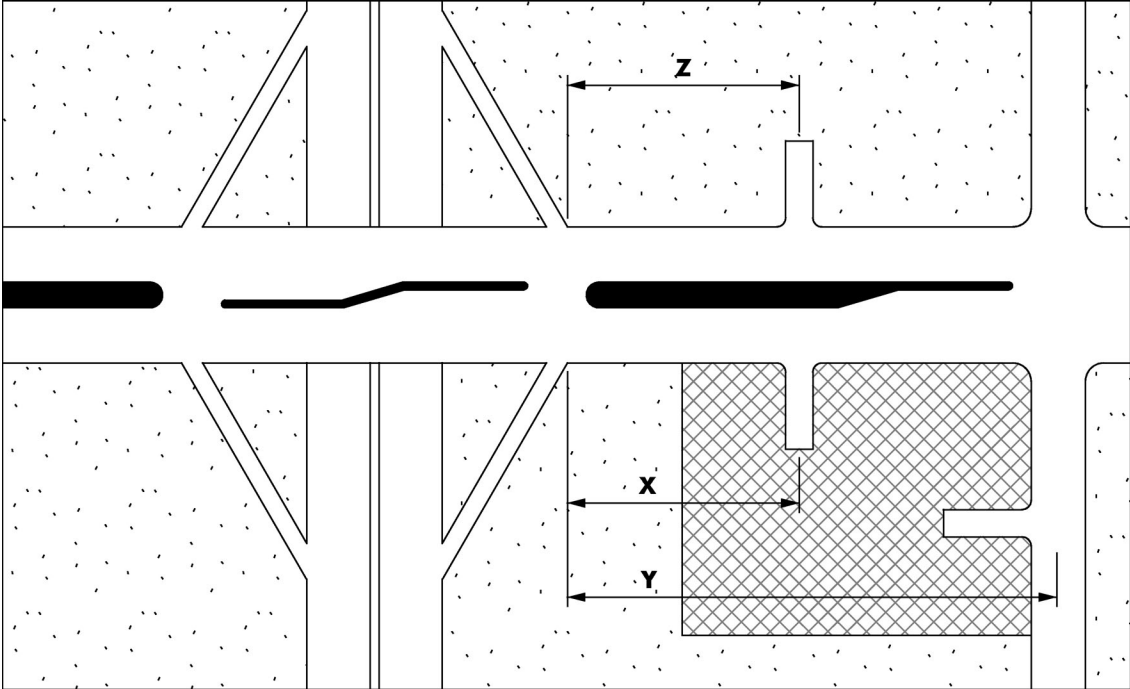
The standards in this section apply to areas where grade-separated facilities, e.g. Interstates and other freeways, interchange with surface streets, highways, and roads. In such cases, adequate areas need to be provided for traffic to make the transition from a high-speed highway to the surface street system.

### 10.1. Interchange Functional Area Standards

These requirements shall be applied in the vicinity of interchanges. These requirements should be applied within interchange areas and generally reflect the access management criteria provided by the Missouri Department of Transportation (MoDOT) for MoDOT rights-of-ways. Consequently, these requirements should be considered in consultation with the MoDOT which may recommend more stringent requirements in the interest of safety and operation of their facilities. The City does not exercise control over MoDOT right-of-way; but will coordinate the recommendations of MoDOT and support such recommendations applicable to the state highway system in the review of development applications that impact MoDOT interchanges and where such interchange operations influence the vicinity of interchanges that may or may not be MoDOT managed. In developed areas, these standards may be difficult to achieve, however they should be considered the desirable standard and achieved to the extent reasonably possible. In undeveloped areas, these connection spacing standards should be the minimum standards.

#### 10.1.A. Requirements:

- 10.1.A.1. In order to provide a safe distance for transitional activity to occur, the spacings identified in **Figure 10-1** shall be provided from the end of the off ramp to the first private driveway, median opening, or intersection with a public road.
- 10.1.A.2. The measurement basis for this standard is from the near edge of the ramp to the center of the intersection. At “diamond” type interchanges where traffic (including right turns) is controlled by a stop sign or traffic signal, the distance is measured from center to center of the intersections. At “diverging diamond”, roundabout or other continuous flow type interchanges, the distance is measured from the stop line or yield line.
- 10.1.A.3. Local roads or service roads shall be used for direct access to property within interchange areas.

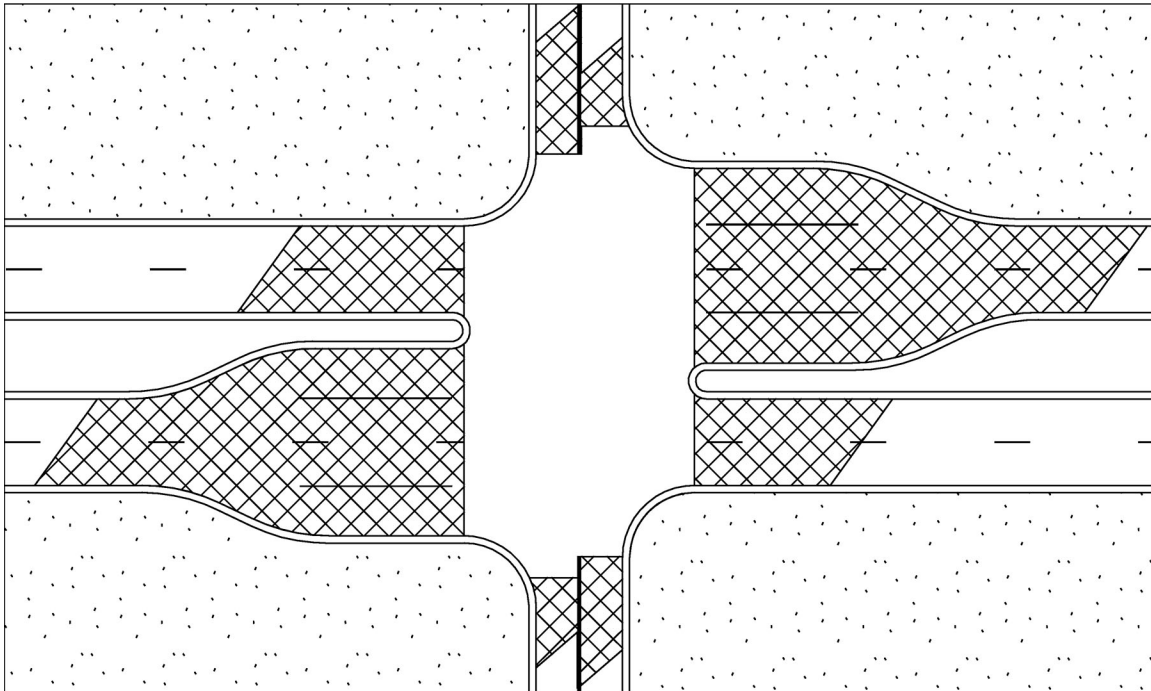


*X = 750 feet*  
*Y = 1,320 feet*  
*Z = 750 feet*

**Figure 10-1**  
**Connection Spacing Near Interchanges**

## Section 11 - Intersection Functional Area

The functional area of an intersection consists of more than the area bounded by the stop lines, yield lines or crosswalks. The functional area of the intersection also includes the area upstream of the intersection where vehicles have to react to slowing traffic in front of them, decelerate and wait in queues. The downstream functional area includes the area where through traffic merges with traffic turning from the cross street. It also includes the distance required to accelerate back to driving speeds. The intersection functional area is shown schematically in *Figure 11-1*.



**Figure 11-1**  
**Intersection Functional Area**

### 11.1. Upstream Intersection Functional Area

The upstream intersection functional area can be determined by summing two primary components, the Reaction/Deceleration Time and the Storage Length:

#### 11.1.A. Reaction/Deceleration Time

This is the distance traveled while the driver recognizes that action is required, i.e. sees vehicles stopping ahead, reacts, i.e. presses break pedal, and decelerates i.e., slows to a stop. These values can be calculated from *Table 11-1*. The City Traffic Engineer shall determine where limiting conditions can be applied.

<b>Speed (MPH)</b>	<b>Desirable Conditions<sup>2</sup></b>		<b>Limiting Conditions<sup>3</sup></b>	
	<b>Deceleration<sup>4</sup></b>	<b>PIEV Plus Deceleration<sup>5</sup></b>	<b>Deceleration<sup>4</sup></b>	<b>PIEV Plus Deceleration</b>
30	225	315	170	215
35	295	370	220	270
40	375	490	275	335
45	465	595	340	405
50	565	710	410	485
55	675	835	485	565
60	785	960	565	605

<sup>1</sup>all distances rounded to 5ft  
<sup>2</sup>2.0 second perception-reaction time; 3.5 fps<sup>2</sup> average deceleration while moving laterally into turn lane, 6.0 fps<sup>2</sup> average deceleration thereafter; speed differential < 10 mph  
<sup>3</sup>1.0 second perception-reaction time; 4.5 fps<sup>2</sup> average deceleration while moving laterally into turn lane, 9.0 fps<sup>2</sup> average deceleration thereafter; speed differential <10 mph  
<sup>4</sup>distance to decelerate from through traffic speed to a stop while moving laterally into a left-turn or right-turn lane  
<sup>5</sup>distance traveled during perception-reaction time plus deceleration distance

11.1.B. Storage Length

Queue lengths should be calculated based on existing (or existing plus development for new development projects) and future (horizon-year) traffic conditions. For development projects, turn lane storage improvements may be based on existing plus development conditions, however, site access and right-of-way should be planned to accommodate ultimate (horizon-year) conditions.

Queue lengths should be calculated for left-turn, through and right-turn lanes. Queue lengths should consider 90th percentile queues and should be calculated using established procedures or software that reports 90th percentile or maximum back of queue. As traffic signals on most arterial corridors have the potential to be coordinated, it is recommended that a cycle length of at least 120 seconds be used. Analysis should conform to Highway Capacity Manual methods. In areas with closely spaced or coordinated signals, software that analyzes coordinated signal timings, e.g. SIMTRAFFIC, TRANSYT, CORSIM, VISSIM, etc., may be needed to supplement the analysis. In these cases, queue lengths should be evaluated for both coordinated arrival and random vehicle arrival and the larger of the two values used, as future changes in coordination timings can significantly change queue patterns. In no case should the queue storage length used for calculating the upstream functional area be less than the maximum total length of any turn lane including taper at the intersection approach.

The City Traffic Engineer may elect to define the upstream functional area at a value less than that calculated by the aforementioned method based on existing or anticipated conditions at an intersection.

**11.2. Downstream Functional Area**

The functional area of an intersection extends some distance downstream from the crosswalk location because of the need to establish guidance and tracking after having passed through the area in which there are no lane lines. This is especially true following a left turn. It can be argued that a vehicle should clear a major intersection before the driver is required to respond to vehicles entering, leaving or crossing the roadway. The logic of this criterion is to simplify the driving task

and thus minimize the chances of driver mistakes and collisions. Stopping sight distance is one criterion which would allow the driver to clear the intersection before having to rapidly decelerate in response to a maneuver at a downstream intersection. Downstream functional areas based on AASHTO stopping sight distances are given in **Table 11-2**. The downstream intersection area should also extend beyond any U-turn design element.

<b>Speed</b>	<b>AASHTO Stopping Distance<sup>1</sup></b>
20	115
25	155
30	200
35	250
40	305
45	360
50	425
55	495
60	570

<sup>1</sup>Level Roadways

## **Section 12 - Medians and Continuous Center Turn Lanes**

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Restrictive (“raised” or “non-traversable”) medians and well designed median openings are known to be some of the most important features in a safe and efficient street system. The design and placement of these medians and openings is an integral part of the access management practice. Raised medians are important for several reasons.

- Vehicular Safety - to prevent crashes caused by crossover traffic, headlight glare distraction and traffic turning left from through lanes.
- Pedestrian Safety - to provide a refuge for pedestrians crossing the street.
- Vehicular Efficiency - to remove turning traffic from through lanes thereby maintaining desired operating speed. This reduces fuel consumption and emissions which is an environmental benefit.
- Improved Aesthetics - Landscaped and grass medians offer aesthetic benefits over paved turn lanes or undivided roadways.

Properly implemented median management will result in improvements to traffic operations, minimize adverse environmental impacts, and increase transportation safety. As traffic flow is improved, delay is reduced as are vehicle emissions. In addition, roadway capacity and fuel economy are increased, and most importantly, crashes are less numerous and/or less severe due to fewer conflict points, moderated interruptions in traffic flow and simplified driver decisions.

Continuous two-way center turn lanes (“two-way left-turn lanes” or “TWLTL” or “traversable” medians) do not provide all of the safety benefits of restrictive medians, but do offer some safety improvements over roadways where no left-turn lanes are provided, particularly in areas with frequent and low volume driveways. These facilities provide more flexibility than restrictive medians and operate safely and efficiently under appropriate circumstances. However, once the driveway density, left-turning traffic volumes, and through traffic volumes reach certain levels, the safety benefits diminish rapidly. Under such conditions, restrictive medians are the more effective alternative with regard to safety and operations.

### **12.1. Median Standards**

Restrictive medians shall prohibit vehicles from crossing the median except at designated median openings through the use of a barrier curb or wide landscaped median treatment. Restrictive medians shall be required under any of the following conditions:

- On all major arterial streets.
- On minor arterial and collector streets where existing daily traffic volumes are in excess of 18,000 (where traffic volumes are projected to exceed 18,000 in the future, the roadway and access should be designed to accommodate the future installation of a raised median, e.g. identify potential median opening locations, use 16-foot wide center turn lane).
- Speeds are posted at 45 MPH or above.
- Adjacent to left-turn lanes at signalized intersections (existing or planned signal locations) where driveways are present or would otherwise be located within the intersection functional area.
- Adjacent to all dual left-turn lanes.



- On multi-lane roadways (two or more through lanes in each direction) within the functional area of an interchange.
- On roadways with three or more through lanes in each direction.
- At roundabout controlled intersections.

## **12.2. Continuous Two-Way Center Turn Lanes**

Continuous two-way center turn lanes may be considered under the following conditions (except where restrictive medians are required as described above):

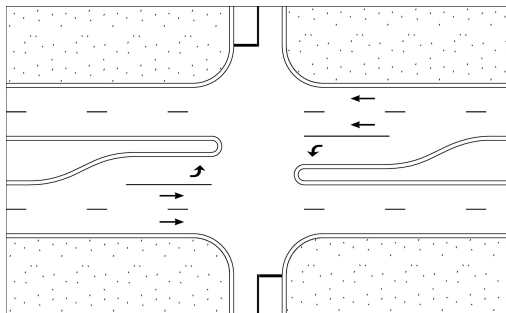
- 12.2.A. On minor arterial and collector streets adjacent to property that is already developed or planned for low density commercial use or in areas where there is a need for frequent left-turn lanes and low left-turn volume.

## Section 13 - Median Openings

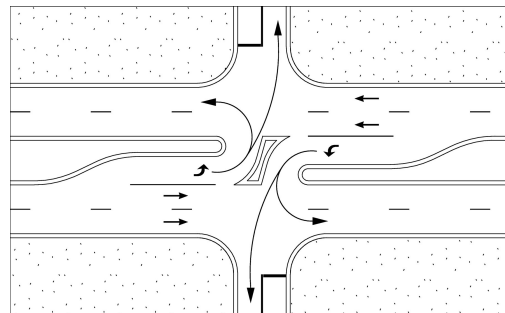
Openings in restrictive medians should only be provided to accommodate turning traffic in locations where this can be safely done. Where openings are provided, adequate spacing between them is necessary to allow for required vehicle storage, adequate entry taper and weaving of traffic so as to preserve traffic flow and provide for safe lane changes and turns.

A full opening allows turns to be made in both directions; a directional opening allows turns to be made in only one direction. An example of a directional median would be one that allows left turns into a driveway, but does not allow left turns to be made out.

Examples of these median opening types are shown on *Figure 13-1* and *Figure 13-2*.



**Figure 13-1**  
**Full Median Opening**



**Figure 13-2**  
**Directional Median Opening**

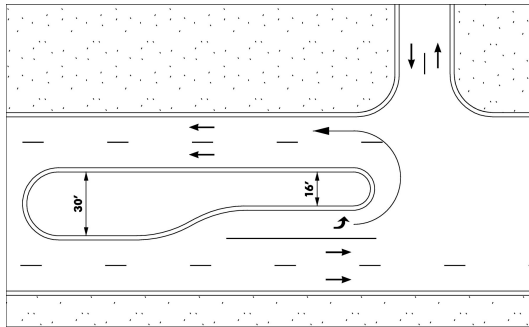
### 13.1. Median Opening Standards

The minimum spacing standards for full median openings shall be subject to the limitations listed below.

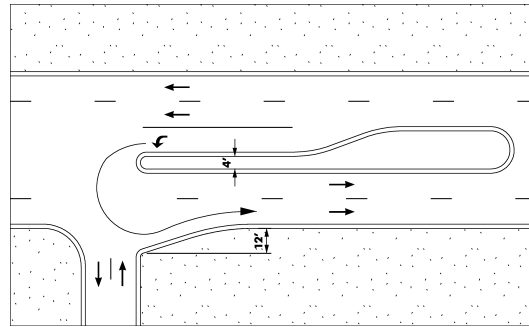
- 13.1.A. No median openings shall be permitted within the functional area of an interchange or intersection.
- 13.1.B. Median openings shall not be permitted where an opening would be unsafe due to inadequate sight distance.
- 13.1.C. Full median openings along major arterials must meet the minimum requirement of one-quarter mile spacing and full median openings along any roadway must meet the minimum connection spacing requirements noted in Section 15.
- 13.1.D. Directional median openings may be provided at any connection that meets the connection spacing requirements, and is found to be an acceptable location based on a transportation impact study.
- 13.1.E. Left-turn lanes shall be required at all median openings. Median openings shall not be permitted where minimum required queue storage and taper cannot be provided for the left-turn lanes.

### 13.2. U-Turns

As access management principles and standards are applied, the U-turn becomes an increasingly important movement for accessing local streets and driveways along arterials. A standard passenger vehicle cannot easily make a U-turn from a left-turn lane with minimal median width, e.g. 4 feet, and only two lanes in the opposing direction. In order to accommodate U-turn movements at median openings on a four-lane roadway, there are two options - provide a wide median near the intersection (30 feet or more) or provide some sort of widening of the downstream approach near the U-turn location. Downstream widening can be accommodated by allowing vehicles to turn on the shoulder or by flaring the pavement width at the U-turn locations. Ultimately, the width between the left edge of the left-turn lane and the right edge of the downstream travel lane needs to be at least 44 feet for a typical automobile to make a U-turn. An assessment of the design vehicle wheel path for U-turns should be done where U-turn accommodations are desired to ensure the appropriate area is available without encroachment and is not excessively overbuilding the pavement which can mislead lane identification. Special care should also be given to U-turns at traffic signal controlled intersections for the left-turn/U-turn phase interaction with protected or permitted or overlap right-turn operations. Examples of these techniques are illustrated on **Figure 13-3** and **Figure 13-4**.



**Figure 13-3**  
**U-Turns at Wide Median**



**Figure 13-4**  
**U-Turns onto Flared Approach**

## **Section 14 - Traffic Signals**

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This section addresses the distance between signalized at-grade intersections on public streets. Minimum spacing is mainly intended to preserve efficient traffic flow and progression on urban arterial streets; for instance, a quarter or half-mile spacing allows traffic signals to be effectively interconnected and synchronized. Effective signal coordination will also tend to reduce rear-end collisions and stop-and-go driving that increases congestion, delay, and air pollution.

### **14.1. Traffic Signal Standards**

An intersection should meet the following requirements to be considered for installation of a traffic signal.

- 14.1.A. The intersection shall meet a warrant or warrants in the Manual on Uniform Traffic Control Devices (MUTCD). Installation of a traffic signal based solely on the peak hour warrant will only be considered at the intersection of an arterial street with another arterial street, collector street, or at the intersection of an expressway, highway or freeway and ramp terminal. Other locations must meet additional signal warrant criteria and be supported by engineering study.
- 14.1.B. For intersections where one or more of the roadways is a collector street, existing traffic volumes shall be utilized in evaluating the signal warrants (installation of a traffic signal based on existing plus proposed development traffic volumes may be approved if the projected traffic volume will likely realize within 12 months of occupancy). Signals warranted based on future phases of development would have conditions of approval for signal installation coincidental to the phase of development that merits the signal warrant. Approved development trip generation that has not yet realized may be considered in the traffic signal warrant evaluation.
- 14.1.C. The location of the traffic signal should be at least one-quarter mile (1/4) from another traffic signal, either existing or anticipated and shall not be less than one-eighth mile (1/8) from another traffic signal where extraordinary conditions exist and by approval of the City Traffic Engineer
- 14.1.D. Traffic signal interconnect conduit and fiber optic lines shall be installed between traffic signals within 3,000 feet of the proposed location, potentially within one mile for wireless communications
- 14.1.E. Roundabouts should be considered, where applicable and practical based on engineering study, in lieu of traffic signals except where the intersection is within the influence of an adjacent traffic signal and coordinated corridor.

## **Section 15 - Connection Spacing**

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This standard governs the minimum allowable spacing between connections (e.g. streets and private driveways) on various classifications of streets. Access points introduce conflicts and friction into the traffic stream. Each conflict point increases the crash opportunity and exposure along a corridor. Each friction point reduces the corridor capacity to efficiently move traffic. Vehicles entering and leaving the main roadway often slow the through traffic, and the difference in speeds between through and turning traffic increases crash potential. The many proven benefits of managed access can be read in more detail from various Transportation Research Board references, papers, reports and studies as well as multiple documents published by AASHTO, including A Policy on Geometric Design of Highways and Streets.

The professional consensus is that increasing the spacing between access points improves arterial flow and safety by reducing the number of conflicts per mile, by providing greater distance to anticipate and recover from turning maneuvers, and by providing opportunities for use of turn lanes. Many studies have shown that driveway spacing is one of the key factors that influence crash frequency.

### **15.1. Connection Spacing Standards**

Connections (a street or driveway, public or private) to public roadways shall conform to the following requirements. All applicable criteria must be met to be deemed conforming.

- 15.1.A. Connections along any arterial or collector shall be outside any interchange or intersection functional area.
- 15.1.B. Connections shall be sufficiently separated to accommodate warranted and/or required right-turn lanes and left-turn lanes.
- 15.1.C. Connections along any arterial or collector shall be aligned with existing or planned connectors on the opposite side of the street, except where a restrictive median is in place and the spacing criteria in 15.1.E are satisfied. The alignment and angle of intersection of connections at the intersecting connector shall meet the criteria described in the City's Design and Construction Manual.
- 15.1.D. Connections where no restrictive median is in place, minimum separations (measured from centerline to centerline) include:
  - 15.1.D.1. Major Arterial - 660 feet
  - 15.1.D.2. Minor Arterial - 400 feet
  - 15.1.D.3. Industrial/Commercial Collector - 300 feet
  - 15.1.D.4. Residential Collector - 200 feet
  - 15.1.D.5. Local or Access – Minimum separation as required by the Unified Development Ordinance (UDO), except such connector shall also be spaced from any collector or arterial intersection in accordance with minimum throat length criteria described in Table 18-2 and not be located within the intersection sight triangle (not to obstruct sight distance).
- 15.1.E. Connections where a restrictive median is in place shall meet the following requirements and the minimum requirements of Section 13. Any access having restricted movement shall be controlled through the use of a restrictive median conforming to Section 12.

- 15.1.E.1. Connections with restricted left-turns out and cross-street traffic (LIRIRO) shall meet all of the requirements in sections 15.1.A, 15.1.B, and should meet the requirements of 15.1.D where adjacent to LIRIRO or full access.
- 15.1.E.2. Connections limited to right-turns in and right-turns out (RIRO) shall meet all of the requirements in sections 15.1.A and 15.1.B.
- 15.1.F. Multiple (2) residential driveways for a single residential property may be approved on local and access streets at the discretion of the City Traffic Engineer, so long as sight distance is not obstructed, access to mail box or fire hydrant is not impeded, or a negative impact caused to on-street parking availability for adjacent owners (next to or across from such driveway). Multiple driveways for a single residential property are not permitted on collectors and arterials and access to collectors and arterials for residential properties shall conform to other provisions of this code which preclude such access if an alternative exists from a local street, access street or shared access condition.

## **Section 16 - Turn Lanes**

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Vehicles slowing to turn right or left onto cross streets or into driveways cause disruptions to through street traffic flow and increase crashes along a corridor. Thus, the treatment of turning vehicles has an important bearing on the safety and movement along roadways. Turn lanes are one of the most influential and important components of access management.

Left turns may pose problems at driveway and street intersections. They may increase conflicts, delays, and crashes and often complicate traffic signal timing. These issues are especially acute at major suburban arterial intersections where heavy left-turn movements take place, but occur also where left turns enter or leave driveways serving adjacent land development. The following illustrate these problems:

- More than two-thirds of all driveway-related crashes involve left-turning vehicles.
- Where there are more than six left turns per traffic signal cycle, virtually all through vehicles in the shared lane may be blocked by the left-turning vehicles.

### **16.1. Left-Turn Lane Standards**

16.1.A. Left-turn lanes shall be provided on all approaches to intersections controlled by, or planned to be controlled by, traffic signals.

16.1.B. Left-turn lanes shall be provided on all arterial streets at the intersection with other arterial and collector streets. Left-turn lanes shall be provided on minor arterial streets at the intersection with any local street or driveway where the left-turn volume is at least 20 vehicles in any hour. On major arterial streets, left-turn lanes shall be at the intersection with all connectors (an exception may be granted for a singular, existing, residential lot).

16.1.C. Left-turn lanes shall be provided on collector streets at the intersection with a connector serving non-residential development where the left-turn volume is at least 30 vehicles in any hour and should be provided where the left-turn volume is less than 30 vehicles in any hour.

16.1.D. Left-turn lanes shall be provided on non-residential connectors intersecting with major arterial streets (where left-turn egress is permitted). Left-turn lanes shall be provided on non-residential connectors intersecting minor arterial streets (where left-turn egress is permitted) where the left-turn volume is at least 20 vehicles in any hour. Left-turn lanes should be provided on any connector at any location as recommended by a traffic study or where the left-turn lane provides design efficiencies desired by the owner/developer with exception of access associated with residential property.

16.1.E. Left-turn lanes shall be provided at all median openings on roadways with medians.

16.1.F. Continuous two-way left turn lanes may be used in lieu of individual left-turn lanes where permitted by the City Traffic Engineer and in consideration of conditions listed in Section 12. Continuous left-turn lanes in the presence of a median will not be allowed.

16.1.G. Dual-left-turn lanes should be planned for all approaches of an arterial/arterial intersection. The outside receiving lane for a dual-left-turn lane condition should be designed with a tapered entrance to accommodate a wider turning radius.

- 16.1.H. The minimum length of left-turn lane should be 250 feet plus taper on an arterial street intersecting another arterial street and 200 feet plus taper on an arterial street at other locations. The minimum length of left-turn lane on collectors should be 150 feet plus taper. The minimum length of left-turn lane on connectors should meet the driveway throat length requirements.
- 16.1.I. The length of the left-turn lane shall be increased as necessary to accommodate estimated queue length. The length of the left-turn lane at intersections controlled by traffic signals should be increased, if necessary, based on the longer of the queues in the turn lane or the adjacent through lane.
- 16.1.J. Left-turn lane lengths cover the full-width segment between the taper and the end of the lane at an intersection. The end of the lane at the intersection should be determined as the stop line, or if none, as the point of curvature for the corner radius.
- 16.1.K. The introductory taper should be a reverse curve using a 150-foot radius for a single left-turn lane and 300-foot radii for a dual left-turn lane. The reverse curve does not define the redirection taper where a left-turn lane is introduced.
- 16.1.L. The beginning of a taper should not encroach the interchange or intersection functional area of an adjacent traffic signal or roundabout, whether existing or planned.

## **16.2. Right-Turn Lane Standards**

- 16.2.A. Required on arterial streets at each intersecting street or driveway where the right-turn volume on the major arterial street is or is projected to be at least 30 vehicles in any hour, or the right-turn volume on the minor arterial street is or is projected to be at least 60 vehicles in any hour. Minimum length should be 250 feet plus the taper on a major arterial at the intersection of another arterial street or 200 feet plus the taper on a minor arterial at the intersection with another arterial street or on a major arterial at the intersection of a collector and 150 feet plus the taper at other locations along arterial streets.
- 16.2.B. Required on collector streets in non-residential areas at the intersection with any street or driveway where the right-turn volume on the collector street is or is projected to be at least 100 vehicles in any hour. The minimum length should be 100 feet plus the taper.
- 16.2.C. The length of the right-turn lane shall be increased as necessary to accommodate estimated queue length. The length of the right-turn lane at intersections controlled by traffic signals or roundabouts should be increased, if necessary, based on the longer of the queues in the turn lane or the adjacent through lane.
- 16.2.D. Right-turn lane lengths cover the full-width segment between the taper and the end of the lane at an intersection. The end of the lane at the intersection should be determined as the stop line or yield line, or if none, as the point of curvature for the corner radius.
- 16.2.E. The introductory taper should be a straight line and its length should be determined by using a rate of 12.5 to 1 based on the width of the right-turn lane.
- 16.2.F. The beginning of a taper should be no closer than 100 feet from the nearest point of curvature on the intersection corner radius of the nearest connector preceding the turn lane along arterials and 50 feet from the same of the nearest connector preceding the turn lane along collectors and other locations. The beginning of a taper should not encroach the interchange or



intersection functional area of an adjacent traffic signal or roundabout, whether existing or planned.

16.2.G. Continuous right-turn lanes will not be allowed.

### **16.3. Variances**

The standards outlined in the section may be altered or waived by the City Traffic Engineer for a specific situation in which extraordinary conditions are encountered.

## **Section 17 - Sight Distance**

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Sight distance for driveway and street construction should be considered essential in the design and issuance of permits for all connectors. If there is a request to construct a driveway or street at a questionable location, the transportation impact study must include a field inspection to evaluate the sight distance. Sight distance is the most important consideration in allowing, not allowing, or placing driveway and roadway intersections. Both vertical and horizontal alignment can limit sight distance. Special consideration is required for skewed intersections.

The sight distance standards include stopping sight distance, intersection sight distance, passing sight distance and other sight distances referenced in the 2011 AASHTO “Green Book” A Policy on Geometric Design of Highways and Streets, as may be amended in the publication of future editions.

### **17.1. Sight Distance Standards**

#### 17.1.A. Stop-Controlled Intersections

The intersection sight distance is based on a gap-acceptance concept. It is assumed that drivers on the major road should not need to reduce speed to less than 70 percent of the initial speed. The intersection sight distance is determined from the size of acceptable gap that a driver requires to enter the roadway.

The acceptable gaps that drivers require to enter a major roadway for left turns and right turns from the stop are given in *Table 17-1*. Adjustments for roadway width and approach grades are given in footnotes to the table. Sight distances for left-turns for passenger cars on various width roadways at a stop controlled approach are summarized on *Table 17-2*. Sight distances for right-turns and cross-over maneuvers for passenger cars are generally less than the distances required for left-turns. The speed used to calculate the minimum sight distance shall be the posted speed, design speed or the 85th percentile speed, whichever is known and greatest.

<b>Table 17-1 Gap Time for Stop Controlled Intersections</b>	
<b>Design Vehicle<sup>1</sup></b>	<b>Time Gap<sup>2,3</sup></b>
Passenger Car	7.5 sec.
Single Unit Truck	9.5 sec.
Combination Truck	11.5 sec.
<p><sup>1</sup>Passenger car design vehicle is typically sufficient for streets and drives serving residential, commercial and office development. For industrial developments, or on major streets with more than 3% trucks, consider using truck categories.</p> <p><sup>2</sup>Adjustment for multilane highways: For left turns onto two-way highways with more than two lanes, add 0.5 sec for passenger cars or 0.7 sec for trucks for each additional lane, in excess of one, to be crossed by the turning vehicle. For right turns, no adjustment is necessary.</p> <p><sup>3</sup>Adjustment for approach grades: If the approach grade on the minor road is an upgrade that exceeds 3 percent: Add 0.1 sec per percent grade for right turns, add 0.2 sec per percent grade for left turns.</p>	

<b>Table 17-2 Sight Distance for Stop Controlled Intersections, in Feet Passenger Cars, Grades Less Than 4%</b>				
<b>Speed<sup>2</sup> (MPH)</b>	<b>Lanes to Cross<sup>1</sup></b>			
	<b>One</b>	<b>Two</b>	<b>Three</b>	<b>Four</b>
20	225	240	250	265
25	280	295	315	335
30	335	355	375	400
35	390	415	440	465
40	445	475	500	530
45	500	530	565	600
50	555	590	625	665
55	610	650	690	730
60	665	710	750	795
65	720	765	815	860
70	775	825	875	930
<p><sup>1</sup>Lanes to cross for left-turning vehicles (lanes with vehicles approaching from left including left and right-turn lanes, add one lane for each 15 feet of median width not including left turn lane) ; except where a left-turn movement can be staged by design within a median of sufficient width, the left-turn may be evaluated as a right-turn.</p> <p><sup>2</sup>Greater of posted speed, design speed or 85th percentile speed.</p>				

17.1.B. Traffic Signal Controlled Intersections

The intersection sight distance at signal-controlled intersections requires that the first vehicle on each approach should be visible to the drivers of the first vehicle on all other approaches. If the signal is to be placed on two-way flashing operation, the requirements for left and right turns from a stop controlled intersection must be met. If right turns on red are permitted, an expected operation in Lee's Summit by default, the departure sight triangle for right turns for stop controlled intersections should be provided.

17.1.C. All-Way Stop Controlled Intersections

The first vehicle stopped on each approach should be visible to the drivers of the first vehicles stopped on all other approaches.

17.1.D. Left Turns from a Major Road

The required intersection sight distance for left-turns from the major road when the left-turn is not controlled is the distance traveled by an approaching vehicle at the design speed of the major roadway for the distances shown in **Table 17-3**.

<b>Table 17-3 Gap Time for Left Turns from Uncontrolled Street</b>	
<b>Design Vehicle</b>	<b>Travel Time <sup>1</sup></b>
Passenger Car	5.5 sec.
Single Unit Truck	6.5 sec.
Combination Truck	7.5 sec.
<sup>1</sup> Adjustment for multilane highways: For left turns that must cross more than one opposing lane, add 0.5 sec for passenger cars and 0.7 sec for trucks for each additional lane to be crossed	

Generally, no separate check for this condition is necessary where sight distance for stop intersections is available. Checks are required at three-legged intersections and at mid-block approaches or driveways. Locations on horizontal curves and with sight obstructions present in the median need to be checked as well.

## 17.2. Exceptions to Sight Distance Requirements

Sight distance should be considered a key element in the location of all driveways and roadway intersections with particular emphasis placed upon public street approaches, high volume commercial and industrial driveways, and all driveways on arterial streets. All driveway and roadway intersection locations shall meet or exceed the requirements listed above.

If no location on the applicant's frontage meets or exceeds the sight distance requirements, but a location does meet or exceed the distances shown in the *Minimum Stopping Sight Distance* column on **Table 17-4**, a driveway or roadway may be located with the City Traffic Engineer's approval, in accordance with the all the following criteria:

- The proposed driveway location has the maximum sight distance available on the entire property frontage.
- The classification for the street is not expressway or major arterial.
- The proposed location is not for a public street approach or a high-volume commercial driveway (more than 50 trips (in plus out) existing or projected during the peak hour).
- There is no other available access, having equal or greater sight distance.
- The Applicant will submit a letter to the City Traffic Engineer stating the following: "Applicant is aware that the sight distance of this driveway is restricted. The sight distance is the minimum necessary for a vehicle traveling at the posted speed to come to a complete stop prior to the driveway." The permit may also be issued with conditions limiting the number and types of vehicles using the driveway.

If these conditions are not met the permit shall not be issued for the driveway. The applicant should be advised of work that could improve sight distance for the location, such as grading or brush removal.

<b>Table 17-4 Minimum Stopping Sight Distance, in Feet</b>									
<b>Speed<sup>1</sup></b>	25	30	35	40	45	50	55	60	65
<b>Distance<sup>2</sup></b>	155	200	250	305	360	425	495	570	645
<sup>1</sup> Greater of design speed or 85th percentile speed. <sup>2</sup> Distances shown for level roadways. Additional stopping sight distance is required for downgrade conditions.									

### **17.3. How to Measure Sight Distance**

The sight distance for the proposed driveway is measured for each direction of travel and turning movement considered and the smaller distance is then located in the sight distance chart for the speed (greater of the design speed and 85th percentile speed) of the roadway to determine which sight distance criteria is met, if any.

Acceptable sight distance measurement methods are described in the AASHTO “Green Book”. For example: To measure actual sight distance limited by vertical alignment in the field for a proposed driveway, place a sighting target 3.50 feet above the edge of pavement at a point 20 feet from the edge of the nearest travel lane to represent the approximate location of a driver waiting to exit the driveway at the proposed driveway location. On streets classified minor arterial and below, the target may be placed at a point 15 feet from edge of the nearest travel lane. Sighting from a height of 3.5 feet for cars (7.6 feet for trucks), move along the roadway away from the proposed driveway site to a point beyond where the target disappears. Move toward the target until it can first be seen and place a mark on the pavement. The target should remain visible as you continue toward the driveway. The line of sight should stay within the limits of the right-of-way. Measure the distance along the roadway between the mark and the target. This measured distance is the sight distance.

Sight distance should take into account both the horizontal and vertical profile of the roadway. Consideration may also be given to vegetation both on the right-of-way and adjacent to the right-of-way as it may impede vision more or less during certain times of the year. Where providing adequate sight distance requires visibility across private property, provisions must be made to preserve sight lines across the property.

## **Section 18 - Driveway/Connection Geometry**

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The design of driveways is important in access management in that it affects the speed of traffic turning into and out of driveways. This in turn affects the speed differential between through traffic and turning traffic where auxiliary lanes are not provided. Large speed differentials are created where driveways are inadequately designed and these higher speed differentials are associated with higher crash rates and diminished traffic operations. The design of driveways also impacts the safety of pedestrians crossing driveways and delay associated with pedestrian driveway crossing activity.

Another critical aspect of the driveway or connection design is the potential for traffic operations off of the public street to become congested and spill or queue back onto the public street. The proper separation of internal conflict points from the public street is necessary to eliminate or diminish this potential.

Driveway designs should always be based on the results of a study of the traffic likely to use them.

### **18.1. Driveway/Connection Standards**

#### 18.1.A. Lining Up Driveways Across Roadways

Driveways shall align with driveways across the roadway on roadways without non-traversable medians or shall be offset as described in the connection spacing standards.

#### 18.1.B. Angle of Intersection to the Public Roadway

18.1.B.1. Driveways that serve two-way traffic should have angles of intersection with the public street of 90 degrees or very near 90 degrees. The minimum acceptable angle for driveways that serve two-way traffic is 80 degrees.

18.1.B.2. Driveways that serve one-way traffic may have an acute angular placement of from 60 to 90 degrees.

#### 18.1.C. Corner Radius

The corner radius at intersections should be large enough to allow entering vehicles to do so at a reasonable rate of speed and avoid encroachments of adjacent lanes by turning vehicles of frequent use (e.g. typically a passenger vehicle and/or single unit truck), but should otherwise be minimized to reduce the negative impacts associated with larger radii. Large corner radii can adversely impact safety and operations by acute view angles, increased pedestrian crossing exposures, indistinct lane definition, greater intersection area, and other considerations. The Design and Construction Manual describes minimum corner radii, measured from the back of curb or edge of roadway when curb is not present. Corner radii for driveways shall not exceed the radii standards for street intersections and should be less than those for streets so as not to confuse the identification of driveway intersections as street intersections along a roadway. Corner radii of greater than 50 feet should not be used.

18.1.D. Driveway Width

Driveway widths shall be measured exclusive of any curb or curb and gutter. If monolithic curb is used, a 2-foot section measured from the back of curb shall be deemed a de facto curb and gutter section. Any medians contained in the driveway are above and beyond the minimum widths in the table. Driveway widths shall be minimized and accommodate the required number of lanes and all traffic movements for the expected design vehicle. Typical minimum and maximum widths for various levels of traffic and directions of access are shown on **Table 18-1**.

- 18.1.D.1. All commercial and industrial driveways shall be curbed.
- 18.1.D.2. All parking lots and driveways leading to or connecting with parking lots shall also be curbed.
- 18.1.D.3. All commercial and industrial driveways with four or more lanes shall have a raised median separating the inbound and outbound lanes. The median should be at least 4 feet in width with aesthetically enhanced materials of contrasting color and texture to that of the pavement surface. A landscaped median with minimum width of 8 feet is desired. On industrial drives with primarily heavy truck traffic, medians may be omitted unless provided to comply with controlled access conditions.
- 18.1.D.4. Single inbound or outbound lanes on driveways with a median shall be 16 to 18 feet in width.
- 18.1.D.5. The width of any residential driveway shall conform to the requirements noted as general conditions herein, the Unified Development Ordinance and/or Design & Construction Manual whichever applies and is most restrictive. Generally, residential driveway width at the right-of-way shall be minimized to the extent practical and not exceed a typical three-car width (a typical two-car drive width preferred).
- 18.1.D.6. Low volume driveways may be permitted to have a width of 24 feet (back of curb to back of curb) on local and access roadways or in the Downtown Core provided trucks are prohibited or the site, throat depth and driveway are designed to accommodate truck traffic.



Driveway Traffic Category	Average Daily Traffic Using Driveway	Peak Hour Traffic Using Driveway	Two-Way Access		One-Way Access	
			Min. Width	Max. Width	Min. Width	Max. Width
Low Volume	< 1500	< 150	28 feet <sup>2</sup>	42 feet <sup>3</sup>	16 feet <sup>1</sup>	18 feet <sup>1</sup>
Medium Volume	1500-4000	150-400	42 feet <sup>3</sup>	56 feet <sup>4</sup>	18 feet <sup>1</sup>	30 feet <sup>2</sup>
High Volume	>4000	>400	42 feet <sup>3</sup>	To Be Determined Through a Traffic Study	Generally Not Applicable	Generally Not Applicable

<sup>1</sup>One-lane driveways.  
<sup>2</sup>Driveway accommodates two-lanes.  
<sup>3</sup>Driveway is striped for three lanes.  
<sup>4</sup>Driveway is striped for four lanes. Driveway may require a width greater than 56 feet where additional lane(s) are needed based on a traffic impact study or other Access Management Code provision.

18.1.E. Driveways and Accommodation of Pedestrians

In current and future urban places, all driveways must adequately accommodate pedestrians using sidewalks or paths. The crosswalk location should be placed to balance the pedestrian crossing distance and the width of the intersection for vehicular traffic (typically this is at about the center point of the corner radius). Crosswalks should not be placed where pedestrians would likely have to cross behind or between stopped vehicles. Where four or more driveway lanes are created, the driveway should be designed so that the pedestrian has a refuge from entering and exiting traffic unless such driveway is traffic signal controlled. Driveway widths and corner radii should be minimized, not maximized, to reduce the pedestrian crossing distance. This will also reduce the pedestrian crossing time making traffic operations more efficient.

18.1.F. Driveways and Accommodation of Bicycles

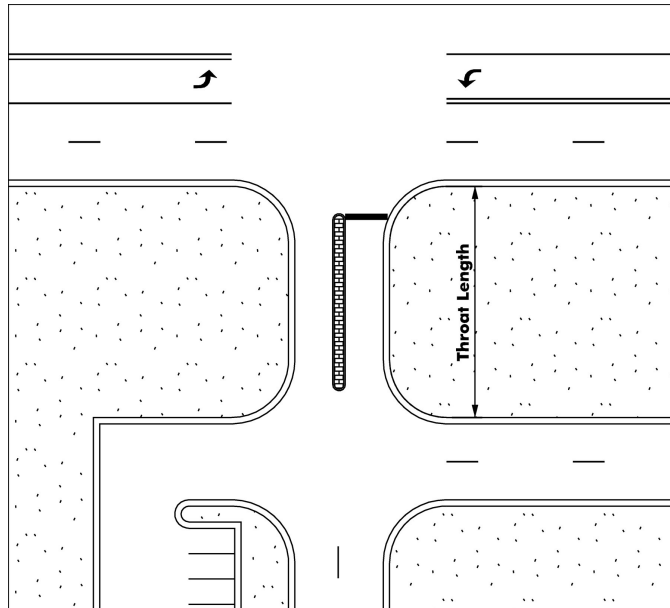
Where a new driveway crosses a bicycle facility (such as a dedicated bike path or an on-street bike lane), the driveway should be designed so as to accommodate the safe crossing of bicyclists. Likewise, when a new bicycle facility is built that crosses existing driveways, the bicycle facility should be designed with safe crossings in mind. Developments that accommodate cyclists should have driveways that also accommodate cyclists or separated bicycle facilities.

18.1.G. Driveway Throat Length

The driveway throat length should minimize or eliminate the condition where inbound traffic queues onto a public street (see *Figure 18-1*). The throat length also provides a place for vehicles to queue without adversely affecting site circulation, gives better definition of the driving lanes, and separates the parking area from the adjacent street or drive. Driveway throat lengths shall meet or exceed the requirements of Table 18-2 and should be based on the ultimate public street

section and land development anticipated. Residential driveway throat depth shall meet the requirements of the UDO, typically dictated by building setback.

<b>Project Peak Hour Vehicles Per Hour (vph) (two-way traffic)</b>	<b>Adjacent Roadway Classification</b>		
	<b>Local</b>	<b>Collector</b>	<b>Arterial</b>
< 10 vph	30 feet <sup>1</sup> 50 feet	30 feet <sup>1</sup> 50 feet	30 feet <sup>1</sup> 50 feet
10 vph to 50 vph	50 feet	50 feet	75 feet
50 vph to 100 vph	50 feet	75 feet	100 feet
100 vph to < 400 vph	Greater of 75 feet or as calculated by Transportation Impact Study	Greater of 100 feet or as calculated by Transportation Impact Study	Greater of 125 feet or as calculated by Transportation Impact Study
400 vph or more	Greater of 100 feet or as calculated by Transportation Impact Study	Greater of 125 feet or as calculated by Transportation Impact Study	Greater of 150 feet or as calculated by Transportation Impact Study
<sup>1</sup> For driveways serving extremely low volumes (10 vehicles or less in the peak hours) on low volume (less than 100 vehicles existing or projected in any hour), low speed (25 miles per hour speed limit) streets, a throat depth of 30 feet may be permitted at the City Traffic Engineer's discretion.			



**Figure 18-1  
Driveway Throat Length**

18.1.H. Turning Radius

The path that a vehicle follows when turning left to or from a cross street or drive is defined as the turning radius. This path should be a continuous, smooth curve from the stopping point e.g. the stop line, the end of the median nose, or the location the vehicle typically waits to make a left turn, to beyond the farthest conflicting travel lane. Left-turning drivers should not have to pull out straight into the intersection and then begin the turn maneuver. The minimum turning radii are as follows:

- For low volume drives or streets (less than 100 vehicles in the peak hour) serving primarily passenger cars, 40 feet minimum.
- For dual left-turn movements, 75 feet minimum (for the inner left-turn movement).
- For all other situations, 60 feet minimum.

Opposing left-turn movements, e.g. eastbound left turns and westbound left turns, at the same intersection shall provide at least 10 feet of separation between the outside edges of the two turning paths.

# Lee's Summit, Missouri Access Management Code

~~November 2004~~



March 2018

Originally Drafted by TranSystems Corp. and Adopted by Ordinance #5832 on November 4, 2004  
Revisions Drafted by Staff and Amended by Ordinance #XXXX on Date, 2018

## Section 1 - Introduction

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### 1.1. Introduction

Throughout the country, problems on our street system such as midblock ~~accidents-crashes~~ and delays to through traffic caused by turning vehicles can be traced to the access provided to abutting property via side streets and driveways. Historically, decisions to allow access were typically made relative to individual properties and not the function and characteristic of the street to which access was allowed. This piece-meal approach to access planning has frequently resulted in an illogical and excessive number of access points that have led to increased congestion and ~~accidentscrashes~~.

“Access management” takes a comprehensive view of property access relative to the function of the streets from which it is provided. The objective of access management is to optimize, or find that right balance, between property access and traffic safety and efficiency, particularly along arterial streets. In other words, access is viewed in the context of the street system instead of just the individual property. Even further, access should be viewed in the context of the ultimate traffic volumes. What might appear acceptable one day may well be perceived differently in a long-term perspective.

Access management is the careful planning and design of driveways, median openings, interchanges, and street connections to a roadway. It also involves the application of median treatments and turning lanes, and the appropriate separation of traffic signals. This is done to maintain the viability of major roadways to safely and efficiently accommodate traffic volumes commensurate with their function. It is the arterial street network that is key to the success of transportation within a community and it represents perhaps the greatest financial infrastructure investment.

Access management requires that all properties have reasonable access to the public roadway system. Existing access ~~will be allowed to continue and some areas may be improved as to comply with best practices in access management as redevelopment, surrounding development or capital projects occur, but~~ due to existing constraints, some access may never be fully improved. The objective of this Access Management Code is to avoid further degradation caused by access in already developed areas and to prevent the creation of problems in the future. The net effect of access management along arterial streets is that the supporting networks of collector and local streets, and even inter-parcel connectivity, become more critical to effective circulation and property access.

The ultimate configuration of a street and its function are typically the result of land use planning, transportation planning, and traffic engineering. The concept of access management integrates these activities in order to optimize the safety and performance of the public street network, a significant infrastructure investment vital to the public health, safety and well-being of the community.

### 1.2. Experience

Every community has experienced safety and traffic operational problems associated with too much or poorly planned access to abutting properties. Many have also found it necessary to retrofit solutions to solve these problems. In the course of this experience, it has been discovered that managing access to major roadways has significant positive effects, including reducing

~~accident-crash experience~~ frequency, minimizing crash severity, lessening congestion, facilitating economic growth, enhancing community character, and improving air quality.

Studies to date indicate that an effective access management program can result in significant decreases in ~~accidents-crashes~~ and travel delays. Obviously the degree of impact will vary based on the specific circumstances of any street segment, but this experience has provided valuable insight into the factors that have a negative influence on traffic safety and efficiency. Some of these factors include:

- Driveways or side streets in close proximity to major intersections;
- Driveways or side streets spaced too close together;
- Lack of left-turn lanes to store turning vehicles;
- Deceleration of turning traffic in through lanes; and
- Traffic signals too close together.

Sometimes ~~these problems~~ congestion and crash experience on major streets have unintended and undesirable consequences such as encouraging drivers to find alternate routes on collector and local streets.

Requirements for well-designed road and access systems further the orderly layout and use of land and help improve the design of residential subdivisions and commercial circulation systems. However, the “change” to a system of shared or unified access to property along major roadways often causes concern among property owners or business operators, due to the perception that loss of individual driveway access could adversely impact property values or income.

The appearance of corridors and gateways is also critical to the image of a community and its overall attractiveness to investors. Minimizing the number of curb cuts, consolidating access drives, constructing landscaped medians, and buffering parking lots from adjacent thoroughfares results in a visually pleasing and efficient corridor that, in turn, can help attract new investment. Effective management of roadway corridors also protects property values over time and fosters healthy economies.

### **1.3. Conflicts and Revisions**

While every effort has been made to ensure that this Access Management Code has no conflicts with ~~either the~~ Code of Ordinances, Unified Development Ordinance or the Design and Construction Manual, there may be occasions where discrepancies between these documents arise. Upon such an occasion, the City Engineer (or designee) shall determine the more restrictive provision and it shall apply. This decision can be appealed to the City Council.

Should a discrepancy be identified, city staff will work to modify the affected ordinances in a timely manner.

## Section 2 - Glossary

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**AASHTO** - The American Association of State Highway and Transportation Officials.

**Access** - Any way or means of approach to provide vehicular or pedestrian entrance to a property.

**Access Management** - Measures to assure the appropriate location, design, and operation of driveways, median openings, interchanges, and street connections to a roadway, as well as the application of median treatments and turning lanes in roadway design, and the appropriate separation of traffic signals for the purpose of maintaining the safety and operational performance of roadways.

**Access Management Program** - The whole of all actions taken by a governing council, board, or agency to maintain the safety and traffic carrying capacity of its roadways.

~~**Annual Average Daily Traffic (ADT)** - The annual average two-way daily traffic volume on a route. AADT represents the total traffic on a road per year, divided by 365.~~

**At Grade** - When two or more facilities that meet in the same plane of elevation.

**Auxiliary Lane** - A lane adjoining a roadway that is used for acceleration, deceleration, or storage of turning vehicles.

~~**Average Daily Traffic (ADT)** - The average two-way daily traffic volume on a route.~~

**Backage Road** - A local road that is used to provide alternative access to a road with higher functional classification; backage roads typically run parallel with the main route and provide access at the back of a line of adjacent properties. Also known as a "Reverse Frontage Road" or "Parallel Access Road".

**Change in Use** -- A change in use may include, but is not limited to, structural modifications, remodeling, a change in the type of business conducted, expansion of an existing business, a change in zoning, or a division of property creating new parcels, but does not include modifications in advertising, landscaping, general maintenance or aesthetics that do not affect internal or external traffic flow or safety.

~~**City Engineer** - City staff position that is responsible for directing the technical engineering element of the Public Works Department. Staff position in responsible charge of design and construction criteria and specifications, inspections and interpretations for public transportation infrastructure.~~

**City Traffic Engineer** - City staff position established by ordinance with powers and duties with respect to traffic. Staff position that is responsible for determining and directing the installation and operation of the traffic control devices and management of transportation, including access management ~~Technical Engineering Element of the Engineering Group in the Public Works Department. The Technical Engineering Element encompasses capital improvement management, development review related traffic/transportation impacts, traffic engineering, transportation planning, operations and maintenance for transit, bicycle, pedestrian, and vehicular and public works inspection transportation/traffic operations.~~ The City Engineer shall act as the City Traffic Engineer in his or her absence. The City Traffic Engineer may delegate duties with respect to this code to a qualified professional engineer as appropriate.



**Commercial** - Property developed for the purpose of retail, wholesale, recreation, med- and high-density multi-family, educational or industrial activities, ~~and which typically generate higher numbers of trips and traffic volumes than residential properties.~~ Generally, not residential property as residential is defined with limited uses herein.

**Conflict** - A traffic-related event that causes evasive action by a driver to avoid a collision.

**Conflict Point** - Any point where the paths of two through or turning vehicles diverge, merge, or cross and create the potential for conflicts.

**Congestion** - A condition resulting from more vehicles trying to use a given road during a specific period of time than the road is designed to handle with what are considered acceptable levels of delay or inconvenience.

**Connection/Connector** - Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

**Connection Spacing** - The distance between connections, measured from centerline to centerline (center of right-of-way for public streets) along the edge of the traveled way.

**Controlled-Access Highway** - Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

**Cross Access** - A service drive that provides vehicular access between two or more abutting sites so that the driver need not enter the public street system to move between them.

**Deceleration Lane** - A speed-change lane that enables a vehicle to leave the through traffic lane and decelerate to stop or make a slow-speed turn.

**Directional Median Opening** - An opening in a raised median that provides for specific traffic movements and physically restricts other movements. For example, a directional median opening may allow only right turns at a particular location.

**Design Traffic Volume** - The traffic volume which a roadway or driveway was designed to accommodate, and against which its performance is evaluated.

**Downstream** - The next feature (e.g. a driveway) in the same direction as the traffic flow.

**Downtown Core** - An area ~~bordered by Chipman Road on the north, Route 291 on the east and U.S. 50 on the south and west.~~ defined in the Unified Development Ordinance for Downtown Central Business District (CBD).

**Driveway** - A (typically) private roadway or entrance used to access residential, commercial, or other property from an abutting ~~public~~ roadway.

**Driveway Density** - The number of driveways divided by the length of a particular roadway.

**Driveway Spacing** - (see **Connection Spacing**)

**Driveway Width** - The width of a driveway measured from one side to the other at the point of tangency.

**Easement** - A grant of one or more property rights by a property owner. For example, one property owner may allow a neighbor to access public roads across his or her property.

**Entering (or Intersection) Sight Distance** - The distance of minimum visibility needed for a passenger vehicle to safely enter a roadway and accelerate without unduly slowing through traffic.

**Facility** - A transportation asset designed to facilitate the movement of traffic, including roadways, intersections, auxiliary lanes, frontage roads, backage roads, bike paths, etc.

**FHWA** - The Federal Highway Administration of the U.S. Department of Transportation.

**Flag Lot** - A lot not meeting minimum frontage requirements where access to a public road is provided by a narrow strip of land carrying a private driveway.

**Frontage** - The length of a property that directly abuts a highway.

**Frontage Road** - A ~~local~~ roadway that is used to provide alternative access to property from a roadway with higher functional classification; frontage roads typically run parallel to the mainline roadway and provide access at the front of a line of adjacent properties.

**Functional Area** - The area surrounding an interchange or intersection that includes the space needed for drivers to make decisions, accelerate, decelerate, weave, maneuver, and queue for turns and stop situations.

**Functional Classification System** - A system used to categorize the design and operational standards of roadways according to their purpose in moving vehicles; higher functional classification implies higher traffic capacity and speeds, and typically longer traveling distances.

**Functional Integrity** - Incorporating appropriate access management standards and controls that allow a roadway to maintain its classified purpose.

**Geometric Design Standards** - The acceptable physical measurements that allow a facility to maintain functional integrity.

**Grade Separated** - Two or more facilities that intersect in separate planes of elevation.

**Highway** - The entire width between the boundary lines of every way maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**Highway Capacity** - The maximum number of vehicles a ~~highway~~ roadway can handle during a particular amount of time and at a given level of service.

**Highway System Network** -- Collectively Aall public highways and roadways, including controlled access highways, interstates, freeways, expressways, other arterials, collectors, and local streets that facilitate vehicular movement within the transportation system.

**Industrial/Commercial Collector Street** - ~~Street~~ Roadway that collects traffic to and from commercial or industrial areas and distributes it to arterial ~~s~~ streets.

**Industrial/Commercial Local Street** – Street that carries traffic between commercial or industrial lots to industrial/commercial collector streets or arterial streets.

**Interchange** - A grade-separated facility that provides for movement between two or more roadways.

**Internal Circulation** - Traffic flow that occurs inside a private property.

**Internal Site Design** - The layout of a private property, including building placement, parking lots, service drives, and driveways.

**Intersection** - An at-grade facility that provides mobility between two or more roadways.

**Interstate** - A federally-designated roadway system for relatively uninterrupted, high-volume mobility between states.

**Joint (or Shared) Access** - A private access facility used by two or more adjacent sites.

**Lane** - The portion of a roadway used in the movement of a single line of vehicles.

**Left-Turn Lane** - A lane used for acceleration, deceleration, and/or storage of vehicles conducting left-turning maneuvers.

**Level of Service** - The factor that rates the performance of a roadway by comparing operating conditions to ideal conditions described in the Highway Capacity Manual; “A,” is the best, to “F,” which is worst.

**Major Arterial Street** – Street-Roadway that serves the highest traffic volume corridors and the longest trips. Typically provides travel between business districts and outlying residential areas, between major inner city communities and between major suburban centers, and connects communities to major state and interstate highways. Access is generally limited and partially controlled. Spacing of major arterials streets is typically from one to five miles.

**Median** - A barrier that separates opposing flows of traffic. Raised medians (with curbs and a paved or landscaped area in the center) are generally used in urban areas. Raised medians should not be confused with more obtrusive Jersey barriers. Flush median (with no curbs and a grass-covered area in the center) are generally used in rural areas. Medians can be both functional and attractive.

**Median Width** - The distance between the near edge of the through travel lanes in each direction when separated by a median.

**Mid-Block Crossing** - A crossing that is provided so that pedestrians can conveniently cross a roadway in the middle of a block or segment of roadway.

**Minor Arterial Street** – Street-Roadway that interconnects and augments the major arterials streets. Accommodates trips of moderate length at a lower level of travel mobility than major arterial streets with typically similar operating speed and less volume. Access is generally limited and partially mostly controlled. Spacing of minor arterials -in combination with major arterials streets- is generally from one-half mile to three miles.

**Multi-Purpose Shared-Use Path** - A paved surface typically constructed parallel to a street to serve pedestrian and bicycle traffic.

**NCHRP** - The National Cooperative Highway Research Program, a program that sponsors research on highway safety, operations, standards, and other topics.

**Peak Hour Traffic** - The number of vehicles passing over a section of roadway during its most active 60-minute period each day.

**Police Power** - The general power vested in the legislature to make reasonable laws, statutes and ordinances where not in conflict with the Constitution that secure or promote the health, safety, welfare and prosperity of the public.

**Private Street** - A highway, street or road, open for use by the general public and which is under private jurisdiction or control. A private street is generally constructed to the same standards as a public street, named and used in reference addressing property.

**Public Road-Street** - A highway, street or road, open for use by the general public and which is under the jurisdiction or control of a public body. Public Streets are generally classified as various highways, arterials, collectors, local and access based on function.-

**Queue Storage** - That portion of a traffic lane that is used to temporarily hold traffic that is waiting to make a turn or proceed through a traffic control device such as a stop sign or traffic signal.

**Raised Median** - The elevated section of a divided road that separates opposing traffic flows.

**Residential** - Property developed for the purpose of single family, low-density multi-unit, agricultural or other housing quarters.

**Residential Access Street** - ~~Street-Roadway~~ that carries traffic between residential lots and residential local street or residential collector streets. Residential access streets usually carry no through traffic and include short loop streets, cul-de-sacs, and courts that provide direct access to property. Desirable maximum ADT = 200 for cul-de-sacs and 400 for loop streets.

**Residential Collector Street- Street-Roadway** that collects traffic to and from residential areas via residential local and residential access streets and distributes it to arterial streets. Limited access is allowed from residential lots when no local street or access street is available. Desirable maximum ADT = 3,000.

**Residential Local Street** - Street that usually carry through traffic carries traffic having its origin or destination within the immediate neighborhood and provide direct access to property. Desirable maximum ADT = 1,500.

**Reviewing Engineer** - An individual or individuals designated by the City Engineer to review development projects and make decisions as outlined in this Policy. The review should include input from the appropriate departments (fire, police, public works, planning & development, etc.).

**Right-In, Right-Out (RIRO)** - A driveway where left turns and cross-overs at an intersection are prohibited ~~either by physical or regulatory means.~~

**Right-of-Way** - Land reserved, used, or slated for use for a highway, street, alley, walkway, drainage facility, or other public purpose related to transportation or utilities.

Roadway - The portion of a highway improved, designed or ordinarily used for vehicular travel. That portion of a street which only includes the travel lanes.

**Roadway Classification System** - See “Functional Classification System”

**Service Road-Street** - A local road-street that is used to provide alternative access to a road-street with higher functional classification; service roads may include internal circulation systems, frontage roads, or backage roads.

**Shared Driveway** - A single, private driveway serving two or more lots.

**Side Friction** - Driver delays and conflicts caused by vehicles entering and exiting driveways.

**Sidewalk** - A paved surface designed specifically to serve permitted non-motorized transportation users. Refer to sidewalk definitions in the Code of Ordinances. ~~pedestrian traffic.~~

**Sight Distance** - The distance visible to the driver of a passenger vehicle measured along the normal travel path of a roadway to a specified height above the roadway when the view is unobstructed to oncoming traffic. Sight distance would include intersection sight distance, roadway sight distance, stopping sight distance, passing sight distance, etc.

**Spacing** - For purposes of this policy, the distance between two roadways and or drives measured from the center of one roadway to the center of the next roadway, unless otherwise defined for a specific application.

**Speed Differential** - The difference in travel speed between through traffic, and traffic entering or exiting a roadway.

**Stopping Sight Distance** - The minimum distance required for a vehicle traveling on a roadway to come to a complete stop upon the driver seeing a potential conflict; it includes driver reaction and braking time and is based on a wet pavement.

**Storage Length** - see Queue Length.

Street - The pavement and sub-grade of an access, local, collector or arterial roadway, inclusive of shoulder, curb, on-street parking, etc.

**Strip Development** - A linear pattern of roadside commercial development, typically with relatively shallow lots and frequent drives. Also typically lacks a network of side streets permitting efficient traffic circulation between adjacent developments.

**Taper** - The transitional area of a roadway where lanes are added or dropped.

**Throat Length** -The distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right-turn or a left turn. On roadways with curb and gutter, the throat length shall be measured from the back of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the shoulder.

Through Street –A through street shall be defined as any part of any ~~street~~roadway or street functionally classified as a Local, Collector, Arterial, Frontage Road, or Highway that assumes priority or which may be designated priority over another roadway at intersections based on the highest functional classification

of intersecting roadways, except when otherwise may be determined by the City Traffic Engineer upon the basis of an engineering and traffic study and such condition is appropriately signed or controlled to give notice thereof.;

**Traffic Flow** - The actual amount of traffic movement.

**Transportation Impact Study** - A report that compares relative roadway conditions with and without a proposed development; typically including an analysis of mitigation measures.

**Trip Generation** - The estimated volume of entering and exiting traffic caused by a particular development.

**Turning Radius** - The radius of an arc that approximates the turning path of a vehicle.

**Two-Way Left-Turn Lane (TWLTL)** – A lane located between opposing traffic flows which provides a transition area for left-turning vehicles.

**Uncontrolled Access** - A situation that results in the incremental development of an uncontrolled number, spacing, and/or design of access facilities.

**Upstream** - Against (behind) the direction of the traffic flow.

**Vehicle Trip** - A vehicle moving from a point of origin to a point of destination.

**Warrant** - The standardized condition under which traffic management techniques are justified.

**Weaving** - Crossing of traffic streams moving in the same general direction through merging and diverging, for instance near an interchange or intersection.

## Section 3 - Street Classification System

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### 3.1. Street Classifications

Safe and efficient operation of ~~streets and highways~~roadways requires that these facilities be classified and designed for the functions that they will perform. The entire ~~road system~~highway network is traditionally classified by relating the proportion of through movement to the proportion of access. ~~Interstates and F~~freeways, which have full control of access and serve only the movement function, are at one end of the scale; ~~access and~~ local streets, which predominately provide for land ~~access~~connections, are at the other end of the scale because they have little or no through movement. Collector and arterial streets normally must provide a balance between movement and access functions; it is along these streets that access management actions become ~~most~~ important.

~~Interstates, Freeways~~freeways and expressways- in Lee's Summit are ~~generally~~ the responsibility of the Missouri Department of Transportation (MoDOT). ~~As such, those facilities should generally reference the state and federal classification systems and applicable requirements.~~ City streets ~~generally~~ range from ~~residential-access~~ streets to arterial streets. ~~Six-Seven street~~roadway classifications are defined in ~~the Design and Construction Manual maintained by the Lee's Summit Public Works Department~~Section 2; also referenced in more detail and context in the ~~Thoroughfare Master Plan~~. These include:

- Major Arterial
- Minor Arterial
- Industrial/Commercial Collector
- Residential Collector
- Industrial/Commercial Local
- Residential Local
- Residential Access

A number of ~~highway~~ frontage roads exist in Lee's Summit, some owned by MoDOT and some by the City. ~~These F~~frontage roads are unique ~~only~~ by their proximity to ~~fully~~access-controlled highways but the function of each ~~should~~may be categorized by one of the ~~six~~seven aforementioned classifications.

### 3.2. Typical Sections

A typical section for each ~~of the street classification types~~ is ~~included~~described in the Lee's Summit Public Works Department Design and Construction Manual. Some of the considerations that go into defining the needed cross section of any given street segment are described below.

- 3.2.A. Traffic Lanes  
The number and types of lanes on any street should be determined by existing and projected traffic volumes and the nature of land use activity adjacent to it. Turn lanes are essential at many intersections. Reference the Thoroughfare Master Plan and Access Management Code for lane requirements and planning.
- 3.2.B. Bicyclists

Bicycle routes are established on some city streets. Considerations for bicyclists could include a wider traffic lane, marked bike lanes, or ~~multi-purposeshared-use~~ paths. Reference the Bicycle Transportation Plan and Greenway Master Plan for bicyclist accommodation types and locations.

3.2.C. Pedestrians

Sidewalks or ~~multishared-use-purpose~~ paths are generally required on one or both sides of a public street. Requirements are outlined in the Design and Construction Manual and the Unified Development Ordinance. Reference the Greenway Master Plan for shared-use path locations.

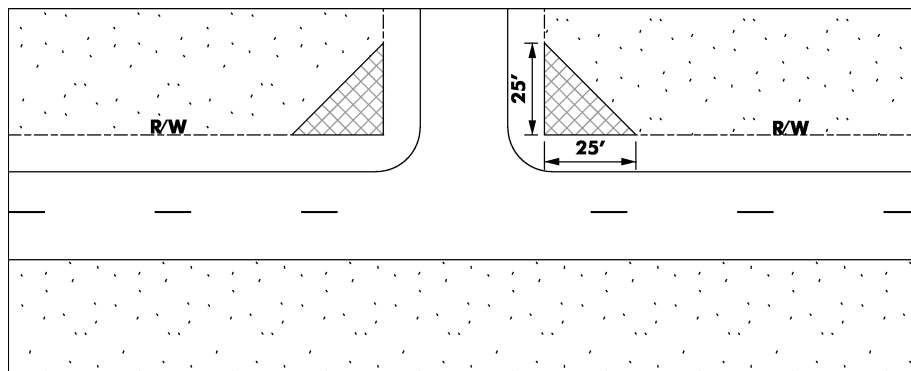
3.2.D. Right-of-Way

Providing sufficient right-of-way to meet the long term growth potential of a street is one of the most important elements of the transportation ~~networksystem~~. Once development occurs adjacent to the ~~streetroadway~~, additional expansion of the ~~roadway street~~ may become very expensive or impractical if sufficient right-of-way is not available. This may in turn limit additional development if sufficient capacity cannot be provided ~~on the street~~.

In addition to the basic number of through lanes, street elements that influence the amount of right-of-way required include left-turn lanes (double left-turn lanes at some arterial street intersections), right-turn lanes, bike lanes, medians, sidewalks and ~~multishared~~-use paths.

3.2.E. Corner Right-of-Way Triangles

A minimum 25-foot triangle of additional right-of-way shall be provided at the corners of two intersecting streets as noted in the Unified Development Ordinance. ~~that both have a designated classification of arterial or collector.~~ The triangle is determined by measuring along both right-of-way lines 25 feet from their point of intersection and striking a line to connect the two points (see *Figure 3-1*). A larger triangle may be required at intersecting streets that both have a designated classification of arterial or collector and/or where any street alignments require additional sight distance. A triangle of additional right-of-way may be required at intersections with driveways if the conditions are deemed appropriate by the City Traffic Engineer. The purpose of this triangle is to allow room for utilities, traffic control devices, sight distance, and sidewalks and shared-use paths behind the corner radius of the intersection. ~~Additional right-of-way or other provisions may be required to provide appropriate sight distances at the corner.~~





**Figure 3-1  
Corner Right-of-Way Triangle**

## Section 4 - ~~Collector~~ Street Planning

The location and spacing of arterial streets should reference the Thoroughfare Master Plan. Arterials have highly controlled alignments associated with long-term community planning considerations and predetermined connectivity to fully-controlled highways. Collectors are also depicted in the Thoroughfare Master Plan, but to a much lesser extent than arterials with more flexibility in location and alignment to better accommodate development activity. Collector streets are the backbone of effective access management. These streets, both those classified as collector streets and those within or adjacent to developments that serve in this capacity, allow many developments to be efficiently served from a limited number of connections to the ~~major~~ arterial street ~~system~~ network.

### 4.1. Planning Requirements

The following requirements shall be applied in the development of the collector street ~~system~~ network.

- 4.1.A. Prior to the approval of any new development, the ~~City Thoroughfare Master Plan~~ shall be reviewed and the development compared with ~~develop a consideration of the planned~~ conceptual collector street ~~system~~ network, or the modification thereto that maintains continuity thereof, for the area bounded by the ~~section line arterial roads streets or section lines~~ containing the development and projected future land uses based on ~~zoning and supporting transportation system and master planned land uses~~ within the area. Consideration must also be given to existing or planned connections and collector streets in adjacent sections, nearby developments, existing property lines and topographic features.
- 4.1.B. The proposed development plan may propose an alternative collector street ~~system~~ network as long as the principles described above are followed. The alternative collector street ~~network system~~ must be approved along with the development plan. Within exclusively residential areas, continuous collector streets are desirable, but not essential. In these areas, a less defined collector ~~system~~ network may be utilized, but should provide connectivity between developments and relatively direct access ~~to between~~ the designated collector street connections to the arterial street ~~network~~ system (note that access at other connections to the arterial street ~~system~~ network may be restricted per this policy).
- 4.1.C. Collector streets shall be public streets.
- 4.1.D. A collector street may serve both residential and ~~commercial non-residential~~ development, but should be planned to discourage use by commercial traffic into residential areas.
- 4.1.E. Collector streets should connect to arterial streets at full median opening locations in accordance with the standards in this policy. Where feasible, the connection should also be made at a location suitable for a traffic signal ~~installation~~.

### 4.2. Example

An example of a collector street network is shown on *Figure 4-1*. Note that in order to maintain good connection spacing on the arterial roadways, commercial development areas should be at least 1/4 mile by 1/4 mile in size, larger where adjacent to major arterial streets.

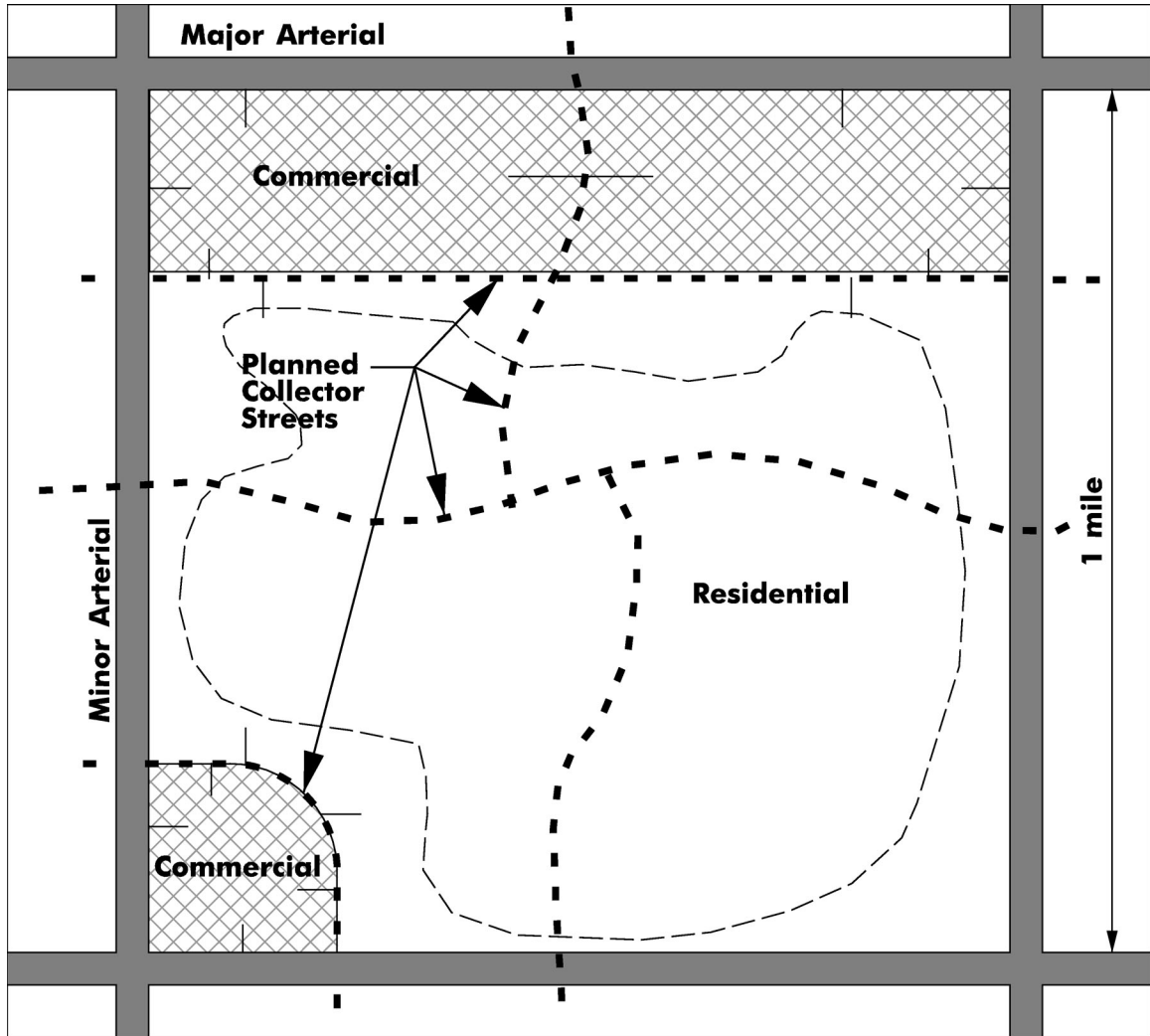


Figure 4-1  
Collector Street Planning Example

## Section 5 - Review/Exceptions Process

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Flexibility is essential when administering access spacing requirements to balance access management objectives with the needs and constraints of a development site. The following administrative procedures are intended to provide flexibility, while maintaining a fair, equitable and consistent process for access management decisions. The exception/waiver process described below applies to all of the standards in this policy.

### 5.1. Approval Required

5.1.A. No person shall construct or modify any access connection to a Lee's Summit street without approval from the City. Approval is typically granted through the preliminary and final development plan processes, plats and/or engineering approval of construction plans for streets. All requests for connections to a roadway, including those requests by Right-of-Way permit, within the City shall be reviewed for conformance with this Access Management Code.

5.1.B. Access connections that do not conform to this policy and were constructed before the effective date of this policy, as may be applicable to the original policy of 2004, shall be considered legal nonconforming connections and may continue until a change ~~in use~~ occurs as provided in Section 8. Temporary access connections are legal nonconforming connections until such time as the temporary condition expires. Access connections and legal nonconforming conditions do not limit the City's ability to restrict access or relocate access as the extent, number and location of access, whether full or partial, for existing legal conforming or legal nonconforming conditions is not guaranteed at any time.

5.1.C. Any access connection constructed without approval after the adoption of this policy shall be considered an illegal nonconforming connection and shall be issued a violation notice and may be closed or removed.

### 5.2. Requests for Modification

5.2.A. Access connections deemed in conformance with this policy may be authorized by the City Traffic Engineer ~~(or designee)~~. Any requests for modification shall require approval by the City Traffic Engineer ~~(or designee)~~. Any appeal of the decision of the City Traffic Engineer ~~(or designee)~~ shall be to the city council which has final authority. Note: some access restrictions are also described on the recorded plat and the subject plat should be referenced in review of any request for modification.

5.2.B. Modifications of greater than 10 percent of the allowable spacing standard or 100 feet, whichever is less, shall require documentation justifying the need for the modification and an access management plan for the site that includes site frontage plus the distance of connection spacing standards from either side of the property lines. The analysis shall address existing and future access for study area properties, evaluate impacts of the proposed plan versus impacts of adherence to standards, and include improvements and recommendations necessary to implement the proposed plan.

### 5.3. Waiver for Nonconforming Situations

Where the existing configuration of properties and driveways in the vicinity of the subject site precludes spacing of an access point in accordance with the spacing standards of this policy, the City

Traffic Engineer ~~(or designee)~~, in consultation with appropriate City departments, shall be authorized to waive the spacing requirement if all of the following conditions have been met:

5.3.A. No other reasonable access to the property is available.

5.3.B. The connection does not create a potential safety or operational problem as reasonably determined by the City Traffic Engineer ~~(or designee)~~ based on a review of a transportation impact study prepared by the applicant's professional engineer.

5.3.C. The access connection along the property line farthest from the intersection may be allowed. The construction of a median may be required on the street to restrict movements to right-in/right-out and only one drive shall be permitted along the roadway having the higher functional classification.

5.3.D. Joint access shall be considered with the property adjacent to the farthest property line. In these cases:

- A joint-use driveway with cross-access easements will be established to serve two abutting building sites,
- The building site is designed to provide cross access and unified circulation with abutting sites; and
- The property owner agrees to close any pre-existing curb cuts after the construction of both sides of the joint use driveway.

Where the spacing requirement is waived, the requirements for turn lanes may also be amended accordingly at the discretion of the City Traffic Engineer due to physical constraints and limitations of access separation.

## **5.4. Temporary Access**

A development that cannot meet the connection spacing standards of this policy and has no reasonable alternative means of access to the public road ~~system-network~~ may be allowed a temporary connection. When adjoining parcels develop which can provide joint or cross access, permission for the temporary connection shall be rescinded and the property owner must remove the temporary access and apply for another connection.

Conditions shall be included in the approval of a temporary connection including, but not limited to the following:

- Applicants must sign an agreement to participate in any future project to consolidate access points.
- Applicants must sign an agreement to abandon the interim or temporary access when adequate alternative access becomes available.
- The transportation impact study should consider both the temporary and final access/circulation plan.

A limit may be placed on the development intensity of small corner properties with inadequate corner clearance, until alternative access becomes available.

## Section 6 - Access Management and Subdivision Practices

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The design of property access is established when land is subdivided for commercial or residential development. Therefore, all new lot splits and commercial and residential plats will be reviewed to assure that property access is designed in accordance with the access management ~~guidelines of this polieycode~~. The following standards shall also apply.

### 6.1. Creation of New Lots

New lots shall not be created on any arterial or collector ~~roadway-street~~ unless they comply with the access spacing standards of this plan through existing, shared, or alternative access.

### 6.2. Subdivision Access

6.2.A. When a subdivision is proposed that would abut or contain an arterial or ~~industrial/commercial~~ collector street, it shall be designed to provide lots abutting the classified roadway with access from an interior local or access street. On arterial streets, appropriate measures may be required to buffer residential properties from the noise and traffic of the through street.

6.2.B. Direct residential driveway access to individual one-family and two-family dwellings ~~should-shall~~ be avoided from any arterial or ~~industrial/commercial~~ collector street.

6.2.C. Residential corner lots shall obtain access from the street with the lowest functional classification, and access shall be placed as far from the intersection as possible to achieve the maximum available corner clearance. Residential corner lots located at the intersection of two local or access streets may have one access from each street so long as minimum corner clearances are met, the access does not impact the intersection functional area, and/or encroach the sight distance triangles are preserved. Access shall also reference the connection spacing standards in Section 15 and consider any restrictions that may be noted on the recorded plat.

6.2.D. Access locations to subdivisions shall provide appropriate sight distance, driveway spacing, and include a review of related considerations.

### 6.3. Connectivity of Supporting Streets

As the City of Lee's Summit continues to grow and land is subdivided for development, it will be essential to provide for a balanced network of local and collector streets to avoid traffic congestion on ~~major~~-arterial roadways. Without a supporting well connected minor street ~~systemnetwork~~, all local trips are forced onto a few major streets resulting in significant traffic delays and driver frustration. Reasonable connectivity of the local street network is ~~also~~ important. Fragmented street ~~networkssystems~~ impede emergency access, focus congestion, diminish operational and maintenance efficiencies (e.g. snow removal, service deliveries, etc.) and increase the number and length of individual trips. A network of Rresidential ~~street-local and access streets systems~~ should be designed in a manner that fosters appropriate operating speeds, diversity of routes, access to collectors, shorter block lengths, and fewer through tripsdiscourages through traffic, without eliminating connectivity.

To accomplish these objectives, the following standards shall apply:

- 6.3.A. New residential subdivisions shall be designed to coordinate with existing, proposed and anticipated streets.
- 6.3.B. All new developments shall be designed to discourage the use of access and local roadways and residential collector streets by non-local traffic while maintaining the overall connectivity with the surrounding system of roadways. This may be accomplished through the use of well-connected local streets to centrally located collectors, shorter block lengths between streets that increase route choice, modified grid systems, T-intersections, roadway jogs, or other appropriate traffic calming or street design measures within the development.
- 6.3.C. Proposed streets should be extended to the boundary lines of the proposed development where such an extension would connect with streets in another existing, platted, approved, planned or planned potential development. The extension or connection should be based upon traffic circulation and/or public safety issues enhancement opportunities and compatibility of adjacent land uses, development requirements for access and to reasonably support the highest and best anticipated use of the property in conformance with the Comprehensive Plan.
- 6.3.D. When a proposed development abuts unplatted land or a future development phase of the same development, stub streets should be provided to provide access to abutting properties or to logically extend the street system-network into the surrounding areas. All street stubs serving more or other than two residential units (or exceeds the allowable maximum length of dead-end street considering provisions of the Fire Code or Unified Development Ordinance) should be provided with a temporary turn-around or cul-de-sac, and the restoration and extension of the street would be the responsibility of any future developer of the abutting land.

## Section 7 - Unified Access and Circulation

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Internal connections between neighboring properties and shared driveways allow vehicles to circulate from one business or development to the next without having to reenter a ~~major collector or arterial street~~roadway. Unified access and circulation improves the overall ease of access to development and reduces the need for individual driveways. The purpose of this section is to accomplish unified access and circulation systems for commercial development.

### 7.1. Outparcels and Shopping Center Access

Outparcels are lots on the perimeter of a larger parcel that break its frontage along a roadway. They are often created along arterial street frontage of shopping center sites, and leased or sold separately to businesses that desire the visibility of major street locations. Outparcel access policies foster unified access and circulation systems that serve outparcels as well as interior development, thereby reducing the need for driveways on an arterial street.

In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall prepare a unified access and circulation plan. In addition, the following shall apply:

- 7.1.A. The number of connections shall be the minimum number necessary to provide reasonable access to the overall development site and not the maximum available for that frontage under the connection spacing requirements in this policy.
- 7.1.B. Access to outparcels shall be internalized using the shared circulation system of the principal development.
- 7.1.C. All necessary easements and agreements shall be recorded in an instrument that runs with the deed to the property.
- 7.1.D. Unified access for abutting properties under different ownership and not part of an overall development plan shall be addressed through the Joint and Cross Access provisions below.
- 7.1.E. Where properties are under the same ownership or consolidated for the purposes of development, the shared access, driveway or street(s) shall be constructed by the developer.

### 7.2. Joint and Cross Access

Joint and cross access policies promote connections between ~~major~~ developments, interactions of land use varieties, as well as ~~between smaller businesses~~continuity of properties along a corridor without thoroughfare conflicts. These policies help to achieve unified access and circulation systems for individual developments under separate ownership that could not otherwise meet access spacing standards or that would benefit from interconnection, i.e., adjacent shopping centers or office parks that abut shopping centers, apartments and restaurants.

- 7.2.A. Adjacent commercial or office properties and major traffic generators, e.g. shopping plazas, shall provide a cross-access drive and pedestrian access way to allow circulation between adjacent properties. This requirement shall also apply to a building site that abuts an existing



developed property unless the City Traffic Engineer ~~(or designee)~~ finds that this would be impractical.

7.2.B. To promote efficient circulation between smaller development sites, the City Traffic Engineer ~~(or designee)~~ may require dedication of a 30-foot easement that extends to the edges of the property lines of the development site under consideration to provide for the development of ~~a service road system~~ shared access. The ~~service road~~ shared access shall be of sufficient width to accommodate two-way travel aisles and incorporate stub-outs and other design features that make it visually obvious that abutting properties may be tied in to it. Abutting properties shall be required to continue the ~~shared access~~ service road as they develop or redevelop in accordance with the requirements of this policy. The easement may be provided to the front or rear of the site or across the site where it connects to a public roadway.

7.2.C. Property owners shall record all necessary easements and agreements, including an easement allowing cross access to and from the adjacent properties, an agreement to close driveways provided for access in the interim after construction of the joint use driveway(s) or ~~service road system~~ shared access (or private road), and a joint maintenance agreement defining maintenance responsibilities of property owners that share the joint-use driveway and cross-access system (or private road).

7.2.D. Joint and cross access requirements may be waived by the City Traffic Engineer ~~(or designee)~~ for special circumstances such as incompatible uses, e.g. a gas station next to a child care center, or major physical constraints, e.g. change in grade between properties makes connection impractical.

## Section 8 - Redevelopment

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Access management policies are not retroactive, but existing legal non-conforming access is not immune to the problems associated with inept access management; and the absence of access management policies in the past does not diminish the benefits of proactive improvement. Existing nonconforming properties may continue in the same manner as they existed before this policy was adopted and until such time redevelopment of the property, significant change of property use or street improvement occurs. This allowance, commonly known as “grandfathering”, protects the substantial investment of property owners and recognizes the expense of a property owner may incur bringing nonconforming properties into conformance.

Yet nonconforming access situations may pose safety dilemmas, contribute to traffic congestion, deter economic development, or undermine community character. To address the public interest in these matters, without posing an undue burden on property owners, access to existing nonconforming properties is best-addressed when a change in use, expanded use or redevelopment occurs so applicants can finance access improvements as part of the overall property improvement. In some instances, opportunities to improve the location or design of property access can also occur during the public roadway improvement process. The extent of access to a property is not guaranteed and such access may be limited directly by improvements to the street where access exists or indirectly through access restrictions to the subject street at intersecting streets. This plan includes the following conditions or circumstances where property owners or permittees may be required to relocate or reconstruct nonconforming access features and/or pursue alternative access measures.

### 8.1. Requirements

Properties with nonconforming access connections shall be allowed to continue, but must be brought into compliance with this Access Management Code to the maximum extent possible when modifications to the roadway are made or when a change in use or density results in one or more of the following conditions:

- 8.1.A. When a new connection is requested or required.
- 8.1.B. When a preliminary and/or final development plan is required.
- 8.1.C. When a preliminary and/or final plat is required.
- 8.1.D. When a site experiences an increase of ten percent (10%) or greater in peak hour trips or 100 vehicles per hour in the peak hour, whichever is less, as determined by any one of the following methods:
  - 8.1.D.1. An estimation based on the ITE Trip Generation manual (latest edition) for typical land uses, or
  - 8.1.D.2. Traffic counts made at similar traffic generators in the metropolitan area, or
  - 8.1.D.3. Actual traffic monitoring conducted during the peak hour of the adjacent roadway traffic for the property.
- 8.1.E. If the principal activity on a property is discontinued for a period of one year or more, or construction has not been initiated for a previously approved final development plan or final plat within a period of one year from the date of approval, or the, previously approved preliminary

development plan or preliminary plat has expired in accordance with the Unified Development Ordinance, then that property must thereafter be brought into conformance with all applicable access management requirements of this policy (~~unless otherwise exempted by the permitting authority~~) and any previous waivers granted through prior approvals are nullified. This shall include the need to update any previously approved transportation impact study where new traffic projections are available for the proposed development or redevelopment project. For uses or approved plats in existence upon adoption of this policy, the initial one-year period for the purposes of this section ~~begins already ended as the effective date of these requirements was established in 2004, upon the effective date of these requirements.~~

- 8.1.F. Access to all change-in-use or change-in-density activities shall ~~be require approved approval~~ by the City Traffic Engineer (~~or designee~~). All relevant requirements of this policy shall apply. When a development has been approved with a waiver or modification to these access management requirements, the final development plan and or final plat carries the approval of such waiver or modification in accordance with the approved preliminary plan and or preliminary plat provided by City Council until such time as the preliminary plan and or preliminary plat has expired in accordance with the Unified Development Ordinance. Conformance to these requirements may otherwise be dictated by the remaining provisions of Section 8.1.

## Section 9 - Transportation Impact Study Requirements

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### 9.1. Background and Purpose

Land use and transportation are strongly interdependent. Transportation facilities and services are essential for development to occur, and high levels of mobility and accessibility are needed to attract the economic development to provide and maintain a high quality of life.

The primary purpose for evaluating the impact of development through transportation impact studies is to protect the integrity of the transportation systems and ensure adequate transportation infrastructure exists to support not only the proposed development but existing users. Neither public nor private interests are well served if transportation systems needlessly degrade due to poor planning and design.

In order to accomplish this objective, the review of transportation systems associated with development needs to be extensively scrutinized and needs to take a long-term perspective. What might be acceptable today may not be as an area develops and matures. This is certainly consistent with the City's long-range planning for land use, ~~major~~ streets and other infrastructure.

~~These~~ A transportation impact study ~~guidelines~~, and the resulting work products, will allow for more informed decision-making and could lead to necessary a framework for the negotiation of mitigation measures for the impacts created by development to maintain or provide safe and adequate performance of the transportation systems.

### 9.2. Extent of Study Required

The necessity to review all land development applications from a transportation perspective as well as the wide variety of land use types and intensities suggest that multiple thresholds or triggers be established to warrant a transportation impact study. The following guidelines-thresholds and associated scope of study will be followed.

#### 9.2.A. All Applications

9.2.A.1. Identify the specific development plan under study and any existing development on and/or approved plans for the site (land use types and intensities and the arrangement of buildings, parking and access). Also identify land uses (including types and the arrangement of buildings, parking and access) on property abutting the proposed development site, including property across public streets.

9.2.A.2. Identify the land uses shown in the Lee's Summit Comprehensive Plan for the proposed development site under study, as well as the ultimate arterial and collector street network in the vicinity of the site.

9.2.A.3. Identify the functional classification of the public street(s) within the development, bordering the site and those streets on which access for the development is proposed.

9.2.A.4. Identify allowable access to the development site as defined by the City design Design and Construction Manual, Unified Development Ordinance ~~criteria~~ and/or access Access management-Management guidelines ~~criteria~~.

9.2.A.5. Document current public street characteristics adjacent to the site, including the nearest arterial and collector streets (number and types of lanes, speed limits or 85th percentile speeds, and sight distances along the public street(s) from proposed access).

9.2.A.6. Compare proposed access with established ~~design standards and~~ criteria (driveway spacing, alignment with other streets and driveways, width of driveway, and minimum sight distances). Identify influences or impacts of proposed access to existing access for other properties. If appropriate, assess the feasibility of access connections to abutting properties, including shared access with the public street system.

9.2.A.7. Estimate the number of trips generated by existing and proposed development on the site for a typical weekday, weekday commuter peak hours (commonly referred to as A.M. and P.M. peak hours), and other peak hour(s). Calculate the net difference in trips between existing and proposed uses. If the development site already has an approved plan, also estimate the number of trips that would be generated by the approved land uses. If the development application is proposing a land use different than indicated in the Comprehensive Plan, also estimate the number of trips that would be generated by the land use indicated in the Comprehensive Plan. The Director of Planning & Development shall approve the potential land use intensity in such cases.

9.2.B. Rezoning, Preliminary Development Plan, Preliminary Plat, and Conceptual Development Plan applications.

9.2.B.1. Development or Site Plan Generates 100 to 499 Trips in a Peak Hour  
A transportation impact study will be required. The study area may tend to be confined to the street or streets on which access is proposed but should be extended to at least the first major intersection in each direction.

9.2.B.2. Development or Site Plan Generates 500 or More Trips in a Peak Hour  
A transportation impact study will be required. The study area will include the street or streets on which access is proposed to at least the first major intersection in each direction but may also extend beyond the first major intersection and/or include other streets.

9.2.B.3. Proposed Land Use Modifies the Comprehensive Plan  
Determine the extent of a transportation impact study based on anticipated trip generation. Conduct comparative analyses using the proposed land use and the land use identified in the comprehensive plan.

**Table 9-1** lists several land use types and the approximate amount of development that would generate 100 or 500 trips in a typical weekday peak hour.

Table 9-1 Typical Development Size Thresholds				
ITE Code	Land Use	Units	Size to Generate 100 Trips	Size to Generate 500 Trips
110	Light Industry	Sq. Ft.	<del>185</del> 160,000	460800,000
130	Industrial Park	Sq. Ft.	<del>75</del> 250,000	6001,250,000
140	Manufacturing	Sq. Ft.	<del>145</del> 140,000	640750,000
150	Warehouse	Sq. Ft.	<del>120</del> 500,000	<del>12,</del> 000650,000
210	Single Family	Units	<del>90</del> 100	550510
220	Apartments	Units	<del>150</del> 180	n/a
310	Hotel	Units	170	n/a
565	Daycare	Sq. Ft.	<del>89,</del> 000	n/a
<del>710</del> 712	<del>Small Office (5th ed.)</del>	Sq. Ft.	<del>454</del> 0,000	<del>375,000</del> n/a
<del>715</del>	<del>Single-Tenant Office</del>	<del>Sq. Ft.</del>	<del>45,000</del>	<del>290,000</del>
720	Medical Office	Sq. Ft.	30,000	n/a
812	Bldg Materials	Sq. Ft.	<del>20</del> 50,000	n/a
813	Discount Superstore	Sq. Ft.	all	<del>130</del> 115,000
816	Hardware Store	Sq. Ft.	<del>164</del> 0,000	n/a
820	Shopping Center	Sq. Ft.	<del>610,</del> 000	<del>7090,</del> 000
<del>831</del>	<del>Quality Restaurant</del>	<del>Sq. Ft.</del>	<del>15,000</del>	<del>n/a</del>
<del>832</del> 932	Sit Down Rest.	Sq. Ft.	<del>1,700</del> 10,000	n/a
<del>834</del> 934	Fast Food w/DT	Sq. Ft.	<del>53,</del> 000	n/a
<del>843</del>	<del>Auto Parts</del>	<del>Sq. Ft.</del>	<del>12,000</del>	<del>n/a</del>
<del>845</del> 945	Gas Sta. w/Conv. Store	Sq. Ft.	<del>2,200</del> all	<del>11,000</del> n/a
<del>853</del>	<del>Conv. Store w/Gas</del>	<del>Sq. Ft.</del>	<del>13,500</del>	<del>n/a</del>
<del>881</del> 853	<del>Pharmacy w/DT/Conv. Store w/Gas</del>	<del>Sq. Ft. Pumps</del>	<del>9,500</del> 8,700	<del>n/a</del> n/a
<del>912</del> 881	<del>Bank w/DT/Pharmacy w/DT</del>	<del>Lanes Sq. Ft.</del>	<del>41,900</del>	<del>n/a</del> n/a
912	Bank w/DT	Sq. Ft.	<del>15,</del> 000	n/a

Institute of Transportation Engineers (ITE) *Trip Generation*, 7th-10th Edition

### 9.3. Qualifications to Conduct and Review a Study

The parties involved in a land development application sometimes have different objectives and perspectives. Further, the recommended elements of a transportation impact study require skills found only in a trained professional engineer with specific experience in the field of traffic engineering and transportation planning.

For these reasons, the person conducting and the person reviewing the study must be registered professional engineers licensed in the State of Missouri with at least five years of demonstrated experience either in the preparation or review of transportation impact studies for land development. A registered Professional Traffic Operations Engineer, certified by the Transportation Professional Certification Board, is preferred.

The City Traffic Engineer ~~(or designee)~~ shall determine whether an individual professional engineer is qualified to conduct a transportation impact study. Credentials shall be provided upon request. Any appeal shall be made to the City Council.

#### **9.4. Review and Use of a Study**

A transportation impact study should be viewed as a technical assessment of existing and projected transportation conditions. The extent to which individual professional judgment has to be applied will be minimized by provision of community policies and practices with respect to street and traffic control design and land development.

Ultimately, a transportation impact study will be used by professional staff to make recommendations to the ~~planning-Planning commission-Commission~~ and ~~governing-body~~City Council. Transportation is one element amongst many that must be considered.

City personnel charged with reviewing transportation impact studies have several functions to consider:

- 9.4.A. Determine whether the impacts of development have been adequately assessed.
- 9.4.B. Ensure that proposed access is properly coordinated with existing and planned facilities, fits into the ultimate configuration of the street ~~system~~network, and is appropriately designed at its connection to the public street ~~system~~network.
- 9.4.C. Determine whether proposed improvements for the public street ~~system~~network are necessary and sufficient to mitigate the impacts created, ~~and~~ that the improvements meet local requirements, and that adequate transportation infrastructure is available to support the existing transportation users as well as the proposed development in the interest of protecting public health, safety and welfare. The expectations for adequate infrastructure relate to safety and operations in reference to not only the Access Management Code, but also the other standards, policies and ordinances of the City; including but not limited to the Level of Service Policy and Unimproved Road Policy.
- 9.4.D. Ensure that the development plan considers the needs of pedestrians, bicyclists, and transit users.
- 9.4.E. Determine whether the development layout can accommodate all anticipated vehicle types and that such vehicles can be accommodated on-site without adverse impact to the public street network.
- 9.4.F. Invite other responsible and applicable transportation agencies or entities, e.g., Missouri Department of Transportation, to participate in the study and review processes.
- 9.4.G. Provide consistent, fair, and legally defensible reviews.

#### **9.5. Standard Transportation Impact Study Procedures**

- 9.5.A. Study Methodology Determination  
Prior to conducting any transportation impact study it is necessary to determine the minimum technical responsibilities and analyses that will be performed. It is the applicant's responsibility

to ensure that the study utilize the techniques and practices accepted by the City and other participating agencies.

The following items shall be considered, discussed and agreed to by the City ~~Traffic Engineer (or designee)~~ and the applicant for transportation impact studies. The City Traffic Engineer will can provide a general scope of services for a traffic impact study upon request from the applicant or applicant's traffic engineer.

- Definition of the proposed development, including type and intensity of the proposed land uses and proposed access.
- Study area limits based on the magnitude of the development.
- Impact or influence on access for adjacent and nearby properties.
- Time periods to be analyzed, e.g., weekday A.M. and P.M. peak hours.
- Scenarios or conditions to be analyzed, e.g. existing conditions, existing plus approved/unbuilt, existing plus approved/unbuilt plus development conditions, and future conditions (consistent with horizon year in City traffic model).
- Future analysis year(s), including special study procedures for multi-phase development plans.
- General assumptions for trip generation, trip distribution, mode split, and traffic assignment.
- Traffic analysis tools and acceptable parameters.
- Availability and applicability of known data.
- Traffic data collection requirements and responsibilities, including time periods in which traffic counts will be collected.
- Transportation system data, e.g. traffic signals, transit stops, etc.
- Planned transportation system improvements, including the anticipated ~~timingschedule~~, for all modes of transportation, e.g. street widening, bicycle trails, transit stops, etc.
- Planned/Approved development in the vicinity and any associated improvement conditions/mitigations.
- Methodology for projecting future traffic volumes.
- Current level of service, road condition and access management requirements.
- Acceptable mitigation strategies.

#### 9.5.B. Study Area

The study area and the intersections and street segments to be included will vary for a number of reasons - the type and intensity of the development, the maturity of other development in the vicinity, the condition of the street network, etc. The study area should be large enough to assess the impact or influence of proposed access along street segments and to evaluate the ability of streets and intersections to absorb the additional traffic.

The study area should at least include those street segments onto which access is proposed and should typically extend to the next major intersection (arterial/arterial, arterial/collector, or collector/collector) in each direction.

#### 9.5.C. Analysis Periods

Transportation impact studies should be based on peak-hour analyses. The analysis period(s) should be based on the peaking characteristics of both the public transportation systems and development traffic. The typical analysis periods for most development are the weekday A.M. and P.M. peak hours, often coincidental with peak commuter activity. Retail development that is typically not open early in the morning may not warrant study for the A.M. peak hour. On the other hand, intense retail activity in an area may warrant study during the Saturday peak hour.



Some development generates its highest traffic volumes outside these time periods, such as Church and Recreation/Entertainment Facilities, and may require unique study to ascertain the impact of its peak traffic activity.

9.5.D. Analysis Years

In general, the analysis years should be the current period, development build-year, and the horizon year in the City's traffic model. Not all development will require a horizon year analysis; depending on the scale and land use proposed, consistency with the Comprehensive Plan and Thoroughfare Master Plan, rights-of-way impact for ultimate buildout of adjacent and inclusive roadways and other factors that may be considered by the City Traffic Engineer for its waiver.

9.5.E. Method of Determining Future Traffic Volumes

Future traffic volumes on arterial and collector streets ~~shall~~may be identified from the City's traffic model used to develop the long-range transportation plan for each arterial and collector street segment in the study area. The City Traffic Engineer shall provide future traffic projections based on the long-range transportation model or provide a method of derivation to be used in the analysis based on the scope of services. Some large-scale projects that significantly change the land use or transportation network may require long-range transportation modeling, in which case the City may share its transportation demand model for reference. Future traffic volumes are not applicable if the analysis of future year is not included in the scope of study.

**9.6. Transportation Impact Assessment Analysis of Existing Conditions**

Once the parameters for the transportation impact study have been established, the ~~first~~steps in the study process ~~is~~require the applicant to collect relevant data, ~~and~~assess existing conditions, assess the impact of development, and project future conditions. Actually, two baseline conditions will be studied for existing conditions unless there are no approved developments in the vicinity - one called "Existing Conditions" that is based on conditions in the study area at the time of the study and another called "Existing Plus Approved/Unbuilt Conditions" that is comprised of existing conditions plus traffic forecasts linked to development projects in the vicinity that have been approved but not yet built.

9.6.A. Data Collection

The applicant is responsible for collecting, assembling, analysis and presentation of all data. Typically, the following types of data are required for the study area.

9.6.A.1. Proposed Site Development Characteristics

Identify the specific development plan under study and any existing development on and/or approved plans for the site. This includes land use types and intensities and the arrangement of buildings, parking and access. Also identify land uses (including types and the arrangement of buildings, parking and access) on property abutting the proposed development site, including property across public streets.

Information for the proposed development shall be displayed on a scaled drawing. If detailed information regarding abutting property is not shown on the development plan, it may be exhibited on a current aerial photograph, or other drawing, along with the proposed development.

This information is needed to assess the proposed access in relation to existing driveways and side streets at the site and along the street corridors on which access is proposed. This process should also take into account potential access for undeveloped land in the vicinity.

9.6.A.2. Transportation System Data

This includes the physical and functional characteristics of the transportation systems in the study area. Data to be collected includes:

- The functional classification and jurisdiction responsible for each street.
- The number and types of lanes for all intersections and street segments.
- Traffic control devices such as traffic signals (including left-turn control type(s) and phasing), other intersection control, and speed limits.
- Transit, bicycle, and pedestrian routes and facilities.
- Available sight distances to/from each proposed point of access.
- Planned streets not yet built.
- Planned transit, bicycle and pedestrian routes and facilities not yet built.
- Planned improvements for each street and/or intersection (either programmed for construction or included in the long-range transportation plan).

9.6.A.3. Transportation Demand Data

This includes current traffic volumes (intersection turning movement counts), percent trucks, peak hour factors, transit patronage, bicycle usage, and pedestrian usage. For some studies, additional data such as right-turn-on-red usage, traffic distribution by lane, or other similar data may be required.

Intersection turning movement counts shall be taken on a typical Tuesday, Wednesday, and/or Thursday for weekday conditions. It is preferred that morning and afternoon counts be taken on the same day. For a study requiring traffic counts at several intersections that cannot be accomplished all in one day, the counting program should be organized so that adjacent intersections are counted as close in time as possible and volumes adjusted to balance the highest movements measured. As a minimum, traffic volumes should be measured at any existing site driveway and on the adjacent streets, including the nearest arterial/arterial or arterial/collector intersection in each direction along streets bordering the development site. If a proposed driveway or street will line up with an existing driveway or street opposite it, traffic volumes shall be collected at the existing intersection. The time periods in which existing traffic is counted should generally coincide with the highest combination of existing traffic plus traffic expected to be generated by the proposed development. A minimum of one hour is required but the count periods should extend at least 15 minutes before and at least 15 minutes beyond the anticipated peak hour to ensure that the highest one hour of traffic is identified. Traffic volume counts at intersections shall document left-turn, through and right-turn movements on all approaches and shall be tabulated in no greater than 15-minute increments. The City Traffic Engineer ~~(or designee)~~ shall determine, based on the nature of the development, additional time periods and locations in which current traffic volumes shall be documented.

9.6.A.4. Traffic Forecasts for Approved/Unbuilt Development

The City Traffic Engineer ~~(or designee)~~ will determine which approved but unbuilt development influences the study area and will provide the traffic forecasts from those developments for each intersection and street segment in the study area.

9.6.A.5. Land Use Data

Identify the land use(s) shown in the Lee's Summit Comprehensive Plan for the proposed development site under study.

9.6.B. Operational Analysis

Capacity analyses shall be performed for each intersection in the study area. All capacity analyses shall be performed using a method or software approved by the City Traffic Engineer ~~(or designee)~~. In general, capacity analyses must be based on methodologies outlined in the latest edition of the Highway Capacity Manual (HCM). Planning level methods of analysis will not be accepted.

While other types of capacity analyses such as roundabout operations may be required for some transportation impact studies, most will include only signalized and unsignalized intersections.

9.6.B.1. Signalized Intersections

9.6.B.1.a. Analysis programs require input of intersection-specific information such as traffic volumes, number and types of lanes, signal phasing, etc., but also include a number of parameters reflecting traffic characteristics and signal operations that typically have preset default values. Care must be exercised to ensure that these parameters provide a true reflection of actual traffic operations and are based on normal practices of the City.

9.6.B.1.b. Cycle lengths used in these analyses must be reasonable based on the signal phasing and traffic demand at the intersection. For example, an arterial/arterial intersection with 8-phase control and protected-only left-turn phasing would likely use a cycle length of at least 100 seconds but possibly as high as 120 to 140 seconds. The cycle length to be used for the analyses shall be based on either existing operations or a cycle length optimization available with most capacity analysis software. Likewise, the green time (or cycle split) allocated to each phase must provide an accurate reflection of existing conditions. For isolated intersections, it is preferred that green times be determined through an optimization program in order to show how well the intersection could operate. For signalized intersections in coordination, actual timings should be used. Other means of developing green times shall be reviewed in advance with the City Traffic Engineer ~~(or designee)~~.

9.6.B.1.c. Other considerations in most analyses include the peak hour factor (PHF), percent trucks, clearance intervals, and the queuing model. The PHF should reflect the actual counts taken at the intersection. Some percentage of trucks should be input - either the amount measured or an estimate agreed to with the City Traffic Engineer ~~(or designee)~~. Clearance intervals shall be calculated based on practices recommended by the Institute of Transportation Engineers (ITE). These practices will typically yield clearance intervals (yellow plus all red) in the range of 5 to 6 seconds. Other clearance intervals related to pedestrian crossings shall also be accurately represented and comply with MUTCD, ADA and other requirements of the City. The type of queue model used should be applicable to the conditions and queue estimate should provide at least a 90 percent confidence level of the maximum anticipated queue.

9.6.B.1.d. On occasion, the lane utilization factor may need to be adjusted. Under some circumstances, near an interchange for example, the lane utilization may be imbalanced to such an extent that default values would not provide a likely representation of actual conditions.

9.6.B.1.e. The most important outputs of these analyses are the overall intersection level of service and the anticipated vehicle queuing in each lane.

9.6.B.1.f. Under some circumstances, traffic simulation modeling may be necessary or more appropriate to assess a street corridor. Closely-spaced traffic signals or corridors that employ traffic signal coordination are good candidates for simulation modeling. Any such model, however, must produce outputs comparable to HCM methodologies in order to estimate levels of service.

9.6.B.2. Unsignalized Intersections

9.6.B.2.a. The analysis on an unsignalized intersection is actually an analysis of only those movements that must yield to another movement. For example, at a two-way stop controlled intersection, the through and right-turn movements on the uncontrolled street are allowed free flow and are not subject to any delay.

9.6.B.2.b. Analysis results shall never be expressed as an overall intersection level of service; the term is meaningless.

9.6.B.2.c. The most important outputs of these analyses are the levels of service by lane or lane group and the anticipated vehicle queuing in each lane.

9.6.B.3. Acceptable Levels of Service

~~(Refer to Resolution Number 2004-15)~~ Refer to the City's Level of Service Policy adopted by City Council Resolution.

9.6.B.4. Vehicle Queuing Considerations

At signalized intersections, vehicle queues should be contained within turn lanes and should not extend into adjacent intersections. Vehicle queues in through lanes may influence the ability to access turn lanes and should be considered in assessing traffic operations.

At unsignalized intersections, vehicle queues should be contained within turn lanes. In the case of a side street or driveway serving a development site, vehicle queues should not impede site circulation, particularly inbound movements from public streets.

9.6.C. Background Traffic Growth

Background traffic is the expected increase in traffic volumes over time except for the specific development under study. Background traffic ~~needs-can to~~ be estimated out to the applicable horizon year in order to assess future traffic conditions. When the horizon year analysis is required, the Lee's Summit traffic model shall-should be used to estimate background traffic growth in the following manner.

The model will need to be run four times to identify turning movement data for:

- Base Year Traffic Volumes;
- Base Year Select Zone Traffic Volumes;
- Future Year Traffic Volumes; and
- Future Year Select Zone Traffic Volumes.

Both the base year and future year models will need to be run two times. The first run will save the traffic volumes at the study intersections, as well as the select zone matrix for the TAZ's in which the development is being evaluated (the TAZ's under consideration will be identified by the City Traffic Engineer ~~(or designee)~~ prior to the study). The model will need to be re-run using an all-or-nothing assignment of the select zone matrix based on the adjusted travel times for the previous runs. Details of this procedure are included in the model guideline documentation.

The City Traffic Engineer ~~(or designee)~~ will ~~provide instructions establish on~~ the acceptable procedure for determining background traffic growth and future traffic volumes. Said procedure may be updated or revised from time to time at the discretion of the City Traffic Engineer.

The City Traffic Engineer will may provide the applicant or applicant's traffic engineer background traffic growth for the horizon year.

#### 9.6.D. Trip Generation

Trip generation is the process used to estimate the amount of travel associated with a specific land use or development. Trip generation is estimated through the use of "trip rates" that are based on some measure of the intensity of development, such as gross ~~leasable floor~~ area (GLAGFA).

Trip Generation, published by the Institute of Transportation Engineers (ITE), is the most comprehensive collection of trip generation available. The rates provided are based on nationwide data ~~but many rates are not supported with a large amount of data and numerous case studies.~~ ~~Nevertheless,~~ ~~†~~ This manual is generally accepted as the industry standard and the latest edition shall be used for studies in the City of Lee's Summit. Caution needs to be applied when limited data points exist for a land use category. Local trip generation characteristics may be used if deemed to be properly collected, provide a broad and statistically valid collection of measures that represent the proposed land use, and are consistent with, but not exclusively unique with the to, the subject development application. The City Traffic Engineer ~~(or designee)~~ shall make this determination.

In making the estimate of trips, the instructions and recommendations included in Trip Generation shall be followed. Typically, the trip generation equations, where available, provide the best estimates. Where data is provided for multiple independent variables, the one yielding the highest number of trips and is based on at least 10 samples (studies) shall be used.

Trip generation shall be estimated for the proposed development for daily, A.M. peak hour, and P.M. peak hour conditions. Other time periods may be necessary based on the land use and/or the inclusion of additional analysis periods in a particular study.

If the development site already has an approved plan, also estimate the number of trips that would be generated by the approved land uses. If the development application is proposing a land use that requires an amendment to the comprehensive plan, also estimate the number of trips that would be generated by the land use indicated in the Comprehensive Plan. The Director of Planning & Development shall approve the potential land use intensity in such cases for the purpose of estimating vehicle trips.

If internal capture rates and/or pass-by and diverted trips are used by the applicant, the applicable rates must be justified by the applicant and subject to approved approval by the City Traffic Engineer ~~(or designee)~~ prior to use. In general, where pass-by trips are applicable, the number of pass-by trips should not exceed 10 percent of the adjacent street traffic during a peak hour or 25

percent of the development's external trip generating potential, whichever is less, and trips internally captured is highly dependent on proximity between compatible trip sharing land uses within a mixed-use development.

9.6.E. Trip Distribution

Trip distribution is the general direction of approach and departure to/from a development site. Trip distribution will typically be estimated using existing travel patterns exhibited in the area, the position of the development in the community, capacity and classification of surrounding streets and the likely market area of the development. Data from similar development in the immediate vicinity could be useful as well. Good judgment is necessary to develop reasonable estimates of trip distribution.

9.6.F. Mode Split

Mode split is the estimate of number of travelers anticipated to use transportation modes other than automobiles. Data associated with most transportation impact studies is taken from suburban locations where there is little to no commuting alternative to automobile transportation. Further, the trip generation rates are based on the actual number of vehicles, not persons, entering and departing a particular land use. Therefore, mode split will not be applicable to most transportation impact studies.

Mode split, or modified trip generation rates, can be applied where the influence of alternative transportation modes is clearly demonstrated and documented. Prior approval must be received from the City Traffic Engineer ~~(or designee)~~.

9.6.G. Trip Assignment

Trip assignment involves the determination of traffic that will use each access point and route on the street network. While it certainly uses the trip distribution estimates, it is a different process. This is also the step where trip-reduction factors such as pass-by and diverted traffic are applied.

The assignments should reflect the conditions anticipated to occur in the analysis year. Assignments are estimates of how drivers will travel and need to account for physical and operational characteristics of the roadway and the habits of typical drivers. Some of these factors might include:

- The type of traffic control device at an intersection. For example, drivers might avoid a protected left-turn movement if they can reach their destination via the through movement and the left-turn phase has expired on approach.
- The design of internal circulation systems on the development site.
- The number of opportunities to enter from the same street. Typically, most drivers will use the first opportunity to enter but exiting trips tend to be more balanced.
- The difficulty turning left onto a major street at an unsignalized intersection.
- Drivers tend to travel in the most direct path towards their destination. In other words, drivers tend to avoid backtracking unless conditions either require it or an overall gain in safety and efficiency is expected.

Since some of these factors conflict, good judgment is necessary. Further, an iterative process might be necessary based on internal circulation alternatives and/or traffic mitigation alternatives

considered. For example, the initial access plan may show a full-access driveway but the mitigation may call for it to be limited to right turns in and out.

9.6.H. Existing, Existing Plus Approved/Unbuilt, Existing Plus Development, and Existing -Plus Approved/Unbuilt Plus Development Conditions Analysis

The analysis of existing plus approved/unbuilt, existing plus development, and existing plus approved/unbuilt plus development conditions isare based on the combination of existing traffic, traffic estimated for approved development yet to be built, and development traffic anticipated on opening. The development may be phased and have corresponding analysis scenarios to assess independent and compounding degrees of its completion. The methods of analysis shall be consistent and the same as described above. in Step 2.

Two sets of conditions shall-should be analyzed for the Existing Plus Development and/or Existing Plus Approved/Unbuilt Plus Development scenarios in this step:

- Existing Plus Development Traffic with No Improvements
- Existing Plus Development Conditions with Improvements
- Existing Plus Approved/Unbuilt Plus Development Traffic with No Improvements
- Existing Plus Approved/Unbuilt Plus Development Conditions with Improvements

In the first scenario for each condition, existing plus development and/or existing plus approved/unbuilt plus development traffic is analyzed with the current street geometry and traffic control except for the proposed access. The purpose is to demonstrate likely traffic conditions before mitigation and improvement measures are considered.

The second scenario is typically an iterative process where mitigation and improvement measures are necessary to achieve compliance with the Access Management Code, acceptable levels of service and/or to manage vehicle queuing. The final results of that process are to be documented along with the mitigation and improvement measures associated with those results. Improvements that become warranted by City design criteria or access management guidelines codes shall be identified and included in this process.

Mitigation measures might include:

- Additional turn lanes on the public streets and/or the site access.
- Additional through lanes on public streets.
- Revised traffic control, including new traffic signals.
- Access management strategies, e.g. build a raised median on the public street.
- Site plan or land use changes.

Mitigation and improvement measures should be logical for the conditions at a specific location, consistent with the corridor design and operations, and should contribute towards or at least be consistent with the ultimate configuration of the public street. The ramifications of mitigation and improvement measures must be clearly identified. For example, adding a second left-turn lane on one approach to an intersection will typically necessitate widening of the opposite approach.

In addition to achieving acceptable levels of service, anticipated vehicle queuing needs to be assessed to ensure that turn lanes are properly designed and that queues from one intersection do not impact operations at other intersections. This applies to the development site where access

driveways connect to the public street system. In general, the site circulation layout should not create conditions where entering traffic might queue back onto the public street and/or the efficiency of exiting traffic is diminished. Further, the site plan and design should allow for all vehicle circulation to take place on-site and not on the public streets.

9.6.I. Future Conditions Analysis

The analysis of future conditions is important to further assess proposed access in relation to the configuration of the public streets at a more mature stage of development. What might be deemed acceptable today might not fit with the long-range configuration of a street corridor. It may also prove useful in determining when significant improvements to major streets need to be planned.

~~The analysis methods are outlined in Steps 2 and 8.~~ The analyses should reflect street improvements planned to occur prior to the horizon year. Traffic associated with approved/unbuilt development is included in the background traffic growth of a future horizon.

9.6.J. Pedestrian, Bicyclist, Transit and Truck Considerations

While transportation impact studies primarily address automobile traffic, recognition of other vehicle types and travel modes is appropriate, particularly in a community that strives for multi-modal choice and complete streets (livable streets). The following text by no means represents a comprehensive list of site planning elements but each must be addressed.

9.6.J.1. Pedestrians

Sidewalks along public streets or off-street paths provide mobility for pedestrians. Pedestrians should be provided the opportunity to readily travel between these public infrastructure and adjacent land uses. Pedestrians should also have efficient and safe mobility within the development and minimize conflicts with vehicular traffic. All development plans should provide this accessibility, connectivity and mobility.

9.6.J.2. Bicyclists

Similar to pedestrians, development sites should provide reasonable opportunities to travel between adjacent public streets, shared-use paths or bicycle trails and the land use. This does not imply that separate facilities are always needed; rather, the conditions within a development site should be comparable to conditions adjacent to and near the site. Adequate and properly placed parking facilities for bicycles are a key component to encouraging bicycle travel. At a minimum, bicycle accommodations identified in the Bicycle Transportation Plan and/or Greenway Master Plan shall be incorporated in the development.

9.6.J.3. Public Transportation

Bus transportation is currently provided by several private and publicly funded agencies, generally to targeted customers. More widespread public transit, whether demand service models, fixed routes and/or mass commute systems, could be implemented or expanded in the future. Site development should account for both current and potential bus-transit services. Some of these considerations are similar to trucks due to the relatively large size of buses/vehicle; however, the primary difference is that buses-transit vehicles need to circulate with customer traffic flow. Bus+Turnouts may be planned for specific corridors or intersections, or adjacent to major trip generators.



9.6.J.4. Trucks

Site driveways and internal circulation must be designed to accommodate the largest truck anticipated to serve the development or potential land use. Vehicle turning paths need to be provided such that trucks do not encroach over curbs and medians. Encroachment into opposing turning lanes should be minimized, but can be consistent with the scale of the development, ~~and~~ the frequency and timing of truck movements and roadway functional classification. Truck circulation through a development site should minimize conflicts with customer traffic and loading docks should be configured such that parked trucks do not impede normal traffic flow.

9.6.K. Documentation

The transportation impact study shall be documented in a typewritten, bound report outlining the findings and conclusions of the study, including exhibits illustrating the site plan, traffic volumes ~~(current and projected)~~ for each analysis scenario, and existing and proposed street conditions (lane configurations and intersection traffic controls). Exhibits shall also include level of service, delay and vehicle queuing results for each analysis scenario. The report, or an appendix, shall include all analysis worksheets and traffic volume count spreadsheets listing data by the minimum time increment in which the data was collected (not less than 15-minute increments). ~~Four~~ Two (42) bound copies, one unbound copy and one electronic disk/media containing all of the analysis files and a PDF of the final report shall be submitted with the development application. The bound copies and electronic disk/media will be routed internally by City staff to the Planning & Development Public Works Department - Traffic Engineering Division.

The report shall be well organized and generally follow the study process chronology. The report should be divided into sections to clearly distinguish between the site plan details, assessment of existing conditions, assessment of existing plus development conditions, and the assessment of future conditions. The concluding section of the report shall summarize the significant findings and outline the mitigations and improvements ~~measures~~ needed to meet accepted standards. Trip generation information, trip distribution assumptions, and analysis results should be organized in tables or exhibits and page numbering should be used.

Documentation of the mitigation and improvement measures shall include a detailed description of the proposed improvements. For example, turn lanes shall include a recommended length. It is expected that sufficient due diligence has been conducted to reasonably conclude that the mitigation and improvement measures can be implemented without disruption to existing roadside facilities, other public street facilities, e.g., another turn lane, and/or existing access. If proposed access or a mitigation or improvement measure will cause such a disruption, the impact shall be clearly described.

It is not appropriate to define or suggest funding responsibilities in the study report.

Any deviation from established guidelines/policies shall be clearly identified and justification provided as to the basis for such a condition and its potential ramifications on the public street system.

All assumptions and analysis methodologies should also be identified. The final report should be complete to the extent that the reviewer could find all information necessary to understand how analyses were conducted and could even recreate those analyses and achieve the same results.

The professional engineer responsible for completing the study shall sign and seal the final report.



## Section 10 - Interchange Areas

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The purpose of this section is to preserve the safe and efficient operation of traffic on interchange crossroads and interchanges, while preserving the accessibility of interchange areas for economic development. Specific purposes are to ensure adequate storage and maneuver distances for drivers between the first signalized intersection and the highway ramp and to avoid access connections to interchange crossroads that would interfere with traffic operations at interchange ramps. In addition, this section seeks to promote the development of local streets and service roads for access in the functional area of interchanges as an alternative to individual driveway access.

The standards in this section apply to areas where grade-separated facilities, e.g. Interstates and other freeways, interchange with surface streets, highways, and roads. In such cases, adequate areas need to be provided for traffic to make the transition from a high-speed highway to the surface street system.

### 10.1. Interchange Functional Area Standards

These requirements shall be applied in the vicinity of interchanges. ~~These requirements should be applied within interchange areas and generally reflect the access management criteria provided by the Missouri Department of Transportation (MoDOT) for MoDOT rights-of-ways. Consequently, these requirements should be considered in consultation with the MoDOT which may recommend more stringent requirements in the interest of safety and operation of their facilities where substantial development has not yet occurred, as determined by the City Traffic Engineer (or designee). The City does not exercise control over MoDOT right-of-way; but will coordinate the recommendations of MoDOT and support such recommendations applicable to the state highway system in the review of development applications that impact MoDOT interchanges and where such interchange operations influence the vicinity of interchanges that may or may not be MoDOT managed.~~ In developed areas, these standards may be difficult to achieve, however they should be considered the desirable standard and achieved to the extent reasonably possible. In undeveloped areas, ~~these~~ connection spacing standards ~~will~~should be the minimum standards.

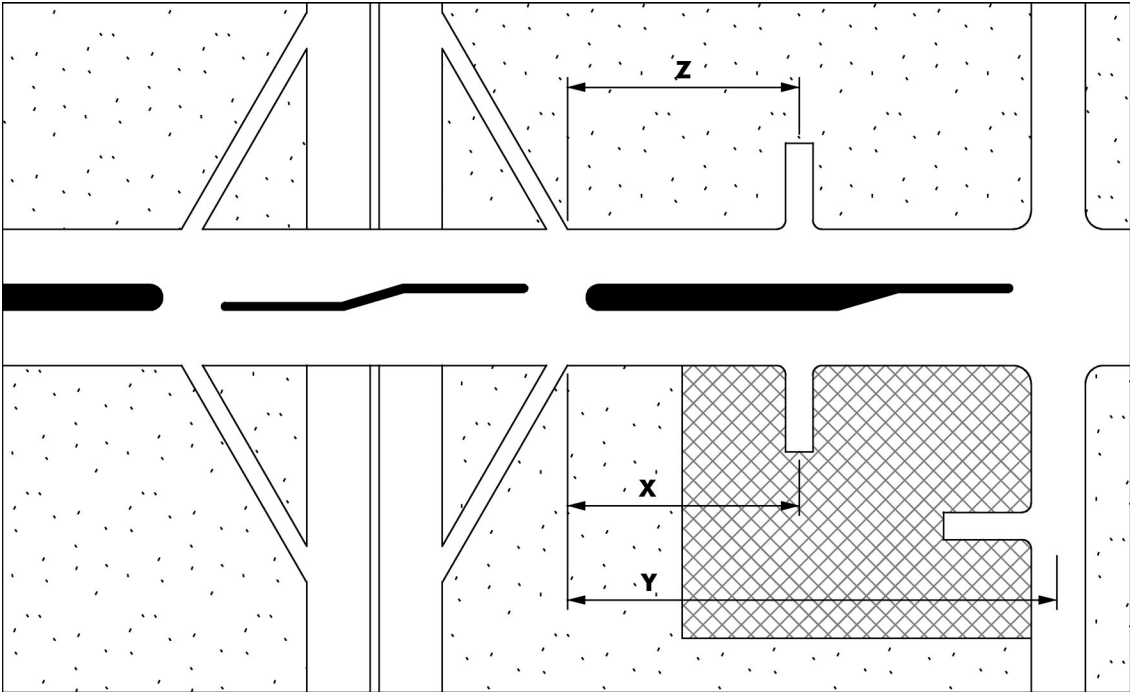
#### 10.1.A. Requirements:

10.1.A.1. In order to provide a safe distance for transitional activity to occur, the spacings identified in *Figure 10-1* shall be provided from the end of the off ramp to the first private driveway, median opening, or intersection with a public road.

10.1.A.2. The measurement basis for this standard is from the near edge of the ramp to the center of the intersection. At “diamond” type interchanges where traffic (including right turns) is controlled by a stop sign or traffic signal, the distance is measured from center to center of the intersections. At “diverging diamond”, roundabout or other continuous flow type interchanges, the distance is measured from the stop line or yield line.

10.1.A.3. Local roads or service roads shall be used for direct access to property within interchange areas.

~~Where properties are under the same ownership or consolidated for the purposes of development, the local street shall be constructed by the developer. Where the street will serve properties under separate ownership, a method will be established by the City Traffic Engineer (or designee) to apportion the costs of initiating and constructing the street.~~

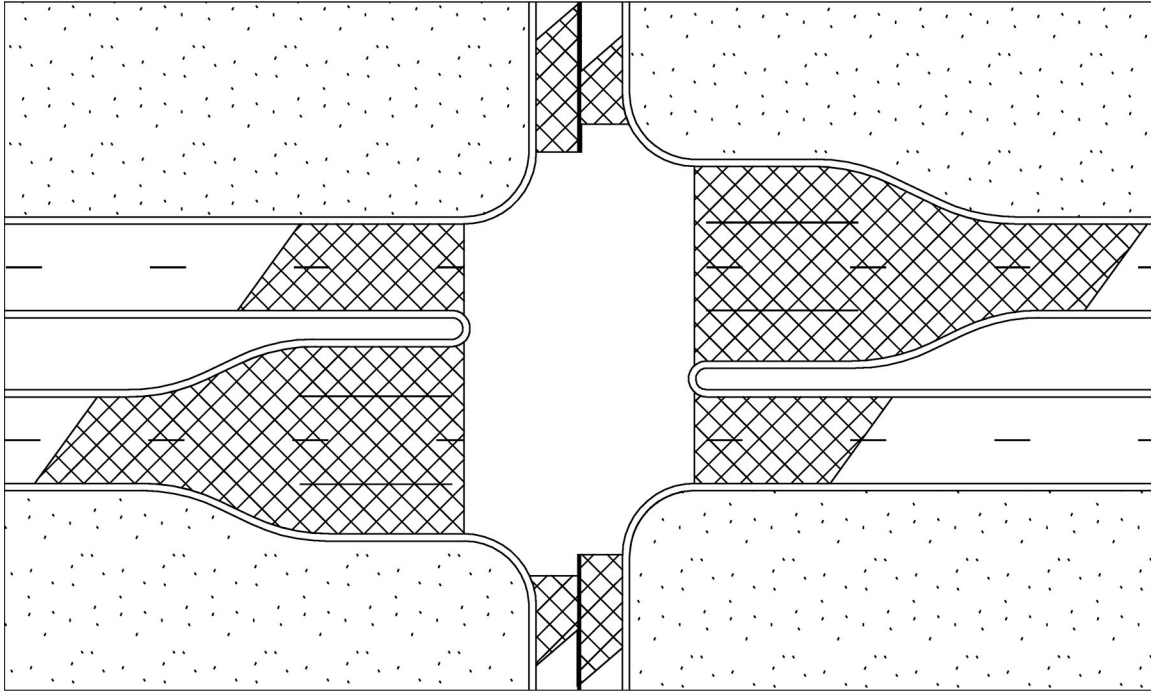


*X = 750 feet*  
*Y = 1,320 feet*  
*Z = 750 feet*

**Figure 10-1**  
**Connection Spacing Near Interchanges**

## Section 11 - Intersection Functional Area

The functional area of an intersection consists of more than the area bounded by the stop lines, [yield lines](#) or crosswalks. The functional area of the intersection also includes the area upstream of the intersection where vehicles have to react to slowing traffic in front of them, decelerate and wait in queues. The downstream functional area includes the area where through traffic merges with traffic turning from the cross street. It also includes the distance required to accelerate back to driving speeds. The intersection functional area is shown schematically in *Figure 11-1*.



**Figure 11-1**  
**Intersection Functional Area**

### 11.1. Upstream Intersection Functional Area

The upstream intersection functional area can be determined by summing two primary components, [the Reaction/Deceleration Time and the Storage Length](#):

#### 11.1.A. Reaction/Deceleration Time

This is the distance traveled while the driver recognizes that action is required, i.e. sees vehicles stopping ahead, reacts, i.e. presses break pedal, and decelerates i.e., slows to a stop. These values can be calculated from *Table 11-1*. The City [Traffic Engineer](#) ~~(or designee)~~ shall determine where limiting conditions can be applied.

Speed (MPH)	Desirable Conditions <sup>2</sup>		Limiting Conditions <sup>3</sup>	
	Deceleration <sup>4</sup>	PIEV Plus Deceleration <sup>5</sup>	Deceleration <sup>4</sup>	PIEV Plus Deceleration
30	225	315	170	215
35	295	370	220	270
40	375	490	275	335
45	465	595	340	405
50	565	710	410	485
55	675	835	485	565
60	785	960	565	605

<sup>1</sup>all distances rounded to 5ft  
<sup>2</sup>2.0 second perception-reaction time; 3.5 fps<sup>2</sup> average deceleration while moving laterally into turn lane, 6.0 fps<sup>2</sup> average deceleration thereafter; speed differential < 10 mph  
<sup>3</sup>1.0 second perception-reaction time; 4.5 fps<sup>2</sup> average deceleration while moving laterally into turn lane, 9.0 fps<sup>2</sup> average deceleration thereafter; speed differential <10 mph  
<sup>4</sup>distance to decelerate from through traffic speed to a stop while moving laterally into a left-turn or right-turn lane  
<sup>5</sup>distance traveled during perception-reaction time plus deceleration distance

11.1.B. ~~Queue~~ Storage Length

Queue lengths should be calculated based on existing (or existing plus development for new development projects) and future (horizon-year) traffic conditions. For development projects, turn lane storage improvements may be based on existing plus development conditions, however, site access and right-of-way should be planned to accommodate ultimate (horizon-year) conditions.

Queue lengths should be calculated for left-turn, through and right-turn lanes. Queue lengths should consider 90th percentile queues and should be calculated using established procedures or software that reports 90th percentile or maximum back of queue. As traffic signals on most arterial corridors have the potential to be coordinated, it is recommended that a cycle length of at least 120 seconds be used. Analysis should conform to Highway Capacity Manual methods. In areas with closely spaced or coordinated signals, software that analyzes coordinated signal timings, e.g. SIMTRAFFIC, TRANSYT, CORSIM, VISSIM, etc., may be needed to supplement the analysis. In these cases, queue lengths should be evaluated for both coordinated arrival and random vehicle arrival and the larger of the two values used, as future changes in coordination timings can significantly change queue patterns. In no case should the queue storage length used for calculating the upstream functional area be less than the maximum total length of any turn lane including taper at the intersection approach.

The City Traffic Engineer ~~(or designee)~~ may elect to define the upstream functional area at a value less than that calculated by the aforementioned method based on existing or anticipated conditions at an intersection.

**11.2. Downstream Functional Area**

The functional area of an intersection extends some distance downstream from the crosswalk location because of the need to establish guidance and tracking after having passed through the area in which there are no lane lines. This is especially true following a left turn. It can be argued that a vehicle should clear a major intersection before the driver is required to respond to vehicles entering, leaving or crossing the ~~major~~-roadway. The logic of this criterion is to simplify the

driving task and thus minimize the chances of driver mistakes and collisions. Stopping sight distance is one criterion which would allow the driver to clear the intersection before having to rapidly decelerate in response to a maneuver at a downstream intersection. Downstream functional areas based on AASHTO stopping sight distances are given in **Table 11-2**. The downstream intersection area should also extend beyond any U-turn design element.

<b>Speed</b>	<b>AASHTO Stopping Distance<sup>1</sup></b>
20	<del>125</del> 115
25	<del>155</del> 0
30	200
35	250
40	<del>305</del> 35
45	<del>360</del> 400
50	<del>425</del> 75
55	<del>495</del> 550
60	<del>570</del> 650

<sup>1</sup>Source: Reference (1) Table III 1, page 120, 1990 AASHTO "Green Book" (rounded to 25 ft.) Level Roadways

## Section 12 - Medians and Continuous Center Turn Lanes

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Restrictive (“raised” or “non-traversable”) medians and well designed median openings are known to be some of the most important features in a safe and efficient street system. The design and placement of these medians and openings is an integral part of the access management practice. Raised medians are important for several reasons.

- Vehicular Safety - to prevent ~~accidents-crashes~~ caused by crossover traffic, headlight glare distraction and traffic turning left from through lanes.
- Pedestrian Safety - to provide a refuge for pedestrians crossing the street.
- Vehicular Efficiency - to remove turning traffic from through lanes thereby maintaining ~~increasing desired~~ operating speed. This reduces fuel consumption and emissions which is an environmental benefit.
- Improved Aesthetics - Landscaped and grass medians offer aesthetic benefits over paved turn lanes or undivided roadways.

Properly implemented median management will result in improvements to traffic operations, minimize adverse environmental impacts, and increase ~~highway-transportation~~ safety. As traffic flow is improved, delay is reduced as are vehicle emissions. In addition, roadway capacity and fuel economy are increased, and most importantly, ~~accidents-crashes~~ are less numerous and/or less severe ~~due to fewer conflict points, moderated interruptions in traffic flow and simplified driver decisions.~~

Continuous two-way center turn lanes (“two-way left-turn lanes” or “TWLTL” or “traversable” medians) do not provide all of the safety benefits of restrictive medians, but do offer ~~substantial-some~~ safety improvements over roadways where no left-turn lanes are provided, particularly in areas with frequent ~~and low volume~~ driveways. These facilities provide more flexibility than restrictive medians and operate safely and efficiently under appropriate circumstances. However, once the driveway density, left-turning traffic volumes, and through traffic volumes reach certain levels, the safety benefits diminish rapidly. Under such conditions, restrictive medians are the more effective alternative with regard to safety and operations.

### 12.1. Median Standards

Restrictive medians shall prohibit vehicles from crossing the median except at designated median openings through the use of a barrier curb or wide landscaped median treatment. Restrictive medians shall be required under ~~any of~~ the following conditions:

- On all major arterial streets.
- On minor arterial and collector streets where existing daily traffic volumes are in excess of ~~2418,000~~ (where traffic volumes are projected to exceed ~~2418,000~~ in the future, the roadway and access should be designed to accommodate the future installation of a raised median, e.g. identify potential median opening locations, use 16-foot ~~wide~~ center turn lane).
- Speeds are posted at 45 MPH or above.
- Adjacent to left-turn lanes at signalized intersections (existing or planned signal locations) where ~~drive~~ways are present or would otherwise s are present withinbe located within the intersection functional area.
- Adjacent to all dual left-turn lanes.



- On multi-lane roadways (two or more through lanes in each direction) within the functional area of an interchange.
- On roadways with three or more through lanes in each direction.
- At roundabout controlled intersections.

## **12.2. Continuous Two-Way Center Turn Lanes**

Continuous two-way center turn lanes ~~shall~~may be considered under the following conditions (except where restrictive medians are required as described above):

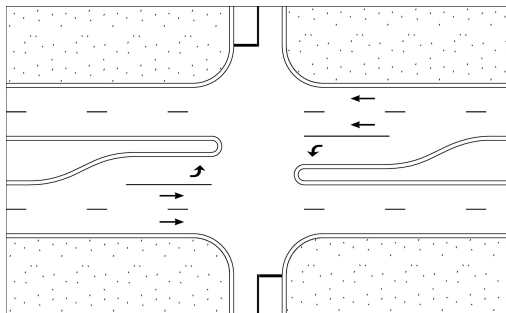
- 12.2.A. On ~~all~~ minor arterial and collector streets adjacent to property that is already developed ~~as~~ or planned for low density commercial ~~use~~development or in areas where there is a need for frequent left-turn lanes and low left-turn volume.

## Section 13 - Median Openings

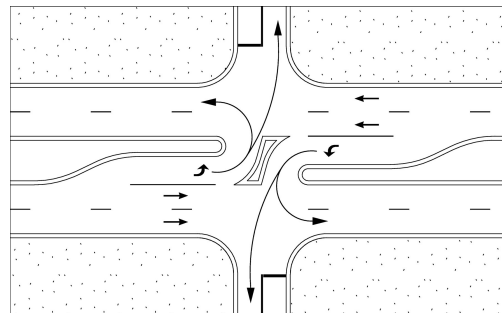
Openings in ~~raised-restrictive~~ medians should only be provided to accommodate turning traffic in locations where this can be safely done. Where openings are provided, ~~an~~adequate spacing between them is ~~required-necessary~~ to allow for ~~required vehicle storage, adequate entry taper and~~ weaving of traffic so as to preserve traffic flow and provide for safe lane changes and turns.

A full opening allows turns to be made in both directions; a directional opening allows turns to be made in only one direction. An example of a directional median would be one that allows left turns into a driveway, but does not allow left turns to be made out.

Examples of these median opening types are shown on *Figure 13-1* and *Figure 13-2*.



**Figure 13-1**  
**Full Median Opening**



**Figure 13-2**  
**Directional Median Opening**

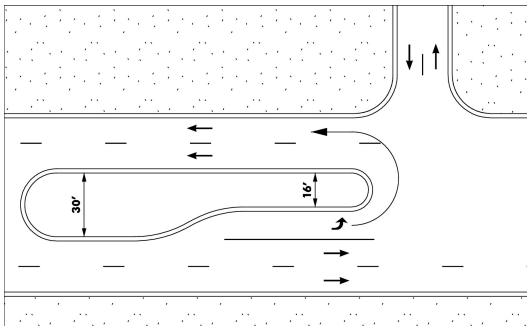
### 13.1. Median Opening Standards

The minimum spacing standards for full median openings shall be ~~one-quarter (1/4) mile~~ subject to the limitations listed below.

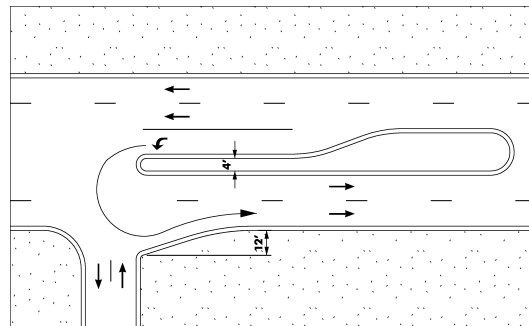
- 13.1.A. No median openings shall be permitted within the functional area of an interchange ~~or intersection~~.
- 13.1.B. Median openings shall not be permitted where an opening would be unsafe due to inadequate sight distance.
- 13.1.C. Full median openings ~~along major arterials~~ must meet the ~~minimum~~ requirements of ~~both~~ one-quarter mile spacing ~~and full median openings along any roadway must meet the~~ ~~and the~~ minimum connection spacing ~~requirements noted in Section 15~~.
- 13.1.D. Directional median openings may be provided at any connection that meets the connection spacing requirements, and is found to be an acceptable location based on a transportation impact study.
- 13.1.E. Left-turn lanes shall be required at all median openings. Median openings shall not be permitted where ~~adequate minimum required~~ queue storage ~~and taper~~ cannot be provided for the left-turn lanes.

### 13.2. U-Turns

As access management principles and standards are applied, the U-turn becomes an increasingly important movement for accessing local streets and driveways along arterials. A standard passenger vehicle cannot easily make a U-turn from a left-turn lane with minimal median width, e.g. 4 feet, and only two lanes in the opposing direction. In order to accommodate U-turn movements at median openings on a four-lane roadway, there are two options - provide a wide median near the intersection (30 feet or more) or provide some sort of widening of the downstream approach near the U-turn location. Downstream widening can be accommodated by allowing vehicles to turn on the shoulder or by flaring the pavement width at the U-turn locations. Ultimately, the width between the left edge of the left-turn lane and the right edge of the downstream travel lane needs to be at least 44 feet for a typical automobile to make a U-turn. An assessment of the design vehicle wheel path for U-turns should be done where U-turn accommodations are desired to ensure the appropriate area is available without encroachment and is not excessively overbuilding the pavement which can mislead lane identification. Special care should also be given to U-turns at traffic signal controlled intersections for the left-turn/U-turn phase interaction with protected or permitted or overlap right-turn operations. Examples of these techniques are illustrated on *Figure 13-3* and *Figure 13-4*.



**Figure 13-3**  
**U-Turns at Wide Median**



**Figure 13-4**  
**U-Turns onto Flared Approach**

## Section 14 - Traffic Signals

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This section addresses the distance between signalized at-grade intersections on public streets. Minimum spacing is mainly intended to preserve efficient traffic flow and progression on urban arterial streets; for instance, a quarter or half-mile spacing allows traffic signals to be effectively interconnected and synchronized. Effective signal coordination will also tend to reduce rear-end collisions and stop-and-go driving that increases congestion, delay, and air pollution.

### 14.1. Traffic Signal Standards

An intersection should meet the following ~~require~~requirements to be considered for installation of a traffic signal.

- 14.1.A. The intersection shall meet a warrant or warrants in the Manual on Uniform Traffic Control Devices (MUTCD). Installation of a traffic signal based solely on the peak hour ~~or four-hour~~ warrant will only be considered at the intersection of an arterial street with a not other arterial street, ~~major~~ collector street, or at the intersection of an expressway, highway or freeway intersection and ramp terminals. Other locations must meet additional signal warrant criteria and be supported by engineering study.
- 14.1.B. For intersections where one or more of the roadways is a collector street, existing traffic volumes shall be utilized in evaluating the signal warrants (installation of a traffic signal based on existing plus proposed development traffic volumes may be approved based if on the projected traffic volume ~~increases projected to occur~~ will likely realize within ~~the next~~ 12 months of occupancy). Signals warranted based on future phases of development would have conditions of approval for signal installation coincidental to the phase of development that merits the signal warrant. Approved development trip generation that has not yet realized may be considered in the traffic signal warrant evaluation.
- 14.1.C. The location of the traffic signal ~~shall~~ should be at least one-quarter mile (1/4) from another traffic signal, either existing or anticipated and shall not be less than one-eighth mile (1/8) from another traffic signal where extraordinary conditions exist and by approval of the City Traffic Engineer.
- 14.1.D. Traffic signal interconnect ~~(conduit and fiber optic lines conduit and cable)~~ shall be installed between traffic signals within 3,000 feet of the proposed location, potentially within one mile for wireless communications.
- 14.1.E. Roundabouts should be considered, where applicable and practical based on engineering study, in lieu of traffic signals except where the intersection is within the influence of an adjacent traffic signal and coordinated corridor.

## Section 15 - Connection Spacing

---

This standard governs the minimum allowable spacing between connections (e.g. side-streets and private driveways) on various classifications of streets. Access points introduce conflicts and friction into the traffic stream. Each conflict point increases the crash opportunity and exposure along a corridor. Each friction point reduces the corridor capacity to efficiently move traffic. Vehicles entering and leaving the main roadway often slow the through traffic, and the difference in speeds between through and turning traffic increases ~~accident-crash~~ potential. ~~As stated in the~~The many proven benefits of managed access can be read in more detail from various Transportation Research Board references, papers, reports and studies as well as multiple documents published by -AASHTO, including A Policy on Geometric Design of Highways and Streets. ~~“Driveways are, in effect, at-grade intersections. . . . The number of accidents is disproportionately higher at driveways than at other intersections; thus their design and location merit special consideration.”~~

The professional consensus is that increasing the spacing between access points improves arterial flow and safety by reducing the number of conflicts per mile, by providing greater distance to anticipate and recover from turning maneuvers, and by providing opportunities for use of turn lanes. Many studies have shown that driveway spacing is one of the key factors that influence ~~accidents~~crash frequency.

### 15.1. Connection Spacing Standards

Connections (a street or driveway, public or private) to public roadways ~~to major streets~~ shall conform to the following requirements. All applicable criteria must be met to be deemed conforming.

15.1.A. Connections along any arterial or collector shall be outside any interchange or intersection functional area.

15.1.B. Connections shall be~~Provide~~ sufficiently separated ~~separation~~ to accommodate~~for~~ ~~provision of~~ warranted and/or required right-turn lanes and left-turn lanes.

15.1.C. Connections along any arterial or collector shall be aligned with existing or planned connectors on the opposite side of the street ~~except where movements are limited to right turns in and right turns out, except where a restrictive median is in place and the spacing criteria in 15.1.E are satisfied.~~ The alignment and angle of intersection of connections at the intersecting connector shall meet the criteria described in the City's Design and Construction Manual.

~~15.1.C.1. ———).~~

15.1.D. ~~If offset from~~Connections on the opposite side of the street where no restrictive median is in place, minimum separations (measured from centerline to centerline) include:

15.1.D.1. Major Arterial - 660 feet

15.1.D.2. Minor Arterial - 400 feet

15.1.D.3. Industrial/Commercial Collector - 300 feet

15.1.D.4. Residential Collector - 200 feet

15.1.D.5. Local or Access – Minimum separation ~~Aas required~~required by the Unified Development Ordinance (UDO), except such connector shall also be spaced from any collector or arterial intersection in accordance with minimum throat length criteria described in Table 18-2 and not be located within the intersection sight triangle (not to obstruct sight distance).

~~15.1.D.5. Left in only movements must be controlled through the use of a restrictive median.~~

15.1.E. Connections where a restrictive median is in place shall meet the following requirements and the minimum requirements of Section 13. Any access having restricted movement shall be controlled through the use of a restrictive median conforming to Section 12.

15.1.E.1. Connections with restricted left--turns out and cross--street traffic (LIRIRO) shall meet all of the requirements in sections 15.1.A, 15.1.B, and should meet the requirements of 15.1.D where adjacent to LIRIRO or full access.

~~15.1.D.6. 15.1.E.2.~~ Connections limited to right--turns in and right--turns out (RIRO) shall meet all of the requirements in sections 15.1.A and 15.1.B.

15.1.F. Multiple (2) residential driveways for a single residential property may be approved on local and access streets at the discretion of the City Traffic Engineer, so long as sight distance is not obstructed, access to mail box or fire hydrant is not impeded, or a negative impact caused to on-street parking availability for adjacent owners (next to or across from such driveway). Multiple driveways for a single residential property are not permitted on collectors and arterials and access to collectors and arterials for residential properties shall conform to other provisions of this code which preclude such access if an alternative exists from a local street, access street or shared access condition.

## Section 16 - Turn Lanes

---

Vehicles slowing to turn right or left onto cross streets or into driveways cause disruptions to through street traffic flow and increase ~~accidents-crashes~~ along a corridor. Thus, the treatment of turning vehicles has an important bearing on the safety and movement along ~~arterial~~ roadways. Turn lanes are~~It is~~ one of the most influential and important components of major~~access management~~. ~~concerns~~.

Left turns may pose problems at driveway and street intersections. They may increase conflicts, delays, and ~~accidents-crashes~~ and often complicate traffic signal timing. These ~~problems-issues~~ are especially acute at major suburban arterial intersections where heavy left-turn movements take place, but occur also where left turns enter or leave driveways serving adjacent land development. The following illustrate these problems:

- More than two-thirds of all driveway-related ~~accidents-crashes~~ involve left-turning vehicles.
- Where there are more than six left turns per traffic signal cycle, virtually all through vehicles in the shared lane may be blocked by the left-turning vehicles.

### 16.1. Left-Turn Lane Standards

16.1.A. Left-turn lanes ~~should-shall~~ be provided on all approaches to intersections controlled by, or planned to be controlled by, traffic signals.

16.1.B. Left-turn lanes ~~should-shall~~ be provided on ~~minor-all~~ arterial streets at the intersection with other arterial and collector streets. Left-turn lanes shall be provided on minor arterial streets at the intersection with any local street or driveway where the left-turn volume is at least 20 vehicles in any hour. On major arterial streets, ~~left-turn lanes should-shall~~ be at the intersection with all connectors ~~(an exception may be granted for a singular, existing, residential lot).~~

~~16.1.C. Left-turn lanes shall be provided on collector streets at the intersection with a connector serving non-residential development where the left-turn volume is at least 30 vehicles in any hour and should be provided where the left-turn volume is less than 30 vehicles in any hour.~~

~~16.1.C; 16.1.D.~~ Left-turn lanes ~~should-shall~~ be provided on ~~non-residential~~ connectors intersecting with ~~major~~ arterial streets (where left-turn egress is permitted). ~~Left-turn lanes shall be provided on non-residential connectors intersecting minor arterial streets (where left-turn egress is permitted) where the left-turn volume is at least 20 vehicles in any hour. Left-turn lanes should be provided on any connector at any location as recommended by a traffic study or where the left-turn lane provides design efficiencies desired by the owner/developer with exception of access associated with residential property.~~

~~16.1.D; 16.1.E.~~ Left-turn lanes ~~should-shall~~ be provided at all median openings on roadways with medians.

~~16.1.E. Left-turn lanes should be provided on collector streets at the intersection with a connector serving non-residential development.~~

16.1.F. Continuous two-way left turn lanes may be used in lieu of individual left-turn lanes where permitted by the City Traffic Engineer and in consideration of conditions listed in Section 12. ~~Continuous left-turn lanes in the presence of a median will not be allowed.~~

- 16.1.G. Dual-left-turn lanes should be planned for all approaches of an arterial/arterial intersection. The outside receiving lane for a dual-left-turn lane condition should be designed with a tapered entrance to accommodate a wider turning radius.
- 16.1.H. The minimum length of left-turn lane should be 250 feet plus taper on an arterial street intersecting another arterial street and 200 feet plus taper on an arterial street at other locations. The minimum length of left-turn lane on collectors should be 150 feet plus taper. The minimum length of left-turn lane on connectors should meet the driveway throat length requirements.
- 16.1.I. The length of the left-turn lane ~~should~~shall be increased as necessary to accommodate estimated queue length. The length of the left-turn lane at intersections controlled by traffic signals should be increased, if necessary, based on the longer of the queues in the turn lane or the adjacent through lane.
- 16.1.J. Left-turn lane lengths cover the full-width segment between the taper and the end of the lane at an intersection. The end of the lane at the intersection should be determined as the stop line, or if none, as the point of curvature for the corner radius.
- 16.1.K. The introductory taper should be a reverse curve using a 150-foot radius for a single left-turn lane and 300-foot radii for a dual left-turn lane. The reverse curve does not define the redirection taper where a left-turn lane is introduced.
- ~~16.1.J.~~16.1.L. The beginning of a taper should not encroach the interchange or intersection functional area of an adjacent traffic signal or roundabout, whether existing or planned.

## **16.2. Right-Turn Lane Standards**

- 16.2.A. Required on arterial streets at each intersecting street or driveway where the right-turn volume on the major arterial street is or is projected to be at least 30 vehicles in any hour, or the right-turn volume on the minor arterial street is or is projected to be at least 60 vehicles in any hour. Minimum length should be 250 feet plus the taper on a major arterial at the intersection of another arterial street or 200 feet plus the taper on a minor arterial at the intersection with another arterial street or on a major arterial at the intersection of a collector and 150 feet plus the taper at other locations along arterial streets.
- 16.2.B. Required on collector streets in non-residential areas at the intersection with any street or driveway where the right-turn volume on the collector street is or is projected to be at least 100 vehicles in any hour. The minimum length should be 100 feet plus the taper.
- 16.2.C. The length of the right-turn lane shall be increased as necessary to accommodate estimated queue length. The length of the right-turn lane at intersections controlled by traffic signals or roundabouts should be increased, if necessary, based on the longer of the queues in the turn lane or the adjacent through lane.
- 16.2.D. Right-turn lane lengths cover the full-width segment between the taper and the end of the lane at an intersection ~~with a public street or driveway.~~ The end of the lane at the intersection should be determined as the stop line or yield line, or if none, as the point of curvature for the corner radius.



~~16.2.E.~~ The minimum length on controlled approaches should be exceeded based on the estimated queue length determined for 20-year traffic volume projections. The turn lane length should be based on the longer of the queues in the turn lane or the adjacent through lane.

~~16.2.F.~~ 16.2.E. The introductory taper should be a straight line and its length should be determined by using a rate of 12.5 to 1 based on the width of the right-turn lane.

~~16.2.G.~~ 16.2.F. The beginning of a taper should be no closer than 100 feet from the ~~centerline~~ nearest point of curvature on the intersection corner radius of the nearest connector preceding the turn lane along arterials and 50 feet from the centerline ~~same~~ of the nearest connector preceding the turn lane along collectors and other locations. The beginning of a taper should not encroach the interchange or intersection functional area of an adjacent traffic signal or roundabout, whether existing or planned.

~~16.2.H.~~ 16.2.G. Continuous right-turn lanes will not be allowed.

### **16.3. Variances**

The standards outlined in the section may be altered or waived by the City Traffic Engineer ~~(or designee)~~ for a specific situation in which extraordinary conditions are encountered.

## Section 17 - Sight Distance

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Sight distance for driveway and street construction should be considered essential in the design and issuance of permits for all drivewaysconnectors. If there is a request to construct a driveway or street at a questionable location, the transportation impact study must include a field inspection to evaluate the sight distance. Sight distance is always the most important consideration in allowing, not allowing, or placing driveways and roadway intersections. Both vertical and horizontal alignment can limit sight distance. Special consideration is required for skewed intersections.

The sight distance standards include stopping sight distance, intersection sight distance, passing sight distance and other sight ~~are based distances referenced in~~ ~~criteria in~~ the 2001-2011 AASHTO "Green Book" A Policy on Geometric Design of Highways and Streets, as may be amended in the publication of future editions.

### 17.1. Sight Distance Standards

#### 17.1.A. Stop-Controlled Intersections

The intersection sight distance is based on a gap-acceptance concept. It is assumed that drivers on the major road should not need to reduce speed to less than 70 percent of the initial speed. The intersection sight distance is determined from the size of acceptable gap that a driver requires to enter the roadway.

The acceptable gaps that drivers require to enter a major roadway for left turns and right turns from the stop are given in Table 17-1 ~~Table 17-1~~. Adjustments for roadway width and approach grades are given in footnotes to the table. Sight distances for left-turns for passenger cars on various width roadways at a stop controlled approach are summarized on Table 17-2 ~~Table 17-2~~. Sight distances for right-turns and cross-over maneuvers for passenger cars are generally less than the distances required for left-turns. The speed used to calculate the minimum sight distance shall be the posted speed, design speed or the 85th percentile speed, whichever is known and greater ~~st~~.

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Table 17-1 Gap Time for Stop Controlled Intersections	
Design Vehicle <sup>1</sup>	Time Gap <sup>2,3</sup>
Passenger Car	7.5 sec.
Single Unit Truck	9.5 sec.
Combination Truck	11.5 sec.
<sup>1</sup> Passenger car design vehicle is typically sufficient for streets and drives serving residential, commercial and office development. For industrial developments, or on major streets with more than 3% trucks, consider using truck categories. <sup>2</sup> Adjustment for multilane highways: For left turns onto two-way highways with more than two lanes, add 0.5 sec for passenger cars or 0.7 sec for trucks for each additional lane, in excess of one, to be crossed by the turning vehicle. For right turns, no adjustment is necessary. <sup>3</sup> Adjustment for approach grades: If the approach grade on the minor road is an upgrade that exceeds 3 percent: Add 0.1 sec per percent grade for right turns, add 0.2 sec per percent grade for left turns.	

Table 17-2 Sight Distance for Stop Controlled Intersections, in Feet Passenger Cars, Grades Less Than 4%				
Speed <sup>2</sup> (MPH)	Lanes to Cross <sup>1</sup>			
	One	Two	Three	Four
20	<del>220</del> <u>225</u>	240	250	<del>265</del> <u>270</u>
25	280	<del>295</del> <u>300</u>	<del>315</del> <u>320</u>	<del>335</del> <u>340</u>
30	<del>335</del> <u>340</u>	<del>355</del> <u>360</u>	<del>375</del> <u>380</u>	400
35	390	<del>415</del> <u>420</u>	440	<del>465</del> <u>470</u>
40	<del>445</del> <u>450</u>	<del>475</del> <u>480</u>	500	530
45	500	530	<del>565</del> <u>570</u>	600
50	<del>555</del> <u>560</u>	590	<del>625</del> <u>630</u>	<del>665</del> <u>670</u>
55	610	650	690	730
60	<del>665</del> <u>670</u>	710	750	<del>795</del> <u>800</u>
65	720	<del>765</del> <u>770</u>	<del>815</del> <u>820</u>	860
70	<del>775</del> <u>780</u>	<del>825</del> <u>830</u>	<del>875</del> <u>880</u>	930
<sup>1</sup> Lanes to cross for left-turning vehicles (lanes with vehicles approaching from left including left and right-turn lanes, add one lane for each 15 feet of median width not including left turn lane) ; <u>except where a left-turn movement can be staged by design within a median of sufficient width, the left-turn may be evaluated as a right-turn.</u> <sup>2</sup> Greater of <u>posted speed</u> , design speed or 85th percentile speed.				

17.1.B. Traffic Signal Controlled Intersections

The intersection sight distance at signal-controlled intersections requires that the first vehicle on each approach should be visible to the drivers of the first vehicle on all other approaches. If the signal is to be placed on two-way flashing operation, the requirements for left and right turns from a stop controlled intersection must be met. If right turns on red are permitted, an expected operation in Lee's Summit by default, the departure sight triangle for right turns for stop controlled intersections should be provided.

17.1.C. All-Way Stop Controlled Intersections

The first vehicle stopped on each approach should be visible to the drivers of the first vehicles stopped on all other approaches.

17.1.D. Left Turns from a Major Road

The required intersection sight distance for left-turns from the major road when the left-turn is not controlled is the distance traveled by an approaching vehicle at the design speed of the major roadway for the distances shown in **Table 17-3**.

Table 17-3 Gap Time for Left Turns from Uncontrolled Street	
Design Vehicle	Travel Time <sup>1</sup>
Passenger Car	5.5 sec.
Single Unit Truck	6.5 sec.
Combination Truck	7.5 sec.
<sup>1</sup> Adjustment for multilane highways: For left turns that must cross more than one opposing lane, add 0.5 sec for passenger cars and 0.7 sec for trucks for each additional lane to be crossed	

Generally, no separate check for this condition is necessary where sight distance for stop intersections is available. Checks are required at three-legged intersections and at mid-block approaches or driveways. Locations on horizontal curves and with sight obstructions present in the median need to be checked as well.

## 17.2. Exceptions to Sight Distance Requirements

Sight distance should be considered a key element in the location of all driveways and roadway intersections with particular emphasis placed upon public street approaches, high volume commercial and industrial driveways, and all driveways on arterial streets. All driveway and roadway intersection locations shall meet or exceed the requirements listed above.

If no location on the applicant's frontage meets or exceeds the sight distance requirements, but a location does meet or exceed the distances shown in the *Minimum Stopping Sight Distance* column on ~~Table 17-4~~ Table 17-4, a driveway or roadway may be located with the City Traffic Engineer's ~~(or designee's)~~ approval, in accordance with the all the following criteria:

- The proposed driveway location has the maximum sight distance available on the entire property frontage.
- The classification for the street is not expressway or major arterial.
- The proposed location is not for a public street approach or a high-volume commercial driveway (more than 50 trips (in plus out) existing or projected during the peak hour).
- There is no other available access, having equal or greater sight distance.
- The Applicant will submit a letter to the City Traffic Engineer ~~(or designee)~~ stating the following: "Applicant is aware that the sight distance of this driveway is restricted. The sight distance is the minimum necessary for a vehicle traveling at the posted speed to come to a complete stop prior to the driveway." The permit may also be issued with conditions limiting the number and types of vehicles using the driveway.

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If these conditions are not met the permit shall not be issued for the driveway. The applicant should be advised of work that could improve sight distance for the location, such as ~~minor~~ grading or brush removal.

<b>Table 17-4 Minimum Stopping Sight Distance, in Feet</b>									
<b>Speed<sup>1</sup></b>	<u>3025</u>	<u>3035</u>	<u>3540</u>	<u>4045</u>	<u>4550</u>	<u>5055</u>	<u>5560</u>	<u>6065</u>	<u>6570</u>
<b>Distance<sup>2</sup></b>	<u>20015</u> <u>5</u>	<u>20022</u> <u>5</u>	<u>25027</u> <u>5</u>	<u>30532</u> <u>5</u>	<u>36040</u> <u>0</u>	<u>42545</u> <u>0</u>	<u>49552</u> <u>5</u>	<u>5705</u> <u>50</u>	<u>64562</u> <u>5</u>
<sup>1</sup> Greater of design speed or 85th percentile speed. <sup>2</sup> Distances shown for level roadways. Additional stopping sight distance is required for downgrade conditions.									

### 17.3. How to Measure Sight Distance

The sight distance for the proposed driveway is measured for each direction of travel and turning movement considered and the smaller distance is then located in the sight distance chart for the speed (greater of the design speed and 85th percentile speed) of the roadway to determine which sight distance criteria is met, if any.

Acceptable sight distance measurement methods are described in the AASHTO “Green Book”.  
For example: To measure actual sight distance limited by vertical alignment in the field for a proposed driveway, place a sighting target 3.50 feet above the edge of pavement at a point 20 feet from the edge of the nearest travel lane (to represent the approximate location of a driver waiting to exit the driveway) at the proposed driveway location. On streets classified minor arterial and below, the target may be placed at a point 15 feet from edge of the nearest travel lane. Sighting from a height of 3.5 feet for cars (7.6 feet for trucks), move along the roadway away from the proposed driveway site to a point beyond where the target disappears. Move toward the target until it can first be seen and place a mark on the pavement. The target should remain visible as you continue toward the driveway. The line of sight should stay within the limits of the right-of-way. Measure the distance along the roadway between the mark and the target. This measured distance is the sight distance.

Sight distance should take into account both the horizontal and vertical profile of the roadway. Consideration may also be given to vegetation both on the right-of-way and adjacent to the right-of-way as it may impede vision more or less during certain times of the year. Where providing adequate sight distance requires visibility across private property, provisions must be made to preserve sight lines across the property.

## Section 18 - Driveway/Connection Geometry

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The design of driveways is important in access management in that it affects the speed of traffic turning into and out of driveways. This in turn affects the speed differential between through traffic and turning traffic where auxiliary lanes are not provided. Large speed differentials are created where driveways are inadequately designed and these higher speed differentials are associated with higher crash rates and diminished traffic operations. The design of driveways also impacts the safety of pedestrians crossing driveways and delay associated with pedestrian driveway crossing activity.

Another critical aspect of the driveway or connection design is the potential for traffic operations off of the public street to become congested and spill or queue back onto the public street. The proper separation of internal conflict points from the public street is necessary to eliminate or diminish this potential.

Driveway designs should always be based on the results of a study of the traffic likely to use them.

### 18.1. Driveway/Connection Standards

#### 18.1.A. Lining Up Driveways Across Roadways

Driveways shall align with driveways across the roadway on roadways without non-traversable medians or shall be offset as described in the connection spacing standards.

#### 18.1.B. Angle of Intersection to the Public Roadway

18.1.B.1. Driveways that serve two-way traffic should have angles of intersection with the public street of 90 degrees or very near 90 degrees. The minimum acceptable angle for driveways that serve two-way traffic is 80 degrees.

18.1.B.2. Driveways that serve one-way traffic may have an acute angular placement of from 60 to 90 degrees.

#### 18.1.C. Corner Radius

The corner radius at intersections should be large enough to allow entering vehicles to do so at a reasonable rate of speed and avoid encroachments of adjacent lanes by turning vehicles of frequent use (e.g. typically a passenger vehicle and/or single unit truck), but should otherwise be minimized to reduce the negative impacts associated with larger radii. Large corner radii can adversely impact safety and operations by acute view angles, increased pedestrian crossing exposures, indistinct lane definition, greater intersection area, and other considerations. The Design and Construction Manual describes minimum corner radii, measured from the edge of the driving surface of the roadway back of curb or edge of roadway when curb is not present. Corner radii for driveways shall not exceed the radii standards for street intersections and should be less than those for streets so as not to confuse the identification of driveway intersections as street intersections along a roadway. Larger approach radii are allowable for driveways, however the impact on lane definition, the view angle of right turning traffic to see cross traffic, and the impact on pedestrian crossing times should all be considered. Corner radii of greater than 75-50 feet should not be used.

18.1.D. Driveway Width

Driveway widths shall be measured exclusive of any curb or curb and gutter. If monolithic curb is used, a 2-foot section measured from the back of curb shall be deemed a de facto curb and gutter section. Any medians contained in the driveway are above and beyond the minimum widths in the table. Driveway widths shall be minimized and accommodate the required number of lanes and all traffic movements for the expected design Minimum vehicle. Typical minimum acceptable and maximum acceptable widths for various levels of traffic and directions of access are shown on Table 18-1.

18.1.D.1. All commercial and industrial driveways shall be curbed.

18.1.D.2. All parking lots and driveways leading to or connecting with parking lots shall also be curbed.

18.1.D.3. All commercial and industrial driveways with four or more lanes shall have a raised, ~~landscaped~~ median separating the inbound and outbound lanes. The median should be at least 4 feet in width with aesthetically enhanced materials of contrasting color and texture to that of the pavement surface. A landscaped median with minimum width of 8 feet is desired at least 8 feet in width. On industrial drives with primarily heavy truck traffic, medians may be omitted unless provided to comply with controlled access conditions, or "rollover" or mountable type median may be used but should be constructed with a pavement surface of a contrasting color.

18.1.D.4. Single inbound or outbound lanes on driveways with a median shall be 16 to 18 feet in width.

18.1.D.5. The width of any residential driveway shall conform to the requirements noted as general conditions herein, the Unified Development Ordinance and/or Design & Construction Manual whichever applies and is most restrictive. Generally, residential driveway width at the right-of-way shall be minimized to the extent practical and not exceed a typical three-car width (a typical two-car drive width preferred).

18.1.D.6. Low volume driveways may be permitted to have a width of 24 feet (back of curb to back of curb) on local and access roadways or in the Downtown Core provided ~~no trucks are prohibited or the site, throat depth and driveway are designed to accommodate truck traffic traffic will be allowed to use the driveway. In areas outside of the Downtown Core additional driveways must be provided for truck traffic.~~



Driveway Traffic Category	Average Daily Traffic Using Driveway	Peak Hour Traffic Using Driveway	Two-Way Access		One-Way Access	
			Min. Width	Max. Width	Min. Width	Max. Width
Low Volume	< 1500	< 150	28 feet <sup>2</sup>	42 feet <sup>3</sup>	16 feet <sup>1</sup>	<del>20-18</del> feet <sup>1</sup>
Medium Volume	1500-4000	150-400	42 feet <sup>3</sup>	<del>54-56</del> feet <sup>4</sup>	<del>20-18</del> feet <sup>1</sup>	30 feet <sup>2</sup>
High Volume	>4000	>400	42 feet <sup>3</sup>	To Be Determined Through a Traffic Study	Generally Not Applicable	Generally Not Applicable

<sup>1</sup>One-lane driveways.  
<sup>2</sup>Driveway ~~accommodates~~ striped for two-lanes.  
<sup>3</sup>Driveway ~~is~~ striped for three lanes.  
<sup>4</sup>Driveway ~~is~~ striped for four lanes. Driveway may require a width greater than 56 feet where additional lane(s) are needed based on a traffic impact study or other Access Management Code provision.

18.1.E. Driveways and Accommodation of Pedestrians

In current and future urban places, all driveways must adequately accommodate pedestrians using sidewalks or paths. The crosswalk location should be placed to balance the pedestrian crossing distance and the width of the intersection for vehicular traffic (typically this is at about the center point of the corner radius). Crosswalks should not be placed where pedestrians would likely have to cross behind or between stopped vehicles. Where four or more driveway lanes are created, the ~~driveway y~~ should be designed so that the pedestrians ~~have~~s a refuge from entering and exiting traffic unless such driveway is traffic signal controlled. Driveway widths and corner radii should be minimized, not maximized, to reduce the pedestrian crossing distance. This will also reduce the pedestrian crossing time making traffic operations more efficient.

18.1.F. Driveways and Accommodation of Bicycles

Where a new driveway crosses a bicycle facility (such as a dedicated bike path or an on-street bike lane), the driveway should be designed so as to accommodate the safe crossing of bicyclists. Likewise, when a new bicycle facility is built that crosses existing driveways, the bicycle facility should be designed with safe crossings in mind. Developments that accommodate cyclists should have driveways that also accommodate cyclists or separated bicycle facilities.

18.1.G. Driveway Throat Length

The driveway throat length should minimize or eliminate the condition where inbound traffic queues ~~back~~ onto a public street (see *Figure 18-1*). The throat length also provides ~~for~~ a place for ~~exiting~~ vehicles to queue without adversely affecting site circulation, gives better definition of the driving lanes, and ~~separations between~~ the parking area ~~from and~~ the adjacent street ~~or drive~~. Driveway throat lengths shall ~~meet~~ meet or exceed the ~~following~~ requirements of Table 18-2 and

should be based on the ultimate public street section and land development anticipated. Residential driveway throat depth shall meet the requirements of the UDO, typically dictated by building setback. †

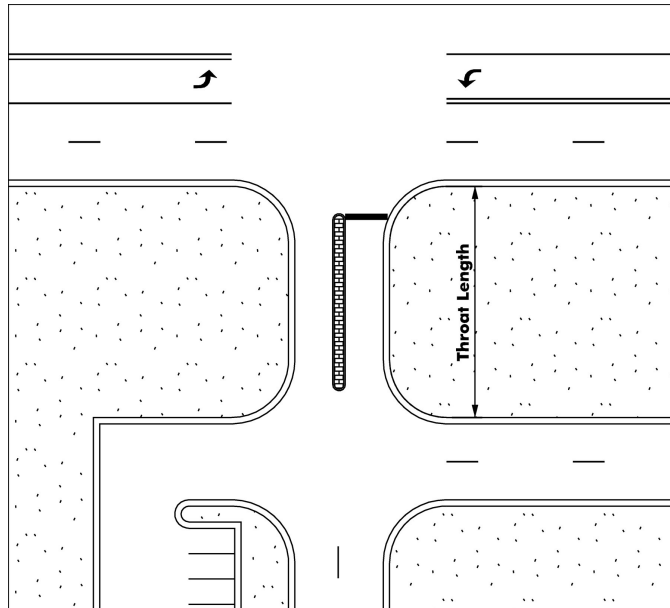
<b>Table 18-2 Driveway Throat Depths</b>			
<b>Project Peak Hour Vehicles Per Hour (vph) (two-way traffic)</b>	<b>Adjacent Roadway Classification</b>		
	<b>Local</b>	<b>Collector</b>	<b>Arterial</b>
<u>&lt; 10 vph</u>	<u>30 feet<sup>1</sup> 50 feet</u>	<u>30 feet<sup>1</sup> 50 feet</u>	<u>30 feet<sup>1</sup> 50 feet</u>
<u>10 vph to 50 vph</u>	<u>50 feet</u>	<u>50 feet</u>	<u>75 feet</u>
<u>50 vph to 100 vph</u>	<u>50 feet</u>	<u>75 feet</u>	<u>100 feet</u>
<u>100 vph to &lt; 400 vph</u>	<u>Greater of <del>100</del>75 feet or as calculated by Transportation Impact Study</u>	<u>Greater of 100 feet or as calculated by Transportation Impact Study</u>	<u>Greater of 125 feet or as calculated by Transportation Impact Study</u>
<u>400 vph or more</u>	<u>Greater of 100 feet or as calculated by Transportation Impact Study</u>	<u>Greater of 125 feet or as calculated by Transportation Impact Study</u>	<u>Greater of <del>125</del>50 feet or as calculated by Transportation Impact Study</u>
<sup>1</sup> For driveways serving extremely low volumes (10 vehicles or less in the peak hours) on low volume (less than 100 vehicles existing or projected in any hour), low speed (25 miles per hour speed limit) streets, a throat depth of 30 feet may be permitted at the City Traffic Engineer's discretion.			

All driveways shall provide at least 50 feet of throat length adjacent to local streets and 100 feet adjacent to collector and arterial streets.

For driveways serving between 100 and 400 vehicles in the peak hour (two-way traffic volumes) the driveways shall provide at least 125 feet of throat length.

For driveways serving over 400 vehicles per hour (two-way traffic volume) and for all driveways controlled by a traffic signal, adequate throat length shall be determined by a transportation impact study.

For driveways serving extremely low volumes (10 vehicles or less in the peak hours) on low volume (less than 100 vehicles existing or projected in any hour), low speed (25 miles per hour speed limit) streets, a throat depth of 30 feet may be permitted at the City Engineer's (or designee's) discretion.



**Figure 18-1  
Driveway Throat Length**

18.1.H. Turning Radius

The path that a vehicle follows when turning left to or from a cross street or drive is defined as the turning radius. This path should be a continuous, smooth curve from the stopping point e.g. the stop line, the end of the median nose, or the location the vehicle typically waits to make a left turn, to beyond the farthest conflicting travel lane. Left-turning drivers should not have to pull out straight into the intersection and then begin the turn maneuver. The minimum turning radii are as follows:

- For low volume drives or streets (less than 100 vehicles in the peak hour) serving primarily passenger cars, 40 feet minimum.
- For dual left-turn movements, 75 feet minimum (for the inner left-turn movement).
- For all other situations, 60 feet minimum.

Opposing left-turn movements, e.g. eastbound left turns and westbound left turns, at the same intersection shall provide at least 10 feet of separation between the outside edges of the two turning paths.



**City of Lee's Summit**  
**Department: Public Works - Engineering**  
**Memorandum**

<b>To:</b>	Stephen Arbo, City Manager
<b>From:</b>	Michael Park, P.E., PTOE, City Traffic Engineer
<b>Date:</b>	March 27, 2018
<b>Re:</b>	Clarifications for Bill #18-40

This memo serves to describe and clarify Bill #18-40 (AN ORDINANCE AMENDING THE CITY'S ACCESS MANAGEMENT CODE AS ADOPTED AND MADE A PART OF THE CODE OF ORDINANCES BY SECTION 26-308 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI). Bill #18-40 is simply an ordinance amending the existing Access Management Code. The existing Access Management Code was adopted in 2004 by Ordinance 5832 in Chapter 26, Article IV, of the Code of Ordinances and has not been revised since that time.

The purpose of the Access Management Code is to optimize, or find that right balance between, property access and traffic safety and efficiency. Access management is the careful planning and design of driveways, median openings, interchanges, and street connections to a roadway, which involves the application of median treatments and turning lanes, and the appropriate separation of intersections, driveways and traffic signals to maintain the viability of major roadways, to safely and efficiently accommodate traffic volumes commensurate with their function.

The 2004 Access Management Code applies to all new connections within City right-of-way, whether constructed by the City or by private persons or entities, and to all applications required by the City's Unified Development Ordinance seeking approval from the City to develop property, including, but not limited to, applications for rezoning, preliminary and final development plan approval, and preliminary and final plat approval. The proposed Access Management Code amendment does not change the applicability whatsoever.

**Bill #18-40**

Bill #18-40 amends the 2004 Access Management Code to clarify various code provisions and better align its definitions with recent changes in the Thoroughfare Master Plan, Design and Construction Manual, Unified Development Ordinance and industry standards. All of the aforementioned references have been updated since 2004 unlike the Access Management Code. The amendment also revises some standard criteria to more consistently reflect current roadway conditions/property access and common, practical variances granted since the original adoption. These revisions should bring more existing non-compliant properties into compliance without any modification or waiver required.

Generally, the proposed standard criteria in the amended Access Management Code are less restrictive than originally drafted and approved in 2004. For example, the minimum driveway throat length required is more varied and has been reduced for certain conditions under the revised provisions; a proposed volume dependent criteria. Similarly, revisions are proposed to the right-turn lane conditions for driveways on certain road classifications that also use a traffic volume basis in lieu of current requirements which have no

minimum warrants. These two examples of traffic volume based criteria reflect evolving engineering best practice and references related to Access Management. The proposed amendments do not add restriction or extend public improvements for turn lanes, access spacing, or driveway throat length described in the 2004 edition. These changes should benefit the development community while preserving the safety and operational interests of the City and its transportation users. These changes should reduce the number of waivers and variances typically granted by Preliminary Development Plan and Preliminary Plat approvals throughout the history of the Access Management Code.

The Jefferson Street Improvement Project has been designed using City adopted standards, specifications, policies, master plans and ordinances. Bill #18-40, an amendment to the Access Management Code described above is not related to the Jefferson Street Improvement Project. The proposed amendments to the Access Management Code were not initiated or influenced by the Jefferson Street Improvement Project and have been under development for several years. The timing of Bill #18-40 is only coincidental with the Jefferson Street Improvement Project and the outcome of Bill #18-40 has no impact on the Jefferson Street Improvement Project.

## Packet Information

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**File #:** BILL NO. 18-41, **Version:** 1

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AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS. (Note: This item was CONTINUED on March 1, 2018 per City Council vote.)

Issue/Request:

AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Proposed City Council motion:

FIRST MOTION: I move for a second reading of AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Key Issues:

- o This ordinance would provide for the City to use the power of eminent domain (condemnation) to acquire Property, Right of Way, Temporary Construction Easements, and Permanent Easements for up to 9 parcels for roadway improvements located along Jefferson Street.
- o City Staff has tried to acquire the necessary easements through negotiation but has been unsuccessful.
- o Eminent domain is used only after negotiations based upon appraisal estimates of fair market value have failed to reach an agreement.

Background:

This project will widen and reconstruct Jefferson Street as a two and three lane facility with sidewalk, shared-use path, traffic signal and street lighting from Persels Road to Oldham Parkway. Water and Sewer mains will be upgraded in conjunction with this project.

This project supports improved safety, operations, economic reinvestment within the nearby area, and livability. The City has improved Jefferson Street south of Persels, constructed Bailey Road east of M-291 Highway and partnered with MoDOT for the interchange reconstruction at M-291 Highway at US 50 with improvements to Oldham Parkway contiguous to the proposed improvements.

This project was funded from savings from the 2007 Capital Sales Tax Renewal for roadway construction. This project was discussed with City Council in late 2015 and early 2016 and added to the 2017-2021 Capital Improvement Plan with final approval on June 23, 2016. Request for engineering design qualifications was issued on November 22, 2016 and George Butler Associates, Inc. was awarded the design contract on March 9, 2017. The project is currently in the final design stage and is expected to go out for bid by the end of 2018, with construction to be expected in Spring 2019.

City Staff has delivered acquisition offer letters to all affected properties owners on this project. Offers were based on independent appraisals of the fair market value. Several properties have already completed negotiations with the City, but several remain.

The project improvements will cause several properties to become un-usable in their current configuration. Depending on the specific property, impacts range from eliminating or moving access to a particular public road, reducing parking on site below acceptable levels based on land use, or cause structures to encroach on municipal water line easements. The properties would require significant re-development to meet access management codes, Unified Development Ordinance Criteria, encroachment policies and other public infrastructure design criteria. Re-developing the sites or protracted negotiations could significantly delay the Jefferson Street improvements. The intent is to coordinate improvements with the MoDOT improvements currently underway at US 50 and M291 south interchange, and before improvement work at M291, Persels and Scherer Roads. Therefore, City Staff recommends fee simple acquisition of several properties.

City Staff will continue to negotiate as long as practical. State and Federal regulations require the City to offer relocation assistance to property owners subject to total taking. The relocation assistance will help find or construct a comparable facility at a new location, assist with moving costs, and reimburse other qualifying expenses.

Impact/Analysis:

Failure to obtain the necessary property, rights of way and easements through eminent domain will delay the project or significantly increase the cost of acquisition.

Timeline:

Start: upon approval of Ordinance

Finish: Fall 2018

Presenter: George Binger, P.E., Deputy Director of Public Works/City Engineer

*..Recommendation*

Staff Recommendation: Staff recommends approval of AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Committee Recommendation: The Public Works Committee February 20, 2018 meeting was cancelled due to forecasted weather conditions.



## **BILL NO. 18-41**

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AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE JEFFERSON STREET IMPROVEMENT PROJECT (OLDHAM ROAD TO PERSELS ROAD); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

WHEREAS, the City Council for the City of Lee's Summit, Missouri deems it necessary, desirable, advisable and in the public interest to obtain certain property, permanent easements, and temporary construction easements for the purpose of constructing roadway improvements, as specified in the proposed project plans and specifications on file with the Lee's Summit Public Works Department, together with all appurtenances thereto, under, over, upon, across and through certain tracts of land within Lee's Summit Jackson County, Missouri; and,

WHEREAS, the City has the authority by virtue of Sections 88.010 to 88.070, 88.073, 88.077 and 82.240 of the Revised Statutes of the State of Missouri, 2016, as amended, and by virtue of the Charter of the City of Lee's Summit, Missouri, to acquire private property by condemnation proceedings for any public or municipal use, including uses or purposes stated herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That it is hereby found, determined and declared that it is necessary and in the public interest for the public purpose of constructing road improvements as depicted in Exhibit "A" attached hereto and incorporated by reference as if fully set forth herein in the City of Lee's Summit, Jackson County, Missouri, pursuant to proposed plans and specifications on file with the Lee's Summit Public Works Department, to acquire, by purchase or condemnation proceedings, certain property, permanent easements, and temporary construction easements for such public improvements, including but not limited to installation, maintenance and repair of a storm sewer line, curb and gutter, sidewalk, sewer and water line, and all work incidental and subsidiary thereto all of which are situated in the City of Lee's Summit, Jackson County, Missouri, and are legally described in Exhibit "B" attached hereto and incorporated by reference as if fully set forth herein.

SECTION 2. That the City Manager and his designees are hereby authorized to negotiate with the owners of property herein described for the purpose of acquiring certain permanent easements and temporary construction easements, relating to the property herein described.

SECTION 3. That the City Manager and his designees are hereby authorized to execute necessary documents, to pay and disburse funds to property owners, others holding property rights and escrow agents pursuant to negotiated agreements.

**BILL NO. 18-41**

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SECTION 4. That, in the event of failure, following good faith negotiations, to reach agreement on the amount of compensation to be paid for such permanent easements and temporary construction easements, and the acquisition thereof by purchase, the City Attorney and his designees, including special counsel, are hereby authorized and directed to institute condemnation proceedings for the purpose of acquiring such property, permanent easements, and temporary construction easements in the manner provided by the Revised Statutes of Missouri.

SECTION 5. That this ordinance shall be in full force and effect from and after the date of its passage, adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

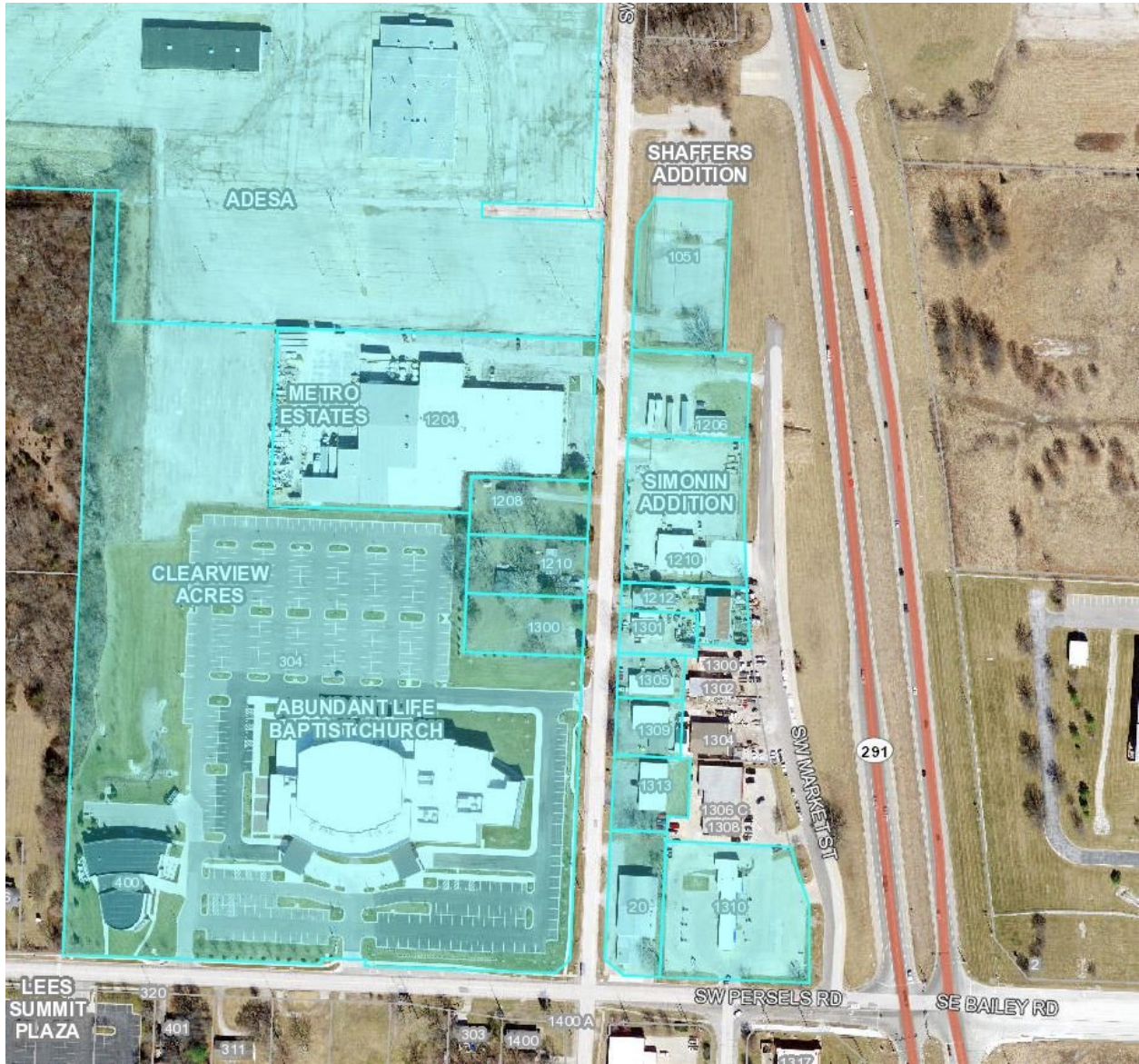
ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
Chief Counsel of Infrastructure and Planning  
*Nancy K. Yendes*

EXHIBIT A



## **BILL NO. 18-41**

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### **EXHIBIT B**

#### **R.P. FIELDS INVESTMENTS, LLC, TRACT 02**

THE SOUTH 250 FEET OF THE WEST 100 FEET OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, EXCEPT THAT PART CONVEYED TO THE CITY OF LEE'S SUMMIT, MISSOURI, A MUNICIPAL CORPORATION, FOR RIGHT OF WAY, AS DESCRIBED IN DOCUMENT NO. 2014E0031639, FILED APRIL 23, 2014.

#### **PERMANENT RIGHT-OF-WAY DEDICATION:**

ALL THAT PART OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, RESURVEY OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN SAID CITY, COUNTY AND STATE, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°46'50" EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 8.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 220.82 FEET; THENCE SOUTH 42°28'53" EAST, A DISTANCE OF 34.89 FEET, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SOUTHWEST PERSELS ROAD, AS NOW ESTABLISHED; THENCE NORTH 87°43'36" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 5.52 FEET; THENCE NORTH 49°33'39" WEST, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 34.42 FEET, TO A POINT OF INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE AND SAID EAST RIGHT-OF-WAY LINE; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 224.32 FEET, TO THE POINT OF BEGINNING, CONTAINING 1,981.54 SQUARE FEET OR 0.05 ACRES, MORE OR LESS.

#### **PERMANENT WATER EASEMENT:**

ALL THAT PART OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, RESURVEY OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN SAID CITY, COUNTY AND STATE, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°46'50" EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 8.00 FEET, TO THE POINT OF BEGINNING; THENCE SOUTH 87°46'50" EAST, CONTINUING ALONG SAID SOUTH LOT LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 216.73 FEET; THENCE SOUTH 42°28'53" EAST, A DISTANCE OF 26.58 FEET; THENCE SOUTH 87°43'36" EAST, A DISTANCE OF 58.19 FEET, TO A POINT ON THE WEST LINE OF LOT 2, IN SAID RESURVEY OF LOT 4, SIMONIN ADDITION; THENCE SOUTH 02°33'14" WEST, ALONG SAID WEST LINE, A DISTANCE OF 10.00 FEET, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SOUTHWEST PERSELS ROAD, AS NOW ESTABLISHED; THENCE NORTH 87°43'36" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 62.31 FEET; THENCE NORTH 42°28'53" WEST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 34.89 FEET; THENCE NORTH 02°33'14" EAST, A

## **BILL NO. 18-41**

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DISTANCE OF 220.82 FEET, TO THE POINT OF BEGINNING, CONTAINING 3,097.54 SQUARE FEET OR 0.07 ACRES, MORE OR LESS.

### **PERMANENT ACCESS EASEMENT:**

ALL THAT PART OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, RESURVEY OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN SAID CITY, COUNTY AND STATE, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°46'50" EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 8.00 FEET, TO THE POINT OF BEGINNING; THENCE SOUTH 87°46'50" EAST, CONTINUING ALONG SAID SOUTH LOT LINE, A DISTANCE OF 37.05 FEET; THENCE SOUTH 02°31'07" WEST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 31.18 FEET; THENCE NORTH SOUTH 87°28'53" WEST, A DISTANCE OF 37.07 FEET; THENCE NORTH SOUTH 02°33'14" EAST, A DISTANCE OF 30.98 FEET, TO THE POINT OF BEINNING, CONTAINING 1,151.96 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.

### **TEMPORARY CONSTRUCTION EASEMENT:**

ALL THAT PART OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, RESURVEY OF LOT 4, SIMONIN ADDITION, A SUBDIVISION IN SAID CITY, COUNTY AND STATE, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°46'50" EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 8.00 FEET, TO THE POINT OF BEGINNING; THENCE SOUTH 87°46'50" EAST, CONTINUING ALONG SAID SOUTH LOT LINE, A DISTANCE OF 87.00 FEET, TO A POINT ON THE WEST LINE OF TRACT I, MINOR PLAT-RESURVEY LOT 4-REPLAT LOT 2-SIMONIN ADDITION, A SUBDIVISION IN SAID CITY, COUNTY AND STATE; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID SOUTH LINE, ALONG SAID WEST LINE, A DISTANCE OF 12.50 FEET; THENCE NORTH 87°46'50" WEST, DEPARTING SAID WEST LINE, A DISTANCE OF 87.00 FEET; THENCE NORTH 02°33'14" EAST, A DISTANCE OF 12.50 FEET, TO THE POINT OF BEINNING, CONTAINING 1,087.48 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

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### **GREGORY L. GARRISON, TRACT 04**

#### **PERMANENT RIGHT-OF-WAY DEDICATION:**

ALL THAT PART OF LOT 7, RESURVEY OF LOT 3, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 7, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 97.33 FEET; THENCE SOUTH 87°47'36" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, ALONG THE NORTH LINE OF SAID LOT 7, A DISTANCE OF 8.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 97.33 FEET, TO A POINT ON THE SOUTH LINE OF SAID LOT 7; THENCE NORTH 87°46'50" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 8.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 778.62 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

#### **PERMANENT WATER EASEMENT:**

ALL THAT PART OF LOT 7, RESURVEY OF LOT 3, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 7, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°46'50" EAST, ALONG THE SOUTH LINE OF SAID LOT 7, A DISTANCE OF 8.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 97.33 FEET, TO A POINT ON THE NORTH LINE OF SAID LOT 7; THENCE SOUTH 87°47'36" EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 97.34 FEET, TO A POINT ON SAID SOUTH LOT LINE; THENCE NORTH 87°46'50" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 10.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 973.37 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

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### **CASE ENTERPRISES, LLC, TRACT 05**

PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF SAID LOT 6, SAID POINT BEING 76.41 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 135 FEET; THENCE NORTH PARALLEL TO THE WEST LINE OF SAID LOT 6, A DISTANCE OF 21.1 FEET TO A LOT CORNER OF SAID LOT 6; THENCE EAST ALONG THE NORTH LINE OF LOT 6, A DISTANCE OF 91.84 FEET TO A LOT CORNER OF SAID LOT 6, ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF OLD U.S. HWY NO. 71, BY-PASS; THENCE SOUTHERLY ALONG SAID RIGHT OF WAY LINE 99.5 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 6; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 244.5 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 6, A DISTANCE OF 76.41 FEET TO THE POINT OF BEGINNING, BEING A SUBDIVISION IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI,

EXCEPT THAT PART DESCRIBED AS FOLLOWS:

ALL THAT PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE SOUTH LINE OF SAID LOT 6, 115.70 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT AND RUNNING THENCE NORTH 76.41 FEET; THENCE EAST 19.30 FEET; THENCE NORTH 21.10 FEET; THENCE EAST 91.84 FEET TO WEST RIGHT-OF-WAY LINE OF OLD HIGHWAY NO. 71 BYPASS; THENCE SOUTHERLY ALONG AND WITH SAID RIGHT-OF-WAY LINE 99.5 FEET; THENCE WEST 128.80 FEET TO POINT OF BEGINNING.

#### **PERMANENT RIGHT-OF-WAY DEDICATION:**

ALL THAT PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 6, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 76.41 FEET; THENCE SOUTH 87°49'23" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 13.00 FEET; THENCE SOUTH 02°33'14" WEST, A DISTANCE OF 76.42 FEET, TO A POINT ON THE SOUTH LINE OF SAID LOT 6; THENCE NORTH 87°47'36" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 993.39 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

#### **PERMANENT WATER EASEMENT:**

ALL THAT PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°47'36" EAST, ALONG THE SOUTH LINE OF SAID LOT

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6, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 76.42 FEET; THENCE SOUTH 87°49'23" EAST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 02°33'14" WEST, A DISTANCE OF 76.42 FEET, TO A POINT ON SAID SOUTH LOT LINE; THENCE NORTH 87°47'36" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 10.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 764.16 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.



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### **TIMOTHY REIS, TRACT 06**

BEGINNING AT A POINT ON THE WEST LINE OF LOT 6, OF RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, SAID POINT BEING 76.41 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE CONTINUING NORTH ALONG AND WITH SAID WEST LINE OF LOT 6, A DISTANCE OF 71.72 FEET TO A POINT; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 135 FEET; THENCE SOUTH 71.72 FEET; THENCE WEST 135 FEET TO THE POINT OF BEGINNING, EXCEPT ANY PART THEREOF IN ANY PUBLIC ROAD.

#### **PERMANENT RIGHT-OF-WAY DEDICATION:**

ALL THAT PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 76.41 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 71.72 FEET; THENCE SOUTH 87°49'23" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 13.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 71.72 FEET; THENCE NORTH 87°49'23" WEST, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 932.34 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

#### **PERMANENT WATER EASEMENT:**

ALL THAT PART OF LOT 6, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 76.41 FEET; THENCE SOUTH 87°49'23" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, A DISTANCE OF 71.72 FEET, TO A POINT ON THE NORTH LINE OF SAID LOT 6; THENCE SOUTH 87°49'23" EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 71.72 FEET; THENCE NORTH 87°49'23" WEST, A DISTANCE OF 10.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 717.18 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

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### **ROMEO TRUCKING, LLC, TRACT 07**

GENERALLY WESTERN HALF OF LOT 5 OF SIMONIN ADDITION RESURVEY OF LOT 2 COMMENCING AT NW CORNER OF SAID LOT, GO SOUTH 49.38'; THENCE EAST GENERALLY FOR 135'; THENCE NORTH TO THE NORTH LOT LINE A DISTANCE OF 49.38'; THENCE WEST ALONG SOUTH LOT LINE TO THE POINT OF BEGINNING. SUBJECT TO SURVEY.

#### **PERMANENT RIGHT-OF-WAY DEDICATION:**

ALL THAT PART OF LOT 5, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 49.38 FEET; THENCE SOUTH 87°49'23" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 13.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON THE SOUTH LINE OF SAID LOT 5; THENCE NORTH 87°49'23" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 641.93 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

#### **PERMANENT WATER EASEMENT:**

ALL THAT PART OF LOT 5, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°49'23" EAST, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 13.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON THE NORTH LINE OF SAID LOT 5; THENCE SOUTH 87°49'23" EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTH 02°33'14" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON SAID SOUTH LOT LINE; THENCE NORTH 87°49'23" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 10.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 493.79 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

#### **TEMPORARY CONSTRUCTION EASEMENT:**

ALL THAT PART OF LOT 5, RESURVEY OF LOT 2, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°49'23" EAST, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 23.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A

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POINT ON THE NORTH LINE OF SAID LOT 5; THENCE SOUTH 87°49'23" EAST, ALONG SAID NORTH LOT LINE, A DISTANCE OF 3.20 FEET; THENCE SOUTH 02°31'07" WEST, DEPARTING SAID NORTH LOT LINE, A DISTANCE OF 49.38 FEET, TO A POINT ON SAID SOUTH LOT LINE; THENCE NORTH 87°49'23" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 3.23 FEET, TO THE POINT OF BEGINNING, CONTAINING 158.70 SQUARE FEET OR 0.01 ACRES, MORE OR LESS.

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### **ADESA MISSOURI, INC., TRACT 13**

#### **TEMPORARY CONSTRUCTION EASEMENT:**

ALL THAT PART OF LOT 1, ADESA-LOTS 1, 2, & 3, A SUBDMSION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 87°46'00" WEST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 10.00 FEET; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LINE, A DISTANCE OF 200.63 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF PRIVATE DRIVE, AS NOW ESTABLISHED; THENCE SOUTH 88°04'07" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 10.00 FEET, TO A POINT ON SAID WEST RIGHT-OF-WAY LINE; THENCE SOUTH 02°33'14" WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 200.69 FEET, TO THE POINT OF BEGINNING, CONTAINING 2,006.45 SQUARE FEET OR 0.05 ACRES, MORE OR LESS.

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### **ADESA MISSOURI, INC., TRACT 14**

#### **PERMANENT RIGHT-OF-WAY DEDICATION:**

ALL THAT PART OF LOT 3, ADESA - LOTS 1, 2, & 3, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 213.83 FEET, TO A POINT OF INTERSECTION OF SAID EAST RIGHT-OF-WAY LINE AND THE SOUTH RIGHT-OF-WAY LINE OF SOUTHWEST OLDHAM PARKWAY, AS NOW ESTABLISHED; THENCE NORTH 31°32'57" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 51.57 FEET; THENCE SOUTH 23°12'12" WEST, DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 48.21 FEET; THENCE SOUTH 02°33'14" WEST, A DISTANCE OF 213.84 FEET, TO A POINT ON THE SOUTH LINE OF SAID LOT 3; THENCE NORTH 87°22'41" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 8.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 1,890.43 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

#### **TEMPORARY CONSTRUCTION EASEMENT:**

ALL THAT PART OF LOT 3, ADESA - LOTS 1, 2, & 3, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°22'41" EAST, ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 18.00 FEET; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 7.50 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 02°33'14" EAST, A DISTANCE OF 43.59 FEET; THENCE SOUTH 87°28'53" EAST, A DISTANCE OF 31.92 FEET; THENCE SOUTH 02°31'07" WEST, A DISTANCE OF 31.15 FEET; THENCE SOUTH 87°22'41" EAST, A DISTANCE OF 107.55 FEET, TO A POINT ON THE EAST LINE OF SAID LOT 3; THENCE SOUTH 02°37'19" WEST, ALONG SAID EAST LOT LINE, A DISTANCE OF 12.50 FEET, TO A POINT ON THE NORTH LINE OF AN EXISTING DRAINAGE AND SEWER EASEMENT RECORDED IN BOOK 255, PAGE 676; THENCE NORTH 87°22'41" WEST, ALONG SAID NORTH EASEMENT LINE, A DISTANCE OF 139.47 FEET, TO THE POINT OF BEGINNING, CONTAINING 2,737.21 SQUARE FEET OR 0.06 ACRES, MORE OR LESS.

#### **PERMANENT WATER EASEMENT:**

ALL THAT PART OF LOT 3, ADESA - LOTS 1, 2, & 3, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SOUTHWEST JEFFERSON STREET, AS NOW ESTABLISHED; THENCE SOUTH 87°22'41" EAST, ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 8.00 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 02°33'14" EAST, DEPARTING SAID SOUTH LOT LINE, A DISTANCE OF 213.84 FEET; THENCE NORTH 23°12'12" EAST, A DISTANCE OF 28.36 FEET; THENCE SOUTH 02°33'14" WEST, A

**BILL NO. 18-41**

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DISTANCE OF 240.39 FEET, TO A POINT ON SAID SOUTH LOT LINE; THENCE NORTH 87°22'41" WEST, ALONG SAID SOUTH LOT LINE, A DISTANCE OF 10.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 2,271.41 SQUARE FEET OR 0.05 ACRES, MORE OR LESS.

PERMANENT WATER EASEMENT TO INCLUDE EXCEPTED AREA FOR DESIGNED DRAINAGE INLET WITHIN AGREEMENT DOCUMENTATION.

## **BILL NO. 18-41**

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### **291 HIGHWAY, LLC, TRACT 15**

#### **PERMANENT WATER EASEMENT:**

ALL THAT PART OF TRACT II, MINOR PLAT, REPLAT OF LOT 2, RESURVEY LOT 4, SIMONIN ADDITION, A SUBDIVISION IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT II, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF SOUTHWEST PERSELS ROAD, AS NOW ESTABLISHED; THENCE NORTH 02°33'14" EAST, ALONG THE WEST LINE OF SAID TRACT 11, A DISTANCE OF 10.00 FEET; THENCE SOUTH 87°43'36" EAST, DEPARTING SAID WEST TRACT LINE, A DISTANCE OF 136.37 FEET; THENCE SOUTH 02°16'24" WEST, A DISTANCE OF 10.00 FEET, TO A POINT ON SAID NORTH RIGHT-OF-WAY LINE; THENCE NORTH 87°43'36" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 136.42 FEET, TO THE POINT OF BEGINNING, CONTAINING 1,363.94 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.

## Packet Information

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**File #:** BILL NO. 18-63, **Version:** 1

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AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN DYMON WOOD AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR SIDEWALK IMPROVEMENT OBLIGATIONS RELATING TO THE PLAT HEARNE'S ADDITON, LOTS 18A, 18B, AND 18C DEVELOPMENT

Issue/Request:

Proposed City Council Motion:

I move for second reading of AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN DYMON WOOD AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR SIDEWALK IMPROVEMENT OBLIGATIONS RELATING TO THE PLAT HEARNE'S ADDITON, LOTS 18A, 18B, AND 18C DEVELOPMENT.

Impact/Analysis:

The City's Unified Development Ordinance and Design & Construction Manual stipulate the construction of public sidewalks as required per the scope of the development. The proposed minor plat of Hearne's Addition, Lot 18 into three (3) new lots would require the construction of a five (5) foot wide sidewalk along NW Orchard Street and two (2) ADA ramps to cross NW Main Street. However, the City and the Developer acknowledge that the Sidewalk Improvements are premature for this area and considered extraordinary for the unimproved road conditions. Any constructed sidewalks at this point in time would likely be replaced by a future, undetermined Capital Improvement Project in conjunction with other infrastructure improvements.

Therefore, staff is supporting this payment in lieu of construction request for this particular project given the above mentioned circumstances. Payment in lieu of the construction of sidewalk and ADA ramps will be in an amount equal to the average bid amount for linear feet of sidewalk and ADA ramps of the City during the calendar years of 2016 and 2017.

Presenter: Christopher Hughey, Project Manager (Development Services Department)

Recommendation: Staff recommends approval

Committee Recommendation: (not applicable)



**BILL NO. 18-63**

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AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN DYMON WOOD AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR SIDEWALK IMPROVEMENT OBLIGATIONS RELATING TO THE PLAT HEARNE'S ADDITON, LOTS 18A, 18B, AND 18C DEVELOPMENT

WHEREAS, on January 25, 2018, the Application #PL2018-016 was submitted, for minor plat, of approximately 0.94 acres of land generally lying at the southwest corner of NE Main Street and NW Orchard Street, owned by Dymon Wood ("Developer"), which will be developed as the "Hearne's Addition, Lots 18A, 18B, and 18C" the proposed plat ("Development"); and,

WHEREAS, the City and the Developer acknowledge that the Sidewalk Improvements have not been completed as defined in the Development Agreement, and the City and Developer wish to enter into this Agreement to satisfy certain provisions of Unified Development Ordinance and Design and Construction Manual as to allow Developer to make a payment in lieu of constructing the required sidewalk improvements; and,

WHEREAS, the City and the Developer acknowledge that the Sidewalk Improvements are premature for this area, considered extraordinary for the unimproved road conditions, and conceivably will be removed by a future undetermined Capital Improvement Project in which any constructed sidewalk would be replaced by said Capital project in conjunction with other infrastructure improvements; and,

WHEREAS, the Developer agrees to make payment in lieu of said public sidewalk improvements for an estimated cost of construction. This City will allocate these funds for public sidewalk improvements. Payment by the Developer will fulfill the intent of the sidewalk obligations for this Development; and,

WHEREAS, in satisfaction of the City Council's condition of approval, the Developer and the City now desire to enter into this Agreement.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the development agreement between Dymon Wood and the City of Lee's Summit, Missouri, attached hereto and incorporated herein by reference, is hereby approved by the City Council and the City Manager is authorized to execute the same on behalf of the City of Lee's Summit, Missouri.

SECTION 2. That this ordinance shall be in full force and effect from and after the date of its adoption, passage and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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*Mayor Randall L. Rhoads*

**BILL NO. 18-63**

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ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*

**DEVELOPMENT AGREEMENT FOR SIDEWALK IMPROVEMENT OBLIGATIONS**  
**RELATING TO THE PLAT**  
**HEARNE'S ADDITON, LOTS 18A, 18B, AND 18C DEVELOPMENT**

THIS AGREEMENT (“**Agreement**”) is made this \_\_\_\_ day of April, 2018, by and between Dymon Wood, (the “**Developer**”), and the City of Lee’s Summit, Missouri, a municipal corporation (“**City**”).

WHEREAS, on January 25, 2018, the Application #PL2018-016 was submitted, for minor plat, of approximately 0.94 acres of land generally lying at the southwest corner of NE Main Street and NW Orchard Street, on property legally described in **Exhibit A** (“**Property**”), owned by the Developer, which will be developed as the “Hearne’s Addition, Lots 18A, 18B, and 18C” (“**Development**”) as shown in **Exhibit B**, the proposed plat;

WHEREAS, The City’s Unified Development Ordinance and Design and Construction Manual stipulates the Responsibility for Construction of a sidewalk is required adjacent to a buildable lot, sidewalks shall be constructed by the builder prior to occupancy of any structure on that lot;

WHEREAS, the City and the Developer acknowledge that the Sidewalk Improvements have not been completed as defined in Section 1.D below, and the City and Developer wish to enter into this Agreement to satisfy certain provisions of Unified Development Ordinance and Design and Construction Manual as to allow Developer to make a payment in lieu of constructing the required sidewalk improvements;

WHEREAS, the City and the Developer acknowledge that the Sidewalk Improvements are premature for this area, considered extraordinary for the unimproved road conditions, and conceivably will be removed by a future undetermined Capital Improvement Project in which any constructed sidewalk would be replaced by said Capital project in conjunction with other infrastructure improvements;

WHEREAS, the Developer agrees to make payment in lieu of said public sidewalk improvements for an estimated cost of construction. This City will allocate these funds for public sidewalk improvements. Payment by the Developer will fulfill the intent of the sidewalk obligations for this Development;

WHEREAS, the parties agree that the obligations assumed by the Developer pursuant to this Agreement are reasonably related to the impact that will be caused by the Development on the public services provided by the City and other public jurisdictions and on facilities that are constructed and maintained by the City and other public jurisdictions; and

WHEREAS, the parties have freely negotiated in good faith and this Agreement reflects the desires of the parties.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Words or terms not defined elsewhere in this Agreement shall have the following definitions:
  - A. **“Certificate of Occupancy”** as defined in Chapter 7, Lee’s Summit Building Code, as adopted by the City of Lee’s Summit.
  - B. **“City Engineer”** shall mean the City Engineer or their designated representative.
  - C. **“Developer”** shall mean Dymon Wood, or its successors and assigns in the Property.
  - D. **“Improvements”** shall mean the following improvements that are to be financed, designed, engineered, and constructed by the Developer in the manner set forth in this Agreement:
    - (1) A five (5) foot wide sidewalk along the north property line of the plat (proposed Lot 18A) and applicable right-of-way for a total linear distance of approximately 205 feet.
    - (2) Two (2) sidewalk accessible (ADA) ramps for the crossing of NE Main Street.
  - E. **“Staff”** shall mean employees of the City of Lee’s Summit.
  - F. **“Temporary Certificate of Occupancy”** as defined in Chapter 7, Lee’s Summit Building Code, as adopted by the City of Lee’s Summit.
2. **Timing of Issuance of Certificates of Occupancy.**
  - A. A Temporary Certificate of Occupancy will not be issued until payment in lieu of the construction of sidewalk and ADA ramps (Section 1.D above) in an amount equal to the average bid amount for linear feet of sidewalk and ADA ramps of the City during the calendar years of 2016 and 2017 is paid.
  - B. A Certificate of Occupancy will not be issued until payment in lieu of the construction of sidewalk and ADA ramps (Section 1.D above) in an amount equal to the average bid amount for linear feet of sidewalk and ADA ramps of the City during the calendar years of 2016 and 2017 is paid.
3. **Indemnification.**
  - A. **General Indemnity.** The Developer shall indemnify, release, defend, be responsible for and forever hold harmless the City, its officers, agents, employees, elected officials, and attorneys, each in their official and individual capacities, from and

against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities of any character and from any cause whatsoever, brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property arising out of or resulting from any act, error, or omission of the Developer or its officers, agents, employees, or subcontractors, to the extent such loss or injury arises out of or is related to the performance of this Agreement; provided, however, that the Developer need not save harmless the City from claims, demands, losses and expenses arising out or to the extent caused by the sole negligence of the City, its employees or agents. This indemnification obligation shall survive the termination or expiration of this Agreement.

- B. No Limitations or Waiver. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement, or by a limitation of the amount or type of damages or compensation payable by or for the Developer under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitation of any insurance held by the Developer. The City does not, and shall not, waive any rights against the Developer which it may have by reason of this indemnification, because of the acceptance by the City, or the deposit with the City by the Developer, of any of the insurance policies described in this Agreement. In addition, the parties agree that this indemnification by the Developer shall not be limited by reason of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- C. Notification of Claims. With respect to any claims which are subject to indemnity hereunder, the Developer shall immediately notify the City of any and all claims filed against the Developer or the Developer and the City jointly, and shall provide the City with a copy of the same. Such notice shall be given in the manner prescribed by Section 26, "Notice" of the Agreement.
- D. Use of Independent Contractors. The fact that the Developer carries out any activities under this Agreement through independent contractors shall not constitute an avoidance of, or defense to, the Developer's duty of defense and indemnification under this section.
4. **Remedies.** Each party to this Agreement agrees that if it fails to perform when due any act required by this Agreement to be performed, then, in addition to whatever other remedies are available to the non-defaulting parties hereto, the non-defaulting party shall have the right to enforce specific performance of this Agreement against the defaulting party, and such non-defaulting party shall, to the extent permitted by law, be entitled to its reasonable costs, attorneys' fees and court costs in connection with such enforcement.
5. **Rights and Remedies Non-Exclusive.** No right or remedy conferred upon or reserved to any party in this Agreement is intended to be exclusive of any rights or remedies, and each

and every right and remedy shall be cumulative and shall be in addition to every right and remedy given now or hereafter existing at law or in equity.

6. **Non-Waiver**. No waiver of any condition or covenant contained in this Agreement or of any breach thereof, shall be taken to constitute a waiver of any subsequent condition, covenant or breach.
7. **Applicable Law**. This Agreement shall be governed by and construed according to the laws of the State of Missouri.
8. **Venue**. In the event this Agreement is litigated, venue shall be proper only in the Circuit Court of Jackson County, and the parties expressly waive any rights to venue inconsistent therewith.
9. **Recording and Binding Effect**. No building permits shall be issued for any structure in the development until the agreement has been fully executed. The City shall file a copy of this Agreement or a memorandum of this Agreement in the office of the Recorder of Deeds for Jackson County, Missouri ("Office"). This Agreement shall run with the land and be binding on and inure to the benefit of the parties and their respective legal representatives, successors in interest, successors and assigns. Upon certification by the City Engineer of the completion of the Developer's obligations under this Agreement, the City Manager, in his sole discretion, may execute, on behalf of the City, a document suitable for recording in the Office, in such form as is approved by the City Attorney that acknowledges the completion of the Developer's obligations under the Agreement.
10. **Time of Essence**. Time is of the essence with respect to the duties and obligations set forth herein.
11. **Estoppel Letter**. Upon request by Developer made from time to time, the City shall prepare and deliver to Developer an estoppel letter confirming for the benefit of any purchaser or lender whether the Developer is or is not in default under this Agreement and verifying the status of Developer's performance of its obligations under this Agreement.
12. **Representations**. The Developer represents that it owns the property described in **Exhibit A** on the date that this Agreement is executed. Each party represents and warrants that it (a) has made due and diligent inquiry into the facts and matters which are the subject matter of this Agreement; (b) fully understands the legal effect of this Agreement; (c) is duly authorized and empowered to execute, deliver and perform this Agreement according to its terms and conditions; and (d) has not assigned or transferred any claim against the other party that is the subject of this Agreement. The parties agree that the obligations assumed by the Developer pursuant to this Agreement are reasonably related to the impact that will be caused by the Development on the public services provided by the City and other public jurisdictions and on facilities that are constructed and maintained by the City and other public jurisdictions.
13. **No Waiver of Breach**. No waiver of any condition or covenant contained in this Agreement or any breach thereof shall be taken to constitute a waiver of any subsequent condition, covenant or breach.

14. **Rules of Construction.** Each party to this Agreement has received independent legal advice from its attorneys of choice with respect to entering this Agreement and the advisability of agreeing to the provisions herein. Because each party has had its respective legal counsel review the terms of this Agreement, the normal rules of construction to the effect that any ambiguities in its terms be resolved against the drafting party shall not be employed with regard to issues of its validity, interpretation, performance or enforcement.
15. **Assignment.** The Agreement may not be assigned or transferred, in whole or part, to any other person, firm, corporation, or entity without the prior, express, written consent of the other parties, which consent shall not be unreasonably withheld. The Developer shall request the assignment of the Agreement, with the consent of the City, to any person, firm, corporation, or entity to which any ownership interest in the Property is transferred after the date of execution of this Agreement.
16. **Entire Agreement.** This Agreement and the acts provided for herein is the entire agreement between the parties with respect to the subject matter hereof, the terms and provisions of this Agreement are contractual and not mere recitals and no alterations, amendment, modification, or interpretation hereof shall be binding unless in writing and signed by all parties.
17. **Exhibits.** All Exhibits referenced in this Agreement are incorporated into this Agreement by such reference as if set forth in full in the text of this Agreement.
18. **Headings.** The paragraph headings contained herein are for convenience in reference and are not intended to modify, expand or limit the scope of any provision of the Agreement.
19. **Severability.** Any provision of this Agreement which is not enforceable according to law will be severed herefrom, and the remaining provisions shall be enforced to the fullest extent permitted by law.
20. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
21. **Alternate Compliance.** In the event the Developer constructs the Improvements to the satisfaction of the City, then this agreement shall be deemed fulfilled.
22. **Notice.** Any notice required by this Agreement shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, and addressed as hereinafter specified.

Any notice to the City shall be addressed to:

City Manager  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

With a copy to:

City Attorney  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

Notices to Developer shall be addressed to:

Dymon Wood  
732 SW Wintergarden Dr  
Lee's Summit, MO 64081

With a copy to:

(Not applicable)

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party ten (10) days written notice thereof.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the date first above written.

**CITY OF LEE'S SUMMIT, MISSOURI**

By: \_\_\_\_\_  
Stephen A. Arbo, *City Manager*

Attest:

\_\_\_\_\_  
Trisha Fowler Arcuri, *City Clerk*

Approved as to form:

\_\_\_\_\_  
Nancy Yendes, *Chief Counsel of Infrastructure and Planning*

\_\_\_\_\_ **(DEVELOPER)**

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



Notary for City of Lee's Summit

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF JACKSON    )

BE IT REMEMBERED, that on this \_\_\_\_ day of April, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Stephen A. Arbo, the City Manager of the City of Lee's Summit, Missouri, a City duly incorporated and existing under and by virtue of the laws of the State of Missouri, who are personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

[SEAL]

Notary for Dymon Wood

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of April, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Dymon Wood, the \_\_\_\_\_ of \_\_\_\_\_, who is personally known to me to be the same person who executed the within instrument on behalf of \_\_\_\_\_, and such person duly acknowledged the execution of the same to be the act and deed of \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

[SEAL]

**END OF DOCUMENT**

**EXHIBIT A**

LEGAL DESCRIPTION FOR PROPERTY

Hearne's Addition, Lot 18



# HEARNE'S ADDITION LOTS 18A, 18B, & 18C

A MINOR SUBDIVISION LOCATED IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MO.  
A REPLAT OF LOT 18 OF HEARNE'S ADDITION TO THE CITY OF LEE'S SUMMIT

LEGAL DESCRIPTION: A replat of Lot 18 of HEARNE'S ADDITION, a subdivision located in Lee's Summit, Jackson County, MO., more particularly described as follows: BEGINNING at the NE corner of said Lot 18, said corner being on the Southerly right of way line of Orchard Street and the Westerly right of way line of Main Street, as they now exist; thence S02°07'45"W along the East line of said Lot 18 and said Westerly right of way line, a distance of 207.98 feet (North 208' plat) to the SE corner thereof; thence N87°40'34"W along the South line of said Lot 18, a distance of 198.05 feet (East 197.2' plat) to the SW corner thereof; thence N02°11'44"E along the West line of said Lot 18, a distance of 207.95 feet (North 208' plat) to the NW corner thereof, said corner being on the Southerly right of way line of Orchard Street, as it now exists; thence S87°40'56"E along said North line and said Southerly right of way line, a distance of 197.81 feet (East 196.4' plat) to the POINT OF BEGINNING, containing 0.94 acres, more or less, all being subject to easements, restrictions, and rights of way.

Dedication: The undersigned owner of the property described herein has caused the same to be subdivided in the manner shown on this plat and the property shall hereafter be known as "Hearne's Addition Lots 18A, 18B, and 18C".

Easements: An easement of license is hereby granted to the City of Lee's Summit, Missouri, to locate, construct, and maintain, or to authorize the location, construction and maintenance of poles, wires, anchors, conduits, and/or structures for water, gas, sanitary sewer, storm sewer, surface drainage channel, electricity, telephone, cable television, or any other necessary public utility or services, any or all of them, upon, over, or under those areas outlined or designated upon this plat as "Utility Easements" (U.E.) or within any street or thoroughfare dedicated to public use on this plat. Grantor, on behalf of himself, his heirs, his assigns and successors in interest hereby waives, to the fullest extent allowed by law, including, without limitation, Section 527.188, RSMo. (2006), any right to request restoration of rights previously transferred and vacation of the easement herein granted.

Building Lines: Building lines or setback lines are hereby established as shown on the accompanying plat and no building or portion thereof shall be constructed between this line and the street right of way line.

Common Area: No tracts are dedicated on this plat as common areas.

In testimony whereof, the undersigned owner, Dymon Wood, has hereunto set his hand this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Dymon Wood  
STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2018, before personally appeared the above person, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County and State the date and year last written above.

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

This is to certify that the minor plat of "Hearne's Addition Lots 18A, 18B, and 18C" was submitted to and duly approved by the City of Lee's Summit, pursuant to the Unified Development Ordinance No. 5209

\_\_\_\_\_  
George M. Binger III PE City Engineer  
Date \_\_\_\_\_

\_\_\_\_\_  
Robert G. McKay AICP  
Director of Planning and Special Projects  
Date \_\_\_\_\_

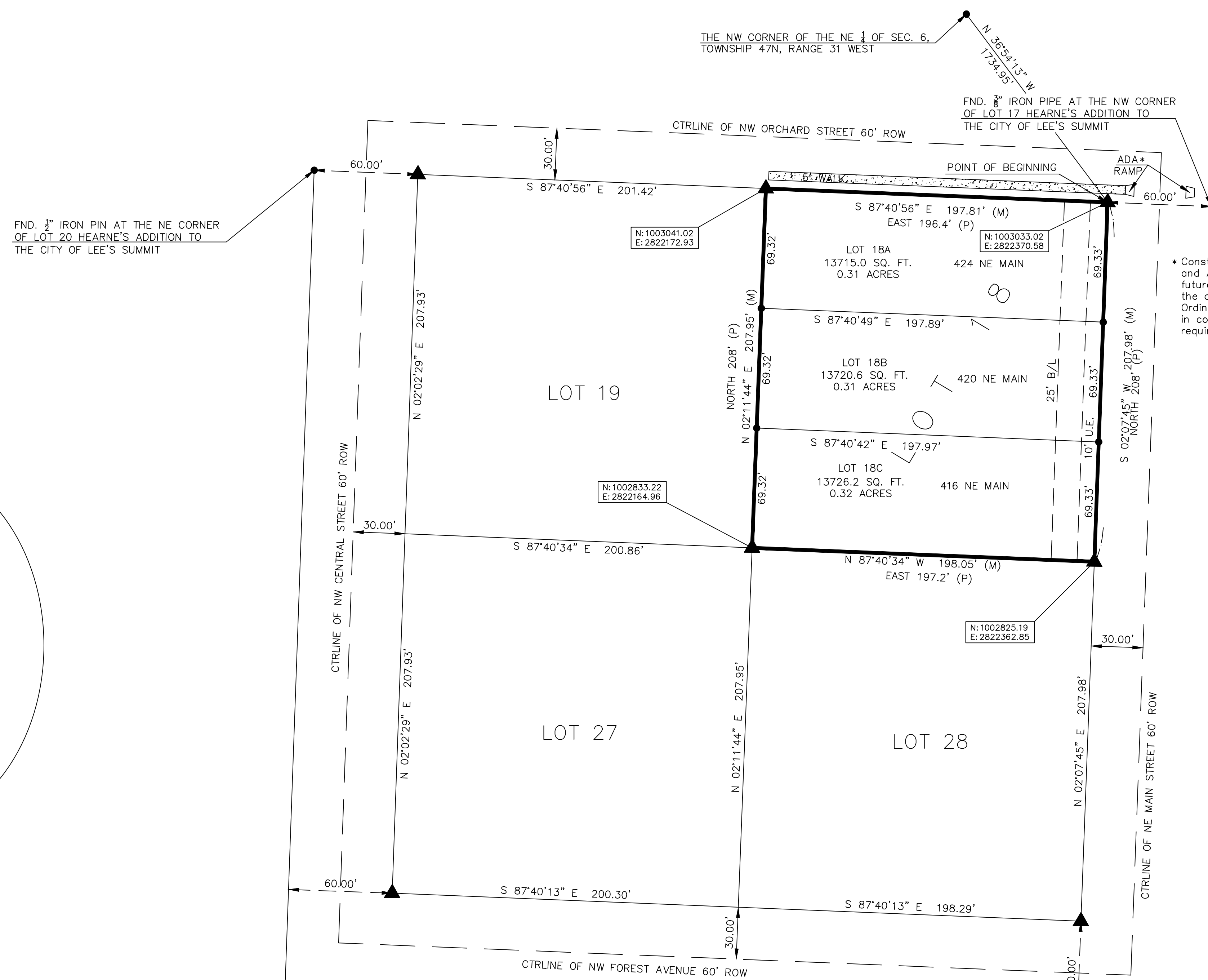
\_\_\_\_\_  
Trisha Fowler Arcuri City Clerk  
Date \_\_\_\_\_

\_\_\_\_\_  
Jackson County Assessor/GIS Dept.  
Date \_\_\_\_\_

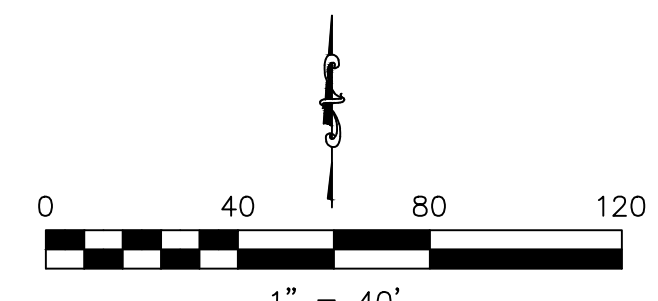
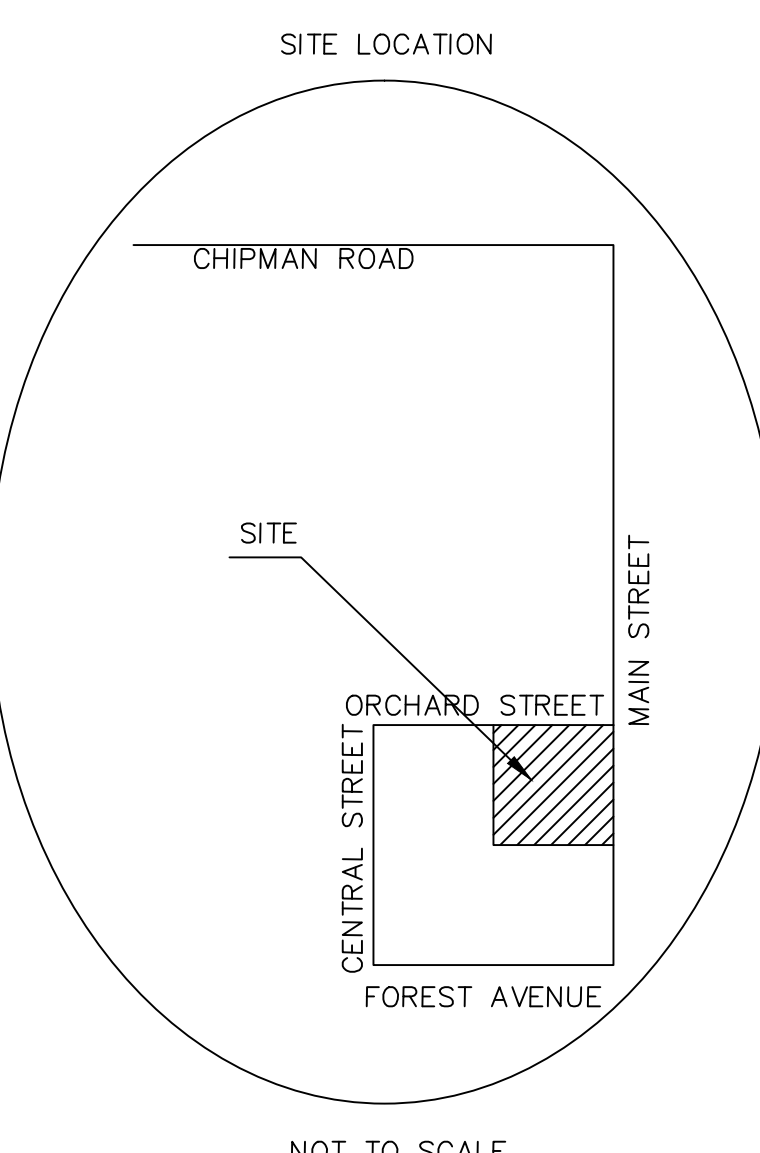
**SURVEYOR'S CERTIFICATE**  
I hereby certify that the within survey is based on an actual survey made by me or under my direct supervision and that said survey was performed in accordance with the minimum requirements of the standards for property boundary surveys adopted by the Missouri Board for Architects, Professional Engineers and Land Surveyors.

\_\_\_\_\_  
Ronald H. Henley PLS 2005019211

HENLEY SURVEY CO. RONALD H. HENLEY SOLE PROPRIETOR PO BOX 257 PLEASANT HILL, MO 64080 816-716-3254 PLS #2005019211 DATE PREPARED: 01/23/18	PREPARED FOR AND OWNED BY: DYMON WOOD 732 SW WINTERGARDEN LEE'S SUMMIT, MO. 64081 816-419-8596
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\* Construction of the sidewalks and ADA ramps shall occur at a future date, in accordance with the development agreement, by Ordinance No. \_\_\_\_\_, and shall be in compliance with ADA requirements.



- = SET 1/2" IRON PIN W/CAP UNLESS OTHERWISE NOTED
- = Fnd. 1/2" Iron Pin w/cap
- ▲ = Set 5/8" BAR W/ALMN. CAP
- T Township
- R Range
- Sec. Section
- Fnd. Found
- x— Fence
- W/cap With cap
- Ref. Reference
- (P) = Plat
- (M) = Measured

FND. 1/2" IRON PIPE AT THE SE CORNER OF THE NORTH 75' OF THE EAST 100' OF LOT 41 HEARNE'S ADDITION TO THE CITY OF LEE'S SUMMIT USED FOR WEST RIGHT OF WAY LINE OF CENTRAL STREET

FND. 1/2" IRON PIN AT THE NW CORNER OF THE EAST 70' OF THE NORTH 123' OF LOT 40 HEARNE'S ADDITION TO THE CITY OF LEE'S SUMMIT USED FOR SOUTH RIGHT OF WAY LINE OF FOREST AVENUE.

FND. 3/8" IRON PIN AT THE NE CORNER OF LOT 39 HEARNE'S ADDITION TO THE CITY OF LEE'S SUMMIT

CURRENT ZONING  
RP-2  
NONE OF THIS PROPERTY IS LOCATED IN THE 1% FLOOD HAZARD ACCORDING TO FEMA MAP 29095C0417G DATED 1/20/2017  
NO OIL OR GAS WELLS DETECTED ON THIS PROPERTY ACCORDING TO FIG. B-4 FROM THE ABANDONED OIL AND GAS WELL STUDY PERFORMED BY EDWARD ALTON MAY JR. PE DATED MAY 1995

## Packet Information

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**File #:** BILL NO. 18-64, **Version:** 1

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AN ORDINANCE ACCEPTING FINAL PLAT ENTITLED "ASH GROVE, TRACT A-1", AS A SUBDIVISION TO THE CITY OF LEE'S SUMMIT, MISSOURI.

Proposed City Council Motion:

I move for a second reading of AN ORDINANCE ACCEPTING FINAL PLAT ENTITLED "ASH GROVE, TRACT A-1", AS A SUBDIVISION TO THE CITY OF LEE'S SUMMIT, MISSOURI.

*Committee Recommendation:* On motion of Mr. Funk and seconded by Mr. Gustafson, the Planning Commission voted unanimously by voice vote on March 27, 2018, to **APPROVE** the Consent Agenda as published, inclusive of **Appl. #PL2018-025 - FINAL PLAT - Ash Grove, Tract A-1; East Estates Development Corp., applicant.**

## **BILL NO. 18-64**

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AN ORDINANCE ACCEPTING FINAL PLAT ENTITLED "ASH GROVE, TRACT A-1", AS A SUBDIVISION TO THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Application PL2018-025, submitted by East Estates Development Corp, requesting approval of the final plat entitled "Ash Grove, Tract A-1", was referred to the Planning Commission as required by the Unified Development Ordinance No. 5209; and,

WHEREAS, the Planning Commission considered the final plat on March 27, 2018, and rendered a report to the City Council recommending that the plat be approved.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the final plat entitled "Ash Grove, Tract A-1" is a subdivision in Section 5, Township 48, Range 31, in Lee's Summit, Missouri more particularly described as follows:

*All that part of the Southwest Quarter of the Northwest Quarter of Section 5, Township 48 North, Range 31 West of the Fifth Principal Meridian and all of Tract A, THE ASH GROVE SECOND PLAT, a subdivision in Lee's Summit, all being situated in the City of Lee's Summit, Jackson County, Missouri and more particularly described as follows: Commencing at the Southwest corner of the Northwest Quarter of said Section 5; thence South 88°13'45" East along the South line of said Northwest Quarter a distance of 717.69 feet; thence North 01°46'15" East a distance of 25.00 feet to the Southwest corner of said Tract A, said Southwest corner being on the North right-of-way line of NE Saint Andrews Circle as now established and the POINT OF BEGINNING; thence North 02°12'42" East along the West line of said Tact A, a distance of 202.54 feet; thence North 73°18'38" West departing said West line and 20 feet South of and parallel with the South line of THE ASH GROVE THIRD PLAT, a subdivision in Lees Summit, Jackson County, Missouri, a distance of 379.04 feet; thence North 37°44'05" East, 50 feet West of and parallel with the West line of said THE ASH GROVE THIRD PLAT, a distance of 507.91 feet; thence South 66°34'16" East a distance of 51.60 feet to the Northwest corner of said subdivision plat; thence South 37°44'05" West along the West line of said THE ASH GROVE THIRD PLAT, a distance of 479.99 feet to the Southwest corner thereof; thence South 73°18'38" East along the South line of said THE ASH GROVE THIRD PLAT, a distance of 442.20 feet to the Southeast corner thereof, said Southeast corner also being the Southwest corner of Lot 21, THE ASH GROVE FIRST PLAT, a subdivision in said city, county and state; thence South 82°45'37" East along the South line of said Lot 21 a distance of 114.96 feet to the Southeast corner thereof, said Southeast corner also being the Northeast corner of said Tract A; thence South 02°12'42" West along the East line thereof a distance of 178.88 feet to the Southeast corner of said Tract A; thence North 88°13'45" West along the South line thereof a distance of 240.00 feet to the POINT OF BEGINNING.*

**BILL NO. 18-64**

---

SECTION 2. That the proprietor of the above described tract of land ("Proprietor") has caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall hereafter be known as "Ash Grove, Tract A-1".

SECTION 3. That an easement shall be granted to the City of Lee's Summit, Missouri, to locate, construct and maintain or to authorize the location, construction, and maintenance of poles, wires, anchors, conduits, and/or structures for water, gas, sanitary sewer, storm sewer, surface drainage channel, electricity, telephone, cable TV, or any other necessary public utility or services, any or all of them, upon, over, or under those areas outlined or designated upon this plat as "Utility Easements" (U.E.) or within any street or thoroughfare dedicated to public use on this plat. Grantor, on behalf of himself, his heirs, his assigns and successors in interest, shall waive, to the fullest extent allowed by law, including, without limitation, Section 527.188, RSMo. (2006), any right to request restoration of rights previously transferred and vacation of any easement granted by this plat.

SECTION 4. That building lines or setback lines are hereby established as shown on the accompanying plat and no building or portion thereof shall be constructed between this line and the street right-of-way line.

SECTION 5. That individual lot owner(s) shall not change or obstruct the drainage flow lines on the lots.

SECTION 6. That the final plat substantially conforms to all applicable requirements of the Code.

SECTION 7. That the City Council for the City of Lee's Summit, Missouri, does hereby approve and accept, as a subdivision to the City of Lee's Summit, Missouri, the final plat entitled "Ash Grove, Tract A-1", attached hereto and incorporated herein by reference.

SECTION 8. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council for the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:





# City of Lee's Summit

## Development Services Department

March 23, 2018

TO: Planning Commission  
PREPARED BY: C. Shannon McGuire, Planner  
CHECKED BY: Hector Soto, Jr., AICP, Current Planning Manager  
RE: **Appl. #PL2018-025 – FINAL PLAT – Ash Grove, Tract A-1; East Estates Development Corp, applicant**

---

### Commentary

This final plat application is for *Ash Grove, Tract A-1*, located at the northwest corner of NE Ash Grove Drive and NE Saint Andrews Circle. The proposed final plat consists of 1 tract on 1.81 acres. The proposed final plat combines Tract A of *The Ash Grove Second Plat* with 0.81 acres of unplatted property.

- 1 tract on 1.81 acres

### Subdivision-Related Public Improvements

In accordance with UDO Section 16.340, prior to an ordinance being placed on a City Council agenda for the approval of a final plat, all subdivision-related public improvements shall be constructed and a Certificate of Final Acceptance shall be issued. In lieu of completion of the public improvements and the issuance of a certificate, financial security (an escrow secured with cash, an irrevocable letter of credit, or a surety bond) may be provided to the City to secure the completion of all public improvements.

There are no subdivision-related public improvements required for this plat. This application will be placed on an upcoming City Council agenda for consideration.

### Recommendation

Staff recommends <b>APPROVAL</b> of the final plat.
---

### Zoning and Land Use Information

<p><b>Location:</b> 5100 NE Ash Grove Dr. - northwest corner of NE Ash Grove Drive and NE Saint Andrews Circle</p>
--

<p><b>Zoning:</b> R-1 (Single-Family Residential District)</p>
--

<p><b>Surrounding zoning and use:</b></p>
---

<p><b>North:</b> R-1 (Single-Family Residential District) – Ash Grove residential subdivision; single-family residential homes</p>
--

<p><b>South (across NE Saint Andrews Circle):</b> R-1 (Single-Family Residential District) – Forest at St Andrews residential subdivision; single-family residential homes</p>
--

<p><b>East (across NE Ash Grove Dr):</b> R-1 (Single-Family Residential District) – Ash Grove residential subdivision; single-family residential homes</p>
--

<p><b>West:</b> R-1 (Single-Family Residential District) – Unplatted vacant ground</p>
--

## Project Information

**Current Use:** vacant ground, subdivision common area tract

**Proposed Use:** vacant ground, subdivision common area tract

**Land Area:** 1.81 acres (78,638 sq. ft.)

**Number of Lots:** 1 tract

## Process

**Procedure:** The Planning Commission makes a recommendation to the City Council on the final plat within thirty (30) days after the application is submitted to the Planning Commission. The City Council takes final action on the final plat in the form of an ordinance.

**Duration of Validity:** Final plat approval shall become null and void if the plat is not recorded within one (1) year from the date of City Council approval.

The Director may administratively grant a one (1) year extension, provided no changes have been made to any City ordinance, regulation or approved engineering plans that would require a change in the final plat.

The City Council may grant one additional one (1) year extension, provided that additional engineering plans may be required by the City Engineer to comply with current City ordinances and regulations.

## Unified Development Ordinance

Applicable Section(s)	Description
5.090	R-1 (Single-Family Residential District)
16.140, 16.150	Final Plats

## Background

- June 10, 1986 – The City Council approved the rezoning (Appl. #835) from A to R-1 for Ash Grove by Ordinance No. 2808.
- April 14, 1988 – The City Council approved the final plat (Appl. #1987-129) for The Ash Grove Second Plat, Tract A, by Ordinance No. 2958.

## Code and Ordinance Requirements to be met Following Approval

*The items in the box below are specific to this subdivision and must be satisfactorily addressed in order to bring this plat into compliance with the Codes and Ordinances of the City.*

### Planning

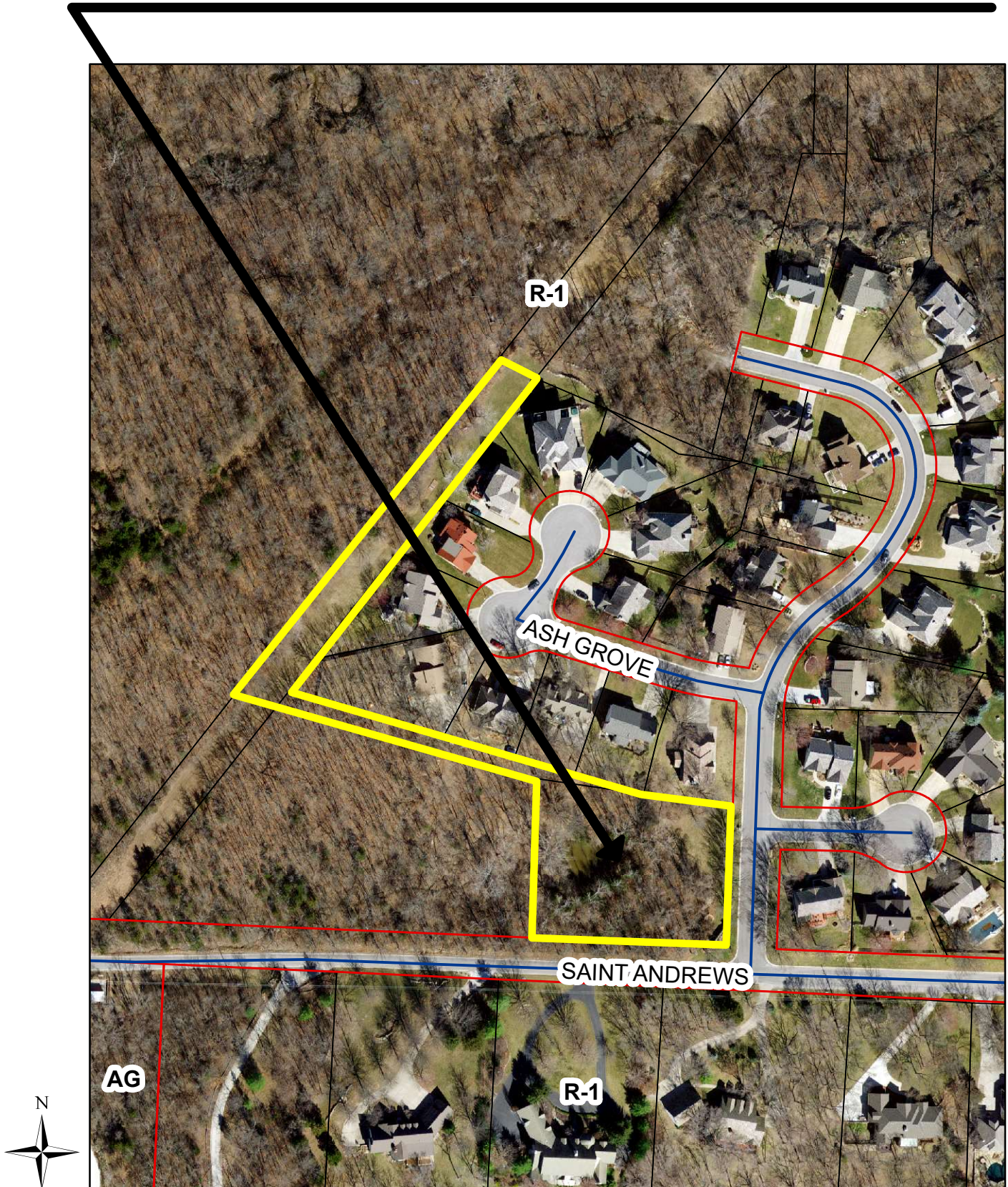
1. A final plat shall be approved and recorded prior to any building permits being issued.

Attachments:

1. Final Plat, dated 3/16/2018
2. Location Map



**Appl. #PL2018-025 – FINAL PLAT**  
**Ash Grove, Tract A-1**  
**East Estates Development Corp, applicant**



## Packet Information

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**File #:** BILL NO. 18-57, **Version:** 1

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AN ORDINANCE APPROVING THE TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT AND PARROT PROPERTIES, LLC, FOR THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN.

(Note: First reading by Council on March 15, 2018).

Issue/Request:

AN ORDINANCE APPROVING THE TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT AND PARROT PROPERTIES, LLC, FOR THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN.

Key Issues:

On August 24, 2017, the City Council approved Ordinance No 8232, The Village at View High Tax Increment Financing (TIF) Plan (6 aye, 1 nay, and one member absent). The Ordinance provides that approval of the TIF Plan is conditioned up the Developer and the City entering into the TIF Redevelopment Agreement (commonly referred to as the "TIF Contract").

Attached to this packet is a summary of the TIF Redevelopment Agreement provided by Rich Wood, Gilmore & Bell which highlights the key aspects of the proposed TIF Redevelopment Agreement.

Proposed City Council Motion:

AN ORDINANCE APPROVING THE TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT AND PARROT PROPERTIES, LLC, FOR THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN - I move for second reading.

Background:

See attached memorandum from Rich Wood, Gilmore & Bell PC.

Presenter:

Rich Wood, Gilmore & Bell PC, City's Economic Development Counsel  
Christine Bushyhead, Bushyhead LLC, Developer's Economic Development Counsel  
Mark Dunning, Assistant City Manager, Development & Communications

Committee Recommendation:

On June 26, 2017, the TIF Commission adopted RResolution 2017-02 recommending City Council approve the Village at View High TIF Plan by a vote of 8-1 with two members absent.

AN ORDINANCE APPROVING THE TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT AND PARROT PROPERTIES, LLC, FOR THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN.

WHEREAS, on August 24, 2017, the City Council approved the Village at View High Tax Increment Financing Plan (the "Redevelopment Plan") through the adoption of Ordinance No. 8232 in accordance with the Real Property Tax Increment Allocation Redevelopment Act, sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the "TIF Act"); and,

WHEREAS, the City Council desires to approve a tax increment financing redevelopment agreement to provide for the implementation of the Redevelopment Plan by the developer of record.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. The Tax Increment Financing Redevelopment Agreement between the City and Parrot Properties, LLC (the "Developer"), which is attached hereto as Exhibit A and incorporated herein by reference (the "TIF Agreement"), is hereby approved and the City Manager is authorized and directed to execute the TIF Agreement in substantial compliance with the attached TIF Agreement.

SECTION 2. City officers and agents of the City are each hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and the TIF Agreement.

SECTION 3. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. This Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor.

PASSED by the City Council for the City of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*City Clerk Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*



EXHIBIT A

TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

[*ATTACHED*]

816-221-1000  
FAX: 816-221-1018  
WWW.GILMOREBELL.COM

  
**GILMORE BELL**  
GILMORE & BELL, A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
2405 GRAND BOULEVARD, SUITE 1100  
KANSAS CITY, MISSOURI 64108-2521

OTHER OFFICES:  
ST. LOUIS, MISSOURI  
WICHITA, KANSAS  
LINCOLN, NEBRASKA

February 23, 2018

TO: Mayor and City Council

FROM: Rich Wood

RE: Summary of the Tax Increment Financing Redevelopment Agreement (“**TIF Redevelopment Agreement**”) between the City of Lee’s Summit, Missouri (“**City**”) and Parrot Properties, LLC (“**Developer**”) for the Village at View High Development

On August 24, 2017, the City Council approved by Ordinance No. 8232 the Village at View High Tax Increment Financing Plan (“**TIF Plan**”). The approving Ordinance provides that approval of the TIF Plan is conditioned upon the Developer and the City entering into the TIF Redevelopment Agreement.

This Memo summarizes the key components of the TIF Redevelopment Agreement, which will be on the agenda for consideration at the March 15, 2018, City Council meeting. Capitalized terms are defined in Section 1.02 of the TIF Redevelopment Agreement.

Generally, the TIF Redevelopment Agreement establishes the rights, duties and obligations of the City and the Developer regarding design, construction and operation of the Redevelopment Projects and implementation of the TIF Plan. The following is an Article by Article overview of the key provisions. This Memo is not intended to describe each term of the TIF Redevelopment Agreement, but instead is intended only to provide an overview of the key components.

## **Article 2: Representations and Warranties**

This Article provides certain representations and warranties of the Developer and the City with respect to the TIF Plan and the TIF Redevelopment Agreement. The Article also provides that the Developer will advance all costs necessary to acquire the property and complete the Redevelopment Projects and for the continued funding of City administrative costs resulting from the TIF Plan. This Article further provides that the Developer owns, or has the ability to acquire, the property in Redevelopment Project Areas I through V, and that the Developer is designated as the developer to perform the work in accordance with the TIF Plan and the TIF Redevelopment Agreement.

## **Article 3: Reimbursement of Developer Costs**

Reimbursement. This Article establishes the process by which the City will use TIF Revenues to reimburse the Developer for Reimbursable Project Costs.

Reimbursable Project Costs Cap. The amount of overall TIF reimbursement is capped at \$4,903,717, unless the Developer constructs a “Destination Grocery Store”, in which case the TIF reimbursement cap is increased to \$7,975,797.

Reimbursement of Interest. Developer Reimbursable Project Costs which have been certified by the City through an approved Application for Reimbursable Project Costs will accrue simple interest at a rate equal to 5.25%. Interest on construction financing for the project is a separate item of reimbursement which is included in the amounts subject to the Reimbursable Project Costs Cap, and is limited to the amount shown in the line item for “Construction Interest and Financing Costs” in Exhibit C (\$1,195,000.00).

Estimated Project Costs. The Developer is required to follow the Project Budget (Exhibit C) when constructing the Redevelopment Projects. Reimbursable amounts may be transferred among line items in Exhibit C, all subject to the Reimbursable Project Costs Cap, except that the following line items shall not be increased: (i) “Site Grading”, (ii) “Material Import”, (iii) “Rock Blasting”, (iv) Finish Grading, Utilities, Parking Lot, Landscaping”, (v) “Contingency”, (vi) “Legal Fees – Development”, (vii) “Developer Fee”, and (viii) “Funding Agreement Fees & Costs”, and (ix) “Construction Interest and Financing Costs”.

#### **Article 4: Tax Increment Financing**

This Article sets forth the manner in which the City will impose tax increment financing and the Projects will be financed.

Redevelopment Area. The Redevelopment Area will be developed as six (6) Redevelopment Projects. After the City initiates tax increment financing for each Redevelopment Project, the Developer will perform the Work to complete the Redevelopment Project.

Bonds. The City may, in its sole discretion, issue Bonds to reimburse the Developer for Reimbursable Project Costs.

Payments in lieu of taxes (PILOTs). The assessed value of all real property in a Redevelopment Project Area is frozen during the year that the City adopts a Redevelopment Project ordinance. All increased assessments for the real property are collected by the City as PILOTs, which are, in turn, used to pay Reimbursable Project Costs. The obligation to make PILOTs runs with the land and creates a lien in favor of the City. Fifty percent (50%) of PILOTs will be declared as surplus and returned to the taxing districts.

Economic Activity Taxes (EATs). Fifty percent (50%) of all EATs in the Redevelopment Area are captured by the City and used to pay for Developer Reimbursable Project Costs. The obligation to make EATs payments runs with the land and the City can enforce collection of the EATs in the same manner as the collection of sales taxes.

Disbursements from Special Allocation Fund. The order of disbursement of TIF revenues from the Special Allocation Fund is set out in Section 4.08.

#### **Article 5: Construction and Operation of the Projects**

Construction. The Developer is required to design and construct the Redevelopment Projects. Exhibit D contains the schedule for construction of the Redevelopment Projects. The Developer is

required to obtain all required governmental approvals for the Redevelopment Projects. The Developer is further required to comply with applicable laws in its design and construction of the Redevelopment Projects, including laws governing prevailing wages and competitive bidding.

Prohibition on Relocation. The Developer is not allowed to lease or sell any property in the Redevelopment Area to a business that is already located in the City without the sales tax base for the business being transferred as provided in the TIF Act.

Lease and Sale of Project Property. Each lease or sale contract by the Developer must contain specific language that provides actual notice to the tenants or buyers regarding the existence and operation of the TIF district.

Restrictions on Transfers to Tax Exempt Entities. The Developer is not authorized to transfer property within the Redevelopment Area to tax exempt entities without the consent of the City.

Land Use Restrictions. Exhibit G contains a list of uses that are prohibited within the Redevelopment Area.

#### **Article 6: Community Improvement District**

Formation. It is anticipated that a community improvement district will be formed over the Redevelopment Area.

Sales Tax. The CID will impose a one percent (1%) sales tax within its boundaries. CID sales tax revenues will be used to fund administrative costs of the district and to pay Reimbursable Project Costs.

#### **Article 7: General Covenants**

Indemnity. The Developer agrees to indemnify the City with respect to its actions related to implementation of the Redevelopment Projects.

Assignment. There are limitations on the ability of the Developer to assign rights under the TIF Redevelopment Agreement to another entity as set forth in Section 7.02.

**TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT**

**between the**

**CITY OF LEE'S SUMMIT, MISSOURI**

**and**

**PARROT PROPERTIES, LLC**

**dated as of \_\_\_\_\_, 2018**

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**THE VILLAGE AT VIEW HIGH REDEVELOPMENT AREA**

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**TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT**

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## **LIST OF EXHIBITS**

<b><u>Exhibit A</u></b>	Map of Redevelopment Area
<b><u>Exhibit B</u></b>	Legal Description of Redevelopment Area
<b><u>Exhibit C</u></b>	Estimated Project Costs
<b><u>Exhibit D</u></b>	Project Schedule
<b><u>Exhibit E</u></b>	Form of Certificate of Substantial Completion
<b><u>Exhibit F</u></b>	Form of Application for Reimbursable Project Costs
<b><u>Exhibit G</u></b>	Restricted Land Uses in the Redevelopment Area

## TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

**THIS TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the **CITY OF LEE’S SUMMIT, MISSOURI**, a charter city and political subdivision of the State of Missouri (the “**City**”), and **PARROT PROPERTIES, LLC**, a Missouri limited liability company (the “**Developer**”) (the City and the Developer being sometimes collectively referred to herein as the “**Parties**,” and individually as a “**Party**,” as the context so requires). (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed in **Section 1.02** of this Agreement.)

### RECITALS

1. The Lee’s Summit City Council created the TIF Commission of the City of Lee’s Summit, Missouri by approval of mayoral appointments of members of the TIF Commission and empowered the TIF Commission to exercise those powers and fulfill such duties as are required or authorized for the TIF Commission under the TIF Act. The various Taxing Districts within the Redevelopment Area have appointed members to the TIF Commission in accordance with Section 99.820 of the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the “**TIF Act**”).

2. On April 28, 2017, the Developer submitted an application for a proposed tax increment financing plan (the “**Redevelopment Plan**”) for the redevelopment of an area that is approximately 34 acres in the City of Lee’s Summit, Missouri, and is generally located on the northeast corner of the intersection of 3<sup>rd</sup> Street and View High Drive (the “**Redevelopment Area**”). The Redevelopment Area will be developed as six redevelopment projects (the “**Redevelopment Projects**” or “**Projects**”) to be built in six redevelopment project areas (the “**Redevelopment Project Areas**”).

3. On April 28, 2017, the City published a request for proposals soliciting proposals for the redevelopment of the Redevelopment Area and made such requests for proposals available for potential developers of the Redevelopment Area.

4. On May 30, 2017, the TIF Commission, after giving all notices required by the TIF Act, opened a public hearing at which all interested parties had the opportunity to be heard and at which the TIF Commission heard and considered all protests and objections concerning the Redevelopment Plan, the Redevelopment Area and the approval of the Projects. The hearing was continued to June 26, 2017, on which date the hearing was concluded, and the TIF Commission adopted a resolution by a vote of 9-1 recommending that the City Council approve the Redevelopment Plan, Projects and Redevelopment Area.

5. After due consideration of the TIF Commission’s recommendations and making each of the findings required by Section 99.810 of the TIF Act, the City Council adopted Ordinance No. 8232 on August 24, 2017 (the “**Redevelopment Plan Ordinance**”), designating the Redevelopment Area as a blighted area, approving the Redevelopment Plan, designating the Redevelopment Area as a “redevelopment area” as provided in the TIF Act, and appointing the Developer as the developer for the Redevelopment Plan.

6. On \_\_\_\_\_, 2017, the City Council adopted Ordinance No. \_\_\_\_\_ approving this Agreement and authorizing the City to execute and enter into this Agreement.

7. The City Council concluded that the redevelopment of the Redevelopment Area as provided for in the Redevelopment Plan will further the growth of the City, facilitate the redevelopment

of the entire Redevelopment Area, improve the environment of the City, increase the assessed valuation of the real estate situated within the City, increase the sales tax revenues realized by the City, foster increased economic activity within the City, increase employment opportunities within the City, enable the City to direct the development of the Redevelopment Area, increase the economic viability of the northeast corner of the intersection of 3<sup>rd</sup> Street and View High Drive, and otherwise be in the best interests of the City by furthering the health, safety, and welfare of its residents and taxpayers.

8. Pursuant to the provisions of the TIF Act and the Redevelopment Plan Ordinance, the City is authorized to enter into this Agreement and to pay Reimbursable Project Costs incurred in furtherance of the Redevelopment Plan and the Projects.

## **AGREEMENT**

Now, therefore, in consideration of the premises and mutual promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

### **ARTICLE 1: RECITALS, EXHIBITS AND DEFINITIONS**

**Section 1.01. Recitals and Exhibits.** The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section. The provisions of the Redevelopment Plan, the Redevelopment Plan Ordinance and the provisions of the TIF Act as amended as of and including the date of this Agreement, are hereby incorporated herein by reference and made a part of this Agreement, subject in every case to the specific terms hereof. In the event of any conflict between the provisions of this Agreement and the Funding Agreement or any other documents related to the Redevelopment Plan previously prepared or executed, the provisions of this Agreement shall control.

**Section 1.02. Definitions.** Words and terms not defined elsewhere in this Agreement shall, except as the context otherwise requires, have the following meanings:

“**Action**” shall have the meaning set forth in **Section 7.01.B**.

“**Administrative Costs**” means all documented costs and expenses reasonably incurred by the City for planning, legal, financial, administrative and other costs associated with the review, consideration, approval and implementation of the Redevelopment Plan, this Agreement and the Projects, including all consultants engaged by the City.

“**Advanced Funds**” shall have the meaning set forth in **Section 2.05.B**.

“**Advanced Funds Account**” shall have the meaning set forth in **Section 2.05.B**.

“**Agreement**” means this Tax Increment Financing Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the Parties hereto.

“**Applicable Law and Requirements**” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, requirement or decision of or agreement with or by Governmental Authorities.

**“Application for Reimbursable Project Costs”** means a certificate in substantially the form attached as **Exhibit F** hereto furnished by the Developer to the City evidencing Reimbursable Project Costs incurred by the Developer.

**“Best Efforts”** means actual, reasonable, good faith attempts to accomplish or achieve the required obligation which shall be documented by the party taking such action, and proof of such documentation may be requested in writing by the other party to verify that such actual, reasonable, good faith attempts occurred.

**“Bond Counsel”** means Gilmore & Bell, P.C., Kansas City, Missouri or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

**“Bonds”** means any tax increment revenue bonds issued by the City or another governmental entity in accordance with the TIF Act and this Agreement.

**“Captured CID Revenues”** shall have the meaning set forth in **Section 6.02.A**.

**“Certificate of Completion of Construction”** means a certificate issued by the City in the form proscribed by the City indicating satisfactory completion of construction of a Project, or an identifiable portion thereof, such as the Destination Grocery Store.

**“Certificate of Substantial Completion”** means a certificate in substantially the form attached as **Exhibit E** hereto furnished by the Developer pursuant to **Section 5.02** upon the substantial completion of a Redevelopment Project.

**“CID”** means a community improvement district which is established and operated in accordance with the CID Act and **Section 6.01** of this Agreement.

**“CID Act”** means the Community Improvement District Act, Sections 67.1401 to 67.1571 RSMo.

**“CID Administrative Costs”** shall have the meaning set forth in **Section 6.02.B**.

**“CID Revenues”** means the revenues generated and collected by or on behalf of the CID through imposition of the CID Sales Tax.

**“CID Sales Tax”** means the sales tax imposed by the CID in accordance with the CID Act and the CID petition approved by the City.

**“City”** means the City of Lee’s Summit, Missouri, a charter city and political subdivision of the State of Missouri.

**“City Attorney”** means the then current attorney appointed by the City as the City Attorney.

**“City Council”** means the City Council of the City of Lee’s Summit, Missouri.

**“City Director of Finance”** means the Chief Financial Officer of the City.

“**City Engineer**” means a person or firm engaged by the City to perform engineering services, or a person that may be hired and appointed by the City as the City Engineer.

“**City Event of Default**” has the meaning set forth in **Section 8.02**.

“**City Indemnified Parties**” shall have the meaning set forth in **Section 7.01.A**.

“**City Manager**” means the City Manager of the City, or his/her designee.

“**City Planning Commission**” means the Planning Commission of the City.

“**Collection Authority**” means the TIF Commission, the City, the County Collector, or any other governmental official or body charged with the collection of Payments in Lieu of Taxes or Economic Activity Taxes.

“**Construction Inspector**” means a City agent or employee designated by the City to perform inspections.

“**Construction Plans**” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City in accordance with this Agreement.

“**County**” means Jackson County, Missouri.

“**County Assessor**” means the County Assessor of Jackson County, Missouri.

“**County Collector**” means the County Collector of Jackson County, Missouri.

“**Destination Grocery Store**” means a specialty grocery store which will be considered as a regional attraction generating sales that build on the existing base of grocery sales in the City, for example Whole Foods Market or Trader Joe’s, but not including Hy-Vee, Price Chopper, Hen House, Aldi, or Sprouts. The specialty grocery store may be approved by the Authorized Parties pursuant to Section 9.05 herein using the following criteria. The Destination Grocery Store products shall include gourmet foods, organic foods, vegetarian foods, unusual frozen foods, imported foods, alternative food items, and staples such as bread, cereal, eggs, coffee and produce. All high-quality food in its freshest state, and wide variety of the best “basics”, such as olive oil and seasonings. The Destination Grocery Store shall focus on environmentally friendly products and supporting sustainable agriculture and natural food products.

“**Developer**” means Parrot Properties, LLC, a Missouri limited liability company, or its permitted successors or assigns in interest.

“**Developer Event of Default**” has the meaning set forth in **Section 8.01**.

“**Developer Private Improvements**” means the improvements, excluding the Public Improvements, constructed by the Developer for the project in accordance with the Redevelopment Plan.

“**Economic Activity Taxes**” shall have the meaning ascribed to such term in Section 99.805 of the TIF Act.

**“Economic Activity Taxes Account”** means the separate segregated account within the Special Allocation Fund into which fifty percent (50%) of Economic Activity Taxes are to be deposited.

**“Effective Date”** means the date written in the first paragraph on page 1 of this Agreement.

**“Estimated Project Costs ”** means the Estimated Project Costs set forth in **Exhibit C**.

**“Excusable Delay”** means any delay beyond the reasonable control of the Party affected, caused by damage or destruction by fire or other casualty, strike, shortage of materials, civil disorder, war, wrongful failure or refusal of any governmental entity to issue any permits and/or legal authorization necessary for the Developer to proceed with construction of the Work or any portion thereof, adverse market conditions, the Developer’s inability to secure acceptable financing and/or Tenants for the development despite the Developer’s commercially reasonable efforts, unavailability of labor or other labor/contractor disputes outside the reasonable control of the Developer, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, tornadoes, and any other events or conditions, which shall include but not be limited to any litigation interfering with or delaying the construction of all or any portion of the Redevelopment Projects in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder.

**“Financing Documents”** means the financing agreements, disbursement agreements and all other agreements and certificates executed in connection with the issuance of Obligations.

**“Funding Agreement”** means the Funding Agreement executed by the City and the Developer for the payment of City costs associated with the Redevelopment Plan.

**“Governmental Approvals”** means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals required for the implementation of the Projects and consistent with the Redevelopment Plan, the Site Plan and this Agreement, as all may be amended from time to time.

**“Governmental Authorities”** means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any type of any governmental unit (federal, state or local) whether now or hereafter in existence.

**“Loan Origination Costs”** means all costs reasonably incurred by the Developer as a result of securing private loan(s) to pay all or any portion of Reimbursable Project Costs incurred or estimated to be incurred, including but not limited to loan origination fees not to exceed two percent (2%) of the principal amount of the loan. Loan Origination Costs shall be Reimbursable Project Costs, but shall be in addition to the Reimbursable Project Costs Cap.

**“Non-Captured CID Revenues”** shall have the meaning set forth in **Section 6.02.B**.

**“Obligations”** means the Bonds or other debt obligations, singly or in series, issued by the City or any third party at the direction of the City pursuant to the TIF Act, the CID Act, or the TDD Act, and in accordance with this Agreement for the reimbursement of Redevelopment Project Costs.

**“Ordinance”** means an ordinance adopted by the City Council.

**“Party”** or **“Parties”** means the City and/or the Developer.

**“Payments in Lieu of Taxes”** shall have the meaning assigned to such term in Section 99.805 of the TIF Act.

**“PILOT Account”** means the separate segregated account within the Special Allocation Fund into which Payments in Lieu of Taxes are to be deposited.

**“Project Schedule”** means the schedule for design, construction and operation of the Redevelopment Projects as set forth in **Exhibit D**.

**“Projected Assessed Value”** shall have the meaning set forth in **Section 4.05.C**.

**“Property”** means all of the real property located within the boundaries of Redevelopment Area as set forth in the Redevelopment Plan.

**“Public Improvements”** means that portion of the Work which consists of improvements in public rights-of-way which will be dedicated to, owned and maintained by a public entity, including the City or the CID.

**“Redevelopment Area”** means the area depicted in **Exhibit A** and designated as the Redevelopment Area by the Ordinance approving the Redevelopment Plan.

**“Redevelopment Plan”** or **“Plan”** means the plan entitled *“Village at View High Tax Increment Financing Plan,”* as approved by Ordinance No. 8232 on August 24, 2017, as such plan may be amended from time to time by the City in accordance with the TIF Act.

**“Redevelopment Project”** and **“Redevelopment Projects”** means, separately or collectively, Redevelopment Project I, Redevelopment Project II, Redevelopment Project III, Redevelopment Project IV, and Redevelopment Project V. Developer is not obligated to develop Redevelopment Project VI.

**“Redevelopment Project Ordinance”** means each Ordinance that approves a Redevelopment Project and activates the collection of TIF Revenues in the applicable Redevelopment Project Area.

**“Redevelopment Project I”** means office, medical office, retail and restaurant uses to be constructed within Redevelopment Project Area I under the Plan anticipated to consume approximately 6.35 acres, together with the required infrastructure and Public Improvements to support the development.

**“Redevelopment Project II”** means office and retail uses to be constructed within Redevelopment Project Area II under the Plan anticipated to consume approximately 6.05 acres, together with the required infrastructure and Public Improvements to support the development.

**“Redevelopment Project III”** means grocery, office, retail, restaurant and potential second floor residential uses to be constructed within Redevelopment Project Area III under the Plan anticipated to consume approximately 6.73 acres, together with the required infrastructure and Public Improvements to support the development.

**“Redevelopment Project IV”** means office, retail, restaurant and potential second floor residential uses to be constructed within Redevelopment Project Area IV under the Plan anticipated to consume approximately 5.97 acres, together with the required infrastructure and Public Improvements to support the development.

**“Redevelopment Project V”** means office, bank, retail and restaurant uses to be constructed within Redevelopment Project Area V under the Plan anticipated to consume approximately 8.76 acres, together with the required infrastructure and Public Improvements to support the development.

**“Redevelopment Project VI”** means an as-yet undefined uses to be constructed within Redevelopment Project Area VI under the Plan, together with the required infrastructure and Public Improvements to support the development.

**“Redevelopment Project Area”** and **“Redevelopment Project Areas”** means, separately or collectively, Redevelopment Project Area I, Redevelopment Project Area II, Redevelopment Project Area III, Redevelopment Project Area IV, Redevelopment Project Area V, and Redevelopment Project Area VI.

**“Redevelopment Project Area I”** means the area for the construction of Redevelopment Project I, which area is within the Redevelopment Area and is described on **Exhibit B** as Project Area 1.

**“Redevelopment Project Area II”** means the area for the construction of Redevelopment Project II, which area is within the Redevelopment Area and is described on **Exhibit B** as Project Area 2.

**“Redevelopment Project Area III”** means the area for the construction of Redevelopment Project III, which area is within the Redevelopment Area and is described on **Exhibit B** as Project Area 3.

**“Redevelopment Project Area IV”** means the area for the construction of Redevelopment Project IV, which area is within the Redevelopment Area and is described on **Exhibit B** as Project Area 4.

**“Redevelopment Project Area V”** means the area for the construction of Redevelopment Project V, which area is within the Redevelopment Area and is described on **Exhibit B** as Project Area 5.

**“Redevelopment Project Area VI”** means the area for the construction of Redevelopment Project VI, which area is within the Redevelopment Area and is described on **Exhibit B** as Project Area 6.

**“Redevelopment Project Costs”** means the sum total of all reasonable or necessary costs incurred or estimated to be incurred in connection with the Redevelopment Plan, and any such costs incidental to the Redevelopment Plan, as applicable. Such costs include, but are not limited to, the following:

- (1) Costs of studies, surveys, plans and specifications;
- (2) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services;
- (3) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights and interests therein, demolition of buildings, and the clearing and grading of land;
- (4) Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings and fixtures;
- (5) Costs of construction of public works or improvements, including the Public Improvements;



- (6) Costs of Developer Private Improvements;
- (7) Financing costs;
- (8) All or a portion of a Taxing District's capital costs resulting from a Redevelopment Project necessarily incurred or to be incurred in the furtherance of the objectives of the Redevelopment Plan and the Redevelopment Projects, to the extent the City by written agreement accepts and approves such costs;
- (9) Relocation costs to the extent that the City determines that relocation costs shall be paid or are required to be paid by federal or state law; and
- (10) Payments in Lieu of Taxes.

**“Reimbursable Project Costs Cap”** shall have the meaning set forth in **Section 3.01**.

**“Reimbursement Interest Rate”** means four and one-quarter percent (5.25%) per annum.

**“Related Entity”** shall have the meaning set forth in **Section 7.02.B.1**.

**“RSMo”** means the Revised Statutes of Missouri, as amended.

**“Secured Lender”** shall have the meaning set forth in **Section 7.02.B.2**.

**“Site Plan”** means the final site plan for the Redevelopment Area submitted by the Developer to the City and approved by the City pursuant to Applicable Law and Requirements.

**“Special Allocation Fund”** means the fund, including any accounts and subaccounts created therein, into which TIF Revenues are deposited, as required by the TIF Act and this Agreement.

**“Surplus Payments in Lieu of Taxes”** means the amount of revenue collected which shall be declared as surplus and shall be distributed annually to the Taxing Districts in accordance with **Section 4.05** of this Agreement on a basis that is proportional to the current collections of revenue which each Taxing District receives from real property within the Redevelopment Area.

**“Surplus PILOTs Account”** means the separate segregated account of the Special Allocation Fund into which the Surplus PILOTs are deemed deposited by the County prior to distribution to the Taxing Districts.

**“Taxing District”** means any political subdivision of the State of Missouri located wholly or partially within the Redevelopment Area having the power to levy real property taxes.

**“Tenant”** shall mean all lessees, purchasers and transferees of some portion of the Property.

**“TIF Act”** means the Real Property Tax Increment Allocation Redevelopment Act, Section 99.800 *et seq.*, RSMo.

**“TIF Commission”** means the Tax Increment Financing Commission of the City of Lee's Summit, Missouri, as constituted for review of the Redevelopment Plan.

“**TIF Revenues**” means Payments In Lieu of Taxes and fifty percent (50%) of Economic Activity Taxes.

“**Total Initial Equalized Assessed Value**” means that amount certified by the County Assessor which equals the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of real property within the Redevelopment Project Areas immediately after tax increment financing for the Redevelopment Project Areas has been approved by the City Council by an Ordinance.

“**Work**” means all work necessary to prepare the Property and to construct the Projects, including: (1) construction of the Public Improvements and the Developer Private Improvements; (2) demolition and removal of all existing buildings and improvements located on the Property and clearing and grading of the Property; and (3) all other work described in the Redevelopment Plan or reasonably necessary to effectuate the intent of this Agreement.

## ARTICLE 2: REPRESENTATIONS AND WARRANTIES

**Section 2.01. Representations of the City.** The City makes the following representations and warranties, which are true and correct on the date hereof:

A. Due Authority. The City has full constitutional and lawful right, power and authority, under current applicable law, to execute, deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the City, enforceable in accordance with its terms.

B. No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

C. Litigation. To the best of the City’s knowledge, there is no litigation, proceeding or investigation pending or threatened against the City with respect to the Redevelopment Plan or this Agreement. In addition, to the best of the City’s knowledge, there is no other litigation, proceeding or investigation pending or threatened against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of the terms and provisions of this Agreement.

D. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

E. No Default. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

F. Construction Permits. The City reasonably believes that all permits and licenses necessary to construct the Public Improvements and Developer Private Improvements can be obtained.

**Section 2.02. Representations of the Developer.** The Developer makes the following representations and warranties, which are true and correct on the date hereof:

A. Due Authority. The Developer has all necessary power and authority to execute, deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

B. No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

C. Litigation. To the best of the Developer's knowledge, there is no litigation, proceeding or investigation pending or threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer, of the terms and provisions of this Agreement.

D. No Material Change. (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects or results of operations of the Developer, which could affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in any financial information provided by the Developer to the City prior to the execution of this Agreement.

E. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement.

F. No Default. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument to which the Developer is a party or by which the Developer is or may be bound.

**Section 2.03. Conditions to Effective Date.** This Agreement shall not become effective until the Developer has furnished the City with:

A. a copy of the Developer's Articles of Organization certified by the Secretary of State of the State of Missouri;

- B. a Certificate of Good Standing of the Developer in the State of Missouri;
- C. a Certificate of authority to do business in the State of Missouri; and
- D. a copy of a document evidencing the signatory's authority to execute this Agreement on behalf of the Developer.

**Section 2.04. Developer to Advance Costs.** The Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Property and to complete the Work, all subject to the Developer's right to terminate this Agreement as set forth in **Section 8.04** regarding remedies upon a City event of default.

**Section 2.05. Funding of Administrative Costs.**

A. Termination of Funding Agreement. Pursuant to a Funding Agreement between the City and the Developer, Developer has previously advanced certain funds for Administrative Costs. Within thirty (30) days after execution of this Agreement, the City shall submit final invoices which will be paid by Developer, along with the payment of any other outstanding invoices, pursuant to the terms of the Funding Agreement. All such payments by Developer are Reimbursable Project Costs and are eligible for reimbursement with TIF Revenues. After final payment of all outstanding invoices is made by Developer under the Funding Agreement, the Funding Agreement shall be terminated, and any funds remaining on deposit with the City pursuant to the Funding Agreement shall be used by the City in accordance with **Section 2.05.B** hereof and shall be treated as a Reimbursable Project Cost to Developer.

B. Initial Deposit. In addition to the Administrative Costs paid under the Funding Agreement, the City shall also be reimbursed for all Administrative Costs incurred in connection with the Redevelopment Plan, the Project, and this Agreement. Upon termination of the Funding Agreement, the City shall deposit the funds remaining on deposit with the City pursuant to the Funding Agreement in a separate, segregated account of the City (the "**Advanced Funds Account**"), and, if such amount is less than \$15,000, then Developer shall make a payment to the City (all amounts in the Advanced Funds Account are the "**Advanced Funds**") so that the initial amount on deposit in the Advanced Funds Account, together with funds remaining from the Funding Agreement, is \$15,000. If there are no funds on deposit with the City pursuant to the Funding Agreement on the Effective Date, then the Developer shall advance the sum of \$15,000 to the City as Advanced Funds for deposit in the Advanced Funds Account. The City may invest the Advanced Funds in the same manner as other funds of the City are invested, and interest earnings shall remain in the Advanced Funds Account. All Advanced Funds shall be used to pay Administrative Costs. The City shall submit to the Developer an itemized statement of actual payments made from the Advanced Funds Account for such expenses on a regular periodic basis, but no more often than monthly and no less often than quarterly. The Developer shall advance to the City the amounts set forth on such statements within thirty days after receipt thereof, which shall be deposited in the Advanced Funds Account so that the balance of the Advanced Funds Account remains at \$15,000. This arrangement shall continue until there are sufficient funds in the Special Allocation Fund to implement **Section 2.05.C** hereof, at which time any remaining Advanced Funds in the Advanced Funds Account shall be returned to Developer. All such payments of Advanced Funds by Developer are Reimbursable Project Costs in addition to the Reimbursable Project Costs Cap and will be eligible for reimbursement with TIF Revenues.

C. Future Administrative Costs on a Pay As You Go Basis. When sufficient funds are available in the Special Allocation Fund, the City may withdraw funds from the Special Allocation Fund

to pay future Administrative Costs; provided that such withdrawals for Administrative Costs shall not exceed fifteen thousand dollars (\$15,000) on an annual basis.

**Section 2.06. Developer’s Ownership of the Redevelopment Area.** At the time that this Agreement is executed, Developer represents that it owns, or has the ability to acquire, all of the Property in Redevelopment Project Area I, Redevelopment Project Area II, Redevelopment Project Area III, Redevelopment Project Area IV, and Redevelopment Project Area V. With the exception of Redevelopment Project Area VI, the Parties do not anticipate that condemnation is needed to acquire any portion of the Property and there are no adverse or other parties in possession of the Property, or of any part thereof. The Developer is not aware of any boundary, survey, or title questions or disputes with respect to the Property.

**Section 2.07. Developer Designation and Development Rights.** The City hereby selects the Developer to perform or otherwise cause the performance of the Work in accordance with the Redevelopment Plan and this Agreement. For the purpose of implementing the Redevelopment Plan and this Agreement, the City hereby grants to the Developer and its successors and assigns (as specified in **Section 7.02**) exclusive redevelopment rights over the Redevelopment Area, subject to and in accordance with the terms and conditions of this Agreement.

### **ARTICLE 3: REIMBURSEMENT OF DEVELOPER COSTS**

**Section 3.01. Limitation on Reimbursement to Developer.** Reimbursable Project Costs are based upon the Estimated Project Costs of **Exhibit C**. Regardless of the total amount of Reimbursable Project Costs requested by Developer or certified by the City in accordance with this Article, the City’s obligation to reimburse Developer shall not exceed the Reimbursable Project Costs Cap, plus (i) interest at the Reimbursement Interest Rate in accordance with **Section 3.02.B**, (ii) Loan Origination Costs and (iii) Advanced Funds. “**Reimbursable Project Costs Cap**” means, prior to a Certificate of Completion of Construction for the Destination Grocery Store, \$4,903,717. After a Certificate of Completion of Construction has been issued for the Destination Grocery Store, the Reimbursable Project Costs Cap shall be \$7,975,797.

#### **Section 3.02. City’s Obligation to Reimburse Developer.**

A. Reimbursement of Project Costs. Subject to the limitations set forth in this Agreement, the City shall reimburse the Developer for all certified Reimbursable Project Costs not to exceed the Reimbursable Project Costs Cap under the conditions and restrictions set forth in this Agreement, plus (i) interest at the Reimbursement Interest Rate in accordance with **Section 3.02.B**, (ii) Loan Origination Costs and (iii) Advanced Funds, which shall not count against the Reimbursable Project Costs Cap. The Parties agree that reimbursement will occur on a “pay as you go” basis as revenues are collected in the Special Allocation Fund in accordance with this Agreement. The City shall have no obligation to reimburse Developer until funds are available in the Special Allocation Fund. The City shall have no obligation to reimburse Developer from any funds other than those funds in the Special Allocation Fund. In connection with the Work associated with the Redevelopment Plan, the Developer shall submit an Application for Reimbursable Project Costs in substantial compliance with **Exhibit F** for the Reimbursable Project Costs associated with construction in the Redevelopment Area. The City shall make reimbursements from the Special Allocation Fund in the order of priority set forth in **Section 4.08**.

B. Interest on Reimbursable Project Costs. Reimbursable Project Costs which have been certified by the City through an approved Application for Reimbursable Project Costs in accordance with

this Agreement shall accrue simple interest at the Reimbursement Interest Rate starting on the day that the City approves such application in accordance with **Section 3.03** until the principal amount of such certified Reimbursable Project Costs are paid, or until this Agreement is terminated as provided herein. TIF Revenues distributed to pay Reimbursable Project Costs shall be applied first to accrued and unpaid interest, then to principal. Unpaid interest shall accrue but shall not be compounded. The reimbursement of interest on certified Reimbursable Project Costs at the Reimbursement Interest Rate shall be in addition to the interest and financing costs incurred by Developer during the construction of the Project, which interest costs are a Reimbursable Project Cost set forth in the Estimated Project Costs under the line item “Construction Interest and Financing Costs”. However, reimbursement of such interest and financing costs incurred during the construction of the Project shall be limited to the amount shown in the Estimated Project Costs under the line item “Construction Interest and Financing Costs” and shall only be certified as a Reimbursable Project Cost upon submission to the City of an Application for Reimbursable Project Costs in accordance with **Section 3.03** which includes sufficient itemized invoices, receipts or other information evidencing that such interest and financing charges were actually incurred by the Developer.

### **Section 3.03. Reimbursement Process.**

A. All requests for reimbursement of Reimbursable Project Costs shall be made in an Application for Reimbursable Project Costs in substantial compliance with **Exhibit F**. The Developer shall, at the City’s request, provide itemized invoices, receipts or other information, if any, reasonably requested by the City to confirm that any such cost is so incurred and does so qualify. The Parties agree that Reimbursable Project Costs, to the extent actually incurred by Developer for the Redevelopment Projects and certified by the City, up to the Reimbursable Project Costs Cap, plus (i) interest at the Reimbursement Interest Rate in accordance with **Section 3.02.B**, (ii) Loan Origination Costs and (iii) Advanced Funds, are eligible for reimbursement in accordance with the TIF Act and this Agreement, although the City’s obligation to reimburse Developer shall be as provided in **paragraph B** of this Section.

B. In no event will the City’s total obligation for reimbursement exceed the total Reimbursable Project Costs Cap, plus (i) interest at the Reimbursement Interest Rate in accordance with **Section 3.02.B**, (ii) Loan Origination Costs and (iii) Advanced Funds. The reimbursable amounts listed in the Estimated Project Costs do not represent caps on any individual expenditure or category of expenditures, as reimbursable amounts may be moved from one reimbursable line item or category to another, and between the “TIF Reimbursable” and “CID Reimbursable” columns of the Estimated Project Costs, to the full extent permitted by law, to reflect actual expenditures, subject to the Reimbursable Project Costs Cap, except that the amount of reimbursement for the following line items of the Estimated Project Costs shall not be increased: (i) “Site Grading”, (ii) “Material Import”, (iii) “Rock Blasting”, (iv) Finish Grading, Utilities, Parking Lot, Landscaping”, (v) “Contingency”, (vi) “Legal Fees – Development”, (vii) “Developer Fee”, and (viii) “Funding Agreement Fees & Costs”, and (ix) Construction Interest and Financing Costs”. Further, the City will not reimburse the Developer for any cost that is not a “redevelopment project cost” under Section 99.805(15) of the TIF Act and which does not fall within one of the categories of Reimbursable Project Costs shown in the “Tax Increment Financing” column in the Estimated Project Costs or, as further set out in the cooperative agreement to be entered into pursuant to **Section 6.04**, for any cost that is not authorized under the CID Act and which does not fall within one of the categories of Reimbursable Project Costs shown in the “Community Improvement District” column in the Estimated Project Costs.

C. The Developer may submit an Application for Reimbursable Project Costs to the City’s Finance Director not more often than once each calendar month. The City shall either accept or reject each Application for Reimbursable Project Costs within thirty (30) days after the submission thereof. If the City determines that any cost identified as a Reimbursable Project Cost is not a “redevelopment

project cost” under Section 99.805(15) of the TIF Act or is not “TIF Reimbursable” pursuant to the Estimated Project Costs, the City shall so notify the Developer in writing within said 30-day period, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other Redevelopment Project Costs as Reimbursable Project Costs with a supplemental application for payment, subject to the limitations of this Agreement. The City may also request such additional information from Developer as may be required to process the requested reimbursement, and the time limits set forth in this paragraph shall be extended by the duration of time necessary for Developer to respond to such request by the City. The City’s identification of any ineligible costs shall not delay the City’s approval of the remaining costs on the Application for Reimbursable Project Costs that the City determines to be eligible.

D. TIF revenues generated within a Redevelopment Project Area shall not be disbursed from the Special Allocation Fund in accordance with **Section 4.08** until such time as a Certificate of Substantial Completion is submitted and approved by the City in accordance with **Section 5.02** evidencing completion of construction of all Developer Private Improvements and related Public Improvements within the Redevelopment Project Area in substantial compliance with the Redevelopment Plan.

**Section 3.04. Limitation on Source of Funds for City’s Obligation to Reimburse.** In no event shall the City be required hereunder to appropriate funds from the City’s general fund or from any fund other than the Special Allocation Fund to pay for Reimbursable Project Costs.

#### **ARTICLE 4: TAX INCREMENT FINANCING**

**Section 4.01. Redevelopment Area and Project.** The Redevelopment Area is legally described in **Exhibit B**. The Redevelopment Area will be developed in six (6) Redevelopment Project Areas. The City has initiated or will initiate tax increment financing by Ordinance for the Redevelopment Projects. Subject to the terms and conditions of the Redevelopment Plan and this Agreement, the Developer shall construct or cause to be constructed the Developer Private Improvements and the Public Improvements.

**Section 4.02. Estimated Project Costs.** The Project shall be constructed in general accordance with the Estimated Project Costs, which costs are estimates based on the knowledge of the Project on the date of the Redevelopment Plan Ordinance, and the actual items and costs of items for implementing the Project may vary depending on market factors and conditions.

**Section 4.03. Removal of Blight in the Redevelopment Area.** The Redevelopment Area has been declared by the City Council to be a “blighted area,” as that term is defined in the TIF Act, and is detrimental to the public health, safety and welfare because of the several influences that cause the Redevelopment Area to be a blighted area, as set forth in the Redevelopment Plan. By construction of the Redevelopment Projects, the Developer shall clear the blighting influences, or eliminate the physical blight existing in the Redevelopment Area, or make adequate provisions reasonably satisfactory to the City for the clearance of such blighting influences.

#### **Section 4.04. Bonds.**

A. Issuance of Bonds. At the earliest practical time as determined in the City’s discretion exercised on the basis of prudent public finance and principles of market economics, and subject to all terms, conditions and requirements of this Agreement, the City will consider the issuance of Bonds in an amount

sufficient to pay or reimburse the Reimbursable Project Costs, up to the maximum amount allowed in **Section 3.01**. The approval of the issuance of any Bonds shall be in the City's reasonable discretion, not to be unreasonably withheld or conditioned, provided that the market conditions for such Bonds are such that the payment terms of the Bonds are sufficiently favorable that reasonably prudent City financial officers would undertake the issuance of such Bonds. Developer may request the issuance of Bonds, but such Bonds shall be issued at the reasonable discretion of the City.

**B. Cooperation in the Issuance of Bonds.**

1. If the City elects to issue Bonds, Developer covenants to cooperate and take all reasonable actions necessary to assist the City and its Bond Counsel, underwriters and financial advisors in the preparation of the Financing Documents, offering statements, private placement memorandums or other disclosure documents and all other documents necessary to market, sell and issue Bonds, including (i) disclosure of Tenants of the Property and the non-financial terms of the leases between the Developer and such Tenants and (ii) providing sufficiently detailed estimates of Reimbursable Project Costs so as to enable Bond Counsel to render its opinion as to the tax-exemption of Bonds. The Developer will not be required to disclose to the general public or any investor the rent payable under any such lease or any proprietary or confidential financial information pertaining to the Developer, its Tenants or the leases with its Tenants, but upon the execution of a confidentiality agreement acceptable to the Developer, the Developer will provide such information to the City's financial advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations.

2. The Developer further agrees (i) to provide a closing certificate in a form reasonably similar to the form used for similar bond transactions (which shall include a certification regarding the accuracy of the information relating to the Developer and the Project), (ii) to cause its counsel to provide a legal opinion in a form reasonably similar to the form used for similar bond transactions and (iii) to provide the following information to enable the underwriter of the Bonds to comply with Rule 15c2-12 of the Securities and Exchange Commission: all retail and commercial Tenants of the Project, the square footage occupied by each such Tenant, the purpose for which space is used by each retail Tenant, and the term of each commercial and retail lease. Developer shall provide information on an ongoing basis so that the City can comply with its continuing disclosure obligations, as requested by the City. The Bonds under this Section shall be a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement.

**C. City to Select Bond Counsel, Financial Advisor and Underwriter; Term.** The City shall have the right to select the designated Bond Counsel, financial advisor and underwriter (and such additional consultants as the City deems necessary for the issuance of the Bonds). The final maturity of Bonds shall not exceed the maximum term permissible under the TIF Act.

**Section 4.05. Payments in Lieu of Taxes.**



A. Initiation of Payment Obligations. Pursuant to the provisions of the Redevelopment Plan and the TIF Act, including, but not limited to, Section 99.845 thereof, when tax increment financing is established by an Ordinance for a Redevelopment Project Area, the Property is subject to assessment for annual Payments in Lieu of Taxes. Payments in Lieu of Taxes shall be due November 30 of each year in which said amount is required to be paid and will be considered delinquent if not paid by December 31 of each such year. The obligation to make said Payments in Lieu of Taxes shall be a covenant running with the land and shall create a lien in favor of the City on each such tax parcel as constituted from time to time and shall be enforceable against the Developer and its successors and assigns in ownership of property in a Redevelopment Area.

B. Enforcement of Payments. Failure to pay Payments in Lieu of Taxes as to any Property in the Redevelopment Area shall entitle any Collection Authority to proceed against such Property in the Redevelopment Area as in other delinquent property tax cases or otherwise as permitted at law or in equity, provided, however, that the failure of any portion of the Property to yield sufficient Payments in Lieu of Taxes because the increase in the current equalized assessed value of such Property is or was not as great as expected, shall not by itself constitute a breach or default. The City shall use all reasonable and diligent efforts to notify the County Collector and all other appropriate officials and persons and seek to fully implement the Payments in Lieu of Taxes.

C. Protesting Tax Assessments. Nothing herein shall prohibit or inhibit the Developer's right to pay Payments in Lieu of Taxes under protest pending Developer's exhaustion of all informal and formal appeal rights relating to the County's valuation of the Property or a portion thereof or the calculation of the Payments in Lieu of Taxes owed thereon. However, Developer agrees that annual tax assessments on any particular building located on the Property shall not be formally or informally protested or contested if such assessments for such building are equal to or less than 110% of the projected assessed values for such building as set forth in the Redevelopment Plan or the Cost Benefit Analysis submitted in support of the Redevelopment Plan (the "**Projected Assessed Value**") for any calendar year during the effective period of this Agreement. In the event that any tax assessment is greater than 110% of the Projected Assessed Value for such building and the Developer elects to formally or informally protest the tax assessment, Developer shall not protest, contest or seek in any manner to have the assessment for such building reduced to an amount that is less than 110% of the Projected Assessed Value. Subdivision of the Property in a manner that produces parcels of a different size or configuration than as set forth in the Redevelopment Plan shall not alter, affect or eliminate the limitation set forth in this paragraph, and this obligation shall be binding on all successors in interest on the Property in accordance with **Section 7.02**.

D. Release of Liens. Notwithstanding anything to the contrary herein, the lien on the Property within the Redevelopment Area shall be deemed (1) released as to any public street or other public way included within any plat proposed by the Developer, effective upon the passage of an Ordinance by the City approving the same, and (2) subordinated to the lot lines, utility easements and other similar matters established by any such plat (but not to any private access or parking rights granted or created by any such plat), effective upon the passage of an Ordinance by the City as aforesaid, and to any easement or like interests granted to the City or any public utility for public facilities or utilities or connection(s) thereto.

E. Certification of Base for Payments in Lieu of Taxes. Within ninety (90) days after adoption of the Project Ordinance, the City shall use Best Efforts to provide to the Developer a certification of the County Assessor's calculation of the Total Initial Equalized Assessed Valuation of the taxable real property within the applicable Redevelopment Project Area based upon the most recent

equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within the applicable Redevelopment Project Area.

F. Surplus Payments in Lieu of Taxes. In accordance with the Redevelopment Plan, fifty percent (50%) of the Payments in Lieu of Taxes collected within the Redevelopment Area shall be declared as Surplus Payments in Lieu of Taxes by the City. The City shall, or, if an agreement between the City and County has been executed for such purpose then the County Collector shall on behalf of the City, pay such Surplus Payments in Lieu of Taxes to the appropriate Taxing Districts in the order of priority set forth in **Section 4.08**. Once commenced, such declaration of Surplus Payments in Lieu of Taxes shall continue at a level of fifty percent (50%) throughout the entire remaining term of the Redevelopment Plan and this Agreement, unless the Redevelopment Plan is amended in accordance with the TIF Act to alter such payments.

#### **Section 4.06. Economic Activity Taxes.**

A. Initiation of Payment Obligations. In addition to the Payments In Lieu of Taxes described above, and pursuant to Section 99.845 of the TIF Act, fifty percent (50%) of the total additional revenue from taxes which are imposed by the City or other Taxing Districts, and which are generated by economic activities within a Redevelopment Project Area which are in excess of the amount of such taxes generated by economic activities within the Redevelopment Project Area for the calendar year prior to the year in which the Redevelopment Project Ordinance is approved, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 RSMo, licenses, fees or special assessments and personal property taxes, other than payments in lieu of taxes and any penalty and interest thereon, or taxes levied for the purpose of public transportation pursuant to Section 94.660, RSMo, shall be allocated to, and paid by the collecting officer to the designated financial officer of the City, who shall deposit such funds in a separate segregated account within the Special Allocation Fund for the purpose of paying Redevelopment Project Costs.

B. Accounting. The City shall deposit the payments of Economic Activity Taxes received from the respective Taxing Districts in the Economic Activity Taxes Account in the Special Allocation Fund, to be utilized and expended in accordance with the TIF Act, the Redevelopment Plan and this Agreement.

C. Documentation of Economic Activity Taxes. The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the Economic Activity Taxes to be paid into the Special Allocation Fund, including the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement.

D. Certification of Base for Economic Activity Taxes. Within ninety (90) days after adoption of the Project Ordinance, the City shall use Best Efforts to provide to Developer a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other Taxing Districts and which are generated by economic activities within the applicable Redevelopment Project Area for the preceding calendar year, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 RSMo, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.845.3 of the TIF Act.

**Section 4.07. Special Allocation Fund.** The City shall establish and maintain the Special Allocation Fund which shall contain the following separate segregated accounts: (1) Payments in Lieu of Taxes shall be deposited into the PILOT Account within the Special Allocation Fund, (2) Surplus

Payments in Lieu of Taxes shall be deposited into the Surplus PILOTs Account within the Special Allocation Fund, and (3) Economic Activity Taxes shall be deposited into the Economic Activity Taxes Account within the Special Allocation Fund. Subject to the requirements of the TIF Act and, with respect to Economic Activity Taxes, subject to annual appropriation by the City Council, the City will promptly upon receipt thereof deposit or be deemed to deposit all Payments in Lieu of Taxes into the PILOT Account and all Economic Activity Taxes into the Economic Activity Taxes Account.

**Section 4.08. Disbursements From Special Allocation Fund.** All disbursements from the Special Allocation Fund will be paid in such priority as the City shall determine from the separate segregated accounts maintained within the Special Allocation Fund for Payments in Lieu of Taxes and Economic Activity Taxes. The City hereby agrees for the term of this Agreement to apply available TIF Revenues in the PILOT Account, the Surplus PILOTs Account, and the Economic Activity Taxes Account in the following manner and order of preference:

- A. Payment of Surplus Payments in Lieu of Taxes from the Surplus PILOTs Account as required by the terms of this Agreement;
- B. Payment of Administrative Costs incurred by the City;
- C. Payment of arbitrage rebate, if any, owed with respect to Obligation under Section 148 of the Internal Revenue Code of 1986, as amended, including any costs of calculating arbitrage rebate;
- D. Payment of fees and expenses owing to the trustee for Obligations, upon delivery to the City of an invoice for such amount;
- E. Payments of principal and interest becoming due on Obligations in accordance with the Financing Documents that have been executed for such Obligations;
- F. Payment of remaining TIF Revenues generated within the Redevelopment Area to the Developer to repay certified Reimbursable Project Costs, plus (i) interest at the Reimbursement Interest Rate in accordance with **Section 3.02.B**, (ii) Loan Origination Costs and (iii) Advanced Funds; and
- G. Following the completion of the Project and the repayment of all Reimbursable Project Costs, funds remaining in the Special Allocation Fund shall be disbursed by the City Director of Finance to the appropriate Taxing Districts in accordance with the TIF Act.

**Section 4.09. Full Assessment.**

- A. Redevelopment Project Area. After all Reimbursable Project Costs have been paid, but not later than twenty-three (23) years from the adoption of the last Project Ordinance to be adopted, the portions of this Agreement relating only to the TIF Act shall terminate and Developer shall not be entitled to receive any further disbursements from the Special Allocation Fund.
- B. Completion of Redevelopment Plan. Upon terminating the designation of the Redevelopment Area as a “redevelopment area” under the TIF Act, the rates of the Taxing Districts shall be extended and taxes shall be levied, collected and distributed in the manner applicable in the absence of the adoption of tax increment financing, and the Redevelopment Area shall be free from the conditions,

restrictions and provisions of the TIF Act, of any rules or regulations adopted pursuant thereto, of the Redevelopment Plan Ordinance, this Agreement, and of the Redevelopment Plan.

## ARTICLE 5: CONSTRUCTION AND OPERATION OF THE PROJECT

### Section 5.01. Project Schedule, Design and Construction.

A. Schedule. Absent an event of Excusable Delay, the Developer shall commence and complete the Redevelopment Projects and each of its obligations under this Agreement with respect to the acquisition, construction and completion of the Redevelopment Projects in accordance with the Project Schedule attached as **Exhibit D**. The Developer shall obtain the approval of the Site Plan in accordance with the Project Schedule and Applicable Law and Requirements. The Project Schedule may be modified as necessary by the Developer, with the prior written consent of the City, which will not be unreasonably conditioned, delayed, or withheld. The City Manager shall have the authority to consent to the modification of the Project Schedule so long as the deadlines in the Project Schedule are not extended for more than one year. No deadline in the Project Schedule will to be extended for more than one year without the prior approval of the City Council.

B. Construction Plan Approval. The City shall review and act on the Construction Plan in accordance with all Applicable Laws and Requirements of the City.

C. Construction. In accordance with the Project Schedule attached as **Exhibit D**, and absent an event of Excusable Delay, the Developer shall commence the construction of the Project in a good and workmanlike manner in accordance with the terms of this Agreement. Absent an event of Excusable Delay, the Developer shall cause the Redevelopment Projects to be completed in accordance with the Project Schedule set forth in **Exhibit D**.

D. Construction Contracts. The Developer may enter into one or more construction contracts to complete the Work. All construction contracts shall provide that recourse against the City is limited to the Special Allocation Fund.

E. Prevailing Wages. The Developer shall comply with all laws regarding the payment of prevailing wages to contractors or subcontractors of the Developer, as applicable. Upon written request by the City, Developer shall provide or cause to be provided written proof that the requirements of this paragraph have been satisfied from and after the date that the Work has commenced. In the event such request is made, no reimbursement payment shall be made by the City from TIF Revenues for the Reimbursable Project Costs which are subject to the payment of prevailing wages unless the Developer has provided or caused to be provided the written proof as required by this paragraph. Developer shall indemnify the City for any damage resulting to it from failure of either the Developer or any contractor or subcontractor to pay prevailing wages pursuant to applicable laws. Such indemnification shall be limited to the amount of TIF reimbursement that Developer receives or is entitled to receive pursuant to this Agreement, and payments due to Developer pursuant to this Agreement from TIF Revenues may be withheld by the City in satisfaction of this indemnification obligation if Developer has not provided payment when due pursuant to the indemnification obligation of this paragraph.

F. Competitive Bids and Other Construction Requirements. The Developer shall comply with all applicable state and local laws relating to the construction of the Redevelopment Projects, including but not limited to all applicable laws relating to competitive bidding. The Redevelopment Plan submitted in response to the City's request for proposals is deemed to satisfy all competitive bidding requirements established by the City pursuant to the TIF Act.

G. Governmental Approvals. The City agrees to employ Best Efforts to cooperate with the Developer and to process and timely consider and respond to all applications for the Governmental Approvals as received, all in accordance with the Applicable Law and Requirements.

**Section 5.02. Certificate of Substantial Completion.** Promptly after substantial completion of the Developer Private Improvements, and related Public Improvements in accordance with the provisions of this Agreement, for a Redevelopment Project, the Developer may submit a Certificate of Substantial Completion to the City for such Redevelopment Project. Substantial completion shall mean that Developer has completed the Developer Private Improvements and related Public Improvements for which Certificates of Substantial Completion have been submitted to the City for the Redevelopment Project. The Certificates of Substantial Completion shall be in substantially the form attached as **Exhibit E**. The Construction Inspector shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City unless, prior to the end of such 30-day period after delivery, the City furnishes the Developer with specific written objections to the status of the Redevelopment Project, describing such objections and the measures required to correct such objections in reasonable detail. Upon acceptance of the Certificate of Substantial Completion, or upon the lapse of thirty (30) days after delivery thereof without any written objections thereto, the Developer may record the Certificate of Substantial Completion with the Jackson County Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to construct the applicable phase of the Project.

**Section 5.03. Relocation within the City.** If a Tenant is relocated within one year after approval of the Project Ordinance from another location within the limits of the City to the Redevelopment Area, the sales tax base for such Tenant shall be transferred to the location of the Tenant within the Redevelopment Area and shall be treated as sales which occurred in the Redevelopment Area in the year before the year in which the Project Ordinance was approved.

**Section 5.04. Compliance with Laws and Requirements.** The Redevelopment Projects shall be designed, constructed, equipped and completed in accordance with all Applicable Law and Requirements of all federal, state and local jurisdictions.

**Section 5.05. Lease of Property.** As restricted by this Agreement, the Developer may lease Property within the Redevelopment Area. To the extent practicable and using Best Efforts, the Developer, or any third party, shall insert in any such lease the following language, or language that is substantially similar to the following after being approved by the City Attorney, and shall have such lease signed by the lessee indicating acknowledgment and agreement to the following provision:

**Economic Activity Taxes:** Tenant acknowledges that the Leased Premises are a part of a Tax Increment Financing district ("**TIF District**") created by Lee's Summit, Missouri (the "**City**") and that certain taxes generated by Tenant's economic activities, including sales taxes, will be applied toward the costs of improvements for the Development. Upon the request of Landlord or the City, Tenant shall forward to the City or Landlord copies of Tenant's State of Missouri sales tax returns filed with the Missouri Department of Revenue for its property located in the TIF District, and, upon request, shall provide such other reports and returns regarding other local taxes generated by Tenant's economic activities in the TIF District as the City shall require, all in the format prescribed by them. Sales tax confidentiality shall be protected by the City as required by law. Tenant acknowledges that the City is a third-party beneficiary of the obligations in this

Section, and that the City may enforce these obligations in any manner provided by law.

The Developer shall use reasonable efforts to enforce this lease provision. At the request of the City, the Developer shall provide a certification to the City confirming that the lease includes the provisions satisfying the Developer's obligation as set forth in this Section. Failure of the Developer to require that such restrictions be placed in any such lease shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area or the Project and the City's rights of enforcement and remedies under this Agreement and the TIF Act.

**Section 5.06. Sale of Property.** As restricted by this Agreement, the Developer may sell Property within the Redevelopment Area. To the extent practicable and using Best Efforts, the Developer, or any third party, shall insert in any such sale agreement the following language, or language that is substantially similar to the following after being approved by the City Attorney, and shall have such sale agreement signed by the buyer indicating acknowledgment and agreement to the following provision:

**Economic Activity Taxes:** Buyer acknowledges that the property is a part of a Tax Increment Financing district ("TIF District") created by Lee's Summit, Missouri (the "City") and that certain taxes generated by Buyer's economic activities, including sales taxes, will be applied toward the costs of improvements for the Development. Upon the request of Seller or the City, Buyer shall forward to the City or Seller copies of Buyer's State of Missouri sales tax returns filed with the Missouri Department of Revenue for its property located in the TIF District, and, upon request, shall provide such other reports and returns regarding other local taxes generated by Buyer's economic activities in the TIF District as the City shall require, all in the format prescribed by them. Sales tax confidentiality shall be protected by the City as required by law. Buyer acknowledges that the City is a third-party beneficiary of the obligations in this Section, and that the City may enforce these obligations in any manner provided by law.

**PILOTS:** Buyer further acknowledges that the property will be subject to assessment for annual payments in lieu of taxes ("PILOTS") when the redevelopment project area is activated by the City. PILOTS are due on November 30 of each year and are considered delinquent if not paid by December 31 of each year. The obligation to make said PILOTS shall be a covenant running with the land and shall create a lien in favor of the City on the property and shall be enforceable against Buyer and its successors and assigns in ownership of the property. Buyer acknowledges that in the event of the sale, lease, sublease, assignment, or other voluntary or involuntary disposition of any or all of the property, PILOTS with respect to the property shall continue and shall constitute a lien against the property from which they are derived, and such obligations shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable as if such purchaser, tenant, transferee or other possessor thereof were originally a party to and bound by the agreement.

The Developer shall use reasonable efforts to enforce this provision. At the request of the City, the Developer shall provide a certification to the City confirming that the sale agreement includes the provisions satisfying the Developer's obligation as set forth in this Section. Failure of the Developer to require that such restrictions be placed in any such sale agreement shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area or the Project and the City's rights of enforcement and remedies under this Agreement and the TIF Act.

**Section 5.07. Restrictions on Transfers to Tax Exempt Entities.** No sale, transfer or other conveyance of any portion of the property within a Redevelopment Project Area may be made to an entity

that may claim exemption, or is exempt, from real property taxes for all or any portion of any parcel within the Redevelopment Project Area (a “**Restricted Entity**”) as long as TIF Revenues are being collected within the Redevelopment Project Area in which the parcel upon which the Restricted Entity is proposed to be located (the “**Restricted Period**”) without the prior written approval of the City. In the event that Developer or its successors and assigns in any Redevelopment Project Area seeks to transfer any portion of the property within a Redevelopment Project Area to a Restricted Entity during the Restricted Period, such transfer may only occur upon the prior written approval of the City, which approval shall not be unreasonably withheld, and upon the prior execution of a separate agreement between the purchasing Restricted Entity and the City which provides for the annual payment of Economic Activity Taxes and Payments in Lieu of Taxes which otherwise would be paid in regard to such property by such Restricted Entity for each of the years remaining in the Restricted Period, or such lesser amount as approved by the City. This requirement shall be a covenant running with the land and shall be enforceable for such period as if such purchaser, transferee or possessor thereof were originally a party to and bound by this Agreement.

**Section 5.08. Land Uses and Land Use Restrictions.** In addition to the land use restrictions that are established pursuant to the City’s zoning and subdivision regulations, unless approved in writing by the City prior to the execution of a lease or prior to the sale of land in the Redevelopment Area, the types of land uses set forth in the attached **Exhibit G** shall not occur as the primary use of Property in the Redevelopment Area.

## **ARTICLE 6: COMMUNITY IMPROVEMENT DISTRICT**

**Section 6.01. Formation and Operation of the CID.** In the event a CID has not been formed as of the date of execution of this Agreement, Developer and City agree to mutually cooperate in the formation of a CID which will be used to finance public improvements as authorized by the CID Act. The Parties acknowledge and agree that formation of a CID by the City is a legislative act, that the City cannot agree by contract to take future legislative action, and that the City will consider the CID Petition in good faith pursuant to the CID Act and the terms of this Agreement. The Parties agree that the term “public improvements” as used in this Article is more expansive than the defined term Public Improvements, and includes all costs that may be funded by a CID pursuant to the CID Act. Formation of the CID shall be initiated by the Developer filing a petition with the City in accordance with the CID Act. The City and Developer agree to jointly cooperate with and participate in the formation process. The City’s and the Developer’s participation shall include, but is not limited to, the following:

- A. include language in contracts for sale of real estate inside the CID boundaries which requires prospective purchasers to sign petitions and cooperate in the CID formation and operation;
- B. prepare such petitions, pleadings, exhibits and other documents as necessary for formation and operation of the CID;
- C. use good faith efforts to cause persons, as mutually agreed upon by the Parties, to serve on the board of directors for the CID;
- D. construct or cause to be constructed those public improvements that qualify for reimbursement in accordance with the CID Act and this Agreement, including compliance with all competitive bidding, prevailing wage and other construction requirements;

E. use good faith efforts to cause lessees and purchasers of property within the boundaries of the CID to cooperate in the timely and full payment of all applicable sales taxes, and any other fees or assessments that may be imposed or charged by the CID;

F. take such other reasonable action as mutually agreed upon by the Parties to facilitate the formation, operation and good standing of the CID;

G. use good faith efforts to cause the approval of the CID Sales Tax; and

H. include the Redevelopment Project Areas within the boundaries of the CID.

**Section 6.02. CID Revenues.** The Developer agrees to use all reasonable good faith efforts to insure that the CID will impose a CID Sales Tax in the amount of one percent (1%). The CID Revenues will fall into two categories:

A. Those CID Revenues consisting of the portion of the CID Revenues captured as Economic Activity Taxes will be deposited into the Economic Activity Taxes Account within the Special Allocation Fund and will be disbursed in accordance with **Section 4.08 (“Captured CID Revenues”)**; and

B. The remaining CID Revenues consisting of that portion of the CID Revenues not considered hereunder as Captured CID Revenues (“**Non-Captured CID Revenues**”) will be made available by the CID, as set forth in the Cooperative Agreement between the CID and the City, to finance certain routine administration costs of the CID, including the cost of legal and accounting services, and other services and costs necessary for operation and administration of the CID (“**CID Administrative Costs**”) and to pay certain Reimbursable Project Costs as specified in the Estimated Project Costs, as permitted by law, and subject to annual appropriation.

**Section 6.03. CID Costs.** The Non-Captured CID Revenues may be used to pay for CID administrative costs to provide for the operation of the CID in each year that the CID is in existence, and the estimated annual costs of the CID administrative costs shall be set forth in the CID petition. The Non-Captured CID Revenues may also be used to pay the reasonable attorneys’ fees for the formation of the CID, in an amount not to exceed \$15,000, which shall be considered CID administrative costs. However, except as otherwise provided in **Section 6.02**, the Non-Captured CID Revenues may not be used to pay for any other services, such as property maintenance, security and trash collection, until after the Redevelopment Plan has been terminated in accordance with this Agreement, unless otherwise approved by the City.

**Section 6.04. Cooperative Agreement.** The Developer and City agree that the City, the Developer, and the CID shall enter into a cooperative agreement which will memorialize the provisions of this **Article 6** and provide for the operation of the CID and the administration of CID Revenues.

**Section 6.05. Other Special Taxing Districts.** The formation of the CID within the Redevelopment Area as contemplated in this **Article 6** shall not preclude the City from authorizing or assisting in the formation of another special taxing district within other areas in the Redevelopment Area outside of the boundaries of any Redevelopment Project Area.



## ARTICLE 7: GENERAL COVENANTS

### Section 7.01. Indemnification of the City.

A. Developer agrees to indemnify and hold the City, its employees, agents, independent contractors and consultants (collectively, the “**City Indemnified Parties**”) harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorneys’ fees, resulting from, arising out of, or in any way connected with:

1. the Developer’s actions and undertaking in implementation of the Redevelopment Projects and this Agreement;

2. the negligence or willful misconduct of Developer, its employees, agents, independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the Project;

3. any litigation filed against the Developer by any member of the Developer, or any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor which is not based in whole or in part upon any negligence or willful misconduct of the City or the City’s breach of this Agreement; or

4. any Action (as defined below) filed against a City Indemnified Party or naming a City Indemnified Party as a defendant or respondent which challenges the adoption, validity or enforceability of the Redevelopment Plan, the Redevelopment Area, any Redevelopment Project, this Agreement or the City’s authority to approve or the approval of the Redevelopment Plan, the Redevelopment Area, any Redevelopment Project or this Agreement.

B. In the event any suit, action, investigation, claim or proceeding (collectively, an “**Action**”) is initiated or made as a result of which the Developer may become obligated to one or more of the City Indemnified Parties hereunder, any one of the City Indemnified Parties shall give prompt notice to the Developer of the occurrence of such event. After receipt of such notice, the Developer may elect to defend, contest or otherwise protect the City Indemnified Parties against any such Action, at the cost and expense of the Developer, utilizing counsel of the Developer’s choice. The City Indemnified Parties shall assist, at Developer’s sole discretion, in the defense thereof. In the event of such defense against any Action by Developer for the City, Developer shall provide to the City regular periodic reports on the status of such Action. In the event that the Developer shall fail timely to defend, contest or otherwise protect any of the City Indemnified Parties against such Action, the City Indemnified Parties shall have the right to do so, and, if such defense is undertaken by the City Indemnified Parties after notice to the Developer asserting the Developer’s failure to timely defend, contest or otherwise protect against such Action, the cost of such defense shall be at the expense of the Developer, including the right to offset against amounts of Reimbursable Project Costs payable to the Developer.

C. Any one of the City Indemnified Parties shall submit to the Developer any settlement proposal that the City Indemnified Parties shall receive which may only be accepted with the approval of the Developer. The Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that and only with respect to any part the Developer expressly assumes in writing as part of such settlement. Neither the Developer nor the City Indemnified Parties will unreasonably withhold its consent to a proposed settlement.

D. The right to indemnification set forth in this Agreement shall survive the termination of this Agreement.

**Section 7.02 Assignment of Developer's Rights and Obligations and Transfer of Property.**

A. Restrictions on Assignment. Prior to the issuance of a Certificate of Substantial Completion for any applicable Redevelopment Project or Projects, the Developer's rights and obligations hereunder may not be assigned, in whole or in part, to another entity, without the prior approval of the City Council. The City Council shall provide such consent unless in the City's reasonable determination, a proposed assignee does not have qualifications and financial responsibility necessary and adequate to fulfill the obligations of the Developer of the Project under the Redevelopment Plan and this Agreement. Following the City's issuance of a Certificate of Substantial Completion for a Redevelopment Project, Developer and its successors and assigns shall have the right, without the City's consent, to assign any and all of its obligations as Developer under this Agreement with respect to such portion of the applicable Redevelopment Project to any person or entity.

B. Related Entities, Collateral Assignment, and Certificate of Substantial Completion.

1. Related Entities. Nothing in this Section shall prevent the Developer from assigning, without the City's consent, all rights and/or obligations under this Agreement to a Related Entity (as defined below), provided that prior to such assignment Developer furnishes City with the name of any such Related Entity, together with a certification from Developer, and such other proof as City may reasonably request, that such assignee is a Related Entity of Developer. "**Related Entity**" means any entity in which the ownership or membership of such entity is controlled by Developer or the majority owners or members of Developer. For purposes hereof, "control" shall mean the power to direct or cause the direction of the management or policies of such entity.

2. Collateral Assignment. Developer and its successors and assigns shall also have the right, without the City's consent, to collaterally assign to any Secured Lender (as defined below) as collateral any and all of Developer's rights and/or obligations under this Agreement, and such Secured Lender shall have the right to perform any term, covenant, condition or agreement and to remedy, in accordance with the terms of this Agreement, any default by Developer under this Agreement, and City shall accept such performance by any such Secured Lender with the same force and effect as if furnished by Developer. No Secured Lender shall be personally liable or obligated to perform the obligations of Developer under the Agreement unless and until such Secured Lender takes possession of the property as a mortgagee or by a receiver appointed at the request of mortgagee or becomes the owner of the fee estate under this Agreement by foreclosure, or deed in lieu of foreclosure or otherwise. For purposes of this Section, "**Secured Lender**" means a bank, financial institution or other person or entity from which Developer has borrowed funds to finance all or a portion of the Project and in whose favor Developer has agreed to provide a security interest as collateral for such loan.

Before a Secured Lender may exercise any rights of the Developer under the Agreement, the City shall receive: (a) within thirty (30) days following the date of such collateral assignment, a notice from the Developer that it has entered into a collateral assignment with a Secured Lender in connection with the Property, which shall specify the name, address and telephone number of the Secured Lender, as well as the title, date and parties to the collateral assignment agreement; and (b) not less than ten (10) days' notice of the Secured Lender's intent to exercise its right to become the assignee of the Developer under the Agreement, which notice shall include the effective date of the collateral assignment, and the title, date and parties to such collateral assignment agreement. The City is entitled to rely upon representations made in the notices described in this paragraph without further investigation or inquiry.

Provided that the Developer has provided the City with notice of a collateral assignment as described in this Section, the City agrees to provide the Secured Lender with the same notice of default at the same time such notice is given to the Developer, and the Secured Lender shall have the same rights (but shall have no obligation) to cure, correct or remedy a default as are provided to the Developer.

3. Certificate of Completion. Following the City's issuance of a Certificate of Substantial Completion for a Redevelopment Project, Developer and its successors and assigns shall have the right, without the City's consent, to assign any and all of its obligations as Developer under this Agreement with respect to the applicable Redevelopment Project to any person or entity.

C. Assignment & Assumption Agreement. Any assignee under **subsections A** or **B.1** above shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the City, assume all of the obligations of the Developer being assigned. The Developer shall be relieved from any obligations that are assigned according to the terms of this Agreement.

D. Lease of Property. Nothing in this section shall apply to Developer's lease of portions of the Property to other persons or entities. This Agreement shall not obligate, provide rights, or otherwise apply to any such lessees, and any such leases shall not relieve Developer of its obligations under this Agreement, including but not limited to its obligations with respect to the leased property.

E. Sale of Property. Nothing in this section shall limit the Developer's right to sell or otherwise transfer the Property or portions thereof to other persons or entities, but such sale shall not relieve Developer of its rights and obligations under this Agreement, including but not limited to its rights and obligations with respect to the sold or transferred property.

F. Right to Receive TIF Revenues. Only the Developer, or a Related Entity or Secured Party pursuant to **subsection B** hereof, and not any subsequent purchaser or tenant, unless expressly consented to in writing by the City or otherwise made in accordance with the provisions of this Agreement, shall be entitled to receive TIF Revenues.

G. No Assignment if in Default. Notwithstanding anything in this section to the contrary, no assignment or transfer of this Agreement is permitted if the Developer is in default in the performance of any of the material terms, covenants, conditions and agreements of this Agreement.

H. City's Reasonable Consideration. If, from time to time, the City's consent to any assignment and transfer under the terms of this Agreement is required, or if confirmation that such consent is not required is requested, such consent or confirmation, as the case may be, shall not be unreasonably withheld or delayed.

**Section 7.03. Mutual Assistance.** The City and the Developer agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

**Section 7.04. Time of Essence.** Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

**Section 7.05. Amendments.** This Agreement may be amended only by the mutual consent of the Parties, by the adoption of an ordinance of the City approving said amendment, as provided by law, and by the execution of said amendment by the Parties or their successors in interest.

## **ARTICLE 8: DEFAULTS AND REMEDIES**

**Section 8.01. Developer Event of Default.** Subject to **Section 8.05**, a “**Developer Event of Default**” means a default in the performance of any obligation or breach of any covenant or agreement of the Developer in this Agreement (other than a covenant or agreement, a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of thirty (30) days after City has delivered to Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied and the Developer is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the Developer shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch. During any such cure period which extends beyond 30 days, the Developer shall provide regular written updates to the City regarding its efforts toward, and the status of, remedying such default or breach.

**Section 8.02. City Event of Default.** Subject to **Section 8.05**, a “**City Event of Default**” means default in the performance of any obligation or breach of any other covenant or agreement of the City in this Agreement (other than a covenant or agreement, a default in the performance or breach of which is specifically dealt with elsewhere in this Agreement), and continuance of such default or breach for a period of thirty (30) days after there has been given to the City by the Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied and the City is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the City shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

### **Section 8.03. Remedies Upon a Developer Event of Default.**

A. Upon the occurrence and continuance of a Developer Event of Default, the City shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The City shall have the right to remove the Developer as the developer of record for the Redevelopment Projects under the Redevelopment Plan and terminate this Agreement or terminate the Developer’s rights under this Agreement.

2. The City may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the Developer as set forth in this Agreement, except specific performance which is financially unreasonable for the Developer to perform, to enforce or preserve any other rights or interests of the City under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the City resulting from such Developer Event of Default.

B. Upon termination of this Agreement for any reason, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement, except for the outstanding amounts advanced to the City for Administrative Costs hereunder that were not used by the City to pay for or reimburse such costs, or costs otherwise incurred or paid by Developer.

C. If the City has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the City, then and in every case the City and the Developer shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the City shall continue as though no such proceeding had been instituted.

D. The exercise by the City of any one remedy shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by the City shall apply to obligations beyond those expressly waived.

E. Any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or limit it in any way. No waiver in fact made by the City of any specific default by the Developer shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

#### **Section 8.04. Remedies Upon a City Event of Default.**

A. Upon the occurrence and continuance of a City Event of Default, the Developer shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The Developer shall have the right to terminate the Developer's obligations under this Agreement;

2. The Developer may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the City as set forth in this Agreement, to enforce or preserve any other rights or interests of the Developer under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Developer resulting from such City Event of Default.

B. The exercise by the Developer of any one remedy shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by the Developer shall apply to obligations beyond those expressly waived.

C. Any delay by the Developer in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit it in any way. No waiver in fact made by the Developer of any specific default by the City shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

**Section 8.05. Excusable Delays.** The parties understand and agree that neither the City nor the Developer shall be deemed to be in default of this Agreement because of an Excusable Delay.

## ARTICLE 9: GENERAL PROVISIONS

**Section 9.01. Term.** Unless earlier terminated as provided herein, this Agreement shall remain in full force and effect until such time as all Reimbursable Project Costs up to the amount of the Reimbursable Project Costs Cap, plus Loan Origination Costs and Advanced Funds, are repaid to Developer. Upon such repayment, this Agreement shall terminate and become null and void.

**Section 9.02. Nondiscrimination.** The Developer agrees that, as an independent covenant running with the land, there shall be no discrimination upon the basis of race, creed, color, national origin, sex, age, marital status, or physical handicap in the sale, lease, rental, occupancy or use of any of the facilities under its control.

**Section 9.03. Inspections and Audits.** Developer shall, upon reasonable advance notice, allow the City and the City's agents (including the City Engineer) access to the Project from time to time for reasonable inspection of the Project, including the Work and Public Improvements.

**Section 9.04. Required Disclosures.** The Developer shall immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

### **Section 9.05. Authorized Parties.**

A. Whenever under the provisions of this Agreement and other related documents, instruments or any supplemental agreement, a request, demand, approval, notice or consent of the City or the Developer is required, or the City or the Developer is required to agree or to take some action at the request of the other Party, such approval or such consent or such request shall be given for the City, unless otherwise provided herein, by the City Manager and for the Developer by any officer of Developer so authorized; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither Party shall have any complaint against the other as a result of any such action taken. The City Manager may seek the advice, consent or approval of the City Council before providing any supplemental agreement, request, demand, approval, notice or consent for the City pursuant to this Section.

B. Any action that is required by this Agreement to be performed by the City within a specified time period shall be extended for such additional reasonable time as may be necessary for the City to act or provide a response, as the case may be, in order to account for holidays, weekends, work stoppages, regular meeting schedules, meeting agendas, agenda management, delays or continuances of meetings and City staff availability. The City shall, within the time period specified in this Agreement, provide notice to Developer of such additional time needed to respond; provided, such additional times shall not become an unreasonable period of time.

**Section 9.06. No Other Agreement.** The Parties agree that, as required by the TIF Act, the Redevelopment Plan contains estimated Redevelopment Project Costs, the anticipated sources of funds to pay for Redevelopment Project Costs, the anticipated type and term of the sources of funds to pay

Reimbursable Project Costs, and the general land uses that apply to the Redevelopment Area and the Redevelopment Project Areas. This Agreement specifies the rights, duties and obligations of the City and Developer with respect to constructing the Redevelopment Projects, the payment of Redevelopment Project Costs, Reimbursable Project Costs, payments from the Special Allocation Fund, and all other methods of implementing the Redevelopment Plan. The Parties further agree that this Agreement contains provisions that are in greater detail than as set forth in the Redevelopment Plan and that expand upon the estimated and anticipated sources and uses of funds to implement the Redevelopment Plan. Nothing in this Agreement shall be deemed an amendment of the Redevelopment Plan. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties. In the event of a conflict between this Agreement and the Redevelopment Plan Ordinance, the Construction Plans, the Site Plan, the Redevelopment Plan or any other document pertaining to the Redevelopment Projects, this Agreement shall control.

**Section 9.07. Severability.** If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

**Section 9.08. Missouri Law.** This Agreement shall be construed in accordance with the laws of the State of Missouri.

**Section 9.09. Notices.** All notices and requests required pursuant to this Agreement shall be sent as follows:

To the City:

City of Lee's Summit  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063  
Attn: City Manager

With a copy to:

Gilmore & Bell, P.C.  
2405 Grand Blvd., Suite 1100  
Kansas City, Missouri 64108  
Attn: Rich Wood

To the Developer:

Parrot Properties, LLC  
c/o Humphrey Farrington and McClain  
PC  
P.O.Box 900  
221 West Lexington, Suite 400  
Independence, MO 64051  
Attn: Buford L. Farrington  
With a copy to:

Bushyhead LLC  
315 SE Main Street  
Lee's Summit, Missouri 64063  
Attn: Christine Bushyhead

or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

**Section 9.10. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

**Section 9.11. Recordation of Memorandum of Agreement.** The Parties agree to execute and deliver a Memorandum of this Agreement in proper form for recording and/or indexing in the appropriate land or governmental records. Such Memorandum shall be recorded by the City, and proof of recording shall be provided to the Developer.

**Section 9.12. Consent or Approval.** Except as otherwise provided in this Agreement, whenever the consent, approval or acceptance of either Party is required hereunder, such consent, approval or acceptance shall not be unreasonably withheld or unduly delayed.

**Section 9.13. Tax Implications.** The Developer acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

[Remainder of page intentionally blank.]



**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

**CITY OF LEE’S SUMMIT, MISSOURI**

By: \_\_\_\_\_  
Stephen A. Arbo, City Manager

[SEAL]

ATTEST:

\_\_\_\_\_  
Denise R. Chisum  
City Clerk

STATE OF MISSOURI    )  
                                  )   ss.  
COUNTY OF JACKSON   )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Stephen A. Arbo, City Manager of the City of Lee’s Summit, Missouri, a city duly incorporated and existing under and by virtue of the laws of the State of Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such person duly acknowledged the execution of the same to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC

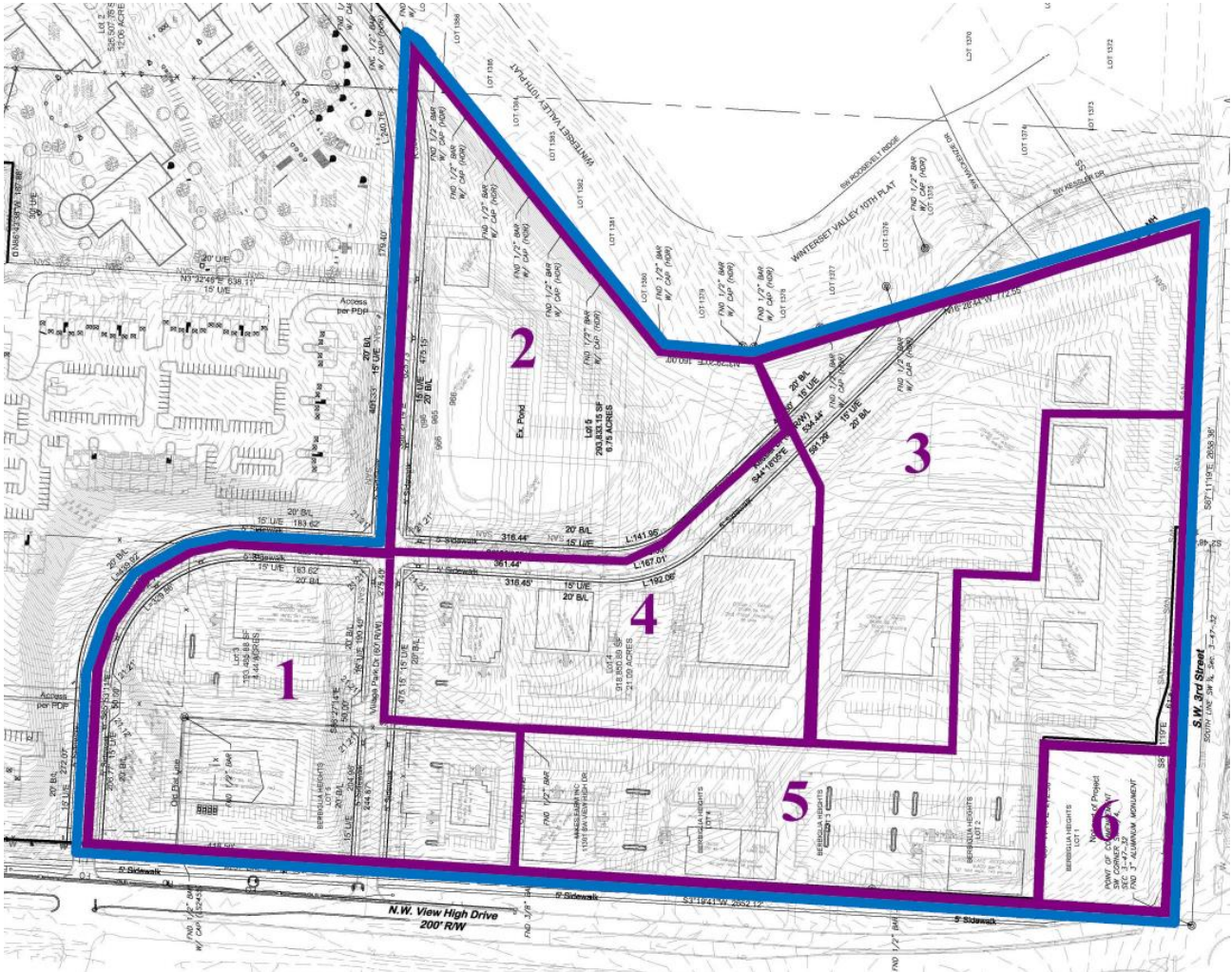
My Commission Expires:

\_\_\_\_\_



# EXHIBIT A

## MAP OF REDEVELOPMENT AREA



## EXHIBIT B

### LEGAL DESCRIPTION OF REDEVELOPMENT AREA

#### **Project Area 1:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 818.21 feet, said point being the Point of Beginning of Lot 1; thence South 86° 28' 37" East, a distance of 271.87 feet; thence along a curve to the right, having a radius of 220.00 feet and an arc length of 345.65 feet; thence South 03° 32' 32" West, a distance of 258.62 feet; thence North 86° 27' 14" West, a distance of 245.40 feet; thence South 03° 32' 46" West, a distance of 211.39 feet; thence North 87° 12' 53" West, a distance of 243.95 feet, to a point on the East right of way line of View High Drive; thence North 03° 19' 41" East, along said East right of way line, a distance of 693.13 feet, returning to the Point of Beginning. Tract contains 276,664.92 square feet or 6.35 acres more or less.

#### **Project Area 2:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 818.21 feet; thence South 86° 28' 37" East, a distance of 271.87 feet; thence along a curve to the right, having a radius of 220.00 feet and an arc length of 345.65 feet; thence South 03° 32' 32" West, a distance of 258.62 feet; thence South 86° 27' 14" East, a distance of 60.00 feet, said point being the Point of Beginning of said Lot 2; thence continuing South 86° 27' 14" East, a distance of 595.72 feet; thence along a curve to the left, having a radius of 385.00 feet, and an arc length of 154.23 feet; thence South 38° 53' 54" East, a distance of 42.06 feet, to a point on the West line of Winterset Valley 10th Plat, a subdivision as recorded in the Office of the Recorder, Jackson County, Missouri; thence South 51° 06' 06" West, along said West line a distance of 599.08 feet; thence South 03° 29' 20" West, along said West line, a distance of 80.00 feet; thence South 45° 41' 55" West, a distance of 165.12 feet; thence North 44° 18' 05" West, a distance of 223.24 feet; thence along a curve to the right, having a radius of 170.00 feet and an arc length of 141.95 feet; thence North 03° 32' 32" East, a distance of 331.44 feet, returning to the Point of Beginning. Tract contains 263,533.33 square feet or 6.05 acres more or less.

#### **Project Area 3:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 1511.34 feet; thence South 87° 12' 53" East, a distance of 243.95 feet; thence South 03° 32' 46" West, a distance of 486.04 feet, said point being the Point of Beginning of said Lot 3; thence South 86° 30' 07" East, a distance of 625.85 feet; thence South 44° 18' 05" East, a distance of 120.81 feet, to a point on the West line of Winterset Valley 10th Plat, a subdivision as recorded in the Office of the Recorder, Jackson County, Missouri; thence South 16° 28'

44" East, along said West line a distance of 545.72 feet, to a point on the North right of way line of SW 3rd Street; thence North 87° 11' 19" West, along said North right of way line, a distance of 322.34 feet; thence North 02° 48' 41" East, a distance of 238.65 feet; thence North 87° 10' 59" West, a distance of 268.00 feet; thence North 02° 49' 18" East, a distance of 137.77 feet; thence North 86° 31' 15" West, a distance of 307.19 feet; thence North 03° 32' 46" East, a distance of 224.80 feet, returning to the Point of Beginning. Tract contains 293,084.48 square feet or 6.73 acres more or less.

**Project Area 4:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 1511.34 feet; thence South 87° 12' 53" East, a distance of 243.95 feet, said point being the Point of Beginning of said Lot 4; thence North 03° 32' 46" East, a distance of 211.39 feet; thence South 86° 27' 14" East, a distance of 305.40 feet; thence South 03° 32' 32" West, a distance of 331.44 feet; thence along a curve to the left, having a radius of 170.00 feet, and an arc length of 141.95 feet; thence South 44° 18' 05" East, a distance of 356.79 feet; thence North 86° 30' 07" West, a distance of 625.85 feet; thence North 03° 32' 46" East, a distance of 486.04 feet, returning to the Point of Beginning. Tract contains 260,235.04 square feet or 5.97 acres more or less.

**Project Area 5:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 1511.34 feet, said point being the Point of Beginning of said Lot 5; thence continuing South 03° 19' 41" West along said East right of way line, a distance of 876.23 feet; thence South 87° 11' 19" East, a distance of 272.50 feet; thence South 03° 19' 41" West, a distance of 189.50 feet, to the North right of way line of SW 3rd Street; thence South 87° 11' 19" East along said North right of way line, a distance of 40.82 feet; thence South 73° 09' 08" East, along said North right of way line, a distance of 61.85 feet; thence South 87° 11' 19" East, along said North right of way line, a distance of 265.00 feet; thence South 02° 48' 41" West, along said North right of way line, a distance 10.00 feet; thence South 87° 11' 19" East, along said North right of way line, a distance of 181.27 feet; thence North 02° 48' 41" East, a distance of 238.65 feet; thence North 87° 10' 59" West, a distance of 268.00 feet; thence North 02° 49' 18" East, a distance of 137.77 feet; thence North 86° 31' 15" West, a distance of 307.19 feet; thence North 03° 32' 46" East, a distance of 710.84 feet; thence North 87° 12' 53" West, a distance of 243.95 feet, returning to the Point of Beginning. Tract contains 381,716.11 square feet or 8.76 acres more or less.

**Project Area 6:**

All of Lot 1, Berbiglia Heights – Lot 1, a subdivision in Lee's Summit, Missouri, as recorded in the Office of the Recorder, Jackson County, Missouri.

## EXHIBIT C

### ESTIMATED PROJECT COSTS

Redevelopment Project Costs Redevelopment Project Areas 1 - 5	Redevelopment Project Costs			Tax Increment Financing	Community Improvement District	Developer Equity or Private Financing
<u>Real Property Costs</u>						
		Public *	Private **			
Real Property	7,200,000					7,200,000
Other Land Costs	-					-
Wetlands Mitigation Engineering	25,000	25,000		25,000		-
Wetlands Environmental Impact Study	38,000	38,000		38,000		-
Wetlands Mitigation Fees	260,000	260,000		260,000		-
<b>Subtotal Real Property Costs</b>	<b>7,521,000</b>	<b>321,000</b>		<b>321,000</b>	<b>-</b>	<b>7,200,000</b>
<u>Site Development Costs</u>						
<u>Grading and other Horizontal Improvements</u>						
		Public *	Private **			
Site Grading (67%)(33%)	1,350,000	904,500		542,700	361,800	446,500
Material Import (67%)(33%)	522,746	350,240		210,144	140,096	172,506
Rock Blasting (100% TIF, No longer shared TIF/CID)	66,938	66,938		66,938		-
Finish Grading, Utilities, Parking Lot, Landscaping	1,674,000		1,674,000	1,674,000		-
<u>Water, Sewer &amp; Regional Detention</u>						
Water System Improvements - On Site	141,197					141,197
Off Site Water System Improvements (upsizing only)	365,132	32,000	333,132	32,000		333,132
Sanitary Sewer Improvements -On Site	135,968					135,968
Off Site Sanitary Sewer Improvements (172/34 acres - %)	633,833	507,067	126,766	507,067		126,766
Regional Storm Drainage Improvements (66/34 ac - 50/50)	303,312	151,656	151,656	151,656		151,656
Regional Detention Pond (66/34 ac - 50/50)	310,000	155,000	155,000	155,000		155,000
Engineering Costs (4%)	220,125	86,696	97,622	133,580	20,076	66,469
General Conditions & Construction Mgmt(8%)	440,250	173,392	195,244	267,160	40,152	132,938
Contingency (30%)	1,650,938	650,220	732,166	1,001,852	150,569	498,518
<u>Road Improvements</u>						
View High Improvements	475,000	475,000		285,000	190,000	-
Kessler Drive (moved 100% to CID) (includes curb, sidewalks, rock, asphalt)	732,134	732,134			732,134	-
Engineering Costs (4%)	48,285	48,285		11,400	36,885	-
General Conditions & Construction Mgmt(8%)	96,571	96,571		22,800	73,771	-
Contingency (30%)	362,140	362,140		85,500	276,640	-
Signal at Kessler & 3rd Street & related improvements	350,000	350,000		210,000	140,000	-
Signal at Kessler & View High Street & related improvement	350,000	350,000		210,000	140,000	-
<u>Other Site Development Costs</u>						
Topographic Survey	25,000	12,500	12,500	15,000	10,000	-
Construction Staking (for infrastructure)	25,000	12,500	12,500	15,000	10,000	-
<b>Subtotal Site Development Costs</b>	<b>10,278,569</b>	<b>5,516,840</b>	<b>3,490,587</b>	<b>5,596,797</b>	<b>2,322,123</b>	<b>2,359,650</b>
Building Costs	49,000,000					49,000,000
<b>Subtotal New Building Construction</b>	<b>49,000,000</b>					<b>49,000,000</b>
Land Disturbance Permit (State)	5,000					5,000
Land Disturbance Permit (Local)	3,000					3,000
Public Improvement Permit Fees	18,000					18,000
Traffic Study	10,000	10,000		10,000		-
Permit Fees (Estimated City Building, Water, Sewer Connect)	100,000			-		100,000
Existing Conditions Study	3,000	3,000		3,000		-
Legal Fees - Development	150,000	50,000	100,000	150,000		-
Fees - Transaction	150,000		150,000	150,000		-
Developer Fee	400,000	400,000		400,000		-
Funding Agreement Fees & Costs	150,000	150,000		150,000		-
Construction Interest and Financing Costs	1,195,000		1,195,000	1,195,000		-
<b>Subtotal Other Costs</b>	<b>2,184,000</b>	<b>613,000</b>	<b>1,445,000</b>	<b>2,058,000</b>	<b>-</b>	<b>126,000</b>
<b>Total Site Development Costs</b>	<b>68,983,569</b>	<b>6,450,840</b>	<b>4,935,687</b>	<b>7,975,797</b>	<b>2,322,123</b>	<b>58,685,650</b>
<b>% of Total Project Costs</b>				<b>11.6%</b>	<b>3.4%</b>	<b>85.1%</b>
* These project costs are infrastructure to be owned by the Public Ownership or project costs related to the Public Purpose of Blight Remediation.						68,983,569
** These project costs are by definition eligible Redevelopment Project Costs, though private ownership.						

**EXHIBIT D**  
**PROJECT SCHEDULE**

**Redevelopment Project Area 1 - Plan Year 1**

	<u>Commence</u>	<u>Complete</u>
- Blight Removal	2017	2018
- Construction	2018	2019

**Redevelopment Project Area 2 - Plan Year 3**

	<u>Commence</u>	<u>Complete</u>
- Blight Removal	2017	2018
- Construction	2019	2020

**Redevelopment Project Area 3 - Plan Year 1**

	<u>Commence</u>	<u>Complete</u>
- Blight Removal	2017	2018
- Construction	2018	2019

**Redevelopment Project Area 4 - Plan Year 4**

	<u>Commence</u>	<u>Complete</u>
- Blight Removal	2017	2018
- Construction	2020	2021

**Redevelopment Project Area 5 - Plan Year 6**

	<u>Commence</u>	<u>Complete</u>
- Acquisition	2017	2017
- Blight Removal	2017	2018
- Construction	2022	2023

**Redevelopment Project Area 6**

	<u>Commence</u>	<u>Complete</u>
- Acquisition	To Be Determined	
- Blight Removal	To Be Determined	
- Construction	To Be Determined	

**EXHIBIT E**

**CERTIFICATE OF SUBSTANTIAL COMPLETION  
OF  
PARROT PROPERTIES, LLC**

The undersigned, Parrot Properties, LLC (the “**Developer**”), pursuant to that certain Tax Increment Financing Redevelopment Agreement dated as of \_\_\_\_\_, 2018, between the City of Lee’s Summit, Missouri (the “**City**”) and the Developer (the “**Agreement**”), hereby certifies to the City as follows:

1. That as of \_\_\_\_\_, 20\_\_\_\_, Redevelopment Project \_\_\_\_ (as such term is defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. Redevelopment Project \_\_\_\_ has been completed in a good and workmanlike manner and the Public Improvements have been completed in a good and workmanlike manner and in accordance with the Construction Plans (as those terms are defined in the Agreement).

3. Lien waivers for the Public Improvements have been obtained.

4. This Certificate of Substantial Completion is accompanied by the project architect’s certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and by this reference incorporated herein, certifying that Redevelopment Project \_\_\_\_ has been substantially completed in accordance with the Agreement.

5. This Certificate of Substantial Completion is being issued by the Developer to the City in accordance with the Agreement to evidence the Developer’s satisfaction of all obligations and covenants with respect to Redevelopment Project \_\_\_\_\_.

6. The City’s acceptance (below) or the City’s failure to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate of Substantial Completion to the City (which written objection, if any, must be delivered to the Developer prior to the end of such 30-day period), and the recordation of this Certificate of Substantial Completion with the Jackson County Recorder of Deeds, shall evidence the satisfaction of the Developer’s agreements and covenants to construct Redevelopment Project \_\_\_\_\_.

This Certificate of Substantial Completion shall be recorded in the office of the Jackson County Recorder of Deeds. This Certificate of Substantial Completion is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

[Remainder of page intentionally blank.]



IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**PARROT PROPERTIES, LLC,**  
a Missouri limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACCEPTED:**

**CITY OF LEE'S SUMMIT, MISSOURI**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Insert Notary Form(s) and Legal Description]

**EXHIBIT F**

**APPLICATION FOR REIMBURSABLE PROJECT COSTS**

TO: City of Lee’s Summit, Missouri  
Attention: City Manager

Re: Village at View High Tax Increment Financing Plan

*Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Tax Increment Financing Redevelopment Agreement dated as of \_\_\_\_\_, 2018 (the “Agreement”) between the City of Lee’s Summit, Missouri (the “City”) and Parrot Properties, LLC (the “Developer”). In connection with said Agreement, the undersigned hereby states and certifies that:*

1. Each item listed on *Schedule 1* hereto is a Reimbursable Project Cost and was incurred in connection with the construction of the Redevelopment Projects.
2. These Reimbursable Project Costs have been paid by the Developer and are reimbursable under the Redevelopment Plan Ordinance and the Agreement.
3. Each item listed on *Schedule 1* has not previously been paid or reimbursed from money derived from the Special Allocation Fund and no part thereof has been included in any other Application previously filed with the City.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the Work for which this application relates have been issued and are in full force and effect.
6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.
7. If any cost item to be reimbursed under this application is deemed not to constitute a Redevelopment Project Cost within the meaning of the TIF Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable Project Costs for payment hereunder.
8. The Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes a Developer Event of Default under the Agreement.
9. All of the Developer’s representations set forth in the Agreement remain true and correct as of the date hereof.
10. Construction of the Redevelopment Projects is in compliance with the Project Schedule set forth in **Exhibit D** to the Agreement, subject to any amendment or Excusable Delay.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**PARROT PROPERTIES, LLC,**  
a Missouri limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved for Payment this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_:

**CITY OF LEE'S SUMMIT, MISSOURI**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## **EXHIBIT G**

### **RESTRICTED LAND USES IN THE REDEVELOPMENT AREA**

Title loan, check cashing, or unsecured loan business

Adult business, adult entertainment, adult personal services

Businesses involving the sale of any property that requires motor vehicle licensing or titling

Car repair or maintenance

Car sales

Boat dealers

Boat, RV, and maintenance equipment storage

Building or grounds maintenance

Bus Terminal

Cemetery or mausoleum

Heavy equipment rental, sales, or service

Kennel with outside runs

Laundry, dry cleaning or garment services (not including drop-off & pick-up dry cleaning service)

LP gas or fuel oil sales (unless as an accessory use)

Manufactured home sales

Motorcycle sales

Outdoor gun club, skeet or trap shoot or archery range

Pawn shop

Plumbing and heating equipment dealers

RV sales

Tattoo parlor

Smoke or vape shops

Drive-in theater

Secondary resale or thrift stores

Travel trailer camp

Truck sales or lease

Penal or correctional institution

Commodity purchase facilities (e.g. Cash for Gold stores)

Asphalt plant

Aviation field, Airport and Heliport

Cement, lime, gypsum and plaster of paris manufacture

Chemical and allied products

Concrete batch plant

Garbage processing facility

Landfill, sanitary and demolition

Mining

Mini-warehouse facility

Oil and gas production

Railroad lines, yards or station

Salvage yard, scrap yard, junkyard and automobile wrecking yard

Sewage treatment facility

Solid waste transfer station

Recycling center, except as an accessory use

Tow lot

Trucking and courier service

Date: September 1, 2017

To: File

From: Randall L. Rhoads *RLR*

Reference Bill No. 17-178 (Ordinance No. 8232)

Paraphrasing Article IV Section 4.4 (c) of the Charter for Lee's Summit, the Mayor shall either sign or veto an ordinance within ten days. Further, if not signed or vetoed, it shall be deemed approved as if Mayor had signed it.

I am not signing this Ordinance because I have concerns regarding this TIF plan. My concerns do not rise to the level that would cause me to Veto this ordinance, but are of a nature that I will not sign the ordinance.

I am concerned that the cost distributions shown in Exhibit 7 could be used as a basis for declaring that a precedent has been set regarding TIF funding of non-public improvements which include inclusion of costs for a new private building (i.e., a grocery store). The classic TIF theory allows for costs to be reimbursed for public improvements such as streets, sewers, other infrastructure, and site preparation. It is recognized that the statute has been interpreted to allow for some more, creative applications.

AN ORDINANCE APPROVING THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN, ESTABLISHING A REDEVELOPMENT AREA AND DESIGNATING THE REDEVELOPMENT AREA AS A BLIGHTED AREA.

WHEREAS, the City of Lee's Summit, Missouri (the "City") is a charter city and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and,

WHEREAS, pursuant to the Real Property Tax Increment Financing Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri (the "TIF Act"), Parrot Properties, LLC (the "Developer") submitted the Village at View High Tax Increment Financing Plan (the "TIF Plan") to the City; and,

WHEREAS, on May 30, 2017, after due notice in accordance with the Act, the Tax Increment Financing Commission ("TIF Commission") opened a public hearing, at which all interested persons and taxing districts affected by the TIF Plan were afforded an opportunity to make comments, file written objections, protests and be heard orally regarding adoption of the TIF Plan, and the TIF Commission continued the hearing to June 26, 2017; and,

WHEREAS, on June 26, 2017, the TIF Commission took additional evidence and testimony and, having heard and considered the objections, protests, comments and other evidence adduced at the public hearing, closed the public hearing and voted 9-1 to adopt Resolution 2017-2 which recommends that the Council make required findings, approve the TIF Plan, designate the proposed property as the Redevelopment Area for the TIF Plan and designate the Parrot Properties, LLC as the developer of record for the Plan and the Redevelopment Projects and enter into a tax increment financing contract to implement the TIF Plan; and,

WHEREAS, on August 10, 2017, at a public meeting of the City Council, after the posting of proper notice of the consideration of this issue and after all parties in interest and citizens were provided the opportunity to be heard, the City Council considered the TIF Plan, the recommendation of the TIF Commission, the recommendations of City staff and consultants and considered the public objections, protests, comments and other evidence; and,

WHEREAS, having heard and considered the objections, protests, comments and other evidence adduced at the meeting, the evidence and testimony submitted at the TIF Commission public hearing, the recommendation of the TIF Commission and the recommendation of City staff, the City Council desires to approve the TIF Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. The TIF Plan, a copy of which is on file in the Office of the City Clerk, is hereby approved and adopted. In the event of any conflict or inconsistency between the TIF Plan and this Ordinance, the provisions of this Ordinance shall control.

SECTION 2. The tract of land legally described in Exhibit A of this Ordinance is hereby designated as the Redevelopment Area.



**SECTION 3. The City Council hereby finds that:**

A. the TIF Plan sets forth in writing a general description of the program to be undertaken to accomplish its objectives, including the estimated redevelopment project costs, the anticipated sources of funds to pay the costs, evidence of the commitments to finance the project costs, the anticipated type and term of the sources of funds to pay costs, the anticipated type and terms of the obligations to be issued, the most recent equalized assessed valuation of the property within the Redevelopment Area which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to Section 99.845, RSMo, an estimate as to the equalized assessed valuation after redevelopment, and the general land uses to apply in the Redevelopment Area;

B. the Redevelopment Area is a blighted area, as such term is defined in Section 99.805(1), RSMo, due to the presence of blighting factors as set forth in the Blight Analysis attached as Exhibit 4 to the TIF Plan, including that the Redevelopment Area is characterized by inadequate street layout, unsanitary or unsafe conditions, deteriorating site improvements, existence of conditions which endanger life and property, and which create an economic liability for the City in that the presence of the blighting factors lowers property values, increases public costs, lowers tax revenues, and results in economic underutilization of the Redevelopment Area and fails to generate adequate taxes for the applicable Taxing Districts. The TIF Plan is also accompanied by an affidavit signed by the Developer attesting to the blighting conditions of the Redevelopment Area;

C. the Redevelopment Area has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing. The TIF Plan is accompanied by an affidavit signed by the Developer attesting to this statement;

D. the TIF Plan is in conformance with the Comprehensive Plan for the development of the City as a whole;

E. the TIF Plan contains both estimated dates of completion of the redevelopment projects and estimated dates for the retirement of obligations incurred to finance redevelopment project costs, and said dates are not more than twenty-three (23) years from the adoption of an ordinance approving tax increment financing within the Redevelopment Project Area;

F. a Relocation Assistance Plan has been developed for relocation assistance for businesses and residences, and the relocation of any business or residents in the Redevelopment Area, if necessary, will take place in accordance with the Relocation Assistance Plan attached to the TIF Plan as Exhibit 13;

G. the TIF Plan contains a cost-benefit analysis set forth in Exhibit 6 showing the economic impact of the TIF Plan on each taxing district and political subdivision within the Redevelopment Area if the proposed redevelopment projects are built pursuant to

the TIF Plan or are not built, and evidence that the proposed redevelopment projects are financially feasible to undertake with TIF assistance;

H. the TIF Plan does not include the initial development or redevelopment of any gambling establishment; and

I. the areas selected for the Redevelopment Projects include only those parcels of real property and improvements thereon which will be directly and substantially benefited by the Redevelopment Project improvements.

SECTION 4. Parrot Properties, LLC is hereby designated as a developer of record for the TIF Plan.

SECTION 5. Approval of the TIF Plan by this Ordinance is conditioned upon the developer of record entering into a tax increment financing redevelopment contract with the City upon terms acceptable to the City to carry out the goals and objectives of the TIF Plan. The City Manager is authorized and directed to negotiate a tax increment financing redevelopment contract with the developer of record to implement the TIF Plan. Failure of the developer of record to enter into such contract shall nullify and render void the approvals granted in this ordinance upon such declaration by the City Council.

SECTION 6. City officers and agents of the City are each hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 7. This Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor.

PASSED by the City Council for the City of Lee's Summit, Missouri, this 24<sup>th</sup> day of August, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

  
City Attorney *Brian W. Head*

**EXHIBIT A****LEGAL DESCRIPTION OF REDEVELOPMENT AREA****Project Area 1:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 818.21 feet, said point being the Point of Beginning of Lot 1; thence South 86° 28' 37" East, a distance of 271.87 feet; thence along a curve to the right, having a radius of 220.00 feet and an arc length of 345.65 feet; thence South 03° 32' 32" West, a distance of 258.62 feet; thence North 86° 27' 14" West, a distance of 245.40 feet; thence South 03° 32' 46" West, a distance of 211.39 feet; thence North 87° 12' 53" West, a distance of 243.95 feet, to a point on the East right of way line of View High Drive; thence North 03° 19' 41" East, along said East right of way line, a distance of 693.13 feet, returning to the Point of Beginning. Tract contains 276,664.92 square feet or 6.35 acres more or less.

**Project Area 2:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 818.21 feet; thence South 86° 28' 37" East, a distance of 271.87 feet; thence along a curve to the right, having a radius of 220.00 feet and an arc length of 345.65 feet; thence South 03° 32' 32" West, a distance of 258.62 feet; thence South 86° 27' 14" East, a distance of 60.00 feet, said point being the Point of Beginning of said Lot 2; thence continuing South 86° 27' 14" East, a distance of 595.72 feet; thence along a curve to the left, having a radius of 385.00 feet, and an arc length of 154.23 feet; thence South 38° 53' 54" East, a distance of 42.06 feet, to a point on the West line of Winterset Valley 10th Plat, a subdivision as recorded in the Office of the Recorder, Jackson County, Missouri; thence South 51° 06' 06" West, along said West line a distance of 599.08 feet; thence South 03° 29' 20" West, along said West line, a distance of 80.00 feet; thence South 45° 41' 55" West, a distance of 165.12 feet; thence North 44° 18' 05" West, a distance of 223.24 feet; thence along a curve to the right, having a radius of 170.00 feet and an arc length of 141.95 feet; thence North 03° 32' 32" East, a distance of 331.44 feet, returning to the Point of Beginning. Tract contains 263,533.33 square feet or 6.05 acres more or less.

**Project Area 3:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 1511.34 feet; thence South 87° 12' 53" East, a distance of 243.95 feet; thence South 03° 32' 46" West, a distance of 486.04 feet, said point being the Point of Beginning of said Lot 3; thence South 86° 30' 07" East, a distance of 625.85 feet; thence South 44° 18' 05" East, a distance of 120.81 feet, to a point on the West line of Winterset Valley 10th Plat, a subdivision as recorded in the Office of the Recorder, Jackson County, Missouri; thence South 16° 28' 44" East, along said West line a distance of 545.72 feet, to a point on the North right of way line of SW 3rd Street; thence North 87° 11' 19" West, along said North right of way line, a distance of 322.34 feet; thence North 02° 48' 41" East, a distance of 238.65 feet; thence North 87° 10' 59" West, a distance of 268.00 feet; thence North 02° 49' 18" East, a distance of 137.77 feet; thence North 86° 31' 15" West, a distance of 307.19 feet; thence North 03° 32' 46" East, a distance of 224.80 feet, returning to the Point of Beginning. Tract contains 293,084.48 square feet or 6.73 acres more or less.

**Project Area 4:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 1511.34 feet; thence South 87° 12' 53" East, a distance of 243.95 feet, said point being the Point of Beginning of said Lot 4; thence North 03° 32' 46" East, a distance of 211.39 feet; thence South 86° 27' 14" East, a distance of 305.40 feet; thence South 03° 32' 32" West, a distance of 331.44 feet; thence along a curve to the left, having a radius of 170.00 feet, and an arc length of 141.95 feet; thence South 44° 18' 05" East, a distance of 356.79 feet; thence North 86° 30' 07" West, a distance of 625.85 feet; thence North 03° 32' 46" East, a distance of 486.04 feet, returning to the Point of Beginning. Tract contains 260,235.04 square feet or 5.97 acres more or less.

**Project Area 5:**

A tract of land being located in the Southwest Quarter of Section 3, Township 47 North, Range 32 West, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter; thence South 87° 05' 51" East, a distance of 30.00 feet, to a point on the East right of way line of NW View High Drive; thence South 03° 19' 41" West, along said East right of way line, a distance of 1511.34 feet, said point being the Point of Beginning of said Lot 5; thence continuing South 03° 19' 41" West along said East right of way line, a distance of 876.23 feet; thence South 87° 11' 19" East, a distance of 272.50 feet; thence South 03° 19' 41" West, a distance of 189.50 feet, to the North right of way line of SW 3rd Street; thence South 87° 11' 19" East along said North right of way line, a distance of 40.82 feet; thence South 73° 09' 08" East, along said North right of way line, a distance of 61.85 feet; thence South 87° 11' 19" East, along said North right of way line, a distance of 265.00 feet; thence South 02° 48' 41" West, along said North right of way line, a distance 10.00 feet; thence South 87° 11' 19" East, along said North right of way line, a distance of 181.27 feet; thence North 02° 48' 41" East, a distance of 238.65 feet; thence North 87° 10' 59" West, a distance of 268.00 feet; thence North 02° 49' 18" East, a distance of 137.77 feet; thence North 86° 31' 15" West, a distance of 307.19 feet; thence North 03° 32' 46" East, a distance of 710.84 feet; thence North 87° 12' 53" West, a distance of 243.95 feet, returning to the Point of Beginning. Tract contains 381,716.11 square feet or 8.76 acres more or less.

**Project Area 6:**

All of Lot 1, Berbiglia Heights – Lot 1, a subdivision in Lee's Summit, Missouri, as recorded in the Office of the Recorder, Jackson County, Missouri.



# GILMORE BELL

GILMORE & BELL PC  
2405 GRAND BOULEVARD, SUITE 1100  
KANSAS CITY, MISSOURI 64108-2521  
816-221-1000 | 816-221-1018 FAX  
GILMOREBELL.COM

August 2, 2017

TO: Lee's Summit City Council  
FROM: Rich Wood  
RE: Summary of Village at View High TIF Plan

**Property:** The Redevelopment Plan land area is comprised of approximately 34 acres with frontage along View High Drive and frontage along 3<sup>rd</sup> Street, all within Jackson County, Lee's Summit, Missouri. The property owners in the Redevelopment Area are included in Exhibit A to this memorandum.

**Developer:** Parrot Properties, LLC (the "Developer")

**Development:** The Developer proposes to construct within the Redevelopment Area the private development listed in Exhibit B to this memorandum. The development is shown on the Site Concept Plan attached to the TIF Plan as *Exhibit 3*. The development includes the construction of Kessler Street and related 3<sup>rd</sup> Street and View High intersection improvements, construction of a detention pond, and the extension of sanitary sewer and water improvements. The TIF Plan includes potential incidental second floor residential uses within the Redevelopment Area. However, if residential is developed the square footage and related real property taxes will not be captured by the TIF Plan, but will be distributed to the appropriate taxing districts.

**Sources and Uses:** A detailed budget is included in the TIF Plan as *Exhibit 7*. The Developer indicates that the following sources will fund the development costs:

Developer Debt	\$51,485,650
Developer Equity	\$7,200,000
TIF/Captured CID	\$7,975,797
Community Improvement District	\$2,322,123
	<hr/>
	\$68,983,570

A more detailed sources and uses table is provided in *Exhibit 8* to the TIF Plan.

### **Property Investment and Valuation:**

- Current assessed valuation: \$48,532 to \$160,951
- Total Project Costs: \$68,983,570
- Projected assessed valuation after Project is constructed: \$4,744,870 to \$12,920,725

### **Ownership and Development Structure:**

- Developer or related entities own most parcels within the Redevelopment Area. A full list of parcels and property owners is attached as Exhibit A to this Summary.
- The Redevelopment Area includes six redevelopment project areas, but only Redevelopment Projects 1 through 5 are described in the Redevelopment Plan at this time. No data or projections are provided in the Plan for Project 6, as it will be presented to the City as an amendment to the Redevelopment Plan if and when that project is ready to move forward.

### **TIF Reimbursement and Financing Structure:**

- **PILOTS:** 50% of PILOTS will be captured and 50% of PILOTS will be declared surplus and returned to the taxing districts. The Developer projects that in the total time that tax increment financing is in place, the TIF within Redevelopment Project Areas 1 through 5 will generate \$11,800,199 in PILOTS. It is assumed in the Redevelopment Plan that property tax revenues will increase at a rate of 1.5% semi-annually.
- **EATs:** 50% of EATs will be captured. The Developer projects that in the total time that tax increment financing is in place, the TIF within Redevelopment Project Areas 1 through 5 will generate \$26,964,076 in EATs. It is assumed in the Redevelopment Plan that sales tax revenues will increase at a rate of 1.5% a year.
- **Reimbursable Project Costs:** TIF revenue is proposed to reimburse \$7,975,797 of project costs and CID sales tax revenue to reimburse \$2,322,123 of the project costs. The Developer projects that Redevelopment Projects 1 through 5 will each last 23 years to provide full reimbursement for the costs associated with Redevelopment Project Areas 1 through 5. However, the maximum project cost reimbursement from TIF revenues will be \$7,975,797, plus financing costs and advanced funds, and the maximum cost reimbursement from CID revenues will be \$2,322,123.
- **Super TIF:** No City “Super-TIF” contribution has been requested – 50% of all sales tax revenue will flow to the City as normal.
- **Obligations:** Obligations may be issued in the future, at the City’s discretion, to finance certain Redevelopment Project Costs.
- **Sales:** Annual sales after full build-out (year 6) are projected to be \$36.3 million, escalating to \$55.5 million in year 23.



### **CID:**

- The CID is proposed to impose a sales tax not to exceed 1%. The boundaries of the CID will be coterminous with the boundaries of the Redevelopment Area.
- The TIF Plan will capture half of all CID sales tax revenues as EATs, which can then be expended on TIF-eligible Reimbursable Project Costs. The Developer projects that in the total time that tax increment financing is in place, the revenue from the CID sales tax accounted for as EATs will be \$5,456,807. The one-half of CID sales tax revenues that are not captured as EATs, which are projected to be \$5,456,807, will be pledged for the reimbursement of Redevelopment Project Costs which also qualify as eligible for reimbursement in accordance with the CID Act.
- Uncaptured CID sales tax revenue will reimburse a maximum of \$2,322,123 of the project costs.

### **Benefit to Taxing Districts:**

- The Cost-Benefit Analysis attached to the TIF Plan as *Exhibit 6* shows the projected tax revenues to be generated by the project for each taxing district if the project does not occur and if the project does occur with the use of TIF.
- 50% of PILOTs will be declared surplus and returned to the taxing districts.

### **Levels of Incentives:**

- The proposed levels of incentives, comparing overall project costs to those line items proposed to be funded by incentives are as follows:
  - TIF assistance would be 11.6%.
  - CID assistance would be 3.4%.
  - Overall assistance would be 15%.
- The City's Economic Incentive Policy provides in the section entitled "Use of Incentives" on page 4, that the value of an incentive is calculated by multiplying the cap amount and the total private development cost. Private development costs are items that will not have public ownership. The cap amount is the maximum reimbursement to be provided from public sources. In this case it is proposed that the TIF cap amount be \$7,975,797 and the CID cap amount be \$2,322,123, for a total cap amount of \$10,297,920.
- The Developer has provided information evidencing what it believes the portion of each budget line item which is attributable to a public or private cost to be. Based on the Developer's information, of the total of \$10,297,920 for which public incentives are sought, \$6,450,840 is attributable to public costs and \$4,935,587 is attributable to private costs. Under the methodology provided in the City's Incentive Policy (essentially backing the public costs out of the overall project cost number), the percentage of public incentives sought would be as follows:
  - TIF assistance would be 12.8%
  - CID assistance would be 3.7%
  - Total public assistance would be 16.5%

## **Key Staff Issues:**

- **Value of Property**

- Real property costs are shown in the Project Budget, *Exhibit 7*, to be \$7,200,000. This equates to a value of \$4.88 per square foot.
- An appraisal was not conducted for purposes of considering this TIF Plan. Without an appraisal, it is difficult to determine the correct value of the real property included in the Redevelopment Area.
- The Developer has provided information confidentially regarding the most recent sale of property within the Redevelopment Area (Senior Living Use Land Sale – Lot 2, *Exhibit 9*) as well as private bank loan appraisals for Lots 7 and 9, as represented in *Exhibit 9*.
- After dialogue between the Developer and City staff, the Developer revised the estimated value for the property as stated in the TIF Plan from \$9,250,000 to \$7,200,000, or \$6.27 per square foot to \$4.88 per square foot.

- **Rate of Return**

- The assumptions upon which the Developer's Rate of Return analysis is based are as follows: (1) property value of \$7,200,000, (2) infrastructure costs of \$12,263,000, (3) a public incentive amount of \$10,297,920, (4) construction interest rate of 5.5% throughout the entire ten year period of the analysis, (5) the sale of one-half of the property in year three, and (6) the sale of the remainder of the property in year ten.
- The Developer's Rate of Return analysis without incentives shows a loss of \$10,247,680.
- The Developer's Rate of Return analysis with incentives shows a gain of \$49,760.

- **Water and Sewer Infrastructure**

- The Project Budget in *Exhibit 7* provides for a split between public and private costs for off-site sanitary sewer improvements of 80% public and 20% private. TIF assistance is requested for 80% of these costs.
- The Budget also provides for a split between public and private costs for off-site water improvements, based on upsize costs only, of 8.8% public and 91.2% private. TIF assistance is requested for 8.8% of these costs.
- The Developer has stated that the Senior Living and Multi-Family developments located outside the Redevelopment Area will benefit from the off-site water and sewer improvements. In addition, there is approximately 80+ acres outside of the Redevelopment Area that will benefit from the off-site water and sewer improvements.

- **Stormwater Infrastructure**

- The Developer has requested that 50% of the regional storm drainage and detention pond improvements be reimbursed from TIF revenues on the basis that 50% of the improvements will serve the Redevelopment Area and 50% of the improvements will serve the Senior Living and Multi-Family developments outside of the Redevelopment Area.

- **Transportation / Roads**

- Kessler Drive, which is primarily an internal road, is proposed to be paid for with CID revenues and not TIF revenues.
- The other road improvements, which provide a regional benefit, are proposed to be funded with a combination of TIF and CID revenues.

- **Site Grading and Material Import**

- The Developer has provided information to City staff which shows that 67% of the costs in the Site Grading and Material Import categories are due to the construction of the public streets (right-of-way).
- The development pad sites abutting 3rd Street and View High Drive represent 33% of the entire Redevelopment Area.
- Based upon these assumptions, the applicant is seeking 67% TIF assistance for Site Grading and Material Import, to be reimbursed by the TIF and CID.
- Portions of land area beyond the right-of-way have been included in the 67% reimbursement request.

- **Construction Costs for Private Improvements**

- The Developer has provided information to City staff from a construction firm supporting the construction cost estimates for the private building costs for the 264,750 square feet of space (\$185.08 sf).
- The \$49,000,000 construction cost estimate includes tenant finish and soft costs for the private building improvements.
- It is the staff's intention to require a "performance-based" TIF agreement that requires minimum levels of private investment within agreed time frames.

- **Grocery Store Costs**

- The Developer is seeking a 100% development incentive to provide a "pad ready" site for a proposed grocery store.
- These proposed costs total \$3,072,080 in TIF and CID assistance. \$1,674,000 of these costs appear in the *Exhibit 7* Project Budget line item titled "Finish Grading, Utilities, Parking Lot, Landscaping."
- The City has not provided an incentive of this nature to attract a specific user or tenant.
- If the TIF Plan is approved with these costs as TIF reimbursable, the Developer has agreed that the TIF agreement may require that the Developer will not receive reimbursement of the TIF reimbursable grocery store costs until completion of construction of the grocery store.

**Required Findings:** The following is a list of the findings required to be made by the City Council, along with references to the pages in the TIF Plan where supporting information may be found:

- **Blight:** The Redevelopment Area must be a blighted area, as such term is defined in Section 99.805(1), RSMo, as follows:

an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use.

The basis presented by the Developer in support of a blight finding is the presence of several blighting factors as set forth in the Blight Study prepared by the Developer (*Exhibit 4*). The Redevelopment Plan is also accompanied by an affidavit, signed by the developer, attesting to the blighting conditions of the Redevelopment Area (*Exhibit 11*). The following is an overview of the blighting factors noted in the Blight Study:

- Inadequate Street Layout
  - Poor vehicular access in and around the Redevelopment Area.
  - Lack of internal circulation.
  - Limited points of ingress and egress for general vehicular access.
  - Limited points of ingress and egress for emergency vehicles.
- Unsanitary or Unsafe Condition
  - Unsecured farm pond.
  - Unsecured septic pond.
  - Unsecured swimming pool.
- Deterioration of Site Improvements
  - Severely deteriorated roofing material.
  - Broken windows.
  - Unmaintained landscaping.
  - Scattered trash and debris.
  - Possible environmental hazards.
- Existence of Conditions which Endanger Life or Property
  - Presence of the aforementioned farm pond which is presently unsecured, unmonitored and unsupervised.
  - Presence of suspect black mold within a vacant single-family residence.
  - Presence of the aforementioned unsecured septic pond and abandoned swimming pool.
- **But-For:** The proposed redevelopment must satisfy the “but for” test set forth in Section 99.810, RSMo, in that the Redevelopment Area has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment, and the TIF Plan is accompanied by an affidavit, signed by the Developer, attesting to this statement (*Exhibit 11*). The Rate of Return analysis provided by Developer provides additional support for this finding.

- **Cost-Benefit Analysis:** A cost-benefit analysis is required showing the economic impact of the TIF Plan on each taxing district and political subdivision within the Redevelopment Area if the project is built pursuant to the TIF Plan or is not built. A cost-benefit analysis has been provided in *Exhibit 6* to the TIF Plan.
- **Financial Feasibility:** There must be evidence that the proposed project is financially feasible for the Developer to construct with TIF assistance. The cost-benefit analysis included in *Exhibit 6* contains some information supporting this finding. The Rate of Return analysis provided by Developer provides additional support for this finding.
- **TIF Plan Contents:** The TIF Plan must contain the following information, and the page and exhibit references below indicate where the information may be found in the TIF Plan:
  - A general description of the program to be undertaken to accomplish its objectives (*Pages 6-8*).
  - The estimated redevelopment project costs (*Page 8 and Exhibit 7*).
  - The anticipated sources of funds to pay the costs (*Pages 8-10 and Exhibit 8*).
  - Evidence of the commitments to finance the project costs (*Exhibit 12*).
  - The anticipated type and term of the sources of funds to pay costs (*Pages 8-10*).
  - The anticipated type and terms of the obligations to be issued (*Page 10*).
  - The most recent equalized assessed valuation of the property within the Redevelopment Area which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to Section 99.845, RSMo (*Page 10 and Exhibit 6*).
  - An estimate as to the equalized assessed valuation after redevelopment (*Pages 10-11 and Exhibit 6*).
  - The general land uses to apply in the Redevelopment Area (*Page 11*).
  - Estimated dates for the retirement of obligations incurred to finance redevelopment project costs, and said dates are not more than twenty-three (23) years from the adoption of an ordinance approving a Redevelopment Project within the Redevelopment Area (*Page 12*).
  - Estimated dates of completion of the redevelopment project (*Exhibit 5*).
- **Plan Requirements:** The TIF Plan must also meet the following requirements, and the page and exhibit references below indicate where the information supporting these requirements may be found in the TIF Plan:
  - The TIF Plan is in conformance with the Comprehensive Plan for the development of the City as a whole (*Page 12*).
  - A Relocation Assistance Plan has been developed for relocation assistance for businesses and residences, and the relocation of any business or residents in the Redevelopment

Area, if necessary, will take place in accordance with the Relocation Assistance Plan (*Page 12 and Exhibit 13*).

- The TIF Plan does not include the initial development or redevelopment of any gambling establishment (*Page 12*).
- The areas selected for the Redevelopment Project include only those parcels of real property and improvements thereon which will be directly and substantially benefited by the Redevelopment Project improvements (*Exhibit 1*).

**EXHIBIT A**

**PROPERTY OWNERSHIP IN TIF REDEVELOPMENT AREA**

<b><u>Property Owner</u></b>	<b><u>Parcel Number</u></b>	<b><u>Project Area</u></b>	<b><u>Square Feet</u></b>
Parrot Properties, Inc.	62-330-99-98-01-0-00-000	1	1,086,569
Mikes Farm, Inc.	62-330-99-99-01-2-00-000	2	357,903
Mikes Farm, Inc.	62-330-99-98-02-1-00-000	1,2 & 4	485,985
Mikes Farm, Inc.	62-330-99-91-01-0-00-000	2,3,4 & 5	980,653
New Orleans, LLC	62-330-99-97-00-0-00-000	1 & 5	126,194
Mikes Farm, Inc.	62-330-99-96-00-0-00-000	5	44,503
Bondon, John R., Trustee	62-330-99-95-00-0-00-000	5	44,511
Faulkner, Richard H. & Robert G.	62-330-99-94-00-0-00-000	5	44,498
Bondon, John R., Trustee	62-330-99-93-00-0-00-000	5	61,296
Cochran, David Keith	62-330-99-92-00-0-00-000	6	51,399

**EXHIBIT B**

**PROPOSED LAND USES IN REDEVELOPMENT AREA**

<u>Use</u>	<u>Square Feet</u>
Medical office	21,600
Grocery	26,850
Bank	7,200
Office	97,840
Retail	59,710
Restaurant	27,550
Residential	24,000



**RESOLUTION NO. 2017-2**

**A RESOLUTION OF THE TAX INCREMENT FINANCING COMMISSION OF LEE'S SUMMIT, MISSOURI, RECOMMENDING THAT THE CITY COUNCIL APPROVE THE VILLAGE AT VIEW HIGH TAX INCREMENT FINANCING PLAN.**

WHEREAS, the Tax Increment Financing Commission of Lee's Summit, Missouri ("**TIF Commission**"), has been duly formed by the City Council of the City of Lee's Summit, Missouri ("**City Council**") pursuant to Section 99.820.2 of the Revised Statutes of Missouri ("**RSMo**");

WHEREAS, on April 28, 2017, a proposed Village at View High Tax Increment Financing Plan (the "**TIF Plan**") was submitted to the City of Lee's Summit, Missouri (the "**City**") which calls for the construction of 242,640 square feet of mixed land uses, including approximately 21,600 square feet of medical office, a 26,850 square foot grocery, a 7,200 square foot bank location, 87,490 square feet of office, 49,780 square feet of retail, 25,720 square feet of restaurant, 24,000 square feet of residential, and an addition to the City's street network of a portion of Kessler Drive north of 3<sup>rd</sup> Street;

WHEREAS, the Redevelopment Area for the TIF Plan, which contains approximately 34 acres, is generally located at the northeast corner of the intersection of 3<sup>rd</sup> Street and View High Drive in the City, and is legally described in the TIF Plan;

WHEREAS, on April 13, 2017, the City mailed written notices of the scheduled TIF Commission public hearing to consider the TIF Plan to all taxing districts from which taxable property is included in the proposed Redevelopment Area, in compliance with Sections 99.825 and 99.830, RSMo;

WHEREAS, on May 3, 2017, the City published notice in the *Lee's Summit Journal* of the scheduled TIF Commission public hearing to consider the merits of the TIF Plan, in compliance with Section 99.830, RSMo;

WHEREAS, on May 19, 2017, the City mailed written notices of the scheduled TIF Commission public hearing to all persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Redevelopment Area, in compliance with Section 99.830, RSMo;

WHEREAS, on May 24, 2017, the City again published notice in the *Lee's Summit Journal* of the scheduled TIF Commission public hearing to consider the merits of the TIF Plan, in compliance with Section 99.830, RSMo;

WHEREAS, on May 26, 2017, notice of the TIF Commission meeting at which the public hearing will be held for consideration of the TIF Plan was posted in compliance with the Missouri Sunshine Law, Sections 610.010 to 610.225, RSMo, and the special notice requirements set forth in Section 67.2725, RSMo;

WHEREAS, a copy of the notice of the public hearing has been submitted to the Director of the Department of Economic Development, in compliance with Sections 99.825 and 99.830, RSMo.;

WHEREAS, on May 30, 2017, at 6:00 p.m., the TIF Commission opened the public hearing to consider the proposed TIF Plan, and after hearing testimony moved to continue to the public hearing to a date certain of June 26, 2017, at 6:00 p.m.;

WHEREAS, on June 26, 2017, the TIF Commission closed the public hearing to consider the proposed TIF Plan;

WHEREAS, the public hearing conducted by the TIF Commission to consider the TIF Plan was open to the public, a quorum of the Commissioners was present and acted throughout, and the proper notice of such hearing was given in accordance with all applicable laws including Chapter 610, RSMo; and

WHEREAS, after considering the evidence and testimony received at the public hearing, the TIF Commission now desires to recommend that the City Council make required findings and take certain actions to adopt and implement the TIF Plan.

NOW, THEREFORE, be it resolved by the Tax Increment Financing Commission for the City of Lee's Summit:

1. **Findings.** In accordance with Section 99.810, RSMo, the TIF Commission makes the following findings and recommends that the City Council by ordinance make the following findings regarding the TIF Plan:

A. the TIF Plan sets forth in writing a general description of the program to be undertaken to accomplish its objectives, including the estimated redevelopment project costs, the anticipated sources of funds to pay the costs, evidence of the commitments to finance the initial project costs which are expected to be incurred, the anticipated type and term of the sources of funds to pay costs, the anticipated type and terms of the obligations to be issued, the most recent equalized assessed valuation of the property within the Redevelopment Area which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to Section 99.845, RSMo, an estimate as to the equalized assessed valuation after redevelopment, and the general land uses to apply in the Redevelopment Area;

B. the Redevelopment Area is a blighted area, as such term is defined in Section 99.805(1), RSMo, due to the presence of several blighting factors as set forth in the Blight Analysis set forth in Exhibit 4 of the TIF Plan. The TIF Plan is also accompanied by an affidavit which is set forth in Exhibit 11, signed by the Developer, attesting to the conditions of the Redevelopment Area which qualify the area as a blighted area;

C. the proposed redevelopment satisfies the "but for" test set forth in Section 99.810, RSMo, in that the Redevelopment Area has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing, and the Plan is accompanied by an affidavit which is set forth in Exhibit 11, signed by the Developer, attesting to this statement;

D. the TIF Plan is in conformance with the Comprehensive Plan for the development of the City as a whole;

E. the TIF Plan contains estimated dates of completion of the redevelopment projects and estimated dates for the retirement of obligations incurred to finance redevelopment project costs, and said dates are not more than twenty-three (23) years from the adoption of an ordinance approving each Redevelopment Project within the Redevelopment Area;

F. there are no businesses existing in the Redevelopment Area that have been or will be required to relocate in order to implement the Plan. However, in the event relocation of any

occupant is necessary, it will be carried out in accordance with Section 523.205 and pursuant to the Relocation Assistance Plan attached as Exhibit 13 to the TIF Plan;

G. the TIF Plan is accompanied by a Cost Benefit Analysis and other evidence and documentation from Developer showing the economic impact of the Plan on each taxing district and political subdivision, and that the proposed projects are financially feasible, but only with TIF assistance, and the Plan and Redevelopment Projects are financially feasible for the developer only if TIF assistance is provided;

H. the TIF Plan does not include the initial development or redevelopment of any gambling establishment; and

I. the areas selected for the Redevelopment Projects include only those parcels of real property and improvements thereon which will be directly and substantially benefited by the Redevelopment Project improvements.

2. **Recommendations.** The TIF Commission recommends that the City Council take the following actions with respect to the TIF Plan:

A. adopt an ordinance to make the findings recommended in Section 1 above and adopt the Plan;

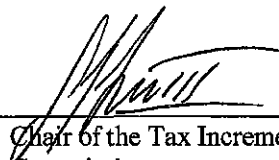
B. approve the TIF Plan;

C. designate the Redevelopment Area as a redevelopment area as provided in Section 99.805(12);

D. designate the Redevelopment Area by ordinance as described in the TIF Plan;

E. designate Parrot Properties, LLC as the developer of record for the Plan and the Redevelopment Projects and enter into a tax increment financing contract with such developer for implementation of the TIF Plan.

APPROVED BY THE TAX INCREMENT FINANCING COMMISSION FOR THE CITY OF LEE'S SUMMIT THIS 26th DAY OF JUNE, 2017.

By:   
Chair of the Tax Increment Financing  
Commission

## Packet Information

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**File #:** BILL NO. 18-48, **Version:** 1

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Reconsideration of Bill No. 18-48 previously vetoed by the Mayor. AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, CHAPTER 16, LEE'S SUMMIT PROPERTY MAINTENANCE CODE, BY ADOPTING REGULATIONS PERTAINING TO VEHICLE PARKING AND STORAGE REGULATIONS FOR PRIVATE PROPERTY.

(Note: First reading on March 1, 2018. Passed by unanimous vote. Second Reading on March 15, 2018. Mayor Vetoed.)

Issue/Request:

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, CHAPTER 16, LEE'S SUMMIT PROPERTY MAINTENANCE CODE, BY ADOPTING REGULATIONS PERTAINING TO VEHICLE PARKING AND STORAGE REGULATIONS FOR PRIVATE PROPERTY.

Proposed City Council Motion:

I move to override the Mayor's veto and reconsider for adoption AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, CHAPTER 16, LEE'S SUMMIT PROPERTY MAINTENANCE CODE, BY ADOPTING REGULATIONS PERTAINING TO VEHICLE PARKING AND STORAGE REGULATIONS FOR PRIVATE PROPERTY.

Key Issues:

The Community and Economic Development Committee (CEDC) has reviewed and considered proposed amendments to vehicle parking and storage regulations within the Unified Development Ordinance (UDO) and Lee's Summit Property Maintenance Codes over multiple meetings. The intent of the review was to clarify parking and storage regulations related to recreational vehicles, boats & personal watercraft, all terrain vehicles, trailers and campers. At the December 10, 2017 CEDC meeting, staff presented proposed language to incorporate within the Property Maintenance Code and was provided direction to further refine the proposed amendments and correlate the amendments with the UDO. Staff has prepared the proposed amendments to both the UDO and Property Maintenance Code and received direction from the CEDC to bring forward the proposed ordinance amendments together as parking and storage regulations are being removed from the UDO and incorporated into the Property Maintenance Code. At its meeting of February 15, 2018, the Planning Commission recommended approval of removing the regulations relating to parking and storage of vehicles from the UDO and placing them in Chapter 16 as a part of the Property Maintenance Code.

The proposed UDO amendments and Property Maintenance Code amendments should be considered together as both are correlated and in order for parking regulations to remain in effect, both amendments would need to occur together, otherwise a gap could be created where parking and storage regulations do not exist, or provisions created that could be in conflict with one another. The UDO amendments have been considered by the Planning Commission and received a recommendation of approval. The City Council will consider the UDO amendments in a public hearing first, as UDO amendments require public hearings. The Property Maintenance Code amendments have been recommended for approval by the CEDC and are presented straight to City Council for consideration.

Background:

Background information provided in attached powerpoint presentation.

Presenter:

Mark Dunning, Assistant City Manager

Recommendation:

Staff recommends moving the proposed vehicle parking and storage regulations forward for consideration and adoption.

Committee Recommendation:

The CEDC unanimously recommended the proposed UDO Article 12 Parking amendments to Planning Commission and directed staff to place the proposed UDO and Property Maintenance Code amendments regulating vehicle parking and storage on the same City Council agenda for consideration.

## **BILL NO. 18-48**

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AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, CHAPTER 16, LEE'S SUMMIT PROPERTY MAINTENANCE CODE, BY ADOPTING REGULATIONS PERTAINING TO VEHICLE PARKING AND STORAGE REGULATIONS FOR PRIVATE PROPERTY.

WHEREAS, Chapter 16 of the Code of Ordinances of the City of Lee's Summit ("Code") regulates property maintenance within Lee's Summit; and,

WHEREAS, there have been considerable efforts to further define and clarify regulations pertaining to parking and storage of vehicles and other items on private property within the City of Lee's Summit; and,

WHEREAS, regulations pertaining to parking and storage of vehicles have been removed from Article 12 of the Unified Development Ordinance and proposed to be placed within Chapter 16, Property Maintenance Code of the Code of Ordinances of the City of Lee's Summit; and,

WHEREAS, that the City Council finds such regulations, as set forth below, to be in the best interests of the City of Lee's Summit.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 16 of the Code of Ordinances for the City of Lee's Summit, Missouri, is hereby amended by the addition of a new Section within Division 2 – Exterior Property Areas to read as follows:

### **Section 16-317 Vehicle Parking and Storage Regulations for Private Property**

#### **Definitions**

Storage (stored) shall mean a period of more than 7 days for the purposes of this Section.

Parking (parked) shall mean a period of 7 days or less for the purposes of this Section.

#### **Restricted Vehicles**

- A. No motor vehicles designed or regularly used for carrying freight, merchandise, or other property or more than eight (8) passengers and that is licensed in excess of one (1) ton gross vehicle weight shall be stored or parked in a residential zoned district, except for deliveries or as otherwise allowed per Table 1.
- B. Inoperative or unregistered vehicles may not be stored, parked or repaired (other than in enclosed garages) on the premises.
- C. In zoning districts other than the industrial zoning districts, construction equipment and construction vehicles may not be stored, parked or repaired on the premises (other than in enclosed garages), except as follows:

## **BILL NO. 18-48**

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1. When being utilized for construction activities on the premises pursuant to a valid permit issued by the City for construction work necessitating the use of equipment, or when used for permitted work on the public right-of-way; or
2. When the equipment is used as an accessory use in accordance with Unified Development Ordinance Article 8; or
3. When associated with a special use permit as part of an allowable primary use, such as an equipment rental business.

### **Boats, Watercraft, All Terrain Vehicles, Utility Trailers, Campers and Recreational Vehicles**

A. General requirements. The following requirements shall apply to the parking and storage of vehicles/items provided within Table 1 in residential zoned districts at all times, except as specifically noted otherwise.

1. No more than one (1) of the vehicles/items listed in Table 1 may be stored on lots zoned AG, RDR, RLL, R-1, RP-1 or RP-2 unless stored in a garage or other approved structure.

Exception: The storage of a vehicle/item on private property so located upon the property as not to be readily visible from any public place or from any surrounding private property nor shall these subsections apply to any lot or parcel of private property one (1) acre or more in size in AG or RDR zoning districts.

2. No more than one additional vehicle/item may be permitted to be parked in addition to the one (1) vehicle/item stored in accordance with Table 1 on lots zoned AG, RDR, RLL, R-1, RP-1 or RP-2.

Exception: The parking of a vehicle/item on private property so located upon the property as not to be readily visible from any public place or from any surrounding private property nor shall these subsections apply to any lot or parcel of private property one (1) acre or more in size in AG or RDR zoning districts.

3. Storage or parking of vehicles/items as provided in Table 1 in other zoning districts shall be prohibited except when specifically approved as part of a preliminary development plan or special use permit for said purpose.
4. Recreational Vehicles, Travel Trailers and Toy Haulers shall not be used for long-term on-site dwelling purposes and shall not be permanently connected to sewer lines, water lines, electrical lines or fuel gas lines. When used for short-term dwelling purposes shall be limited to no more than 4 occurrences per year, and shall not exceed 28 days per year (allows for 4 occurrences of 7 day durations or variation thereof as long as number of occurrences and total number of days is not exceeded per year).
5. No part of a vehicle/item parked or stored shall extend over any lot line, sidewalk, right-of-way or into the 25' vision clearance triangle.

**BILL NO. 18-48**

6. A. Storage or parking of items permitted by Table 1 shall only be allowed on hard surfaces, i.e., asphaltic concrete, Portland cement concrete or masonry pavers engineered to support the weight of said vehicle, except as specifically noted otherwise.

B. Accessory storage or parking pads shall be permanently connected to the driveway with an asphaltic concrete, Portland cement concrete constructed to support the weight of said vehicle or item.

C. Separate driveways on corner lots shall be permanently connected to the street or curb with an asphaltic concrete or Portland cement concrete constructed to support the weight of said vehicle.

Exceptions to 6 A, B, C:

1. Gravel driveways or parking pads in existence prior to [DATE OF ADOPTION]
2. The parking or storage of a vehicle/item on private property of one (1) acre or more in size.

7. Recreational vehicles, Travel Trailers, Toy Haulers and other similar vehicles or items which operate on or store flammable liquids or gases shall be stored or parked a minimum of 10 feet from the nearest structure on adjacent property.

**Table 1**

**Exterior Storage or Parking of Vehicles/Items**

Parking or Storage Configuration	Boats, Personal Water Crafts, All Terrain Vehicles and associated trailer	<u>20 feet in length or less:</u> Recreational Vehicle/Travel Trailer / Toy Hauler/Utility Trailer (open or enclosed)	<u>Greater than 20 feet in length:</u> Recreational Vehicle/Travel Trailer / Toy Hauler/Utility Trailer (open or enclosed)
Single drive	NP	NP	NP
Single drive with accessory pad	P	P	P (on accessory pad only)
Two car drive	P	P	NP
Two car drive with accessory pad	P	P	P (on accessory pad only)
Three car drive or greater	P	P	NP
Three car drive or greater with accessory pad	P	P	P (on accessory pad only)
Separate drive on corner lot	P	P	P

**P = Permitted**

**NP = Not Permitted**

SECTION 2. That it is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.



**BILL NO. 18-48**

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SECTION 3. That if any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. Penalty Clause. Any person found guilty of violating this ordinance shall be penalized in accordance with Section 1-13 A. of the Municipal Code of the City of Lee's Summit.

SECTION 5. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*City Clerk Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*City Clerk Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
*City Attorney Brian W. Head*

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## Article 12. Parking

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**Section 12.010 Purpose and Intent**

- A. The purpose of the parking and loading regulations is to ensure that all land uses have adequate off-street parking facilities and adequate facilities for vehicle movement and loading activities associated with a land or building use.
- B. The intent of these regulations is to ensure that the use of land does not negatively interfere with the use of and circulation on public rights-of-way, and that private on-site circulation does not pose a potential safety problem.
- C. The parking requirements contained in this Article are minimum requirements only.

**Section 12.020 Applicability**

The minimum standards of this Article shall be applicable for any of the following:

- A. The construction of a new building;
- B. The enlargement of an existing building or the increase in capacity of an existing building, such as the addition of dwelling units, guest rooms, seats or floor area;
- C. The establishment of a new use or change of use;
- D. The expansion of an existing use;
- E. Where an existing building or use has insufficient parking at the time of passage of this Article or any amendment thereto, said building may be enlarged or use intensified only if adequate parking is provided for the entire building and all uses on the property in accordance with the requirements of this Article.

**Section 12.030 Vehicle Parking**

- A. Required spaces.
  - 1. Table 12-1 shall be utilized to determine the minimum number of parking spaces to be provided. For uses not specifically identified, the Director shall establish the parking requirements either based upon a listed use deemed most similar to the proposed use or based upon industry standards.
  - 2. The number of parking spaces to be provided for a particular use or development may be established through approval of an Alternate Parking Plan as described in this Article. Use of an Alternate Parking Plan is encouraged in order to tailor the parking to the particular needs of the use or development and to allow introduction of operational solutions such as ride-sharing programs, shared parking or remote employee parking lots.
- B. Dedication to parking use. Unless approved otherwise, parking spaces provided to meet the minimum requirements of this Article, along with the aisles and driveways necessary to provide access to those spaces, shall not be

**NOTES:**

used for any other purpose than temporary vehicle parking. Specifically, no such parking area may be used for the sale, repair, dismantling or servicing of any vehicles, or for the sale, display or storage of equipment, goods, materials or supplies, except as further provided in this Chapter or as specified in Chapter 16 Lee's Summit Property Maintenance Code of the Lee's Summit Code of Ordinances.

C. Computation of required parking.

1. Multiple uses. Except as approved otherwise, developments containing two or more uses shall have the total number of parking spaces required for each use.
2. Floor area. All required parking calculations shall be based on gross floor area unless otherwise stated. Gross floor area (gfa) shall mean the total area of all floors, measured between the exterior walls of a building. Gross leasable area (gla) shall mean the total area of all floors intended for occupancy and the exclusive use of tenants, specifically excluding public or common areas such as utility rooms, stairwells, enclosed malls and interior hallways.
3. Fractions. Whenever the computation of the number of parking spaces required by this Article results in a fractional parking space, one (1) additional parking space shall be required for one-half (1/2) or more fractional parking space, and any fractional space less than one-half (1/2) of a parking space shall not be counted.

Table 12-1 MINIMUM PARKING BY USE		
Use	Number of Parking Spaces	Required for Each:
<b>RESIDENTIAL</b>		
Single-family residence	2	Dwelling unit (fully enclosed)
Single-family cluster/patio home	2	Dwelling unit (one must be fully enclosed)
Single-family residence – Old Lee's Summit Neighborhood	2	Dwelling unit (one must be fully enclosed)
Two-family, Three-family or Four-family residences	2	Dwelling unit (one must be fully enclosed) Visitor parking per plan approval
Loft dwelling	1	Dwelling unit

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Multi-family residence	1	Efficiency or studio unit
	1.5	1 or 2 bedroom unit
	2	3 or more bedroom unit
	plus 0.5	per unit for visitor parking
Bed & breakfast – home stay (max. 3 rooms), rooming house, boarding house	2	Residence
	1	Room for rent
Bed & breakfast inn (max. 12 rooms)	1	Room for rent
	1	Employee on maximum shift
Group homes	1.5	Employee on maximum shift
Group living quarters: Fraternity & sorority houses, dormitories, etc.	1	2 residents or beds
Hotel or motel with a restaurant or lounge open to the public  Hotel or motel with no restaurant or lounge; or with a restaurant or lounge provided for guests only	1.5	Room
	1	Room
Nursing home/elder care	1	2 beds
	plus 1	Employee on maximum shift
Retirement community	1	Dwelling unit
	plus 1	Employee on maximum shift
<b>COMMERCIAL</b>		
Amusement center, recreational attraction, roller skating or ice skating rink	6	1,000 sf of gfa
Animal services (boarding, grooming and veterinary)	2.5	1,000 sf of gfa or determined by Director at plan approval
Automobile, truck, recreational vehicle, manufactured home or utility structure sales, equipment sales and service	2	1,000 sf of indoor sales area
	plus 1	2,500 sf of outdoor display
	3	Service bay
Bank	4	1,000 sf of gfa
Banquet facility	1	3 persons based on calculated occupant load as determined by Building Code
Bars and taverns	1	Employee on maximum shift
	plus 1	4 seats or building capacity as determined by Building Code



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Bowling center	4.5	Lane
Car wash – automated and self-service	1	Employee on maximum shift
Contractor building supplies, brick or lumber yard (not home improvement center)	2.5	1,000 ft of indoor sales area
Convenience store, gas station	5	1,000 sf of gfa
Daycare center	2.5	1,000 sf of gfa
Funeral home	1 plus 1	3 fixed seats per 30 sf of assembly area with no fixed seats
Furniture or carpet store	1.5	1,000 sf of gfa
Golf course or driving range		Determined by Director at plan approval
Grocery store/specialty market (not a supermarket)	4	1,000 sf of gfa
Health club or fitness center	4.5	1,000 sf of gfa
Home improvement center/farm supply store	4	1,000 sf of gfa
Movie theater	1	4 seats
Offices – general and professional (not medical, dental or veterinary)	4	1,000 sf of gfa
Offices – medical or dental	5	1,000 sf of gfa
Outdoor plant nursery, garden center (with or without building)		Determined by Director at plan approval
Outdoor recreational facility		Determined by Director at plan approval
Restaurant – carry-out, drive-up or drive-through only	2 plus 1	Business Employee on maximum shift
Restaurant – fast-food and sit-down	14	1,000 sf of gfa
Retail establishments not otherwise listed	5	1,000 sf of gfa
Service establishments not otherwise listed	5	1,000 sf of gfa



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Service station, auto repair shop or garage	3	Service bay (each bay may be counted as a parking space)
Shopping centers (excluding pad sites):		
25,000 sq. ft. – 399,999 sq. ft.;	5	1,000 sq. ft. of gla
400,000 sq. ft. – 599,999 sq. ft.;	4.5	1,000 sq. ft. of gla
600,000 sq. ft. +	4	1,000 sq. ft. of gla
Supermarket	5	1,000 sf of gfa
<b>INDUSTRIAL – INCLUDING STORAGE, WHOLESALE AND MANUFACTURING</b>		
Manufacturing	2.5	1,000 sf of gfa
Mini-warehouse storage facility	2	Facility
	1	Employee on maximum shift
Open storage of sand, gravel, petroleum, etc	1	2,500 sf of outdoor sales area
Warehouse, including commercial sales to the public	4	1,000 sf of sales or office space
	plus 1	1,000 sf of storage area
Warehouse, transfer and storage	1	1,000 sf of gfa
Wholesale, office-warehouse	4	1,000 sf of office space
	plus 1	1,000 sf of storage area
<b>INSTITUTIONAL AND OTHER</b>		
Auditoriums, churches, theatres, stadiums and other places of assembly	1	3 seats, or
	1	12 feet of pew, or
	1	30 sf in the largest assembly room
Civic clubs, museums, fraternal lodges, etc.	5	1,000 sf of gfa
Hospital	1.8	Bed
	plus 5	1,000 sf of office space
School – college/university (instructional space)	10	Classroom
School – elementary, junior high school	2	Classroom
School – senior high school	6	Classroom



School – technical college, trade school	20	Classroom
Subdivision swimming pool/clubhouse	1 minimum of 6	16 lots in subdivision; pool/clubhouse facility

**Section 12.040 Alternate Parking Plan**

A. A request for approval of an Alternate Parking Plan shall be accompanied by the following information:

1. A parking demand study or other data that establishes the number of spaces required for the specific use. The study or data may reflect parking for the same use existing at a similar location or for similar uses at other locations. Published studies may be utilized to support alternative parking requests.
2. If shared parking is proposed for a mixed use development, the sum of peak parking demands by use category shall be accommodated for day and night hours on weekdays and weekends. The guidelines for shared parking contained in this Article may be used in lieu of a separate study.
3. If a remote or off-site parking lot is proposed to meet any portion of the parking required, the site and its current zoning classification must be identified, along with the method to transport parking patrons to the use.
4. If more parking spaces are proposed than would be allowed under the guideline standards of this Article, a landscaping plan shall be submitted that illustrates compliance with the parking lot landscaping requirements of Article 14.

B. Consideration of Plan.

1. Administrative process. The Director may approve an Alternate Parking Plan, including landbanking, as part of a final development plan if the Director determines that the number, configuration, location and landscaping, if applicable, of proposed parking spaces satisfies the demand for parking generated by the proposed development, when viewed in light of all relevant factors.
2. Preliminary development plan process. The City Council may consider an Alternate Parking Plan as part of a preliminary development plan. Consideration of the preliminary development plan shall follow the procedures for approval of preliminary development plan applications as set forth in Article 4.
3. Appeal process. If the Director denies a proposed Alternate Parking Plan, the reason for the denial shall be provided to the owner in writing within fifteen (15) days after the date a complete Alternate Parking Plan is submitted to the Director for consideration. The applicant may appeal the decision to the Board of Zoning Adjustments or may apply for a modification through the preliminary development plan process.



C. Approved plan.

1. Following approval by the Director or the City Council, the requirements of the approved Alternate Parking Plan shall be included in any sale, lease, or other transfer of right of occupancy affecting any part of the development.
2. All tenants of the property or development, whether an owner, lessee, subtenant, purchaser, or other occupant, shall comply with the approved Alternate Parking Plan.

**Section 12.050 Shared Parking Guidelines**

Parking facilities may be shared by multiple uses which have different hours of operation or peak periods of parking demand, subject to the following:

- A. The applicant shall submit a shared parking analysis to the Director demonstrating that no significant conflict in the principal hours of operation or periods of peak parking demand for the uses for which shared parking is proposed will exist. It shall address, at a minimum, the size and type of the development, the composition and description of the uses and their operational characteristics, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing spaces.
- B. The shared parking analysis shall be prepared pursuant to guidelines published by the Urban Land Institute or other generally accepted methodology.
- C. Parking spaces that are proposed to be shared must be clearly available to each use and not appear in any way to be serving a particular use through the use of signage or through design techniques that would tend to orient use of the spaces to a particular use or building.
- D. Shared parking arrangements assuring the continued availability of the number of parking spaces designated for shared use must be evidenced by a written agreement acceptable to the Director, and approved by the owners of each of the affected properties or uses. The approved agreement shall be recorded and a copy supplied to the Director.
- E. Should any of the shared parking uses be changed, or should the Director find that any of the conditions described in the approved shared parking plan or agreement no longer exist, the property owner shall have the option of submitting a revised shared parking study or of providing the number of spaces for each use as if counted separately. If the Planning Director determines that the revised shared parking study or agreement does not satisfy the off-street parking needs of the proposed uses, the shared parking request shall be denied, and no certificates of occupancy shall be issued until the full number of off-street parking spaces is provided.

**Section 12.060 Landbanking**

Landbanking is the setting aside of sufficient green space for future parking expansion needs of a particular use or building. Landbanking of future parking spaces may be approved as part of an Alternate Parking Plan by the City Council when approving a preliminary development plan or the Director as part of a final

development plan when deemed to be appropriate for the particular development and not in conflict with the best interest of the City. The land area so delineated for future parking shall be brought to finished grade, landscaped and shall not be used for building, storage, loading or other purposes. Upon determination by the Director, City Council or owner that additional parking is needed, the owner shall construct it.

**Section 12.070 Queuing Requirements for Drive-through Facilities**

In addition to meeting the off-street parking requirements of this Article, drive-through facilities shall meet the following standards:

A. Required queue spaces. The minimum number of required queue spaces shall be as shown in Table 12-2. Variations from these minimums may be allowed on a case-by-case basis by the Director. The applicant may appeal the decision to the Board of Zoning Adjustments or may apply for a modification through the preliminary development plan process.

Table 12-2 REQUIRED QUEUE SPACES		
Use Type	Minimum Spaces	Measured From
Automated teller machine (ATM)	5 (single-lane facility); 3 (multi-lane facility)	ATM
Bank teller lane	5 (single-lane facility); 3 (multi-lane facility)	Window or kiosk
Car wash stall, automated	5	Stall entrance
Car wash stall, self-serve	3	Stall entrance
Dry cleaners	2	Window
Gasoline pump island	2	Pump
Restaurant drive-through	4 Plus 4	Menu board First window
Pharmacy drive-through	5 (single-lane facility); 3 (multi-lane facility)	Window or kiosk
Other	Determined on a case-by-case basis by the Director.	

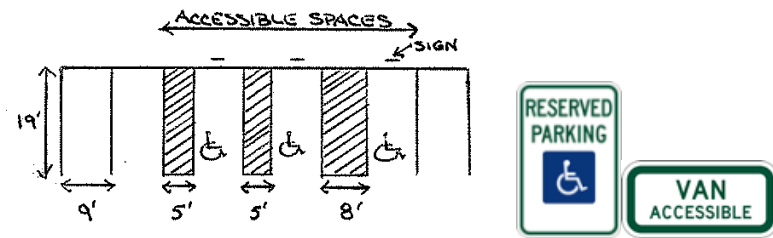
B. Dimensions. Each queue space shall be a minimum ten (10) feet wide by twenty (20) feet long.

C. Design. Each queue lane shall be clearly defined and designed so as not to conflict or interfere with other vehicular or pedestrian traffic using the site. Parking lots designed with one-way traffic flow shall have a bypass lane with a

minimum width of ten (10) feet or as required by the Fire Code. The bypass lane shall be clearly designated and distinct from the queuing area.

**Section 12.080 Accessible Parking Spaces**

- A. A portion of the total number of required off-street parking spaces in each parking area shall be specifically designated and reserved for use by persons with physical disabilities.
- B. One in every eight (8) required accessible spaces (but no less than one) shall be adjacent to an aisle eight (8) feet wide clearly marked with a sign indicating that the space is “van accessible”. All other accessible spaces shall have an adjacent aisle five (5) feet wide.



- C. Accessible spaces shall be provided in each parking lot in the following ratio to the total number of spaces required for the use. These spaces shall be counted as part of the total number of parking spaces required by this Article. A modification or variance may not be granted for the number of required accessible spaces.

Spaces Required for Use	Auto Accessible	Van Accessible	Total
1 to 25	0	1	1
26 to 50	1	1	2
51 to 75	2	1	3
76 to 100	3	1	4
101 to 150	4	1	5
151 to 200	5	1	6
201 to 300	6	1	7
301 to 400	7	1	8
401 to 500	7	2	9

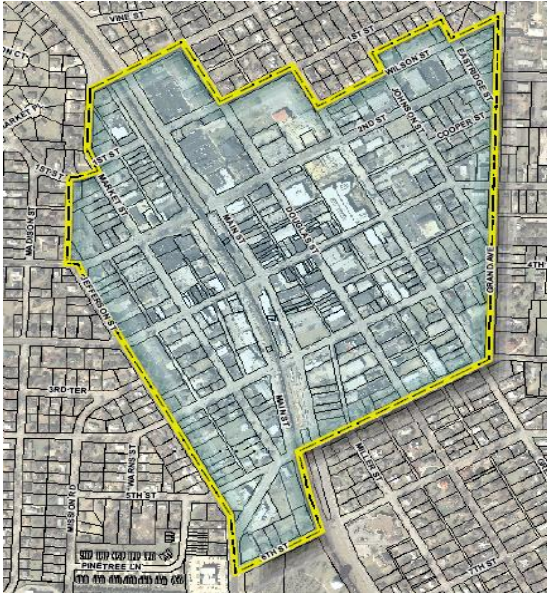
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501 to 1,000	7 per 8 accessible spaces	1 per 8 accessible spaces	2% of total spaces
1,001 and over	7 per 8 accessible spaces	1 per 8 accessible spaces	20, plus 1 per 100 spaces over 1,000

- D. Access aisles shall be on the same level as the parking spaces they serve.
- E. Accessible parking spaces shall be located on a surface with a slope not exceeding one (1) vertical foot in fifty (50) horizontal feet.
- F. Accessible spaces shall be located at the nearest point to the front building entry and/or accessible ramp. Accessible spaces separated from the front building entry by a drive aisle shall have clearly discernable cross walks.
- G. Accessible ramps shall be designed and constructed so as to be integrated into the sidewalk. Ramps shall not be located within or extend into an accessible space, access aisle or any other portion of the parking lot.
- H. Parking spaces for vans shall have a vertical clearance of ninety-eight (98) inches minimum at the space and along the vehicular route thereto. In cases of a loading zone, a minimum vertical clearance of one-hundred fourteen (114) inches shall be provided at passenger loading zones and along vehicle access routes to such areas from site entrances.
- I. Every accessible parking space required by this Article shall be identified by a sign, mounted on a pole or other structure, located between thirty-six (36) inches and sixty (60) inches above the ground, measured from the bottom of the sign, at the head of the parking space. A sign identifying an accessible parallel parking space shall be mounted eighty-four (84) inches above the ground, measured from the bottom of the sign, and shall be placed at a point parallel to the center of the parking space. All identifying signs shall be twelve (12) inches wide by eighteen (18) inches in height and meet the requirements set forth in the Manual on Uniform Traffic Control Devices, as referenced in the Lee's Summit General Code of Ordinances.
- J. In addition to the requirements of this Section, all accessible parking spaces and areas shall comply with the requirements of the federal Americans with Disabilities Act.

**Section 12.090 Downtown Area Parking Guidelines**

- A. Downtown area defined. For the purposes of this Section, "downtown area" shall mean the area loosely bounded by SE 1<sup>st</sup> Street on the north, SE 5<sup>th</sup> Street on the south, SW Jefferson Street on the west and SE Grand Street on the east.



B. Residential uses. Vehicle parking shall be provided in accordance with Table 12-1.

C. Non-residential uses.

1. Vehicle parking.

- a. In the downtown area, the vehicle parking requirements of this Article for non-residential uses shall apply only to the net increase in floor area of use intensity created by new construction or building expansion or a substantial change in use. A substantial change in use is defined as a change which results in an increase in the demand for parking by twenty-five (25%) percent or more from the previous use.
- b. The parking requirement calculation for each non-residential use in the downtown area shall be based on the requirements of this Article, or 5 spaces per 1,000 square feet of gross floor area, whichever requires the fewer number of spaces.
- c. Any existing vehicle parking spaces that are eliminated by new construction or expansion must be replaced by that business or use, unless such spaces are in excess of the requirements for that business or use being served, and are in the same ownership.

2. Shared parking district.

- a. The requirements for additional parking may be waived in the downtown area if available public parking is located on the same block or within 300 feet for residential or 500 feet for non-residential uses. This public parking must have sufficient capacity, as calculated by the City Traffic Engineer (or designee), to absorb the required number of

spaces and cannot be on the opposite side of the railroad tracks running between SE Main Street and SW Main Street.

- b. Sufficient capacity will be based on a rolling 12 month inventory of public parking spaces in the area. This capacity will be evaluated against the projected demands determined by the City Traffic Engineer (or designee), taking into account time-of-day variations in parking demand as calculated by local data provided by the Urban Land Institute or Institute of Transportation Engineers.

3. Loading zones.

- a. The application process for a curb loading zone shall be subject to the regulations of the Lee's Summit General Code of Ordinances.
- b. The use of curb loading zones shall be subject to the regulations of the Lee's Summit General Code of Ordinances.

**Section 12.100 Proximity of Parking Spaces to Use**

- A. On-site parking. Unless otherwise provided under an approved Alternate Parking Plan, all parking spaces required to meet the standards of this Article shall be located on the same lot as the use they serve.
- B. Off-site parking. If required parking spaces are not located on the same lot or on a contiguous lot owned or leased by the intended user thereof for the particular use or building they are intended to serve, the following shall apply:
  - 1. The parking spaces must be located on a property that has the same zoning classification as the property that the spaces serve, or a less restrictive zoning classification.
  - 2. No required parking spaces may be located across a major arterial street or any State or US highway from the use they are intended to serve, unless a grade-separated pedestrian walkway connection is provided.
- C. Park and rides. Parking lots intended for park and ride lots shall be approved only by Special Use Permit and shall comply with all setback, landscaping, stormwater detention/retention, and pavement requirements and any other city regulations associated with parking lot improvements.

**Section 12.110 Improvement of Residential Driveways**

- A. Residential driveways shall be constructed of asphaltic concrete, Portland cement concrete or masonry pavers engineered to support the weight of a vehicle. Parking or storage pads adjacent to driveways shall be located in side or rear yards.
- B. Parking on other than asphaltic concrete/Portland cement concrete/masonry paved driveways or pads is expressly prohibited, except for lots of 1 acre or greater in size zoned AG (agricultural) or RDR (rural density residential).
- C. Driveways on lots of 1 acre in size or greater zoned AG, RDR, RLL (residential large lot) or R-1 (single-family residential) shall be paved a minimum of fifty

(50) feet beginning from the edge of street pavement. The remainder may be gravel or paved.

D. Where permitted, gravel driveways shall be maintained to meet the following standards:

1. The surface of the driveway or parking area shall consist of a uniform layer of gravel evenly distributed from edge to edge, and shall be free of bare spots and vegetation.
2. The depth of the gravel layer shall be an average of 2 inches and a minimum of 1 inch.
3. The material used for a gravel driveway or parking area shall be rock or crushed stone not more than 1 inch in diameter and shall not contain dirt, sticks, construction debris or other foreign material. Sand, rock powder or other similar material less than 1/8 inch in diameter is not prohibited, but shall not be included in the measurement of minimum gravel depth.

**Section 12.120 Parking Lot Design**

The provisions of this Section apply to all vehicle parking spaces and parking areas, whether the parking meets or exceeds the number of required spaces established in this Article.

A. Head-in parking. Head-in parking from any public right-of-way or private street shall not be permitted, except that the use of head-in parking in the downtown area, as defined in this Article, may be considered on a case-by-case basis. Driveways serving single-family, two-family, three-family and four-family residences are exempted from the head-in parking restriction.

B. Parking setback.

1. All parking lots shall be set back a minimum twenty (20) feet from any public right-of-way or private street edge of pavement.
2. Parking lots shall be set back a minimum twenty (20) feet from any residential district or use.
3. Parking lots shall be set back a minimum six (6) feet from the side and rear property line when not part of shared parking and/or cross access.

C. Dimensions.

1. Standard parking space dimensions shall not be less than nine (9) feet wide by nineteen (19) feet long.
2. Where the head of the parking space abuts a six (6) foot wide sidewalk or curbed landscaped area, the length of the parking space may be reduced by two (2) feet to allow for vehicle overhang. Such overhang shall be measured from the face of the curb.
3. Parallel parking space dimensions shall not be less than nine (9) feet wide by twenty-three (23) feet long.

D. Striping.

1. All parking spaces shall be clearly demarcated with lines a minimum four (4) inches in width. The width of each parking space shall be measured from the centers of the striping.
2. Striping shall not incorporate advertising of any kind.

E. Access and circulation

1. Access aisles in parking lots shall have the following dimensions:

Table 12-4 PARKING LOT ACCESS AISLE WIDTH (FT)						
PARKING SPACE ANGLE						
	0° (Parallel)	30°	45°	60°	90°	No spaces*
One-way traffic	15	14	16	18	24	10
Two-way traffic	20	20	20	22	24	20

\* - Refers to access aisles with no parking spaces located on either side.

2. Minimum access aisle widths for parking lots with parking space angles different from those listed in Table 12-4 shall be determined on a case-by-case basis.
3. One-way traffic aisles must be clearly marked with directional arrows on the pavement at each intersection with another aisle.
4. Ingress and egress to parking areas shall be by means of paved driveways from the adjoining street. The minimum width of driveways for ingress and egress shall be the same as those specified above for aisles. Driveway width, for the purpose of this Section, shall include only the pavement and not the curb and gutters.
5. The location of all parking area driveways shall conform to the Access Management Code.

F. Improvement of parking, loading and storage lot areas.

1. Surface and curbing.
  - a. All vehicle parking and loading areas and all access drives shall be improved with one of the following:
    - (i) a minimum 5-inch asphaltic concrete base overlaid with a 2-inch asphaltic concrete surface constructed on a sub-grade of either 12-inch prepared soil, 8-inch aggregate or 9-inch fly ash treated soil;



- (ii) a minimum 6 inches of full depth unreinforced Portland cement concrete constructed on a sub-grade of either 12-inch prepared soil, 8-inch aggregate or 9-inch fly ash treated soil.
- b. Designated fire lanes and delivery/freight truck access lanes shall be improved with one of the following:
  - (i) a minimum 6-inch asphaltic concrete base overlaid with a 2-inch asphaltic concrete surface constructed on a sub-grade of either 12-inch prepared soil, 8-inch aggregate or 9-inch fly ash treated soil;
  - (ii) a minimum 6 inches of full depth unreinforced Portland cement concrete constructed on a sub-grade of either 12-inch prepared soil, 8-inch aggregate or 9-inch fly ash treated soil.
- c. Trash enclosures shall be improved with a Portland cement concrete pad and a Portland cement concrete approach 30 feet in length, measured from the enclosure opening. The pad and approach shall be improved with a minimum 6 inches of full depth unreinforced Portland cement concrete constructed on a sub-grade of either 12-inch prepared soil, 8-inch aggregate or 9-inch fly ash treated soil.
- d. All vehicle parking lot areas and access drives in all zoning districts shall have a boundary constructed of straight-back Portland cement concrete curbing (CG-1) or an integral Portland cement concrete sidewalk and curb with a vertical face. Driveways serving single-family, two-family, three-family and four-family residences are exempted from the CG-1 curbing requirement. This requirement shall also not apply to accessible parking spaces where the adjacent pedestrian walkway is designed to be at the same grade as the accessible spaces for the purpose of providing access to said walkway.
- e. The use of curb blocks in parking areas shall be prohibited, except at the head of accessible parking spaces when they are adjacent to a pedestrian walkway with no raised curb.
- f. Temporary asphalt curbs may be used in areas to be expanded only as shown and approved on the final development plan.
- g. Storage lots shall be paved with an asphaltic concrete or Portland cement concrete surface engineered to support the weight of the anticipated loads.
  - 2. Maintenance. Vehicle parking areas, including drives and drive aisles, shall be maintained in proper repair with the required surfacing and curbing. Pot holes and surface cracks shall be filled and sealed in a timely manner.
  - 3. Time limit. All required vehicle parking areas shall be ready for use, including the above surfacing requirement, before the issuance of a final certificate of occupancy (in the case of a new building or addition) or within forty-five (45) days after the issuance of an occupational license (in the case of a change of occupancy in an existing building). An extension of time may be granted by the

Director due to adverse weather conditions. In no case shall any occupancy be permitted prior to the parking areas being striped.

**Section 12.130 Driveway Approach Design (See the City of Lee's Summit Design & Construction Manual)**

**Section 12.140 Loading**

- A. Required loading spaces shall be determined on a case-by-case basis by the Director through the required approval process.
- B. The dimensions of loading spaces will be determined on a case-by-case basis depending on the requirements of each project, including the length of trucks to be served and configuration of building(s) on the site.
- C. All off-street loading areas shall be screened in accordance with Article 14 of the UDO.

**Section 12.150 Parking and Storage Regulations for Private Property Restricted Vehicles**

~~A. The parking or storage of vehicles shall be in conformance with regulations as provided in the Lee's Summit Code of Ordinances, Chapter 16 Lee's Summit Property Maintenance Code. No motor vehicles designed or regularly used for carrying freight, merchandise, or other property or more than eight (8) passengers and that is licensed in excess of one (1) ton gross vehicle weight, excluding any vehicle which is licensed as a recreational vehicle, shall be parked in a residential zone, except for deliveries. In no case shall said vehicle be stored in a residential zone.~~

~~B. Inoperative vehicles may not be stored or repaired (other than in enclosed garages) on the premises.~~

~~C. In zoning districts other than the industrial zoning districts, construction equipment and construction vehicles may not be stored or repaired on the premises (other than in enclosed garages), except as follows:~~

~~1. When being utilized for construction activities on the premises pursuant to a valid permit issued by the City for construction work necessitating the use of equipment, or when used for permitted work on the public right of way; or~~

~~2. When the equipment is used as an accessory use in accordance with Article 8; or~~

~~3. When associated with a special use permit as part of an allowable primary use, such as an equipment rental business.~~

**Section 12.160 — Recreational Vehicles and Utility Trailers**

**A. Definitions**

~~1. Recreational vehicle shall include but not be limited to motor homes, camping/travel trailers, all terrain vehicles (ATVs), boats and jet skis for the~~

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~~purposes of this Article. Small recreational vehicles shall refer to those 20 feet in length and under. Large recreational vehicles shall refer to those over 20 feet in length.~~

~~2. Storage shall mean uninterrupted parking for a period of seventy-two (72) hours for the purposes of this Article.~~

~~B. General requirements. The following requirements shall apply to the parking and storage of recreational vehicles in residential districts at all times, except as otherwise provided by this Article.~~

~~1. No more than two (2) recreational vehicles shall be parked or stored outdoors on lots zoned AG, RDR, RLL, R-1, RP-1 or RP-2. Of the two allowed recreational vehicles, no more than one (1) may be a large recreational vehicle as defined in this Section.~~

~~2. Parking and/or storage of recreational vehicles in other districts shall be prohibited except when specifically approved as part of a preliminary development plan or special use permit for said purpose.~~

~~3. Recreational vehicles shall not be used for on-site dwelling purposes for more than seven (7) days per year and shall not be permanently connected to sewer lines, water lines or electrical lines.~~

~~4. No part of a recreational vehicle shall extend over any lot line, sidewalk, right-of-way or into the 25' vision clearance triangle.~~

~~5. Parking and/or storage of a recreational vehicle shall only be allowed on hard surfaces, i.e., asphaltic concrete, Portland cement concrete or masonry pavers engineered to support the weight of said vehicle, except as otherwise provided in this Article.~~

~~6. Storage shall be limited to driveways in front of 3-car garages, pads adjacent and connected to the driveway or in the case of rear yard parking/storage, such pad shall be permanently connected to the driveway with an asphaltic concrete or Portland cement concrete drive, except as otherwise provided in this Article.~~

~~7. Storage on a residential driveway is prohibited except for corner lots where a separate driveway is provided off the street on the other street frontage specifically for the purpose of storage which does not interfere with the residential parking of passenger vehicles.~~

~~8. Recreational vehicles stored on a driveway or pad shall maintain a minimum 10 feet of separation from the nearest structure on an adjacent property.~~

~~9.D. Enclosed and unenclosed hauling/utility trailers in residential districts shall only be stored in a garage, unless otherwise approved as part of a preliminary development plan or special use permit for said purpose.~~

**Proposed Regulations for inclusion in Chapter 16 Lee's Summit Code of Ordinances  
Lee's Summit Property Maintenance Code**

**Section 16-317 Vehicle Parking and Storage Regulations for Private Property**

**Definitions**

Storage (stored) shall mean a period of more than 7 days for the purposes of this Section.

Parking (parked) shall mean a period of 7 days or less for the purposes of this Section.

**Restricted Vehicles**

- A. No motor vehicles designed or regularly used for carrying freight, merchandise, or other property or more than eight (8) passengers and that is licensed in excess of one (1) ton gross vehicle weight shall be stored or parked in a residential zoned district, except for deliveries or as otherwise allowed per Table 1.
- B. Inoperative or unregistered vehicles may not be stored, parked or repaired (other than in enclosed garages) on the premises.
- C. In zoning districts other than the industrial zoning districts, construction equipment and construction vehicles may not be stored, parked or repaired on the premises (other than in enclosed garages), except as follows:
  - 1. When being utilized for construction activities on the premises pursuant to a valid permit issued by the City for construction work necessitating the use of equipment, or when used for permitted work on the public right-of-way; or
  - 2. When the equipment is used as an accessory use in accordance with Unified Development Ordinance Article 8; or
  - 3. When associated with a special use permit as part of an allowable primary use, such as an equipment rental business.

**Boats, Watercraft, All Terrain Vehicles, Utility Trailers, Campers and Recreational Vehicles**

- A. General requirements. The following requirements shall apply to the parking and storage of vehicles/items provided within Table 1 in residential zoned districts at all times, except as specifically noted otherwise.
  - 1. No more than one (1) of the vehicles/items listed in Table 1 may be stored on lots zoned AG, RDR, RLL, R-1, RP-1 or RP-2 unless stored in a garage or other approved structure.

Exception: The storage of a vehicle/item on private property so located upon the property as not to be readily visible from any public place or from any surrounding private property nor shall these subsections apply to any lot or parcel of private property one (1) acre or more in size in AG or RDR zoning districts.

**Proposed Regulations for inclusion in Chapter 16 Lee's Summit Code of Ordinances**  
**Lee's Summit Property Maintenance Code**

2. No more than one additional vehicle/item may be permitted to be parked in addition to the one (1) vehicle/item stored in accordance with Table 1 on lots zoned AG, RDR, RLL, R-1, RP-1 or RP-2.

Exception: The parking of a vehicle/item on private property so located upon the property as not to be readily visible from any public place or from any surrounding private property nor shall these subsections apply to any lot or parcel of private property one (1) acre or more in size in AG or RDR zoning districts.

3. Storage or parking of vehicles/items as provided in Table 1 in other zoning districts shall be prohibited except when specifically approved as part of a preliminary development plan or special use permit for said purpose.
4. Recreational Vehicles, Travel Trailers and Toy Haulers shall not be used for on-site dwelling purposes and shall not be permanently connected to sewer lines, water lines, electrical lines or fuel gas lines. When used for dwelling purposes shall be limited to no more than 4 occurrences per year, and shall not exceed 28 days per year (allows for 4 occurrences of 7 day durations or variation thereof as long as number of occurrences and total number of days is not exceeded per year).
5. No part of a vehicle/item parked or stored shall extend over any lot line, sidewalk, right-of-way or into the 25' vision clearance triangle.
6. A. Storage or parking of items permitted by Table 1 shall only be allowed on hard surfaces, i.e., asphaltic concrete, Portland cement concrete or masonry pavers engineered to support the weight of said vehicle, except as specifically noted otherwise.  
  
B. Accessory storage or parking pads shall be permanently connected to the driveway with an asphaltic concrete, Portland cement concrete constructed to support the weight of said vehicle or item.  
  
C. Separate driveways on corner lots shall be permanently connected to the street or curb with an asphaltic concrete or Portland cement concrete constructed to support the weight of said vehicle.

Exceptions to 6 A, B, C:

1. Gravel driveways or parking pads in existence prior to [DATE OF ADOPTION]
  2. The parking or storage of a vehicle/item on private property of one (1) acre or more in size.
7. Recreational vehicles, Travel Trailers, Toy Haulers and other similar vehicles or items which operate on or store flammable liquids or gases shall be stored or parked a minimum of 10 feet from the nearest structure on adjacent property.

Proposed Regulations for inclusion in Chapter 16 Lee's Summit Code of Ordinances  
Lee's Summit Property Maintenance Code

**Table 1**

**Exterior Storage or Parking of Vehicles/Items**

Parking or Storage Configuration	Boats, Personal Water Crafts, All Terrain Vehicles and associated trailer	<u>20 feet in length or less:</u> Recreational Vehicle/Travel Trailer / Toy Hauler/Utility Trailer (open or enclosed)	<u>Greater than 20 feet in length:</u> Recreational Vehicle/Travel Trailer / Toy Hauler/Utility Trailer (open or enclosed)
Single drive	NP	NP	NP
Single drive with accessory pad	P	P	P (on accessory pad only)
Two car drive	P	P	NP
Two car drive with accessory pad	P	P	P (on accessory pad only)
Three car drive or greater	P	P	NP
Three car drive or greater with accessory pad	P	P	P (on accessory pad only)
Separate drive on corner lot	P	P	P

**P = Permitted**

**NP = Not Permitted**

*Yours Truly*

# Recreational Vehicle and Trailer Parking

Unified Development Ordinance

Article 12 Parking Regulations

History

# 1962 – Ordinance #715

- Allowed parking of recreational vehicles in residential zones



# 2001 – Ordinance #5209

- Storage limited to pads adjacent and connected to driveways. Prohibited storage on residential driveway unless on corner lot where separate driveway off other street exists

# 2005 – UDO Amendment #10

- Parking and/or storage of RV's in AG, RDR, R-1, RP-1 and RP-2 and defined storage as “uninterrupted parking for a period of 72 hours”.

# 2010 – UDO Amendment #35

- Defined RV's to include motor homes, camping/travel trailers, all terrain vehicles, boats and jet skis
- Small RV's 20 feet and under
- Large RV's over 20 feet
- No more than two RV's parked or stored
- May only have 1 large RV maximum
- RV shall not be used for on-site dwelling purposes for more than 7 days and not permanently connected (water, sewer, etc)
- Shall not extend over lot line, sidewalk or ROW and not obstruct 25' vision clearance triangle
- Storage limited to driveways in front of 3-car garages or pads adjacent and connected, or corner lots with separate drive
- RV's -10 feet separation from nearest adjacent structure
- **Enclosed /Unenclosed hauling/utility trailers stored in garage unless approved by PDP or SUP**

# March 18, 2010

- City Council passed Amendment #35 with substantial discussion regarding RV and trailer parking provisions – directing staff continue to work on regulations through the CEDC