

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, OCTOBER 22, 2014

4:00 p.m.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider approval of a resolution prohibiting the use of engine braking on portions of N 1000 Road for the duration of the construction of the South Lawrence Trafficway with recommended revisions from the 10-15-14 Commission meeting (Craig Weinaug); and
- (c) Consider approval of the FY 2014 Community Corrections Year End Outcome Report (Deborah Ferguson)

REGULAR AGENDA

- (2) Consider a contract with Treanor Architects for the jail expansion (McGovern/Weinaug)
- (3) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
 - Board of Zoning Appeal (2) eligible for reappointment 10/2014
 - Building Code Board of Appeals (1) eligible for reappointment 12/2014
 - Fire District No. 1 – 12/2014
 - Jayhawk Area Agency on Aging Board of Directors – (2) vacancies
 - Jayhawk Area Agency on Aging Tri-County Advisory Council – (2) vacancies
- (c) Public Comment
- (d) Miscellaneous

RECESS

RECONVENE

6:35 p.m.

- (4) **CUP-14-00304**: Consider a Conditional Use Permit for Central Soyfoods LLC, a Value Added Agriculture use, at 1168 E 1500 Rd. Submitted by David Millstein, property owner of record. (PC Item 3; approved 10-0 on 9/22/14) Mary Miller is the Planner.
- (5) Adjourn

WEDNESDAY, OCTOBER 29, 2014

4:00 p.m.

- Consider amendment of the Tow Service Provider Agreement and amendments to the maximum charges for authorized tow service. (Leslie Herring)
- Consider recommendation of contract to replace United Way roof (Jackie Waggoner)
- Consider approval to use \$48,926 from the Sustainability and Energy Savings Fund to pay for conduit and installation of a 14 kW solar PV system at the new Public Works facility. (Eileen Horn)

WEDNESDAY, NOVEMBER 5, 2014 –Light Agenda

4:00 p.m. only

- Presentation from Lori Alexander
- Recognition for Emergency Management Volunteers (Teri Smith)

WEDNESDAY, NOVEMBER 12, 2014-CANCELED

THURSDAY, NOVEMBER 13, 2014

-9:00 a.m. – General Election Canvass

WEDNESDAY, NOVEMBER 19, 2014

4:00 p.m.

-KDOT presentation on proposed interchange at US-40/K-10 (Aaron Frits, P.E., KDOT – Bureau of Road Design)-No backup

WEDNESDAY, NOVEMBER 26, 2014-CANCELED

Note: The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.

HOME RULE RESOLUTION NO. HR-_____

A HOME RULE RESOLUTION PROHIBITING THE USE OF ENGINE BRAKING ON PORTIONS OF N 1000 ROAD

WHEREAS, K.S.A. 19-101a, and amendments thereto, authorizes the Board of County Commissioners (hereinafter the "Board") to transact all County business and perform all powers of local legislation and administration it deems appropriate, including the enactment of legislation designed to protect the health, safety, welfare, and quality of life of the citizens of Douglas County; and

WHEREAS, the Board is the local authority having jurisdiction over county and township highways within Douglas County; and

WHEREAS, the Board has determined that the use of engine braking on portions of N 1000 Road, described below, is causing unnecessary noise and disruption to the lives of residents near such Road and, therefore, desires to prohibit the use of such breaking mechanisms on such portions of N 1000 Road.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, SITTING IN REGULAR SESSION AND INTENDING TO EXERCISE THE POWERS OF HOME RULE LEGISLATION PURSUANT TO K.S.A. 19-101a, DOES HEREBY RESOLVE AS FOLLOWS:

- 1. Prohibition.** The use of engine braking, including compression release engine brakes, frequently referred to as Jake Brakes, is prohibited on the following described county and township highways:

Westbound traffic on N 1000 Road, from a point 100 yards west of Wells Overlook Drive to E 1338 Road

- 2. Violations.** Persons who violate the provisions of this Resolution shall be guilty of disobeying an official traffic control device and punished as provided in K.S.A. 8-2118, as amended.
- 3. Effective date.** This Resolution shall become effective upon publication one time in the official County newspaper and after appropriate traffic control devices giving notice thereof are erected upon the above described county and township highways.

ADOPTED on _____, 2014.

**BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS**

Nancy Thellman, Chair

ATTEST:

Mike Gaughan, Member

County Clerk

Jim Flory, Member

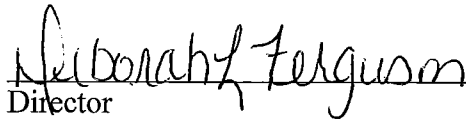
FY 2014 Community Corrections Year End Outcome Report Signatory Approval Form

Agency Name: Douglas County Community Corrections

Agency Director: Deborah Ferguson

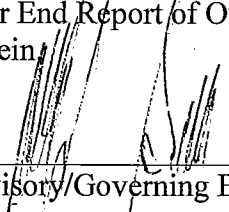
Report Period: July 1, 2013 - June 30, 2014

My signature certifies that I did author this report, and assist in the compilation and analysis of the data cited therein.


Director

10/14/14
Date

.....
My signature certifies that the Community Corrections Advisory/Governing Board reviewed the Year End Report of Outcomes for Fiscal Year 2014 and agreed with the findings and discussion therein.


Advisory/Governing Board Chairperson

10/14/14
Date

Address: 1600 Haskell, Lawrence, KS 66044

Phone: 785-842-8110

Fax: 785-842-9596

E-Mail: mscott@ldcha.org

.....
My signature certifies that the Board of County Commissioners reviewed the Year End Report of Outcomes for Fiscal Year 2014 and agreed with the findings and discussion therein.

Board Of County Commissioners Chairperson (Host County only)

Date

Address: 1100 E. 11th St., Lawrence, KS 66044

Phone: 785-832-0031

Fax: 785-832-5148

E-Mail: nthellman@douglas-county.com

Kansas Department of Corrections

Community Corrections Services



Kansas Department of Corrections Community Corrections Comprehensive Plan Quarterly and Year End Outcome Report Format

Community Corrections Agency: DOUGLAS COUNTY COMMUNITY CORRECTIONS

Fiscal Year 2014 Report Period

<input checked="" type="checkbox"/> 1 st Quarter	July 1 st - September 30 th
<input checked="" type="checkbox"/> 2 nd Quarter	October 1 st - December 31 st
<input checked="" type="checkbox"/> 3 rd Quarter	January 1 st - March 31 st
<input checked="" type="checkbox"/> Year End	July 1 st - June 30 th

Process Goals

Outcome to help close the gaps identified in Organizational Development and Engaging Ongoing Support in the Natural Communities: Fully implement a mentoring program to help with offender pro-social orientations during FY 2014. In addition, to help close this gap, below are strategies to help our agency achieve at least a 75% success rate.

Strategies to achieve success for Outcome/Gap:

- By July 1st 2013, finalize meetings with community collaborators and introduce the mentoring program mission and goals;
- By July 1st 2013, review and finalize the Mentoring Screening Process;
- By July 1st 2013, identify volunteer population;
- By July 1st 2013, review and finalize a created training curriculum for mentors that addresses the following, but not limited to: conduct of mentors; prohibited behavior; acceptable activities; required activities; and offender incentives;
- By July 31st 2013, review and finalize a Mentor Selection (interviews) and Assignment Procedure;
- By July 31st 2013, develop an offender selection/assignment procedure ; and,
- By August 1st 2013, create an exit interview procedure for both mentors and offenders to help improve program measures.

Progress:

Our agency was able to meet with several community collaborators and was able to introduce the mentoring program to the University of Kansas, Big Brothers/Big Sisters

of Douglas County, United Way of Douglas County, Baker University, Washburn University and the Citizens Review Board of Douglas County. The mentoring screening process was reviewed and finalized by Director Deborah Ferguson and Court Administrator Linda Koester-Vogelsang. A training curriculum was created and one eight hour training session was completed with four participants. At this time, all materials for the mentor program have been established.

Discussion / Current Activities:

Earlier in FY14, our agency continued to try and identify the proper offenders who could be successful for the mentoring program. The Director and ISO II continued to review LSI-R scores and discussed caseloads with staff to ensure offenders were being considered. One of the goals was to share the vision and mission of the mentoring program with area churches hoping to find more volunteers who have pro-social habits and a willingness to help others in need. Due to changes in personnel in the 3rd and 4th quarter of FY14, our agency was forced to place the mentoring program on hold until our agency's stabilized.

Challenges:

During the 3rd and 4th quarter our agency had several personnel changes, which delayed the mentoring program from moving forward. The previous ISO II was the overseer of the program, but after accepting other employment the responsibilities were transferred to an ISO I. In addition, our agency had two open ISO I positions to fill. With all this said, we have not continued with the mentoring program. However, this is a goal for our agency once we are fully staffed and caseloads have stabilized. This program was also mentioned in our FY2015 Comprehensive Plan. Lastly, a male mentor took an absence from the program due to family issues.

Modifications:

Once the mentoring program resumes, our agency will continue to have case staffings with officers to identify high risk offenders and our agency will continue meeting with community members to share our vision and mission, and identify potential mentors in our community.

Outcome to help close the gaps identified in Organizational Development and Targeting Interventions:

Revitalize the cognitive skills program to assist with offender thinking patterns utilizing the Thinking for a Change (T4C) curriculum during FY 2014. In addition, to help close this gap, below are strategies to help our agency achieve at least a 75% success rate.

Strategies to achieve success for Outcome/Gap:

- By July 31st 2013, collaborate with Lawrence, Kansas State Parole Office regarding establishing a partnership to assist both CC/Parole offenders;
- By July 31st 2013, Collaborate with Douglas County Re-entry regarding establishing a partnership to assist both CC/re-entry offenders;
- By July 31st 2013, explain the referral procedure to ISOs; and,
- By September 30th 2013, meet with KDOC staff regarding possible collaborations with other providers that utilize the Thinking for a Change curriculum in Northeast Kansas.

Progress:

Our agency understands that due to our low risk population, it is beneficial to partner with other agencies to identify more high risk offenders for a cognitive skills program. Our agency contacted Lawrence Parole Office at the beginning of FY 2014 in hopes a partnership for cognitive skills classes would resume. At this time our agency has not heard back from the Lawrence Parole Office. Our agency communicated with the Re-Entry program in Douglas County. The ISO II contacted Peggy Bryan with KDOC and discussed getting Re-Entry trained in Thinking for a Change. The Re-Entry staff has completed the Thinking for Change (T4C) facilitation training and collaboration between our agency and Re-Entry continues. We have made considerable progress with the cognitive skills classes and they are underway both internally and in the community. In April 2014, our agency completed our first internal T4C program, graduating 7 offenders. In addition, some of the graduates are now participating in the biweekly TAG group. Our agency and partnered with Re-entry, have facilitated classes at the United Way building and we currently have eight participants in the most recent class that began several weeks ago at our agency.

Discussion / Current Activities:

Our agency believes it is important to provide staff with the proper cognitive training so that they are able to emphasize these cognitive-behavioral strategies to offenders. Our agency was in contact with Peggy Bryan in hopes that she may be able to help in the collaboration process. We were recently awarded funding as a result of the Behavioral Health fund, HB2170, and hired a Program Provider, who facilitates cognitive skills classes and alcohol/drug classes to offenders in our program. In April 2014, the current Program Provider was selected as the agency's new ISO I and our volunteer was hired as the new Program Provider. There was no gap in our cognitive skills classes as it was a smooth transition. We will continue to target the high-risk offenders. We will also continue to identify potential candidates for this class through offender interviews and Douglas County Community Corrections Plans submitted to the court prior to sentencing. It should be noted that the cognitive skills program contributed to our Agency's above 75% success rate for FY14.

Challenges:

Our agency and Re-Entry staff continues to identify how we can put a class together where some offenders are in the community and some are in jail. We have discussed how we could get offenders in the community into the jail classroom and if this is a possibility. Until that occurs, we will continue facilitating classes in the United Way building, in addition within our agency.

Modifications:

Our agency will continue the collaboration process with Re-Entry and continue to identify high risk offenders who could benefit from a cognitive skills class.

Outcome to help close the gaps identified in Organizational Development, Targeting Interventions and Engaging Ongoing Support in the Natural Communities: To enhance our internal programs by adding a part-time Resource Officer position that will coordinate the mentoring program and facilitate the cognitive skills classes along with other offender opportunities that exist within the agency during FY

2014. In addition to helping close this gap, below are strategies to help our agency achieve at least a 75% success rate.

Strategies to achieve success for Outcome/Gap:

- By July 31st 2013, complete a position description;
- By July 31st 2013, complete an interview questionnaire;
- By August 1st 2013, complete position announcement and posting;
- By September 1st 2013, schedule and complete interviews;
- By September 15th 2013, select applicant;
- By October 1st 2013, begin training applicant to consist of , but not limited to:
 - Human Resources and Personnel Duties
 - Office Duties
 - Offender Duties
 - Court Duties
 - Public Relations
 - Caseload/offender duties: offenders that have been assigned to the mentoring/cognitive skills programs.

Progress:

We were not able to announce this position as we did not receive the funding needed to adequately sustain current staff and introduce a new position.

Discussion / Current Activities:

Though we were not able to add a Resource Officer, our agency was granted new funding for FY14 for a Program Provider position.

Challenges:

The lack of funding continues to be a challenge for our agency.

Modifications:

There are no modifications at this time.

Outcome to help close the gaps identified in Collaboration: Improve collaboration with specific partners during FY 2014. In addition to helping close this gap, below are strategies to help our agency achieve at least a 75% success rate.

Strategies to achieve success for Outcome/Gap:

- Enhance communication with the District Attorney's Office during FY 2014; and,
- Enhance communication with DCCCA during FY 2014.

Progress:

With the new legislative changes made in the current Fiscal Year, our agency has found it more important that all court personnel are on the same page when discussing sentencing and revocation processes. Our agency invited the Judges, District Attorney's office, Court Services and other court staff to a meeting hosted by KDOC where newly formed HB 2170 was discussed. This proved to be beneficial as we were all able to hear the same information. Our agency has seen some improvement in communication with DCCCA. The Director at DCCCA and the Director of Community Corrections meet once a month to improve communication. In addition, DCCCA staff has been present at

selected staff meetings to discuss mutual offenders. Our agency has been added to their confidential email listing and now staff receives email updates about their offenders in a timely manner. Lastly, the Director and the Chief Court Services officer of Court Services met with the District Attorney to improve communication with their office.

Discussion / Current Activities:

Our agency continues to be available to the court and to the District Attorney's office for questions regarding any case that we may have together. Our agency and DCCCA had two luncheons during FY14 and staff discussed ways to improve collaboration.

Challenges:

While DCCCA has improved their communication with staff, there are still some staff frustrations with having to sign in to a confidential web service to receive DCCCA emails and it has been a challenge to get staff to buy in to DCCCA's new communication process. Lastly, several discharge reports have not been received in a timely manner and DCCCA has failed to communicate when offenders fail to report for treatment on several occasions.

Modifications:

The Director will continue to address communication during staff check-ins. The Director and ISO II will continue to make notes on staff frustrations with other agencies and share those with the Director to handle upon the Directors discretion.

Outcome to help better our agency's Measures and Relevant Processes/Practices: Achieve and maintain a supervision success rate of at least 75% or improving such rate by at least 3% each year, by June 30th, 2014.

Strategies to achieve success for Outcome/Gap:

- Per policy and procedure, all ISOs are required to obtain supervisory approval for any recommended revocations; and,
- Per policy and procedure, all referrals to community corrections will be monitored by the Director to ensure proper placement in community corrections.

Progress:

In reviewing the data obtained through the Court Case Sentencing Information report from the KDOC database, our agency closed a total of 134 offenders from July 1st, 2013 to June 30, 2014. Of those offenders closed from our agency, 104 (77.6%) were successful and 30 (22.3%) were revoked and remanded to serve their sentence with KDOC. Due to recent personnel changes and higher caseloads our agency expected our success rate to decrease; however, it is clear that ISOs are working hard in their case management of offenders as our agency is still maintaining a 75% success rate.

Discussion / Current Activities:

We hired a Program Provider and an ISO I during April 2014. We stabilized in personnel as of June 30, 2014. We are continuing to work with staff and offenders by providing new programs that we believe will help contribute to more successful terminations. We will continue to work with all offenders and address all high risk areas through treatment and continued training in effective communications practices with staff.

Challenges:

A challenge has been the Court assigning offenders to our program that are not amenable for probation, especially presumptive prison cases. In addition, due to personnel changes and higher caseloads, both have created more work for ISOs.

Modifications:

There are no modifications at this time.

Outcome to help close the gap identified in Targeting Interventions: Successfully address targeted interventions identified in a case plan with more cognitive behavioral types of treatment during the supervision process for FY 2014.

Strategies to achieve success for Outcome/Gap:

- Engage and utilize positive associations in offender case plans, during office contacts and through community resources during FY 2014. (Note: our agency believes this will be addressed through the strategies we have developed for the mentoring program and the cognitive skills program).
- By August 1st 2013, KDOC will provide effective Case Plan refresher training;
- ISOs will work with offenders regularly to identify positive associations throughout supervision; and,
- ISOs will refer offenders to the mentor program if no positive associations exist in the offender's natural community.

Progress:

Typically each month, supervisors review monthly reports for each ISO. During the review, case plans are selected and compared to high risk scores on the LSI-R to ensure high risk offenders behavior is being addressed. If the case plan does not address any high risk domains, the supervisor and the officer discuss ways to include high risk areas in current goal or the need for another goal to include high risk areas. Due to the many personnel changes in FY14 staffing this has not recently occurred; but, our agency plans to resume this process sometime during early FY15.

Discussion / Current Activities:

Currently staff has done very well with identifying high risk domains and including those risks in the offender's goal process. There have been very limited conversations where staff has not addressed a high risk area in a goal set by the offender. Staff continues to communicate well with offenders. Supervisors have overheard staff using tools learned in EPICS training. Staff also receives immediate feedback from supervisors when discussing cases and observations during weekly staff check-ins. Supervisors will return to auditing case files once personnel has stabilized.

Challenges:

Due to time and resources, it has been a challenge to record random office visits and provide feedback on the recording, though we do continue to discuss random conversations heard while walking past staff offices. It has also been a challenge to refer offenders to the mentoring program.

Modifications:

Our agency will continue to look at high risk areas in offenders lives and address those through case plans, treatment and referral suggestions to the mentor program.



AIA[®]

Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty-Second day of October in the year Two Thousand Fourteen
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

The Board of County Commissioners for Douglas County Kansas
11th and Massachusetts Street
Lawrence KS 66044

and the Architect:
(Name, legal status, address and other information)

Treanor Architects, P.A.
1040 Vermont Street
Lawrence, KS 66044

for the following Project:
(Name, location and detailed description)

Douglas County Jail Expansion
Lawrence, Douglas County, Kansas
The Project will include a study and Architectural Services for the expansion of the Douglas County Jail, including Mental Health Detention and solutions for additions of Mental Health and Re-entry to the Douglas County Jail, as further described in Exhibit "A."

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

TABLE OF ARTICLES

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- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
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- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
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- 12 SPECIAL TERMS AND CONDITIONS
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EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

The County retains Architect to perform Architectural Services in relation to a the expansion of the Douglas County Jail, including Mental Health Court and Mental Health Crisis Intervention Center associated with the Douglas County Jail. These services are broken into multiple phases identified in Section 3.1.

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

The date shall be determined upon the advice and consultation of the Architect, and subject to the requirements of any applicable bonds, the Owner's rights to not continue the work, and the Owner's other rights.

.2 Substantial Completion date:

The date shall be determined upon the advice and consultation of the Architect, and subject to the requirements of any applicable bonds, the Owner's rights to not continue the work, and the Owner's other rights.

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§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect may negotiate appropriate adjustments to the schedule, the Architect's services and/or the Architect's compensation in accordance with Article 4 to the extent that such change materially affects the Architect's cost of performance.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify in writing a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 Architect agrees to secure and maintain for the duration of this Agreement, at Architect's sole cost and expense, the following insurance coverages in the form and in amounts not less than the amounts specified below:

- .1 Professional Liability insurance, including contractual liability, covering claims arising out of the performance of the Services under this Agreement and for claims arising out of errors, omissions or negligent acts for which Architect may be liable, with policy limits of not less than Three Million Dollars (\$3,000,000.00).
- .2 Commercial General Liability insurance which includes premises/operations, product/completed operations, contractual liability, independent contractors, broad-form property damage, underground explosion and collapse hazard, and person/advertising injury coverages with limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence. If such insurance policy contains a general aggregate limit, it shall separately apply to this Project.
- .3 Commercial Comprehensive Automobile Liability insurance which includes contractual liability coverage and coverage for all owned, hired or non-owned vehicles utilized by Architect with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per accident for bodily injury and property damage.
- .4 Architect shall maintain at all times during the term of this Agreement insurance coverage for:
 - (i) claims under workers' or workman's compensation, disability benefit and other similar employee benefit laws;
 - (ii) claims for damages because of bodily injury, occupational sickness or disease or death of Architect's employees under any applicable employer's liability law; and
- .5 Architect shall also provide and maintain any type of insurance not described above which it requires for its own protection or on account of statutes.

§ 2.5.1 Unless otherwise required, each insurance policy required in this Agreement, except the Architect's professional liability policy:

- .1 shall be kept in force throughout performance of the Services and for one (1) year after the Project Completion Date; and
- .2 shall be an occurrence policy.

§ 2.5.2 The Architect's professional liability policy required by this Agreement:

- .1 shall be issued by an insurance carrier acceptable to the Owner;
- .2 shall be kept in force throughout performance of the Services and for two (2) years after the Project Completion Date;
- .3 may be a claims-made policy; and

.4 if any professional liability is canceled or not renewed, any substitute policy shall have a commencement date retroactive to the date upon which the Architect commences performance of the Services under this Agreement.

§ 2.5.3 Prior to performance of the Services, the Architect shall ensure that its consultants have the required insurance coverages and that of its Consultants are in effect pursuant to this Agreement. The Architect agrees that the Owner shall have no responsibility to verify compliance by the Architect or its Consultants with any insurance requirements.

§ 2.5.4 Architect's Commercial General Liability policy and Commercial Comprehensive Automobile Liability policy, as set forth above, shall be endorsed to include the Indemnified Parties as additional insureds.

§ 2.5.5 With the exception of Workers Compensation and Professional Liability insurance, all insurance required by this Agreement shall be endorsed to be primary and not contributing with any other liability insurance available to the Owner and the Indemnified Parties.

§ 2.5.6 [not applicable]

§ 2.5.7 All insurance coverage procured by Architect, with the exception of workers compensation insurance coverage, shall be provided by insurance companies having policyholder ratings not lower than "A-" and financial ratings not lower than "VIII" in the Best's Insurance Guide, latest edition in effect as of the date of this Agreement and subsequently in effect at the time of renewal of any policies required hereunder.

§ 2.5.8 Architect shall provide certificate(s) of insurance to the Owner as part of a properly completed application for payment before Architect shall be entitled to any sum of money payable under this Agreement. All certificates shall be executed by a duly authorized agent of each of the applicable insurance carriers and state that at least thirty (30) days' notice shall be given to the Owner before any policy covered thereby is canceled. Such certificate shall be in a form acceptable to the Owner. At the request of Owner, Architect shall provide additional certificate(s) evidencing continuation of coverages with respect to insurance coverages that are to remain in force after completion of the Project as set forth in this Agreement.

§ 2.5.9 The maintenance in full current force and effect of such terms and amounts of insurance shall be a condition precedent to Architect's exercise or enforcement of any rights under this Agreement.

§ 2.5.10 If a part of the Services hereunder is performed by a Consultant, Architect shall require its Consultant to secure and maintain insurance against all applicable hazards or risks of loss set forth in this Agreement.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services expressly and impliedly required to satisfy the applicable standard of care. Services not set forth or incorporated in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, report progress to the Owner, and perform work required under this Agreement as required to meet the contractual obligations contained herein.

§ 3.1.2 The Architect shall coordinate its and its consultant's services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall review information provided by the Owner and Owner's consultants for the completeness necessary to the performance of the Architect's services. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once

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approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. If Architect wishes to make a request for additional time to complete any portion of this Agreement, the Architect will make such a request in writing outlining the reason for the additional time and providing new time parameters to the Owner. With the Owner's written approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall report to the Owner the results of this review, specifying the scope thereof. The Architect's performance and design, and those of its Consultants, shall conform to all applicable requirements in effect as of the date of the services imposed by governmental authorities having jurisdiction over the Project pursuant to the applicable standard of care. The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 Services are divided into multiple phases and shall include:

§ 3.1.7.1 Each phase is identified in Exhibit "A" as: Phase I "Needs Confirmation;" Phase II "Benchmarking and Public Education;" Phase III "Concept Design;" Phase IV "Operational Impact Study;" and, Phase V "Architectural/Engineering Services." All services must consider how sustainable design can be incorporated into the Project.

§ 3.1.7.2 Each phase is contingent on securing and appropriating the funds for the subsequent phase and the Owner's discretion in determining whether to proceed, which shall only be expressed through a written notice to proceed issued by the Owner. In the event Douglas County does not proceed for whatever reason, the Architect will not receive any fees, expected profits or other compensation in relation to the phases that were not the subject of a notice to proceed.

§ 3.1.8 All aspects of Architect's work shall endeavor to implement:

§ 3.1.8.1 A rigorous understanding of the County jail design, functionality and operations;

§ 3.1.8.2. Innovative approaches to building systems and envelope design for maximum energy performance and environmental responsiveness.

§ 3.1.8.3 Proven technologies and regionally-appropriate systems with functionally driven, life-cycle supported solutions;

§ 3.1.8.4 Design of long life, low maintenance, flexible and enduring operational facilities that also clearly epitomize high quality civic architecture and respect for context and regionalism;

§ 3.1.8.5 Environmental performance with special focus on energy/carbon reduction, lifecycle issues, indoor and outdoor environmental quality, site sensitivity, and sustainable materials integration, without compromise to project functionality or budget;

§ 3.1.8.6 A highly collaborative, integrated team delivery model; and

§ 3.1.8.7 Close working relationship with Administration and Sheriff to determine needs and layout.

§ 3.1.9 MEETINGS

§ 3.1.9.1 During each phase of the Project Architect shall schedule regular meetings with Owner or otherwise meet upon the reasonable request of Owner to discuss the progress, development and analysis of the Project.

§ 3.1.9.2 [Not Applicable].

§ 3.1.9.3 At the request of Owner, Architect shall endeavor to ensure that the persons who actually performed the work and/or calculations which are the subject of the meeting shall be physically present at each such meeting.

§ 3.1.9.4 At the request of Owner, Architect and any applicable consultant shall lead public meetings that are called to discuss the project. At the request of Owner, Architect and its applicable consultants shall also attend public meetings with the Board of County Commissioners in order to report, discuss and answer questions about the Project.

§ 3.1.9.5 Nothing contained within this Agreement shall relieve or otherwise lessen the standards or obligations of the Architect or any of its consultants, and no review by Owner shall be deemed verification of underlying data, compilations, calculations, work papers, conclusions, or other work of Architect and its consultants.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall assist the Owner in preparing the program, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall report to the Owner the results of this review, specifying the scope thereof. The Architect's performance and design, and those of its Consultants, shall conform to all applicable requirements in effect as of the date of the services imposed by governmental authorities having jurisdiction over the Project pursuant to the normal Standard of Care.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, energy models, environmentally responsible design alternatives, and possible procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, and consult with the Owner for the best available delivery method for the construction, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project. Architect shall engage in and assist the Owner determining the delivery method for the construction of the Project, and participate in the selection of the Contractor, including involvement with multiple candidates during the selection process. It is possible that the Project will be constructed through a delivery method that brings a contractor into the Project at a stage so that it can participate in the design process as it relates to the Project's construction (i.e. scheduling, cost, and constructability issues), but such participation shall not relieve or lessen Architect's responsibilities. Operationally, Owner expects a highly integrated and cooperative team approach to the entire process of design and construction.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Upon the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, preliminary building plans, sections and elevations, and energy models and environmentally responsible design alternatives; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. Any approval of Owner shall be for the sole purpose of confirming whether such design documents are generally consistent with the Owner's intent for the Project and shall not waive, release or relieve the Architect of its professional responsibilities hereunder.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that

is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. Any approval of Owner shall be for the sole purpose of confirming whether such design documents are generally consistent with the Owner's intent for the Project and shall not waive, release or relieve the Architect of its professional responsibilities hereunder.

§ 3.2.8 The Architect shall assist the Owner in connection with evaluating: (a) alternative materials, (b) structural, mechanical, enclosure, and other significant building systems, (c) site engineering as well as overarching issues of program, budget, and aesthetics, and shall report the results of this analysis in written form to the Owner.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Upon the Owner's approval of the Schematic Design Documents pursuant to this Agreement, and on the Owner's written authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate, and energy models and environmentally responsible design alternatives. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Any approval of Owner shall be for the sole purpose of confirming whether such design documents are generally consistent with the Owner's intent for the Project and shall not waive, release or relieve the Architect of its professional responsibilities hereunder.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Upon the Owner's approval of the Design Development Documents pursuant to this Agreement, and on the Owner's written authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents within the budget for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents as required by the Architect's standard of care and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work, including but not limited to, the architectural, structural, utilities serving the site, landscaping, fire protection and life safety design requirements for the Project. In connection with preparing the Construction Documents for the Project, Architect shall be responsible for the services of its Consultants, including but not limited to Consultants' preparation of final structural engineering calculations and civil engineering calculations for areas modified by the Architect's design. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. Any approval of Owner shall be for the sole purpose of confirming whether such design documents are generally consistent with the Owner's intent for the Project and shall not waive, release or relieve the Architect of its professional responsibilities hereunder. The Construction Documents prepared by Architect during the Construction Documents Phase shall, in accordance with the Standard of Care:

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- .1 be complete, accurate, coordinated, integrated, unambiguous, and buildable;
- .2 take into account existing site features and any existing structures and integrate the Work into existing site features and existing structures; and
- .3 portray Work which satisfies the Owner's disclosed aesthetic, functional and operational objectives in all material respects.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. Any approval of Owner shall be for the sole purpose of confirming whether such design documents are generally consistent with the Owner's intent for the Project and shall not waive, release or relieve the Architect of its professional responsibilities hereunder.

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. After completion of the Construction Documents, Architect shall advise Owner concerning the selection of subcontractors and suppliers on behalf of the Owner to the extent Owner has a role. Architect's advising in this matter shall not imply any endorsement or warranty of any subcontractor or supplier. Nothing in this paragraph shall create a duty on behalf of Owner or Architect to a subcontractor, supplier or contractor, or otherwise affect the County's internal procedures. Any approval of Owner shall be for the sole purpose of confirming whether such design documents are generally consistent with the Owner's intent for the Project and shall not waive, release or relieve the Architect of its professional responsibilities hereunder.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

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§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction as amended by the Supplementary Conditions as of the date of this agreement. If the Owner and Contractor modify AIA Document A201-2007 after this date, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. Except to the extent the Contract Documents unambiguously dictate such matters, the Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The appropriate persons making such visits and evaluations shall be properly qualified, experienced and knowledgeable about the Project.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum, or (5) determined that the application for payment is undisputed.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, as necessary to ascertain their conformance with the Contract Documents and as necessary to provide Owner with a functional Project that satisfies the Program. The Architect's review shall not be conducted for the purposes of confirming dimensions or quantities except to the extent that the Contractor has requested the assistance of the Architect to determine certain dimensions because those indicated in the Contract Documents conflict with existing field conditions or because the dimensions in the Contract Documents contain erroneous, inconsistent, or incomplete dimensions for which clarification is needed and can best be supplied by the Architect. Except to the extent the Contract Documents unambiguously dictate such matters, the Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify professional design services required of Contractor, and Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such

design professionals, to the extent a reasonably prudent Architect would rely on such services, certifications or approvals utilizing the applicable standard of care.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information (hereinafter "RFI"). Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum, or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified.

§ 3.6.5.2 The Architect shall analyze properly prepared written requests by the Owner or Contractor for changes in the Work, including requests for adjustment to the Contract Sum or Contract Time, and shall report the results of its analysis in writing to the Owner and Contractor within a reasonable period of time but in no case later than ten (10) days after the Architect's receipt of the request. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation.

§ 3.6.5.3 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Architect. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor

§ 3.6.5.4 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents, subject to the rights and remedies of the Owner against the Contractor as set forth in the Contract Documents..

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2)

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affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, prepare the one-year warranty review for presentation to the construction contractor, and conduct a meeting with the Owner to review the facility operations and performance.

§ 3.7 **Basic Services Addendum.** Subject to the Owner's right to not continue the Project or any of its phases, the following services and the services identified in Exhibit "A" shall be deemed part of the Basic Services, and are provided by way of example and not limitation; delineation below does not limit Architect's responsibilities under the terms of this Agreement.

- .1 **Programming.** Architect shall consult with Owner and Contractor to develop the program for the Project, including:
 - (a) Design objectives, limitations and criteria;
 - (b) Occupancy dates;
 - (c) Project site limitations;
 - (d) Gross facility areas and space requirements;
 - (e) Space relationships;
 - (f) Utility service needs.
- .2 Architect shall prepare multiple alternate preliminary designs at the request of Owner for the review and approval by Owner as to general design concept and appearance.
- .3 [Not Applicable]
- .4 [Not Applicable]
- .5 **Interior Design/Documentation.** Architect shall perform interior design and documentation services for items typically included in the General Construction, consisting of:
 - (a) During the Schematic Design Phase, reviewing with the Owner space allocations and utilization plans based on functional relationships, consideration of alternate materials, systems and equipment and development of conceptual design solutions for architectural, mechanical, electrical and equipment requirements in order to establish the following based upon the program requirements and cost limitations approved by the Owner: partition locations; furniture and equipment layouts; types and qualities of finishes for materials;
 - (b) During the Design Development Phase, continued development and expansion of the approved interior Schematic Design Documents and preparation of Design Development Documents to develop outline Specifications or materials lists that establish final scope and preliminary details relative to the following in conformance with the cost limitations approved by the Owner: interior construction of the Project; special interior construction features; materials, finishes and colors;
 - (c) During the Construction Documents Phase, preparation of final Construction Documents consisting of Drawings, Specifications and other documents based on the Design Development Documents and cost limitations approved by the Owner, setting forth in detail the requirements for interior construction
- .6 **Value Analysis.** During the normal course of the design work, within reason, the Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the Program and all other contract documents, and report its analysis to the Owner in writing for decision. The analysis shall include, but not be limited to, anticipated initial savings, expected long term costs of use, durability, maintenance requirements and other factors that allow Owner to wisely allocate its resources.
- .7 Detailed cost estimating. During the schematic design phase Architect shall provide a forecast of construction costs that may be prepared on the basis of current area, volume or similar conceptual estimating techniques. During each phase thereafter, Architect shall provide a forecast of construction cost prepared on the basis of a detailed analysis of materials and labor for all items of work. A purpose for the estimate is the County's issuance of bonds to pay for the Project, and all

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requirements for such bonding must be included in the estimates as reasonably requested by the Owner.

.8 [Not Applicable]

.9 **Record Drawings.** Architect shall provide record drawing services provided in Auto Cad and PDF formats consisting of:

- (a) Making arrangements for obtaining from Contractors information in the form of marked-up prints, drawings and other data on changes made during the performance of the Work;
- (b) Reviewing general accuracy of information submitted by the Contractors;
- (c) Transmittal of record drawings and general data, appropriately identified, to the Owner and others as directed.
- (d) Mechanical and electrical systems and equipment schedules with as-built information added will be submitted in specified spreadsheet or database formats.

Such services are not certifications as to accuracy or completeness, but rather shall be provided in accordance with the applicable standard of care.

.10 **Coordination of Owner's Consultants.** Architect shall make timely requests for information from Owner's consultants, timely review for sufficiency of such information, and give timely notice of any problems with such information.

.11 **Commissioning and start-up.** In coordination with the Contractor, the Architect shall cooperate with the Owner's Commissioning agent in providing necessary documents and information to facilitate Commissioning. In addition, the Architect shall prepare the one-year warranty review for presentation to the construction contractor.

.12 **Environmentally responsible design.** The Architect shall reasonably evaluate and present for consideration: design concepts, building materials and systems with a minimized impact on the local and global environment.

.13 **FFE.** Architect shall perform FFE services consisting of:

- (a) During the Schematic Design Phase, reviewing with the Owner space allocations and utilization plans based on functional relationships, consideration of alternate materials, systems and equipment and development of conceptual design solutions for architectural, mechanical, electrical and equipment requirements in order to establish the following based upon the program requirements and Project Budget approved by the Owner: identification of equipment and other fixtures for the Project, including but not limited to detention equipment.
- (b) During the Design Development Phase, continued development and expansion of the approved interior Schematic Design Documents and preparation of Design Development Documents to develop outline Specifications or materials lists that establish final scope and preliminary details relative to the following in conformance with the Project budget approved by the Owner: interior construction of the Project; special interior construction features; materials, finishes and colors; identification of equipment and other fixtures for the Project, including but not limited to detention equipment.
- (c) During the Construction Documents Phase, preparation of final Construction Documents consisting of Drawings, Specifications and other documents based on the Design Development Documents and Project Budget approved by the Owner, setting forth in detail the requirements for interior construction and equipment and fixture requirements.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)

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§ 4.1.1	Programming (B202™-2009)	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.2	Multiple preliminary designs	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.3	Measured drawings	N/A	
§ 4.1.4	Existing facilities surveys	N/A	
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.6	Building Information Modeling	A	Basic Services
§ 4.1.7	Civil engineering	N/A	
§ 4.1.8	Landscape design	N/A	
§ 4.1.9	Architectural Interior Design (B252™-2007)	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.10	Value Analysis	A	As described in 3.7 and elsewhere in the Agreement
<i>(Row deleted)</i>			
§ 4.1.11	Detailed cost estimating	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.12	On-site Project Representation (B207™-2008)	N/A	
§ 4.1.13	Conformed construction documents	N/A	
§ 4.1.14	As-Designed Record drawings	A	Basic Services
§ 4.1.15	As-Constructed Record drawings	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.16	Post occupancy evaluation	N/A	
§ 4.1.17	Facility Support Services (B210™-2007)	N/A	
§ 4.1.18	Tenant-related services	N/A	
§ 4.1.19	Coordination of Owner's consultants	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.20	Telecommunications/data design	A	Basic services
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	A	Basic services
§ 4.1.22	Commissioning	A	As described in 3.7 and elsewhere in the Agreement
<i>(Row deleted)</i>			
§ 4.1.23	Extensive environmentally responsible design	A	As described in 3.7 and elsewhere in the Agreement
§ 4.1.24	LEED® Certification (B214™-2012)	N/A	
§ 4.1.25	Fast-track design services	N/A	
§ 4.1.26	Historic Preservation (B205™-2007)	N/A	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	A	As described in 3.7 and elsewhere in the Agreement

Identification of specific Service Descriptions in the table above does not limit Architect's responsibilities under the terms of this Agreement, all of which are incorporated by reference into the "Location of Service Description" column above.

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

Init.

§ 4.3.1 Upon recognizing the need to perform the following potential Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the services until the Architect receives the Owner's written authorization. Examples include:

- .1 Services necessitated by a material change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the implementation of codes, laws or regulations enacted or revised after completion of the Instruments of Service;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 [reserved];
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner if they exceed ten percent of the projected construction budget;
- .7 [reserved];
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 [reserved];
- .10 Consultation concerning replacement of Work resulting from *force majeure* during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 [reserved];
- .2 [reserved];
- .3 [reserved];
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by Owner with subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the entire Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier. Such services shall not automatically be deemed Additional Services, but rather shall be submitted for negotiation to the Owner.

§ 4.3.3 Construction Phase Services exceeding the limits set forth below may be treated as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (Two) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 [reserved]
- .3 Two (Two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One (One) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within forty-eight (forty-eight) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time may be negotiated as Additional Services.

Init.

§ 4.4 Absent the written agreement between the parties, no actions shall serve to waive any requirements of this Agreement or otherwise serve as a basis for additional compensation or time for performance, even in the event of Owner benefitting therefrom.

§ 4.5 A change in the Fee, any Reimbursable Expenses or the Contract Time shall be accomplished only by written notice from the Owner expressly authorizing the Services and stating the amount of the change.

§ 4.6 Architect hereby acknowledges that the Owner's designated representative is the only person who can order changes in the Services, and that Architect shall not comply with requested changes from any person other than the Owner's designated representative. If Architect receives requests for changes from any person other than the Owner's designated representative, Architect shall report such request to the Owner's designated representative for resolution.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information reasonably available to Owner and as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights. Nothing contained within this Agreement is intended to create any lien rights.

§ 5.2 The Owner shall periodically update the Owner's overall budget for the Project. The Owner shall not significantly increase or decrease the Owner's budget without the agreement of the Architect if such change would significantly change the Services to be provided by Architect. The Owner shall inform the Architect in writing of changes in the Owner's budget. In the event of a significant increase or decrease, the Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. Owner's representative may be changed by Owner delivering to Architect written notice of a replacement representative. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. No action taken by an Owner under this section shall relieve the Architect of its obligations pursuant to this Agreement.

§ 5.4 The Owner shall furnish or cause to be furnished surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 Upon the reasonable request of the Architect, the Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The scope, location and other details of the services necessary for the completion of the obligations under this Agreement shall be determined by Architect in accordance with the applicable standard of care.

§ 5.6 Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

Init.

§ 5.7 Upon the reasonable request of the Architect, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that it believes may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress. Unless otherwise stated, Architect and its consultants shall have access to the site for activities necessary for the performance of the Work. The Architect and its consultants shall take precautions to minimize damage to the site due to these activities. The Architect will coordinate all Work with Contractor or Owner, scheduling in advance with Contractor or Owner activities that will limit access to any particular part of the site so as to enable Contractor or Owner to make all necessary arrangements to accommodate Architect's activities.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include reasonable contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project if disclosed in writing; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be in accordance with Section 3.7.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

Init.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of amounts due Architect hereunder not subject to a good faith bona fide dispute, under this Agreement. Upon final payment by Owner of the amounts due Architect under this Agreement upon completion of the work or termination of the Agreement, the license shall become irrevocable. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

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§ 7.5 For purposes of this Agreement, Instruments of Service shall have the same meaning as in AIA Document A201-2007, General Conditions of the Contract for Construction, and shall include, but not be limited to, all work papers, studies, programming, testing, guides, reports, notes and other papers of Architect and its consultants. For example, the needs studies for space and equipment along with the underlying data, calculations and other work shall be an Instrument of Service.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1., except to the extent such claims are for indemnity, contribution or recoupment.

§ 8.1.2 To the extent damages are covered and paid by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction, as amended. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation, if applicable. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other (Specify)

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(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect of amounts not subject to a good faith dispute in accordance with this Agreement, that were part of timely, properly completed, undisputed applications for payment, and such failure shall continue to seven (7) days after receipt of written notice from Architect, such failure shall be considered substantial nonperformance and cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than 45 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the schedule for the Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. When the Architect has not performed or has unsatisfactorily performed the contract, payment may be withheld to the extent the Owner deems it necessary to protect itself against damages or loss due to the actions or inactions of Architect. Upon termination for cause, subject to withholding as allowed by law and under this agreement, Architect shall be eligible to receive payment for its applicable fees for its services performed and accepted as of the date of termination. The Architect will not receive any fees, expected profits or other compensation in relation to work that has not been performed and accepted by Owner.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause, including, but not limited to, the inability of the Owner to get acceptable financing for the Project, its decision not to proceed further on the Project, or the exercise of its discretion.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated only for services performed prior to termination, together with Reimbursable Expenses then due. The Architect will not receive any fees, expected profits or other compensation in relation to work that has not been performed.

§ 9.7 [reserved].

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located. All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction, as amended.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. Should the Architect become aware of the presence of hazardous materials or toxic substances on the Project site, Architect shall immediately report that presence to the Owner in writing.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 The Services provided by the Architect are, for the purposes of this Agreement, deemed to be personal services. The Architect shall assign the team present at the selection interview (the "Project Team") to perform and/or oversee their designated tasks by identifying them in writing to the Owner prior to any work being performed. Owner shall review and approve or reject members of the Project Team, but such review, approval and rejection shall not be deemed control over Architect's means and methods or verification of the Project Team's competence. Each shall have a minimum of five years experience in a role similar to their role on the Project Team. Any replacement of a listed team member shall be approved in advance by the Owner in writing, and Owner reserves the right to require the removal of members of the Project Team. However, nothing in this clause shall be construed to limit the Owner's right to terminate the Contract, as provided in this Agreement, or as the Owner's adoption of any designated person as having all necessary skills, experience or talent necessary to perform the work. Termination by the Owner as a result of a change in the Architect's Project Team shall be deemed a justifiable Termination for Cause.

§ 10.10 This Agreement shall be interpreted without regard to the draftsman. The terms and intent of this Agreement, with respect to the rights and obligations of the parties, shall be interpreted and construed on the express assumption that each party participated equally in its drafting.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Phase I – Needs confirmation – A lump sum to be determined, not to exceed \$75,000

Phase II – Benchmarking - \$14,500.00

Phase III - Concept Design - \$72,250.00

Phase IV -Operational study - \$12,900.00

Phase V – Architectural services – 7.4% of the Cost of Construction as determined upon completion of the Design Development Phase

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User Notes:

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Compensation shall not exceed this amount absent written agreement with the Owner.

The Phase V Architectural services fee shall be calculated based upon the agreed estimates formed upon completion of the Design Development Phase and shall not be adjusted based on final figures from the contractor.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

As negotiated with Owner and according to Architect's published hourly rates

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

As negotiated with Owner and according to Architect's published hourly rates

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent (0.00 %), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services for Phase V shall be as follows:

Schematic Design Phase	Twenty	percent (20%
Design Development Phase	Twenty	percent (20%
Construction Documents Phase	Thirty five	percent (35%
Bidding or Negotiation Phase	Five	percent (5%
Construction Phase	Twenty	percent (20%
<hr/>			
Total Basic Compensation	one hundred	percent (100

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced, but shall not receive any fees, expected profits or other compensation in relation to work that has not been performed or phases that were not approved.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices and upon written approval of Owner.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attached

Init.

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services, must be preapproved by Owner in writing, and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 ;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 ;
- .6 ;
- .7 ;
- .8 ;
- .9 Sales taxes levied on professional services;
- .10
- .11

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0.00 %) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

(Paragraphs deleted)

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 [reserved].

§ 11.10.2 A timely submitted, properly completed, undisputed application (Architect's invoice) for the payment of services shall be made monthly in proportion to services performed in the applicable phase. Payments are due and payable upon presentation of the Architect's application for payment under this paragraph. Amounts unpaid Thirty (30) days after the application date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. Applications for payment should be in Architect's format approved by the Owner, and submitted to Owner's Designated Representative. *(Insert rate of annual interest agreed upon.)*

Six percent per annum

§ 11.10.3 [reserved].

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 12.1 INDEMNITY

§ 12.1.1 To the fullest extent permitted by Law, the Architect shall hold harmless and indemnify the Owner and any of its officers, directors, employees, and their successors (collectively the "Indemnified Parties"), from and against liability, loss, costs, and expenses arising out of or resulting from the negligent performance of the Architect's Services under this Agreement to the extent caused by the negligent act or omission (i) of the Architect, or (ii) of the Architect's Consultants, or (iv) the agents, servants, or employees of Architect and any Architect's Consultant, to the extent such claim, damage, loss or expense is not caused by the negligence or fault of any of the Indemnified Parties. Nothing contained herein shall be construed to require Architect to indemnify the Indemnified Parties from liability, losses, costs and expenses proximately caused by the Indemnified Parties, or each of them. The above-said right of indemnity shall be in addition to other rights of indemnity that any of the Indemnified Parties may possess. The indemnification obligations of Architect under this Agreement shall survive termination of this Agreement or final payment hereunder.

§ 12.1.2 In any and all claims against the Owner by any employee of Architect or any of Architect's Consultants, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable, the indemnity

Init.

obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for Architect or any of Architect's Consultants under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts.

12.2 KANSAS LEGAL REQUIREMENT

§ 12.2.1 If the successful firm is a corporation organized outside the State of Kansas, it will be necessary to qualify with the Secretary of State of Kansas to do business within the State (K.S.A. 17-7301 K.S.A. seq.). Nonresident individuals or partnerships and nonresident corporations not already registered with the Secretary of State are required to register with the Director of Revenue, to file a bond to assure payment of taxes, and to pay a fee of \$10 for each contract or subcontract with exceeds \$3,000 (K.S.A. 79-1008 to 79-1015).

§ 12.2.2 Nonresident contracts are required to appoint an agent for service of process who is a resident of the county in which the work is to be performed. It is unlawful for any payment to be made until the appointment of a local agent has been filed with the Clerk of the District Court (K.S.A. 16-113).

§ 12.2.3 Architect shall not in any way, directly or indirectly, discriminate against any person because of age, race, color, handicap, sex, national origin, or religious creed.

§ 12.2.4 Consistent with K.S.A. 44-1030, the Architect agrees as follows:

- .1 The Architect shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, national origin or ancestry.
- .2 In all solicitations or advertisements for employees, the Architect shall include the phrase "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission (the "Commission").
- .3 If the Architect fails to comply with the manner in which it reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Architect shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the Owner.
- .4 If the Architect is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Architect shall be deemed to have breached the present contract and it may be cancelled, terminated, or suspended, in whole or in part, by the Owner.
- .5 The Architect shall include the provisions of Clauses (1) through (4) in every consulting agreement, subcontract or purchase order so that provisions will be binding upon such consultant, subcontractor or vendor.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect, as amended
- .2 :

- .3 Other documents:
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

Exhibit A – Scope proposal

Exhibit B – Hourly rates

A201-2007: General Conditions of the Contract for Construction ("General Conditions") as amended

Init.

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User Notes:

(1147228520)

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

Daniel R. Rowe, AIA Principal

(Printed name and title)

Init.

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User Notes:

(1147228520)

PLANNING COMMISSION REPORT
Regular Agenda –Public Hearing Item

PC Staff Report
9/22/14

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

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

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

1. The following standards shall apply to the use:
 - a. A maximum of 4 full-time equivalent employees are permitted.
 - b. The structure in which the use is conducted may be up to 3,600 sq ft.
 - c. No equipment that creates noise, vibration, electrical interference, smoke or particulate matter emission perceptible beyond the property lines or in excess of EPA standards is allowed.
 - d. All equipment and materials used in the business must be stored indoors.
 - e. No retail sales of products shall occur on the site.
 - f. Deliveries from trucks with a GVWR (Gross Vehicle Weight Rating) of more than 5 tons are limited to no more than 2 per week. This does not apply to incidental deliveries such as Fed Ex and UPS.

2. Provision of a revised CUP plan with the following changes:
 - a. General CUP notes added per Planning approval.
 - b. Parking area expanded to 5 parking spaces, with one being ADA accessible, and dimensions of the parking area noted on the plan.
 - c. Evergreen trees added to screen the south side of the parking area.
 - d. Location of holding pond/lagoon shown on the plan.
 - e. Standards listed in Condition No. 1 noted on the plan.
 - f. Addition of the following note: *"The Conditional Use Permit will be administratively reviewed by the Zoning and Codes Office in 5 years and will expire in 10 years from the approval date noted on the plan unless an extension is approved by the County Commission prior to that date."*

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

KEY POINTS

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

ATTACHMENTS

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

ASSOCIATED CASES/OTHER ACTION REQUIRED

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

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

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

GENERAL INFORMATION

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

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



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



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



Figure 1c: Land use in the area.

Site Summary

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

Summary of Request

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

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

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

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

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

I. ZONING AND USES OF PROPERTY NEARBY

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

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

II. CHARACTER OF THE AREA

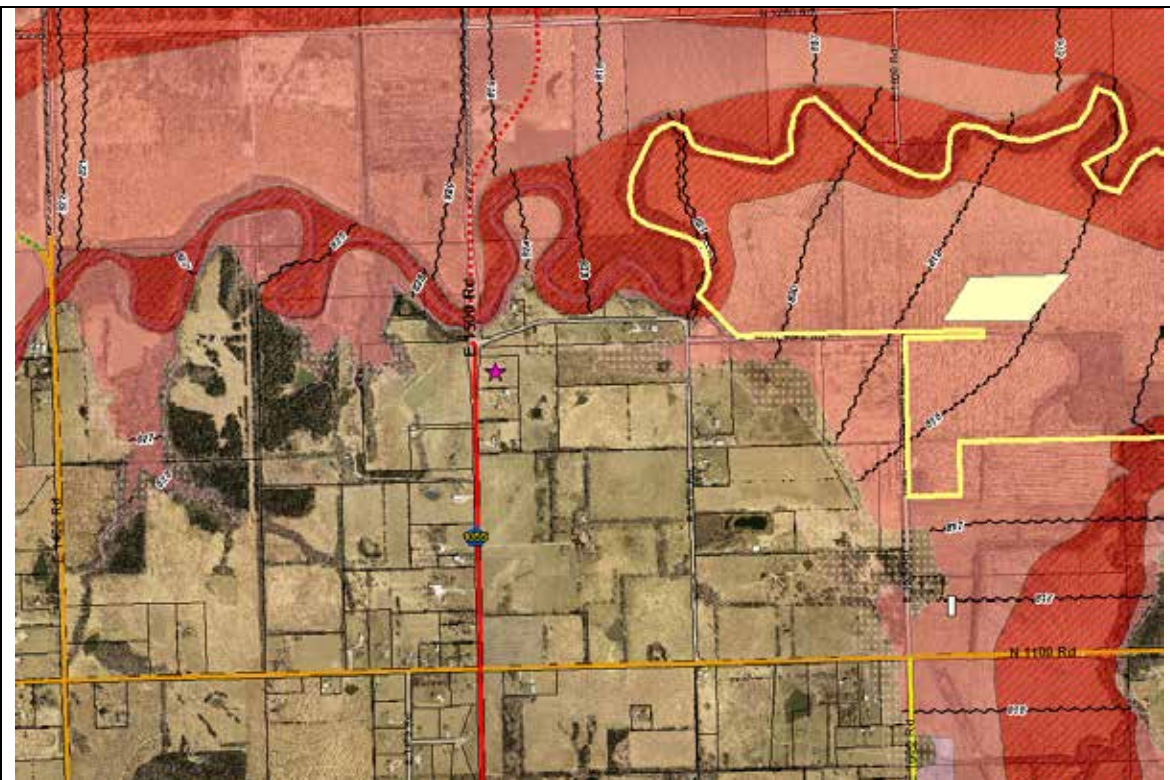


Figure 2: Characteristics of the area: Street network: Principal arterials shown in red, major collectors in orange, minor collectors in yellow. Boundary of the city property to the east with the proposed site of the Wakarusa Wastewater Treatment Plant shown in yellow. Floodplain shown in red. Subject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

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

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

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

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

Applicant's response:

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

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

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

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

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

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

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

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

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

Applicant's Response:

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

Section 12-319-1.01 of the County Zoning Regulations recognize that *"certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."* The proposed use is included in the Conditional Uses enumerated in Section 12-319-4 of the Zoning Regulations for the Unincorporated Territory of Douglas County as *Value Added Agriculture*.

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



Figure 3. Current facility at 710 E 22nd Street. General location of Central Soyfood is circled.

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

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

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

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



Figure 4a. Processing area



Figure 4b. Processing area for pressing the tofu.



Figure 5. Central Soyfood's delivery vehicle.



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

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



Figure 7. Example of soybean delivery truck.



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

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

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

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

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

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

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

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

PUBLIC COMMENTS

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

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

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

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

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

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

Applicant's Response:

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

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

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

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

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

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant’s Response:

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

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

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

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

CUP PLAN REVIEW

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

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

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

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

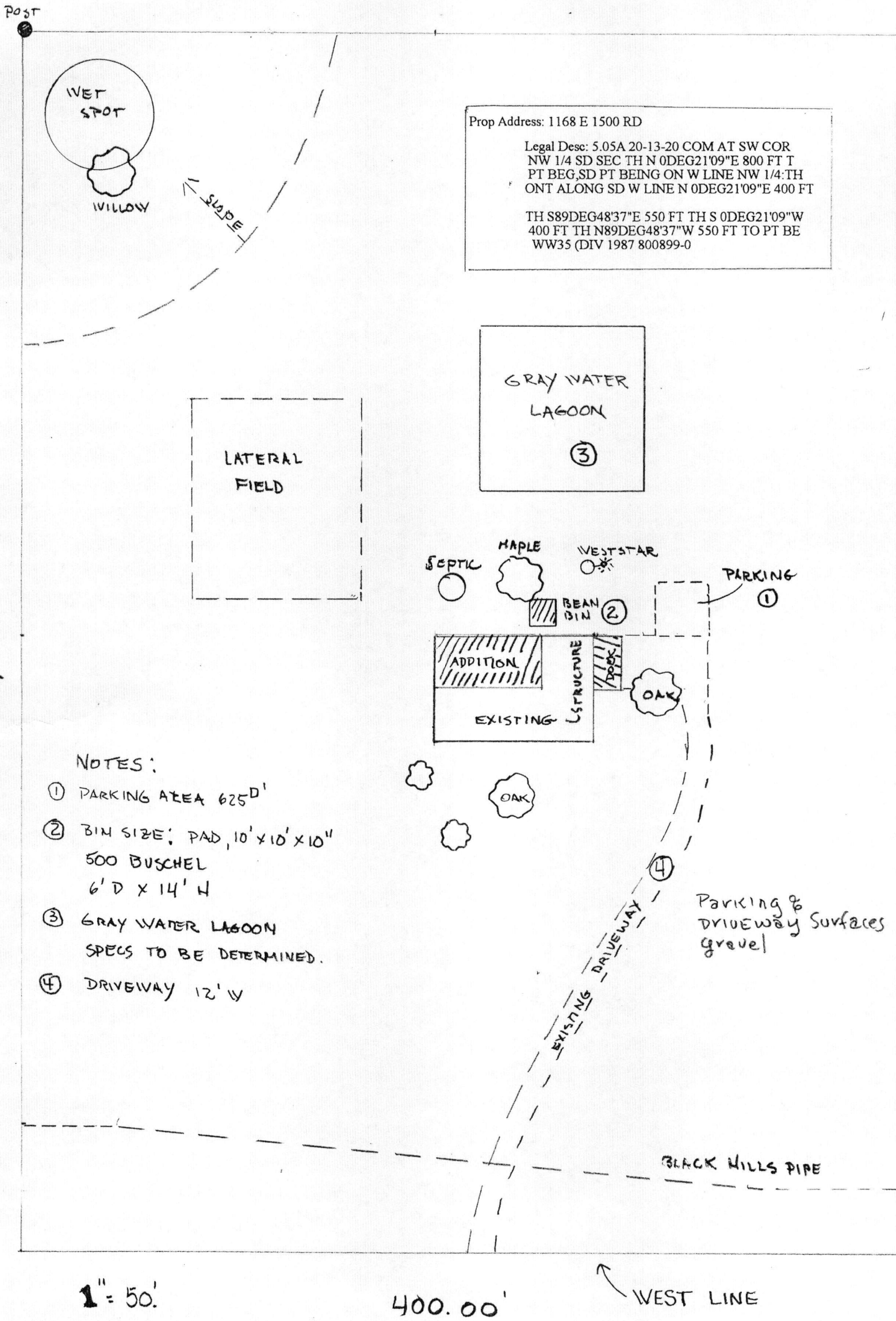
Limits and Conditions:

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

Conclusion

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

Site Plan Proposed tofu facility



Prop Address: 1168 E 1500 RD

Legal Desc: 5.05A 20-13-20 COM AT SW COR
 NW 1/4 SD SEC TH N 0DEG21'09"E 800 FT T
 PT BEG, SD PT BEING ON W LINE NW 1/4: TH
 ONT ALONG SD W LINE N 0DEG21'09"E 400 FT

TH S89DEG48'37"E 550 FT TH S 0DEG21'09"W
 400 FT TH N89DEG48'37"W 550 FT TO PT BE
 WW35 (DIV 1987 800899-0)

NOTES:

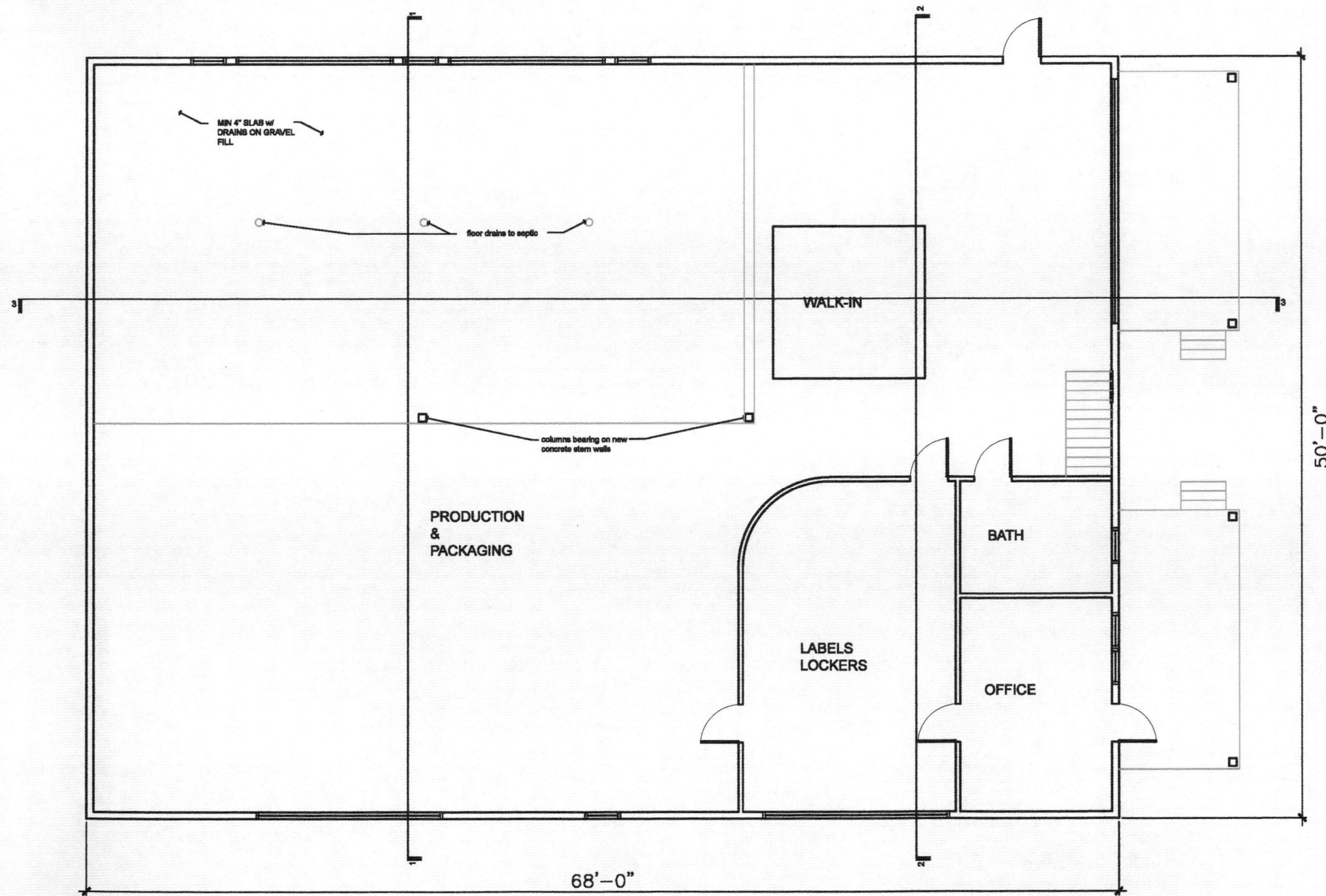
- ① PARKING AREA 625^D
- ② BIN SIZE: PAD, 10' x 10' x 10"
500 BUSCHEL
6' D x 14' H
- ③ GRAY WATER LAGOON
SPECS TO BE DETERMINED.
- ④ DRIVEWAY 12' W

Parking & Driveway Surfaces
gravel

1" = 50'

400.00'

WEST LINE



① Plan
1/8" = 1'-0"

1168 EAST 1500

REVISIONS

Permit Documents

ISSUE DATE AUGUST 05, 20

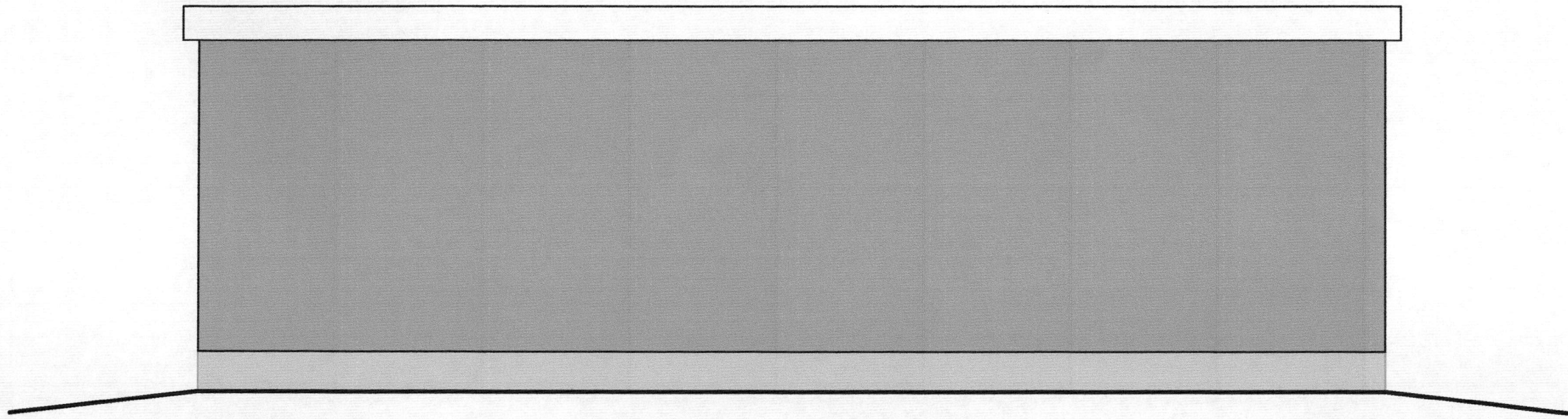
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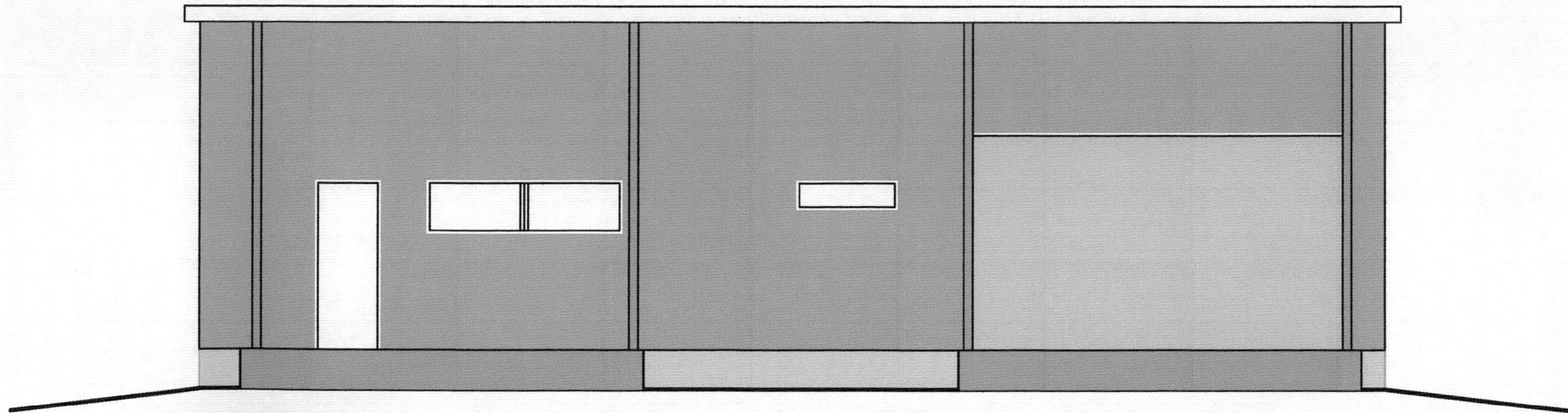
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TITLE

PLAN



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



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

1168 EAST 1500

REVISIONS

Permit Documents

ISSUE DATE AUGUST 05, 20

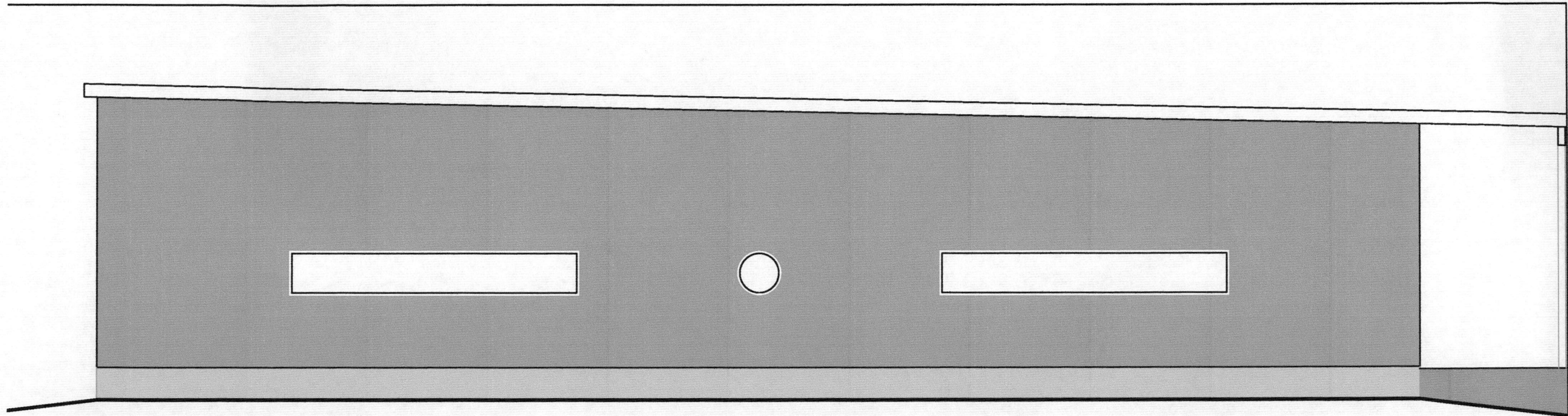
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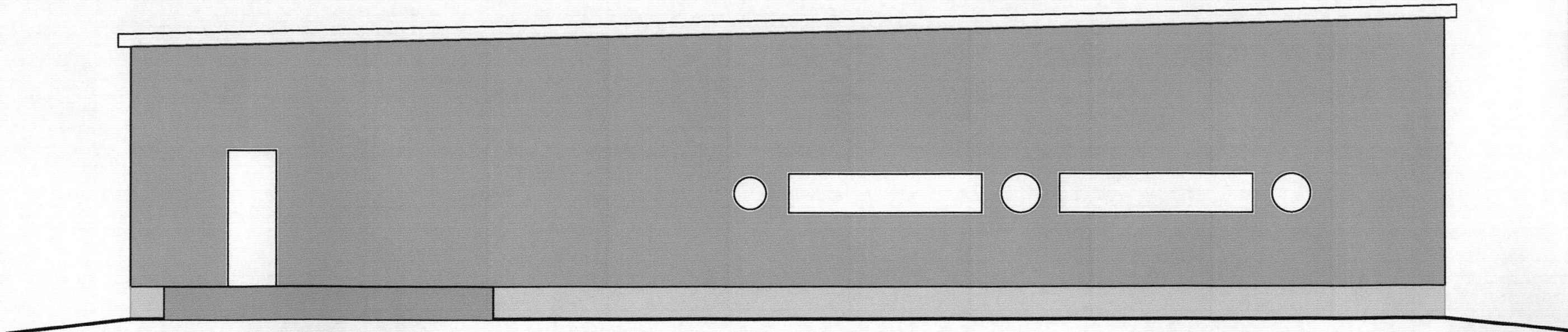
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TITLE

ELEVATIONS



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



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

1168 EAST 1500

REVISIONS

NO.	DESCRIPTION	DATE

Permit Documents

ISSUE DATE AUGUST 05, 20

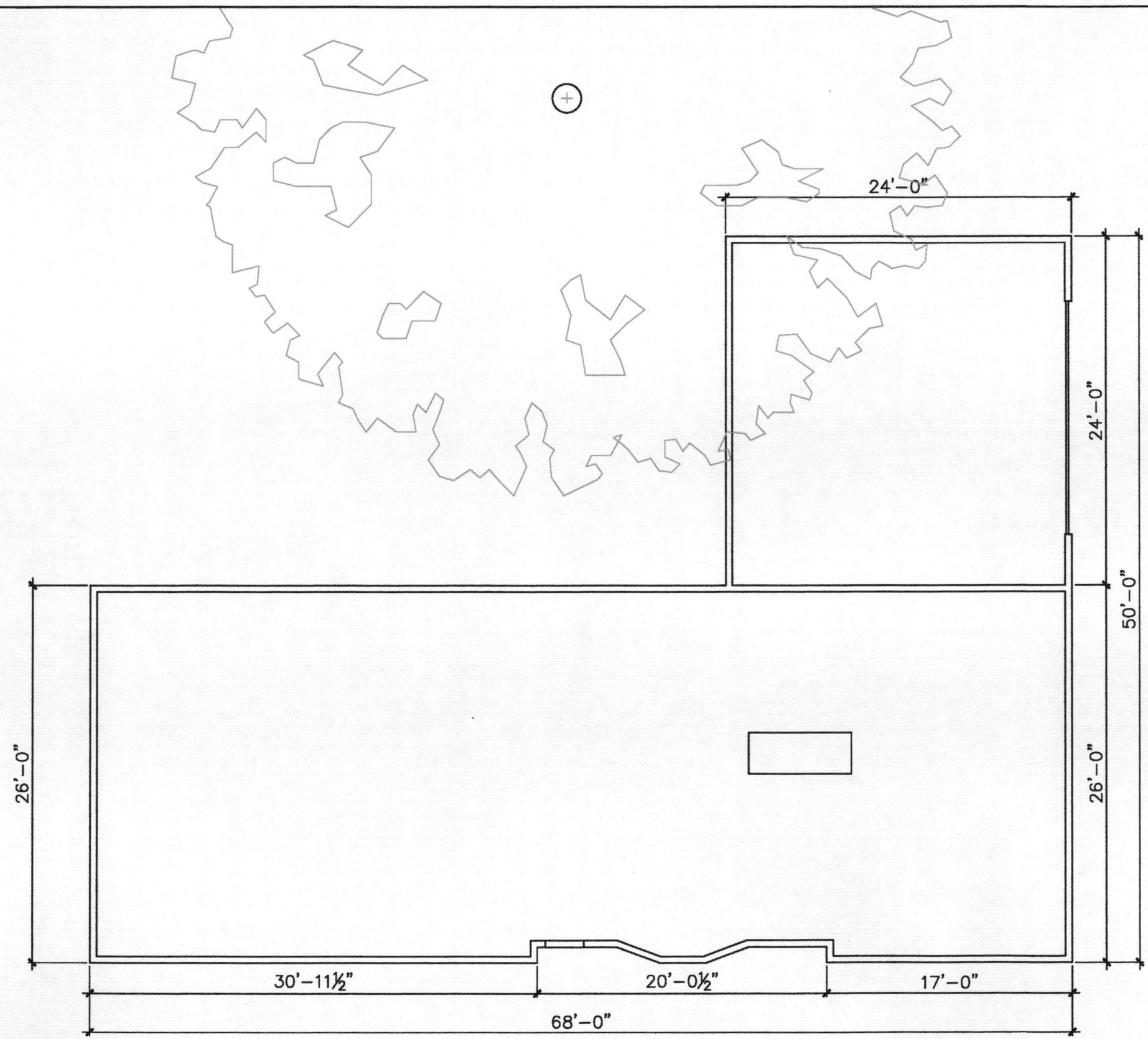
SCALE 3/16" = 1'-0"

PROJECT NO

DRAWN BY

TITLE

ELEVATIONS



① EXISTING PLAN
1/8" = 1'-0"

1168 EAST 1500

REVISIONS	

Permit Documents

ISSUE DATE	AUGUST 05, 20
SCALE	1/8" = 1'-0"
PROJECT NO	
DRAWN BY	
TITLE	EXISTING PLAN

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

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

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

To: City Hall email

Cc: copl28@peoplepc.com

Subject: Proposed Tofo Factory

Att: Lawrence Douglas County Planning Commission:

Sirs:

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

Thank you. Wayne and Nancy Othick

1144 E 1550 Road

Lawrence, Kansas

Mary Miller

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

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

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

Att: Lawrence Douglas County Planning Commission:

Sirs:

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

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

PETEFISH

PETEFISH, IMMEL, HEEB & HIRD, LLP
Attorneys at Law
— Est. 1915 —

John J. Immel*
Richard W. Hird**
Thomas H. Johnson**
Cheryl L. Denton**
Terence E. Leibold**
Steven J. Koprince***
Amanda M. Wilwert *

*Admitted in Kansas

**Admitted in Kansas and Missouri

***Admitted in Kansas and District of Columbia



842 Louisiana Street
P.O. Box 485
Lawrence, KS 66044-0485
(785) 843-0450 Tel
(785) 843-0407 Fax
www.petefishlaw.com
tleibold@petefishlaw.com

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

September 22, 2014

Via Hand Delivery

Lawrence-Douglas County
Metropolitan Planning Commission
6 East 6th Street
Lawrence, Kansas 66044

Re: September 22, 2014 Commission Meeting

Ladies and Gentlemen:

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

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

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

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

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

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

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

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

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

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

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

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

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

Road Access and Frontage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

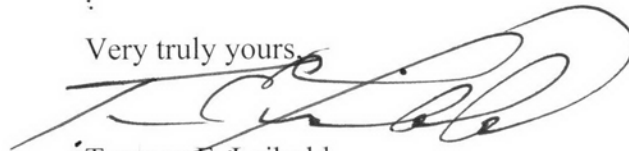
actions reveal an industrial company that is not concerned with complying with the law or ensuring its property is properly maintained. Because of these failures, the Longs are reasonably concerned by the presence of the industrial use so close to their home.

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

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

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

Very truly yours,



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

Enclosures

cc: Mr. and Mrs. Long

DOUGLAS COUNTY POOR FARM

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

SHOW MAP OF DOUGLAS COUNTY

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

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

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

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

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

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

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

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

Frances also researched 17 other poor farms in Kansas

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

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

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

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

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

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

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

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

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

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

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

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

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

SHOW SLIDES

Hoovers House
County Well
2 pictures of cave

Chicken house
Garage
Barn

Distance from barn
Dynamite bldg.

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

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

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

Central Soyfoods 7/2/14

Department of Health and Human Services

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

Telephone:(913) 495-5100

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

CMS#433431

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

Dear Mr. Millstein:

The Food and Drug Administration (FDA) conducted an inspection of your food processing facility, located 710 E. 22nd Street, Ste C, Lawrence, Kansas, from May 20 through May 21, and July 1, 2014. The inspection revealed serious violations of FDA's Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food (CGMP) regulation, Title 21, Code of Federal Regulations, Part 110 (21 CFR Part 110). These conditions cause the food products produced and stored at your facility, including Hickory Smoked, Firm (type), and Garlic Herb Tofu to be adulterated within the meaning of section 402(a)(4) [21 U.S.C. 342(a)(4)] of the Federal Food, Drug and Cosmetic Act (the Act) in that they have also been prepared, packed or held under insanitary conditions whereby they may have become contaminated with filth or may have been rendered injurious to health. You can find the Act and its implementing regulations at www.fda.gov¹.

CGMP violations:

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,
/S/
Cheryl A. Bigham
District Director

Page Last Updated: 07/14/2014

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CENTRAL SOYFOOD PROPERTY -NOT MAINTAINED FOR 4 YEARS





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

Long Residence 9/12/2014



CENTRAL SOYFOOD 9/12/2014



Long Residence next door



1160 E 1500 Rd
1160 E 1500 Rd
Lawrence, Kansas
Street View - May 2011

CENTRAL SOYFOOD Property 2011











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

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

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

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

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

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

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

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



Department of Health and Human Services

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

Telephone:(913) 495-5100

July 2, 2014

WARNING LETTER

**UNITED PARCEL SERVICE
SIGNATURE REQUIRED**

CMS#433431

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

Dear Mr. Millstein:

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

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

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

contamination of food on the premises by pests,

as required by 21 CFR 110.35(c) and evidenced by the following:

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

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

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

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

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

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

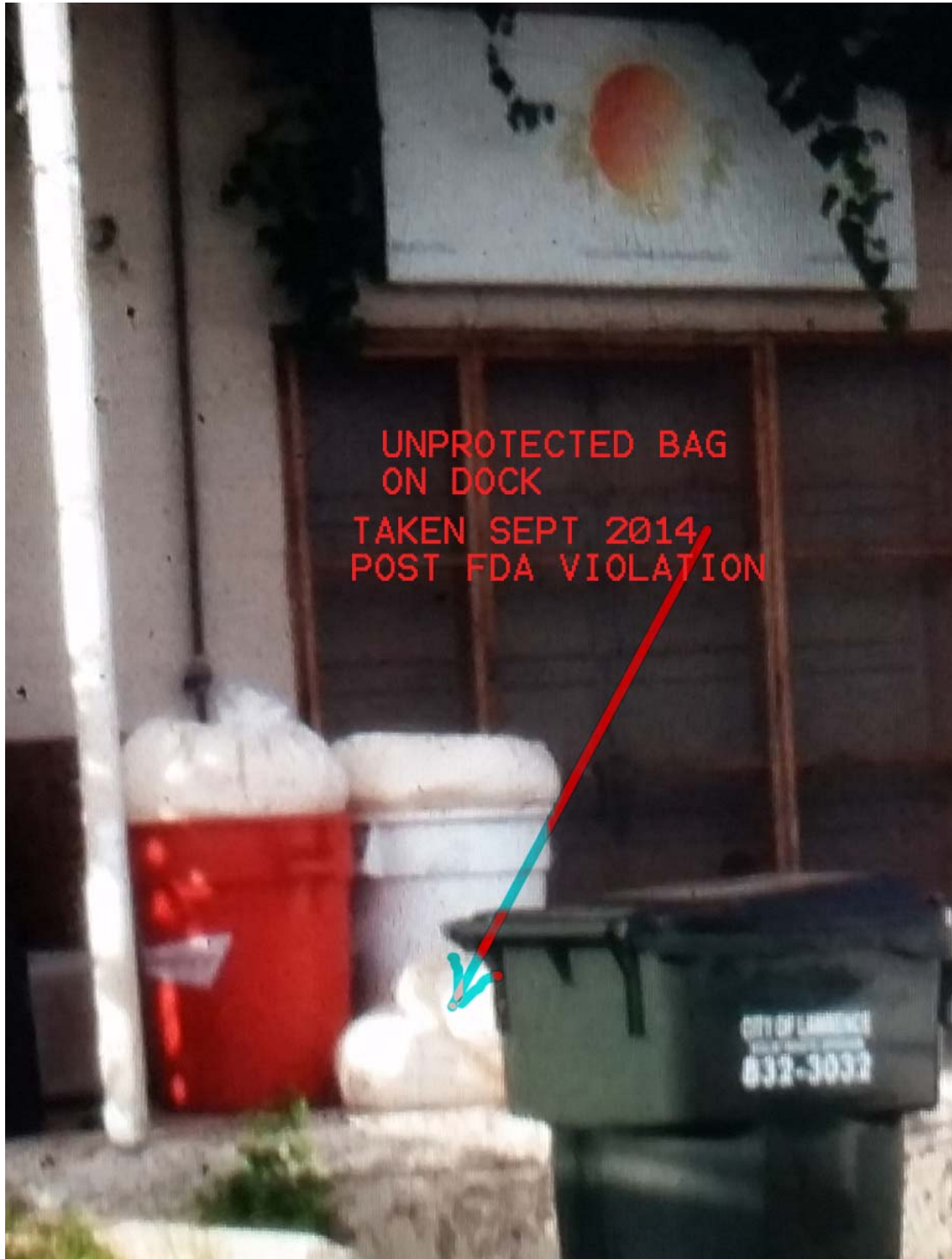
the soy pulp had accumulated food debris inside parts of the screen.

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

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

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

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



**UNPROTECTED BAG
ON DOCK
TAKEN SEPT 2014
POST FDA VIOLATION**

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

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

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

Sincerely,
/S/
Cheryl A. Bigham
District Director

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

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

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



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



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

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

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

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

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

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

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



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

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



One more quote from the FDA

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

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

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

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

PART 2 --(COMMON SENSE)

THE PSYCHOLOGICAL WAR ON THE WOMEN OF OUR COMMUNITY.

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

QUESTIONS:

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

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

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

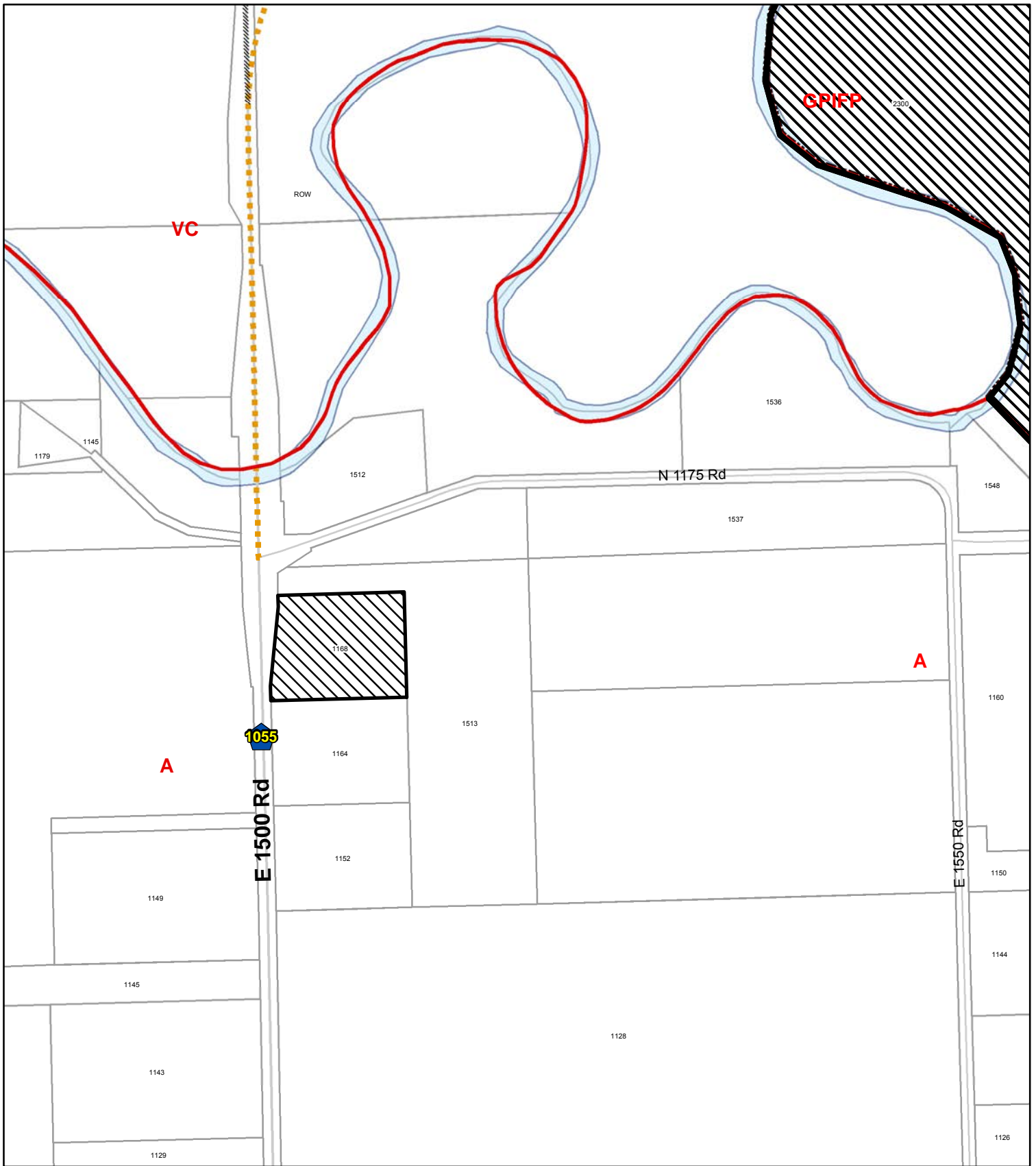
Mary Miller

From: Richard Heckler [rheckler2002@yahoo.com]
Sent: Monday, September 22, 2014 2:30 PM
To: Mary Miller
Subject: Central SoyFoods Construction Project

After reviewing the material I have this to offer:

1. Landscape Maintenance at the current location is the responsibility of the property owner.
2. As a landscape management person for a few decades I will be assisting in the maintenance of the new location.
3. This new project upgrades the property a great deal. Thus upgrades the property value.
4. All food service operations are routinely inspected and most likely receive advice as to what should be done in preparation for a follow up inspection.
5. In the twelve years as an employee I have not seen any major traffic regarding large trucks with the exception of soybean deliveries as David Milstein has noted. BTW I am not a transient employee.
6. In the 12 years as an employee I have not witnessed a large number of employee vehicles thus minimal employee traffic. I will be seen most frequently as I perform my duties in the area of sales and distribution. Customer service is of the utmost importance and key to the success of Central Soyfoods.
7. The Milstein family are among the best small business management group I have ever had the pleasure of interacting with.

Thank You,
Richard Heckler



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



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

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

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. David Millstein said Central Soyfoods had been around since 1978 producing tofu for the Lawrence and Kansas City area and had never had any complaints from the neighbors or employees regarding the operation. He said the operation had very little waste. He said there would be no odor since it was essentially tap water that would go into the lagoon. He said the neighbor's concern about employees being transient was not based on fact. He said the FDA inspection letter was a warning and that the business complied with the problems.

PUBLIC HEARING

Mr. Terry Liebold, attorney representing Willis and Linda Long, showed where the Long's property was in proximity to the site. He said the primary reason for their opposition was included in the letter that he sent, which included the location. He said the site was only being a 5 acre lot and surrounded by a lot of residences. He did not feel the application complied with the requirements of a value added business. He expressed concern about the commercial building codes being met.

Mr. Mike Manley expressed concern about the property not being maintained.

Mr. Quinn Miller expressed concern about the size of business being on less than 5 acres. He felt there were other sites that would be more suitable. He also expressed concern about water runoff.

Ms. Rebecca Manley wondered why the applicant chose this particular location and felt there were other sites better suited.

Mr. Roy Chaney said he could not see how this was an agricultural use since nothing was grown on site. He felt it was food manufacturing. He expressed concern about potential odor from the business. He said the area was more like a subdivision with other houses.

Mr. Manley asked Ms. Violet Walker about her opinion on the condition of the property.

Ms. Violet Walker said the property was not well taken care of.

APPLICANT CLOSING COMMENTS

Mr. Millstein said the property had been mowed numerous times but that they chose to mow a yard size area around the house. He said the property had been hayed on a yearly basis. He said he moved to this location because it was reasonably priced. He said his current location was between two other businesses and he could not control pests. He said the scale of the business was a micro business. He stated the house would be completely rehabbed and that he would probably only use the basement of the house. He said he had looked in Lawrence for over a year for a suitable location that was affordable. He said it was an agriculturally based business. He said they use local beans grown on his farm and other Douglas County farms. He said they use 700 bushes a year, which was hardly two grain trucks a year. He said it was a micro business with no odor. He said he had never had any problems with neighbors. He said the lagoon would be designed by an engineer and would follow Kansas health guidelines. He said the greywater lagoon would only contain tap water and a little bit of dishwashing detergent. He said the blackwater would be separated from the greywater so there would be no possibility of contamination.

COMMISSION DISCUSSION

Commissioner Liese asked staff to remind Planning Commissioners what they should focus on.

Mr. McCullough said staff had not received any complaints and that there was no record or history of compliance issues. He said Planning Commission should look at land use elements, traffic, business operations and Code compliance. He said they could also discuss the typical impacts, such as lights, noise, traffic, and odors.

Commissioner Liese asked staff if they felt like they had adequate time to review the letter from Mr. Liebold.

Mr. McCullough said staff reviewed it and responded appropriately.

Commissioner Josserand said he was still struggling with questions that Mr. Liebold brought up in his letter. He asked staff to discuss altering the use of a building and why the objection made by Mr. Liebold was not legitimate with this application.

Mr. McCullough said staff had not consulted County council on the issues. He said it was staff's perspective on how they understood the Code to be interpreted. He said the lot was non-conforming but was not a use issue.

Commissioner Josserand asked if it would be a change of use for the building.

Mr. McCullough said yes.

Commissioner Josserand asked if staff's interpretation was that there was no need to make the building, as a new use, comply with commercial County Codes.

Ms. Miller said it was required to comply with County Codes. She said it was listed as an additional step in the staff report. She said when the applicant goes to Zoning & Codes for the Conditional Use Permit they would also have to get building permits.

Mr. Jim Sherman, Director of County Zoning & Codes, said the structure would be designed and reviewed under the 2012 International Commercial Building Code.

Commissioner Denney asked if the owner of the business was also the property owner.

Ms. Miller said yes.

Mr. Millstein said the company was an LLC and he was the managing partner. He said the property was owned by himself and his wife.

Commissioner Rasmussen said he would vote in favor of the Conditional Use Permit. He said the community, City, and County have indicated they want to support value added agricultural activities. He said they want to maintain the rural and agricultural character surrounding Lawrence with these types of uses. He did not feel this was any different than the example used in the County Code; making strawberries into jam. He said he could not see a reason for not approving it.

ACTION TAKEN

Motioned by Commissioner Rasmussen, seconded by Commissioner Culver, to approve Conditional Use Permit, CUP-14-00304, for *Value Added Agriculture* subject to the following conditions:

1. The following standards shall apply to the use:
 - a. A maximum of 4 full-time equivalent employees are permitted.
 - b. The structure in which the use is conducted may be up to 3,600 sq ft.

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

Commissioner Culver said he agreed with Commissioner Rasmussen about value added agricultural business. He felt it fit the description and criteria set forth in the standards. He said it also had regulations and conditions in which the applicant must comply, which was part of the structure in which it could proceed. He said it was a micro-business and an acceptable use under the Conditional Use Permit.

Commissioner Kelly said he appreciated the concern shared by the neighbors about it becoming a factory. He said when he read the Code regarding value added agricultural businesses it specifically said a commodity not grown onsite. He said he looked for other food processing in Douglas County and the County Food Policy Council had a list that they created a few years ago. He said it included quite a few businesses that were rural and small in nature that bring in products from elsewhere. He felt it did seem to be an appropriate land use.

Commissioner Jossierand said this kind use was exactly what was anticipated by the value added agricultural section of the Code. He did not feel it would be a noxious industrial use. He said his principal issue was the nature of the structure but that Mr. Jim Sherman had made that issue disappear from his mind with his earlier response. He said he would support the request.

Commissioner Britton said he initially had concerns about legal requirements for a change in use being met but that it sounded like it would meet the Commercial Building Code. He stated that any time a neighborhood came out to weigh in on something like this he put a lot of stock in that. He did not feel the concerns rose to the level of overriding the staff report. He said he would support the motion.

Commissioner Struckhoff said he would support the motion. He said his concern was the scale and scope of the operation, the stewardship of the waste product, and traffic generate. He felt that most of those have or would be mitigated and that the Code requirements would be complied with. He believed this value added agricultural use was exactly what was envisioned.

Commissioner von Achen said she was sensitive to the concerns of county residents but that she would hate to deny the use based on fears that she did not think would materialize. She said she would support the motion.

Commissioner Denney said the concerns raised by the neighbors should be dealt with through the Code and building permit process.

Commissioner Graham echoed the comments from other Planning Commission members.

Ms. Manley spoke from the audience about the FDA violations.

Commissioner Liese said that Planning Commission was a land use committee and that the County Commission could listen to their additional concerns.

Unanimously approved 10-0.

PETEFISH
PETEFISH, IMMEL, HEEB & HIRD, LLP
Attorneys at Law
— Est. 1915 —

John J. Immel*
Richard W. Hird**
Thomas H. Johnson**
Cheryl L. Denton**
Terence E. Leibold**
Steven J. Koprince***
Amanda M. Wilwert *

*Admitted in Kansas

**Admitted in Kansas and Missouri

***Admitted in Kansas and District of Columbia

842 Louisiana Street
P.O. Box 485
Lawrence, KS 66044-0485
(785) 843-0450 Tel
(785) 843-0407 Fax
www.petefishlaw.com
tleibold@petefishlaw.com

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

September 22, 2014

Via Hand Delivery

Lawrence-Douglas County
Metropolitan Planning Commission
6 East 6th Street
Lawrence, Kansas 66044

Re: September 22, 2014 Commission Meeting

Ladies and Gentlemen:

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

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

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

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

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

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

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

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

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

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

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

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

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

Road Access and Frontage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

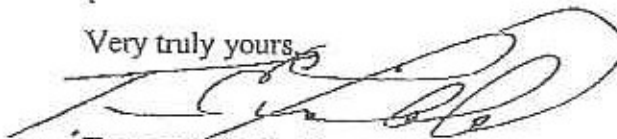
actions reveal an industrial company that is not concerned with complying with the law or ensuring its property is properly maintained. Because of these failures, the Longs are reasonably concerned by the presence of the industrial use so close to their home.

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

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

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

Very truly yours,



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

Enclosures

cc: Mr. and Mrs. Long

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

Central Soyfoods 7/2/14



Department of Health and Human Services

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

Telephone:(913) 495-5100

July 2, 2014

WARNING LETTER

UNITED PARCEL SERVICE SIGNATURE REQUIRED

CMS#433431

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

Dear Mr. Millstein:

The Food and Drug Administration (FDA) conducted an inspection of your food processing facility, located 710 E. 22nd Street, Ste C, Lawrence, Kansas, from May 20 through May 21, and July 1, 2014. The inspection revealed serious violations of FDA's Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food (CGMP) regulation, Title 21, Code of Federal Regulations, Part 110 (21 CFR Part 110). These conditions cause the food products produced and stored at your facility, including Hickory Smoked, Firm (type), and Garlic Herb Tofu to be adulterated within the meaning of section 402(a)(4) [21 U.S.C. 342(a)(4)] of the Federal Food, Drug and Cosmetic Act (the Act) in that they have also been prepared, packed or held under insanitary conditions whereby they may have become contaminated with filth or may have been rendered injurious to health. You can find the Act and its implementing regulations at www.fda.gov¹.

CGMP violations:

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

- a. What appeared to be a live roach was found on the leg of a food processing table inside the finished product packaging area.
 - b. What appeared to be a live roach was found under a pallet of dried soybeans in the warehouse area of the plant.
 - c. An apparent gnaw hole was found on a bag of Nigari (lot# 110415), an ingredient used in the production of your tofu.
 - d. Apparent rodent droppings were found around bags of dried soybeans in the warehouse area. The warehouse is directly adjacent to the production area.
- 2) The facility and procedure used for cleaning and sanitizing of equipment has not been shown to provide adequate cleaning and sanitizing treatment as required by 21 CFR 110.35(d) (5). Specifically, on May 20, 2014, after producing tofu your procedure for cleaning and sanitizing food contact equipment by using hot water only does not provide adequate cleaning and sanitizing. The inside of the smoker used to smoke tofu contained accumulated debris. The corners of a metal food cart found in the packaging area contained debris.
- 3) Failure to take apart equipment as necessary to ensure thorough cleaning as required by 21 CFR 110.80(b)(1). Specifically, You do not fully disassemble all food contact equipment after processing and before the start of manufacture. The barrels with the screens used to extract the soy milk from the soy pulp had accumulated food debris inside parts of the screen.
- 4) Failure to have smoothly bonded or well-maintained seams on food contact surfaces, to minimize accumulation of food particles and the opportunity for growth of microorganisms as required by 21 CFR 110.40(b). Specifically, on May 20, 2014, during the manufacture of hickory smoked, firm (type), and garlic herb tofu several food contact tables and a food cart were found to have unsanitary welds. Also in the production area inside the hopper and the holding vats for the soybeans prior to the cooking kettle had rough welds.
- 5) Failure to properly store equipment, remove litter and waste, and cut weeds or grass that may constitute an attractant, breeding place, or harborage area for pests, within the immediate vicinity of the plant buildings or structures as required by 21 CFR 110.20(a)(1). Specifically, during the inspection conducted on May 20, 2014, the following harborage areas were found inside and outside your facility:
- a. Several bags of soybean meal were stored outside on the loading dock area. One bag was split open and apparent rodent droppings were found in and around the spilled food product.
 - b. The area around the loading/receiving dock and door is overgrown and weeds are not trimmed around the front and side of the facility. Unused equipment is also stored outside on the loading/receiving dock
- 6) Instruments used for measuring conditions that control or prevent the growth of undesirable microorganisms are not accurate as required by 21 CFR 110.40(f). Specifically, on May 20, 2014, during the inspection of your facility, the temperature of cooling tofu was taken and the thermometer used by your employee read **(b)(4)** degrees F. The temperature of the Tofu was also taken with an FDA calibrated thermometer and the temperature recorded was 135 degrees F.

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

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

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

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

Sincerely,
/S/
Cheryl A. Bigham
District Director

Page Last Updated: 07/14/2014

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

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



For Government For Press

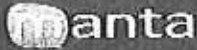
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Central Soyfoods LLC

Central Soyfoods

710 E 22nd Street

Lawrence, KS 66046 - [View Map](#)

Phone: (785) 312-0638



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Company Information The most comprehensive company info available. Get your free trial.

www.hoovers.com/

Central Soyfoods LLC

A privately held company in Lawrence, KS. *Is this your business? Claim This Profile*

More Details for Central Soyfoods LLC

Categorized under Tofu, Except Frozen Desserts. Our records show it was established in 1978 and incorporated in Kansas. Current estimates show this company has an annual revenue of \$2.5 to 5 million and employs a staff of approximately 10 to 19.

Products or Services

Companies like Central Soyfoods LLC usually offer: Best Tofu, Spinach Tofu, Easy Tofu, Chinese Tofu, Tofu.

9-4-14

Dear Mr. and Mrs. Long,

I am the bookkeeper at and a shareholder in Central Soyfoods. The planning commissioner forwarded us an email from Mr. and Mrs. Othick expressing concerns about our hopes of moving our kitchen out of the industrial area where we are now into the building at 1168 E 1500 Road, a far more pleasant location.

Having lived in rural Douglas County since 1972, by our personal preference, I know how we all feel about changes in our areas. We live in the country to be away from industry and commercialism. So I understand your concerns.

I would very much like to sit down with any of the neighbors who have questions or concerns about our operation and how it may impact the neighborhood. I feel I can allay your fears when you see what we do and how small we are. We would only want to be good neighbors. I can meet you together, or individually, wherever you prefer, at any time convenient for anyone. If you prefer, you may feel free to email me at symillstein@gmail.com or write me at 464 E 1750 Rd., Baldwin City, KS 66006.

Thank you and I look forward to meeting you.

Sincerely,

Susan Millstein

CERTIFICATE OF ACCEPTANCE

Presented to

John E. Stewart Property

The National Park Service has evaluated this SITE as making a significant contribution to the understanding of the Underground Railroad in American history and it meets the requirements for inclusion in the National Underground Railroad Network to Freedom



Ernest Quintana
Ernest Quintana, Regional Director
Midwest Region, National Park Service

July 23, 2010



NATIONAL PARK SERVICE
NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM

GENERAL INFORMATION

Type (pick one): Site Facility Program

Name: John E. Stewart property

Address: Harmary Acres, 1152 E. 1500 Road (NW 1/4 Section 20, Township 13, Range 20)

City, State, Zip: Lawrence, Kansas 66046

County: Douglas

Congressional District: Third

Physical Location of Site/facility (if different):

Address not for publication?

Date Submitted: January 15, 2010

Summary: Describe in 200 words or less, the significance to the Underground Railroad, of the site, program, or facility nominated for inclusion in the Network.

The south bank of the Wakarusa was the home of a well-known abolitionist, Captain John E. Stewart, who preempted the northwest quarter of Section 20. The quarter-section north of Stewart belonged to John Pieratt from Kentucky, who (although a Southerner) did not believe in slavery. This area became a mini-settlement of free-state sympathizers. Stewart was a Methodist preacher, an Englishman by birth, and at one time lived in Salem, New Hampshire; he became known as "the fighting preacher". The claim became a well-known rendezvous for fugitive slaves. From Judge L. D. Bailey's account of Quantrill's raid, John had been a close friend and confidant of Quantrill, alias Charley Hart, during his early days in Kansas and in his company had succeeded in effecting the escape of slaves from Missouri into Kansas. As it was only forty miles to the line which divided the slave state of Missouri from the free territory of Kansas it was easy for these young men, most of whom were bold riders and experts in the use of arms, to pass over the line, meet with slaves, then explain to them how short a run they had to make to gain their freedom, and give them full directions how to reach a safe hiding place at the Stewart farm. In the heavy timber that lined the banks of the Wakarusa near the farm there was a snug little cabin provided, and friends were always ready to guide the way and furnish provisions to the freedom seekers, who were told that they would be kept there in safety until they could be sent on through Nebraska and Iowa to Chicago and thence to Canada. Stewart's farm was known as important "stockade" and depot for the Kansas branch of the Underground Railroad.

FOR NATIONAL PARK SERVICE USE ONLY

I hereby certify that this site facility program is included in the Network to Freedom.

Signature of certifying official/Title

Date





Midwest Region
601 Riverfront Drive
Omaha, Nebraska 68102-4226



July 23, 2010

H22(MWR-CR/UR)

Ms. Catherine Hess
Harmar LLC
1201 Wakarusa Drive
Lawrence, Kansas 66049

Dear Ms. Hess:

Congratulations! The National Park Service (NPS) evaluated your application for the John E. Stewart Property to be included in the National Underground Railroad Network to Freedom (Network to Freedom). We found that it makes a significant contribution to the understanding of the Underground Railroad in American history and that it meets the requirements for inclusion as a site. We commend you on your dedication to this important aspect of our history and expect that you will join with us in continuing to exemplify the values expressed in the National Underground Railroad Network to Freedom Act.

We are enclosing a Certificate of Acceptance, which you may display at your site. As a site included in the Network to Freedom, you may use the Network to Freedom logo under certain conditions, such as in plaques or publications. We will send a separate mailing with the Network to Freedom graphics standards manual. Use of the logo in specific projects requires prior approval by your NPS Regional Program Manager. Please consult with your NPS Regional Program Manager for further information and guidelines on the use of the logo. We will also include your site on the NPS Network to Freedom Web site at www.nps.gov/ugrr.

Please know that we are aware of your commitment to be stewards of all that the National Underground Railroad Network to Freedom Act embraces and encourage you to stay firm to that commitment by continuing to manage your site as described in your application. To ensure accurate interpretation of the Underground Railroad to the public, we wish to emphasize that you may only represent your association with the Network to Freedom as it has been approved in your application.

We know that you are as committed to quality and high standards as we are and will realize the need for periodic review. Any site in the Network to Freedom is subject to periodic review and may be removed from the Network to Freedom if there is evidence that it no longer meets the criteria for inclusion or if the steward's activities are inconsistent with the goals of the National Underground Railroad Network to Freedom Act. In order to help us stay up-to-date on your programs and activities, we rely on you to send us news and examples of flyers, newsletters, programs, brochures, etc. Additionally, you may post news of your upcoming events on the NPS Network to Freedom Web site.

Congratulations again on your extraordinary site, which we welcome into the Network to Freedom. We wish you continued success. Please do not hesitate to contact your Regional Program Manager at any time to seek assistance, advice, information, or to let them know about your current activities.

Sincerely,

Ernest Quintana
Regional Director

Enclosure

**TAKE PRIDE
IN AMERICA** 

Owner/Manager (Share contact information X Y N)
Name: Catherine Hess, Harmary LLC

Address: 1201 Wakarusa Drive
E-2
City, State, Zip: Lawrence, Kansas 66049

Phone: 785 856-3881 Fax: E-mail:

Owner/Manager (Share contact information Y N)
Name:

Address:

City, State, Zip:

Phone: Fax: E-mail:

Application Preparer (Enter only if different from contact above.) (Share contact information Y N)
Name: Clinton Lake Historical Society

Address: 1047 E 251 Diagonal Rd

City, State, Zip: Lawrence, KS 66047

Phone: Fax: E-mail:

Privacy Information: The Network to Freedom was established, in part, to facilitate sharing of information among those interested in the Underground Railroad. Putting people in contact with others who are researching related topics, historic events, or individuals or who may have technical expertise or resources to assist with projects is one of the most effective means of advancing Underground Railroad commemoration and preservation. Privacy laws designed to protect individual contact information (i.e., home or personal addresses, telephone numbers, fax numbers, or e-mail addresses), may prevent NPS from making these connections. If you are willing to be contacted by others working on Underground Railroad activities and to receive mailings about Underground Railroad-related events, please add a statement to your letter of consent indicating what information you are willing to share.

Paperwork Reduction Act Statement: This information is being collected for applications to the National Park Service's National Underground Railroad Network to Freedom to nominate properties, facilities, and programs to the Network to Freedom. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Response to this request is required for inclusion in the Network to Freedom in accordance with the National Underground Railroad Network to Freedom Act (P.L. 105-203).

Estimated Burden Statement: Public reporting burden for this form is estimated to average 15 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the National Coordinator, National Underground Railroad Network to Freedom, NPS, 601 Riverfront Drive, Omaha, Nebraska 68102.



In addition to the responses to each question, applications must also include the following attachments:

- 1) Letters of consent from all property owners for inclusion in the Network to Freedom (see sample)
- 2) Text and photographs of all site markers
- 3) Photographs illustrating the current appearance and condition of the site being nominated
- 4) Maps showing the location of the site

S1. Site type:

Building Object District (neighborhood)

Structure Landscape/natural feature Archeological site

Other (describe):

S2. Is the site listed in the National Register of Historic Places? Y N

What is the listing name:

S3. Ownership of site:

Private Private, non-profit (501c3) Multiple ownership

Public, local government Public, state government Public, federal government

S4. Describe the site's association and significance to the Underground Railroad. Provide citations. Supplemental chronologies are encouraged.

One of the most active Underground Railroad conductors in Kansas was the "fighting preacher" Captain John E. Stewart. Stewart was part of the "Immortal Ten" who bluffed their way into the jail at St. Joseph to liberate John Doy, a conductor who had been caught escorting a party of freedom seekers on the Lane Trail. The group walked out with Doy, making their escape across the Missouri River in boats they had hidden on the banks for that purpose.¹

A former Methodist minister, Stewart lived on the Wakarusa River, south of Lawrence on a stockaded farm that was noted as a leading station on the Underground Railroad. Rather than wait for fugitives to make their way to his farm, Stewart raided plantations in Missouri. In December 1859, he wrote to New York merchant and abolitionist Thaddeus Hyatt that since the Doy rescue, he had liberated fourteen slaves from Missouri, including "one unbroken family, of which I feel rather proud." Stewart described his method of going into Missouri on the pretense of buying livestock or produce. Conversing with enslaved laborers, he showed them the hidden wagon bottom and armed them for self-defense. Sometimes successful escape depended on the fleetness of his horse, sometimes on a steady hand. Since his only capable horse had given out, he requested money from Hyatt to obtain another. Further, Stewart and his allies in Kansas did not have the resources necessary to help the fugitives who were destitute of any material goods. Once he liberated the slaves from Missouri, Stewart asked for assistance in finding a safe place. He speculated that "something is wrong in Nebraska & Iowa. I

¹ The "Immortal Ten" included Silas S. Soule, J.A. Pike, S.H. Willes, Joseph Gardner, Thomas Simmons, Charles Doy, Jacob Sinex, John E. Stewart, George Hay, and James B. Abbott. They were careful not to carry Sharps rifles, a well known badge of Kansas abolitionists. Sheridan, p. 27-34.



all realize that some have been captured here & sent back. I believe, husband, it would be right for you to shoot them."²



John Stewart
Photo: Kansas State
Historical Society

Stewart continued his work in spite of these challenges. Close friend Silas Soule, another of the Doy rescuers, wrote from Coal Creek on May 9, 1860 that Stewart had just brought up another three slaves, making 68 since he started. While Soule and Stewart were in Lawrence the previous day, a runner came with word that kidnappers had attacked Stewart's place. By the time Stewart and Soule could get back to the stockade, the kidnappers had taken one man and wounded another. The blacks had revolvers while out plowing the field, but Soule reported the five kidnappers had fired fifteen or twenty shots. The abolitionists gave chase for six miles but could not overtake them. Soule speculated that William C. Quantrill was among the kidnappers.³

S4a. Type(s) of Underground Railroad Association (select all that apply)

- Station Assoc. w/ prominent person Rebellion site Legal challenge
 Escape Rescue Kidnapping Maroon community
 Destination Church w/active congregation Cemetery Transportation route
 Military site Commemorative site/monument
 Other (describe):

S5. Provide a history of the site since its time of significance to the Underground Railroad, including physical changes, changes in ownership or use of the building(s) and site.

See summary

² John E. Stewart to Thaddeus Hyatt, December 20, 1859, Kansas State Historical Society

³ Sheridan, p. 131-132.



S6. Describe current educational programs, tours, markers, signs, brochures, site bulletins, or plaques at the site. Include text and photographs of markers.

None

S7. Identify historical sources of information. Include a bibliography.

Parker, Martha. *Angels of Freedom*.

Sheridan, Richard B. ed., *Freedom's Crucible: The Underground Railroad in Lawrence and Douglas County, Kansas, 1854-1865: A Reader*, Lawrence: University of Kansas, 1998

Stewart, John E. to Thaddeus Hyatt, December 20, 1859, Kansas State Historical Society.

S8. Describe any other local, state, or federal historic designation, records, signage, or plaques the site has.

None

S9. Is the site open to the public, and under what conditions?

No

S10. Describe the nature and objectives of any partnerships that have contributed to the documentation, preservation, commemoration, or interpretation of the site.

Clinton Lake Historical Society, Incorporated

S11. Additional data or comments. (Optional)



1855 United States Land Grant issued to John E. Stewart

1947 Louis A. Hayes purchased from Lawrence City Commissioners

1947 Albert F. McCue purchased from Louis A. Hayes

1951 Leslie L. McCue purchased from Hattie McCue (survivor of Albert F. McCue trustee Deed)

1953 Gerald I. Hoover purchased from Leslie L. McCue

1987 David Allen Switsher purchased from Gerald I. Hoover

1990 Lawrence Evilsizor purchased from David Allen Switsher

1994 Harry Winters purchased from Lawrence Evilsizor

**2008 estate willed to family Jennifer⁴ Stewart and Catherine³ Hess/
Harmay Acres LLC Robert S. Winters, Linda A. Miner,**
who deeded the property to their partnership
Harmay Acres, LLC.

2014 - Walter T. Deborah S. James
purchased from Harmay Acres, LLC.

Historic Function

The John E. Stewart property at the NW 1/4 of Section 21 Township 13, Range 20, was the homeplace, and farm of the John E. Stewart family. Mention is also made that Stewart had built a "strong fort" (see Connelley, p. 117) on this claim. In the 1860 Kansas census, Stewart, his wife four children, four white men (possibly farm hands) and four black men were listed in the household.

The site also functioned as a very active Underground Railroad Station Here from time to time came a number of runaway slaves that Stewart had brought from Missouri on the Underground Railroad.

Stewart also had a large number of cattle on his property from time to time. Connelley quotes a letters from Samuel Walker to W.W. Scott dated in the 1880s in which he relates that Quantrill reportedly drove cattle he had stolen from pro-slavery men in Missouri to Stewart's fort,

*The section number is given as 21 on 1857 J.Cooper Stuck map and in the Douglas County Pre-emptions, however, William E. Connelley states that Stewart's property was on land that was later (1909) the Douglas County Poor Farm. This would have been Section 20.

Current Function

Today the John E. Stewart property (if Sec 21) is on private property.

Narrative of Historical Significance of the Nominated Station

1) John E. Stewart, born ca. 1820, in England ca., and more recently a Methodist Minister from Salem, New Hampshire, was called the "General Traffic Manager" of the Lawrence Underground Railroad Station. (See Kansas City Star, July 21, 1905. This article refers to a letter dated 9 May 1860 from Coal Creek, Douglas County, KT from Silas Soule (KSHS) in which Soule states that Stewart "brought up three head the other night making sixty-eight since he commenced. ... he is going to make a haul of about fifteen next week.."

2) In an undated clipping from the *Lawrence Tribune*, (in possession of William E. Connelley ca. 1909) reference is made to John E. Stewart's house being "a common rendezvous of a certain class of extreme 'Free State' men and of slaves escaping from Missouri." Some of the men who visited Stewart's home were William Clarke Quantrill, John H. Kagi and "young Copple." He had also been "actively engaged" with old John Brown and Col James Montgomery in Linn and Bourbon Counties.

3) A letter from A.L. Reed to J.E. Stewart, 27 January 1861 (KSHS) seems to refer to John E. Stewart's taking in runaway slaves. "...Your expenses here are by no means small, a large Family help Full together with the endless number of those unfortunate creatures who know of no other asyllum in Kansas—but Capt. Stewart you may look at these things very lightly—but my dear SIR—it takes money..."

New County Convalescent Hospital Was Opened for Use October 1, 1944

Two years ago this month, early on the morning of April 13, 1944, the Douglas county farm home, near the Wakarusa river, burned to the ground. Nine of the 35 old persons living there were killed. The others, their possessions destroyed, were homeless, and were sent temporarily to hospitals or private homes.

Within a week, the county welfare board purchased a building at 1004 West Fourth street, for \$3,500. The \$24,300 remaining of the \$27,800 insurance was available for remodeling, refurnishing, and reconditioning the building, which had formerly been used as a fraternity house, then an N.Y.A. center, and later as apartments for Sunflower Ordnance workers. Public-spirited individuals and organizations helped with labor, furnishings, and supplies. On October 1, 1944, the new County Convalescent hospital was opened.

Remodeling and equipping of the building were slowed by war shortages of help and materials. Today, however, the transformation is almost complete. From basement to sunlit third floor, the walls are tinted in cheerful pastels. New laundry equipment has been installed in the basement. The windows have flower-appliqued curtains, made by farm bureau units. Painters are giving the outside wood trim of the brick building a freshening coat of white paint. The yard soon will be landscaped.

Miss Gertrude Hunt, director and dietician, has guided the process of decorating and equipping the hospital, assembled a staff, and turned the institution into a real "home for the 33 old persons now living there.

The average age of the 15 women and 18 men is 85. The oldest is 92, and the youngest is 68. Most of the men live in the large third floor dormitory. They sit under the skylight reading or playing cards, go downstairs to the dining room for their meals, and

often sit outdoors in the sun. Several of the men, who are paralyzed, have a large room on the second floor. From their windows, they can look out in three directions over green lawns, and watch squirrels playing in the nearby trees.

The women's rooms are on the second floor, with two, three or four in a room. They usually prefer to have their meals served on trays in their rooms, instead of eating downstairs. Their life is not exciting, but most of them keep busy knitting, mending, or making hooked rugs. One of them does mending for the whole group, while two others cut out and make their own clothes, entirely by hand. They all enjoy talking to friends and relatives during visiting hours from 2 to 4 in the afternoons, and 7 to 8:30 at night.

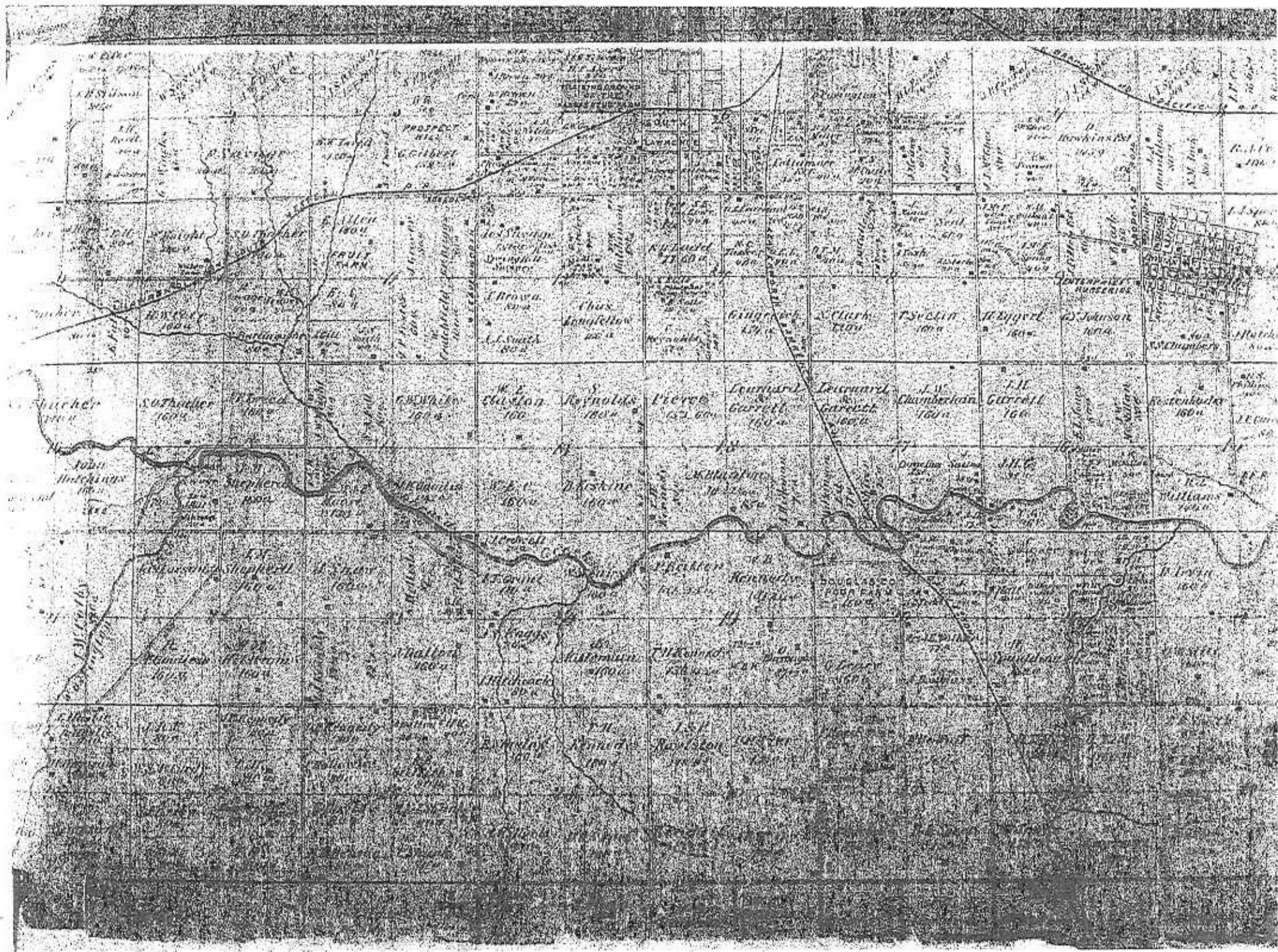
Most of the patients are invalid or semi-invalid, and all are under doctors' constant supervision. Each chooses his own doctor.

Mrs. Susan Miller and Mrs. Helen Talley are day nurses, while Mrs. Elsie May Baker is on duty at night. Mrs. Della Van Buren, the cook, has been at the hospital for more than a year. Mrs. Elizabeth Harkey helps prepare dinner, while Miss Ruby Kizer and Miss Ruby Stout help with cleaning and mending.

"We are fortunate," Miss Hunt says, "in that, during a time when most employers had a hard time getting and keeping help, four of our staff have been with us for a year or more."

The cost of maintenance and board averages about \$60 a patient. Some of the patients pay more, according to the nursing care they need, the place in the home available to them, and the financial status of their families, so that the cost to the county, for the others, averages about \$30.

"People are always ready to help us," Miss Hunt says. "We have only to ask. Last summer, for instance, someone gave us 20 bushels



Financial News Jan. 30 1866
10 o'clock A.M.

The Board of Commissioners met pursuant to adjournment.

Present: Messrs. Meason, Wason, Campbell and Paul R. Brooks County Clerk.

Genl. Seaman having offered to sell the County the North West quarter of Section County on Township Charter, Co. Range Towny Co. for the sum of Twenty-two Hundred Dollars, five hundred dollars to be paid down and seventeen hundred dollars in one year with interest at the rate of seven per cent. It was voted to accept the offer.

The Shannon & Ogden of Mr. Seaman presented a deed for said land which was examined and accepted and on motion ordered that a warrant be drawn on the Treasurer in favor of said Genl. Seaman for \$5000. Also a warrant for \$5,819.00 payable on the first day of February 1867 being the amount of the fund to grant on said land with interest as directed.

adjourned until one o'clock P.M.

One O'clock P.M.

The Board met pursuant to adjournment. Hall, Board and Clerk present.

John Parath County Assessor notified the Board that he had appointed James Stark and Gayden Graham Deputy Assessors and called them before the Board. On motion the appointments were approved.

P. D. Harrington presented evidence to the Board that he had paid illegal school tax to the amount of \$9.06 and asked that it be refunded. On motion ordered that said amount be refunded and charged to School District No. 11.

The Board of J. C. Stark Deputy County Assessor was presented and approved.

The following bills were audited and allowed as full pay:
H. Storm etc. \$428.40
S. J. ...

Business of Board. June 30 1866.
10 O'clock P.M.

The Board of Commissioners met pursuant to adjournment.

Present Messrs. Mason, Waco Campbell and Paul W. Brooks County Clerk.

Geo. S. Stearns having offered to sell the lands the North West quarter of Section twenty (20) Township Thirtieth 45 Range twenty (20) for the sum of Twenty two hundred Dollars, five hundred dollars to be paid down and seven hundred Dollars in one year with interest at the rate of seven per cent. It was voted to accept the offer. The Chequon for Agent of Mr Stearns presented a deed for said land which was examined and accepted and no objection or demand that a warrant be drawn on the Treasurer in favor of said Geo. S. Stearns. Also a warrant for \$750.00 payable on the first day of February 1867 being the amount of the first payment on said land with interest included.

adjourned until one o'clock P.M.

One O'clock P.M.

The Board met pursuant to adjournment. Fall Board and Clerk present.

John Smith County Assessor notified the Board that he had as printed names State and Township. Printed July 20 1866 and read the report of the Board. On motion the appointments were approved.

J. G. Harrington presented evidence to the Board that he had paid the legal school tax on the amount of \$250.00 and asked that it be refunded to him. It was ordered that said amount be refunded and charged to school district No. 11.

The report of J. G. Steele Deputy County Assessor was presented and approved.

The following bills were audited.

and all over expenses.		
H. Jones & Co	Exp. Jones & Co	\$428.45
J. G. Harrington	Wood furnished	15.00
	over Sept	150.00

COUNTY POOR FARM (LOST) CEMETERY
WAKARUSA TOWNSHIP

Owner: At the time it existed - Douglas County, Kansas.

Location: Two miles south of Highway #10 on Haskell Avenue. Turn left first road south end of bridge. Remains of Poor Farm about .3 miles on left (north) side of road. Cemetery was behind the building along the bank of the Wakarusa River.

We have no records as to when the "Poor Farm" or cemetery were first established, we do know, from newspaper accounts, that it existed as early as 1887. In one account written by George Hollingbery, who was unhappy with the obvious neglect and mistreatment of the inmates of this county home, he stated: "An aged Irishman died at the county farm, and was buried unceremoniously in the county farm burying place which was situated on the bank of the Wakarusa River in a narrow strip of land between the river and the road, and used as a cow pasture, said burying has long been without any protection from the desecrating root of pigs, or tramp of horses and cattle. This is another instance of the notorious want of decency that has long characterized the management of the asylum for the aged, sick and friendless poor of this county..." (1)

Because of this article a special meeting of the county commissioners was held in January, 1888 to investigate the Poor Farm situation. They wanted all who had complaints against the present superintendent, Mr. Dodge, or against his management of the Poor Farm to come before them. Some felt that Mr. Dodge was "a common drunkard, a profane and brutal man, and such facts were well known. The pauper sick were fed on corn bread and fat meat." Others who were called upon to testify were: Mr. Wheedon, Col. Sam Walker, Mr. Doolittle, Ex-Sheriff Carmean, William Marshall, Charles Gomer, Swan Johnson (a Swede), J.B. Walton, George Nell, H.D. Whitman, and Dr. Morris.

Several of those who testified thought Mr. Dodge was a good farmer, but drank too much, and they all felt he should be removed as superintendent of "The Home." (2)

The "new" building, known as the Poor Farm, was accepted by the Board of County Commissioners from the builder on March 13, 1911. "Bids for the building were let on July 23, 1910." John H. Petty was low bidder at \$22,944.00. The Board of County Commissioners consisted of A.C. Walter, T.L. McClelland, and J.C. Walton.

On March 15, 1927, the main barn was destroyed by fire. A former resident named W.J. Welshimer had been dismissed earlier from the home and was convicted by a jury in the District Court on May 7, 1927 of arson in the fourth degree for the burning of the barn. When he appeared for sentence to the penitentiary, Welshimer made the following statement, "you wouldn't keep me at the County Home, so I had to fix it so you would keep me some place." (3)

On April 13, 1944 this building was destroyed by fire. Eight of the 34 elderly residents of the County Home were burned to death-three of the dead were women. The 34-year-old brick and frame structure was a total loss. The building was insured for \$24,800 and the contents for \$3,000.

George Hoskinson, superintendent, and the six employees of the home rescued the other 26 residents. Screams of Charles Barton and John Baker, two elderly men sleeping in the basement, awakened Hoskinson and his wife about 1:30 A.M. - they found flames and smoke in the basement laundry room. Efforts with a fire extinguisher failed and employees took the aged residents from the burning building. Telephone lines to the home were cut off by the fire so Mrs. Hoskinson drove the truck to a nearby farm to call the fire department, when they arrived flames were already licking the slate roof of the two-story, 35 room building. Fire Chief Paul Ingels expressed belief that the fire started in a fusebox. Quick work by the firemen prevented damage to other buildings.

Three of the persons burned to death were in the north end of the structure. Mr. Hoskinson stated that he helped one inmate out twice and she returned to the burning building and died in the flames.

County Welfare Director, Mrs. Mildred Watson, and two members of her staff, Miss Cecelia Robinson and Mrs. Margaret Pierce, arranged temporary quarters in the community building for the displaced residents who had escaped from the burning building. County Commissioner M.N. Penny, and Councilman R.O. Burgert were also involved in making the arrangements.

With the help of the Red Cross the inmates were cared for until arrangements could be made for the care of those who were now homeless. One 69-year-old inmate was taken to Lawrence Memorial Hospital with both legs fractured - he either fell or jumped from a second story window during the fire.

The fire at its height was clearly visible from Lawrence. Coroner C.B. Runsey assembled a jury to visit the ruins of the home to gather evidence, and to remove the remains of the eight inmates who were burned to death. Those serving on the jury were: William Underwood, Ed Arnold, Al Bromelsick, Ed Fritz, Harold Fisher and Homer Allison. (3)

The county home was never built back.

Those who escaped the flames were:

Joseph ADAIR	75	Elva CHRISTY	65	John MEINKE	71
Mack ANDERSON	78	Albert DUNN	63	William MILLER	75
John BAKER	75	Margaret ERWIN	81	Robert PAGE	68
Charles BARTON	66	Charles GEELAN	80	Alvin PUCKETT	85
Emma BRENDER	74	Beulah GOFF	33	Lizzie RANDOLPH	51
Jasper BYFORD	86	George JOHNSON	81	Frank ROCKEFELLER	72
Thomas CAMPBELL	75	Andrew LEE	48	Mattie WARREN	73
John CHANCE	65	Mrs. Jacobena LUZIUS	84	Leo WILLIAMS	68
				Martin WHITE	75

Those who died:

Mrs. Alice EBBOU	86 - Lawrence	Fred W. PLATEMAN	88 - Big Springs
Mrs. Ida CLARK	80 - Leecompton	William St. CLAIR	88 - Big Springs
Miss. Elizabeth WHITELAW	76 - Topeka	Isaac TABOR	71 - Lawrence
Peter LUZIUS	83 - Lawrence	Lafayette TABOR	82 - Lawrence (3)

COUNTY POOR FARM (LOST) CEMETERY
WAKARUSA TOWNSHIP

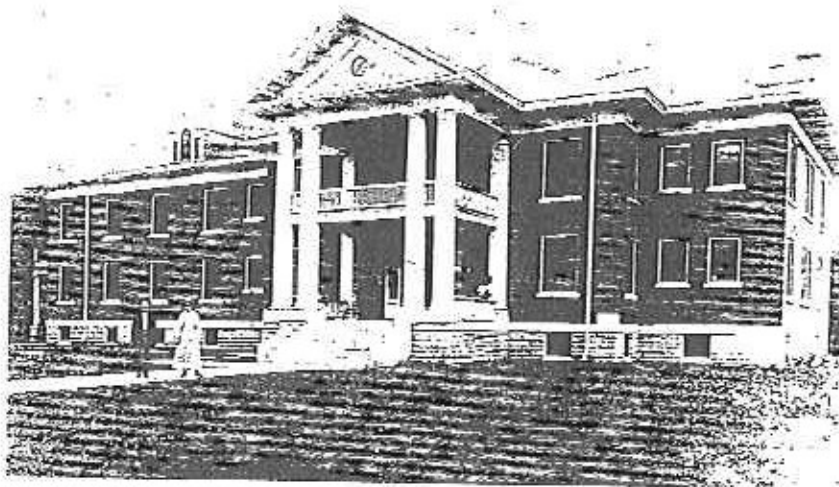
We were unable to locate any records or record book for the County Poor Farm. Records of burials on the "farm" listed below have been taken from other records.

C.W. Smith Mortuary Records:

- | | | | |
|----------------------|---------------------|----------------|-----|
| 1 - FRANKLIN, Joseph | - Bd: Dec. 16, 1893 | - age 64 | |
| 2 - FURGASON, infant | - Bd: Jan. 4, 1891 | - No age given | |
| 3 - HATTAN, child | - Bd: Apr. 28, 1893 | - No age given | |
| 4 - EDWARDS, infant | - Bd: Nov. 25, 1901 | - Stillborn | |
| 5 - ANDERSON, Minnie | - Bd: Jan. 19, 1894 | - No age given | |
| 6 - BARKLEY, Dan'l | - Bd: Jan. 23, 1895 | - No age given | |
| 7 - LOWE, Mrs. | - Bd: Oct. 21, 1891 | - No age given | |
| 8 - LOW(S)?, Carrie | - Bd: Jan. 1893 | - No age given | |
| 9 - SUKEY, _____ | - Bd: Feb. 11, 1891 | - No age given | |
| 10- JACKSON, _____ | - Bd: July 3, 1892 | - No age given | |
| 11- CORDER, child of | - Bd: Apr. 22, 1893 | - No age given | |
| 12- WRIGHT, Ora | - Bd: May 10, 1892 | - No age given | (4) |

Western Home Journal, Feb. 23, 1883

"Died - at the poor farm, on Tuesday evening, February 14, 1882, of paralysis, Caroline Holmes, colored, aged sixty-five. She was born in Missouri, and was sent from Lawrence there, September 1, 1881..." (5)



"New"
County Poor Farm
Built in 1911

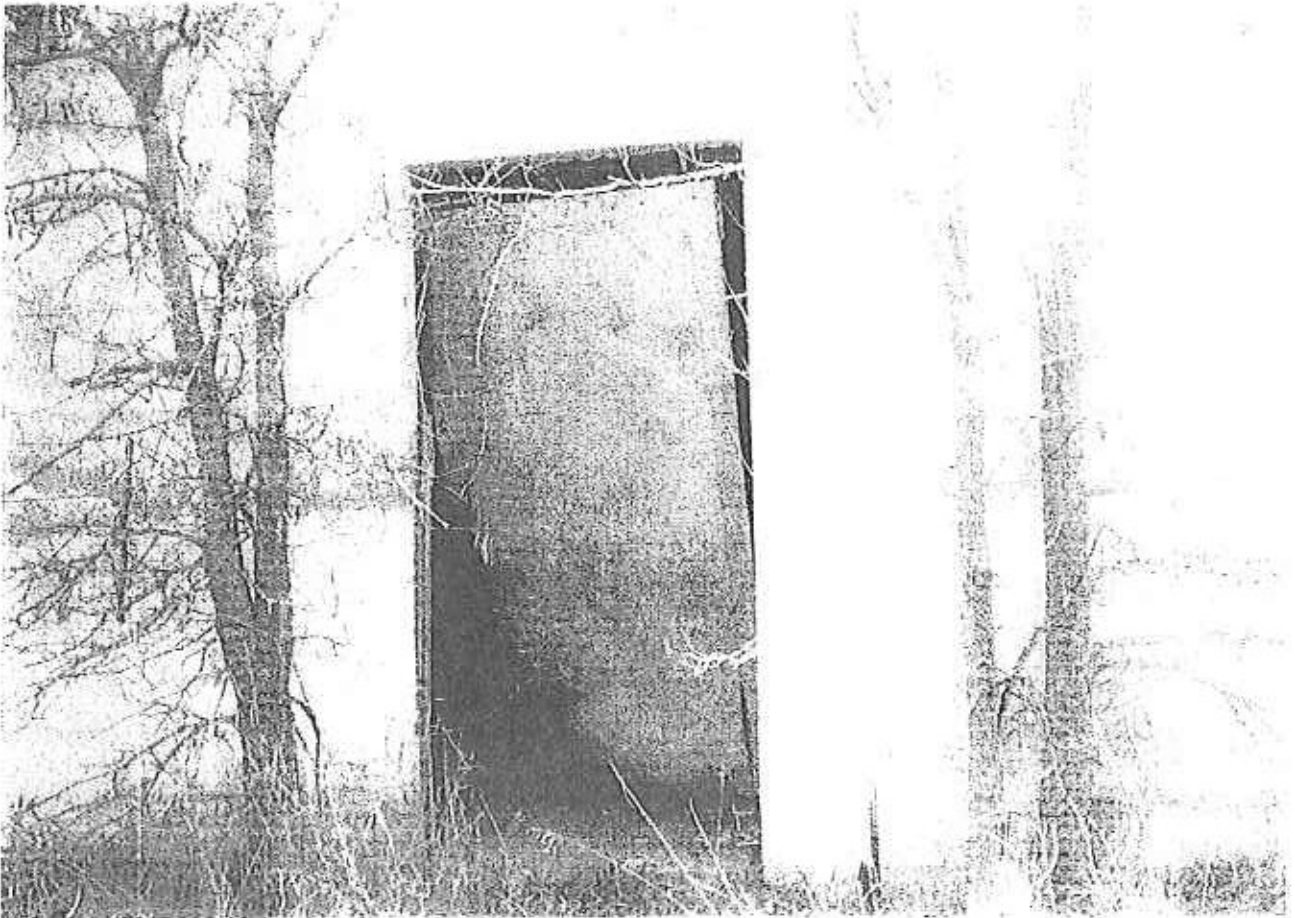
After Fire
April 13, 1944



Photos

Courtesy Watkins Community Museum







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5 Mistakes Real Estate Investors Should Avoid

By Glenn Curtis

AA |

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Real estate investors and first-time home buyers face an uphill battle in a slow real estate market. When it comes to buying and selling properties, it is still possible to make money, but it won't be easy. However, avoiding some classic mistakes will help put you on the right track. (Considering jumping into the real estate market? Read *Five Things Every Real Estate Investor Should Know* first!)



Tutorial: Exploring Real Estate Investments

Mistake 1. Lack Of Research

Before most individuals buy a car or a television set they compare different models, ask a lot of questions and try to determine whether what they are about to purchase is indeed worth the money. The due diligence that goes into purchasing a home should be even more rigorous.

There are also research considerations for each type of real estate investor - whether a personal homeowner, a future landlord, a flipper or a land developer. (If you're flipping houses, check out *Fix It And Flip It: The Value of Remodeling*, *Five Mistakes That Make House Flipping A Flop* and *Top 5 Must-Haves For Flipping Houses*.)

Not only must the prospective buyer ask a lot of questions about the home, but he or she should also inquire about the area (neighborhood) in which it is located. (After all, what good is a nice home if just around the corner is a college frat house known for its all-night keg parties? Unless of course, you're attracting a student renter.)

The following is a list of questions that would-be investors should ask regarding the home in question:

- Is the property built in the vicinity of a commercial site, or will long-term construction be occurring in the near future?
- Does the property reside in a flood zone or in a problematic area, such as ones known for radon or termite problems?

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- Does the house have foundation or permit "issues" that will need to be addressed?
- What is new in the house and what must be replaced?
- Why is the homeowner selling?
- What did he or she pay for the home and when?
- If you are moving into a new town, are there any problem areas in town?

Mistake 2. Getting Lousy Financing

Though the real estate bubble in North America ostensibly popped in 2007, there are still a large number of exotic mortgage options. The purpose of these mortgages is to allow buyers to get into certain homes that they might not otherwise have been able to afford using a more conventional, 25-year mortgage agreement. (Learn more about exotic mortgages in *Choose Your Monthly Mortgage Payments.*)

Unfortunately, many buyers who secure adjustable/variable loans or interest-only loans eventually pay the price when interest rates rise. The point is that home buyers should make sure that they have the financial flexibility to make the payments (if rates go up). Or they should have a back-up plan to convert to a more conventional fixed-rate mortgage down the line. (Find out more in *Mortgages: How Much Can You Afford?*)

Mistake 3: Doing Everything on Your Own

Many buyers think that they know it all, or that they can close a real estate transaction on their own. While they might have completed a number of deals in the past that went well, the process may not go as smoothly in a down market - and there is no one you can turn to if you want to fix an unfavorable real estate

deal.

Real estate investors should tap every possible resource and befriend experts that can help them make the right purchase. A list of the potential experts should, at a minimum include a savvy real estate agent, a competent home inspector, a handyman, a good attorney and an insurance representative. These experts should be capable enough to alert the investor to any flaws in the home or neighborhood. Or, in the case of an attorney, he or she may be able to alert the home buyer to any defects in the title or easements that could come back to haunt them down the line. (For more, see *The Benefits Of Using A Real Estate Attorney.*)

Mistake 4: Overpaying

This issue is somewhat tied into the point about doing research. Searching for the right home can be a time-consuming and frustrating process. And when a prospective buyer finally finds a house that actually meets his or her needs/wants, the buyer is naturally anxious to have the seller accept the bid.

The problem with being anxious is that anxious buyers tend to overbid on properties. Overbidding on a house can have a waterfall effect of problems. Buyers may end up overextending themselves and taking on too much debt,



Why You Don't Need Mortgage Protection ...
By Amy Fontinelle

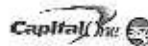


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Market insights

creating higher payments than they can afford.; as a result, it may take years for the home buyer to recoup this investment.

Are You Overpaying?

To find out whether your dream investment has a high price tag, start by searching what other similar homes in the area have sold for in recent months. Any real estate broker should be able to provide this information with relative ease (particularly with their access to a multiple listing real estate agent database). But as a fallback, or if you are not using a realtor's services, simply look at comparable homes in the local newspaper, and see what they are being offered for. Logic should dictate that unless the home has unique characteristics that are likely to enhance its value over time, the buyer should try to keep any bids consistent with other home sales in the neighborhood.

Buyers should realize that there are always other opportunities out there, and that even if the negotiation process becomes bogged down or fails, the odds are in their favor that there is another home out there that will meet their needs. It's just a matter of being patient in the searching process.

Mistake 5: Underestimating Expenses

Every homeowner can attest to the fact that there is way more to owning a house than just making the mortgage payment. Unlike renting, there are maintenance expenses that go along with mowing the lawn, painting the shed and tending the garden. Then there are the costs associated with furnishing the house and keeping all of the appliances (such as the oven, washer/dryer, refrigerator and the furnace) running, not to mention the cost of installing a new roof, making structural changes to the house, or other little things like insurance and property taxes.

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The point is that first-time investors tend to forget these costs when house hunting. Unfortunately, this is exactly why many new homeowners tend to be house poor and cash poor. (To learn more, see *Five Mistakes That Make House Flipping A Flop* and *McMansion: A Closer Look At The Big House Trend*.)

The best advice is to make a list of all of the monthly costs that are associated with running and maintaining a home (based upon estimates) before actually making a bid on one. Once those numbers are added up, you'll have a better idea of whether you can really afford a property.

Determining expenses prior to purchasing a property is even more important for house flippers and investors. That's because their profits are directly tied to the amount of time it takes them to purchase the home, improve it and resell it. In any case, investors should definitely form such a list. They should also pay particular attention to short-term financing costs, prepayment penalties and any cancellation fees (for insurance or utilities) that might be borne when the home is flipped in short order.

Bottom Line

The reality is that if investing in real estate were easy, everybody would be doing it. Fortunately, many of the struggles that investors endure can be avoided with due diligence and proper planning before the contract is signed.

(To learn about the perks of real estate investing, see our *Exploring Real Estate Investment Tutorial* and *Investing In Real Estate*.)



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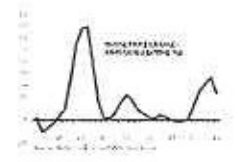
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7 neighborhood threats to your home's value



Who — or what — is next door can affect how much people will pay for your home.

By Brian O'Connell of MainStreet

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Bad neighbors can be a serious problem, according to the Appraisal Institute. An unkempt yard, proximity to a sex offender or having certain commercial facilities nearby, such as a power plant or funeral home, can reduce the value of surrounding homes by as much as 15%.

"The impact can vary tremendously, depending on a few factors: how 'bad' the bad neighbor is, the kind of neighborhood you're located in and the type of market that exists," says Carlos Gobel, director of residential services at Integra Realty Resources in Miami.

But what exactly is a "bad" neighbor? Definitions vary, but real-estate professionals say it boils down to any home or business that turns people off.

© Gail Mooney/Masforfile

"A bad neighbor is one that has no consideration for the rest of the community," says Mindy Pordes, co-founder of Pordes Residential Sales & Marketing in Aventura, Fla. "For example, someone who doesn't take care of the outside appearance of the home, such as the gardening, painting of the outside of the home, roof, garbage and general upkeep. In addition, a bad neighbor may have constant visitors taking up parking spaces, perhaps on the street, loud house parties, dogs that bark all night or stray cats lingering around."

more from MainStreet.com

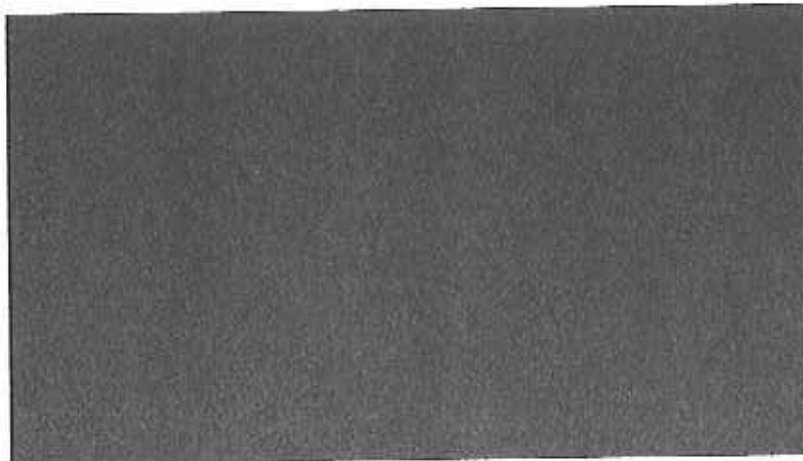
- 5 neighbors that can boost home prices
- 8 things your movers don't want you to know
- 8 signs you have a bad real estate agent

A "bad" neighbor can also be a business or government enterprise whose very existence drives down the value of your property. Here are seven surprising neighbors that can reduce your home's value:

What's your home worth?

Power plants. The data are fairly clear on the impact of a power plant on nearby home values — it usually hurts them. A [study](#) (PDF) from the University of California at Berkeley shows that home values within two miles of a power plant can be decreased between 4% and 7%.

Article continues below



City Hopes Ordinance Will Send Message To Sex Offenders
Date: 3/21/2011 Duration: 00:00:33 Video By: [KETV Omaha](#)
State lawmakers have left it up to cities to decide where sex offenders should be allowed to live. Bellevue is one city creating a buffer zone around schools and day cares.

[More Videos](#)

Landfills. A [study](#) (PDF) from the Pima County, Ariz., assessor's office shows that a subdivision near a landfill loses 6% to 10% in value compared with a subdivision that isn't near a landfill — all other residential factors being equal, including house size, school quality and residential incomes.

Robert A. Simons, an urban planning professor at Cleveland State University, [says](#) that if you live within two miles of a Superfund site — a landfill that the government designates as a hazardous-waste site — your home's value could decline by up to 15%.

MSN Money: [Will these neighbors hurt your home value, too?](#)

Sex offenders. Living near a registered sex offender is one of the biggest downward drivers of home values. Researchers at Longwood University in Farmville, Va., [concluded](#) that the closer you live to a sex offender, the more your home will depreciate. In the paper, "Estimating the Effect of Crime Risk on Property Values and Time on Market: Evidence from Megan's Law in Virginia," Longwood researchers say, "The presence of a registered sex offender living within one-tenth of a mile reduces home values by about 9%, and these same homes take as much as 10% longer to sell than homes not located near registered sex offenders."

'Listed': [Bank works with cities to combat foreclosure blight](#)

Delinquent bill payers. One surprising way neighbors can bring down the value of surrounding homes, especially in town home or condo communities, is by not paying their maintenance fees or mortgages. "Bad neighbors bring values down by not paying their maintenance fees, in some cases their mortgage payments, and not maintaining the home's appearance," Pordes says. "These homeowners usually do not care about real-estate values."

Foreclosed homes. Perhaps the biggest single factor that drives nearby home values down is a foreclosure. A recent study by the Massachusetts Institute of Technology concludes that the value of homes within 250 feet of a foreclosed property will decrease by 1% per foreclosure, on average. Federal Reserve Governor Joseph Tracy said recently in his economic outlook for 2011: "The growing inventory of defaulted mortgages continues to weigh down any

recovery in the housing market ... Problems in housing markets can impact economic growth."

Lackluster landscaping. Studies show that lawn care has a big impact on surrounding home values. Virginia Tech University [released a report](#) stating that pristine landscaping can jack up the value of a home by 5% to 11%.

Closed schools. Sometimes, neighborhood problems can stem from local government action. For example, if a cash-strapped city or town closes a neighborhood school, that can easily steer home values south. The National Association of Realtors says 75% of home shoppers say the quality and availability of schools in the neighborhood is either "somewhat important" or "very important."

So can you fight back against problem neighbors? In the case of a landfill, power plant or sex offender, your options are severely limited. As long as your neighbors are following the letter of the law, you'll just have to grin and bear it — or move. If not, you have every right to petition your local government authorities for a grievance and at least get the matter reviewed.

If it's a residential property causing the problem, however, you might have better options.

For starters, you can leave a polite letter in the offending homeowner's mailbox to get his attention. In addition, Pordes says that if the home is within a homeowners association or condo association, the association can send letters to the homeowner and deny him community privileges to encourage him to comply with the community rules and maintain home values.

Most cities and towns have ordinances against messy yards and junk-laden driveways, so check your community's rules and regulations to see what applies.

Unfortunately, many cities and towns also have landfills, power plants and other less-than-desirable commercial-sized neighbors.

Most likely, you're just going to have to live with them.

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results by

nightmare neighbors



Chris Brown - Nightmare Neighbor



Nightmare Neighbors Anyone Would Dread



Nightmare Neighbors

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Memorandum
City of Lawrence
Planning & Development Services

TO: Board of County Commissioners

Craig Weinaug

CC:

FROM: Mary Miller, City/County Planner

Date: October 20, 2014

RE: Additional conditions for Central Soyfood Conditional Use, CUP-14-00304

Based on additional neighborhood concerns raised at, and following, the Planning Commission meeting, Staff suggests adding the following conditions to the CUP:

1. The lagoon must be permitted by the Lawrence Douglas-County Health Department or by Kansas Department Health and Environment, as appropriate, and constructed prior to the commencement of the use.
2. The soyfood facility must obtain a commercial building permit from the Zoning and Codes Department prior to the change of use.

These conditions will clarify that these steps that must occur before the use may commence. Another requirement is that the applicant must apply for and obtain a permit for the Conditional Use from the Zoning and Codes Office. The Zoning and Codes staff will inspect the site to determine if all conditions of the CUP have been met. At that time a Conditional use Permit will be issued and the use may commence.

TO: Douglas County Commission, 10/20/14

The property in question was put on the market in 2007. Susan and I use Haskell or 1055 as our route home and over the period the location was on the market we began to think about it as a good location for Central Soyfoods. We thought we did our due diligence concerning the legality of moving the plant, i.e. zoning, by telling the real estate agent our plans and asking him to check into the zoning. He confirmed that it would have to be rezoned but our use fell within the zoning guidelines in that it was possible to get a value added ag use for the location. I then confirmed this with planning. The die was cast and after the property was on the market for around 2 years; we made an offer and bought it in 2010.

We had little contact with the neighbors and they knew nothing about it's potential use until I rented the house on the property to our production manager who, during his stay in the house, made it clear to our neighbors on the south that it was ultimately going to be used as a soy/ tofu production facility; it was spring of 2010. My first contact with our neighbors was in the summer of 2012 while mowing the yard. Willis Long, our neighbor to the south, walked over and we had a neighborly talk in which one of the topics was the future use of the property. I only wish he would have expressed his concerns at that time, but all seemed to be copacetic.

I bring up the aforementioned for the following reasons; We bought the property solely to use it for the home of Central Soyfoods. We did due diligence before we acquired the location as to zoning. We were always upfront concerning our intended use of the property. There were no protests by the neighbors concerning our intentions until this summer, a full four years after they were informed of our future plans.

Central Soyfoods, a brief history:

Established in 1978 by Jim Cooley and located adjacent to the alley at 1403 Massachusetts, Central has been producing soy products, primarily tofu, for over 36 years. Over these decades Central has never been more than a micro business but has excelled at making high quality products that over these years has won the hearts and stomachs of consumers in the Lawrence and Kansas City region. In 2002, Central moved it's operation to 710 E. 22ND. St., Lawrence. When expectations for increased volume and distribution failed to materialize, the original business went into bankruptcy. In 2003 a group of interested parties bought the debt and assets of the company, re-organized the business structure into an LLC and went back into production.

Over the next decade Central has continued on it's slow upward trajectory, doubling it's revenue and increasing market penetration in the region while still retaining it's micro-business footprint.

Some Details:

Physical plant, 3300 square feet.

Employees, 5 part time, around 100 total work hours per week.

Production days; We currently produce 13 days per month, but would like to up that number to 16. Our working hours are around 6:00 am-1:30 pm for the cook and the former and 10:00am -3:30pm for the packagers.

Noise and air pollution; low to none.

Deliveries; using 1 small delivery van, we visit Lawrence customers twice per week and KC customers twice a week.

Receiving; Currently we receive 60 bushels of organic soybeans, mostly county grown, once per month. If our current request for re- location is approved, we will cut the bean deliveries down to 2 or 3 per year by the addition of a 500 bushel grain bin. Other UPS Fed/ Ex deliveries come on an irregular basis, but not more than 2 or 3 per week.

By-products are produced in the manufacture of tofu. Okara, or the fiber from the soybean mixed with the water soluble vitamins and some minerals, is a useful by product picked up on production days and used as fertilizer by a number of local organic farmers. We produce about 300 lbs. of okara per production day. Whey is the second by product produced in the process consisting mostly of water with water soluble vitamins and minerals. Both of the by-products are non-toxic and in fact are used in the manufacture of other food products.

Water usage: Of the 1500 gallons per day used in production (water that would be directed to the grey water lagoon) the water content would be as follows: Dishwashing detergent .00133%, bleach .00033%, vinegar .00266%, soy milk clean-out and soy particulate clean-out .00037%, making the resultant grey water 99.99521 % tap water.

Raw materials: The soybeans used in our products are certified organic, 50% of which are grown in the county and the rest grown within 100 miles of Lawrence.

These are the facts regarding this request for a Conditional Use Permit. We hope you will approve our application.

Thanks, Central Soyfoods LLC Dave & Sue Mulstein



L to R
MARK
Robertson
EMILY
HAEFNER
AARON
KRAUS
ELLIE
CLARK
NP,
DICKIE
HECKLER

From: County Commissioner - Thellman, Nancy
Sent: Sunday, October 19, 2014 9:51 AM
To: AD - Crabtree, Robin
Subject: please add to packet

Robin,
Would you please add this to our packet for Wednesday's meeting? It was sent to all of us...so probably should be shared with general public.

Thanks!
Nancy

Sent from my iPad

Begin forwarded message:

From: Willis Long <longbell61@aim.com>
Date: October 17, 2014 at 7:30:51 PM CDT
To: <mgaughan@douglas-county.com>, <nthellman@douglas-county.com>, <jflory@douglas-county.com>

Dear Commissioners,

We would like to tell you our side on the factory that is trying to come in under the C U P -14-00304.

We own 25 acres that surrounds their 5 acres . We are on the north, east , and south sides of them. We have planed on selling our house and building on the North side when we retire, that won't happen if this passes . We will loose 12-15%of our property value(per 7 neighborhood threats to your home's value) not to mention how long it will take to get it sold. Also if there is a lagoon ,our land will be land locked do to the required set backs set by the state,(per Don Carlson KDHE) and why would we build a new house with a factory in the back yard.

We don't understand how a shareholder can apply for permits on behalf of a company, just so that they them selves can make a profit . If Central Soy doesn't follow through, or anytime this Stand Alone Spec. Rental Factory is empty the Millsteins can rent to anyone. This is only for their own good it will not benefit our neighbor hood at all.

There are several legal reason as to why this cannot pass , you will see those in the letter written by our attorney presented to the City / County Planning Committee. I am not sure but I don't think legal was never asked about the points that were made.

We have had several question that we can't get answers to, do to not having full discloser as to what is going on . Even to this day.

At the one and only meeting I had with Mary Miller I was told that,I need to have a sit down meeting with the Millsteins and do what ever to get this through.

We would hate to see history get pushed out by way of industry, this area has the underground R.R. as well as the Douglas County Poor Farm with the original barn still standing on our property , and a dynamite shed . Also the Oregon Trail passed over this area.

Although this doesn't cover everything it is just a start, there are so many wrongs here. Please don't pass this till you have proof of all facts, and do all back ground checks

We are exhausted trying to figure out what is going on as things change every time we talk to some one at the City, County , or State level.

How can one fight for what they have worked their entire life for when you can't get full and complete discloser.

Thank You
Willis and Linda Long

RECEIVED
JUL 21 2014
City County Planning Office
Lawrence, Kansas

PRELIMINARY DRAFT
TOFU PRODUCTION



ADDITION

PRODUCTION
&
PACKAGING



WALK IN

TO
BASE
HEIGHT

BATH
ROOM

LABELS
&
LOCKERS

OFFICE

L ←

1/8" = 1'



SOY Central Soyfoods, LLC
43-1974482
FYE: 12/31/2005

Limited Liability Company Annual Report
Central Soyfoods, LLC

2/27/2006 11:27 AM

Partner Number	Members Who Own 5% or More of Capital	Percent of Ownership	Address
1	Ed Reznicek	13.8267000	Route 2, Box 23 0. Goff KS 66428
2	David T. Millstein	12.579000	64 East 1750 Road Baldwin City KS 66006
3	Susan Y. Millstein	18.867000	464 East 1750 Road Baldwin City KS 66006
7	KS Organic Producers	12.578000	Route 2, Box 23 Goff KS 66428
11	William J. Mackie	18.867000	3036 Woodson Road Baldwin City KS 66006

KANSAS SECRETARY OF STATE
NON-CERTIFIED WEB COPY
10/12/2014 3:06:26 PM

Form LC		KS Limited Liability Company Annual Report - Member Listing		2013
Name		For the taxable year beginning	01/01/13	ending 12/31/13
Central Soyfoods, LLC		KS ID Number	Employer Identification Number 43-1974482	
Members who own 5% or more of capital	Address	Country		
Ed Reznicek	1890 88th Road Goff KS 66428	US		
David T. Millstein	464 East 1750 Road Baldwin City KS 66006	US		
Susan Y. Millstein	464 East 1750 Road Baldwin City KS 66006	US		
KS Organic Producers	Route 2, Box 23 Goff KS 66428	US		
Bob Lominska	1954 Union Road Lawrence KS 66044	US		
Joy Lominska	1954 Union Road Lawrence KS 66044	US		
William R. Jr. Mackie, Jr.	3036 Woodson Road Baldwin City KS 66006	US		

KANSAS SECRETARY OF STATE
NON-CERTIFIED WEB COPY
9/29/2014 5:18:34 PM

9-4-14

Dear Mr. and Mrs. Long,

I am the bookkeeper at and a shareholder in Central Soyfoods. The planning commissioner forwarded us an email from Mr. and Mrs. Othick expressing concerns about our hopes of moving our kitchen out of the industrial area where we are now into the building at 1168 E 1500 Road, a far more pleasant location.

Having lived in rural Douglas County since 1972, by our personal preference, I know how we all feel about changes in our areas. We live in the country to be away from industry and commercialism. So I understand your concerns.

I would very much like to sit down with any of the neighbors who have questions or concerns about our operation and how it may impact the neighborhood. I feel I can allay your fears when you see what we do and how small we are. We would only want to be good neighbors. I can meet you together, or individually, wherever you prefer, at any time convenient for anyone. If you prefer, you may feel free to email me at symillstein@gmail.com or write me at 464 E 1750 Rd., Baldwin City, KS 66006.

Thank you and I look forward to meeting you.

Sincerely,

Susan Millstein

General Design Considerations
Adopted 8-17-78

2. Proposed development may be served or unserved by the proposed collection and/or treatment system and may consist of new subdivisions, platted land, adjacent platted property, etc.
3. Separation distances may include roadway or railway right-of-ways as long as a minimum of 100 feet from property lines is observed.

Minimum Separation Distances

1. Minimum separation requirements for facilities of 10-99 P.E. are as listed (in feet) in the following table:

<u>Plant Type</u>	<u>Existing Habitations</u>	<u>Proposed Development</u>	<u>Property Lines</u>
Activated Sludge	500*	350	100
Trickling Filter	500*	350	100
Aerobic Lagoon	500*	350	100
Anaerobic Lagoon	1000	1000	100
All other facilities	500*	350	100

2. Minimum separation requirements for facilities of 100 P.E. and larger are as listed (in feet) in the following table:

<u>Plant Type</u>	<u>Existing Habitations</u>	<u>Proposed Development</u>	<u>Property Lines</u>
Activated Sludge	1000*	350	100
Trickling Filter	1000*	350	100
Aerobic Lagoon	500*	350	100
Anaerobic Lagoon	1000	1000	100
All other facilities	1000*	350	100

*This distance may be reduced to a minimum of 350 feet with the written permission of the affected property owner having a habitation less than 1000 feet from the proposed treatment works. The written permission must be a notarized statement from the affected property owner stating that there are no objections to the establishment and construction of the treatment facility. The statement shall not waive any future rights with respect to future action on lack of proper operation and maintenance. A copy of the notarized statement must be furnished to this office, the property owner, and the owner of the treatment plant.

3. The above distances are required minimums. Requests for further reductions or additions must be fully documented and will be reviewed by Water Pollution Control Section, Bureau of Water Quality staff. However, further reductions/additions will not be approved on a routine basis.
4. Where an existing treatment plant has been established on a site with fixed boundaries, modifications, and/or additions to the plant should only be concerned with the 100 foot separation from property lines.

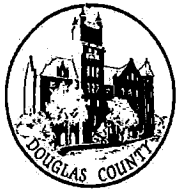
KDSH

SECTION 12 LOCATION REQUIREMENTS

- 3-12.1 Unless otherwise approved by the Health Department, the single-family waste stabilization pond shall be located as set forth in Table 1. No single-family waste stabilization pond shall be installed within:
- a. Twenty-five (25) feet of any private water line or water meter (p. 4, KDHE Bulletin 4-2, or as amended).
 - b. Fifty (50) feet of any house or ther building.
 - c. Fifty (50) feet of any cistern, in-ground swimming pool, surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
 - d. One hundred (100) feet of any property line, including right-of-way.
 - e. One hundred (100) feet of any water well.
- 3-12.2 No single-family waste stabilization pond permitted after January 1, 2007, shall be installed within the floodplain nor where groundwater or adverse geological formations may result in the contamination of groundwater by sewage.
- 3-12.3 All distances shall be measured from inside top of the waste stabilization pond dike.

SECTION 13 MINIMUM DESIGN AND CONSTRUCTION

- 3-13.1 Sewage Conduits
- a. Size of sewage conduits – Sewage conduits connecting component parts of Single-family Waste Stabilization Pond systems shall be a minimum of four (4) inches in diameter.
 - b. Materials – All pipe and fittings used in sewage conduits shall be constructed of PVC and meet nationally-recognized standards for their designated use-such as Standards published by the American Society for Testing and Materials or the National Sanitation Foundation and shall have been approved by the Health Department for use in on-site management systems. Sewage conduits under driveways or similar areas of load or impact shall be of material capable of withstanding maximum anticipated loads. All sewage pipe shall be marked to indicate it meets or exceeds a Schedule 40 or heavier “crush test” rating.



JAMIE SHEW
DOUGLAS COUNTY CLERK
1100 Massachusetts
Lawrence, KS 66044

Marni Penrod-Chief Deputy Clerk
Benjamin Lampe-Deputy Clerk Elections

October 1, 2014

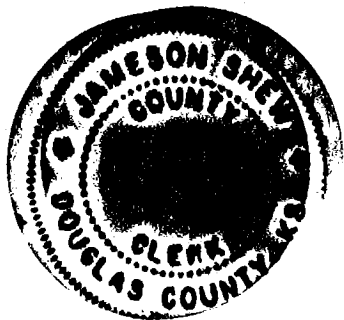
ATTN: DOUGLAS COUNTY COMMISSIONERS

RE: Protest Petition against Conditional Use Permit 14-00304, Central Soyfoods LLC

CERTIFICATION

I, JAMIE SHEW, DOUGLAS COUNTY CLERK, DO HEREBY CERTIFY THAT THE ATTACHED PETITION, RECEIVED ON October 1, 2014 IS A VALID PETITION.

Jamie Shew
Douglas County Clerk



POL CUP 14-00304
(800899D)

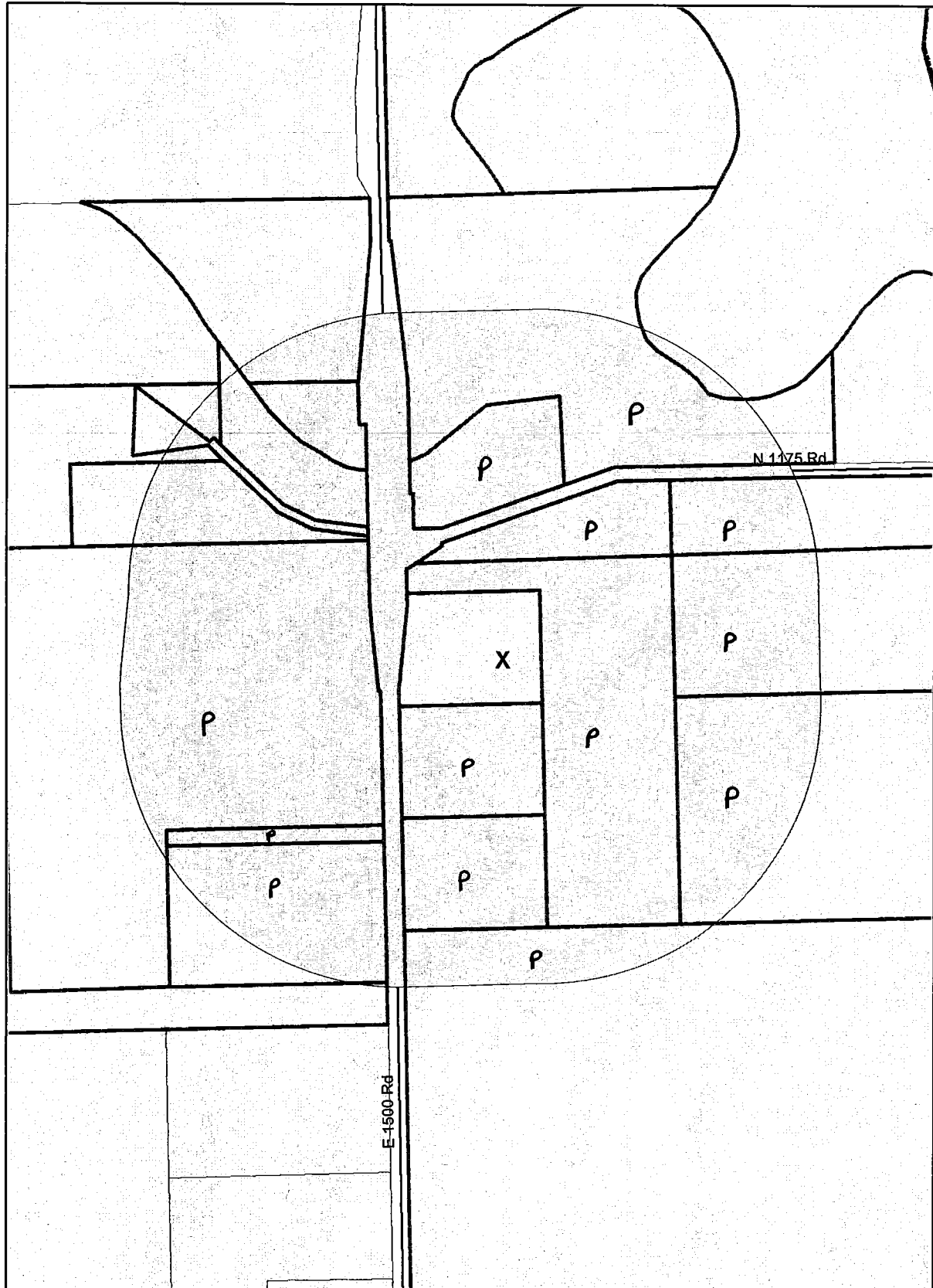


Exhibit A

A tract of land located in the Northwest Quarter of Section 20, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, more particularly described as follows: Commencing at the Southwest corner of the Northwest Quarter; thence North 0°21'09" East a distance of 800.00 feet to the point of beginning, said point being on the West line of the Northwest Quarter; thence continuing along said West line North 0°21'09" East a distance of 400.00 feet; thence South 89°48'37" East a distance of 550.00 feet; thence South 0°21'09" West a distance of 400.00 feet; thence North 89°48'37" West a distance of 550.00 feet to the point of beginning, containing 5.05 acres more or less.

Subject to easements, reservations, and restrictions, if any of record.

REZONING (CONDITIONAL USE PERMIT) PROTEST PETITION

Protest Petition against Cwp-14-00304

We, the undersigned property owners, do hereby protest the granting by the Board of County Commissioners of Douglas County, Kansas of [proposed rezoning from _____ (existing zoning) to _____ (proposed zoning)] or [a CUP to permit Value Added Ag Use] on the following described property: 1168 E 1500 Rd - (800899D)

[Attach or insert legal description or general description of the real estate proposed to be rezoned (or for the proposed CUP). A description of the real estate is available through the Lawrence-Douglas County Planning Office.]

see Exhibit A

We, the undersigned, are owners of real property located within the statutory area of notification related to the area for which the rezoning (or CUP) is sought. See K.S.A. 12-757(f).

Note: Print name legible below or beside signature. All owners of the property must sign.

<u>PRINTED NAME AND SIGNATURE OF OWNER</u>	<u>DESCRIPTION OF PROPERTY WITHIN NOTIFICATION AREA</u>	<u>RESIDENCE ADDRESS (IF DIFFERENT)</u>	<u>DATE</u>
<i>Grace S. Miller</i> TRACIE L. MILLER	023-104-20-0-00-00-004.00-0	1141 Sunset dr. 66044	9/29/14
<i>Quinn A. Miller</i>	023-104-20-0-00-00-004.00-0	2040 W. 31ST STE 62153	9/29/14
<i>Wen Ta Peng</i> WEN TA PENG	0231042000000010-000	2605 ATCHISON AVE LAW KS 66047	9/30/14
<i>Judith A. Saathoff</i> Judith A Saathoff	0231642600000004-01-0	1925 Maple Ln Law, Ks 66046	9/30/14

Exhibit A

A tract of land located in the Northwest Quarter of Section 20, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, more particularly described as follows: Commencing at the Southwest corner of the Northwest Quarter; thence North 0°21'09" East a distance of 800.00 feet to the point of beginning, said point being on the West line of the Northwest Quarter; thence continuing along said West line North 0°21'09" East a distance of 400.00 feet; thence South 89°48'37" East a distance of 550.00 feet; thence South 0°21'09" West a distance of 400.00 feet; thence North 89°48'37" West a distance of 550.00 feet to the point of beginning, containing 5.05 acres more or less.

Subject to easements, reservations, and restrictions, if any of record.

REZONING (CONDITIONAL USE PERMIT) PROTEST PETITION

Protest Petition against CUP-14-00304

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[Attach or insert legal description or general description of the real estate proposed to be rezoned (or for the proposed CUP). A description of the real estate is available through the Lawrence-Douglas County Planning Office.]

See Exhibit A.

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Note: Print name legible below or beside signature. All owners of the property must sign.

<u>PRINTED NAME AND SIGNATURE OF OWNER</u>	<u>DESCRIPTION OF PROPERTY WITHIN NOTIFICATION AREA</u>	<u>RESIDENCE ADDRESS (IF DIFFERENT)</u>	<u>DATE</u>
<u>Willis Long</u>	<u>Willis Long 1164 E 1500 rd</u>		<u>9-24-14</u>
<u>lundak Long</u> <u>hindaklong</u>	<u>1164 E 1500 Rd</u>		<u>9-24-14</u>
Walter D James <u>Walter D James</u>	<u>1152 E 1500 Rd</u>		<u>9-24-14</u>
<u>Debrah S. James</u> <u>Deborah S. JAMES</u>	<u>1152 E 1500 Rd</u>		<u>9-24-14</u>
<u>Seth J. Griffin</u>	<u>1128 E 1500 Rd</u>	<u>1716 Kent Ave</u>	<u>9/25/14</u>
<u>Verma J. Griffin</u>	<u>1716 Kent Ave</u>	<u>1128 E 1500 Rd</u>	<u>9-20-14</u>
<u>Joe W. Peng</u>	<u>2605 Atchison</u>	<u>Lawrence KS 66047</u>	<u>10/23/14</u>
<u>Jennifer Peng</u> <u>JENNIFER PENG</u>	<u>2605 Atchison</u>	<u>Lawrence KS 66047</u>	<u>10/23/14</u>

PRINTED NAME AND SIGNATURE OF OWNER	DESCRIPTION OF PROPERTY WITHIN NOTIFICATION AREA	RESIDENCE ADDRESS (IF DIFFERENT)	DATE
<i>[Signature]</i>		Lawrence, KS 66046 1149E 1500RD	9-28-14
<i>[Signature]</i>	023-104-19-0-00-00-002,08-0	1149E 1500RD Lawrence, KS	9-28-14
<i>[Signature]</i>		1149 E. 1500 RD	
<i>[Signature]</i>		Lawrence KS 66046	9/28/14
<i>[Signature]</i>	023-104-19-0-00-00-002,08-0	1149E 1500RD Lawrence, KS	9/28/14
<i>[Signature]</i>	Signing for Cheryl F. Smith Trustee		
CHERYL F. SMITH	1537 N 1175 ROAD LAWRENCE, KS 66046		9/28/14
<i>[Signature]</i>	Signing for Cheryl F. Smith Trustee		
CHERYL F. SMITH	023-104-20-0-00-00-009,00-0	1537 N 1175 ROAD Lawrence, KS 66046	9/28/14
<i>[Signature]</i>	Signing for Smithy B. Smith Trustee		
Smithy B. Smith	1537 N. 1175 Rd. Lawrence, KS. 66046		9/28/14
<i>[Signature]</i>	Signing for Smithy B. Smith Trustee		
Smithy B. Smith	023-104-20-0-00-00-009,00-0	1537 N 1175 Rd Lawrence, KS 66046	9/28/14
<i>[Signature]</i>		1164E 1500RD Lawrence, KS 66046	
Willis Long	023-104-20-0-00-00-011,00-0		9/28/14
<i>[Signature]</i>		1164E 1500RD Lawrence, KS 66046	
Linda Long	023-104-20-0-00-00-011,00-0		9/28/14
<i>[Signature]</i>		1164 E 1500RD Lawrence, KS 66046	
Willis Long	023-104-20-0-00-00-004,02-0		9/28-14
<i>[Signature]</i>		1164 E 1500RD Lawrence, KS 66046	
Linda Long	023-104-20-0-00-00-001,02-0		9/28/14

STATE OF KANSAS)
)
 COUNTY OF DOUGLAS) ss:

I am the circulator of this Protest Petition and a resident of the state of Kansas and possess the qualifications of an elector of the State of Kansas. I have personally witnessed the signing of the Protest Petition by each person whose name appears thereon.

[Signature] Linda K Long
 Circulator Signature Printed Name

Circulator's Residence and Address 1164E 1500 RD Date 9/29/14

Signed and sworn to (or affirmed) before me on this 29th day of September, 2014, by Linda K. Long, circulator of this Protest Petition.

[Signature]
 Notary Public
 My appointment expires: 2/10/2017

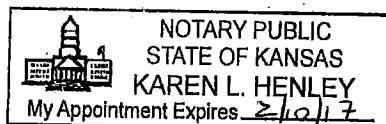


Exhibit A

A tract of land located in the Northwest Quarter of Section 20, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, more particularly described as follows: Commencing at the Southwest corner of the Northwest Quarter; thence North 0°21'09" East a distance of 800.00 feet to the point of beginning, said point being on the West line of the Northwest Quarter; thence continuing along said West line North 0°21'09" East a distance of 400.00 feet; thence South 89°48'37" East a distance of 550.00 feet; thence South 0°21'09" West a distance of 400.00 feet; thence North 89°48'37" West a distance of 550.00 feet to the point of beginning, containing 5.05 acres more or less.

Subject to easements, reservations, and restrictions, if any of record.



Neighborhood Meeting discussing objections and how to stop CENTRAL SOYFOOD from location their business in our residential/rural neighborhood. 2 more showed up after I took this panorama (virtually entire neighborhood)



Notice the concern and worry on these fully informed people about the possibility of having our neighborhood degraded/ruined by allowing Central Soyfood to set up thier commercial business so close to all these people. I have details on an alternate country location for them. Vote No please