

LEAVENWORTH COUNTY PLANNING COMMISSION

Agenda for a Regular Meeting of 5:30 P.M., Wednesday, July 8, 2026
County Courthouse - 300 Walnut Street - Leavenworth, Kansas 66048

www.leavenworthcounty.gov

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Approval of Minutes**
5. **Secretary's Report**
6. **Declarations: (if necessary)**
 - A. Declarations of receipt of communications by Planning Commissioners
 - B. Disclosure of ex-parte communications for each hearing item
 - C. Declarations of abstention from specific agenda items by a Commissioner

7. **Board of Zoning Appeals**

8. **Roll Call**

9. **Regular Agenda**

A. Case DEV-26-076 Variance for Polson

Consideration of a Variance request from Article 5, Section 4 of the Leavenworth County Zoning & Subdivision Regulations on the following described property: Lot 12, Ackerland Hill 2nd Plat, a subdivision in Leavenworth, Kansas.

Also known as: 00000 Ackerland Road

PID: 131-01-0-00-00-026

*****Public Hearing Required*****

*****Public Comment limited to five minutes per person*****

Adjournment of the Board of Zoning Appeals

10. **Planning Commission**

11. **Approval of Agenda**

12. **Consent Agenda**

A. Case DEV-26-073 Replat – Settler's Crossing

Consideration of a Replat for Lot 10 of Deer Mound Replat, Leavenworth County, Kansas.

Also known: as 14770 254th Street

PID: 211-02-0-00-00-001.11

13. **Work Session – Data Center & Battery Energy Storage Facility Regulations**

Adjournment of Planning Commission

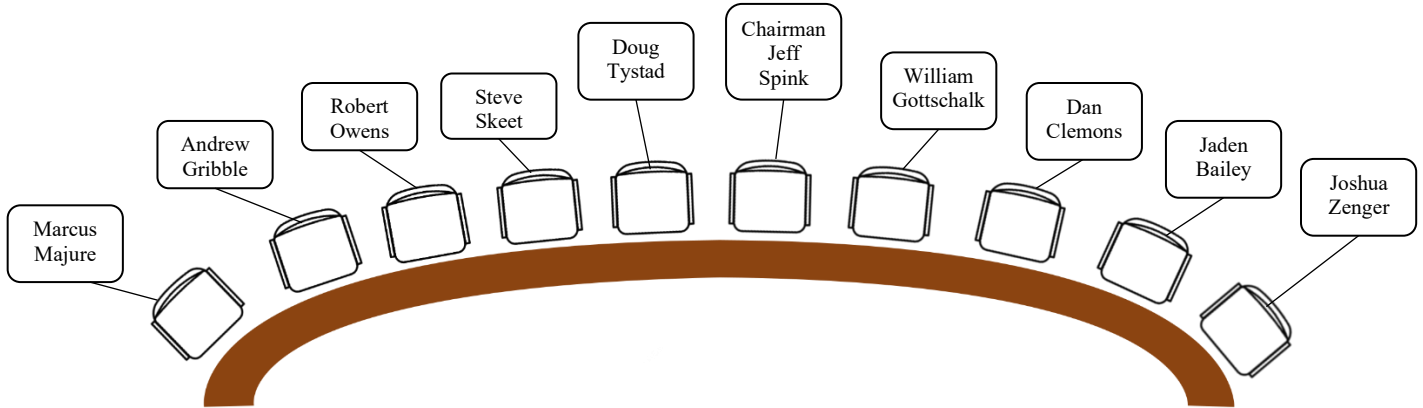
Upcoming meeting dates:

**Wednesday, August 12, 2026, 5:30 PM
Regular Planning Commission Meeting**

For More Information

If you have any questions or need to make special arrangements for a meeting,
please call or stop by the Planning and Zoning Department.
Contact Dawn Chamberlain – 913-684-0465

Planning Commission Seating Chart 2026



LEAVENWORTH COUNTY PLANNING COMMISSION
MINUTES OF THE REGULAR MEETING
June 10, 2026

The complete recorded meeting can be found on the County's YouTube channel.

The Planning Commission meeting was called to order at 5:31 p.m.

Pledge of Allegiance

Members present: Joshua Zenger, Jaden Bailey, Dan Clemons, William Gottschalk, Chairman Jeff Spink, Doug Tystad and Andrew Gribble

Members absent: Marcus Majure and Robert Owens

Staff present: John Jacobson-Director, Josh Schweitzer-Planner II, Misty Brown-County Counselor, Anne Marie Yatsula-Deputy County Counselor

Approval of Minutes

Commissioner Tystad motioned to make a correction on page 6 of the minutes under case DEV-25-015 and Commissioner Clemons seconded.

ROLL CALL VOTE - Motion to approve the minutes passed 7/0. (Absent: Marcus Majure and Robert Owens)

Secretary's Report

Planner Josh Schweitzer stated that there were two items on the Consent Agenda and five items on the Regular Agenda. Mr. Schweitzer mentioned there would be two plats with exceptions a tract split, a rezone and a special use permit.

Declarations None.

Approval of Agenda

Commissioner Tystad motioned to approve the amended agenda and Commissioner Gribble seconded.

ROLL CALL VOTE - Motion to approve the minutes passed 7/0. (Absent: Marcus Majure and Robert Owens)

9. Regular Agenda

A. Case DEV-26-051 & 070 Preliminary & Final Plat – Acres of Foxridge CAE East

Consideration of a Preliminary and Final Cross Access Easement Plat for a replat of Lot 5, Acres of Foxridge 5th Plat and tracts of land in the Southeast Quarter of Section 26, Township 11 South, Range 21 East of the 6th P.M., Leavenworth County, Kansas.

Also known as 0000 198th Street

Planner II, Josh Schweitzer stated this matter is a preliminary and final plat consideration and that the applicants are proposing to split approximately 63 acres into a 5-lot cross access easement. The case would require two exceptions; one for lot-width to lot-depth ratio for lots 2 and 4. The second exception relates to lots 2 and 5 for exceeding the 150-foot building setback line.

Commissioner Tystad asked for clarification on the layout relating to the building setback.

Surveyor Joe Herring explained that the applicant has a dedicated road on the east side but it's not built by the County and difficult to meet standards. Mr. Herring added that the only option to create a buildable tract is to involve the plat to the south.

Commissioner Zenger motioned to approve the exception for the lot-depth to lot-width and Commissioner Tystad seconded.

ROLL CALL VOTE - Motion to approve the exception passed 7/0.

Commissioner Tystad motioned to approve the exception for exceeding the building setback. Commissioner Clemons seconded the motion.

ROLL CALL VOTE - Motion to approve the exception passed 7/0.

Commissioner Clemons motioned to approve the plat and Commissioner Tystad seconded.

ROLL CALL VOTE - Motion to approve the plat passed 7/0.

B. Case DEV-26-052/053 Preliminary & Final Plat – HTD Estates

Consideration of a Preliminary and Final for a tract of land in the Southwest Quarter of Section 22, Township 10 South, Range 21 East of the 6th P.M., Leavenworth County, Kansas.

Also known as 00000 Donahoo Rd.

PID: 145-22-0-00-00-006.05

Planner II, Josh Schweitzer stated the applicants are proposing to split approximately 28 acres into a 2-lot subdivision which requires an exception related to the lot-depth to lot-width on lot 2 as it exceeds the 1:1 ratio.

Commissioner Clemons motioned to approve the exception for lot-depth to Lot-width. Commissioner Gribble seconded the motion.

ROLL CALL VOTE - Motion to approve the exception passed 7/0.

Commissioner Tystad motioned to approve the plat and Commissioner Gottschalk seconded.

ROLL CALL VOTE - Motion to approve the plat passed 7/0.

C. Case DEV-26-071 Tract Split Exception – Novo-Gradac

Consideration of an Exception to the Zoning & Subdivision Regulations for a tract of land in the Northwest Quarter of Section 16, Township 11 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas.

Also known as 17125 Evans Rd

Planner II, Josh Schweitzer stated the applicants are requesting an exception from the zoning regulations relating to 1) lot-depth to lot-width and 2) a non-conforming structure. Mr. Schweitzer explained that there is a

6000sf barn on tract 2, that will not comply with zoning regulations if the property is split. Both exceptions relate to tract 2.

Commissioner Bailey motioned to approve the exception for lot-depth to lot-width ratio and Commissioner Gribble seconded.

ROLL CALL VOTE - Motion to approve the exception passed 7/0.

Commissioner Zenger motioned to approve the exception for non-conforming structure and Commissioner Clemons seconded.

ROLL CALL VOTE - Motion to approve the exception passed 7/0.

D. Case DEV-26-068 Rezoning – Walnut Hills/Slicker

Consideration of a rezoning request from RR-5 zoning district to RR-2.5 zoning districts on the following described property: Tracts of land located in the Southeast Quarter of Section 1, Township 9 South, Range 21 East of the 6th P.M., Leavenworth, Kansas.

Also known as 00000 Springdale Road & 28521 187th Street

Planner II, Josh Schweitzer stated that the request is for a rezone from RR-5 to RR-2.5 and that the applicants wish to create three (3) additional lots off of Parcel 018 and extending boundary lines on Parcel 019. These changes would bring Parcel 019 into compliance and the future land use is identified as RR-2.5. Mr. Schweitzer added that staff did review the request based upon the Golden Factors.

Commissioner Clemons requested clarification as to the yellow lines as the “new” boundary lines and if the existing structure or entrance would pose any problems.

Chairman Spink opened the public hearing.

Surveyor Joe Herring stated that reason for the applicant’s request is related to having the outbuilding connected to their property.

Commissioner Tystad asked for general clarification as well as access to Springdale Road. Mr. Herring confirmed Springdale Road is controlled by KDOT.

No one spoke in favor of the request.

Shane Weeney spoke in opposition of the request based upon property owner concerns about problems with future development if the zoning is changed to RR-2.5 because of density increases with new homes causing more congested traffic.

Chairman Spink opened the public hearing.

Commissioner Tystad motioned to approve and Commissioner Clemons seconded.

ROLL CALL VOTE - Motion to approve the rezone passed 7/0.

E. Case DEV-26-057 Special Use Permit – RJ Farm

Consideration of a Special Use Permit request for an amusement park, commercial athletic fields, racetracks, circuses, carnivals and fairgrounds for outdoor events on the following described property: Lot 1 in Whispering Plains, a subdivision in Leavenworth County, Kansas, according to the recorded plat thereof, in Leavenworth County, Kansas.

Also known as 21985 Cantrell Road

Planner II, Josh Schweitzer stated that the applicant's request is to operate an amusement park, athletic field, racetrack, circuses, carnivals and fairgrounds. The current request is a renewal of the previous Special Use Permit and the applicant intends to operate 15 events per year.

Discussions ensued clarifying if Staff would be confirming events are meeting requirements, appropriate lighting and trash removal within two (2) days.

Chairman Spink opened the public hearing.

Property Owner Aurelio Haro spoke in favor of the Special Use Permit. Mr. Haro shared that he has been in Leavenworth County for thirty(30) years, and that he resides in town. Mr Haro shared that they are requesting to renew the Special Use Permit, which would allow up to fifteen (15) public events annually. Mr. Haro questioned why his liability insurance requirement was higher than other properties with similar use. Commissioners Clemons and Tystad responded by stating that the Planning Commissioners recommended lower coverage; however the Board of County Commissioners posed the higher liability insurance.

Further discussions ensued regarding parking and the proposed term of the new Special Use Permit, which is proposed to be 3-5 years.

Norma Brockenberry spoke in favor of the Special Use Permit and confirmed that they did not host any events in the past year. Ms. Brockenberry stated they are requesting a 15-year term and asked for clarification if the permit could be revoked at anytime if any of the conditions were violated. Director Jacobson confirmed that the Special Use Permit could be revoked if conditions were violated. Ms. Brockenberry further explained that the events would be 15 or less per year and mostly family gatherings with music and food. The rodeos would be less frequently and the veterinarian is in close proximity and available should any problems arise.

Surveyor Joe Herring stated he has represented the owners of RJ Farms last year and spoke in favor of the Special Use Permit. Mr. Herring added that he has had various conversations and in his experience, he has not seen an SUP applicant be required to hold a \$10 million liability insurance policy. Mr. Herring reiterated that there have been no problems with RJ events.

Dr. Joan Hernand spoke in opposition of the Special Use Permit based upon illegal and cruel activities that violate Kansas state statute, specifically horse-tripping. Dr. Hernand stated that certain rodeo practices such as "steer tailing" with live stock for entertainment purposes is not accepted by the PRCA. Dr. Hernand requested that if the Planning Commission approves the SUP, a requirement is included that they comply with the Professional Cowboy Rodeo Association for any live stock events. Specifically, refraining from roping a horse by hind foot, arena bull-tailing, roping a horses front feet causing it to trip and fall.

Commissioner Skeet asked for about typical expense to have a veterinarian attend a rodeo for the full duration. Dr. Hernand did not provide an answer to the question other than to say she had attended rodeo events for no fee for over four years. She further explained her concern about public health based upon there are been multiple cases of Equine Infectious Anemia in the past ten (10) years. Dr. Hernand added that RJ Farms are not utilizing regulation approved animals which are not appropriately vaccinated.

Mr. Tom Lindsey, who owns 20-acres to the east of the RJ Farm property spoke in opposition of the Special Use Permit. Mr. Lindsey shared his safety concern about the spectators leaving the RJ Farm events, specifically travelling on 222nd Street. Mr. Lindsey shared that visibility can be compromised be cause of tall bushes, and Mr. Lindsey shared his concern for the health of the animals utilized for entertainment at the RJ Farm events.

Further discussions ensued.

Mr. Haro further spoke about the fact that the Sheriff's Department has had no recent complaints related to the RJ Farm events.

Ms. Norma Brockenberry stated that there are no Kansas law prohibiting rodeos and explained that Mexican rodeos are no different than American rodeos, specifically where “tailing” is illegal. Ms. Brockenberry shared that she believes New Mexico and California have specific laws prohibiting “tailing”; however, Kansas does not.

Planner II, Josh Schweitzer added that Condition 21 of the Special Use Permit outlines that the applicant shall comply with all local, state and federal rules and regulations.

Further discussions ensued.

Chairman Spink closed the public hearing.

Commissioner Bailey validated concerns of those in opposition of the Special Use Permit and proposed that the condition requiring a veterinarian to be “on call” to instead be “on-site” for any future rodeos. Commissioner Bailey suggested that if the condition was modified, the insurance liability coverage requirement could be lower and reduce public concerns. Commissioners Skeet and Gribble agreed they would be in favor of a reduction in liability coverage for the applicant.

County Counselor Misty Brown stated that the 3-5-year term for the Special Use Permit is recommended by Staff; however, the Planning Commission can recommend a longer term and the revocation is always a possibility, which is not a simple practice.

Further discussions ensued.

Commissioner Tystad motioned to approve the Special Use Permit based upon changing the liability policy requirement from \$10 million to \$1 million with a 3-year term. Commissioner Tystad motioned to add a require any rodeo activities will have a veterinarian on-site. Commissioner Bailey seconded the motion.

Further discussions ensued related to monitoring future rodeos.

ROLL CALL VOTE - Motion to approve the exception passed 7/0.

Planning Commission meeting adjourned at 6:57pm.

For More Information:

If you have any questions or need to make special arrangements for a meeting,
please call or stop by the Planning and Zoning Department.
Contact Dawn Chamberlain – 913-684-0465

**LEAVENWORTH COUNTY
BOARD OF ZONING APPEALS
STAFF REPORT
(PUBLIC HEARING REQUIRED)**

CASE NO: DEV-26-076 Polson

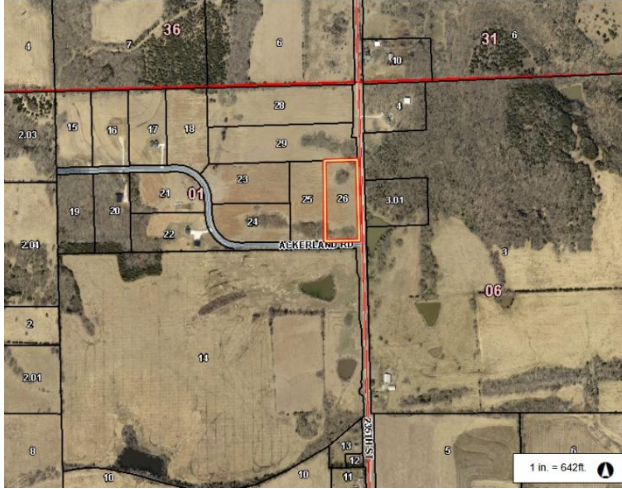
July 8, 2026

REQUEST: Variance from Zoning and Subdivision Regulations Art 05 Sec 04

STAFF REPRESENTATIVE:

Josh Schweitzer
Planner II

SUBJECT PROPERTY: 00000 Ackerland Road



APPLICANT/APPLICANT AGENT:

Gavin Polson
Nortonville, KS 66060

PROPERTY OWNER:

Same as above

CONCURRENT APPLICATIONS:

N/A

LAND USE

ZONING: RR – 5

FUTURE LAND USE DESIGNATION:

RR – 2.5

LEGAL DESCRIPTION:

Lot 12, Ackerland Hill 2nd Plat, a subdivision in Leavenworth County, Kansas.

SUBDIVISION: Ackerland Hills 2nd Plat

FLOODPLAIN: None

PROPERTY INFORMATION

ACTION OPTIONS:

1. Recommend approval of Case No. DEV-26-076, variance from Article 5, Section 4 minimum front yard setback for all buildings or structures of any nature built; or
2. Recommend denial of Case No. DEV-26-076, variance from Article 5, Section 4 minimum front yard setback for all buildings or structures of any nature built; or
3. Continue the hearing to another date, time, and place.

PARCEL SIZE: 4.60 Acres

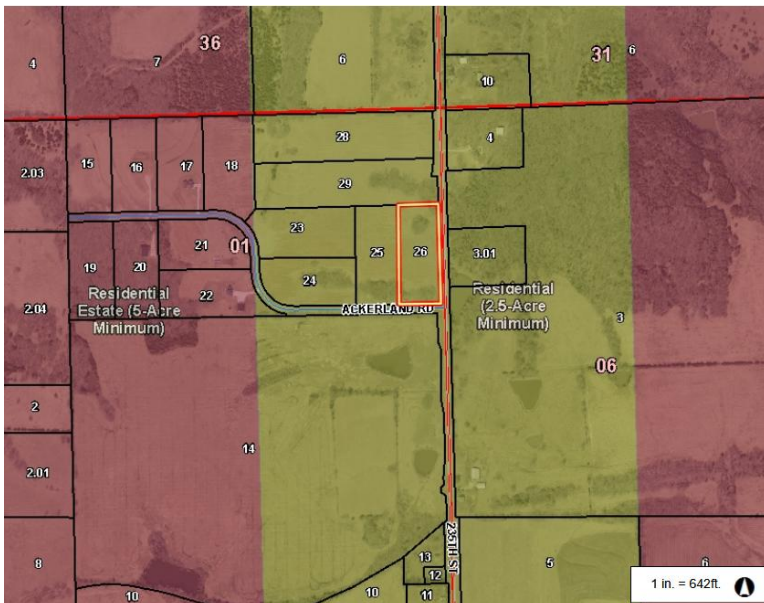
PARCEL ID NO:

131-01-0-00-00-026

BUILDINGS:

N/A

Future Land Use Designation Map:



ACCESS/STREET:

Ackerland Road, Private Road; ± 16', Gravel; 235th St, Arterial, ± 27', Gravel

UTILITIES

SEWER: Private Septic

FIRE: Union

WATER: RWD 9

ELECTRIC: Freestate

NOTICE & REVIEW:

STAFF REVIEW: 6/30/2026

NEWSPAPER NOTIFICATION:

5/14/2026

NOTICE TO SURROUNDING PROPERTY OWNERS:

5/20/2026

FACTORS TO BE CONSIDERED:

A request for a variance may be granted in such individual case upon finding that all of the following conditions have been met (KS Statute 12-759)

1. The variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning classification, and is created by the zoning regulations and not by an action of the property owner or the applicant;

- The County is creating the situation by obtaining approximately 10 more feet of additional right-of-way along 235th street for a road improvement project. By obtaining additional right-of-way this decreases the buildable area for the property owner.

2. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;

- Granting of the variance does not appear to adversely affect the rights of adjacent property owners or residents.

3. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application:

- If variance is not approved, the buildable area is decreased by the additional right-of-way being taken which could create an unnecessary hardship.

4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and;

- Granting of the variance does not appear to adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

5. Granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations

- Granting of the variance does not appear to be in opposition to the general spirit or intent of the regulations.

STAFF COMMENTS:

The County is taking additional right-of-way along 235th Street as part of a road improvement project. The applicant is requesting that his platted building setback line to remain where it is currently with the current right of way. The right of way is currently set at 75 feet from the right of way line. When the County obtains the additional right of way, the applicant is requesting the building setback line to be at 65 feet from right of way instead of the 75 feet. This would make the property owners buildable area the same as it is currently.

ATTACHMENTS:

- A: Application & Narrative
- B: Zoning Map
- C: Memorandums

BOARD OF ZONING APPEALS APPLICATION

Leavenworth County Planning and Zoning
300 Walnut, Suite 212
Leavenworth, Kansas 66048
913-684-0465

Office Use Only

Case No. _____
PID: _____
Township _____
BZA Hearing Date _____ Date Received _____ Date Paid _____
ACTION _____
Zoning District _____
Comprehensive Plan land use designation _____

APPLICANT/AGENT INFORMATION

NAME Gravin Polson
ADDRESS _____
CITY/ST/ZIP _____
PHONE _____
EMAIL _____

OWNER INFORMATION (If different)

NAME _____
ADDRESS _____
CITY/ST/ZIP _____
PHONE _____
EMAIL _____

GENERAL INFORMATION

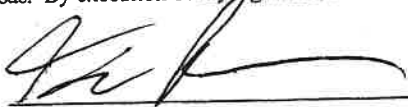
Description of Appeal or Variance – Attach narrative addressing the Factor to be Considered (last page of application packet) to this application.

PROPERTY INFORMATION

Address of Property 0000 Ackerland Road, Mcclouth KS - QuickRef 308911
Parcel size 5.74 Acres
Present improvements or structures None
Current use of the property? AG

I, the undersigned, am the (circle one) owner/authorized agent, of the aforementioned property situated in the unincorporated portion of Leavenworth County, Kansas. By execution of my signature, I do hereby officially apply for an appeal/variance as indicated above.

Signature

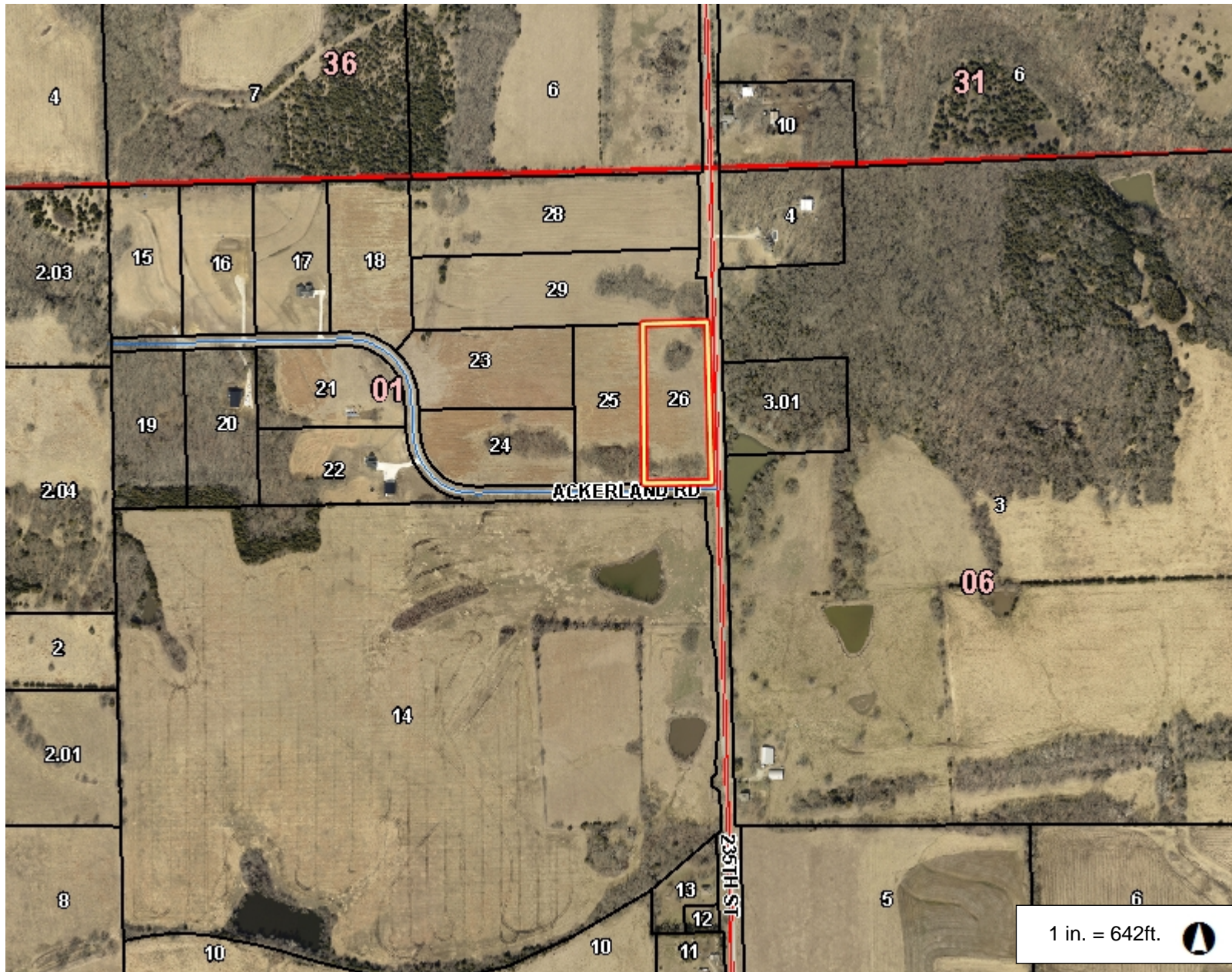


Date

5-19-26


ATTACHMENT A

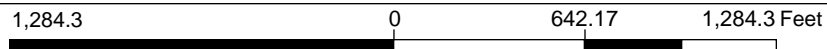
Leavenworth County, KS



Legend

- Parcel Number
- Parcel
- City Limit Line
- Major Road
 - <all other values>
 - 70
- Road
 - <all other values>
 - PRIVATE
- Railroad
- Section
- Section Boundaries
- County Boundary

1 in. = 642ft. 

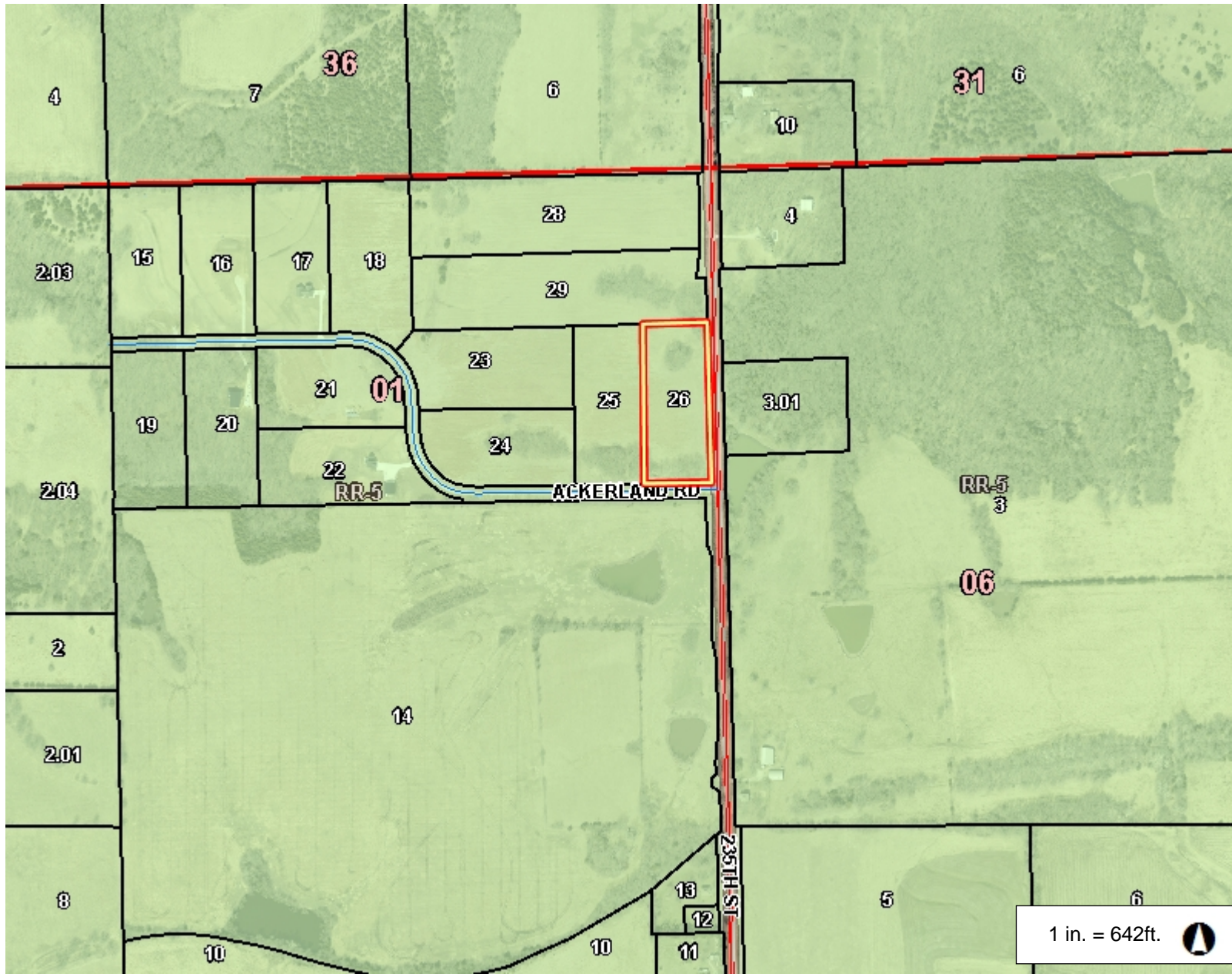


This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Leavenworth County, KS



Legend

- Parcel Number
- Parcel
- City Limit Line
- Major Road
 - <all other values>
 - 70
- Road
 - <all other values>
 - PRIVATE
- Railroad
- Section
- Section Boundaries
- County Boundary
- Zoning
 - B-1
 - B-2
 - B-3
 - I-1
 - I-2
 - I-3
 - MXD
 - PC
 - PI
 - PR-1
 - PR-2
 - PR-3

1 in. = 642ft.

1,284.3 0 642.17 1,284.3 Feet

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Written Narrative Requirements

Written Narrative Description: A written narrative description of the proposed variance must be submitted that addresses:

FACTORS TO BE CONSIDERED

A request for a variance may be granted in such individual cases, upon finding that all the following conditions have been met (KS Statutes 12-759).

- (A) That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant;
- (B) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- (C) That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- (D) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;
- (E) That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

ATTACHMENT C

Leavenworth County Public Works is acquiring additional variable width right of way along the east side of the property for the 235th Street Improvement Project being completed. I would like to maintain the platted building set back at 75 feet after the additional right of way is conveyed.

Response to Factors To Be Considered.

- 1) The county is creating the situation by improving 235th Street which would reduce my buildable area outside of the setback if this request is not approved.
- 2) This request will not impact any other property owners.
- 3) If not approved my buildable area will be reduced by the amount of additional right of way being taken.
- 4) This request will have no impact on the public health, safety, morals, order, convenience, prosperity, or general welfare. The road will be improved for safety as part of this project and the county will not need any additional easement in the future.
- 5) The intent of the building setback is to set aside an envelope to prevent structures from interfering with the future improvements of adjoining roads. This road is being improvement now and this variance will not have any impact in the future.

Easement No. 7
Project No. 235th Street (CR30) – Dempsey Road to 4H Road

PERMANENT PUBLIC RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made this _____ day of _____, 2025 by and between Gavin Tyler Polson, a single person hereinafter referred to as the Landowner; and THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LEAVENWORTH, KANSAS, hereinafter referred to as the County.

WITNESSETH, that the Landowner in consideration of one dollar and no/100 (\$1.00) and other valuable considerations, the receipt of which is hereby acknowledged, does for itself, its heirs and assigns, hereby grant, bargain, sell, and convey unto the County, a permanent public right-of-way easement for vehicular and pedestrian traffic together with the attendant customary uses, including drainage and utilities over, under, through, across, and along all the following described real estate in the County of Leavenworth, and State of Kansas, to-wit:

See Attachment A

The County is purchasing this permanent public right-of-way easement for the purpose of erecting or improving a public roadway for the passage of vehicular and pedestrian traffic, and the County reserves the right to make improvements on that property according to such plans and specifications, as will, in its opinion, best serve the public purpose. The payment of the purchase price for the public right-of-way easement conveyed shall be considered full compensation for that public right-of-way easement, and for any diminution in value that may result to the remaining property by virtue of proximity to the project, grade, alignment, utility installation, or the alteration of drainage patterns and facilities.

The Landowner, its heirs, or assigns shall retain all underlying fee interest in the above-described property subject to the use by the County for a Public Right-of-Way Easement. Landowner understands and agrees that it is prohibited from placing or constructing any structure or improvement on the above-described property. Further the use of the Public Right-of-Way Easement shall be subject to Kansas State law and Leavenworth County Resolutions governing public rights-of-way.

Should one or more of the Landowners be natural persons not joined by their respective spouses, it is conclusively presumed that the land conveyed is not the residence or business homestead of such Landowner(s). Should one or more of the grantors be a legal entity other than a natural person, it shall be conclusively presumed that the person signing on behalf of that party has been duly and legally authorized to so sign and there shall be no necessity for a seal or attestation.

This Permanent Public Right-of-Way Easement shall run with the land and be binding upon the grantees, lessees, successors, and assigns of the parties hereto, unless terminated by the abandonment of the Public Right-of-Way Easement by the County.

IN WITNESS WHEREOF, Said parties of the first part have hereunto set their hands the day and year first above written.

Gavin Tyler Polson

STATE OF KANSAS, COUNTY OF LEAVENWORTH, ss.

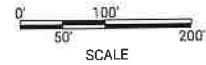
BE IT REMEMBERED, that on this ____ day of _____, 202_, before me, the undersigned, a notary public in and for the County and State aforesaid, came _____, personally known to me to be the same person ____ who executed the within instrument of writing, and such person ____ duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Notary Public

My commission expires: _____

EXHIBIT A



PROPERTY DESCRIPTION:

Commencing at the Northeast corner of Section 01, Township 10 South, Range 20 East, thence southerly on the east line of said Section 01, on an assumed bearing of South 00 degrees 09 minutes 21 seconds West, a distance of 659.51 feet, to the point of beginning for the Ackerland Hill 2nd Plat, and the point of beginning for this description;

Thence westerly on a bearing of North 89 degrees 50 minutes 39 seconds West, a distance of 30.00 feet, to the west existing right of way line of 235th Street, and the Northeast corner of Lot 12, of the Ackerland Hill 2nd Plat Subdivision;

Thence westerly on the north line of said Lot 12, on a bearing of North 89 degrees 50 minutes 39 seconds West, a distance of 38.18 feet;

Thence southerly on a bearing of South 05 degrees 17 minutes 55 seconds West, a distance of 20.35 feet;

Thence southeasterly on a bearing of South 10 degrees 02 minutes 53 seconds East, a distance of 50.80 feet;

Thence southerly on a bearing of South 00 degrees 09 minutes 21 seconds West, a distance of 639.02 feet, to the north line of a cross access easement over Lot 12, of the Ackerland Hill 2nd Plat Subdivision;

Thence westerly on the north line of a cross access easement over said Lot 12, on a bearing of North 89 degrees 02 minutes 23 seconds West, a distance of 10.00 feet;

Thence southerly on a bearing of South 00 degrees 09 minutes 21 seconds West, a distance of 60.01 feet to the south line of a cross access easement and the south line of Lot 12 of the Ackerland Hill 2nd Plat Subdivision;

Thence easterly on the south line of a cross access easement and the south line of Lot 12 of the Ackerland Hill 2nd Plat Subdivision, on a bearing of South 89 degrees 02 minutes 23 seconds East, a distance of 41.00 feet to the west existing right of way line of 235th Street;

Thence easterly on a bearing of South 89 degrees 50 minutes 39 seconds East, a distance of 30.00 feet, to the east line of Section 01, Township 10 South, Range 20 East;

Thence northerly on the east line of Section 01, Township 10 South, Range 20 East, on a bearing of North 00 degrees 09 minutes 21 seconds East, a distance of 769.73 feet, to the point of beginning.

Contains 24,844 sq. ft. (0.57 ac.), more or less, exclusive of existing right of way.

Southeast Section Cor., Sec. 36, T09S, R20E

1. Found 3/4" Bar, 9" below Gravel
2. Mag Nail in West face corner post 26.05' SE
3. Spike in top of fence corner post 35.00' SW
4. T-Post, 3" below ground 66.15' SSW
5. 1/2" bar, 8" below gravel 22.21' S
6. Top center, telephone pedestal 90.35' NNW
7. Centerline travel way 235th Street 3.0' W
8. Coord.: N 642,253.93 E 11,535,616.23

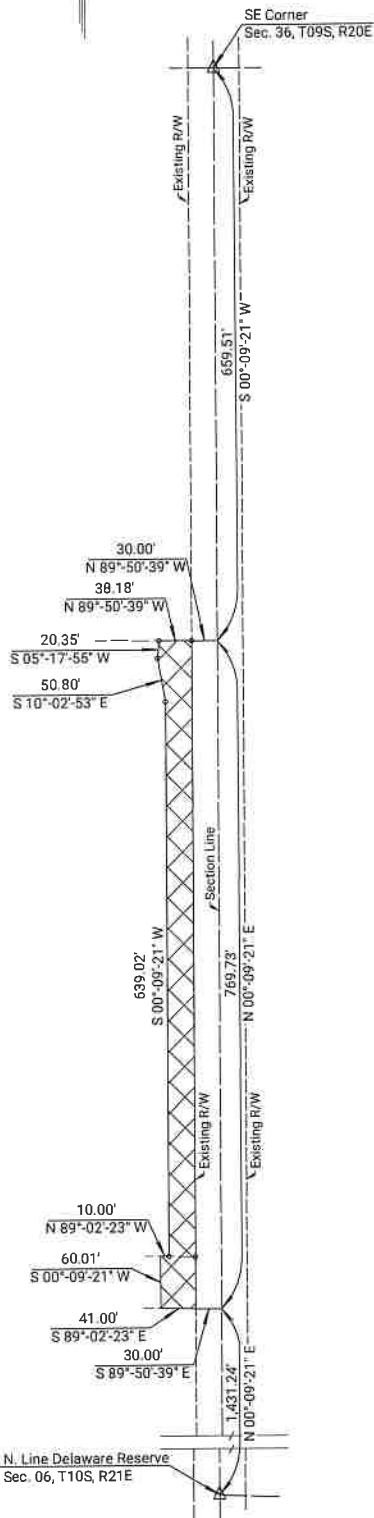
North Line of Delaware Reserve

1. Find 1/2" bar with remnants of yellow cap, 6" below gravel
2. Spike in West face on post 30.69' E
3. Spike in Northwest face guypole 29.41' SE
4. RR Spike in power pole 39.67' SE
5. Magnail in telephone marker post 39.87' SW
6. Centerline traveled way 235th Street 3' W
7. Coord.: N 639,393.46, E 11,535,608.44



Craig A. Mattox, LS #1446

If the signature on the face of this Plat is not in BLUE, it is not an original and may be subject to alteration.



△ Found section corner. See ties for description.

⊗ Easement being acquired.

○ Easement point (not set)

FINNEY & TURNIPSEED
 TRANSPORTATION & CIVIL ENGINEERING, L.L.C.
 610 SW 10th STREET, TOPEKA, KS 66612
 785-235-2394

Schweitzer, Joshua

From: Dedেকে, Andrew <adedeke@lvsheriff.org>
Sent: Friday, May 29, 2026 3:45 PM
To: Schweitzer, Joshua
Subject: Re: DEV-26-076 BZA for Polson

No objections.

Get [Outlook for iOS](#)

From: Schweitzer, Joshua
Sent: Friday, May 29, 2026 3:42:45 PM
To: Noll, Bill ; McAfee, Joe ; Dedেকে, Andrew ; Magaha, Chuck ; 'pbartlettd9@yahoo.com'
Cc: PZ
Subject: DEV-26-076 BZA for Polson

Good Afternoon,

The Department of Planning and Zoning has received a request for a Variance from Article 5, Section 4., front yard setback for a residential home within the Rural residential zoning district for the property located at 131-01-0-00-00-026.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by June 12.

If you have any questions or need additional information, please contact me at (913) 684-0465 or at pz@leavenworthcounty.gov

v / r

Joshua J. Schweitzer
Planner II
Leavenworth County Planning & Zoning
300 Walnut St, Suite 212
Leavenworth County, Kansas 66048
(913) 684-0465

FRAUD ALERT: Our office has been notified of multiple fraudulent emails requesting payment of fees to a non-agency account. All application fees are paid at the time of application and any additional required fees will be requested on official letterhead. Furthermore, the County does not have an online payment option. If you receive an email or letter requesting payment of fees that appears to come from the Leavenworth County Planning & Zoning Department or Planning Commission, please contact our office at 913.684.0465 before making any payments online or by phone. We appreciate your cooperation in this matter.

Disclaimer

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MEMO

To: Joshua Schweitzer
From: Chuck Magaha
Subject: Set Back exemption
Date: June 1, 2026

Joshua, I have reviewed the request for setback request from Gavin Polson. I have no comments to lend at this time. If you feel I have missed an issue please give a call at 684-0457.

Schweitzer, Joshua

From: McAfee, Joe
Sent: Tuesday, June 2, 2026 3:56 PM
To: Schweitzer, Joshua
Cc: PZ; Noll, Bill
Subject: RE: DEV-26-076 BZA for Polson

Josh,
Public Works fully supports the BZA since our public road improvement project will create a negative impact on the building lot without approval of the BZA.

From: Schweitzer, Joshua
Sent: Friday, May 29, 2026 3:43 PM
To: Noll, Bill ; McAfee, Joe ; 'adedeke@lvsheriff.org' ; Magaha, Chuck ; 'pbarlettfd9@yahoo.com'
Cc: PZ
Subject: DEV-26-076 BZA for Polson

Good Afternoon,

The Department of Planning and Zoning has received a request for a Variance from Article 5, Section 4., front yard setback for a residential home within the Rural residential zoning district for the property located at 131-01-0-00-00-026.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by June 12.

If you have any questions or need additional information, please contact me at (913) 684-0465 or at pz@leavenworthcounty.gov

v / r

Joshua J. Schweitzer
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Leavenworth County Planning & Zoning
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Schweitzer, Joshua

From: Anderson, Kyle
Sent: Tuesday, June 16, 2026 7:56 AM
To: Schweitzer, Joshua
Subject: RE: DEV-26-076 BZA for Polson

We have not received any complaints on this property.

Kyle Anderson
Environmental Technician/Code Enforcement
Leavenworth County Planning & Zoning
300 Walnut St. Ste. 212
Leavenworth, KS 66048
913-684-1084

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From: Schweitzer, Joshua <JSchweitzer@leavenworthcounty.gov>
Sent: Tuesday, June 16, 2026 7:54 AM
To: Anderson, Kyle <KAnderson@leavenworthcounty.gov>
Subject: FW: DEV-26-076 BZA for Polson

v / r

Joshua J. Schweitzer
Planner II
Leavenworth County Planning & Zoning
300 Walnut St, Suite 212
Leavenworth County, Kansas 66048
(913) 684-0465

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Disclaimer

**LEAVENWORTH COUNTY
PLANNING COMMISSION
STAFF REPORT**

CASE NO: DEV-26-073 Settler's Crossing

July 8, 2026

REQUEST: *Consent Agenda*

- Preliminary Plat Final Plat
 Replat

STAFF REPRESENTATIVE:
JOSH SCHWEITZER
Planner II

SUBJECT PROPERTY: 14770 254th Street



APPLICANT/APPLICANT AGENT:
Joe Herring
Herring Surveying Company

PROPERTY OWNER:
Ben & Lindsey Shepley
Lawrence, KS 66044

CONCURRENT APPLICATIONS:
NONE

LAND USE

ZONING: RR-5

FUTURE LAND USE DESIGNATION:
RR-2.5

LEGAL DESCRIPTION:
Lot 10, Deer Mound Replat, a subdivision in Leavenworth County Kansas.

SUBDIVISION: Deer Mound Replat
FLOODPLAIN: N/A

STAFF RECOMMENDATION: APPROVAL

PROPERTY INFORMATION

ACTION OPTIONS:

1. Recommend approval of Case No. DEV-26-073, Replat for Settler's Crossing, to the Board of County Commission, with or without conditions; or
2. Recommend denial of Case No. DEV-26-073, Replat for Settler's Crossing to the Board of County Commission for the following reasons; or
3. Continue the hearing to another date, time, and place.

PARCEL SIZE: 4.2 Acres

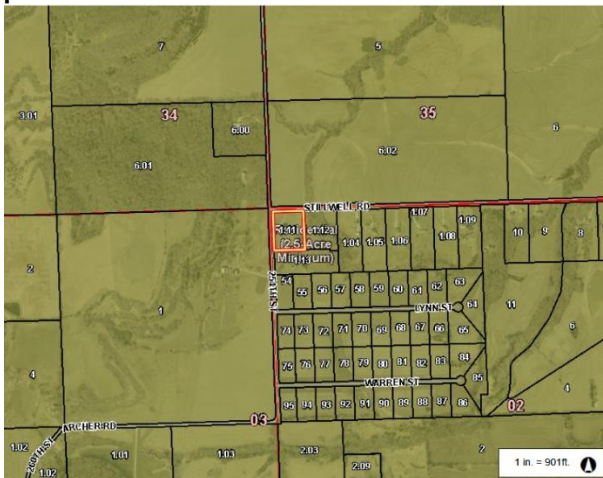
PARCEL ID NO:
211-02-0-00-00-001.11

BUILDINGS:
Existing House

PROJECT SUMMARY:
Request for a final plat approval for a property located at 14770 254th Street (PID # 211-02-0-00-00-001.11) as Lot 10 of Settler's Crossing.

ACCESS/STREET:
254th Street & Stillwell Road - Local,
Gravel ± 24';

Location Map: FUTURE LAND USE DESIGNATION



UTILITIES

SEWER: PRIVATE SEPTIC

FIRE: FD# 2

WATER: RWD 13

ELECTRIC: Freestate

NOTICE & REVIEW:

STAFF REVIEW:
6/29/2026

NEWSPAPER NOTIFICATION:
N/A

**NOTICE TO SURROUNDING
PROPERTY OWNERS:**
N/A

STANDARDS TO BE CONSIDERED:			
Leavenworth County Zoning and Subdivision Standards: Preliminary Review		Met	Not Met
35-40	Preliminary Plat Content	N/A	
40-20	Final Plat Content	X	
41-6	Access Management	X	
41-6.B.a-c.	Entrance Spacing	X	
41-6.C.	Public Road Access Management Standards	X	
43	Cross Access Easements	N/A	
50-20	Utility Requirements	X	
50-30	Other Requirements	X	
50-40	Minimum Design Standards	X	
50-50	Sensitive Land Development	N/A	
50-60.	Dedication of Reservation of Public Sites and Open Spaces	N/A	

STAFF COMMENTS:

The applicant is requesting to remove a platted no access hatch that is along Stillwell Road in order to place a entrance on their property. Both Stillwell Road and 254th Street are considered Local roads, and their property is greater than 3 acres, which allows the property owner to have a second entrance on their property. Since the no access hatch is platted, the applicants needed to complete a replat to remove the no access hatch. Boundary lines of the property are not changing in any way.

PROPOSED CONDITIONS:

1. Building permits shall be required for any new construction.
2. Erosion control shall be used when designing and constructing driveways. A form of sediment control shall be installed before work begins and maintained throughout the time that the land disturbing activities are taking place. Re-vegetation of all disturbed sites shall be completed within 45 days after completion of final grading weather permitting.
3. A waiver for the use of private septic systems within this subdivision is granted with this approval.
4. At time of development, fire hydrants shall be required, if necessary, infrastructure is available. If the infrastructure is not available to support fire hydrants, a letter from the Water District stating such must be provided prior to any building permit being issued.
5. Must provide updated plats in compliance with all outstanding review comments made by County Staff prior to recording.

PROPOSED MOTIONS:

Approve case DEV-26-073, a request to plat the property located at 14770 254th Street into a 1-lot subdivision in conformance with the Zoning and Subdivision Regulations with a majority vote; or

Motion: Chairman, I find that the subdivision request complies with the Zoning and Subdivision Regulations and move to recommend approval to the Board of County Commissioners of the request as outlined in Case DEV-26-073 based on the recommendation of Planning Staff and the findings as set forth in the Staff Report.

Deny case DEV-26-073, a request to plat the property located at 14770 254th Street into a 1-lot subdivision not in conformance with the Zoning and Subdivision Regulations with a majority vote; or

Motion: Chairman, I find that the subdivision request does not comply with the Zoning and Subdivision Regulations (list Article and Section #) and move to recommend denial to the Board of County Commissioners as outlined in Case DEV-26-073.

Table the case to a date and time certain for additional information.

Motion: Chairman, I move to table Case No. DEV-26-073 to (Date and Time) requesting additional information for (STATE THE REASON(S)).

ATTACHMENTS:

A: Application & Narrative

B: Zoning Map

C: Road Map (A minimum of 1/4 mile)

D: Memorandums

FINAL PLAT APPLICATION

Leavenworth County Planning and Zoning Department,
300 Walnut St., Suite 212
County Courthouse
Leavenworth, Kansas 66048
913-684-0465

Office Use Only

Township: _____ Planning Commission Meeting Date: _____
Case No. _____ Date Received/Paid: _____
Zoning District _____ Comprehensive Plan Land Use Designation: _____

APPLICANT/AGENT INFORMATION

OWNER INFORMATION

NAME: Herring Surveying Company NAME: SHEPLEY, BEN & LINDSEY
MAILING ADDRESS: [REDACTED] MAILING ADDRESS [REDACTED]
CITY/ST/ZIP: Leavenworth, KS 66048 CITY/ST/ZIP Lawrence KS 66044
PHONE: _____ PHONE: _____
EMAIL : _____ EMAIL _____

GENERAL INFORMATION

Proposed Subdivision Name: DEERMOUND REPLAT - TECHNICAL CORRECTION
Address of Property: [REDACTED]
PID: 211-02-0-00-00-001.11 Urban Growth Management Area: N/A

SUBDIVISION INFORMATION

Gross Acreage: 5 ac	Number of Lots: 1	Minimum Lot Size: 5 ac
Maximum Lot Size: 5 ac	Proposed Zoning: RR-5	Density: N/A
Open Space Acreage: N/A	Water District: RWD 13	Proposed Sewage: Septic
Fire District: FD 2	Electric Provider: FreeState	Natural Gas Provider: Propane
Covenants: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Road Classification: <u>Local</u> - Collector - Arterial - State - Federal	
	Cross-Access Easement Requested: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Is any part of the site designated as Floodplain? Yes No if yes, what is the panel number:

I, the undersigned, am the owner, duly authorized agent, of the aforementioned property situated in the unincorporated portion of Leavenworth County, Kansas. By execution of my signature, I do hereby officially apply for a final plat approval as indicated above.

Signature: Joe Herring - digitally signed 5-14-26 Date: 5-14-26

ATTACHMENT A

OWNER'S POLICY OF TITLE INSURANCE

Issued by

Stewart Title Guaranty Company

SCHEDULE A

Name and Address of Title Insurance Company:

STEWART TITLE GUARANTY COMPANY

1220 Washington, Suite 102, Kansas City, Missouri 64105

File No.: **2409453**

Policy No.: **O-9301-005053317**

Address Reference: **14770 254TH ST , Lawrence, KS 66044**

Amount of Insurance.

Date of Policy: **December 11, 2020, at 02:37 pm** Updated June 8, 2026

1. Name of Insured:

Ben Shepley aka Benjamin Shepley and Lindsey Shepley

2. The estate or interest in the Land that is insured by this policy is:

Fee Simple

3. Title is vested in:

Ben Shepley aka Benjamin Shepley and Lindsey Shepley

4. The Land referred to in this policy is described as follows:

Lot 10, Deer Mound Replat, a Replat of Lots 1 and 2, Deer Mound Subdivision, a subdivision in Leavenworth County, Kansas.

Schweitzer, Joshua

From: Johnson, Melissa
Sent: Wednesday, May 20, 2026 8:51 AM
To: 'Ben Shepley'
Subject: RE: Entrance Permit

I'm looking at my new cases that Joe Herring has been submitting since the 15th of this month. He has handed in some of the paperwork, but we are waiting for paperwork to make it a complete application.

You have authorized him to be your agent. Our contact person is going to be Joe Herring. He will give you information as to what the status is too.

If you have any questions, please let me know.

Thank you,

Melissa Johnson

Planner I
Leavenworth County
Planning & Zoning Department
Leavenworth County Courthouse
300 Walnut St, Suite 212
Leavenworth County, Kansas 66048
(913) 684-0465

FRAUD ALERT:

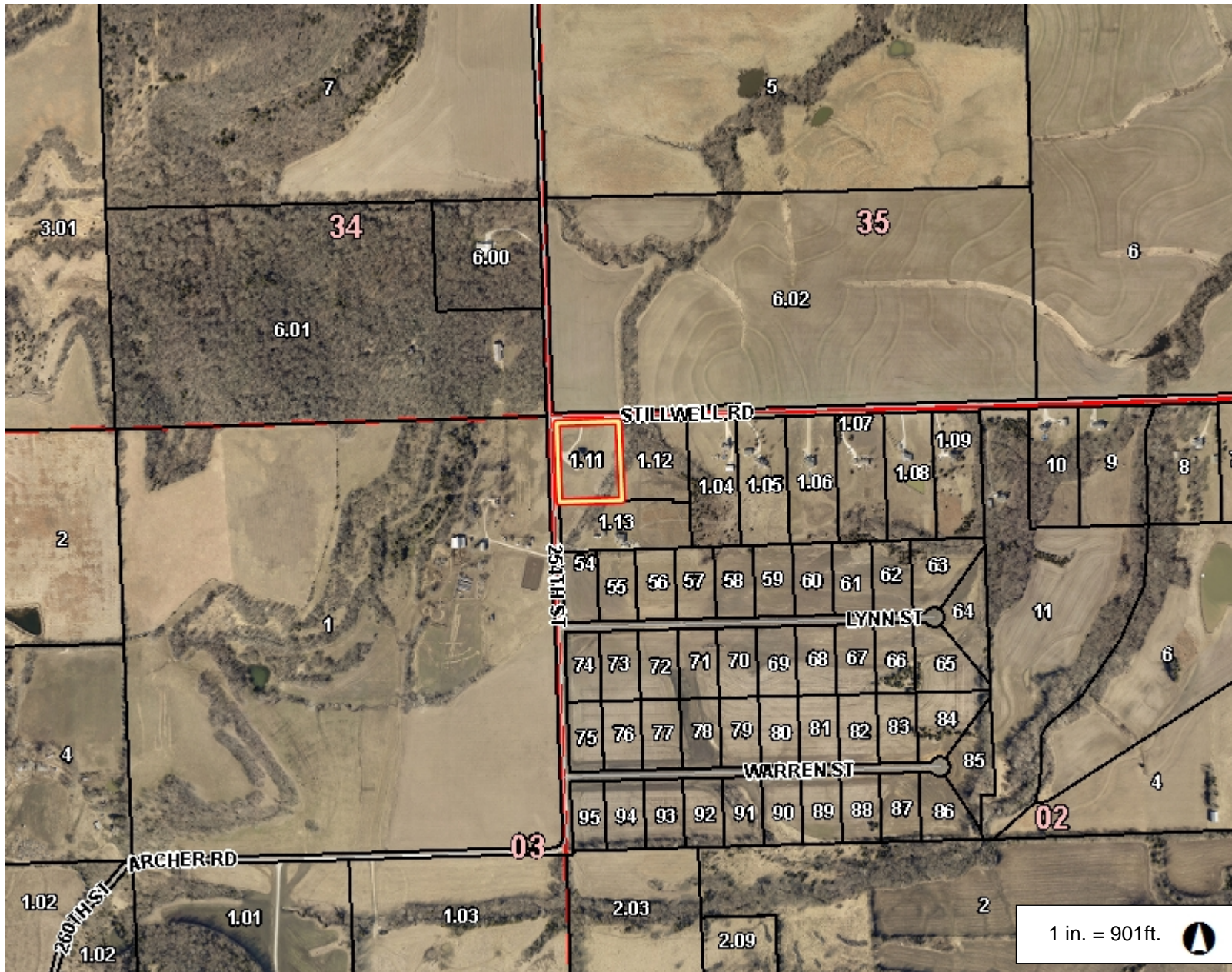
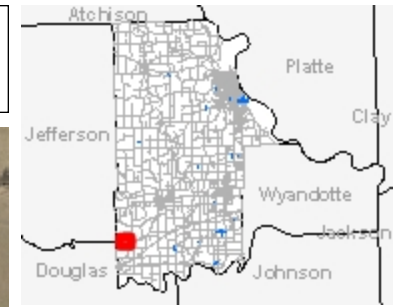
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From: Ben Shepley
Sent: Wednesday, May 20, 2026 8:11 AM
To: Johnson, Melissa

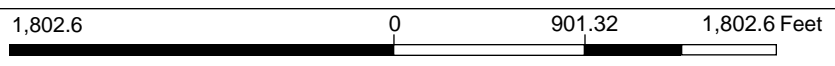
Leavenworth County, KS



Legend

- Parcel Number
- Parcel
- City Limit Line
- Major Road
 - <all other values>
 - 70
- Road
 - <all other values>
 - PRIVATE
- Railroad
- Section
- Section Boundaries
- County Boundary

1 in. = 901ft. 

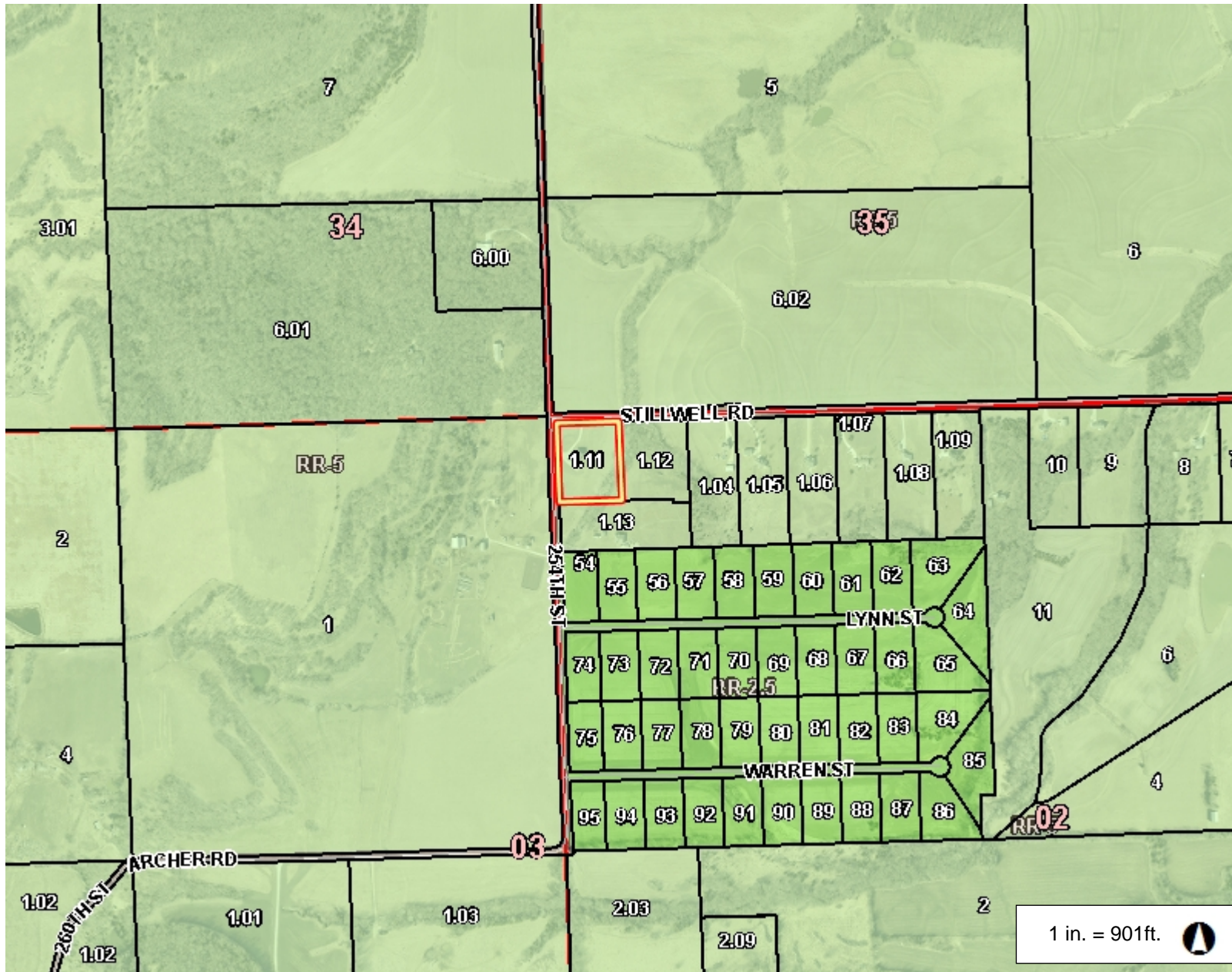


This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Leavenworth County, KS



Legend

- Parcel Number
- Parcel
- City Limit Line
- Major Road
 - <all other values>
 - 70
- Road
 - <all other values>
 - PRIVATE
- Railroad
- Section
- Section Boundaries
- County Boundary
- Zoning
 - B-1
 - B-2
 - B-3
 - I-1
 - I-2
 - I-3
 - MXD
 - PC
 - PI
 - PR-1
 - PR-2
 - PR-3

Notes

1,802.6 0 901.32 1,802.6 Feet

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

SETTLER'S CROSSING

Replat of Lot 10, DEER MOUNT REPLAT, Leavenworth County, Kansas.

FINAL PLAT

PREPARED FOR:
SHEPLEY, BEN & LINDSEY
14770 254TH ST
Lawrence, KS
PID # 211-02-0-00-001.11

DESCRIPTION: As per Title Commitment
Lot 10, Deer Mound Replat, a Replat of Lots 1 and 2, Deer Mound Subdivision, a subdivision in Leavenworth County, Kansas.

CERTIFICATION AND DEDICATION
The undersigned proprietors state that all taxes of the above described tract of land have been paid and that they have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as: SETTLER'S CROSSING.

Easements shown on this plat are hereby dedicated for public use, the rights of way which are shown with dashed lines on the accompanying plat, and said easements may be employed to locate and maintain sewers, water lines, gas lines, poles and wires and any other form of public utility now and hereafter used by the public over, under and along the strips marked "Utility Easement" (U/E) or "Drainage Easement" (D/E).

Building Lines or Setback Lines (B.S.L.) are hereby established as shown on the accompanying plat and no building or portion thereof shall be built or constructed between this line and the street line.

IN TESTIMONY WHEREOF,
We, the undersigned owners of SETTLER'S CROSSING, have set our hands this _____ day of _____, 2026.

Ben Shepley, AKA Benjamin Shepley
Lindsey Shepley

NOTARY CERTIFICATE:
Be it remembered that on this _____ day of _____ 2026, before me, a notary public in and for said County and State came Ben Shepley, AKA Benjamin Shepley, and Lindsey Shepley, husband and wife, to me personally known to be the same persons who executed the forgoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

NOTARY PUBLIC
My Commission Expires: _____ (seal)

APPROVALS
We, the Leavenworth County Planning Commission, do hereby approve the foregoing plat of SETTLER'S CROSSING this _____ day of _____, 2026.

Secretary
John Jacobson
Chairman
Jeff Spink

COUNTY ENGINEER'S APPROVAL:
The County Engineer's plat review is only for general conformance with the subdivision regulations as adopted by Leavenworth County. The County is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.

County Engineer - Mitch Pleak, P.E.

COUNTY COMMISSION APPROVAL:
We, the Board of County Commissioners of Leavenworth County, Kansas, do hereby approve the foregoing plat of SETTLER'S CROSSING this _____ day of _____, 2026.

Chairman
Mike Stieben
County Clerk
Attest: Fran Keppler

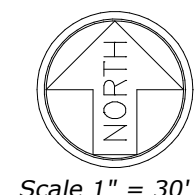
REGISTER OF DEED CERTIFICATE:
Filed for Record as Document No. _____ on this _____ day of _____, 2026 at _____ o'clock _____ M in the Office of the Register of Deeds of Leavenworth County, Kansas,

Register of Deeds - TerriLois G. Mashburn

I hereby certify that this survey plat meets the requirements of K.S.A. 58-2005. The face of this survey plat was reviewed for compliance with Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for survey information only.

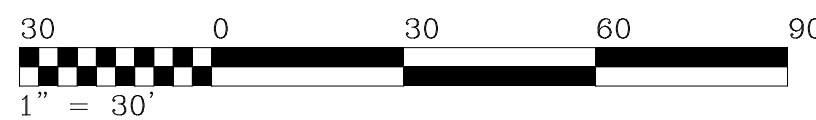
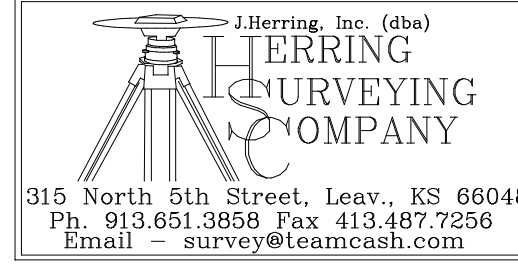
APPROVED 06/30/2026

Daniel Baumchen, PS#1363
County Surveyor



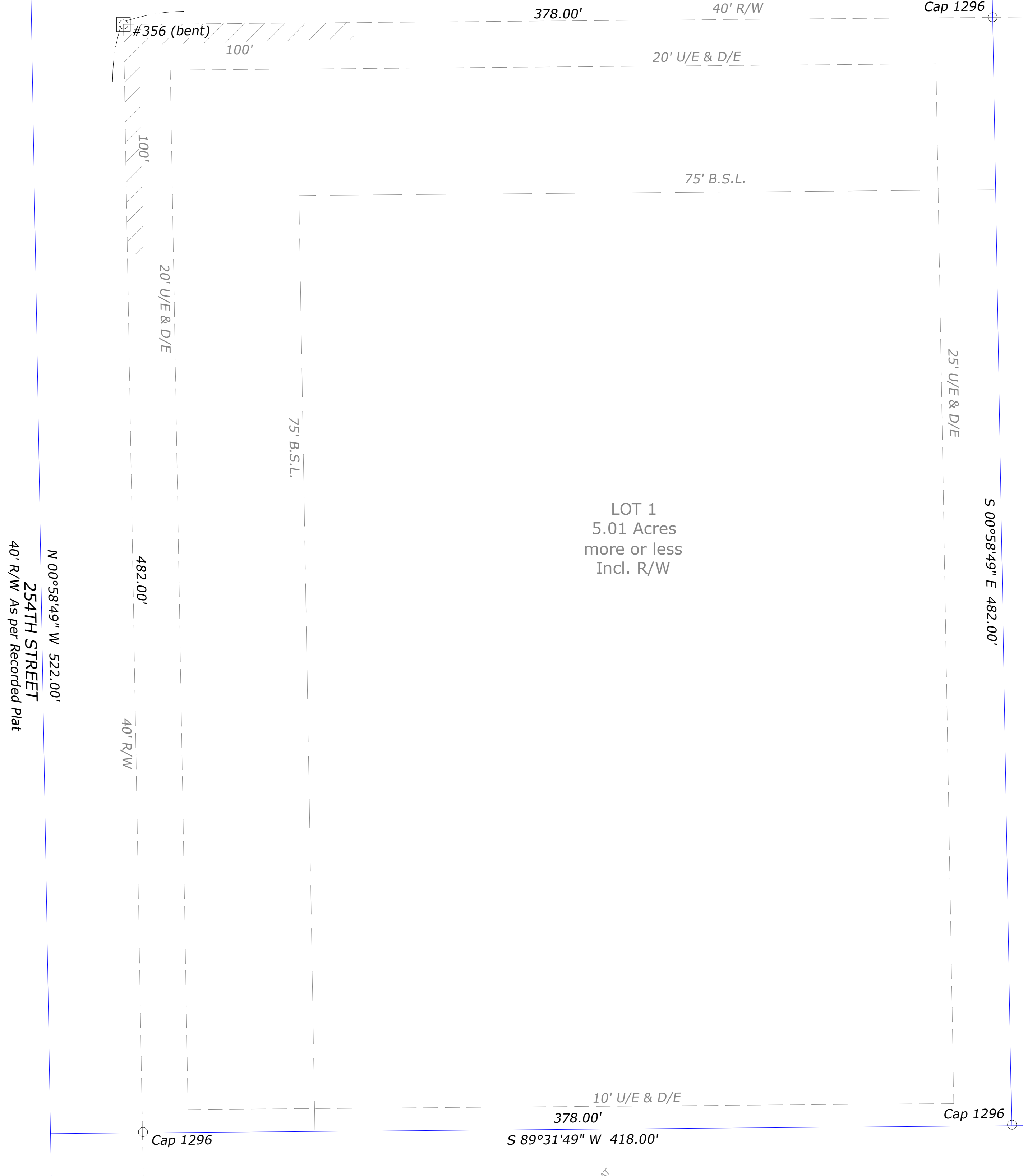
Scale 1" = 30'

K-26-1100
May 13, 2026 Rev. 6-30-26 (HBJ)



NW COR
Sec. 2-12-20

STILLWELL ROAD
40' R/W As per Recorded Plat
S 89°31'49" W 418.00'



- RESTRICTIONS:
- All proposed structures within this plat shall comply with the Leavenworth County Zoning and Subdivision Regulations or zoning regulation jurisdiction.
 - An Engineered Waste Disposal System may be required due to poor soil conditions.
 - Erosion and sediment control measures shall be used when designing and constructing driveways and other structures. Re-vegetation of all disturbed areas shall be completed within 45 days after final grading.
 - Lots are limited to a single entrance.
 - No off-plat restrictions.

ZONING:
RR-5, Rural Residential, 5-Acre minimum size parcels - Current and proposed

- NOTES:
- This survey does not show ownership.
 - All distances are calculated from measurements or measured this survey, unless otherwise noted.
 - All recorded and measured distances are the same, unless otherwise noted.
 - Error of Closure - 1 : 999999 - 5.01 Acres, more or less, Incl. R/W
 - Basis of Bearing - Recorded Plat DEERMOUND SUBD. & DEERMOUND SUBD. REPLAT
 - Point Origin Unknown, unless otherwise noted.
 - Proposed Lots for Residential Use.
 - Road Record - See Survey & Recorded Plats
 - Benchmark - NAVD88
 - Project Benchmark (BM) - Conc. Monument NW Corner Lot 10 (Replat) - 926.8'
 - Easements, if any, are created hereon or listed in referenced title commitment.
 - Reference Recorded Deed - Doc #2020R12952
 - Utility Companies -
 - Water - Water District 13
 - Electric - Freestate
 - Sewer - Septic / Lagoon
 - Gas - Propane / Natural Gas
 - Reference Security 1st Title Insurance Company File Number 2409453 updated June 8, 2026
 - This property is not in a Special Flood Hazard Area FEMA FIRM map number 20103C0300G dated July 16, 2015
 - Building Setback Lines as shown hereon or noted below
 - All side yard setbacks - 15' (Accessory - 15')
 - All rear yard setbacks - 40' (Accessory - 15')
 - Distances to and of structures, if any, are +- 1'.
 - Easements as per referenced Title Commitment or Recorded Plat.
 - Fence Lines do not necessarily denote the boundary line for the property.
 - Reference Surveys:
 - (DGW) - D.G. White Recorded Plat DEER MOUND SUBDIVISION Bk. 15 Pg. 48, 2004 NKA 2004P00048
 - (JAH) - J.A. Herring Recorded Plat DEER MOUND SUBDIVISION REPLAT Doc#2017P00020

- LEGEND:
- - 1/2" Bar Set with Cap No.1296
 - - 1/2" Bar Found, unless otherwise noted.
 - - Concrete Base around Point
 - △ - PK Nail Found in Place
 - () - Record / Deeded Distance
 - U/E - Utility Easement
 - D/E - Drainage Easement
 - B.S.L. - Building Setback Line
 - R/W - Permanent Dedicated Roadway Easement
 - ⊕ - Centerline
 - ⊖ - Section Line
 - BM - Benchmark
 - //// - No Vehicle Entrance Access



I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the month of May 2026 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
LS # 1296

Schweitzer, Joshua

From: Anderson, Kyle
Sent: Friday, May 29, 2026 8:56 AM
To: Schweitzer, Joshua
Subject: FW: DEV-26-073 Replat of the Deer Mound Replat for Lot 10, Shepley

We have not received any complaints on this property.

Kyle Anderson
Environmental Technician/Code Enforcement
Leavenworth County Planning & Zoning
300 Walnut St. Ste. 212
Leavenworth, KS 66048
913-684-1084

FRAUD ALERT: *Our office has been notified of multiple fraudulent emails requesting payment of fees to a non-agency account. All application fees are paid at the time of application and any additional required fees will be requested on official letterhead. Furthermore, the County does not have an online payment option. If you receive an email or letter requesting payment of fees that appears to come from the Leavenworth County Planning & Zoning Department or Planning Commission, please contact our office at [913.684.0465](tel:913.684.0465) before making any payments online or by phone. We appreciate your cooperation in this matter.*

Disclaimer: This message and any attachments are intended only for the use of the recipient or their authorized representative. The information provided in this email is limited in scope and response detail by available information, current zoning and subdivision regulations. Depending on the level of development, the applicable regulations can change. Final approval cannot be granted until a complete application has been submitted, reviewed and approved by the governing body. Nothing in this message or its contents should be interpreted to authorize or conclude approval by Leavenworth County.

From: Johnson, Melissa <MJohnson@leavenworthcounty.gov>
Sent: Friday, May 22, 2026 8:45 AM
To: Magaha, Chuck <cmagaha@leavenworthcounty.gov>; Anderson, Kyle <KAnderson@leavenworthcounty.gov>; Miller, Jamie <JMiller@leavenworthcounty.gov>; 'adedeke@lvsheriff.org' <adedeke@lvsheriff.org>; Brown, Misty <MBrown@leavenworthcounty.gov>; 'mpleak@olsson.com' <mpleak@olsson.com>; Noll, Bill <BNoll@leavenworthcounty.gov>; McAfee, Joe <JMcAfee@leavenworthcounty.gov>; San, Soma <SSan@leavenworthcounty.gov>; 'Dylan Ritter' <dritter@lvcofd2.com>; 'kritter@lvcofd2.com' <kritter@lvcofd2.com>; 'Line Department' <linedepartment@freestate.coop>; 'niki@jfrwd13.com' <niki@jfrwd13.com>; Linda Lips (<jeffrwd13@hughes.net>) <jeffrwd13@hughes.net>
Cc: PZ <pz@leavenworthcounty.gov>
Subject: DEV-26-073 Replat of the Deer Mound Replat for Lot 10, Shepley

The Department of Planning and Zoning has received an application for a Replat regarding the Replat of Deer Mound Lot 10.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by June 5th, 2026.

If you have any questions, or need additional information, please contact me at (913) 684-0465 or at pz@leavenworthcounty.gov.

Thank you,



Planning Commission Work Session

Design Guidelines

Planned Industrial Technology District

Purpose

The purpose of these standards is to limit the impact of data centers and associative uses on surrounding land uses and ensure that adequate public utilities are available. These standards allow data centers in more districts when the impact is minimized to improve active uses that support the vitality of the public realm adjacent to a building.

PITD Standards

- (1) **Industrial technology District Standards** support developing digital technological Infrastructure and technology research and development within controlled industrial environment aligned with modern standards. It accommodates primary uses such as high-capacity facilities for data processing and storage, technological research and development and data and energy transmission, along with supporting uses such as utilities, warehousing, offices, and light manufacturing subordinate and ancillary to permitted principal use.
- (2) The **IT District ensures compatibility with surrounding areas** by minimizing noise, dust, traffic, light and negative environmental effects. Buildings, Signage and site design shall coordinate to create a uniform modern aesthetic.
- (3) **Permitted uses by right** in an IT district
 - a. Data Centers and accessory Uses as noted in approved Development Plans
 - b. Technology research and development facilities
- (4) **Permitted uses with an SUP** in associative planned districts:
 - a. Small and Medium scale Data centers
 - b. Technology research and development facilities
 - c. Light Industrial, assembly, processing, warehousing and storage operations associated with and subordinate to data center maintenance or technology research and production

Permitted Accessory Uses: The following are subject to approval by the Board of County Commissioners of potential site and operational plans:

 - a. Office, storage, power supply and other such uses including utilities and battery storage facilities, normally auxiliary to the permitted use.
 - b. Off- Street parking and parking garages, security facilities and structures.
 - c. Employee Fitness Centers. When as a stand-alone facility, otherwise permitted by right when located within a primary use.
 - d. Employee childcare facilities. When as a stand-alone facility, otherwise permitted by right when located within a permitted primary use.
 - e. Employee parking garages
 - f. Office, when as a stand-alone facility, otherwise permitted by right when located within a primary use.
- (6) **Prohibited Uses**
 - a. Residential Uses of any type
 - b. Retail sales unrelated to data center operations
 - c. Hazard waste Disposal Facilities
 - d. Any use involving public assembly
 - e. Any use not expressly listed as permitted or accessory

Definitions

Data Center: An establishment engaging in the storage, management, processing, and/or transmission of digital data, and housing computer and/or network equipment, systems, servers, appliances, and other associated components related to digital operations.

Data Center Accessory Use: Utilities, utility lines, electrical substations, pump stations, water towers, mechanical equipment and environmental controls (air conditioning or cooling towers, fire suppression, etc.) redundant/backup power supplies, redundant data communications connections, and security when located on the same tract or assemblage of adjacent parcels developed as a unified development for a Data Center.

Data Center - BACKUP UTILITY GENERATION: means an on-site, independent power source and system, that automatically activates to provide electricity during a main electric power line outage, ensuring continuous operation of critical IT equipment and infrastructure. The system may consist of generator, battery energy storage systems (BESS), automated transfer switches, and UPS (Uninterruptible Power Supply) systems with batteries, or any other type of backup system which can provide immediate, short-term power until the main power grid comes back on line and functional. This ensures data integrity, prevents system crashes, and maintains essential services by bridging the gap between the outage of the primary utility power and the startup of the backup generator. All generators will be tier 4 Final or better.

Data Center - COMPLEX: a specialized, secure, facility or a complex of multiple data center main and accessory buildings, and their associated site improvements, support structures, and utilities that house the critical IT infrastructure, such as servers, storage systems, and networking equipment, along with essential supporting systems like power, cooling, and security, to store, process, manage, and deliver data and applications for an organization or a cloud service provider. Also, all data center site improvements, support structures, and on-site utilities necessary to support the operations of the data center.

Data Center - SITE IMPROVEMENTS: are the physical buildings, structures, or infrastructure with designed and installed improvement upgrades and enhancements to the real property surrounding a data center as part of a data center complex to enhance capacity, performance, sustainability, and redundancy. Cloud availability services, such as connectivity, security, on-site power generation and storage, backup power, cooling systems, water management, air quality and noise control, and enhancing visual appeal. Some improvements may include, but are not limited to:

1. Automatic Transfer Switches (ATS) Systems;
2. Backup Utility System (BUS);
3. Battery energy storage system(s) (BESS) and facilities;
4. Chillers/cooling systems;
5. Electric power facilities such as, lines, plant, or substation;
6. Fencing, security
7. Fiber-based broadband infrastructure;
8. Generators, including diesel fueled;
9. Natural gas facilities such as, lines, plant, power plant, or substation (compressor or regulator);
10. Parking areas, lots, or structures for employee and visitor parking, in compliance with The most current regulations of the AHJ;
11. Loading areas, lots, or structures for large trucks and equipment in compliance with The most current regulations of the AHJ;
12. Maintenance facilities
13. Solar energy project
14. Uninterruptible power supply (UPS) system
15. Utilities, public and private

Further Defined...

- a. **Small Scale Data Center.** A facility that houses computing and networking equipment, along with storage and management systems, to support the storage, processing, and distribution of digital data and applications. A data center typically features high-performance servers, storage arrays, networking equipment, cooling systems, and power backup solutions to ensure uninterrupted operation. Server rooms or similar IT operations that are subordinate to a primary use are not included in this definition. SSDC will be limited to a **structure footprint of 5,000–20,000 square feet. Energy draw: 1–5MW**
- b. **Medium Scale Data Center.** A facility that houses computing and networking equipment, along with storage and management systems, to support the storage, processing, and distribution of digital data and applications. A data center typically features high-performance servers, storage arrays, networking equipment, cooling systems, and power backup solutions to ensure uninterrupted operation. Server rooms or similar IT operations that are subordinate to a primary use are not included in this definition. MSDC's typically have a **structure footprint of up to 100,000 square feet. Energy draw: Up to 100MW.**
- c. **Large Scale Data Processing Center** means one or more data centers and/or other facilities used to house, and in which are operated, maintained and replaced from time to time, computer systems and associated components, such as telecommunications and storage systems, cooling systems, power supplies and systems for managing property performance (including generators and mechanical and electrical yards), and equipment used for the transformation, transmission, distribution and management of electricity (including private substations), internet-related equipment, data communications connections, private communication towers, environmental controls and security devices, structures and site features, as well as certain accessory uses or buildings located on the land and other related or associated uses, buildings or structures such as utility buildings; private utility facilities; office; buildings for support staff; warehousing for logistics, storage and/or other similar uses; cafeteria; guardhouse; fuel storage for emergency generators; water storage tanks; security fencing; and other structures, improvements and appurtenances. HSDPC have a **structural footprint of over 100,000 square feet. Energy draw: Over 100MW**
- d. **Research and development facilities.** Facilities that investigate, design, test, and refine new or improved technologies. They involve systematic study and experimentation to create innovative products, enhance existing solutions, or discover new methods and materials. Engineering, healthcare, information technology, and manufacturing users use these facilities.
- e. **Power Generation Facilities.** Systems and facilities developed in association with a Data Center and intended to support all or a portion of the Data Center campus's electrical requirements, whether delivered directly or indirectly through an electric utility or grid arrangement. Such facilities must be located on the same parcel, adjacent parcels, or within a coordinated development area, and may be owned or operated by one or more entities. Eligible technologies include natural gas-fired turbines, reciprocating engines, and other similar or successor generation technologies. Privately controlled utility grade generation shall not utilize nuclear facilities.

Procedure

Procedures: Follow the planned ITD district process to include:

- 1) Preliminary Development plan submittal/approval at the time of rezoning or original application
- 2) Pre-Development, funding and associative agreements finalized and executed before moving on to FDP
- 3) Final Development Plan submittal/approval
- 4) Final Development agreement approved and executed prior to filing a FDP with the ROD
- 5) Final Plat (*If Applicable*)

All preliminary development plan processes approvals will submit to a public hearing before the Planning Commission. The Planning Commission will follow the zoning amendment process to achieve a recommendation status then forward to the governing body for final action.

Factors to be considered

Land Use: Allowable in planned ITD. Conditionally allowed in Business Districts, MXD PUD and Planned Industrial Districts by SUP in accordance with the approved land use tables. If land use tables do not specifically include these described uses, the Planning and Zoning Director or the County Administrator will determine placement in a respective zoning district.

Sustainable Construction:

All construction shall utilize BMP's for sustainable site improvements and structures to include, monitoring and *Energy Star* utility benchmarking, Site efficiency metrics may include but are not limited to; PU, WU whether public or private and energy sourcing.

All data center cooling must be in the form of a **closed loop system** or *more efficient technology* to limit water usage over the life span of constructed improvements. Coolants utilized in the system must be ecologically friendly.

Continued...

Utilities:

All utilities to the maximum extent possible shall be located underground at the point of entry to the development site.

Site Studies:

Minimum Site Study Requirements. The following list of preliminary studies shall be required but may not be limited to:

- ALTA survey
- Geotechnical investigation
- Wetlands delineation
- Phase I Environmental Site Assessment / Full Environmental Impact Study
- Water quality sampling
- Threatened & Endangered species survey
- Traffic Impact Analysis
- Ambient sound monitoring
- **Narrow Band Frequency analysis and Tonal analysis pre and post developed condition(s)**

These studies shall be submitted and reviewed as part of the application process. Leavenworth County reserves the right to request additional studies as impacts are identified.

In all permitted and conditionally permitted districts..

IN ALL PERMITTED DISTRICTS

All data centers are required to submit a Service Availability (Will Serve) Letter from local utility providers that confirms the capacity and commitment to serve the utility demand for the proposed data center. The letter shall be submitted at the time of the filing an application for a development plan. Any pertinent communications from the Kansas Corporation Commission in relationship to submittal

Development Standards

A. *Development Plan.* A Data Center Development Plan shall be required as part of the application (Article 60, Section 20). Additional items may be required at the discretion of County Staff or Board of County Commissioners.

B. *Development Agreement.* All Pre development and development agreements between the developer and/or applicant and the County shall be written, accepted and executed by the Board of County Commissioners before any final administrative or County Commission action can be granted to include any construction phase.

C. *Height Regulations.* Buildings shall not exceed a height of forty (40) feet, measured from structure pad level to the height of the furthest architectural projection. Height limitations shall not apply to accessory structures such as water towers, conveyor belts and other incidental and uninhabited structures. These heights will be approved per development plan.

D. *Setbacks/Lot Design.* May vary per approved development plan.

1. *Minimum lot frontage:* three hundred (300) feet adjoining a street.
2. *Minimum lot -width at the building line:* three hundred (300) feet.

Continued..

Small Scale DC:

1. *Minimum lot acreage: 10 acre*
2. *Front yard setback: Seventy-Five (75) feet*
3. *Side yard setback: Fifty (50) feet.*
4. *Rear yard setback: Fifty (50) feet.*

Medium Scale Data Center

1. *Minimum lot acreage of 10 acres*
2. *Front Yard setback: seventy-five (75)' Feet*
3. *Side Yard setback: seventy-five (75)' Feet*
4. *Rear Yard setback: seventy-five (75)' Feet*

Large Scale Data Centers

1. *Minimum lot acreage: 400 acres*
2. *Front yard Setback three hundred (300) feet*
3. *Side Yard Setback three hundred (300) feet*
4. *Rear yard Setback three-hundred (300) feet*

E. *Minimum buffer requirements:* In addition to required setbacks, a buffer as set forth in the classification of each site, which can include the required setback, shall be required along all property lines which abut a residential district or use or an agricultural use in order to provide a visual screen.

Additional buffering may be required depending on development plan submittal requirements.

F. *Air conditioning units and HVAC systems.* Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using buildings, walls, fencing, roof elements, or landscaping.

G. *Front building facade.* The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts. This requirement shall not apply if the front of the building is greater than 500 feet from the public right-of-way or not visible from the public right-of-way. Facade requirements shall be determined at submittal and within the development plan.

H. *Security fencing.* Security fencing and walls shall not be located within the required buffer unless part of an approved development plan. Fences and walls outside the required setback and buffer provided above shall not be subject to height limitations as determined by the approved development plan.

Continued...

I. *Accessory Structures.* Accessory structures shall be subject to the general provisions. Further, notwithstanding other provisions, guard houses and secured entry features shall be permitted at public road entrances as approved by the development plan.

J. *Required setbacks and buffers* shall only apply to external property boundaries with other properties not part of the Data Center Development. Minimum lot frontages, lot width and minimum lot acreage shall not apply to subdivided lots within the Data Center Development, so long as the entirety of the contiguous tract comprising the overall Data Center Development complies with the requirements of this ordinance, subject to the approved development plan.

K. *Roads.* Private roads are permitted within the Data Center Development. They shall be designed and built subject to the development plan approval process.

L. *Utilities.* A Data Center Development is required to have access to public water and sewer. Alternative utilities may be considered on a case-by-case basis and subject to administrative approvals.

M. *Monitoring.* All utilities and ambient sound at the property lines will be permanently monitored by a publicly accessible website 24 hours a day 7 days a week.

Continued...

N. Lighting.

(1) **Horizontal Surfaces.** For the lighting of predominantly horizontal surfaces, such as, but not limited to, parking areas, roadways, vehicular and pedestrian passage areas, loading docks, building entrances, sidewalks, bicycle paths, and site entrances, luminaires shall be aimed down, and shall meet Illuminating Engineering Society of North America (IESNA) full cut-off/fully shielded criteria and as approved by the development plan.

(2) **Non-Horizontal Surfaces.** For the lighting of predominantly non-horizontal surfaces, such as, but not limited to, facades, landscaping, and signs, luminaires shall be shielded and shall be installed and aimed to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward, or onto a public roadway and as approved by the development plan.

(3) **Adjacent Residential Uses.** The illumination projected onto a residential use shall at no time exceed 0.1 footcandle, as measured at the property line on the adjacent residential property.

(4) **Adjacent Non-Residential Uses.** The illumination projected from any property onto a non-residential use shall at no time exceed 0.5 initial footcandle, as measured at the property line on the adjacent properties.

(5) **Glare.** Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily using such means as cutoff luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle, and luminaire placement.

(6) **LED Lights.** LED light sources shall have a correlated color temperature that does not exceed 3000K.

(7) **Luminaires.** Luminaires shall not be mounted more than 20 feet above the finished grade of the surface being illuminated. No pole-mounted lighting on the roof shall be permitted.

(8) **The goal of the design guidelines** is to comply with **Dark Sky requirements**. To that end, approval of the lighting components of the PDPO will be subject to third party reviews to achieve the intended goal.

Continued...

Sound.

- (1) A Noise Study shall be completed and included as part of development plan. The study shall include:
 - a. Pre and Post development narrow band frequency analysis and tonal analysis
 - b. BMP (Best Management Practices)/BAT (Best Available Technology) to address study findings

(2) Soundproofing. For Data Centers on property adjacent to property with existing residential development, an approved development plan, or plat, or plan showing residential development, or Zoning District permitting residential uses, any Data Center Mechanical Equipment located on the property, whether on a roof top, on the ground level, or elsewhere on the exterior of the property, must be screened on all four sides by an acoustical barrier. For purposes of this section, acoustical barrier is defined as an exterior solid or louvred wall containing soundproofing materials designed to absorb noise and protect neighboring properties from noise pollution.

(3) Generator Noise Adjacent to Residential. For Data Centers on property adjacent to property with existing residential development, an approved development plan, or plat, or plan showing residential development, or Zoning District permitting residential uses, the following standard applies to generator testing, subject to Leavenworth County regulations or permits issued for the property:

- a. Generator testing is limited to between 11:00 a.m. and 7:00 p.m.
- b. Except for generator testing or commissioning activities, generator use is limited to backup/emergency use only.

(4) Pre and Post development narrow band frequency analysis and tonal analysis. Noise levels shall be determined through the required study and incorporated into the development plan process/ included as part of final development plan submittal. **Post developed levels may not exceed 75 decibels (Dba) at the property line. If the required study cannot prove no tonal content in a developed condition, an automatic decrease of -10 Dba in overall site generation will be required.**

Field verification of post development noise levels will be required for the issuance of any full or partial certificate of occupancy. Should additional sound reduction be required as a remedial action to field conditions, it shall be at the discretion of the AHJ and added as an addendum to the Final Development Plan.

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P. Buffering & Screening Area.

Data Center sites abutting Sensitive Receptors or collector/arterial roads must include an enhanced buffer yard with required plantings located on an earthen berm with a grade no steeper than 2:1. The minimum height of the berm abutting Sensitive Receptors as defined as, residentially used structures or properties will be determined through the development plan process and included in the approval documents.

(1) Where the combined footprint of the principal structure or structures is less than 5,000–20,000 square feet:

a. A minimum 100-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.

(2). Where the combined footprint of the principal structure or structures is up to 100,000 square feet:

a. A minimum 250-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.

(3). Where the combined footprint of the principal structure or structures exceeds 100,000 square feet:

a. A minimum 300-foot buffer yard shall be provided along the entire length of any public street frontage of any property upon which the Data Center is located and along any property line which abuts or is within 500 feet of an existing residential property line or zone, school, daycare center, hospital, place of worship, designated park, or public open space.

(4). Utilities should be located outside of buffer yards to the maximum extent feasible to maintain a cohesive buffer yard, protect landscaping, and preserve open space. Utilities should be co-located when feasible to minimize the number of utility crossings through the required buffer yard, particularly when such crossings cannot be avoided.

Continued...

(5). Use of existing vegetation for landscaping and screening is strongly encouraged and may be substituted for new berms and plantings if approved by the final development plan.

(6). The required number of plant units shall be determined by the intensity of use, adjoining land uses, and the development plan process.

(7). Buffer yards along roadways shall be measured from the street right-of-way line.

(8). Where a lot line drainage or utility easement is required, the buffer yard shall be measured from the inside edge of the easement.

(9). Buffer yards shall not include environmental encumbrances such as, but not limited to, wetlands, wetland transition areas, riparian buffers, and flood hazard areas as may be imposed by outside agencies.

(10). A Landscape Plan submitted and stamped by a Kansas licensed Landscape Architect shall be submitted and approved as part of the development plan process.

a. The plantings shall be arranged to provide a complete visual screen of the property at least 12 feet in height, measured in addition to the height of any required berm, within three (3) years.

(11). The buffer yard may be located within the required building setback lines. No impervious surface is permitted within the buffer yard aside from access drives, sidewalks, and associated improvements.

Continued...

(12) Renewable Energy Plan

Within 10 years 25% of accredited capacity will be produced by renewable sources within the southwest power Pool.

- (a) The data center's annual electrical energy consumption shall be matched by renewable energy credits (RECs) from renewable energy resources located within and interconnected to the Southwest Power Pool (SPP), as verified through evidence of retirement of such RECs on an annual basis.**

- (a) An REP will be incorporated into preliminary and final development agreements to encourage sustainable energy programs that may include local, state and national programs.

Continued..

Energy Benchmarking

- (a). Use Best Practices to implement energy efficient design practices, such as proper air management and cooling systems, to enhance overall energy efficiency.
- (b) Utilize Energy Star Portfolio Manager to report the sites energy and water consumption annually. Energy efficiency targets will be determined through the executed development agreement and reviewed annually.

Environmental Protection

- (1) A full environmental impact assessment is required at the developer's expense
- (2) A Stormwater Management plan that exceeds state requirements and accepted by the county engineer
- (3) Potable water uses shall be minimized during design and subject to public monitoring as listed previously in this document.

Continued...

Public Improvement Plan.

Applicant/Developer acknowledges that they may have to comply with Article 55 Leavenworth County Zoning Regulations.

- (1) Any approved development plan will be required to comply with all state, local and federal requirements.

(S) 3rd Party Construction Inspection

Given the scope and size of proposed Data Center Projects, impacts to the community and overall necessary level of oversight, Leavenworth County will require an onsite professional engineer to represent the AHJ to complete code required inspections with subsequent reporting to the jurisdiction. A certificate of occupancy or temporary certificates of occupancy will be granted at the discretion of the AHJ.

1. Licensed Engineer.

A licensed professional engineer or certified engineering firm selected by the AHJ shall conduct all inspections on each data center project with respect to the foundation, structural assembly, mechanical, plumbing and electrical aspects of the data center construction. Documentation regarding each approved inspection shall be submitted to the Planning and Zoning Director.

All expenses of such engineer or engineering firm shall be the responsibility of the Applicant or holder of the Special Use Permit. Leavenworth County, its officers, agents, and employees shall be held harmless from all claims, costs, liabilities, damages or expenses including costs of suits and fees and expenses for legal services from any damage claimed by any third party, including such claims by agents or employees of said third party arising from any approval or non-approval of any inspection.

Questions??

DRAFT



Battery Energy Storage Systems

BESS Development Guidelines

CRITERIA AND STANDARDS FOR A SPECIAL USE APPLICATION LEAVENWORTH COUNTY, KANSAS

Intent.

a. A Battery Energy Storage System (BESS) shall be permitted only as a Special Use according to the provisions provided below.

These criteria are intended to address major issues associated with any Battery Energy Storage System (BESS); however, they are not all inclusive. Additional issues not listed may emerge and be deemed significant due to studies, public input, etc. during the course of review. These criteria are not intended to regulate the installation of the smaller individual Battery Energy Storage System

A Battery Energy Storage System is defined as an engineered facility (inclusive of all ancillary facilities required to interconnect and operate the facility) that is capable of charging batteries from an electrical transmission system, storing the electrical energy, and discharging the electrical energy to later reenergize the same system and does not include a power plant or other manner of generating electricity for distribution and storage.

A Battery Energy Storage System shall have, among other equipment, a battery management system, gas, and fire detection devices, and be installed in accordance with NFPA 70 and with NFPA Standard 855 for installation of stationary energy storage systems or the equivalent or higher standard in existence at the time. BESS may also include one or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone twelve-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 battery energy storage system as follows:

- (1) Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 80 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. All Tier 1 battery energy storage systems located on residential properties shall comply with all applicable codes (building, fire, property, etc.) as may currently be in effect or hereafter amended in Leavenworth County.
- (2) Tier 2 battery energy storage systems have an aggregate energy capacity between 81 and 600 kWh or are comprised of more than one energy storage system technology in a room or enclosed area.

(3) Tier 3 battery energy storage systems have an aggregate energy capacity greater than 600 kWh and, if in a room or enclosed area, consist of only one energy storage system technology.

BATTERY(IES) — A single cell or a group of cells connected electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of these regulations, batteries utilized in consumer products are excluded from these requirements.

CELL — The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING — A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING — A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy, as defined in the International Building Code, and complies with the following:

(1) The building's only use is battery energy storage and other electrical grid related operations.

(2) No other occupancy types are permitted in the building.

(3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

(4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage systems provided the following:

(a) The areas do not occupy more than 10% of the building area of the story in which they are located.

(b) A means of egress is provided from the administrative and support use areas to the exterior of the building that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

B. Key Issues.

Land Use

Visual Impact

Noise

Endangered Species

Cumulative Impact

Water Quality

Electromagnetic Interference

Reception Interference

Native Vegetation/Weeds

Soil Erosion

Wildlife Habitat

Infrastructure
Aviation/Lighting
Financial Security Agreement

Public Health and Safety
Decommissioning/Restoration

Area to be included.

Any BESS Special Use Permit shall encompass the entire perimeter of the proposed BESS and all supporting BESS improvements and infrastructure.

Permitting requirements for battery energy storage systems.

All BESS are subject to an approved Special Use Permit:

- (1) Tier 1 battery energy storage systems shall be permitted in all zoning districts, subject to the Zoning Code and the battery energy storage system permit and exempt from site plan review. Tier 1 battery energy storage systems shall maintain the setback requirements of the zoning district in which they are located.
- (2) Tier 2 battery energy storage systems shall be permitted in all zoning districts subject to the Zoning Code and site plan review, which may be waived at the discretion of the Planning and Zoning Director:
 - (b) Tier 2 battery energy storage systems shall meet the requirements of the principal building within the zoning district in which they are located.
 - (c) Where a Tier 2 battery energy storage system will be located within 200 feet of a residential use or zone, additional screening may be required and approved via the site plan approval process.
- (3) Tier 3 battery energy storage systems shall be permitted in all zoning districts subject to the Zoning Code, site plan review, and the following conditions;
 - (a) Tier 3 battery energy storage systems shall meet the requirements of the principal building within the zoning district in which they are located.
 - (b) Tier 3 battery energy storage systems that are accessory to a permitted principal use and are under 2,000 square feet of total area dedicated to the use do not require a special use permit, unless and may not be located within 200 feet of a residential use or zone. Unless approved by a separate development plan in a planned District and accessory to a primary use, location and size will be determined by the development plan associated with the project.

E. Noise Standards.

A Noise Study shall be completed and included as part of development plan. The study shall include:

Pre and Post development narrow band frequency analysis and tonal analysis

BMP (Best Management Practices)/BAT (Best Available Technology) to address study findings

(2) Soundproofing. For Data Centers on property adjacent to property with existing residential development, an approved development plan, or plat, or plan showing residential development, or Zoning District permitting residential uses, any Mechanical Equipment located on the property, whether on a roof top, on the ground level, or elsewhere on the exterior of the property, must be screened on all four sides by an acoustical barrier. For purposes of this section, acoustical barrier is defined as an exterior solid or louvred wall containing soundproofing materials designed to absorb noise and protect neighboring properties from noise pollution.

(3) Pre and Post development narrow band frequency analysis and tonal analysis. Noise levels shall be determined through the required study and incorporated into the development plan process/ included as part of final development plan submittal. **Post developed levels may not exceed 75 decibels (Dba) at the property line. If the required study cannot prove no tonal content in a developed condition, an automatic decrease of -10 Dba in overall site generation will be required.**

Field verification of post development noise levels will be required as a condition of approval of any Special Use Permit issued under this article. Should additional sound reduction be required as a remedial action to field conditions, it shall be at the discretion of the AHJ and added as an addendum to the conditions of approval for the site.

F. Special Use Permit Standards.

(1) Dimensional criteria. Lot size requirements for the applicable zoning district where the battery energy storage system shall be followed; the minimum setback for all yards is 100'; yard setbacks shall be 300' if adjacent property is zoned or used for residential purposes; required minimum width of access or frontage roads on the property shall be not less than 20' and constructed of dustless paving materials.

(2) Fencing requirements. Unless housed in a dedicated-use building, Tier 3 battery energy storage systems, including all mechanical equipment, shall be enclosed by a minimum of eight-foot fence with security or anti-scaling components with a self-locking and self-closing gate to prevent unauthorized access.

(3) Screening and visibility. Tier 2 and Tier 3 battery energy storage systems shall be screened from view from adjacent properties that may be in residential zoning districts using architectural features, earth berms, walls, fencing, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. A minimum 25 foot of landscaping buffer shall be required along all sides for all Tier 3 battery energy storage systems. Engineering review shall be required for all Tier 2 and 3 systems. Review costs will be paid by the applicant before any permitting is issued.

G. Site plan application requirements.

For a Tier 2 or 3 battery energy storage system requiring site plan approval, the applicant's submission shall include those items as required in The Leavenworth County Zoning regulations as may be applicable and also identification in a code footprint of the foundation type that will be utilized for the battery energy storage system facilities, fire suppression designs, emergency operations plan, photometric plan and a stormwater runoff/detention and drainage plan, a site specific hydrology study, and a statement identifying applicable state or federal environmental permits or any other necessary state or federal permits or regulations and assurance of compliance or copies of said permits if available in addition to the typical site plan requirements.

H. Additional requirements for Tier 2 and 3 battery energy storage systems.

(1) Utility lines and electrical circuitry. All on-site utility lines shall be placed underground in appropriate conduits to the extent feasible and as permitted by the serving utility. An exception may be made for the main service connection at the utility company right-of-way and new interconnection equipment. All electrical lines and circuitry must comply with existing NEC, NFPA, and fire codes pertaining to battery energy storage systems as may currently be in effect and adopted by Leavenworth County, the State of Kansas or responding Fire agency.

(2) Signage.

(a) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of fire suppression system installed in the area of battery energy storage systems, and twenty-four hour emergency contact information, including a call-back phone number.

(b) As required, disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(3) Lighting. All lighting associated with battery energy storage systems shall be limited to that minimally required for safety, security, and operation of the facility and in accordance with the approved photometric plan.

(4) Vegetation and tree cutting. Areas within 10 feet on each side of Tier 2 or 3 battery energy storage systems and equipment shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground cover shall be permitted to be exempt, provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible, and is only permitted in association with an approved site plan or other applicable permits.

(5) One-line electric diagram. A one-line electric diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all NEC compliant disconnects and overcurrent devices, shall be required.

(6) All equipment or materials shall be Nationally Recognized Testing Laboratory (NRTL) approved as may be appropriate. The use of any non-NRTL equipment in the battery energy storage system must be pre-approved by Leavenworth County.

I. Contents of BESS Development Plan.

1. General Introduction.

The Development Plan shall be written in a style that is easily understood by the general reader. Technical terminology shall be avoided as much as possible. Detailed technical data, statistics, and supplementary information required to support the main text is to be included as appendices. All sources of information are to be referenced, and must be current. Information presented in the form of maps, diagrams or plans is preferred as it is generally easier to understand. The Applicant shall pay to the county a fee established by the adopted fee schedule upon filing the Special Use Permit.

Close consultation with the Leavenworth County Zoning Administrator during preparation of the Development Plan is highly recommended. The Leavenworth County Zoning Director may be contacted at the Leavenworth County Courthouse, 300 Walnut St. 212 Leavenworth KS. More than one draft may be required before it is considered suitable for presentation to the Planning Commission.

Leavenworth county reserves its right to determine further studies that may impact project sites or surrounding uses. Any such studies shall be accomplished through a third party, financed by the applicant and subject to the review and acceptance of the Planning Commission and BOCC of Leavenworth County.

If approved, the Special Use shall encompass all property within the perimeter of the proposed BESS.

- a. Applicant must provide proof of lease agreements with landowners within the project area.
- b. Applicant must provide the names and addresses of all landowners within the BESS project area and all landowners within 1000 ft. of the exterior perimeter of the BESS area. Notice of hearing on the Development Plan shall be sent by the Planning and Zoning Department to all such landowners by first class mail and shall be published once in the official county newspaper. At least 20 days shall elapse between the date of the last publication and the date set for the public hearing.
- c. Nothing in the approval of the Special Use shall impose any liability or duty whatsoever on Leavenworth County or any of its agencies, including, but not limited to any liability for taxes, wages or any other employee benefits for any person or entity.

Contractors, suppliers, or consultants accepting and relying on documents, materials and other information from the Applicant or Special Use Holder will do so on their own responsibility and at their risk.

2. **Topographical Map.**

A topographical map with contours at intervals of 2 feet at a 1:200 Scale showing the locations of the following features: (U.S.G.S. Scale)

- a. Lot lines for each parcel under separate ownership included in the proposed BESS area and within one mile of its boundaries together with a key identifying the owner of each parcel by owner name and CAMA parcel number.
- b. All Residential buildings and ownership within the boundaries of the proposed BESS and within one mile of the exterior perimeter of the BESS area.
- c. All public roads within the BESS area and within one mile of the exterior perimeter of the BESS area. The access points to the public roads to be used for both the construction and the operation phases of the project shall be designated. Bonding may be required to protect public improvements at the discretion of the Public Works Director.
- d. ALTA Surveys to include Utility lines and pipelines within the BESS area must be provided prior to construction.
- e. Proposed setbacks of all other structures from the BESS boundary lines. 7
- f. Boundaries of any 100-year floodplain as identified on the National Flood Insurance Program maps for Leavenworth County.
- g. Location of all transformers, substations, connecting power lines and other structures to be used as part of the operation of the project (including the dimensions of such structures). Any changes in location of structures must comply with the setback rules set out herein. Applicant will notify county in writing of any plan or location changes prior to commencement of construction.

3. **Commercial Operation.**

If the BESS is Commercially Operational, the approved Special Use permit shall be limited to **a period not to exceed two (2) years from the date that the Special Use is approved by resolution** of the Board of County Commissioners to the BESS's Commercial Operation Date (COD), being the date when the power purchase utility or other entity first receives purchased power produced from the operator of the generator or turbine units located in the BESS project plan. The Board of County Commissioners must approve any time extension of the approved Special Use.

4. Wildlife and Wetlands.

Applicant shall comply with all requirements provided by law and obtain all permits required by the U. S. Fish and Wildlife Service (USF&WS), the Kansas Department of Wildlife, Parks, and Tourism (KDWP&T), the Natural Resources Conservation Service (NRCS) and the Farm Service Agency (FSA) regarding the protection of wildlife and wetlands.

5. General Construction Document Requirements.

Applicant shall provide a general description of major components of the BESS and on-site facilities including specifications, transmission lines and accessory facilities such as control rooms, transformers, substations, maintenance facilities, underground infrastructure, and interior access roads. Construction documents will be signed and sealed by a licensed Kansas Professional Engineer.

6. Soil Erosion Sediment Control and Storm Water Runoff.

Applicant shall prepare and provide to County a KDHE approved Storm Water Pollution Prevention Plan for all construction sites.

7. Fire Safety and Emergency Plan.

- a. The Development plan shall include a Fire Safety and Emergency Plan identifying the potential fire risk associated with the project including both prescribed burning and non-prescribed burning. This shall address fire originating within the site, fires escaping from the site and potential effects of fire originating from outside the site.
- b. The Fire Safety and Emergency Plan shall address all provisions for fire suppression, fire and emergency medical response to be provided by the applicant both during construction and during operation of the project. The plan shall identify what equipment is not presently owned by the public fire department or other first responder which may be needed to respond to emergencies at the project. Any equipment so identified shall be purchased by applicant.

8. Ground Water Resources.

Applicant must notify County of any risks it finds to ground water aquifers in connection with the construction of a BESS project and all mitigation measures the applicant proposes to utilize to mitigate such risk.

9. Air Quality.

Applicant shall submit a plan to control dust on roads which will be used during construction which plan shall be a part of the Road Maintenance Agreement required below.

10. Land Use and Development.

10. Land Use and Development.

Applicant shall identify potential constraints or benefits the BESS may place on the current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed, and the effects on the following activities shall also be addressed:

- a. Existing or proposed tourist or recreational activities including hunting and fishing
- b. Agricultural activities
- c. Residential activities
- d. Commercial activities
- e. Industrial activities

11. Bibliography.

The Development Plan shall provide a bibliography of the authorities consulted and documents relied on in completing the Development plan.

12. Appendices.

All Detailed technical information that supports the Development Plan shall be included in the appendices. The most important feature of the appendices shall be included in the main body of the Development Plan.

J. Prerequisites to Construction Under an Approved Special Use.

1. Decommissioning Agreement. A Decommissioning Agreement as described in Section L below must be approved and accepted by the Board of County Commissioners before any construction begins.
2. Road Maintenance Agreement. Transportation routes used for construction shall be coordinated with the Leavenworth County Public Works Director. Leavenworth County may require Applicant to provide and pay for an independent study of all or some of the roads, bridges, and culverts over which equipment for the BESS will travel during the construction phase to determine the ability of said roads, bridges, and culverts to withstand the expected traffic. Applicant shall be held liable for any damages to County roads or rights of way resulting from construction, deconstruction and /or maintenance activities. A Road Agreement by which the developer or operator of the BESS assumes financial responsibility for infrastructure improvements needed for construction and repair for infrastructure damages caused by construction must be entered into by the Applicant and by the Board of County Commissioners before any construction begins.

K. Construction Requirements.

1. Licensed Engineer.

A licensed professional structural engineer or certified structural engineering firm selected by the Applicant shall conduct all inspections on each BESS with respect to the foundation,

structural assembly, mechanical and electrical aspects of the BESS construction. Documentation regarding each approved inspection shall be submitted to the Planning and Zoning Director.

All expenses of such engineer or engineering firm shall be the responsibility of the Applicant or holder of the Special Use. Leavenworth County, its officers, agents, and employees shall be held harmless from all claims, costs, liabilities, damages or expenses including costs of suits and fees and expenses for legal services on account of any damage claimed by any third party, including such claims by agents or employees of said third party arising from any approval or non-approval of any inspection.

2. Site Clearance.

Site clearance and preparation shall be conducted in accordance with law and applicable landowner agreements.

3. Field Representative.

Prior to the start of and continuously throughout the construction and site restoration, Applicant shall designate a field representative responsible for overseeing compliance with the conditions of the Special Use. Such representative shall be accessible by telephone during normal business hours. The address, phone number and emergency phone number of such representative shall be provided to the Emergency Management Director, Planning and Zoning Director and 911 Emergency Services. Applicant shall notify the Emergency Management Director, Planning and Zoning Director and 911 Emergency Services of any change in contact information.

4. Cleanup. Applicant shall remove all waste and scrap that is the product of construction, operation, restoration, and maintenance from the site and properly dispose of it upon the completion of each task. Any land restoration shall be done in a manner that is consistent with the terms of the lease agreement executed between the Applicant and the landowner.

L. Decommissioning/Restoration/Abandonment/Financial Security.

1. Decommissioning Agreement.

Applicant shall enter into a Decommissioning Agreement with the Board of County Commissioners before any construction begins. Compliance with the Plan shall, at all times, be a condition of the Special Use whether or not explicitly listed in any document reflecting the agreement. The Plan shall describe the manner in which the BESS improvements will be dismantled and removed from the site within 18 months of the abandonment or the end of the useful life of the BESS or of such improvement and shall require the removal of all above-ground components of the BESS. Foundations shall be removed to a depth of at least 4 feet below grade and the area refilled with soil which is reasonably similar in quality, structure, and fertility to that of the original excavation and up to the landowner's satisfaction. Access roads shall be removed in accord with the terms of the property owners' lease agreements.

2. Abandonment.

The BESS shall be deemed abandoned at the end of a one-year period following the mailing by certified mail of written notice of abandonment to the BESS owner of record sent when a BESS does not store or provide electrical energy for distribution and there is no demonstrated plan to restore the equipment to operating condition. The Board of County Commissioners may require the current Special Use holder to decommission any abandoned BESS or may undertake such decommissioning with the proceeds of the escrow account, surety bond or insurance policy or otherwise at the expense of the last approved holder of the Special Use.

3. Financial Security. In accord with the Decommissioning agreement, Applicant shall submit an Escrow Account/Surety Bond/Insurance Policy or other approved financial security agreement at the time and in the amount specified in the Decommissioning Agreement in order to guarantee removal of all equipment and to restore the site, as near as possible, to its preBESS topography, topsoil quality and to generally guarantee compliance with the Decommissioning Plan at the end of the project's life or in the event of abandonment of the BESS.

M. Operational Requirements for BESS Special Uses.

1. Hazardous Materials.

Lubricants and/or hazardous material located on the premises shall be kept and transported in accordance with all state and federal regulations.

2. Visual Impact.

Applicant shall take reasonable measures such as planting trees, install fencing, etc. to mitigate specific adverse visual impacts affecting residences within or immediately adjacent to the BESS Special Use area.

3. Electromagnetic Interference.

Applicant shall conduct a microwave beam path survey and take such other actions necessary to comply with FCC requirements regarding electromagnetic interference.

4. Extraordinary Event Response.

Upon an occurrence of an extraordinary event, the Applicant or Operator shall notify the Emergency Management Director and the Planning and Zoning Director of such event and, if the event is deemed to be a possible threat to public safety immediately notify the Leavenworth County Sheriff. Extraordinary events include damaged storage containers, fire, explosion, collector-feeder line failure, injured worker or citizen, or kills or damages to threatened or endangered species. In the event of any extraordinary endangered species mortality, the Applicant or Operator shall notify Kansas Department of Wildlife, Parks and Tourism and the U.S. Fish and Wildlife Service as required by law. 12

5. Financial Security.

In accord with the Decommissioning agreement, Applicant shall submit an Escrow Account/Surety Bond/Insurance Policy or other approved financial security agreement at the

accordance with the approved Development Agreement. If the Special Use is to be transferred from the BESS owner/operator (first party) to a different BESS owner/operator (second party), said transfer must first be approved by the Board of County Commissioners. First party shall inform the second party of all requirements of the BESS Special Use. The second party or new holder of the Special Use shall meet all requirements of the BESS Special Use. The County Commissioners may direct the Administrator and/or a designated person to field inspect the BESS Special Use project to determine current compliance with required conditions. A transfer fee of \$5,000.00 shall be paid to the County to compensate for work related to the transfer.

O. Proof of Insurance.

Applicant shall indemnify and hold County harmless from and against any and all claims demands, suits and losses to the extent arising out of, relating to, or resulting from or in connection with the negligent action or omission of applicant or its contractors or assigns during the development, construction, or operation of applicant's BESS project located in Leavenworth County, Kansas. Notwithstanding the foregoing, in no event shall applicant, its contractors or assigns (or any of their respective affiliates, members, shareholders, officers, directors, agents, or employees) be liable for consequential, incidental, indirect, special, exemplary, or punitive damages.

During the construction phase of the project, Applicant or its main contractor shall, at their own expense, maintain the following insurance policies:

(a) Commercial General Liability Insurance. Applicant or its main contractor shall maintain Commercial General Liability Insurance for the BESS project on an "occurrence" basis, including coverage for: Premises and Operations Liability; Explosion, Collapse and Underground Damage Liability; Personal Injury Liability; Broad Form Property Damage Liability; Broad Form Contractual Liability supporting Applicant's indemnification agreements in favor of the additional insureds; Completed Operations and Products Liability for a period of one (1) year following the date of final completion of the BESS project; and Independent Contractor's Protective Liability. Such policy shall have primary coverage limits of One Million Dollars (\$1,000,000.00) for injuries or death to one or more persons or damage to property 13 resulting from any one occurrence and a Two Million Dollars (\$2,000,000.00) aggregate limit.

(b) Commercial Automobile Liability Insurance. Applicant or its main contractor shall maintain Commercial Automobile Liability Insurance, including coverage for owned, non-owned, rented, leased, and hired automobiles for both bodily injury and property damage in accordance with state legal requirements, with a combined single limit of not less than One Million Dollars (\$1,000,000) per accident with respect to bodily injury, property damage or death.

(c) Umbrella Excess Liability Insurance. Applicant or its main contractor shall maintain Umbrella Excess Liability Insurance with a limit of Twenty-Five Million Dollars (\$25,000,000.00) per

occurrence and annual aggregate limit of Twenty-Five Million Dollars (\$25,000,000.00) with Completed Operations and Products Liability coverage, which coverage shall remain in effect for one (1) year after the date of final completion of the BESS project.

(d) Workers' Compensation and Employer's Liability Insurance. Applicant or its main contractor shall maintain Workers' Compensation Insurance with statutory limits (as may be amended from time to time), including Employer's Liability Insurance with limits of liability of not less than (i) One Million Dollars (\$1,000,000.00) for bodily injury by accident, each accident, (ii) One Million Dollars (\$1,000,000.00) for bodily injury by disease, each employee, and (iii) One Million Dollars (\$1,000,000.00) aggregate liability for disease.

After construction is complete and during the operational phase of the project, Applicant shall maintain the insurance policies provided above, except that the limits of the Umbrella Excess Liability Insurance may be reduced to a lower figure if approved by the Board of County Commissioners.