



BEAZER EAST, INC.

c/o Three Rivers Management, Inc. (Agent for Beazer East, Inc.)
600 River Avenue, Suite 200, Pittsburgh, PA 15212-5994

Via e-mail

June 28, 2022

Matt Davis
Rock Island Program Manager
Jackson County Parks & Recreation
Office: 816-503-4849
Cell: 816-519-8905

Re: Beazer East, Inc. Easement Request / 6740 Stadium Drive

Dear Mr. Davis,

Pursuant to Jackson County Code Ch. 50 § 5099 *et seq.*, Beazer East, Inc. (“Beazer”) is submitting this easement request.

Beazer is a for-profit company incorporated in the State of Delaware. Beazer owns certain property consisting of four parcels situated in Jackson County with street frontage at 6740 Stadium Drive, Kansas City MO, and more particularly described and depicted in Exhibit A.

Beazer herein requests an easement across Jackson County Park real property. As depicted on Exhibit A - Page 1, the general configuration of the Beazer property interest can be described as a triangle such that the western and eastern sides are abutted by active railroad lines converging at the northern tip of the triangle, while the only pedestrian and vehicular access is located on street frontage at the base of the triangle, onto Stadium Drive. A Jackson County parcel, depicted on Exhibit A – Page 2, consisting of an elevated defunct railroad line and trestle bisects the Beazer property interest. A gravel access road runs from the 6740 Stadium Drive frontage northerly, beneath the rail trestle as depicted on Exhibit A – Page 3 and across the Jackson County parcel, connecting the southern and northern Beazer parcels and affording Beazer access to the northern portion of its property interest.

County Code Ch. 50 § 5099 requires that Beazer demonstrate that it has explored all possible alternatives to a park land easement and that securing an easement on non-county owned real property would not accomplish the same goal. Beazer has evaluated alternative access; Beazer’s research indicates that prior to 1984, a private industrial rail crossing for vehicular traffic at then “Westport Road” existed but was demolished/abandoned between 1984 and 2006. Old “Westport Road” is now a private drive (“Westport Independence Rd.”); establishing a new rail crossing at that location would be impracticable. For at least the last 40 years, because the northern parcels are bounded by active rail lines, Beazer’s only access to its northern parcels has been via the gravel access road across the Jackson County parcel. Beazer’s research indicates it has maintained its property interest since approximately 1919 and has likely enjoyed use of the gravel access road for the same duration. Put simply, at

Matt Davis / Re: Beazer Easement Request
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present day there is no alternative access to Beazer's northern parcels than the existing gravel access road, and there is no reasonable alternative to its goal of ensuring pedestrian and vehicular access to its property interest than securing an easement across Jackson County property.

County Code Ch. 50 § 5099.1 further requires that Beazer provide certain information to supplement its easement request. Herein attached are:

- Exhibit A: Description of the property configuration in support of Beazer's demonstration of alternatives.
- Exhibit B: Aerial photographs depicting the site configuration and requested easement area.
- Exhibit C: Plat describing the easement area size (23,256 sq ft) and legal description.
- Exhibit D: Email correspondence indicating Jackson County's waived requirement that Beazer submit map(s) of proposed site for construction, plan sheet(s), profile(s), and environmental impact assessment(s) for this easement application.

Regards,



Attorney Brett Philpotts, Esq.
Assistant Regional Counsel
Three Rivers Management, Inc. - agent for Beazer East, Inc.
600 River Ave, Suite 200, Pittsburgh, PA 15212
office: (610) 366 4671
cell: (240) 380 0013
brett.philpotts@trmi.biz

Enclosed: Exhibits A-D

cc: Devin Fisher; Beazer East, Inc.
Katy Larkins, Esq.; Shook Hardy & Bacon LLP

Exhibit A - Property Configuration



Exhibit A - Property Configuration

Legend
📍 6740 Stadium Dr

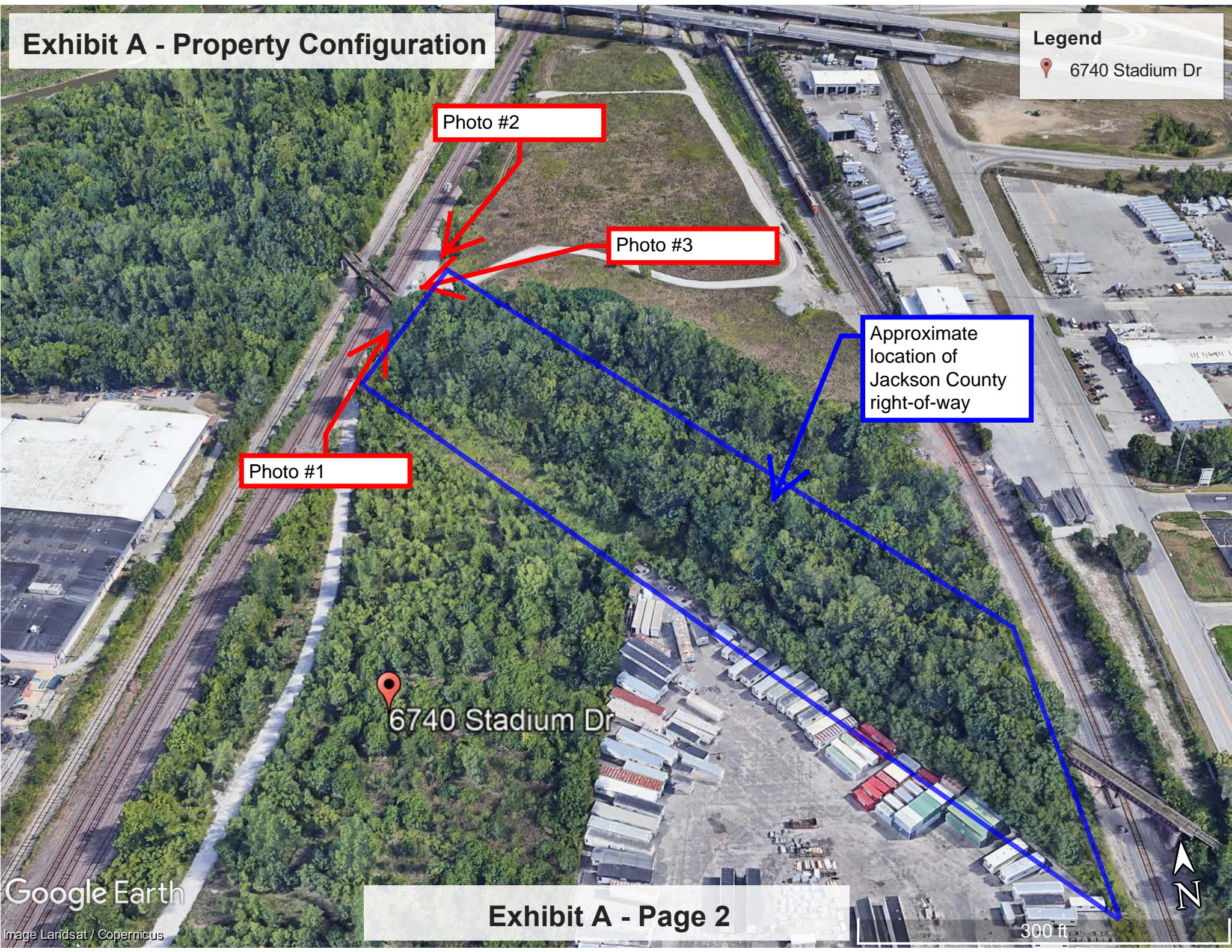


Photo #1

Photo #2

Photo #3

Approximate location of Jackson County right-of-way

📍 6740 Stadium Dr



Beazer Photo Log – Jackson County Right-of-Way



EXHIBIT B
Site Configuration and Requested Easement Area



Shook Hardy Bacon

6-10-22
Job 43063
MLB

Jackson County Parcel Viewer



EXHIBIT "C"

FOR: BEAZER EAST, INC.
c/o THREE RIVERS MANAGEMENT, INC.
600 RIVER AVE. SUITE 200
PITTSBURGH, PA 15212

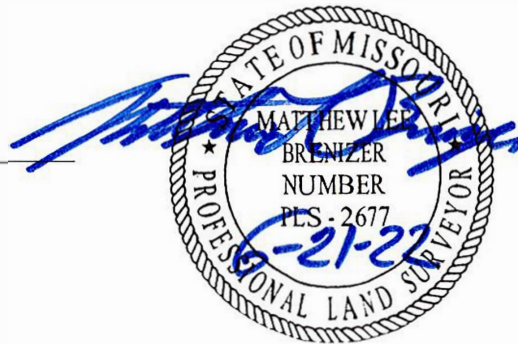
DATE: JUNE 21, 2022

PERMANENT ACCESS EASEMENT:

A TRACT OF LAND BEING PART OF THE FORMER CHICAGO ROCK ISLAND & PACIFIC RAILROAD RIGHT-OF-WAY, LOCATED IN KANSAS CITY, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

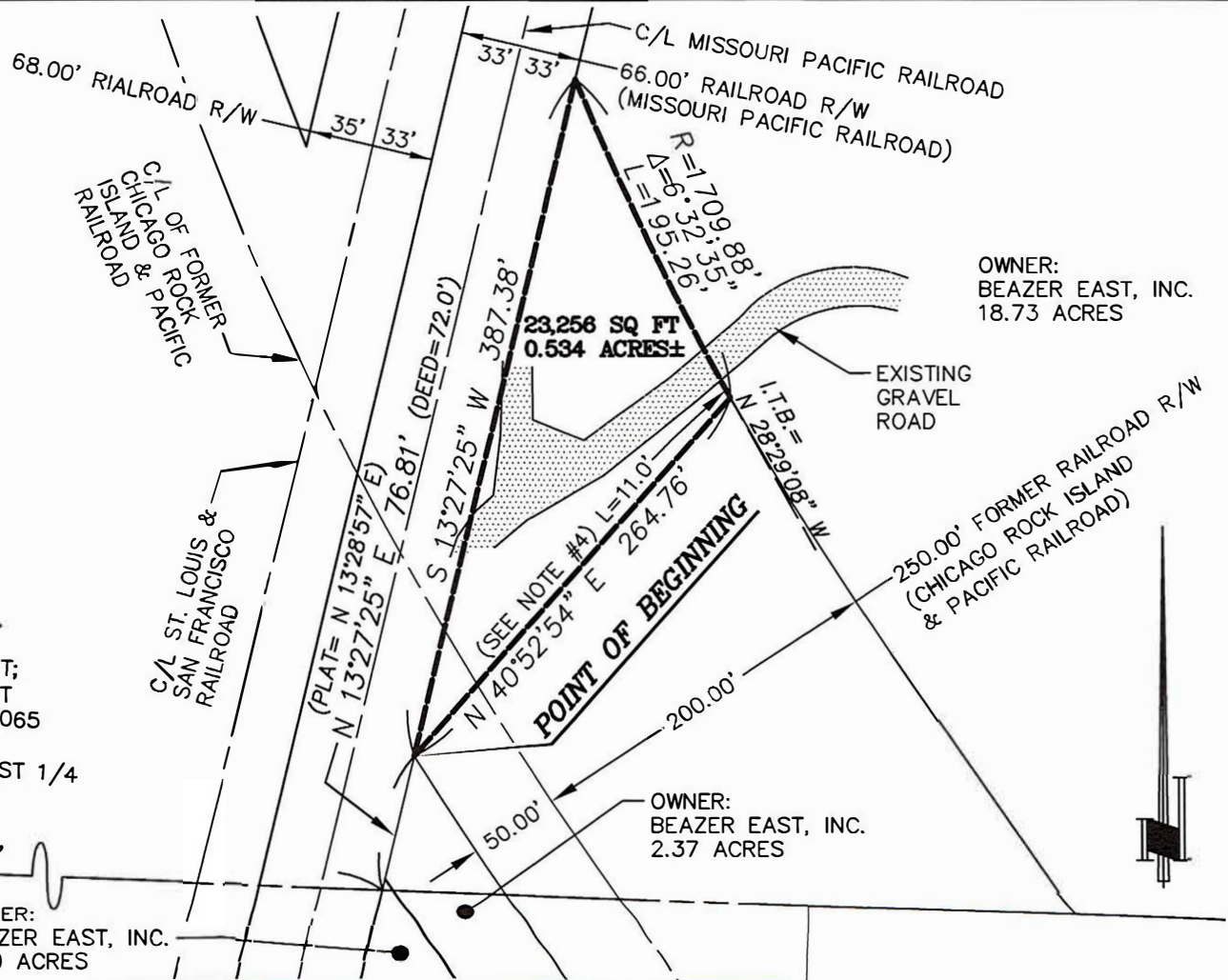
COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 13, TOWNSHIP 49 NORTH, RANGE 33 WEST; THENCE SOUTH 87°46'01" EAST, ALONG THE SOUTH LINE OF SAID QUARTER SECTION, 722.46 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE ST. LOUIS & SAN FRANCISCO RAILROAD, SAID POINT ALSO BEING ON THE WESTERLY PROPERTY LINE OF AN 8.20 ACRE TRACT OF LAND; THENCE NORTH 13°27'25" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND SAID WESTERLY PROPERTY LINE, 76.81 FEET, TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE NORTH 40°52'54" EAST, 264.76 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE FORMER CHICAGO ROCK ISLAND & PACIFIC RAILROAD, SAID POINT ALSO BEING ON THE WESTERLY PROPERTY LINE OF AN 18.73 ACRE TRACT OF LAND; THENCE ALONG A CURVE TO THE RIGHT, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND SAID WESTERLY PROPERTY LINE, HAVING AN INITIAL TANGENT BEARING OF NORTH 28°29'08" WEST, A RADIUS OF 1,709.88 FEET, A CENTRAL ANGLE OF 6°32'35" AND AN ARC DISTANCE OF 195.26 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE MISSOURI PACIFIC RAILROAD, SAID POINT ALSO BEING ON A WESTERLY CORNER OF SAID 18.73 ACRE TRACT; THENCE SOUTH 13°27'25" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 387.38 FEET, TO THE POINT OF BEGINNING. CONTAINING 23,256 SQUARE FEET, OR 0.534 ACRES, MORE OR LESS.

MATTHEW L BRENIER, PLS #2677
ANDERSON SURVEY COMPANY
1270 N.E. DELTA SCHOOL ROAD
LEE'S SUMMIT, MISSOURI 64064
PHONE: (816) 246-5050



NOTES:

1. ALL REFERENCES TO "PLAT=" ARE TAKEN FROM A PLAT OF SURVEY OF THE CHICAGO, ROCK ISLAND, AND PACIFIC RAILROAD, RECORDED AS DOC. NO. 2016E0119900, IN BOOK T44 AT PAGE 21, ON DECEMBER 20, 2016.
2. ALL REFERENCES TO "DEED=" ARE TAKEN FROM A WARRANTY DEED RECORDED AS DOC. NO. K2198P1232 ON JANUARY 8, 1992.
3. THE ACREAGES SHOWN ON ADJOINING PROPERTIES HAVE BEEN TAKEN FROM THE KANSAS CITY PARCEL VIEWER WEBSITE.
4. THE SOUTHERLY EDGE OF THE SURVEYED GRAVEL ROAD CROSSES THE EASTERLY EASEMENT LINE, ALONG SAID CURVE RADIUS, 11.0' NORTHWEST OF THE EASTERLY MOST EASEMENT CORNER.



OWNER:
BEAZER EAST, INC.
18.73 ACRES

OWNER:
BEAZER EAST, INC.
2.37 ACRES

OWNER:
BEAZER EAST, INC.
8.20 ACRES

POINT OF COMMENCEMENT

SOUTH 1/4 CORNER OF SECTION 13,
TOWNSHIP 49 NORTH, RANGE 33 WEST;
FOUND 1/2" STEEL ROD IN MONUMENT
BOX AS PER MLS DOCUMENT 600-59065

SOUTH LINE OF THE SOUTHEAST 1/4
OF SECTION 13, T49N, R33W

(PLAT= S 87°46'06" E)
S 87°46'01" E 722.46'

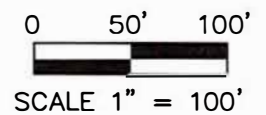
MON

ANDERSON
SURVEY COMPANY
1270 NE DELTA SCHOOL ROAD
LEE'S SUMMIT, MISSOURI 64064
(816) 246-5050

DATE: JUNE 21, 2022

STATE OF MISSOURI
MATTHEW L. BRENIER
BRENIZER
NUMBER
PLS - 2677
2-22

159
13-49-33
22-04-43063-1
43063Exhibit_2022-04-13.dwg



THE BEARING SYSTEM SHOWN
HEREON IS BASED ON THE
MISSOURI COORDINATE SYSTEM
OF 1983, WEST ZONE.

EXHIBIT C - PERMANENT ACCESS EASEMENT

FOR: BEAZER EAST, INC.
c/o THREE RIVERS MANAGEMENT, INC.
600 RIVER AVE. SUITE 200
PITTSBURGH, PA 15212

6740 STADIUM DRIVE
KANSAS CITY,
JACKSON COUNTY, MISSOURI

MATTHEW L. BRENIER,
PLS #2677

Exhibit D - Email Correspondence

From: [Matt Davis](#)
To: [Philpotts, Brett H \(Pittsburgh\) USA](#); [Dittman, Vanessa \(SHB\)](#); [Brian P. Nowotny](#)
Cc: [Fisher, Devin \(Pittsburgh\) USA](#); [Erickson, Dave \(SHB\)](#); [Jay D. Haden](#)
Subject: RE: EXTERNAL Beazer East Inc. - Easement
Date: Friday, February 4, 2022 1:00:34 PM
Attachments: [image001.png](#)

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Brett,

Thanks for the clarifying questions. Profiles are not necessary. Yes, a survey company would be able to prepare the description and should include a map with an aerial photo as an exhibit to the description. No environmental impact statement will be necessary. Let me know if you have additional questions.

Thank you,

Matt Davis
Rock Island Program Manager
Jackson County Parks + Rec
Office: 816-503-4849
Cell: 816-519-8905

From: Philpotts, Brett H (Pittsburgh) USA <Brett.Philpotts@trmi.biz>
Sent: Friday, February 4, 2022 10:16 AM
To: Matt Davis <mdavis@jacksongov.org>; Dittman, Vanessa (SHB) <VDITTMAN@shb.com>; Brian P. Nowotny <BPNowotny@jacksongov.org>
Cc: Fisher, Devin (Pittsburgh) USA <Devin.Fisher@TRMI.biz>; Erickson, Dave (SHB) <DERICKSON@shb.com>; Jay D. Haden <JHaden@jacksongov.org>
Subject: RE: EXTERNAL Beazer East Inc. - Easement

Thanks Matt.

A few questions for you:

1. As the easement will not be a utility easement nor require any construction, you note that certain of the 5099.1 requirements will be waived: map of proposed site for construction and plan sheet. Does the list of waived items also include "profiles"?
2. For the easement dimensions and legal description, will it suffice for us to engage a surveyor to prepare a plat?
3. Any guidelines for the aerial photos?
4. Will we need to produce an environmental impact assessment?

Brett Philpotts, Esq.

Assistant Regional Counsel – Three Rivers Management,
Inc.*^
Assistant Regional Counsel – Lehigh Hanson, Inc.

Direct: (610) 366 4671
Cell: (240) 380 0013
brett.philpotts@trmi.biz
www.lehighhanson.com

* Agent for Beazer East, Inc. and Amcord Inc.
^ A Lehigh Hanson, Inc. company



From: Matt Davis <mdavis@jacksongov.org>
Sent: Wednesday, February 2, 2022 3:16 PM
To: Dittman, Vanessa (SHB) <VDITTMAN@shb.com>; Philpotts, Brett H (Pittsburgh) USA <Brett.Philpotts@trmi.biz>; Brian P. Nowotny <BPNowotny@jacksongov.org>
Cc: Fisher, Devin (Pittsburgh) USA <Devin.Fisher@TRMI.biz>; Erickson, Dave (SHB) <DERICKSON@shb.com>; Jay D. Haden <JHaden@jacksongov.org>
Subject: RE: EXTERNAL Beazer East Inc. - Easement

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Please see the attached pages from our County Code Chapter 50, specifically section 5099.1. This section describes what we require to execute an easement on Park property. We will need a written request including the relevant information described in 5099.1. As this is an access agreement and not a utility easement, we will not need construction documents or plan sheets, but we will need a legal description and an aerial image with a visual representation of the easement location and dimensions. I do not anticipate you will need an Environmental Impact Assessment. Additionally, I will need to confirm whether or not there will be any fees assessed beyond the Administrative Fee.

Once you provide this, we will evaluate the request, make any necessary changes and send back to you prior to sending this for Legislative Approval.

Let me know if you have any questions.

Thanks,

Matt Davis
Rock Island Program Manager
Jackson County Parks + Rec
Office: 816-503-4849
Cell: 816-519-8905

From: Dittman, Vanessa (SHB) <VDITTMAN@shb.com>
Sent: Wednesday, February 2, 2022 11:29 AM
To: Philpotts, Brett H (Pittsburgh) USA <Brett.Philpotts@trmi.biz>; Matt Davis <mdavis@jacksongov.org>; Brian P. Nowotny <BPNowotny@jacksongov.org>
Cc: Fisher, Devin (Pittsburgh) USA <Devin.Fisher@TRMI.biz>; Erickson, Dave (SHB) <DERICKSON@shb.com>; Jay D. Haden <JHaden@jacksongov.org>
Subject: RE: EXTERNAL Beazer East Inc. - Easement

Hi Matt,

I hope you are well. I wanted to keep our momentum going on this and see if you had any further comments. If your office is comfortable with what we outlined and Brett's further explanation below, could you please direct us to the appropriate easement application? We will work to get that filled out quickly to help move the process along.

Thank you,

Vanessa

From: Philpotts, Brett H (Pittsburgh) USA <Brett.Philpotts@trmi.biz>
Sent: Wednesday, January 19, 2022 2:26 PM
To: Matt Davis <mdavis@jacksongov.org>; Dittman, Vanessa (SHB) <vdittman@shb.com>; Brian P. Nowotny <BPNowotny@jacksongov.org>
Cc: Fisher, Devin (Pittsburgh) USA <Devin.Fisher@TRMI.biz>; Erickson, Dave (SHB) <derickson@shb.com>; Jay D. Haden <JHaden@jacksongov.org>
Subject: RE: EXTERNAL Beazer East Inc. - Easement

EXTERNAL

Matt,

Beazer sees the easement and access agreement serving different purposes:

- The easement would memorialize Beazer's right of access across the Jackson County parcel. It would be recorded, run with the land, and guarantee those rights in perpetuity in favor of future owners of the Beazer parcels. It would use metes and bounds to precisely describe an easement area.
- The access agreement would describe Jackson County's right of access to perform certain activities on the Beazer parcels. It would not be recorded and not run with the land. It would be assignable on consent. It would renew automatically and afford a right to terminate on notice. It would allow greater flexibility to make future amendments/modifications, for example to the permitted activities.

Beazer viewed the letter of intent as a useful way to characterize Jackson County's future desire to use certain of the Beazer Parcel related to rails-to-trails improvement projects down the

line that do not currently have sufficient specificity to write into an access agreement. We could describe such intended future activities in the recitals section of the access agreement if that alternative is acceptable to Jackson County.

Brett Philpotts, Esq.

Assistant Regional Counsel – Three Rivers Management, Inc.*^

Assistant Regional Counsel – Lehigh Hanson, Inc.

Direct: (610) 366 4671

Cell: (240) 380 0013

brett.philpotts@trmi.biz

www.lehighhanson.com

* Agent for Beazer East, Inc. and Amcord Inc.

^ A Lehigh Hanson, Inc. company



From: Matt Davis <mdavis@jacksongov.org>
Sent: Tuesday, January 18, 2022 12:40 PM
To: Dittman, Vanessa (SHB) <VDITTMAN@shb.com>; Brian P. Nowotny <BPNowotny@jacksongov.org>
Cc: Fisher, Devin (Pittsburgh) USA <Devin.Fisher@TRMI.biz>; Philpotts, Brett H (Pittsburgh) USA <Brett.Philpotts@trmi.biz>; Erickson, Dave (SHB) <DERICKSON@shb.com>; Jay D. Haden <JHaden@jacksongov.org>
Subject: RE: EXTERNAL Beazer East Inc. - Easement

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This looks good to me, and is described as we discussed. My main question is whether or not this needs to be separate agreements, or if all three items can be incorporated into one document? From the County perspective, assuming there is no reason to separate these items, one agreement will be faster to get to execution. I've copied Jay Haden from our Counselor's office to review as well.

Thank you,

Matt Davis
Rock Island Program Manager
Jackson County Parks + Rec
Office: 816-503-4849
Cell: 816-519-8905

From: Dittman, Vanessa (SHB) <VDITTMAN@shb.com>
Sent: Friday, January 14, 2022 10:04 AM

To: Brian P. Nowotny <BPNowotny@jacksongov.org>; Matt Davis <mdavis@jacksongov.org>
Cc: Fisher, Devin (Pittsburgh) USA <Devin.Fisher@TRMI.biz>; Philpotts, Brett H (Pittsburgh) USA <Brett.Philpotts@trmi.biz>; Erickson, Dave (SHB) <DERICKSON@shb.com>
Subject: EXTERNAL Beazer East Inc. - Easement

WARNING: This email originated outside of Jackson County.

DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning, Matt and Brian,

Thanks again for the productive meeting on January 5 at the Beazer property. Pursuant to the group's discussion at that meeting, below we have included our understanding of the path forward to memorialize an easement for Beazer's access road across Jackson County property.

1. Per mutual agreement, draft and execute an easement to be recorded that would include the specifics of Beazer's use of its access road across Jackson County property.
 - a. Beazer will fill out and submit Jackson County's application for an easement with legal description, map, and fee.
 - b. Jackson County will review and execute the easement sometime in the spring.
2. Execute an access agreement between both parties for Jackson County to access and use certain of Beazer's property for inspection, operation and maintenance of its elevated rail surface and railroad trestle.
 - a. Beazer will draft an access agreement for Jackson County to review.
3. Develop a letter of intent between both parties contemplating Jackson County's desire to use certain of Beazer's property for future construction activities.
 - a. Jackson County to draft the LOI

If you are in agreement with this path forward, we will proceed with the easement application and access agreement accordingly.

Thank you,

Vanessa

Vanessa D. Dittman

Senior Associate

Shook, Hardy & Bacon L.L.P.

O: 816.559.4032 | vdittman@shb.com

C: 913.481.4646

