

Request for Legislative Action

Ord. #5647

Date: August 15, 2022

Completed by County Counselor's Office			
Action Requested:	Ordinance	Res.Ord No.:	5647
Sponsor(s):		Legislature Meeting Date:	8/15/2022

Introduction
Action Items: ['Authorize']
Project/Title:
Kevin Ash - CU-2022-238

Request Summary
Requesting a Conditional Use Permit for a period of 15 years in District HI (Heavy Industrial) for earthwork and mining reclamation on 89.44 ± acres at 8400 E. Truman Road.
Staff recommends approval because the change in zoning is consistent with the intent and purpose of the County Plan and complies with the Unified Development Code requirements.
The Jackson County Plan Commission held a public hearing on July 21, 2022, and accepted testimony pertaining to the rezoning request.
The Plan Commission voted 9 to 0 to recommend <u>APPROVAL</u> to the County Legislature.

Contact Information			
Department:	Public Works	Submitted Date:	8/2/2022
Name:	Randy D. Diehl	Email:	RDiehl@jacksongov.org
Title:	Development Division Administrator	Phone:	816-881-4577

Budget Information			
Amount authorized by this legislation this fiscal year:			\$ 0
Amount previously authorized this fiscal year:			\$ 0
Total amount authorized after this legislative action:			\$
Is it transferring fund?			No
Single Source Funding:			
Fund:	Department:	Line Item Account:	Amount:
			!Unexpected End of Formula

Request for Legislative Action

Prior Legislation	
Prior Ordinances	
Ordinance:	Ordinance date:
Prior Resolution	
Resolution:	Resolution date:

Purchasing	
Does this RLA include the purchase or lease of supplies, materials, equipment or services?	No
Chapter 10 Justification:	
Core 4 Tax Clearance Completed:	
Certificate of Foreign Corporation Received:	
Have all required attachments been included in this RLA?	

Compliance	
Certificate of Compliance	
Not Applicable	
Minority, Women and Veteran Owned Business Program	
Goals Not Applicable for following reason: Not spending money	
MBE:	.00%
WBE:	.00%
VBE:	.00%
Prevailing Wage	
Not Applicable	

Fiscal Information
<ul style="list-style-type: none"> This legislative action does not impact the County financially and does not require Finance/Budget approval.

Request for Legislative Action

History

Submitted by Public Works requestor: Randy D. Diehl on 8/2/2022. Comments: Land Use Scheduled for August 22.

Approved by Department Approver Brian Gaddie on 8/3/2022 4:18:00 PM. Comments:

Not applicable by Purchasing Office Approver Barbara J. Casamento on 8/3/2022 4:26:37 PM. Comments:

Approved by Compliance Office Approver Katie M. Bartle on 8/3/2022 4:46:12 PM. Comments:

Not applicable by Budget Office Approver Mark Lang on 8/4/2022 2:00:55 PM. Comments:

Approved by Executive Office Approver Sylvya Stevenson on 8/4/2022 4:33:50 PM. Comments:

Approved by Counselor's Office Approver Elizabeth Freeland on 8/10/2022 1:45:59 PM. Comments:

CU-2022-238

ATTACHMENT 1: PROPERTY DESCRIPTION

Description:

That part of the Northeast Quarter of Section 06, Township 49, Range 32, Jackson County, Missouri, described as follows: Beginning 246.97 feet West of the Southeast Corner of said Northeast Quarter, said point being on the Westerly right of way of Blue Ridge Boulevard; thence North 03 Degrees 7 Minutes 16 Seconds West, along said Westerly right of way line, 82.71 feet, to the true Point of Beginning; Thence continuing along westerly right of way line, North 03 Degrees 7 Minutes 16 Seconds West, 89.17 feet, thence Northeasterly along said right of way and along a curve to the right, 355.33 feet; thence North 23 degrees 46 Minutes 51 Seconds along said right of way, 552 feet, more or less, to the Kansas City corporate limit line; thence West 2450 feet, more or less, to the Easterly line of I-435; thence Southwesterly along said right of way, 130 feet, more or less, thence South 582 feet, more or less; thence South 88 Degrees 16 Minutes 49 Seconds East, 222.33 feet; thence South 01 Degrees 43 minutes 11 Seconds West, 329.57 feet; thence South 72 degrees 43 Minutes 55 Seconds West, 160 feet; thence West 71.03 feet; thence South 01 degree 43 Minutes 11 Seconds West, 329.57 feet; thence South 72 degrees 43 Minutes 55 Seconds West 160 feet; Thence West 160 feet; thence West 71.03 feet; thence South 78.28 feet to the South line of said Northeast Quarter; thence East along said South line, 1135 feet, more or less; thence North 82.37 feet; thence East 1085.38 feet to the true Point of Beginning.

And including the following:

That part of the Northeast Quarter of Section 06, Township 49, Range 32, Jackson County, Missouri, described as follows: Beginning at a point on the South line of the Northeast Quarter, 1870 feet East of the Southwest Corner of said Northeast Quarter; thence North 01 Degrees 37 Minutes 10 Seconds East, 78.28 feet to the true Point of Beginning; Thence South 88 Degrees 16 Minutes 49 Seconds East, 71.03 feet; thence North 72 Degrees 43 Minutes 55 Seconds East, 160 feet; thence North 01 Degrees 37 Minutes 10 Seconds, 329.57 feet; thence North 88 Degrees 16 Minutes 49 Seconds West, 222.33 feet to the Kansas City corporate limit line; thence South along said corporate lines line, 381.63 feet to the true Point of Beginning.

And including the following:

That Part of the West Half or the Southeast Quarter of Section 06, Township 49, Range 32, Jackson County, Missouri, described as follows: Beginning at the Northeast corner of said West Half or Southeast Quarter, thence South along the East line of said West half, 872.45, thence South 86 degrees 04 minutes 54 seconds West, 316.90 feet; thence North 01 degrees 42 minutes 53 seconds East, 547.89 feet; thence South 61 degrees 06 minutes 07 seconds West, 665.43 feet; thence South 72 degrees 34 minutes 49 seconds West, 110.88 feet; thence South 39* degrees 05 minutes 32 seconds West, 93.81 feet; thence South 05 degrees 45 minutes 45 seconds East, 108.60 feet; thence South 34 degrees 46 minutes 44 seconds East, 198.51 feet; thence South 45 degrees 38 minutes 43 seconds East, 157.64 feet; thence South 70 degrees 11 minutes 08 seconds East, 73.36 feet; thence North 80 degrees 40 minutes 30 seconds East, 131.45 feet; thence North 08 degrees 48 minutes 41 seconds West, 61.67 feet; thence north 74

degrees 34 minutes 43 seconds East, 139.67 feet; thence North 70 degrees 29 minutes 18 seconds East, 202.61 feet; thence North 87 degrees 00 minutes 31 seconds East 278.94 feet; thence along a curve to the left, 273 feet more or less ; thence South 56 degrees 02 minutes 47 seconds West, along the northerly right of way line, 189.54 feet; thence westerly along a curve to the right and along northerly right of way line, 422.83 to East right of way line of I-435; thence North along East right of way 119.18 feet; thence North 35 degrees 16 minutes 35 seconds West, along said Easterly Line, 210.20 feet; thence North 40 degrees 54 minutes 27 seconds East, along said East right of way line, 131.02 feet; thence North 36 degrees 21 minutes 30 seconds West, along said right of way, 19 feet to Kansas City Corporate limit line; thence North along said corporate limit line to North line said Southeast Quarter line; thence East along said North said Southeast Quarter, 1135 feet to Point of Beginning.

And including the following:

Lot 1, Newco, a subdivision in Jackson County, Missouri.

Being all that part of Section 06, Township 49, Range 31, Jackson County, Missouri, as described in Document 2021E0069682, except any part within Kansas City or Independence corporate boundaries.

CU-2022-238

ATTACHMENT 2: ZONING SUPPORT DOCUMENTATION

Attachments

Plan Commission Public Hearing Summary from July 21, 2022
Staff Report
Zoning map of surrounding area
Names/Addresses of Surrounding Property Owners
Copy of letter to said property owners
Application
Letter from Austin Powder
Opinion from County Counselor's Office
Aerial of Property
Mining Permit form State of Missouri
Generalized Phasing Plan
Illustrations showing concept plan and subsurface pillars

CU-2022-238

ATTACHMENT 3: LIST OF CONDITIONS

Condition Use Permit for a period of 15 (fifteen) years with the following Conditions:

1. Blasting operations shall be governed by the Missouri Safety Act, Sections 319.300 -.345, RSMo.
2. Blasting shall be restricted to the hours between 7:00 a.m. and 6:00 p.m.
3. Fixed equipment and machinery shall be located at least one hundred (100) feet from any lot line and five hundred feet from any residential zoning district.

Randy Diehl gave the staff report:

RE: CU-2022-238

Applicant: Kevin Ash

Location: 8400 E. Truman Road

Area: 89.44 ± acres

Request: Conditional Use Permit for earthwork and mining reclamation

Comments:

The applicant is wishing to develop the land. To prepare the land for development the existing undermined area will need to be collapsed and the material removed. The land is undevelopable due to the unsafe conditions within the mined-out areas.

Plans are to remove the layer dirt, then remove the upper layer of rock to bring it down to the level of the highway. There are no plans for any additional subsurface mining. The rock will be crushed before moving it offsite.

There will be some blasting required, at least once a day and every 2 to 3 days as required. The County's blasting regulations are subject to the State of Missouri's Blasting Safety Act. The State's 2007 Safety Act as adopted states that no city or county may exceed or conflict with the provisions in the Act.

The reclamation will take 15 years and will be conducted in three phases. Each phase will reclaim around 30 acres at a time and take approximately 5 years. The applicant has a permit issued from the Missouri Mining Commission for first 33 acres subject to 444.760 RsMO, Land Reclamation Act.

Dust will be handled by watering.

Recommendation:

Staff recommends APPROVAL of CU-2022-238 for a period of 15 (fifteen) years, provided the following conditions are met:

1. Blasting operations shall be governed by the Missouri Safety Act, Sections 319.300 - .345, RSMo.
2. Blasting shall be restricted to the hours between 7:00 a.m. and 6:00 p.m.
3. Fixed equipment and machinery shall be located at least one hundred (100) feet from any lot line and five hundred feet from any residential zoning district.

Respectfully submitted,

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Mr. Antey: *Are there any questions for Randy?*

Mr. Tarpley: Where is this exactly?

Mr. Diehl: This is in Blue Summit, an unincorporated pocket between Kansas City and Independence.

Mr. Tarpley: Do we know how long ago this was in operation?

Mr. Diehl: We could not find anything relating to the former operation in our archived files. The subsurface was mined out and the applicant wants to develop this, however, do to the unsafe conditions of the surface, this is the only way to be able to develop the property.

Mr. Tarpley: What was the mine used for?

Mr. Crawford: More than likely for the limestone. My concern is the watering. Will the crusher be enclosed?

Mr. Diehl: The applicant touched on that at the meeting regarding the rezoning.

Mr. Lake: In the packet there is a diagram with an L-shaped illustration. What is that showing.

Mr. Diehl: That shows the blasting limits as set forth in the County Code. The State regulations differ from the County's. That was an illustration showing the setbacks and the area that could be reclaimed under the County Codes. It has been determined that the setbacks are determined by the State.

Mr., Tarpley: how long has it been shut down?

Mr. Diehl: In the 30 years I've been here, it has been closed.

Mr. Hilliard: Can you show where this will be?

Mr. Diehl: The picture with the blue rings basically is showing roughly what the 30 acres would be. This isn't necessarily their actual plan, it's just for illustration purposes.

Mr. Lake: There is a lot of vegetation on the north side. Will the setbacks be 100 feet from there?

Mr. Diehl: The shaded area on the map is the City of Kansas City. There is still a fair amount of buffer from the property line. I was wondering the vegetation should help with the dust.

Mr. Crawford: Can they harvest the rock without a Use Permit?

Mr. Diehl: They will need the Conditional Use Permit from the County. They already have the permit from the State. The Heavy Industrial Zoning is pending.

Mr. Akins: What about damage to adjacent homes from the blasting?

Mr. Diehl: I believe the applicant will address that.

Mr. Antey: There will be monitoring There is a lot a blasting around Laker Lotawana with no concerns.

Ms. Ryerkirk: What is the distance of the tree line on the north side?

Mr. Diehl: It's about 200 feet wide.

Ms. Ryerkirk: what does exhibit 3 represent?

Mr. Diehl: That is a layout of the pillars in the subsurface area.

Mr. Hilliard: The Development to the north is in which city?

Mr. Diehl: That is in Kansas City.

Mr. Antey: *Is the applicant here?*

Kevin Ash: 1101 Seymour Road, Grain Valley.

David Halpin: 300 S Liberty, Independence, MO. I'm the attorney for Mr. Ash.

Mr. Ash: Randy's right. We would start here (indicating on map) which is Phase 1. We are bonded with the State for this phase, which we have a permit for. We would then carry on through Phases 2 and 3. The reason we are starting here is we need to gain access to the (Truman) Road. On the north side there is about 200 feet from the property line. There difference in elevation is about 100 feet. We'll be a lot lower than the houses plus the trees will provide a buffer. We are going to remove the over burden first and then work to the reclamation.

Mr. Johnson: Will you demo the building?

Mr. Ash: No, it will stay for now.

Mr. Hilliard: The traffic will exit Truman Road?

Mr. Ash: Yes, there is an existing entrance.

Mr. Crawford: I asked previously about the dust. You are going to water the haul road?

Mr. Ash: We are monitored by Missouri Department of Natural Resources and a clean air permit.

Mr. Antey: Are you regulated by MSHA (Mining Safety and Health Administration)?

Mr. Ash: Yes.

Mr. Crawford: Is that the dust control?

Mr. Antey: Yes. They can be more stringent than OSHA. In the last 5 years they have implemented a lot of controls for dust and silica.

Mr. Ash: We also crush concrete. We have a couple of different locations. Our Grain Valley location is right along I-70. We basically run a garden hose for the plant's sprinklers. In downtown Kansas City we don't have any issues with dust.

Mr. Crawford: Where is that one at?

Mr. Ash: Over by the downtown airport. We recycle concrete. We use the same type of crusher that we are proposing for this site.

Mr. Tarpley: Will there ever be a concrete plant there?

Mr. Ash: We have no plans for one.

Mr. Hilliard: Will there be any noise from the blasting?

Mr. Ash: Keep it mind that we are blasting pillars that are underground. It doesn't take as much to remove a pillar. Noise is also covered under the State permit.

Mr. Crawford: The Bethany Ledge. Is that being mined.

Mr. Ash: The Winterset is there.

Mr. Lake: On your phasing, is there going to be any intrusive activity at the cemetery?

Mr. Ash: We plan on staying away from the cemetery.

Ms. Ryerkirk: what sort of transition will there be between phases?

Mr. Ash: The State requires a 3 to 1 slope.

Mr. Farrar: I curious about insurance. In working for MoDOT on the Bruce Watkins project, when the dust cleared there were many lawsuits for ceiling cracks and the sort.

Mr. Ash: We are insured. If there are any concerns, we can do pre-blast surveys on houses and foundations. We would document the pre blast conditions. We would use an outside company for that. We would also hire a seismograph company to monitor that outside of us. If there was an issue they would address accordingly.

Mr. Lake: Are you part of Solar Business?

Mr. Ash: No. That was the Dean family. Those illustrations were included to show what type of development we would like to do. This was the plan of a previous owner. We plan on doing something similar in nature.

Mr. Lake: Are you going to be the developer of the business park?

Mr. Ash: That is what we are hoping to be.

Mr. Antey: *Is there anyone else who is in favor of this application?*

Gregory Short: I am former President of Blue Valley Industrial Association, along the Blue River Corridor. I am the previous owner of this property. I decided that this type of project was too much for me at this point in my life. I ended picking Kevin for this property. He's in concrete recycling. He's a commercial crusher with several sites. He was the idea candidate for this. Kevin the guy this this job. I'm very much in support of this project.

Mr. Antey: *Is there anyone who is opposed or has questions regarding this application?*

Dan Wilkenson: 8806 E 9th Street. Is anybody going to do anything about the trees on the south side of 9th Street?

Mr. Diehl: That would actually be something you would need to bring to the attention of the City of Kansas City, since that area is inside their jurisdiction.

Mr. Wilkenson: Is that part of their (applicants) property?

Mr. Diehl: Yes, but the County does not have jurisdiction inside city limits on a matter such as this.

Julie Armato: 8806 E 9th Street. I was curious about the company that would come in and due the survey for blasting.

Mr. Ash: You would need to contact that company and they would do the survey.

Mr. Crawford: Would this a house to house survey?

Mr. Ash: I not sure. It could be as needed or requested.

Mr. Crawford: Would that be after the fact?

Mr. Ash: I'm sure there would be some sort of a initial survey prior to any type of blasting. The guys from the blasting company are here to answer any questions.

Representatives from Austin Powder. Sauls Seismic is the name of the company. Is this instance with us being on the other side of the property so far away from these homes, it would be better to have those assessments done once the phasing was in the area of the homes. The ways it's done, is that there is a scale distance. As long as we stay under that scale distance there isn't one that required under the statutes. It isn't necessarily a door to door thing unless we can't stay under that number.

The national blasting regulations, which the State uses, which is a distance of 55. As long as that number is 55 or over, there shouldn't be an issue. I we get to 55 we would notify everybody. The is how close we are working from the closest protected structure. We take that distance and divided by the pounds of powder for 8 milliseconds of detonation. That determines what we do and how we do it. We may need to change our mix. If we get down to a distance of 35, we would conduct a door to door survey. Where we are starting, we'll greatly exceed that distance until Phase 3.

Ms. Ryerkirk: Is there any additional vulnerability to the cemetery since it is already undermined?

Representative form Austin Powder: I don't see problem with that. We are staying out of that area like it is. We don't want to take any unnecessary chances.

Mr. Johnson: I know this is down the road, how are these residents going to know when you get to that point?

Representative from Austin Powder: We have to notify them. We don't jeopardize this project and get in trouble with the State.

Mr. Tarpley: What is the size of the cemetery?

Mr. Diehl: Approximately 24 acres.

Mr. Lake: If we are just blasting pillars, that doesn't take as much charge?

Representative from Austin Powder: It depends on the pillar. We currently have different projects around town and sometimes gravity helps as well after detonation. We may use a little more on the Winterset. In Lee's Summit we are shooting 9 to 10 pillars 300 feet from a house.

Mr. Crawford: What will be the process?

Mr. Ash: The reason we are starting where we are is that there isn't a lot a Winterset at that location. There's not a lot of overburden there.

Mr. Tarpley moved to take under advisement. Mr. Lake seconded.

Mr. Tarpley: I think it's long overdue and would be an improvement to the area.

Mr. Antey: I think they have a good overall plan.

Mr. Crawford: I agree. They seem to have a handle on the dust and blasting.

Mr. Farrar: It pleases me that there will be some improvement here.

Mr. Hilliard: Randy, the State will be controlling this?

Mr. Diehl: Yes, the County's regulations cannot exceed the States. There was one point in the County Code that had to do with vibrations.

Mr. Crawford: Who's going to monitor the dust?

Mr. Antey: That falls under State regulations and MSHA.

Mr. Tarpley Moved to Approve Mr. Lake seconded

Mr. Akins	Approve	Mr. Crawford	Approve
Mr. Hilliard	Approve	Ms. Ryerkerk	Approve
Mr. Farrar	Approve	Mr. Lake	Approve
Mr. Tarpley	Approve	Mr. Johnson	Approve
Chairman Antey	Approve		

Motion Carried 9 – 0

STAFF REPORT

PLAN COMMISSION

July 21, 2022

RE: CU-2022-238

Applicant: Kevin Ash

Location: 8400 E. Truman Road

Area: 89.44 ± acres

Request: Conditional Use Permit for earthwork and mining reclamation

Comments:

The applicant is wishing to develop the land. To prepare the land for development the existing undermined area will need to be collapsed and the material removed. The land is undevelopable due to the unsafe conditions within the mined-out areas.

Plans are to remove the layer dirt, then remove the upper layer of rock to bring it down to the level of the highway. There are no plans for any additional subsurface mining. The rock will be crushed before moving it offsite.

There will be some blasting required, at least once a day and every 2 to 3 days as required. The County's blasting regulations are subject to the State of Missouri's Blasting Safety Act. The State's 2007 Safety Act as adopted states that no city or county may exceed or conflict with the provisions in the Act.

The reclamation will take 15 years and will be conducted in three phases. Each phase will reclaim around 30 acres at a time and take approximately 5 years. The applicant has a permit issued from the Missouri Mining Commission for first 33 acres subject to 444.760 RsMO, Land Reclamation Act.

Dust will be handled by watering.

Recommendation:

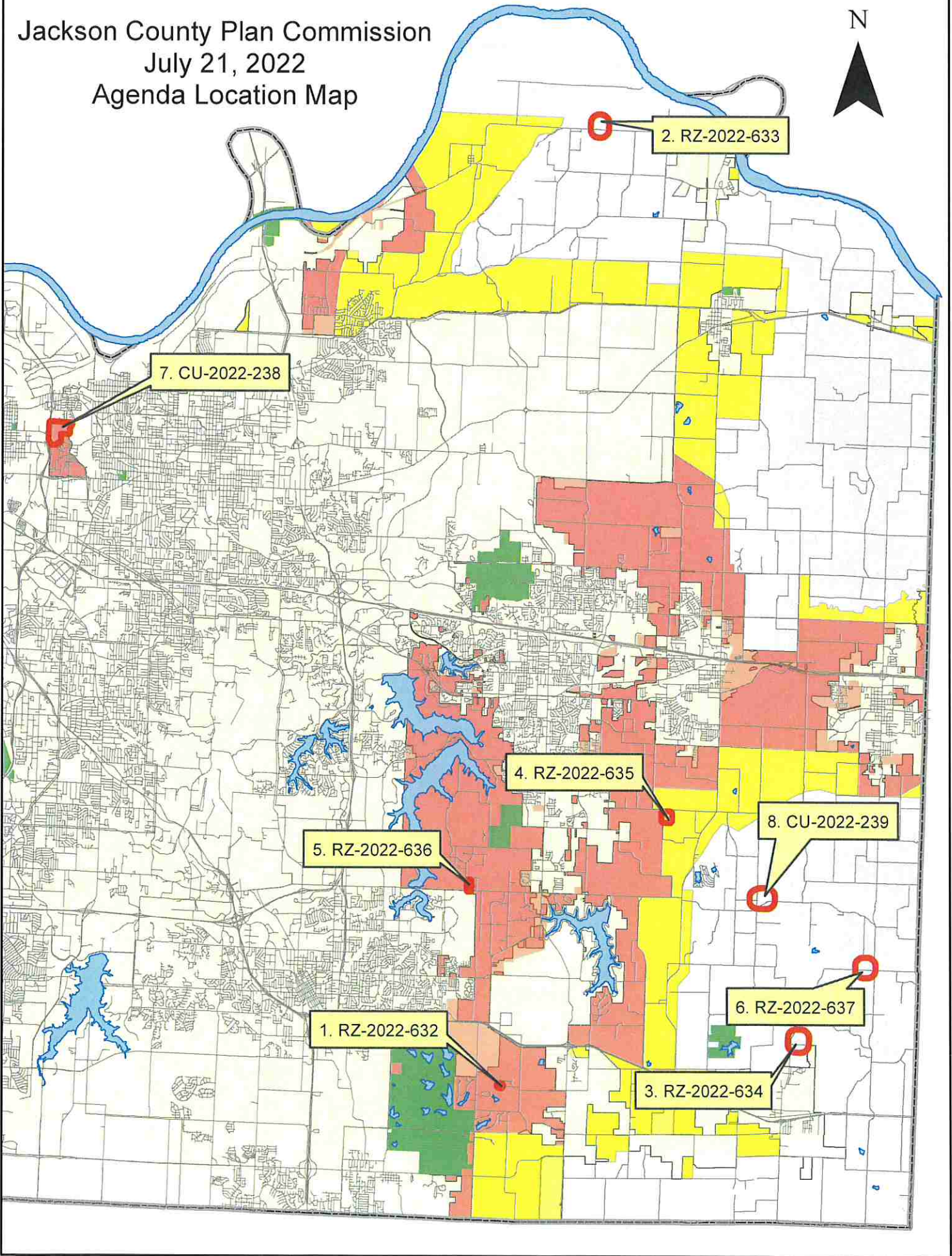
Staff recommends APPROVAL of CU-2022-238 for a period of 15 (fifteen) years, provided the following conditions are met:

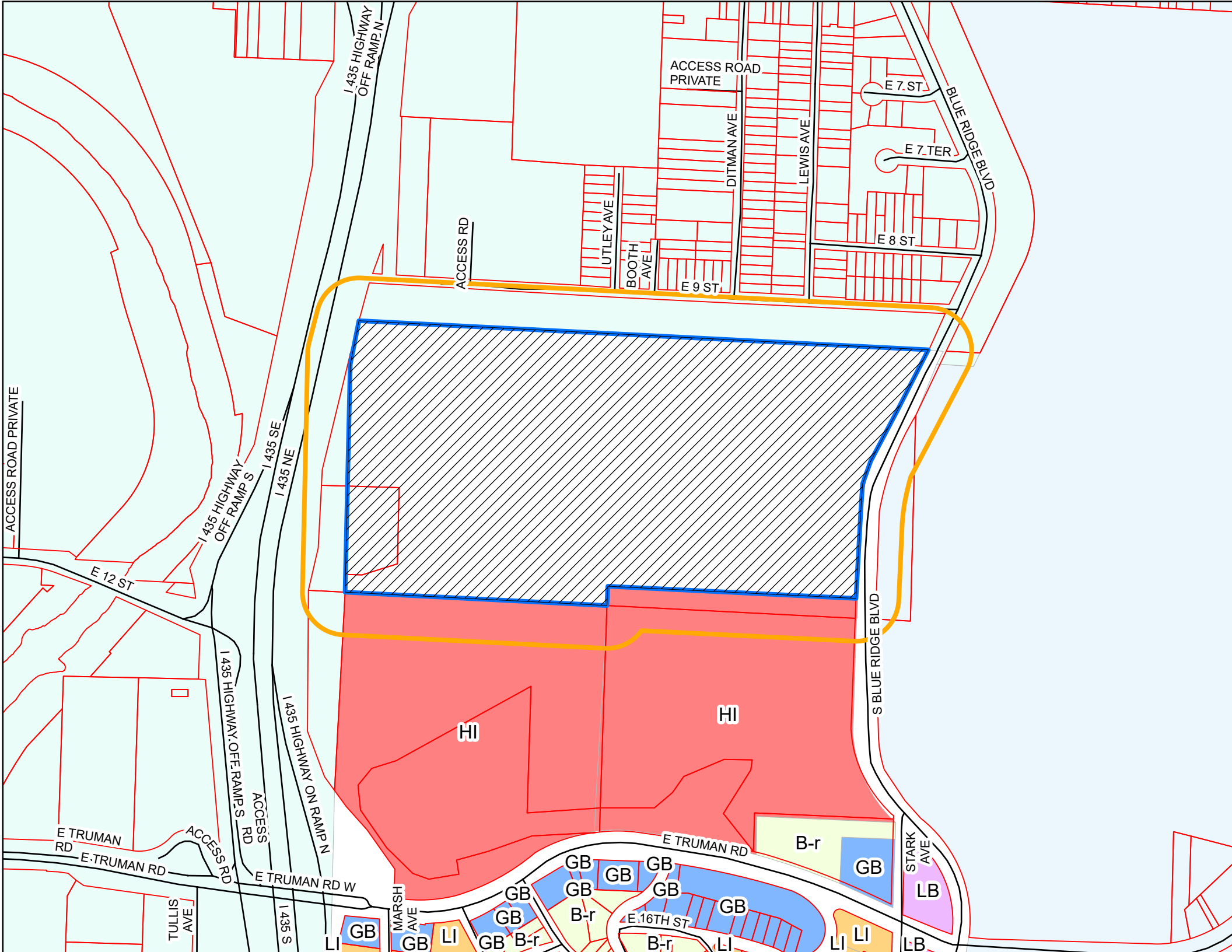
1. Blasting operations shall be governed by the Missouri Safety Act, Sections 319.300 -.345, RSMo.
2. Blasting shall be restricted to the hours between 7:00 a.m. and 6:00 p.m.
3. Fixed equipment and machinery shall be located at least one hundred (100) feet from any lot line and five hundred feet from any residential zoning district.

Respectfully submitted,

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Jackson County Plan Commission
July 21, 2022
Agenda Location Map





Plan Commission May 19, 2022 - Tabled July 21, 2022

CU-2022-238

Property Owners Within 185 feet

Parcel	owner	address	city	state	zip
27-220-05-01-00-0-00-000	MOUNT WASHINGTON FOREVER LLC	614 BROOKSIDE AVE	INDEPENDENC	MO	64053
27-230-01-14-01-0-00-000	MOUNT WASHINGTON FOREVER LLC	614 BROOKSIDE AVE	INDEPENDENC	MO	64053
27-310-09-03-00-0-00-000	MOUNT WASHINGTON FOREVER LLC	614 BROOKSIDE AVE	INDEPENDENC	MO	64053
27-310-08-06-00-0-00-000	LINCOLN INVESTMENT CO	1734 WASHINGTON BLVD	KANSAS CITY	KS	66102
27-340-02-06-01-0-00-000	DOUGLAS INVESTMENT CO	2632 W PASEO BLVD	KANSAS CITY	MO	64108
27-340-03-16-00-0-00-000	8231 LLC	4225 W 107TH ST # 7354	OVERLAND PARK	KS	66207
27-340-04-02-00-0-00-000	K & L PETROLEUM LLC	8301 E TRUMAN RD	KANSAS CITY	MO	64126
27-340-04-11-00-0-00-000	M & JK INVESTMENTS LLC	8301 E TRUMAN RD	KANSAS CITY	MO	64126
27-340-05-11-00-0-00-000	M & JK INVESTMENTS LLC	8301 E TRUMAN RD	KANSAS CITY	MO	64126
27-340-05-03-00-0-00-000	M & JK INVESTMENTS LLC	8301 E TRUMAN RD	KANSAS CITY	MO	64126
27-340-05-10-00-0-00-000	M & JK INVESTMENTS LLC	8301 E TRUMAN RD	KANSAS CITY	MO	64126
27-340-06-17-00-0-00-000	GLEASONS LIQUORS LLC	900 NE 2ND	BLUE SPRINGS	MO	64104
27-340-06-04-00-0-00-000	CITY OF INDEPENDENCE	111 E MAPLE ST	INDEPENDENCE	MO	64050
27-340-06-03-00-0-00-000	BOONE RON	1511 MARSH AVE	KANSAS CITY	MO	64126
27-340-06-02-00-0-00-000	TR8615 LLC	1500 NE 50TH TER	KANSAS CITY	MO	64118
27-310-08-10-00-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-340-02-17-00-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-310-08-11-01-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-310-08-11-02-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-310-08-09-02-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-340-02-04-00-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-340-02-06-02-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-310-08-09-01-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029
27-340-02-18-00-0-00-000	SBKA LLC	1101 S SEYMOUR RD	GRAIN VALLEY	MO	64029



JACKSON COUNTY Public Works Department

Jackson County Technology Center
303 West Walnut Street
Independence, Missouri 64050
jacksongov.org

(816) 881-4530
Fax: (816) 881-4448

May 4, 2022

RE: Public Hearing: RZ-2022-625 & CU-2022-236
SBKA, LLC

Dear Property Owner:

You are hereby invited to participate in a public hearing to be held by the Jackson County Plan Commission on a request by SBKA, LLC for a change of zoning from District B-r (Two Family) on 60.00 ± acres to District HI (Heavy Industrial) and for a Conditional Use Permit for a period of 15 years in District HI (Heavy Industrial) for earthwork and mining reclamation on 89.44 acres at 8400 E. Truman Road.

Please note that this request for a change of zoning affects only the property mentioned above. Adjacent properties will not be affected by the change of zoning. Taxes are based on the land use of a property not the zoning.

You are being notified pursuant to 24003.5 Chapter 240 (Unified Development Code) of the Jackson County Code, as being an adjacent property within 185' of the subject property.

The public hearing on this matter will be held by the Plan Commission on Thursday, May 19, 2022, at 8:30 a.m. in the Large Conference Room, 2nd Floor, Historic Truman Courthouse, 112 W. Lexington, Independence, MO.

If you know of any interested party who may not have received a copy of this letter, it would be appreciated if you would inform them of the time and place of the hearing.

If you have any questions concerning this matter, please contact the Development Division at 881-4577.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randy Diehl".

Jackson County Public Works
Development Division
Randy Diehl, Administrator

Frank White, Jr., County Executive

JACKSON COUNTY, MISSOURI
CONDITIONAL USE PERMIT APPLICATION

APPLICANT INFORMATION:

1. Application must be filed with the Jackson County Planning and Development Division, 303 W. Walnut, Independence, MO 64050 by the deadline on the Plan Commission Calendar.
 2. Application must be typed or printed in a legible manner.
 3. A scaled map of the property, correlating with the legal description, and clearly showing the property's location must accompany application. Refer to Section 24003.22, pertaining to Site Plan Review within the Unified Development Code.
 4. All applicable sections must be completed. If you need more space to provide information, please use separate 8 1/2"x11" paper, reference the application number and attach it to the application. Incomplete applications will not be accepted and will be returned to the applicant.
 5. The filing fee \$350.00 (non-refundable) must accompany application.
(Check payable to: Manager of Finance)
-

TO BE COMPLETED BY OFFICE PERSONNEL ONLY:

Conditional Use Permit Number CU- 2022- 238
Date filed _____ Date of hearing _____
Date advertised _____ Date property owners notified _____
Date signs posted _____
Hearings: Heard by _____ Date _____ Decision _____
 Heard by _____ Date _____ Decision _____
 Heard by _____ Date _____ Decision _____

BEGIN APPLICATION HERE:

1. Data on Applicant(s) and Owner(s):
 - a. Applicant(s) Name: Kevin Ash
Address: 1101 Seymour Rd.,
Grain Valley, Missouri 64029
Phone: 816-590-9865
 - b. Owner(s) Name: SBKA, LLC
Address: 1101 S. Seymour Rd., Grain Valley, Missouri 64029
Phone: 816-590-9865
 - c. Agent(s) Name: Same as Applicant

Address: _____

Phone: _____

d. Applicant's interest in Property: Earthwork/Mining Reclamation

2. A CONDITIONAL USE PERMIT IS HEREBY REQUESTED for the following described use: Earthwork/Mining for

a period of 15 years; property described as follows: a tract of land 89.44 square feet/acres in size located at NE of I-435 and Truman Rd. Road.

Present Zoning District Application to County for HI

3. Legal Description of Property: (Write Below or Attached 9)

Please see attached. 4 Parcels Total.

4. Present Use of Property: Unimproved Commercial Land

5. Proposed Use of Property: Earthwork/Mining

6. Estimated Time Schedule for Development: Begin Earthwork Activities October 2021

7. What effect will your proposed development have on the surrounding properties?
No effect. Occasional Blasting.
8. Is any portion of the property within the established flood plain as shown on the FEMA Flood Boundary Map? No.
 If so, will any improvements be made to the property which will increase or decrease the elevation? N/A
9. Describe the source/method which provides the following services, and what effect the development will have on same:
- a. Water KCMO WSD-No Impact
 - b. Sewage disposal KCMO WSD-No Impact
 - c. Electricity Evergy-No Impact
 - d. Heating Spire-No Impact
 - e. Fire and Police protection Intercity F1 and Sherriff Office-No Impact
10. Describe existing road width and condition: E. Truman Rd.-65' (4 lanes (45') and 2 shoulders(20))
Blue Ridge Blvd.-42' (2 lanes(32') and 2 shoulders (10'))
11. What effect will proposed development have on existing road and traffic conditions? Increase in over the road truck hauling.
12. Are any state, federal, or other public agencies approvals or permits required for the proposed development? Yes.
 If so, describe giving dates of application and status (include permit numbers and copies of same, if issued): See Attached.

Verification: I (We) hereby certify that all of the foregoing statements contained in any papers and/or plans submitted herewith are true to the best of my (our) knowledge and belief.

Signature		Date	
Property Owner(s)	<u>[Signature]</u> <u>[Signature]</u>	<u>8-10-21</u> <u>8-10-21</u>	
Applicant(s):	<u>[Signature]</u> <u>[Signature]</u>	<u>8-10-21</u> <u>8-10-21</u>	
Contract Purchaser(s):	_____	_____	_____

STATE OF Missouri
COUNTY OF Jackson

On this 10th day of August, in the year of 2021, before me the undersigned notary public, personally appeared Kevin E. Ash

known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public Nich Michelle Christ Commission Expires 3-01-2024





To whom it may concern

Austin Powder Company has been in contact with Solar Utilities regarding the development project they plan to start in Jackson County. The project is located on the north side of E Truman Rd between 435 and Blue Ridge Blvd directly adjacent to Lincoln Cemetery. Austin Powder Company would be the blasting contractor for the project.

Upon review of the blasting limitations as set forth by Jackson County, four areas of concern arose that together would preclude the efficient and economic practicality of the project as a whole. The Jackson County Unified Development Code establishes requirements for Quarries, mines, and sand and gravel pits to be authorized as conditional use in section 24005.17. Within that section most of the terms are not problematic. However, sub sections F,I, and K do present limitations that exceed the state regulations and would be prohibitive.

Sub section F states that "There shall be no blasting within 500' of the boundary line." Due to the size and shape of the Property in question, this rule would eliminate the possibility for blasting on the overwhelming majority of the project. Figure 1 to the right illustrates the approximate location where blasting could occur under this rule. The state does not establish any such distance requirement.

Sub section I states that "Blasting shall be conducted so that vibration does not exceed 0.25 inches per second as measured by seismographic tests at adjacent, abutting and opposite property boundary lines;" Blast induced vibrations are typically monitored at the nearest uncontrolled structure as recommended by the International Society of Explosive Engineers. Regulatory limitation on those vibration levels are also typically significantly less restrictive. Monitoring at the property line will often require that the seismograph is placed a great distance closer to the blast than the structures it is there to monitor. In accordance with the finding of the U.S. Bureau of Mines Report of Investigations 8507, Appendix B, Missouri has adopted the limitations as set forth in that Appendix as seen in figure 1.2. State regulations require monitoring at the nearest uncontrolled structure.

Sub section K states that "No blasting shall be conducted when the atmospheric conditions are such that sound or shock waves are easily conducted or transmitted, such as occur when there is a condition commonly known as a temperature inversion." These type of weather event are exceedingly common and would be difficult to plan around. With that said most temperature inversions occur overnight and



Figure 2

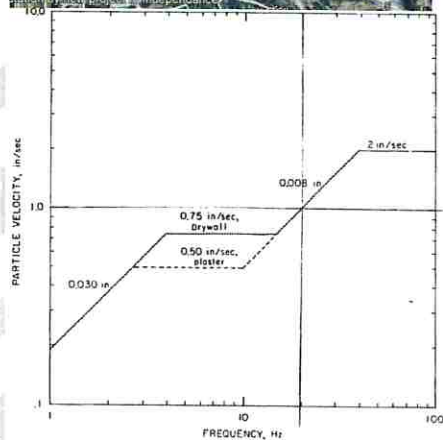


Figure 1.2



AUSTIN POWDER

dissipate by the time a typical blast would occur. Other such weather events could also have an impact on how easily sound waves are conducted, but scheduling blast days around those events is problematic. Missouri state regulations do not require this type of avoidance.

By defaulting to the Missouri state regulatory standards regarding blasting all of these issues would be addressed. The 500' rule would not be applicable, however the spirit of the rule is covered by the state regulations regarding vibration and air overpressure limitations. The location of the seismographs would default to the nearest uncontrolled structure, or a representative structure at a similar distance and direction. The vibration limitations would be those as set forth by the USBM 8705 appendix B which has been widely accepted as a sufficient limitation to ensure no possibility of producing damage or even expansion of existing cracks. Lastly the avoidance of weather events that may increase the conductivity of sound waves is an unnecessary requirement as the air overpressure limits set forth by the state are such that blasting must be conducted in such a way that readings do not exceed the safe threshold for the structure regardless of the weather conditions.

Best regards,

Lance Jones

Technical Manager

MEMORANDUM

Re: Missouri Blasting Safety Act v. Jackson County Code

1. Distance Requirement

Jackson County Code §24005.17 (f):

There shall be no blasting within 500 feet of the boundary line.

Missouri Blasting Safety Act §319.309

This requirement exceeds the requirements imposed by the Missouri Blasting Safety Act as set forth in §§319.300 to 319.345. The Missouri Blasting Safety Act does not set forth a distance requirement from any boundary line. *See* §319.309, which requires calculating the scaled distance from the nearest uncontrolled structure, as defined in §319.303 (21).

2. Vibration Requirement

Jackson County Code §24005.17 (i):

Blasting shall be conducted so that vibration does not exceed 0.25 inches per second as measured by seismographic tests at adjacent, abutting and opposite property boundary lines . . .

Missouri Blasting Safety Act §319.312 (1)

Any person using explosives in the State of Missouri in which monitoring with a seismograph is required, as provided in §319.309, shall comply with ground vibration limits based on the US Bureau of Mines Report of Investigations 8507, Appendix B. (See Attached Appendix B).

Jackson County Code §24005.17 (i) exceeds the requirements of Missouri Blasting Safety Act §319.309 in that the calculations are not to be measured at the opposite property boundary lines, but are to be measured from the nearest uncontrolled structure as defined in §319.303 (21).

The Jackson County Code §24005.17 (i) exceeds the requirements of Missouri Blasting Safety Act §319.309 in that not only are the vibration calculations to be measured at the nearest uncontrolled structure, but the ground vibration shall be based upon the ground vibration limits as set forth on the US Bureau of Mines Report of Investigations 8507, Appendix B.

3. Temperature Inversion

Jackson County Code §24005.17 (k):

No blasting shall be conducted when the atmospheric conditions are such that sound or shock waves are easily conducted or transmitted, such as occur when there is a condition commonly known as temperature inversion.

Missouri Blasting Safety Act §§319.300-319.345

The Missouri Blasting Safety Act §§319.300-319.345 does not require or limit blasting when atmospheric conditions allow sound and shock waves to be easily conducted or transmitted.



OFFICE OF THE COUNTY COUNSELOR

JACKSON COUNTY COURTHOUSE

415 EAST 12TH STREET
KANSAS CITY, MISSOURI 64106

816-881-3355
Fax: 816-881-3398

MEMORANDUM

TO: BRIAN GADDIE, DIRECTOR
PUBLIC WORKS DEPARTMENT

FROM: JAY D. HADEN
CHIEF DEPUTY COUNTY COUNSELOR

DATE: FEBRUARY 23, 2022

RE: BLASTING ISSUES ASSOCIATED WITH THE REZONING AND CONDITIONAL USE PERMIT
APPLICATIONS OF KEVIN ASH/BLUE SUMMIT AREA

You have asked for guidance from this office regarding certain issues raised by the above-referenced application. Kevin Ash has applied for the rezoning of a certain tract in the Blue Summit area of unincorporated Jackson County. In addition, he has applied for a conditional use permit (CUP) to conduct a limestone mining operation on that tract. The application raises legal issues regarding the manner of blasting that would be permissible in such an operation. This memorandum will attempt to address these issues.

Under the Unified Development Code of Jackson County, chapter 240, Jackson County Code 1984 (UDC), effective June 1, 1995, "quarries, mines, and sand and gravel pits" may be operated in the unincorporated county only with the issuance of a CUP. See UDC section 24005.17. That section contains restrictions on the manner in which explosive blasting may be conducted in such an operation. The applicant, Mr. Ash, contends that several of this section's provisions are unenforceable due to the 2007 enactment by the General Assembly of the Missouri Blasting Safety Act, sections 319.300 - .345, RSMo (the Act). Section 319.342.6 of the Act provides in part that: "no provision of a municipal ordinance or county ordinance or order in effect on August 28, 2007, or which may be adopted at a future date by a city or county **may preempt, amend, exceed, or conflict with the provisions of sections 319.300 to 319.342....**" Emphasis added. This is a clear example of "state preemption" that renders unenforceable any county ordinance provisions to the contrary.

Mr. Ash, through legal counsel, contends that the following UDC provisions exceed or conflict with the Missouri Blasting Safety Act: a.) section 24005.17.a, relating to proximity of blasting to the boundary line of the tract on which the blasting is permitted; b.) section 24005.17.i, relating to vibration standards; and section 24005.17.h, relating to temperature inversion. I have reviewed both the UDC and the Act and agree with the applicant that the Act does not contain any of the above-listed restrictions on blasting operations. Thus, it's my recommendation that the pending CUP application should be processed with the understanding that the three listed subsections of section 24005.17 are inapplicable to the application, although I do note that the Act contains a different vibration restriction (see section

BLASTING ISSUES ASSOCIATED WITH THE REZONING AND CONDITIONAL USE PERMIT APPLICATIONS
OF KEVIN ASH/BLUE SUMMIT AREA

February 23, 2022

Page 2

319.312, RSMo) that must be observed. Please let me know if you need anything further from me on this or have any questions.

cc Randy Diehl

MISSOURI MINING COMMISSION

STATE OF MISSOURI
P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102
573-751-4041

Permit To Engage in Surface Mining

MISSOURI MINING COMMISSION

ISSUES TO

Metropolitan Concrete Recycle, LLC

Pursuant to 444.760 RSMo, "The Land Reclamation Act," and on conformity with the statements in the application, a permit is hereby granted to engage in surface mining of Limestone in the state of Missouri.

The extent of the proposed mining operation(s) will be on 33 acres, more or less.

The locations of the operation(s) under this Renewal action is/are as follows:

Site Number	Site/Stream Name	County	Legal Description	Current Acres	Acres New	Acres Released	Total Acres
2800	MCR Quarry	Jackson	S6/T49N/R32W	33			33

This permit may be suspended or revoked upon violation of any or all of the conditions set forth in 444.760 RSMo, "The Land Reclamation Act," or in such rules and regulations as are promulgated pursuant thereto by the Missouri Mining Commission.

I approve this permit action on April 25, 2022

Permit No.: 1194
Effective Date: 6/23/2022
Expiration Date: 6/22/2023

Larry Lehman

DIRECTOR OF STAFF
Missouri Mining Commission



Copy right nearmap 2015

BLUE RIDGE BLVD

E 7 TER

E 8 ST

LEWIS AVE

DITMAN AVE

BOOTH AVE

UTLEY AVE

ACCESS RD

E 9 ST

S BLUE RIDGE BLVD

EITRUMAN RD

BLUE RIDGE BLVD

STARK AVE

ILL ST

VE

CKINLEY

E 16 TH ST

VINCILAVE

E 16 TH TER

ALICE AVE

ALICE AVE

E 16 TH ST

MARSH AVE

OFF RAMP N

I 435 HIGHWAY

I 435 HIGHWAY ON RAMP N

I 435 S

I 435 HIGHWAY ON RAMP

ACCESS RD

SSE

I 435 HIGHWAY OFF RAMP S

EITRUMAN RD W

ACCESS RD

EITRUMAN RD

TULLIS AVE

ACCESS ROAD PRIVATE

E 12 ST

I 435 SE

I 435 NE

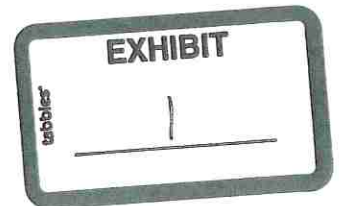
I 435 HIGHWAY OFF RAMP S

E STONE ARCH DR

MEADOW AVE

Solar Business Park Aerial

I-435 & Truman Road ■ Kansas City, MO



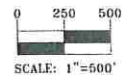
Solar Business Park Zoning

I-435 & Truman Road ■ Kansas City, MO

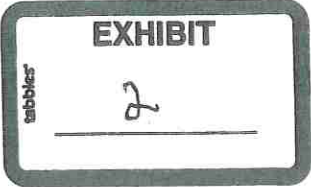


LEGEND

PARCEL	(APPROX.) ACRES	JACKSON COUNTY	CITY OF KCMO	ZONING
	11.46			M1-5
	97.01	HI & 2 FAMILY		R-2.5
	1.95	HI		
	4.61	HI		
	2.55	HI		
TOTALS	117.61			



DATE	REVISION (DESCRIPTION)	BY	DATE
	Dean REALTY CO Developers		
10211 B 21st Street, Suite 2 Kansas City, MO 64125 816.231.0200 Fax 816.231.4311		SOLAR PROPERTY KANSAS CITY, MO	
SURFACE PROPERTY EXHIBIT			
T22 USE - VOLUNTARY EXHIBITIONARY SURF EXHIBIT/PLAN			
OWNER BY	DATE	10-17-12	SHEET 1 OF 1
DRAWN BY	SCALE	AS SHOWN	
APPROVED	FILED DATE	10/26/12 09:52 AM	



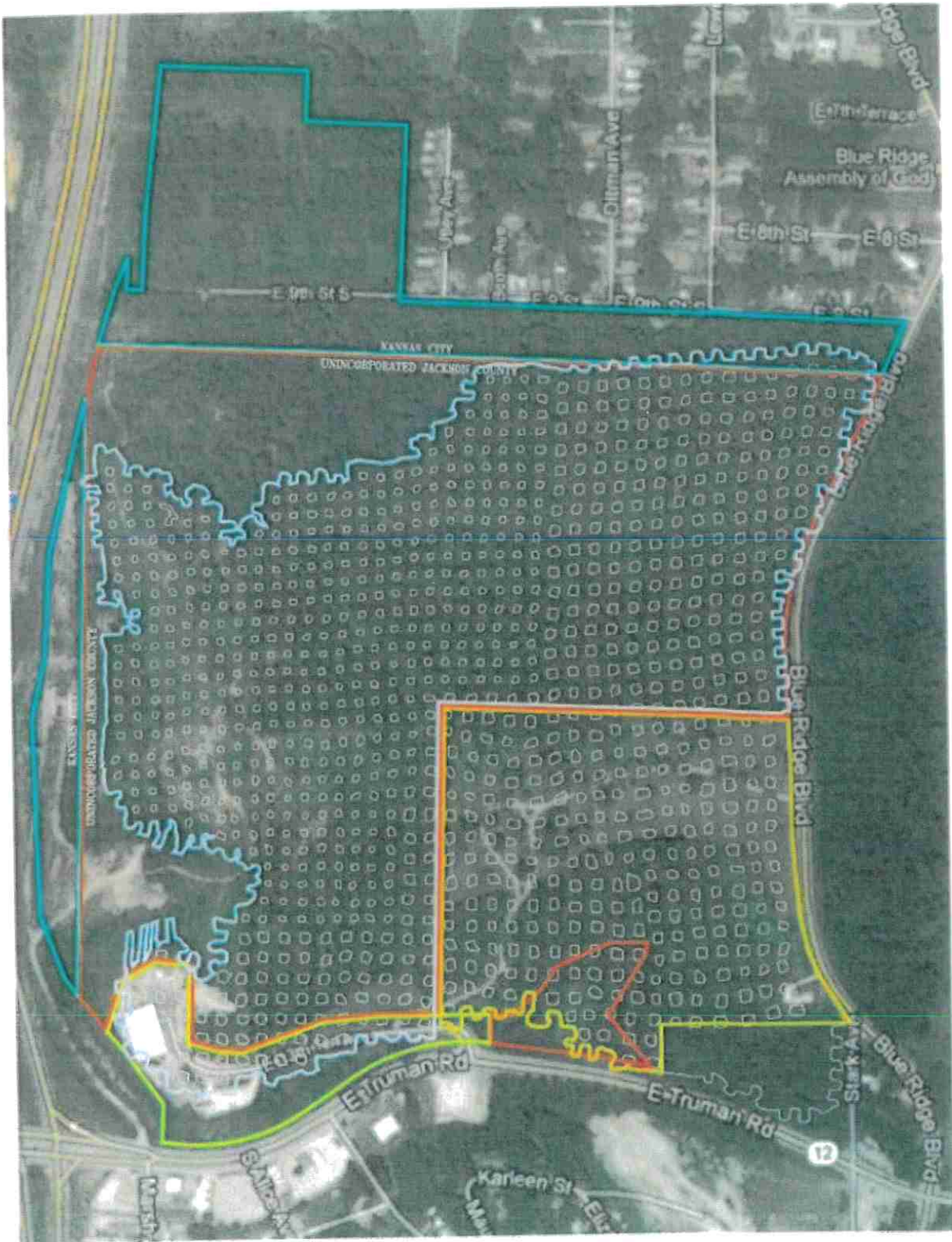


EXHIBIT
3

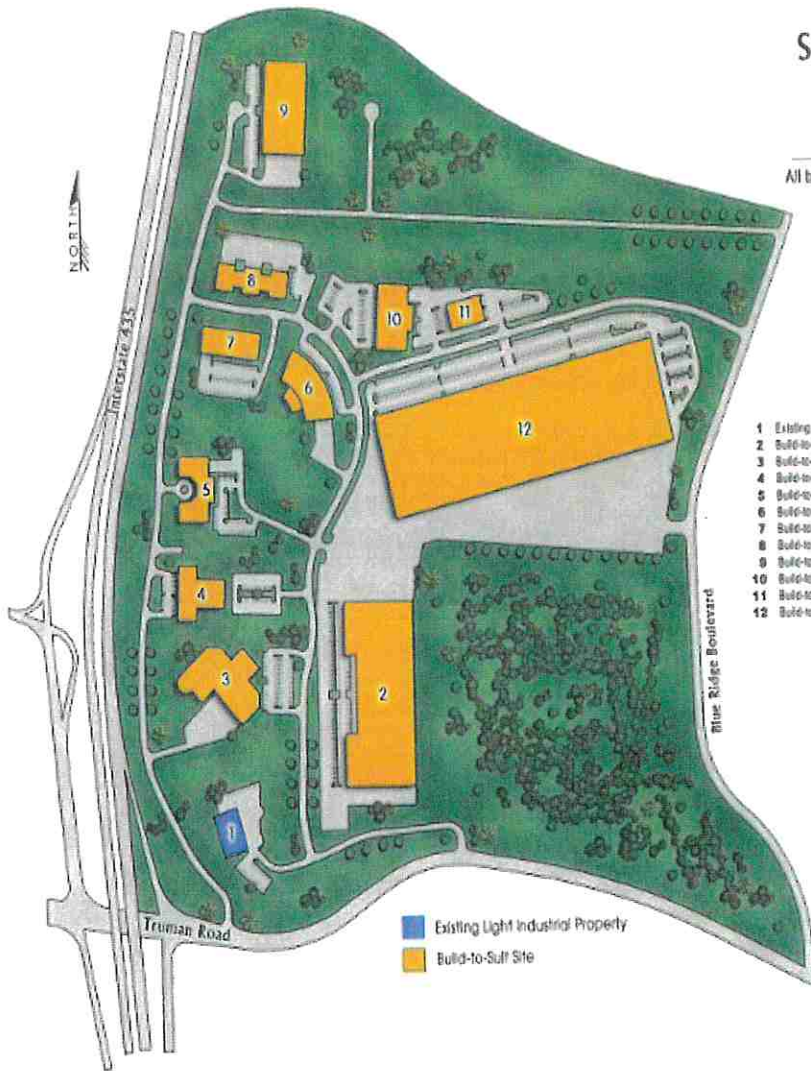
Solar Business Park

Solar Woods

1-435 & Truman Road, Kansas City, MO

Conceptual Plan

All build-to-suit sites are conceptual in nature with flexibility in size and use.



1	Existing One-Story Industrial Building	18,400 SF - 4.6 Acres
2	Build-to-Suit Site Proposed Industrial	156,000 SF - 13.2 Acres
3	Build-to-Suit Site Proposed Flex	69,000 SF - 7.0 Acres
4	Build-to-Suit Site Proposed Office	33,000 SF - 4.8 Acres
5	Build-to-Suit Site Proposed Office	28,000 SF - 6.5 Acres
6	Build-to-Suit Site Proposed Flex	37,500 SF - 3.7 Acres
7	Build-to-Suit Site Proposed Flex	25,000 SF - 3.8 Acres
8	Build-to-Suit Site Proposed Flex	27,000 SF - 3.8 Acres
9	Build-to-Suit Site Proposed Flex	62,000 SF - 5.8 Acres
10	Build-to-Suit Site Proposed Flex	35,000 SF - 4.3 Acres
11	Build-to-Suit Site Proposed Flex	15,000 SF - 1.9 Acres
12	Build-to-Suit Site Proposed Industrial	509,000 SF - 29.1 Acres

EXHIBIT

tabbies

4