

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION: SPECIAL USE PERMIT FOR M. MARTIAN LLC
d/b/a ON THE ROCKS

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County Board of Commissioners has the authority to adopt a Zoning Regulation, which shall have the force and effect of law pursuant to Neb. Rev. Stat. § 23-114 (Reissue 2007); and,

WHEREAS, said Zoning Regulations require the County Board of Commissioners to approve Special Use Permits; and

WHEREAS, Rebecca Horner, Planning Director has reviewed the Drinking Establishment Special Use Permit application of M. Martian LLC d/b/a On the Rocks for compliance with the Sarpy County Comprehensive Plan and the Sarpy County Zoning Regulations on the property generally located at 16919 Audrey Street and legally described as follows:

Lot 2, Harrison Woods, Replat 4, in the NE ¼ of Section 16, T14N, R11E of the 6th prime meridian, Sarpy County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

- I. A public hearing regarding the Special Use Permit Application was held before the Sarpy County Planning Commission on May 20, 2009 and further, the Planning Commission gave their recommendation.
- II. A public hearing regarding the Special Use Permit Application was held by this Board.
- III. Notice of each of the Public Hearings described above was published at least once in the ten (10) day period immediately prior to each respective public hearing as required by Neb. Rev. Stat. §23-164 (Reissue 1997), and the proof of publication has been filed in the Office of the Sarpy County Clerk.
- IV. The Planning Director has made a recommendation as noted in the attached Exhibit "A", which Exhibit "A" includes the Planning Director report.
- V. The Special Use Permit Application is in compliance with the Comprehensive Development Plan.

FURTHER BE IT RESOLVED THAT this Board in light of the above recited findings of fact, after due deliberation and consideration, approves the Special Use Permit for a Drinking Establishment on the above described property, with the following conditions:

1. The applicant use shielded lighting to limit light pollution to the adjacent existing residential neighborhood;
2. The applicant have an eight (8) foot fence enclosing the outdoor area;
3. The applicant use six (6) inch speakers in the outdoor seating area; and
4. The special use permit shall be subject to a one (1) year review in order to determine compatibility with the adjacent residential neighborhood.

Dated this 9th day of June, 2009.

Moved by Tom Richards seconded by Rich Jansen, that
the above Resolution be adopted. Carried.

YEAS:

NAYS:

ABSENT:

[Signature]
[Signature]
[Signature]
[Signature]
Patrick J. Thomas

None

none

ABSTAIN:

none

Rene Lauman
County Clerk



Abst Chief Deputy

Approved as to form:

[Signature]
County Attorney

Sarpy County Board of Commissioners Report
June 9, 2009

Subject	Type	By
Special Use Permit for Drinking Establishment located on Lot 2, Harrison Woods, Replat 4, in the NE ¼ of Section 16, T14N, R11E of the 6 th prime meridian, Sarpy County.	Resolution and public hearing	Rebecca Horner, Planning Director

This is a request for approval of a special use permit for a Drinking Establishment in the BG, General Business district at 16919 Audrey Street, also known as "On the Rocks".

Special Use Permit:

- The BG district allows for Drinking Establishments as a Permitted Special Use. "On the Rocks" was established in approximately 2004, which predated the requirement for a special use permit. The request will allow the existing use to become conforming as well as allow for the expansion of the use for an outdoor beer garden/seating area. The site plan is in conformance with the BG, General Business district zoning regulations. The site plan indicates protective bollards along the outside of the outdoor seating area. A six foot high opaque wooden fence is proposed to enclose the outdoor area.
- The proposed drinking establishment is to be located in a commercial area as part of a retail building in a commercial center. The outdoor beer garden/seating area is to be located at the rear of the building partially within an existing one-way driving aisle. The remaining width of the alley, after the addition of the outdoor beer garden is approximately 18' in width, which exceeds the minimum required 10' width.
- Placing the outdoor seating area/beer garden in the rear of the building maintains separation of the existing uses in the building and proposed outdoor beer garden. A tenant site plan is attached. The proposed outdoor area is approximately 230' from adjacent residential to the south.
- In the past, the County Board included conditions limiting noise and addressed lighting. The applicant requests a limited number of speakers in the outdoor area. The Planning Department recommends that the outdoor area not include speakers or be permitted to have live bands or similar noise producing devices since the proposed area faces a residential neighborhood. Planning staff is concerned that if speakers are permitted the patrons will be forced to talk louder and could create a potential nuisance issue. However, should the County Board wish to permit the speakers, staff requests that the special use permit be renewable in one year in order to determine compatibility with the neighborhood. Lighting should be limited to fixtures with sharp cutoff shields in order to limit light pollution to the adjacent existing residential. A condition should be added to address lighting.

Planning Commission Action

- The Planning Commission voted May 20, 2009 8-1 to approve the Special Use Permit.
- *Dunbar moved, seconded by Gonzalez to approve the Special Use Permit for On the Rocks, as it meets the qualifications set forth in the comp plan and zoning regulations. Ayes – Dunbar, Fenster, Gonzalez, Stuart, Torczon, Wear, Wees, Whitfield. Nays– Bliss. Absent – Gross and Marquardt. Motion Carried.*

Recommendation

- For the above stated reasons, I recommend approval to the Special Use Permit with added conditions that the lighting be shielded to prevent glare on adjacent properties and **EITHER:**
the outdoor seating area be restricted from having noise producing devices (live bands, speakers, etc) in order to reduce the impact on adjacent residential uses.
OR:
The outdoor seating area is permitted to have limited speakers as described by the applicant for one year, after which the permit must be renewed.

due to compatibility with the amended Comprehensive Development Plan, Zoning and Subdivision Regulations.

Respectfully submitted by: Rebecca Horner, Planning Director



ADDITIONAL INFORMATION

SARPY COUNTY BOARD OF COMMISSIONERS

JUNE 9, 2009

SPECIAL USE PERMIT

M. MARTIAN LLC d\b\a ON THE ROCKS

**SARPY COUNTY
PLANNING COMMISSION
STAFF REPORT
MAY 20, 2009
SPECIAL USE PERMIT
SUP 09-0005**

I. GENERAL INFORMATION

A. APPLICANT:

M. Martian L.L.C., DBA "On The Rocks"
16919 Audrey Street, Suite 100

B. PROPERTY OWNER:

Harrison Group, L.L.C.
1941 S 42nd Street, Suite 550
Omaha, NE 68105

C. LOCATION:

16919 Audrey Street, SW of 168th and Harrison Street.

D. LEGAL DESCRIPTION:

Lot 2 Harrison Woods, Replat 4 located in the NE ¼ of Section 16 Township 14
Range 11 of the 6th Prime Meridian, Sarpy County, Nebraska.

E. REQUESTED ACTION:

To approve a Special Use Permit to for a drinking establishment, including an
outdoor beer garden for one bay in an existing strip retail building.

F. EXISTING ZONING AND LAND USE:

BG, General Business improved with retail, including an existing drinking
establishment.

G. SIZE OF SITE:

2.7 acres, more or less.

II. BACKGROUND INFORMATION

On The Rocks was established prior to a 2007 amendment to the Sarpy County
Zoning Regulations which made drinking establishments a permitted special use.
The existing use is a legally non-conforming use.

The applicant held a pre-application meeting with Planning Department staff to
discuss adding an outdoor beer garden in advance of the statewide smoking ban
which goes into effect June 1, 2009.

A. COMPREHENSIVE PLAN SPECIFICATIONS:

The Comprehensive Plan shows the area as Mixed Use Center. (Figure 5.1)

B. EXISTING CONDITION OF SITE:

The site is currently being used for the proposed use.

C. GENERAL VICINITY AND LAND USE:

City of Omaha jurisdiction, residential and commercial to the north
RS-72, Residential to the south and west with an existing 230' wide outlot with a
creek and trail separating the existing single family residential and the
commercial uses.

BG, General Business and RS-72, Residential to the east.

D. RELEVANT CASE HISTORY:

The use has operated at this site since 2004.

The applicant requested an expansion of the existing liquor permit with the Liquor
Control Commission in April 2009. The request will be scheduled to the County
Board at the same time as the request for the Special Permit.

E. APPLICABLE REGULATIONS:

Zoning Regulations, Subdivision Regulations and Comprehensive Plan.

III. ANALYSIS AND DEVELOPMENT ALTERNATIVES

STAFF COMMENTS:

A. REQUEST:

1. The request for a drinking establishment both brings the existing non-conforming use into conformance with the zoning regulations and requests an addition for an outdoor beer garden.

B. LAND USE/COMPREHENSIVE PLAN:

1. The existing zoning of BG, General Business is in conformance with the land use designation of Mixed Use Center.

C. GENERAL:

1. The BG district allows for Drinking Establishments as a Permitted Special Use.
2. The proposed drinking establishment is to be located in a commercial area as part of a retail strip building in a commercial center. The proposed outdoor beer garden/seating area is to be located at the rear of the building partially within an existing one-way driving aisle.
3. The one-way driving aisle at the rear of the building functions as an alley for deliveries to retail businesses located in the retail strip building.
4. The minimum design standards for alleys indicate a required minimum lane width of 10'. The remaining width of the alley, after the addition of the outdoor beer garden is approximately 18' in width, which exceeds the minimum required width.

5. The site plan indicates protective bollards along the outside of the outdoor seating area. A six foot high opaque wooden fence is proposed to enclose the outdoor seating area/beer garden.
6. Existing uses in the building include a variety of uses. Placing the outdoor seating area/beer garden in the rear of the building maintains separation of the existing uses and proposed outdoor beer garden. A tenant site plan is attached.
7. The outdoor area should be limited from having noise producing activities; such as speakers or bands in order to limit noise pollution that may impact the existing residential to the south. A condition should be added to the special use permit to limit such uses. Lighting should be limited to fixtures with sharp cutoff shields in order to limit light pollution to the adjacent existing residential.
8. The County Surveyor and Sherriff had no objection to the request.
9. The site plan is in conformance with the BG, General Business district zoning regulations.
10. The Sherriff's report history is attached.

IV. RECOMMENDATION:

1. Recommend approval to the request for a Special Use Permit for a drinking establishment due to compatibility with adjacent zoning/uses, conformance with zoning and subdivision regulations and consistent with the Comprehensive Development Structure Plan contingent upon resolution of staff comments related to noise producing devises within the outdoor area and lighting.

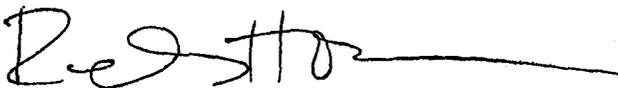
V. COPIES OF REPORT TO:

Applicant
Public upon request

VI. ATTACHMENTS:

Application
Site Plan
Aerial

Report prepared by:



Rebecca Horner, Planning Director



SARPY COUNTY PLANNING

1210 GOLDEN GATE DRIVE PAPPILLION, NE 68046
PHONE: 402-593-1555 FAX: 402-593-1558 E-MAIL: PLANNING@SARPY.CO

MAR 27 2009

SARPY COUNTY
PLANNING DEPARTMENT

SPECIAL USE PERMIT APPLICATION

<p>In order for your application to be considered COMPLETE, please answer all applicable questions and provide the following:</p> <ol style="list-style-type: none"> 1. Submit complete Special Use Permit Application 2. Submit Non-Refundable Fee of \$250.00 made payable to Sarpy County Treasurer 3. 25 full sized site plan drawings (Folded) 4. 1 reduced size site plan drawing (8.5 x 11) 5. Detailed operational plans 	<p>PLANNING STAFF USE ONLY:</p> <p>APPLICATION NO.: <u>SUP 09-0005</u> DATE RECEIVED: <u>3/27/09</u> CP DESIGNATION: <u>Mixed Use Center</u> ZONING DESIGNATION: <u>B6</u> FEE: <u>\$250.00</u> RECEIPT NO. <u>10243</u> RECEIVED BY: <u>MA</u> NOTES: _____</p>
--	---

APPLICANT INFORMATION:

NAME: M. Martian L.L.C. DBA On the Rocks E-MAIL: JHouston@fsinutrition.com
ADDRESS: 11919 Audrey St. Ste 100 CITY/STATE/ZIP: Omaha, NE 68136
MAILING (IF DIFFERENT) ADDRESS: SAME CITY/STATE/ZIP: _____
PHONE: 884-0244 FAX: 333-3536

PROPERTY OWNER INFORMATION: (if multiple owners, attach separate sheet)

Please check box if attaching separate sheet with owner information.

NAME: Harrison Group L.L.C. E-MAIL: vpelster@npolodge.com
ADDRESS: 1941 S. 42nd St, Ste 550 CITY/STATE/ZIP: Omaha, NE 68105
MAILING (IF DIFFERENT) ADDRESS: _____ CITY/STATE/ZIP: _____
PHONE: _____ FAX: _____

ENGINEER INFORMATION:

NAME: Engel and Associates E-MAIL: bob@rwearchitects.com
ADDRESS: 2200 S. 156th Circle CITY/STATE/ZIP: Omaha, NE 68136
MAILING (IF DIFFERENT) ADDRESS: SAME CITY/STATE/ZIP: _____
PHONE: 330-8291 FAX: 330-8331

PROJECT DESCRIPTION: (Describe the project in detail, including physical features of the site, proposed improvements, proposed uses or business, operating hours, number of employees, anticipated customers, etc. - Attach additional sheets if necessary.) **PLEASE NOTE:** A detailed project description is essential to the reviewing process of this request.

The project consists of a patio structure approximately 33' x 17'. A detailed drawing of the improvements is provided. The fence portion will be so it can't be seen through. The patio will be available to bar customers during regular hours of business. No loud music will be used, only background music and possibly one tv.

PROJECT SITE INFORMATION: Complete each section in its entirety. If a question is not applicable to your project, please indicate this to show that each question has been carefully considered.

ASSESSOR'S PARCEL NUMBER: 011584012

ADDITIONAL PARCEL NUMBERS _____

LEGAL DESCRIPTION: (Describe property to wit:)

Lot #2 Harrison Woods Tract Four

GENERAL PROPERTY LOCATION: Southwest Corner of 1168th + Harrison

ADDITIONAL INFORMATION: Please use this space to provide any other information you feel is appropriate for the County to consider during review of your application. Attach extra sheets if necessary.

I have contacted the neighboring tenants including the dance studio to the east. I have given them the plans and walked the site with them. They approve of the patio.

PLEASE NOTE THE FOLLOWING PROCEDURES:

1. The Planning Commission will hold a public hearing and make a recommendation to the County Board.
2. County Board will hold a public hearing and make a final decision on the Special Use Permit.
3. All necessary agreements will be recorded with the Sarpy County Register of Deeds, the cost of which will be borne by the Special Use Permit applicant or the property owner.

I, the undersigned, understand a sign will be posted on my property and will remain until the public hearing process at the Planning Commission and County Board is complete. I further understand the Special Use Permit process as stated above and I authorize County Staff to enter the property for inspection related to the specific request during this process.

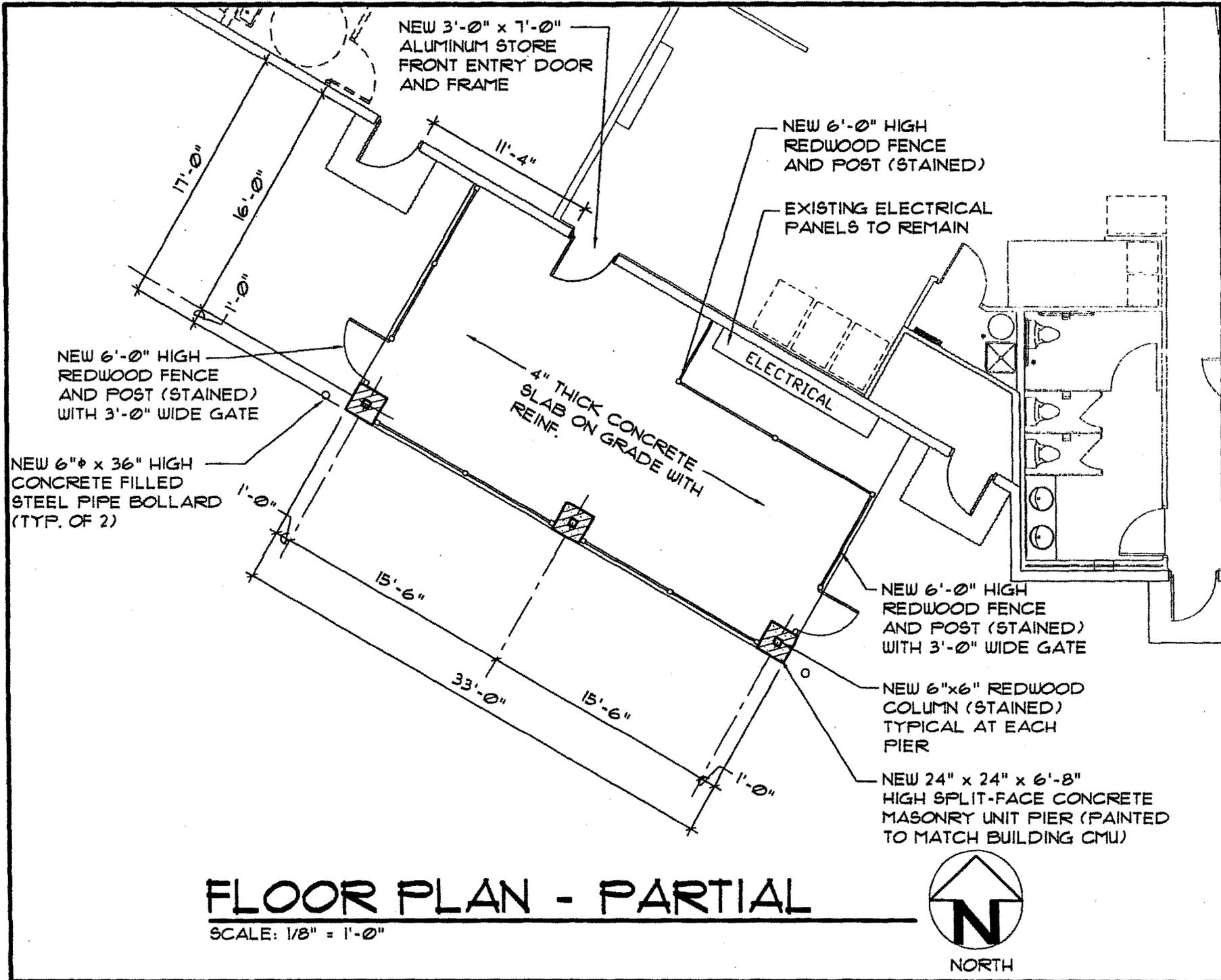
Harrison Group L.L.C.
Owner Signature (or authorized agent)

3-27-09
Date

[Signature]
Owner Signature (or authorized agent)

Date

BS

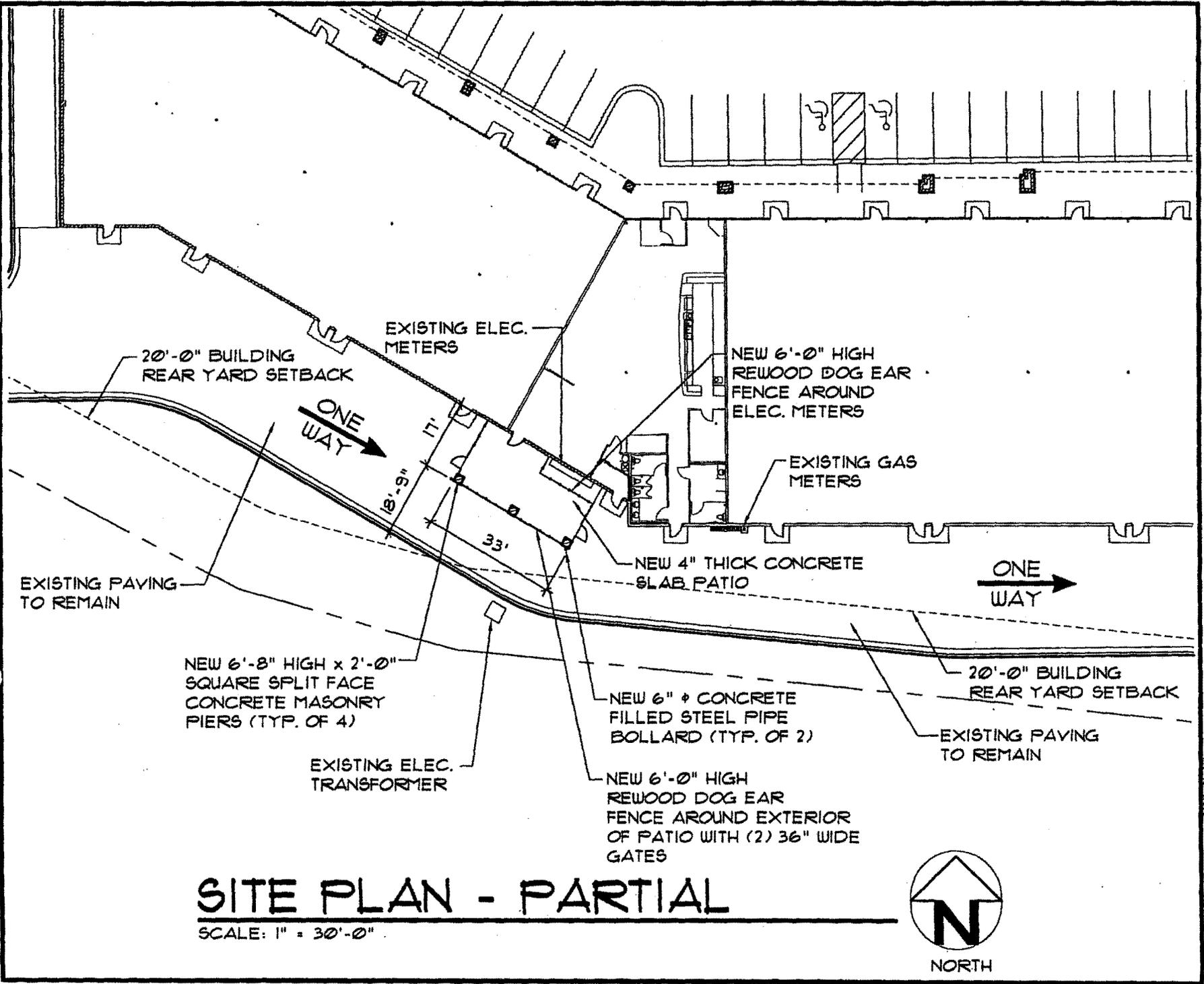


B6

RE **ON THE ROCKS - SARPY COUNTY, NEBRASKA**
ROBERT W. ENDEL AND ASSOCIATED ARCHITECTS

PARTIAL FLOOR PLAN
 DATE: 12/14/14
 PROJECT: 14-01

G1.1



SITE PLAN - PARTIAL

SCALE: 1" = 30'-0"



RE ROBERT W. ENDEL AND ASSOCIATES ARCHITECTS
 ON THE ROCKS - SARPY COUNTY, NEBRASKA
 G1.1
 SITE PLAN
 DATE: 1/19/08
 PROJECT NO. 08005

EXISTING BUILDING
(BEYOND)

PREFINISHED METAL
REGLET

PREFINISHED METAL
COUNTERFLASHING

PREFINISHED METAL
GUTTER TO MATCH
EXISTING

TOP OF BEAM
EL. = 111'-0"

2x WOOD REDWOOD
FASCIA (STAINED)

5 1/4" x 1 1/4" REDWOOD
BEAM (STAINED)

FINISHED FLOOR
EL. = 100'-0"

PREFINISHED METAL
DOWNSPOUT

8" SPLIT-FACE CONCRETE
MASONRY UNIT PIER WITH
PRECAST TOP CAP (PAINTED
TO MATCH EXISTING BUILDING
CMU BLOCK)

4x4 REDWOOD POST
(STAINED)

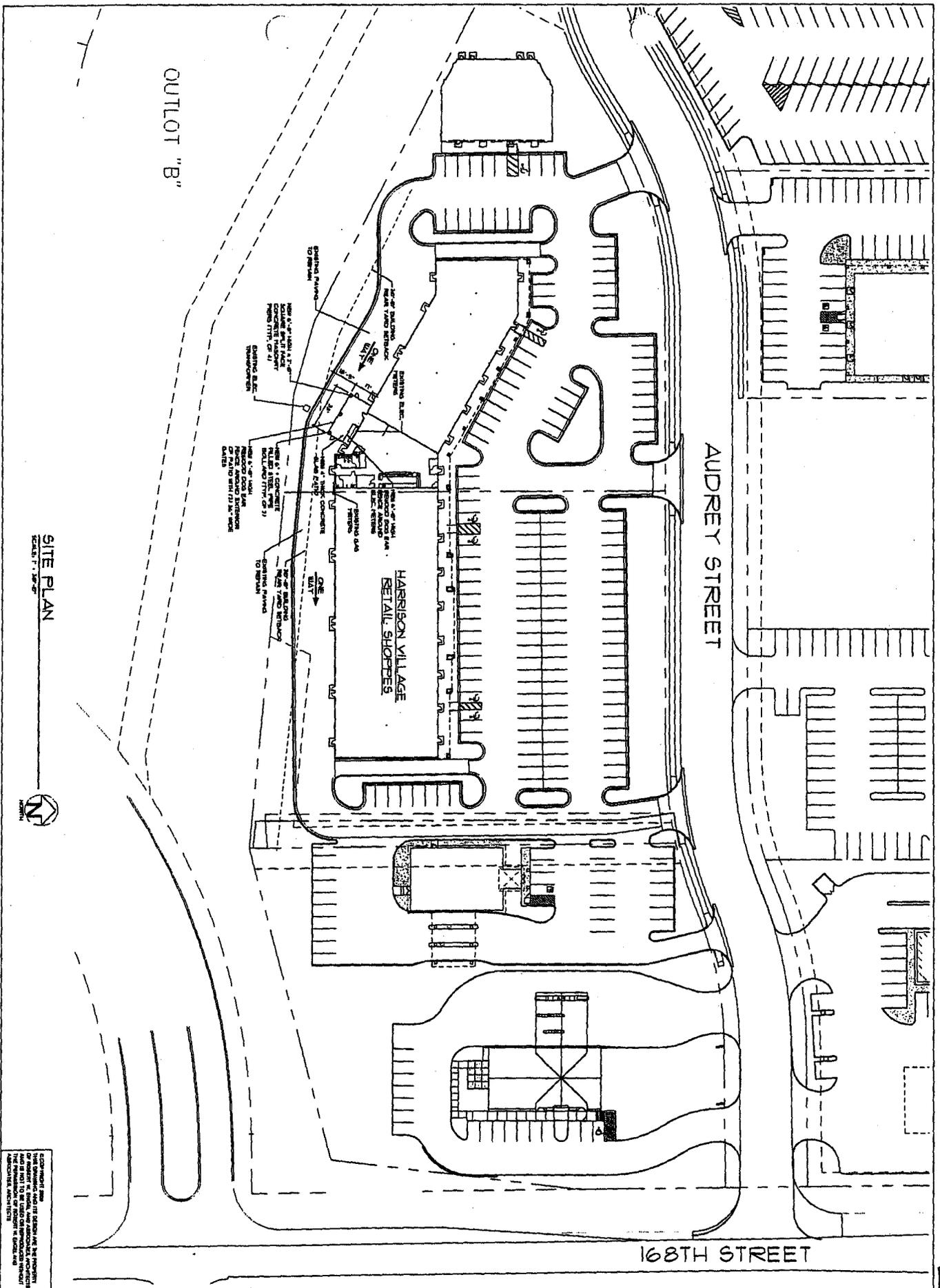
1x6 REDWOOD DOG-EAR
VERTICAL FENCING (STAINED)

2x4 REDWOOD HORIZONTAL
FRAMING LAID VERTICAL

PARTIAL SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

PARTIAL EXTERIOR ELEVATION
DATE: 8/20/08
PROJECT NO. 08001
ON THE ROCKS - SARPY COUNTY, NEBRASKA
©1.1
ROBERT W. ENGEL AND ASSOCIATES ARCHITECTS



SITE PLAN
SCALE: 1" = 30'-0"

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES AND STRUCTURES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

Project Number:	1100	Issue Date:	March 27, 2008
Drawn by:	RWC	Reviewed by:	RWC
Client Name:	WINTER SITE PLAN	No.	
		Date	
		Description	

RE ROBERT W. ENGEL AND ASSOCIATES, ARCHITECTS
 2110 South 156th Circle
 Omaha, NE 68130-2503
 (402) 330-6287 Fax: (402) 330-6331
 email: renaelrwa@aol.com

BEER GARDEN ADDITION
 FOR ON THE ROCKS
 16910 AUDREY, SUITE 100
 SARPY COUNTY, NEBRASKA

39

Sarpy County Communications Center
Address Search Report by Agency
 LSO, FBF, LBP, FLF, LLP, LPP, FPF, FGF, FSF
 5/1/2008 To 5/7/2009

<u>IR#</u>	<u>Time</u>	<u>Type</u>	<u>Disposition 1</u>	<u>Disposition 2</u>
16901 AUDREY ST		Total of IR#s:		1
SO				
LSO080612024433	4:19 pm	JUVENILE COMPLAINT	GONE ON ARRIVAL	
16919 AUDREY ST		Total of IR#s:		8
GF				
FGF081115000521	4:06 pm	RESCUE CALL	LAKESIDE HOSPITAL	
SO				
LSO080714028653	12:13 pm	911 WRONG NUMBER	NOT NEEDED	
LSO080811032236	2:43 pm	ALARM:BUSINESS	FALSE ALARM	
LSO080823033874	9:44 pm	LOUD NOISE COMPLAINT	REFERRED INTERNALLY	
LSO081030042935	8:54 pm	DUI:ALCOHOL	FIELD INTERVIEW	
LSO081115044911	4:06 pm	ASSIST:FD W/RESCUE	ASSISTED	
LSO081118045264	11:25 am	911 WRONG NUMBER	WRONG NUMBER	
LSO090503018729	12:43 am	ORDINANCE VIOLATION	UNFOUNDED	
16937 AUDREY ST		Total of IR#s:		5
SO				
LSO080517020155	10:57 am	LARCENY/THEFT:HOT	REPORT TAKEN	
LSO080518020308	1:09 pm	FOLLOW UP	NO REPORT	
LSO080721029502	2:33 am	ALARM:BUSINESS	FALSE ALARM	
LSO081002039181	12:58 pm	LOST PROPERTY	NO REPORT	
LSO090412015763	12:40 am	DOMESTIC VIOLENCE	NO REPORT	
16944 AUDREY ST		Total of IR#s:		23
GF				
FGF080911000410	4:10 pm	FIRE ALARMS:SARPY CO	FALSE ALARM	
FGF081010000457	8:01 am	FIRE ALARMS:SARPY CO	FALSE ALARM	
FGF081106000504	3:40 pm	FIRE ALARMS:SARPY CO	FALSE ALARM	
FGF090213000061	8:45 am	FIRE ALARMS:SARPY CO	FALSE ALARM	
FGF090323000118	11:51 am	FIRE ALARMS:SARPY CO	FALSE ALARM	NOT NEEDED
SF				
FSF080911000135	4:13 pm	DUAL RESPONSE FOR FI	DUPLICATE CALL	
FSF080911000136	4:13 pm	DUAL RESPONSE FOR FI	ASSISTED	FALSE ALARM
FSF081010000151	8:02 am	DUAL RESPONSE FOR FI	NOT NEEDED	
FSF081106000166	3:46 pm	DUAL RESPONSE FOR FI	FALSE ALARM	
FSF090323000048	11:53 am	DUAL RESPONSE FOR FI	FALSE ALARM	NOT NEEDED
SO				
LSO080828034467	11:21 am	ARMED PERSON	NO CONTACT	

5/7/2009 3:17:07PM [CAD]

B10

<u>IR#</u>	<u>Time</u>	<u>Type</u>	<u>Disposition 1</u>	<u>Disposition 2</u>
LSO080828034471	12:24 pm	FOLLOW UP	FOLLOW-UP	
LSO080911036402	4:10 pm	ASSIST:FD W/FIRE INC	ASSISTED	
LSO080911036403	4:13 pm	GENERAL BROADCAST FD	DUPLICATE CALL	
LSO080911036404	4:13 pm	GENERAL BROADCAST FD	BROADCAST	
LSO081010040275	8:01 am	ASSIST:FD W/FIRE INC	REFERRED INTERNALLY	
LSO081010040276	8:02 am	GENERAL BROADCAST FD	BROADCAST	
LSO081106043825	3:40 pm	ASSIST:FD W/FIRE INC	ASSISTED	
LSO081106043827	3:46 pm	GENERAL BROADCAST FD	NOT NEEDED	
LSO090101000027	3:26 am	ALARM:BUSINESS	FALSE ALARM	
LSO090213006691	8:45 am	ASSIST:FD W/FIRE INC	FALSE ALARM	
LSO090323012720	11:51 am	ASSIST:FD W/FIRE INC	NOT NEEDED	FALSE ALARM
LSO090323012721	11:53 am	GENERAL BROADCAST FD	BROADCAST	

16969 AUDREY ST

Total of IR#s:

1

SO

LSO090422017168	1:59 am	SUSP ACT/PERSON/VEH	NO REPORT
-----------------	---------	---------------------	-----------

HARRISON VILLAGE I
16919 Audrey St.
Omaha, NE

&

HARRISON VILLAGE III
16944 Audrey St.
Omaha, NE

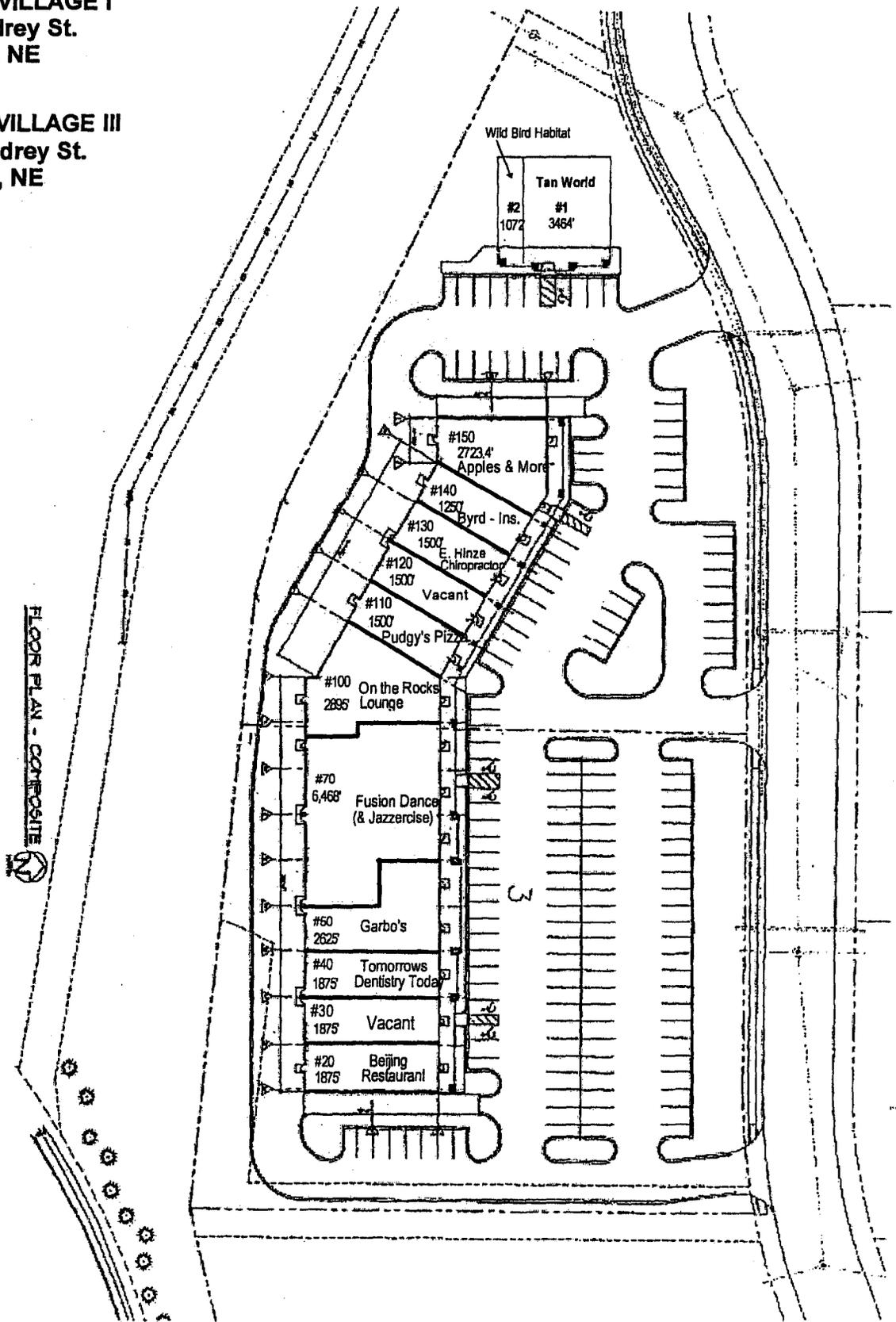


EXHIBIT "A"

Michelle Alfaro

Subject: FW: On the Rocks Special Use Permit

From: Tom Lynam

Sent: Thursday, May 07, 2009 3:18 PM

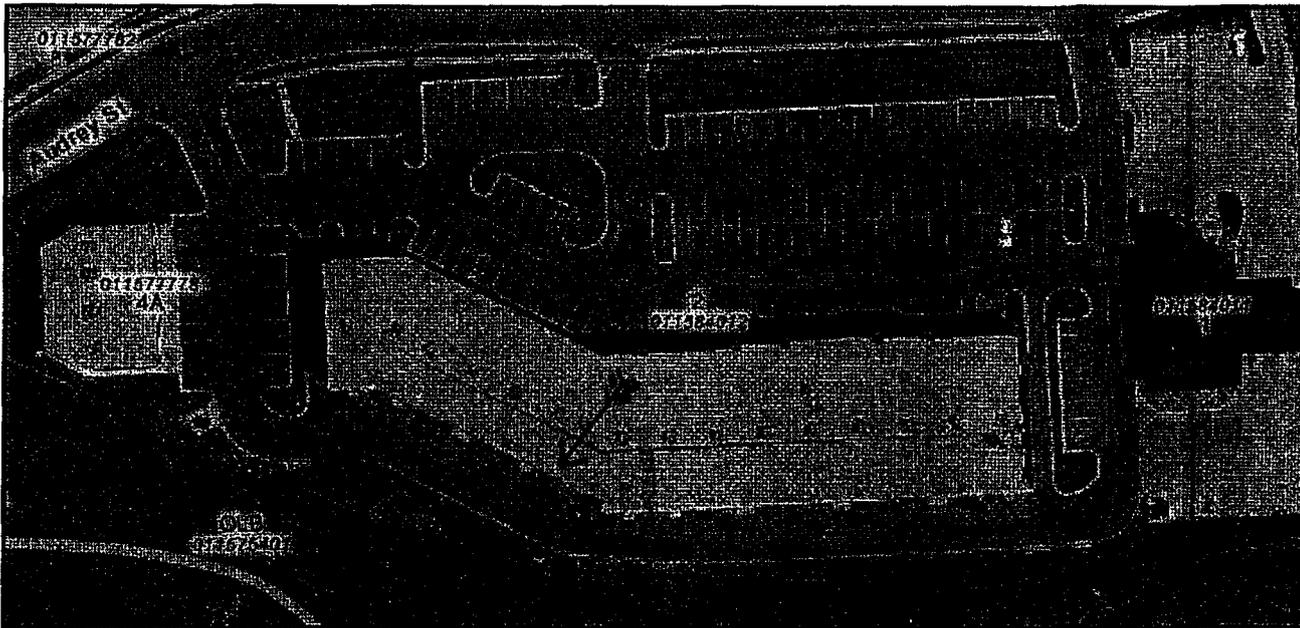
To: Michelle Alfaro

Subject: RE: On the Rocks Special Use Permit

Michelle;

I have no comment on this special use permit.

Tom Lynam

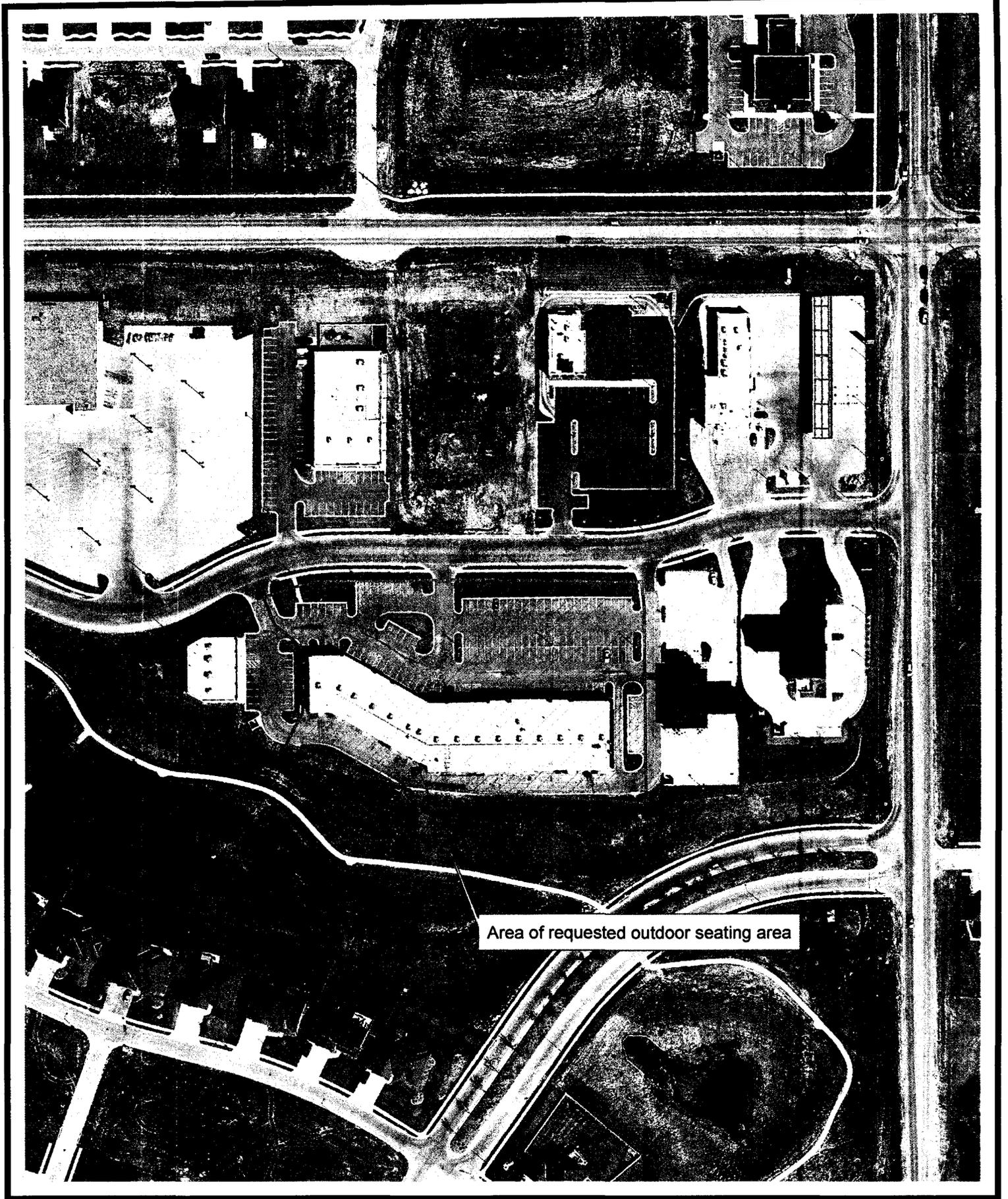


**Sarpy
County,
Nebraska**

**Map Scale
1 inch = 92
feet**

<i>Parcel ID Number</i>	011584012	<i>Neighborhood Code</i>	SC700
<i>Owner Name</i>	HARRISON GROUP LLC	<i>Property Type</i>	COMM
<i>Mailing Address</i>	1941 S 42ND ST	<i>Improvements Value</i>	\$2,079,888
<i>City State</i>	OMAHA NE	<i>Land Value</i>	\$840,112
<i>Zip Code</i>	68105-	<i>Total Value</i>	\$2,920,000
<i>Property Address</i>	16919 VAUDREY ST	<i>Tax District</i>	37041
<i>Legal Description</i>	LOT 2 HARRISON WOODS REPLAT FOUR (2.755 AC)		

Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.



On the Rocks
Special Use Permit for Drinking Establishment



B-15

AFFIDAVIT OF PUBLICATION

State of Nebraska}

ss.

County of Sarpy}

Being duly sworn, upon oath, Shon Barenklau deposes and says that he is the Publisher or Kirk Hoffman deposes and says that he is the Business Manager of the **Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor**, a legal newspaper with a bonafided circulation of 300 copies published in Bellevue, Papillion, Gretna and Springfield, Nebraska; and said newspaper has been published for at least 52 consecutive weeks prior to publication of attached notice: that said publications are of general circulations: that the attached notice was published 1 times on:

Wednesday, May 27, 2009

And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.

Kirk Hoffman

Shon Barenklau
Publisher

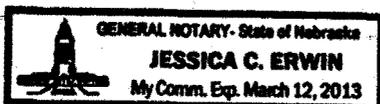
OR *Kirk Hoffman*
Business Manager

Today's Date 05-26-2009

Signed in my presence and sworn to before me:

Jessica C Erwin

Notary Public



Printer's Fee \$ 16.26

Customer Number: 000947

Order Number: 11996270

**SARPY COUNTY
DEPARTMENT OF PLANNING**

Sarpy County Courthouse
1210 Golden Gate Drive
Papillion, Nebraska 68046
Phone (402) 593-1556 - fax (402) 593-1558
Rebecca Horner, Director

**NOTICE OF PUBLIC HEARING
SARPY COUNTY BOARD OF
COMMISSIONERS**

Notice is hereby given that a regular meeting of the Sarpy County Board of Commissioners will be held on Tuesday, June 9, 2009, at 3:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.

GRETNA PUBLIC SCHOOL DISTRICT requests a comprehensive plan amendment located on the following described property to wit: S $\frac{1}{4}$ of the NE $\frac{1}{4}$ and Tax Lot 2 all located in the of Section 29, Township 14 and Range 11 of the 6th P.M. Sarpy County, Nebraska. (North of Highway 370 and west of 180th St).

M. MARTIAN L.L.C. DBA ON THE ROCKS, 16919 Audrey Street, requests a special use permit for a drinking establishment located on the following described property to wit: Lot 2 Harrison Woods Replat 4 located in the NE $\frac{1}{4}$ of Section 16, Township 14, Range 11 of the 6th P.M. Sarpy County, Nebraska. (168th & Audrey Street)
11996270; 5/27

Memorandum

Date: June 9, 2009

To: County Board of Commissioners
Administration
County Attorney
File

From: Rebecca Horner, Planning Director

RE: On the Rocks, Special Use Permit

The applicant requests to allow two six-inch speakers mounted on the south support beams and pointed northeast and northwest toward the building. Attached is the request from the owner of the establishment.

As stated in my report, I support allowing the speakers as described provided that the special use permit is limited to one year so that the County Board may evaluate whether or not the speakers have had a negative impact on the adjacent neighbors. At that time the permit may be approved without a time limitation. Staff believes the request is reasonable and will likely not propose a nuisance issue, however, in the interest of protecting the adjacent neighbors believes evaluating the request after one year is a reasonable alternative. Staff has informed the applicant of the recommendation.

Rebecca Horner

From: Houston, John [JHouston@fsinutrition.com]
Sent: Wednesday, June 03, 2009 2:51 PM
To: Rebecca Horner
Cc: Vic Pelster; bhous10087@aol.com
Subject: On The Rocks - Sound system on the patio

Ms. Horner, I am the liquor license holder and an owner of On The Rock, 168th and Harrison (16919 Audrey) and in discussions with Vic Pelster, he said you had some concerns about the sound system.

Please let me explain it to you.

We will have two six inch Boise speakers that will be mounted on the South support beams and pointed Northeast and Northwest. No direct sound can escape to the South through the four inch thick timbers.

Additionally, the speakers will be pointed at a six foot high redwood fence which will absorb most of the sound. The sound that bounces backward will encounter another six foot high redwood fence.

From what I see, there are less than six houses that we could possibly effect. They are over 100 yards away and there are trees lining the creek between us.

The patio has a solid roof, so no sound could escape that.

The speakers will have their own sound controls.

Our intent is to give our customers a venue to chat and enjoy fine weather (when available in Nebraska). Therefore, we must keep the sound level comfortable for them to talk.

We tested the sound by placing a boom box on the patio, facing the neighbors, turned up much louder than we ever expect to have it, without any redwood to stop any sound and stood where the neighbors would be and the sound was not offensive.

I am completely confidence that we will not be a nuisance to our neighbors.

Please call me if you would like to discuss and we would happy to demonstrate the above to you.

Sincerely,

John W. Houston