

## Mary Miller

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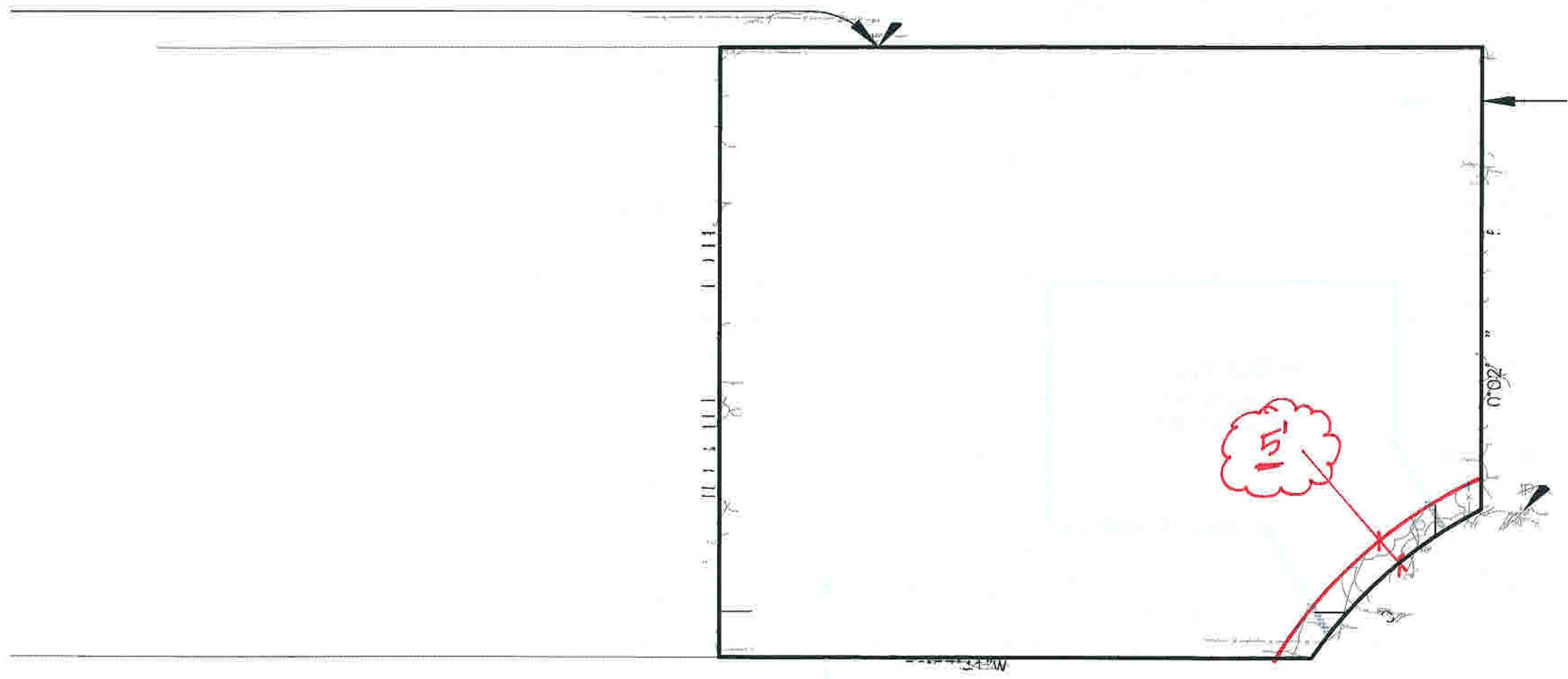
**From:** Paul Werner [paulw@paulwernerarchitects.com]  
**Sent:** Friday, July 17, 2009 10:02 AM  
**To:** Mary Miller  
**Subject:** FW: 5th street..  
**Attachments:** Scan001.pdf

Mary

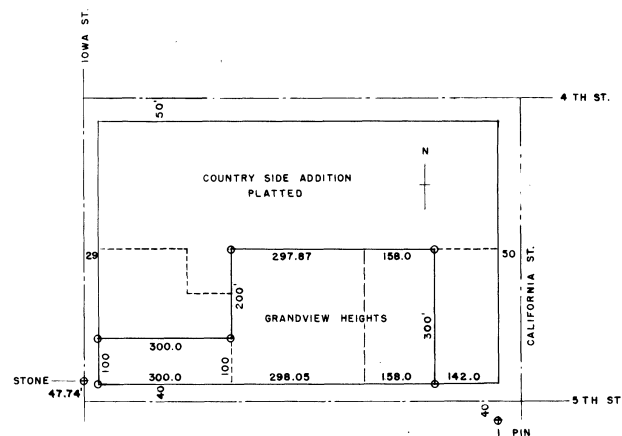
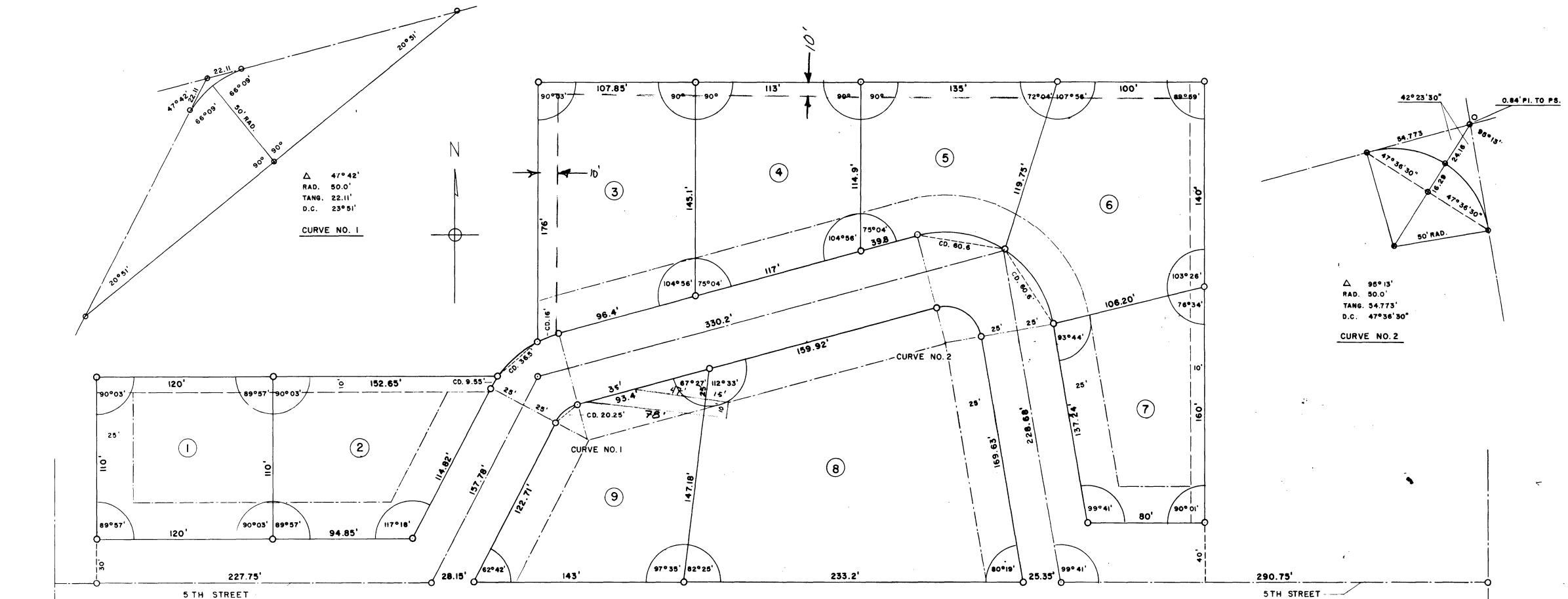
Would you please include this graphic in the packet to the Commissioners. I think they have been furnished another graphic that is completely out of scale. I think it is relevant to keep in perspective what 5' looks like in the scheme of things.

Thanks for your time  
Paul

Paul Werner  
**Paul Werner Architects**  
PO Box 1536  
545 Columbia Drive Suite 1002  
Lawrence, Kansas 66044  
**(785) 832-0804**  
(785) 832-0890 fax



FIFTH STREET



THIS PLAT REPRESENTS A TRACT OF LAND DESCRIBED AS FOLLOWS:

THE WEST 158.0 FEET OF THE SOUTH 1/2 OF THE EAST 1/3 AND THE SOUTH 1/2 OF EAST 1/2 OF THE WEST 2/3 OF BLOCK 29 WEST LAWRENCE, ALSO BEGINNING AT THE SOUTH WEST CORNER OF SAID BLOCK 29 THENCE NORTH 100 FEET THENCE EAST 300 FEET THENCE SOUTH 100 FEET THENCE WEST 300 FEET TO POINT OF BEGINNING.

KNOW ALL MEN BY THESE PRESENTS THAT WE THE UNDERSIGNED, OWNERS OF THE ABOVE DESCRIBED TRACT, HAVE CAUSED THE SAME TO BE SURVEYED, PINNED AND PLATTED UNDER THE NAME OF GRANDVIEW HEIGHTS AND HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS AND PUBLIC STREETS INCLUDED IN AND SHOWN BY THE PLAT AND FULLY DEFINED IN THIS PLAT, AND ARE HEREBY DEDICATED FOR PUBLIC USE AS INDICATED.

THE RIGHT IS RESERVED TO CONSTRUCT AND MAINTAIN UNDERGROUND UTILITIES AND POLES FOR ELECTRIC LIGHTING AND TELEPHONE IN AND ON THE EASEMENT SPACE PROVIDED AS SHOWN ON THIS PLAT.

THE LAND AND LOTS SHOWN ON THIS PLAT SHALL BE HELD AND CONVEYED SUBJECT TO THE RESTRICTIONS, RESERVATIONS AND PROTECTIVE COVENANTS SET FORTH IN A SEPARATE DOCUMENT EXECUTED AND FILED FOR RECORD IN THE OFFICE OF THE REGISTER OF DEEDS OF DOUGLAS COUNTY, KANSAS, WHICH SAID RESTRICTION, RESERVATION, AND PROTECTIVE COVENANTS SHALL BE COVENANTS RUNNING WITH THE LAND AND SHALL BE A PART OF AND A COVENANT IN EACH CONVEYANCE THEREOF.

IN WITNESS WHEREOF, WE THE UNDERSIGNED OWNERS HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AS OF THE 15 DAY OF October 1956.

*Ruby Alexander*  
RUBY ALEXANDER

*Edward E. Alexander*  
EDWARD E. ALEXANDER

STATE OF KANSAS ☒ S.S.  
DOUGLAS COUNTY  
BE IT REMEMBERED THAT ON THIS 15 DAY OF October 1956 BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME EDWARD E. ALEXANDER AND RUBY ALEXANDER, HUSBAND AND WIFE, TO ME PERSONALLY KNOWN TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

MY COMMISSION EXPIRES May 29 1958 *Mary K. Lipton*  
NOTARY PUBLIC

NO  
L  
N  
State of Kansas, Douglas County, ss.  
I, *Harold A. Lick*,  
Notary Public,  
do hereby certify that the foregoing is a true and correct copy of the original instrument filed for record in my office on this 15th day of October 1956.

STATE OF KANSAS ☒ S.S.  
DOUGLAS COUNTY  
THIS IS TO CERTIFY THAT I, L.D. RICE, COUNTY SURVEYOR IN AND FOR SAID COUNTY AND STATE HAVE CHECKED THE PLAT HEREON SHOWN AND I HEREBY APPROVE IT FOR FILING IN THE COUNTY RECORDS.  
DATE *Oct. 15, 1956*  
COUNTY SURVEYOR — L.D. RICE

I HEREBY CERTIFY THAT THE PLATTED AREA AS SHOWN HEREON REPRESENTS ALL BOUNDARIES AND ACCURATELY GIVES ALL LOT DIMENSIONS AS DETERMINED AND MARKED BY FIELD SURVEY.  
DATE *Sept. 17, 1956*  
LICENSED ENGINEER — L.D. RICE

THE PLANNING BOARD OF THE CITY OF LAWRENCE AT ITS MEETING ON THE 16 DAY OF October 1956 HAS EXAMINED THIS PLAT TO BE KNOWN AS GRANDVIEW HEIGHTS AND HAS APPROVED IT FOR FILING IN THE COUNTY RECORDS.  
*E. F. Smallberg*  
CHAIRMAN — E. F. SMALLBERG

THE CITY COMMISSION OF THE CITY OF LAWRENCE AT ITS MEETING ON THE 23 DAY OF October 1956 HAS EXAMINED THIS PLAT TO BE KNOWN AS GRANDVIEW HEIGHTS AND HAS APPROVED IT FOR FILING IN THE COUNTY RECORDS.  
*J. P. Crown*  
MAYOR — J. P. CROWN  
*J. H. Wigglesworth*  
CITY MANAGER — J. H. WIGGLESWORTH

GRANDVIEW HEIGHTS  
— SUB DIVISION —  
LAWRENCE • KANSAS  
SCALE 1" = 40'

GRANDVIEW HEIGHTS

TO: Lawrence City Planning Staff  
Lawrence-Douglas County Planning Commission

FROM: **ALL PROPERTY OWNERS** of Grandview Heights Subdivision  
(includes all Sallie Mae Hill W. 5th St. Residents)

SUBJECT: **Safety Tipping Point Overloaded:**  
"Sight Distance Study" & Proposed Plat  
for "5th Street Bluffs Subdivision"

DATE: April 20, 2009

RECEIVED

APR 20 2009

City County Planning Office  
Lawrence, Kansas

We want to call planners' immediate attention to certain facts that may be unknown to nonresidents of the street and neighborhood directly impacted by the subject proposal. To foster understanding among those unfamiliar with this segment of West 5th Street, here is a common-sense description of what's being proposed at the outset:

**ACCESS IS BEING SOUGHT ALONG A NARROW, RESTRICTING, UNLIGHTED CURVE ON A STEEP, TWISTING, OLDER STREET WITH NO SHOULDERS, OTHER SAFETY MARGINS, OR WIDTH TO PASS. Visualize a short, tight "chicane" with soft ditches, no direct street lighting, and no inviting escape path from any imminent collision.**

**The specific point of proposed access is inherently and especially dangerous for additional reasons including the following:**

- ◆ **Young children** reside in adjacent property on 5th St. They have friends who visit. These children are unacquainted with "sight distance triangles" and may be expected to roam without regard to them. Their safety **must not be compromised**. Nor should that of other children, grandchildren, guest playmates, elderly pedestrians, or bicyclists who may visit or transit this sidewalk-free neighborhood.
- ◆ At present, no existing hillside driveway is closer than 80 feet to the next on the same side of this immediate, sloping section of West 5th St. Slashing that safe distance to under 40 feet at the location of the proposed driveway **would introduce added, near-certain collision probability over time** for drivers exiting the now two, too-close driveways. Further: Transiting traffic arriving westbound from above may not see cars with drivers hesitantly exiting either driveway in time to brake or evade collision. Darkness would increase probability of collision and the considerable likelihood of serious injury. "Sight distance triangles" do not provide nighttime illumination or quicker reaction times.
- ◆ In **severe winter conditions**, this steep hillside street section becomes snow-packed, ice-covered, and **acutely treacherous**. Cars sliding off-road, slipping into ditches and retreating backwards downhill (particularly from the point of proposed



access) have been common occurrences in recent years. Residents' consistent experience has been that this steep street is generally one of the last in its area to be plowed and cleared. "Sight distance triangles" do not provide traction or untangle wreckage.

Further: The existing plat for Grandview Heights omits the subject unplatted parcel entirely from its intended neighborhood planning. No stated intent for access is indicated. Indeed, the block-form "PLATE" appearing lower left on that subdivision plat **EXCLUDES** any access point whatsoever to the subject parcel along 5th Street. This suggests that the **exclusion from 5th Street was quite intentional and made visibly explicit by safety-minded, thoughtful planners of the past.**

It is reasonable to conclude that common-sense considerations prevailed during earlier, historic decisions to exclude the landlocked parcel from hazardous, narrow, alley-like access intruding between broad-frontage lots on 5th Street. Departing from these recorded precedents seems unwarranted, unwise, and manifestly unsafe. **Why diminish or endanger life in Lawrence?**

Please do not allow this proposed dangerous, intrusive access or undesirable plat proposal to proceed toward approval. Thank you for your serious review, your time, and your commitment to preserve and protect.

Jacqueline Schaffer  
1930 W. 5th St.

Georgette Yost  
1924 W. 5th Street

Buffy  
1924 W. 5th

Mrs. Z.P. Jones  
1912 W. 5th

L.B. Radcliffe  
1921 W. 5th

Jack W. Radcliffe  
1921 W. 5th St.

Nancy Hernandez - 2003 W. 5th

Mr. J. Hume - 2003 W. 5th

Nicholas O'Leary  
1930 W. 5th St.

Deborah K. Johnston  
1918 W. 5th Street

Joan Nass  
1918 W. 5th Street

Tom Boxberger  
2002 W. 5th St.

Snuri Boxberger  
2002 W. 5th St.

Mitchell Boxberger  
2002 W. 5th St.

Elyse Boxberger  
2002 W. 5th St.

Louise Smith  
1908 W. 5th St.

- 4/20/09

THE WEST 150.0 FEET OF THE SOUTH 1/2 OF THE  
EAST 1/3 AND THE SOUTH 1/2 OF EAST 1/2  
OF THE WEST 2/3 OF BLOCK 29 WEST LAWRENCE  
ALSO BEGINNING AT THE SOUTH WEST CORNER  
OF SAID BLOCK 29 THENCE NORTH 100 FEET  
THENCE EAST 300 FEET THENCE SOUTH 100 FEET  
THENCE WEST 300 FEET TO POINT OF BEGINNING.



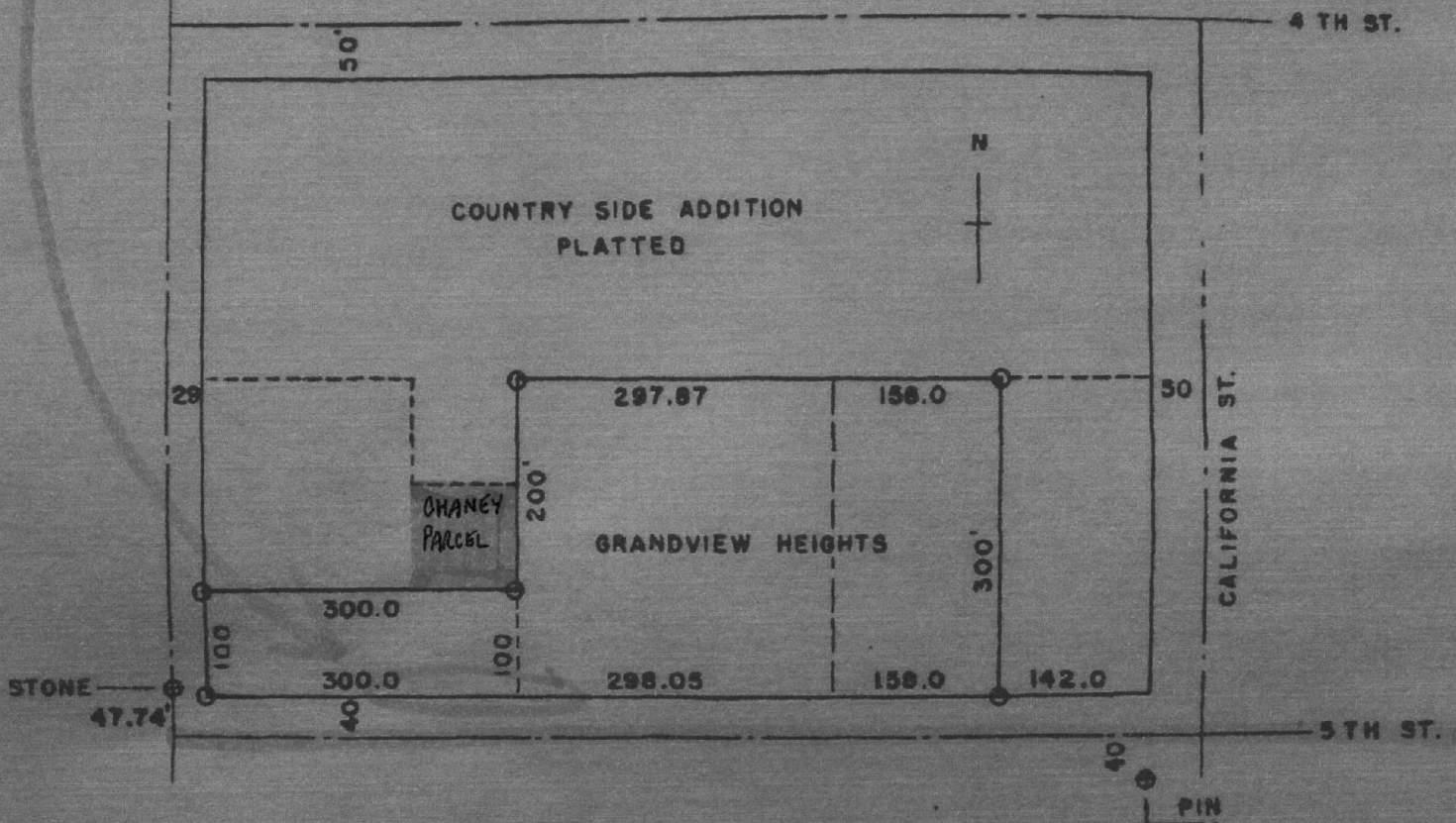
FROM ORIGINAL "GRANDVIEW HEIGHTS" SUBDIVISION PLAT OF RECORD

RE: PROPOSED "5TH STREET

BLUFFS SUBDIVISION"

-4/20/09

# NO 5th St. Frontage



THIS PLATE REPRESENTS A TRACT OF LAND DISCRIBED AS FOLLOWS:

THE WEST 156.0 FEET OF THE SOUTH 1/2 OF THE EAST 1/3 AND THE SOUTH 1/2 OF EAST 1/2 OF THE WEST 2/3 OF BLOCK 29 WEST LAWRENCE ALSO BEGINNING AT THE SOUTH WEST CORNER OF SAID BLOCK 29 THENCE NORTH 100 FEET THENCE EAST 300 FEET THENCE SOUTH 100 FEET THENCE WEST 300 FEET TO POINT OF BEGINNING.



March 31, 2009

Shoeb Uddin  
City of Lawrence, City Hall  
6 E. 6<sup>th</sup> Street  
P.O. Box 708  
Lawrence, Kansas 66044-0708

[suddin@ci.lawrence.ks.us](mailto:suddin@ci.lawrence.ks.us)

**Re: Sight Distance Study for Proposed Driveway  
John Chaney Property on W. 5<sup>th</sup> Street**

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Dear Shoeb:

Per our previous phone conversation, we are submitting a sight distance study for John Chaney. As we discussed, he is proposing to construct a new driveway at his property on W. 5<sup>th</sup> Street in Lawrence, as shown on the enclosed Sight Distance Exhibit.

Taylor Design Group, P.A. (TDG) completed a survey of the area to determine the road centerline profile and the existing topography in the area. The Sight Distance Exhibit contains the calculations and information related to the sight distance triangles for this study, which are based on the applicable AASHTO guidelines.

This study indicates that the controlling sight distance is that of the road profile. The available sight distance left of the driveway is approximately 225', and to the right of the driveway is approximately 160'. The corresponding sight triangles have been shown on the exhibit. Most of the obstacles contained within the sight triangles are trees, which appear to be located within the road right-of-way, although TDG did not verify the right-of-way location in the area as part of this study.

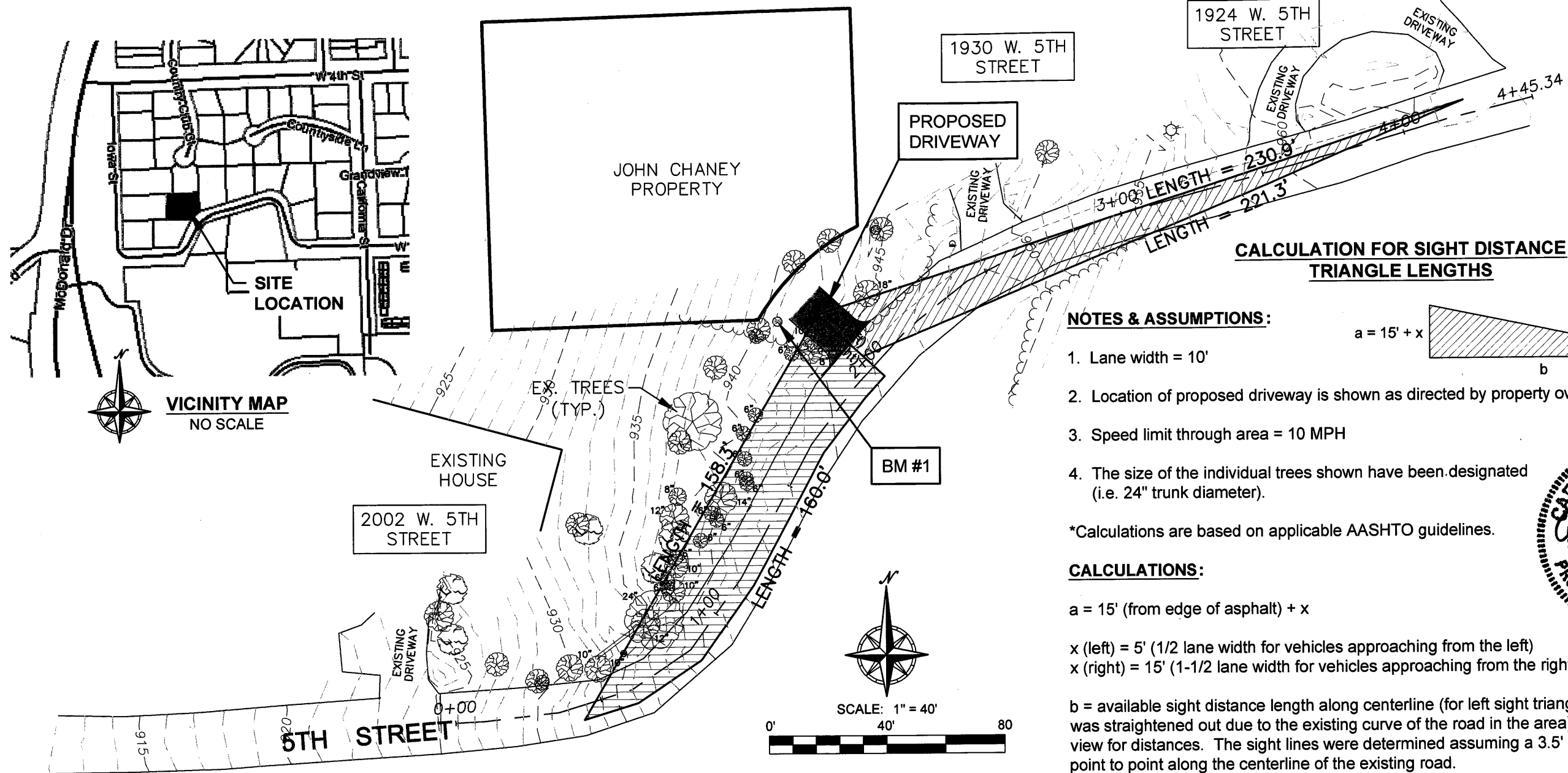
Please review the exhibit, and contact me should there be any questions, or if you need additional information.

Respectfully Submitted,

---

Cara C. Hendricks, P.E.  
Project Manager

pc: John Chaney



### CALCULATION FOR SIGHT DISTANCE TRIANGLE LENGTHS

#### NOTES & ASSUMPTIONS:

1. Lane width = 10'
2. Location of proposed driveway is shown as directed by property owner.
3. Speed limit through area = 10 MPH
4. The size of the individual trees shown have been designated (i.e. 24" trunk diameter).

\*Calculations are based on applicable AASHTO guidelines.

#### CALCULATIONS:

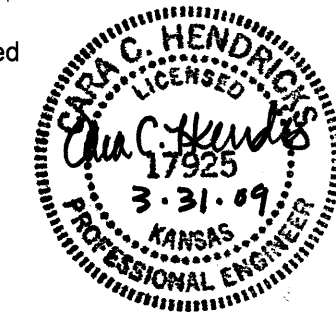
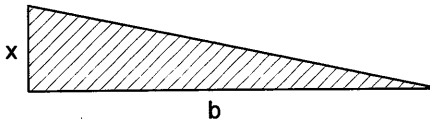
$a = 15'$  (from edge of asphalt) +  $x$

$x$  (left) = 5' (1/2 lane width for vehicles approaching from the left)

$x$  (right) = 15' (1-1/2 lane width for vehicles approaching from the right)

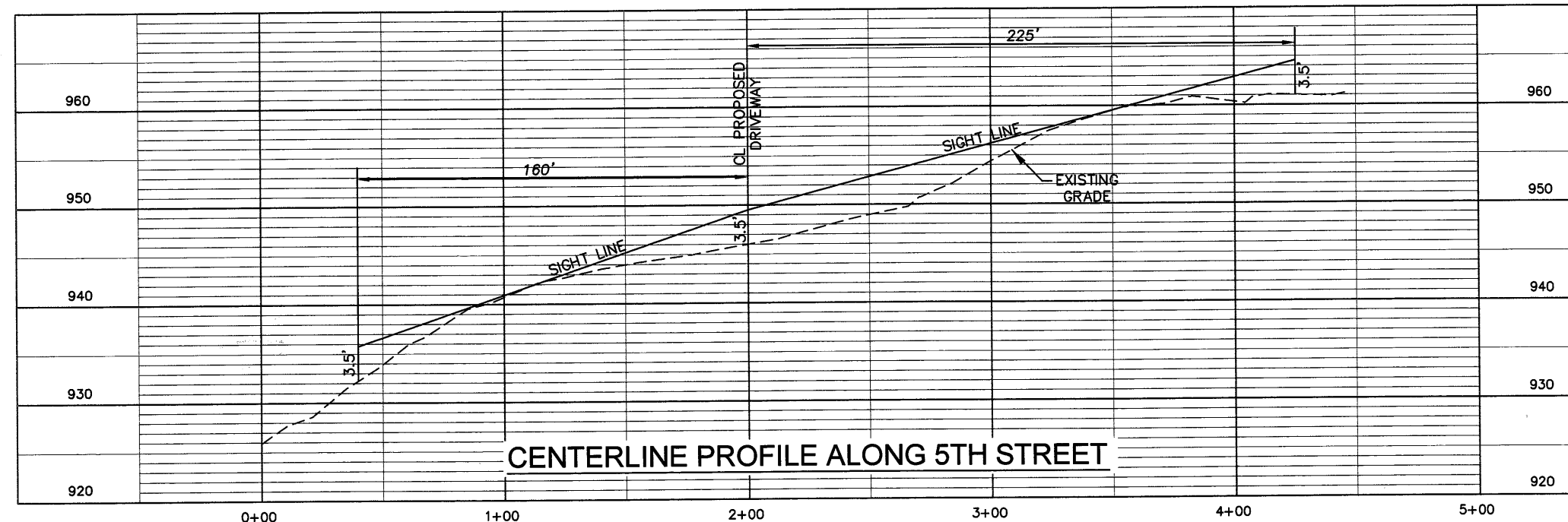
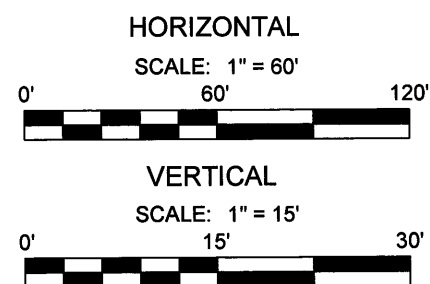
$b$  = available sight distance length along centerline (for left sight triangle, the leg was straightened out due to the existing curve of the road in the area) - see profile view for distances. The sight lines were determined assuming a 3.5' high line from point to point along the centerline of the existing road.

$$a = 15' + x$$



#### BENCHMARK INFORMATION:

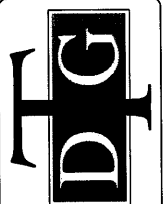
BM #1 - TOP OF MANHOLE RIM  
ELEV. = 941.23



CENTERLINE PROFILE ALONG 5TH STREET

NO.	DATE	REVISIONS:	BY:
A	3/31/09	INITIAL SUBMITTAL	CCH

**SIGHT DISTANCE EXHIBIT**  
JOHN CHANEY PROPERTY  
LAWRENCE, KANSAS



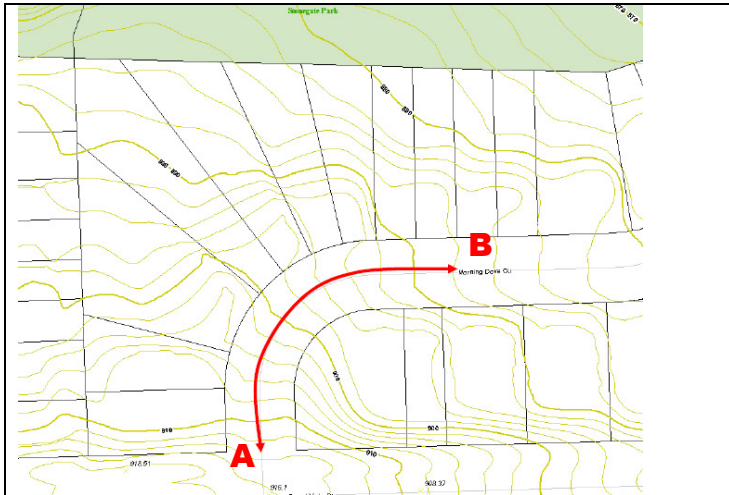
**Taylor Design Group, P.A.**  
Surveyors • Engineers  
1220 East Logan • Ottawa, KS 66067  
785-242-8845 • Fax: 785-242-8852

DRAWN:	CCH
DESIGNED:	CCH
CHECKED:	CAS
DATE:	3/31/09
PROJECT:	17356

SHEET NO. 1  
OF 1 SHEET



## Comparison of slope, design and driveway locations between 5<sup>th</sup> Street and Morning Dove Circle.



**Figure 1.** Elevation change and design of Morning Dove Circle.



**Figure 2.** Driveways along Morning Dove Circle.

### **Morning Dove Circle Point A to B**

Approximately 287 ft distance [run]

Elevation change from 888 ft to 914 ft; 26 ft [rise]

% slope = rise/runx100;  $26 / 287 = .0905 \times 100 = \mathbf{9.05\%}$

Number of driveways: 7 drives; 5 shared and 2 single



**Figure 3.** 5th Street contours and driveways near subject property

**5<sup>th</sup> Street; Point A to B**

Approximately 385 ft distance [run]

Elevation change from 961 ft to 932 ft; 29 ft [rise]

% slope = rise/runx100;  $29 / 385 = .0905 \times 100 = \mathbf{7.5\%}$

Number of driveways: 5 drives: 4 existing and 1 proposed

**Jerry Wells**  
**ATTORNEY-AT-LAW**  
P. O. Box 641  
Lawrence, Kansas 66044  
785-856-3925

RECEIVED

JUN 17 2009

City County Planning Office  
Lawrence, Kansas

June 16, 2009

TO: Mayor Rob Chestnut and the City Commissioners  
The City of Lawrence, Douglas County, Kansas

In re: PP-04-01-08  
A Preliminary Plat for Fifth Street Bluff 0.29 Acres Subdivision  
Consisting of One Lot Located at 427 Country Club Court.

Mayor Chestnut:

This letter will serve as an objection to the dedication of easements and rights-of-way of a 0.29 acre lot located in the Fifth Street Bluff at 427 Country Club Court. The preliminary plat was submitted by JMC Construction, Inc. The objections are from all property owners in the Grandview Heights area, and are all represented by this office. Two of the objecting property owners are adjacent owners, one just north and one just to the south of the 0.29 lot in question. A list of all the objecting owners with their addresses is attached to this letter as "Exhibit A" and incorporated herein.

The objecting property owners object to the approval of the preliminary plat and any and all dedications of easements and right-of-ways appurtenant to the described 0.29 acre lot for the following reasons:

1. Firstly, and most significantly, the exact specifications of the existing right-of-way cannot be verified at this time because of unresolved physical data discrepancies. A preliminary letter from All Points Surveying, L.L.P., a licensed surveyor, confirms this and that letter is attached and incorporated herein as Exhibit "B". The implications of this are significant, including the possibility that until the exact positioning, location, and measurements of the right-of-way are verified, the right-of-way may intrude on the property of two of the property owners adjacent to the property in question. This is a threshold issue regarding the application for dedication of a right-of-way.

The Planning Department's suggested fix for the inadequate frontage is to dedicate a right-of-way, which moves the frontage of the lot up the triangular lot



until 40' of frontage is reached. This flies in the face of the Code's definition of frontage, which is found at Sec. 20-815. "The boundary of a lot or Residential Development Parcel that abuts a street or a road." Words in the Code have the standard dictionary definition unless they are defined in Sec. 20-815, i.e., frontage. The "frontage" definition dictates that the frontage is that boundary of the property in question that "abuts" a street or road. Webster's dictionary definition of "abut" is "to touch along a border or to border on". In short, the frontage of the lot must touch 5<sup>th</sup> street. To move the frontage by using a right-of-way to meet the frontage 40' requirement is totally inconsistent with the definition of frontage in the Code. See overview attached and incorporated herein as "Exhibit C". Moreover, the use of a right-of-way to accommodate frontage requirements is simply a misuse of a right-of-way.

2. Selecting out a single property for dedication of additional right-of-way thwarts the purpose of a right-of-way, which is public travel, not as a device to save the developer from his lack of due diligence in determining the frontage specifications. Two existing plats indicate the frontage of the lot in question to be either 36 or 38 feet, far short of the required 40 feet required frontage. Rules of Construction of The Code would dictate the most restrictive 40' requirement. See RS10.20-601(a). The Developer is required to provide the Planning Director with accurate data, which he clearly has not done. 20-802(f)(g).
3. The purpose and intent of the subdivision regulations are to contribute to conditions conducive to health, safety, aesthetics, prosperity and convenience, 20-801(1)(ii), and, to provide for the conservation and protection of human and natural resources, 20-801(1)(iii), and, finally, to provide for the conservation of existing neighborhoods... 20-801(2)(ii). [Emphasis supplied.] The objecting landowners submit that the developer has generally ignored these purposes by destroying a number of mature canopy trees on the property in question. This particular area of the city is well known for its dense mature trees lending a tranquil character to the aesthetics of the area. Moreover, the Code emphasizes, if not dictates, canopy trees to abut the streets. 20-811(g). The haphazard destruction of the canopy trees may in fact cause substantial drainage problems to the down-stream neighbors.
4. The developer has inflicted substantial potential safety problems for the neighboring users of 5<sup>th</sup> street which fronts the lot in question. The developer plans a driveway at the frontage line of the lot, which would place a significant additional hazard by automobiles entering and exiting this proposed driveway. This lot lies at the base of a blind hill with a steep grade and an uncurbed street. It is an additional example of the lack of planning by this developer. The developer purchased this property with a natural north-side exit on 427 Country Club Court. With just a little vision, an aesthetically pleasing and much safer design could have been utilized by facilitating a joint-use driveway for both lots at the Country Club Court location.

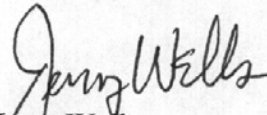
5. The developer's march through the platting process underscores the apparent disregard for Grandview Heights' unique character, terrain and environment and for the stated purposes of the Code.

The objecting property owners understand the lure of in fill development as a goal of this Commission, but they do not understand why the unique character of their neighborhood should be sacrificed on that alter to accommodate a developer who systematically ignored good planning, vision and the stated purposes of the subdivision regulations.

In summary, the objecting property owners would emphasize two crucial points:

- Until the exact measurements of the property in question are verified, this process cannot move forward. It is the threshold issue.
- The use of a right-of-way to accommodate a 40' frontage is a misuse of a right-of-way. Again, the primary purpose of a road right-of-way is for public travel. A right-of-way is the land dedicated to the State, County or City for travel by the general public. *Kansas University Transportation Center Right-of-Way Guide*, 2007.

Very truly yours,

  
Jerry Wells

JW:rw  
Attachments

Grandview Heights Homeowners Opposed to "5th St. Bluff Subdivision"  
& Any Related "Dedication of Additional Right of Way"

Jacqueline Schafer,  
1930 W. 5th St.

Tom Boxberger,  
2002 W. 5th St.

Sheri Boxberger,  
2002 W. 5th St.

Mrs. H.P. Jones,  
1912 W. 5th St.

Barton Yost,  
1924 W. 5th St.

Georgette Yost,  
1924 W. 5th St.

Dean Radcliffe,  
1921 W. 5th St.

Sue B. Radcliffe,  
1921 W. 5th St.

Richard Hernandez,  
2008 W. 5th St.

Nancy M. Hernandez,  
2008 W. 5th St.

Deborah K. Johnston,  
1918 W. 5th St.

Joett Hass,  
1918 W. 5th St.

Lance Antle,  
1908 W. 5th St.





# ALL POINTS SURVEYING, LLP

P.O. Box 4444 Lawrence, KS 66046 • 785-832-2121P • 785-832-2122F

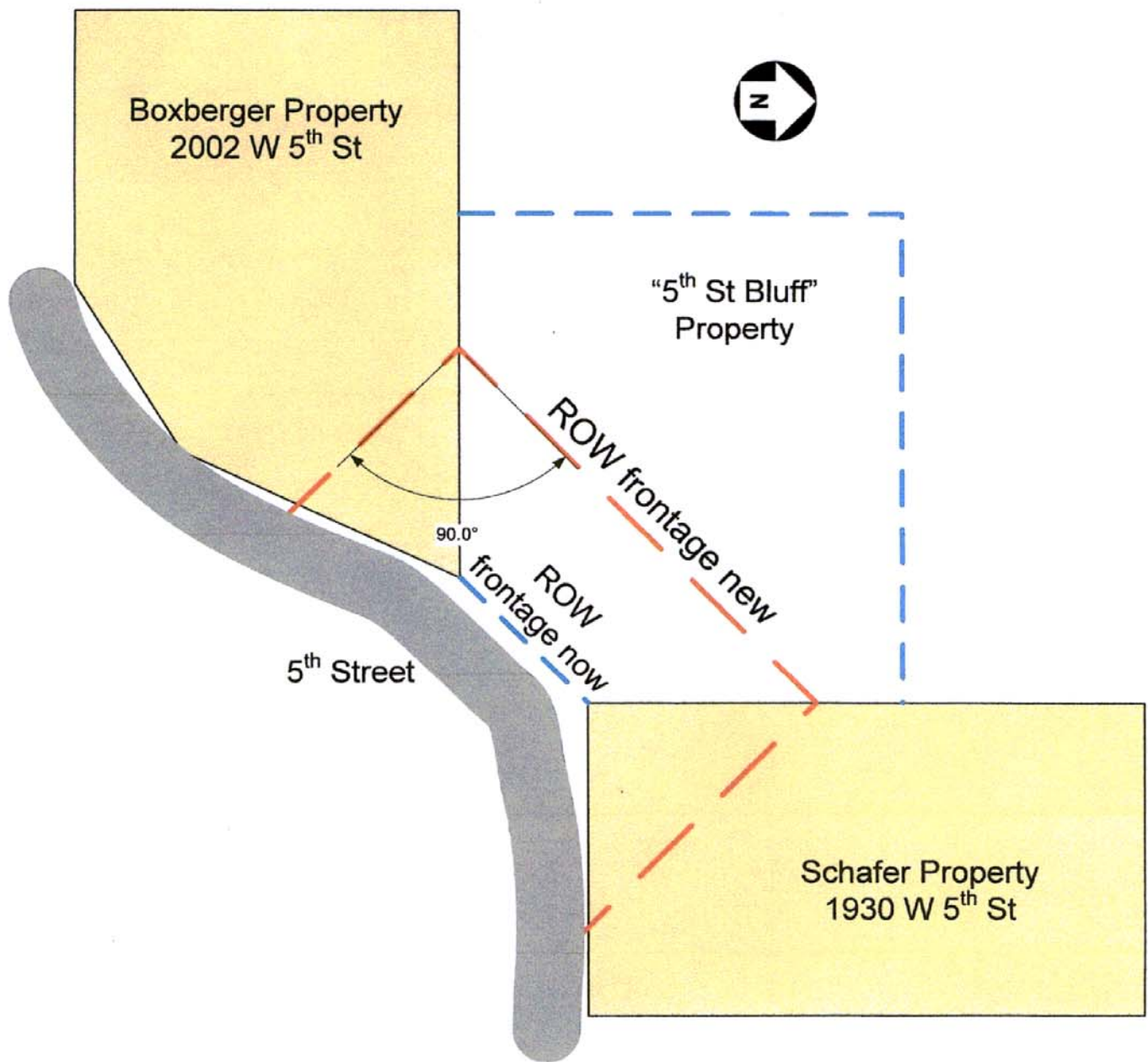
June 12, 2009

To Whom It May Concern:

As of today's date, there is not sufficient physical evidence of the boundary of the proposed "Fifth Street Bluff Subdivision" plat to accurately determine the relationship of the proposed street right of way to the paved portion of Fifth Street that the proposed plat gains access from.

A handwritten signature in black ink, appearing to read "Steven D. Williams". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steven D. Williams, PLS 1391  
All Points Surveying, LLP



**Jerry Wells**  
**ATTORNEY-AT-LAW**  
P. O. Box 641  
Lawrence, Kansas 66044  
785-856-3925

**RECEIVED**

JUN 17 2009

City County Planning Office  
Lawrence, Kansas

June 17, 2009

TO: Mayor Rob Chestnut and the City Commissioners  
The City of Lawrence, Douglas County, Kansas

In re: **ADDENDUM** to Original Letter Dated June 16, 2009 re Objection to  
Dedication

PP-04-01-08

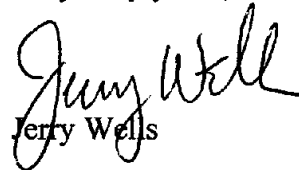
A Preliminary Plat for Fifth Street Bluff 0.29 Acres Subdivision  
Consisting of One Lot Located at 427 Country Club Court.

Mayor Chestnut:

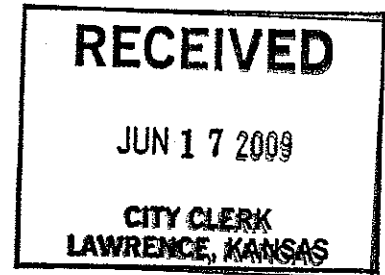
This is an Amendment to the original letter dated June 16th, 2009, wherein the adjoining property owners object to the proposed plat and dedication of a ROW concerning 427 Country Club Court. The property owners further object to the proposed plat and dedication of a ROW on the lot in question because it is in violation of the subdivision design standards set forth in Section 20-810 sub. (8) of the Regulations.

As a matter of clarification, the first paragraph of the June 16th letter describes the Schafer property as being north of the lot in question. It is actually more east than north of that property.

Very truly yours,

  
Jerry Wells

JW:rw



TO: Lawrence City Commissioners  
RE: Dedication of Added Right-of-Way  
for ""5th Street Bluff""  
DATE: June 17, 2009

We write to underscore the elevated, outright physical danger that would be created on W. 5th St. as one consequence of this proposed ROW dedication. The City's acceptance of the added right-of-way would approve the path for a deathtrap driveway on an inherently hazardous curve.

In various communications with City planners, we have detailed the physical hazards attendant to this "5th Street Bluff" project. Neighborhood concerns have been swept aside as this project has been rushed to the dedication decision point before you.

It is our earnest hope that each Commissioner will pay an advance visit to the W. 5th St. site, minutes away from City Hall. Stand in the street at the curve and imagine it under ice-covered, foggy, drenching rain, or nighttime conditions. Would you feel safe in a car, on a motorcycle, riding a bicycle, or afoot? Backing uphill out of a driveway onto the street? Approaching another vehicle?

We adamantly object to the proposed dedication of added right-of-way, to the disregard of conventional frontage standards, and to any other measures that may be employed to authorize creation of a driveway at this location.

Further: Given our repeated cautions and pleas to the City, we believe that any accident, injury, or death occurring in the vicinity of such a driveway would be a predictable, direct consequence of accepting this added right-of-way. Surely, our Commissioners do not wish to expose the City to any related allegations of gross negligence or willful disregard of human life that such an outcome could generate.

Respectfully submitted,

Chris Caldwell and  
Jacqueline Schafer, 1930 West 5th St.,  
on behalf of all objecting  
Grandview Heights homeowners

Planning  
Waiver

I need to apply for a waiver, curb cut is approximate 38.75 feet need to be 40 feet.  
Would like this to be submitted , at the time of the preliminary plat.

Thank You

John M. Chaney



**Mary Miller**

---

**From:** Paul Werner [paulw@paulwernerarchitects.com]  
**Sent:** Thursday, July 09, 2009 4:12 PM  
**To:** Mary Miller  
**Cc:** jmchomesinc@sbcglobal.net; Scott McCullough  
**Subject:** RE: 5th street..  
**Follow Up Flag:** Follow up  
**Due By:** Thursday, July 09, 2009 4:45 PM  
**Flag Status:** Red

Mary,

Please accept this as our formal request for 2 variances from the subdivision regulations on behalf of my client for the 5<sup>th</sup> street subdivision.

We are requesting a variance for the right-of way and for the lot frontage as required in the development code.

Strict application of these regulations will create an undue hardship on my client since he will not be allowed to build a house on a lot which could conform to the regulations. As you are aware my client was pleased to dedicate the right-of way as required by the subdivision regulation - - this dedication in turn would have provided a lot with the required frontage of 40'. If the city feels it is a better process to grant two variances in order to allow this property to re-platted my client will accept this decision, as long as the variances are in fact granted.

The proposed variances can be supported due to the existing conditions in this area in regards to the right-of-way. While we would not have chosen to seek these variances, with the comments and requests of the city commission to proceed in this manner, we can certainly support their reasoning. The width of 40' is actually somewhat arbitrary as to an actual required width of a lot in order to provide access. Obviously a lot does not need 40' to provide access.. so granting of a variance in this case of 2.5' from the required 40' seems to be in harmony with the required development code. The fact that IF the city actually accepted the required right of way dedication that the lot would be wider than 40' shows that this variance actually has no impact on the allowed improvements and therefore should be granted.

The granting of the variances does not change the physical improvements to the lot, therefore the health safety and welfare of the public is protected. The variance do not create a situation in which a re-platted lot is being created which is different than what it would be IF the city did in fact accept the right of way dedication.

Thanks for your time. We look forward to discussing this matter with you and look forward to your positive recommendation.

Let me know if you have any other questions or concerns.

Thanks  
Paul

7/10/2009

Paul Werner  
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**From:** Mary Miller [mailto:mmiller@ci.lawrence.ks.us]  
**Sent:** Tuesday, July 07, 2009 12:46 PM  
**To:** Paul Werner  
**Cc:** jmchomesinc@sbcglobal.net  
**Subject:** RE: 5th street..

Paul,  
The legal description of the property refers to a block in West Lawrence, although I don't find a corresponding plat. This property was at one time joined with the platted lot to the north, but was not platted with it (just joined through ownership).

We have also been discussing this item, to determine the correct process for the variance requests. Typically, when a property owner requests a variance or variances, they provide Planning with a written request stating why the variance is necessary and stating how the variance complies with the 3 criteria listed in Section 20-813(g)(2) of the Subdivision Regulations. In this case, the City Commission refused to accept the dedication of right-of-way and directed the applicant to return to the Planning Commission to request the variance from the frontage requirement and from the required road right-of-way. The variances would be from Section 20-810(a)(2)(i) of the Sub Regs (which requires lots to be created in compliance with the zoning district regulations) and Section 20-810(d)(4)(i) of the Sub Regs (which requires 60 ft of right-of-way for a local street).

In order to process this request correctly, please provide a written request for both variances which includes the reason why the variances are necessary

In addition please discuss how the following 3 criteria (Section 20-813(g)(2) of the Sub Regs) apply to each requested variance:

1. Strict application of these regulations will create an unnecessary hardship upon the Subdivider
2. The proposed variance is in harmony with the intended purpose of these regulations; and,
3. The public, health, safety and welfare will be protected.

Please provide your written request and discussion of the variances by Friday, June 10<sup>th</sup>. I will include your information in the staff memo and will provide staff's analysis as well.

Please feel free to contact me if you have any questions.

Thanks,  
Mary

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