

**PLANNING COMMISSION REPORT
REGULAR AGENDA -- PUBLIC HEARING ON VARIANCE REQUEST ONLY**

PC Staff Report
12/14/09

ITEM NO. 1B: PRELIMINARY PLAT FOR MERCATO; 29 ACRES; NE CORNER OF K-10 & W 6TH (MKM)

PP-10-05-09: Consider a four lot commercial and residential office Preliminary Plat on approximately 29 acres and variance to permit block length of greater than 800 ft for the Mercato project located at the NE corner of K-10 & West 6th Street (Hwy 40). Submitted by JDS Kansas, L.C.; Kentucky Place, L.C.; Tanglewood, L.C.; Oread, L.C.; Hanover Place, L.C.; Venture Properties, Inc.; TAT Land Holding Company, L.C.; Scotsdale Properties, L.C.; Sojac Land Company, L.C; K-10/40 Development, L.C., property owners of record.

STAFF RECOMMENDATION: Staff recommends approval of the variance from Section 20-810(c)(2) of the Subdivision Regulations to permit a block length of greater than 800 feet.

STAFF RECOMMENDATION: If found appropriate by the Planning Commission, Staff recommends approving the plat as a means to present the policy issues related to accessing 6th Street, as discussed in this report, to the City Commission for their consideration.

If approved, the following conditions should accompany the plat.

- 1) The preliminary plat shall be revised as follows:
 - a. The dimension of the western width of right-of-way for Overland Drive shall be noted on the plat.
 - b. The plat shall be revised to clearly identify the Southern Star easement which is being proposed for vacation.
 - c. The plat shall show the relocation of the Southern Star gas line to the south rather than extending through the easement which is to be vacated.
 - d. The extension of the Southern Star gas line off-site to tie into the existing gas line to the southeast must be approved by Southern Star.
- 2) Prior to recording the final plat, the applicant shall provide the Planning Office with documentation that right-of-way for Renaissance Drive is available prior to final approval of the plat.
- 3) Prior to recording the final plat, the applicant shall provide the Planning Office with documentation that Southern Star approves the relocation of the gas line and easement between Lots 1 and 2 of Block Two and the relocation of the off-site gas line to tie into the existing line.
- 4) Prior to recording the final plat, the applicant shall provide the Planning Office with documentation that Southern Star approves the design of Renaissance Drive in relation to the gas line location.
- 5) Prior to recording the final plat for the remainder of the Mercato Development (PF-03-04-07), the applicant shall revise the previously approved preliminary plat (PP-01-02-

06) and final plat (PF-03-04-07) to reflect the changes approved with this preliminary plat.

- 6) Prior to recording the final plat, the applicant shall gain approval of an access permit from the Kansas Department of Transportation to access W. 6th Street (Hwy 40).
- 7) The preliminary plat shall be valid only upon approval of revisions to Section 16-1201 of the City Code by the City Commission.
- 8) Prior to recording the final plat, the rezoning request [Z-10-17-09] from UR (RMO pending) to CC400 District shall be adopted and published.

Applicant's Reason for Request: To revise the previously approved preliminary plat.

KEY POINTS

- The proposed access onto W 6th Street requires written approval from the Kansas Department of Transportation and KDOT has provided comment that a permit will not be granted for this request based on prior agreements with the City to restrict access to W. 6th St.
- Section 16-1201 of the City Code restricts access along W. 6th Street at this location and would arguably need to be amended for the plat to comply with City Code. A variance from this code section can not be considered by the Planning Commission.
- Renaissance Drive is proposed within KDOT right-of-way. This location will require KDOT approval or the right-of-way must be transferred to the city.
- The Mercato Development has been approved under the 1966 Subdivision Regulations; however, this plat is being considered under the current subdivision regulations. Portions of the development which are not included in this preliminary plat and associated rezoning remain subject to the 1966 Subdivision Regulations.

SUBDIVISION CITATIONS TO CONSIDER

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.
- Section 20-810(c)(2)(i) limits block lengths on local streets to 800 feet. A variance has been requested from this regulation.

ASSOCIATED CASES/OTHER ACTION REQUIRED

Platting

- City Commission acceptance of rights-of-way and easements as shown on the preliminary plat.
- Prior to their development, the following approved items for the Mercato Development shall be revised to reflect the changes which are approved with this revised plat: Mercato Addition Preliminary Plat (PP-01-02-06), Mercato Addition 2nd Plat Final Plat (PF-03-04-07), and the Mercato PCD Preliminary Development Plan (PDP-08-08-06).
- Public improvement plans shall be submitted for approval prior to the recording of the final plat.
- Submittal, administrative approval, and recording of final plat at the Register of Deeds.
- KDOT written approval of proposed access on W 6th Street and provision of an access permit.
- KDOT approval of construction of Renaissance Drive in KDOT right-of-way or transfer of KDOT right-of-way to City.

Rezoning

- Rezoning request [Z-10-17-09] from UR (RMO pending) to CC400 District; submitted concurrent with the preliminary plat and also being considered at the December Planning Commission meeting.
- City Commission approval of rezoning and adoption of ordinance.
- Publication of rezoning ordinance.

Development

Site Planning required prior to development of subject property - administrative review.

PLANS AND STUDIES REQUIRED

- *Traffic Impact Study (TIS)* – A revised TIS was provided to the Planning Office on Dec. 4th, 2009 and is under review. Initial discussion with the City Engineer indicates that the TIS will be accepted. The City Engineer plans on attending the Planning Commission meeting.
- *Downstream Sanitary Sewer Analysis (DSSA)* – A Downstream Sanitary Sewer Analysis was provided with the former Mercato preliminary plat and the City Utility Engineer indicated that an additional DSSA is not required.
- *Drainage Study* – A drainage study was provided with the former Mercato preliminary plat. The City Stormwater Engineer indicated that an additional study was not required.
- *Retail Market Study* – Submitted and accepted with the rezoning request.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

ATTACHMENTS WITH THIS STAFF REPORT:

Attachment A: Revised Traffic Impact Study

Attachment B: *W 6th Street Access Management Plan*

Subdivision Summary

Gross Area	1,258,230 sq ft	(28.885 acres)
Number of Lots	4	
Number of Tracts	1	
Minimum Lot Area:	48,376 sq ft	(1.113 acres)
Maximum Lot Area:	919,834 sq ft	(21.116 acres)

GENERAL INFORMATION

Current Zoning and Land Use: UR (Urban Reserve) District with rezoning to the RMO (Multi-Dwelling Residential-Office) District pending recording of the final plat. A rezoning request has been submitted concurrently with this plat to rezone approximately 24 acres of the UR District (RMO pending) to the CC400 Zoning District; undeveloped land.

Surrounding Zoning and Land Use: To the west and north: A (County-Agricultural) District with small portion, approximately 7 acres, B-1 (County-Neighborhood Business) District; undeveloped land within the unincorporated portions of the county.

To the south: UR (Urban Reserve) District; undeveloped land.

To the east: RM12 (Multi-Dwelling Residential) RM12D (Multi-Dwelling Residential-Duplex); and UR (Urban Reserve) Districts; all undeveloped land.

STAFF REVIEW

BACKGROUND

Rezoning has been approved for the Mercato development for residential, residential/office, office and commercial uses pending the recording of a final plat. A preliminary plat for the development has been approved, as well as final plats; however, the approvals for the final plats have been extended to allow time for the conditions of approval to be met. As the final plats have not yet been recorded, the approved rezonings are pending. A preliminary development plan has been approved for the portion of the property with rezoning to the PCD[Mercato] District pending.

The property is located in the northeast corner of the intersection of W 6th Street and the K-10 Bypass. A rezoning for the subject property to the R0-1A Zoning District [Z-03-06-06] was approved by the City Commission in May of 2006, pending the recording of a final plat. The Planning Commission approved a preliminary plat [PP-01-02-06] for this development in April of 2006. The City Commission approved the final plat for Mercato Addition 2 [PF-03-04-07] in May of 2007. In March of 2009, the City Commission approved a 3 year extension for the approval of this final plat. The following table summarizes the development applications and approvals associated with this project to date:

Application	File No.	Date Approved		Area (app.)
Rezoning	Z-01-10-05	May 9, 2006	A to RS-2 → RS7 (Dev. Code)	25.82 acres
	Z-01-11-05	May 9, 2006	A to RM-D → RM12D (Dev. Code)	7.63 acres
	Z-01-12-05	May 9, 2006	A to RM-2 → RM24 (Dev. Code)	12.77 acres
	Z-03-05-06	May 9, 2006	A to PCD-2 → PCD[Mercato](Dev. Code)	45.31 acres
	Z-03-06-06	May 9, 2006	A to RO-1A → RMO (Dev. Code)	31.12 acres
	<i>(currently all zoned UR-with new zoning pending recording of final plat)</i>			
Plats	PP-01-02-06	April 27, 2006	75 single-dwelling lots (RS7); 18 duplex lots (RM12D); 1 multi-dwelling lot (RM24); 6 residence/office lots (RMO); 9 commercial lots (PCD[Mercato])	122.65 acres 25.82 acres 7.63 acres 12.77 acres 31.12 acres 45.31 acres
	PF-06-15-06	April 17, 2007	Mercato Addition First Plat Extension granted to 4/17/12 18 duplex lots (RM12D); 75 single-dwelling lots (RS7); 1 multi-dwelling lot (RM24)	49.665 acres
	PF-03-04-07	May 15, 2007	Mercato Addition 2 nd Plat Extension granted to 5/15/12 6 residence/office lots (RMO); 10 commercial lots (PCD[Mercato])	72.657 acres
	<i>It will be necessary to revise the preliminary plat and the final plat for the Mercato Addition 2nd Plat to reflect any changes.</i>			
Development Plans	PDP-08-08-06	April 17, 2007	Mercato Planned Commercial 10 lots	45.31 acres

APPLICATION SUMMARY

This preliminary plat (PP-10-05-09) proposes to revise a portion of the approved preliminary plat for the Mercato Subdivision. The revised preliminary plat was submitted concurrently with a rezoning request to rezone approximately 24 acres from UR (RMO pending) to the CC400 District. This plat proposes to reconfigure the 4 lots located between the proposed planned commercial development and the K-10 Bypass into one lot. The plat also proposes a right-in / right-out access onto W 6th Street and a reconfiguration of lot lines (Lots 6 and 7 of Block Four of the approved Preliminary Plat) to provide right-of-way for Mercato Lane, the proposed access onto W 6th Street. Figure 1 illustrates the changes which are being proposed with this revised plat.

Zoning and Land Use

The land is currently zoned UR (Urban Reserve) with RMO (Multi-Dwelling Residential-Office) zoning pending the recording of a final plat. A rezoning request was submitted concurrent with this preliminary plat to rezone this property from UR to CC400 (Community Commercial) District. The subject property is currently undeveloped.

Streets and Access

The approved preliminary plat for the Mercato Development, Figure 2, contains an internal drive between the Planned Commercial section of the development and the Residential-Office, Mercato Drive. Access into the site was taken by Mercato Way and Overland Drive off of

George Williams Way. Mercato Drive parallels the lots adjacent to George Williams Way and W 6th Street and provided access to these lots, as access to W 6th Street was restricted. The revised plat proposes an access point onto W 6th Street, and the elimination of the portion of Mercato Drive between the commercial and residential-office portions (north/south portion) as this area would now be zoned for commercial use and access would occur internally. Mercato Drive would continue to the west where it would convert to Renaissance Drive and follow the alignment of the present frontage road to the north. These changes are illustrated in Figure 1.

Access on W 6th Street/Highway 40 is controlled by the W 6th Street Access Management Plan, purchased access control along the corridor, and Section 16-1201 of the City Code outlining access restrictions on W 6th Street. A copy of the Access Management Plan and City Code section are included as attachments.

The W 6th Street Access Management Plan was based, in part, on recommendations in the Northwest Area Plan. One goal listed in the Northwest Area Plan was to *'promote W 6th as a four to five lane arterial with few crossing intersections.'* A purpose of the KDOT Corridor Management Policy (page 7 of the Access Management Plan), is *"...to obtain reasonable access to abutting properties, while maintaining safety and efficiency in the movement of people and goods in the State Highway System."*

The plan identified 4 different access scenarios and the impacts anticipated from each in the following table, (Table 2, page 13; Access Management Plan):

TABLE 2						
Alternative Decision Matrix						
Access Scenario		W 6th St. Combined Delay (Veh-hours)	Number of System Signals	Width of W 6th Street (feet)	Width of Overland Drive (feet)	Minimum Intersection Level of Service
1	¾ Mile Spacing	64	6	86	86	C
2	½ Mile Spacing	65	8	74	74	C
3	¼ Mile Spacing	117	9	74	40	D*
4	¼ Mile Spacing with 1/8 Mile Right Turns	105	9	98	40	D*
* Intersection of Wakarusa & West 6 th Street only; All others LOS C or Better						

The Access Management Plan provided the following conclusions:

- "The results of the fourth scenario would be very similar to the results of the third scenario as to vehicle delay, level of service, and roadway template on Overland Drive. However, because West 6th Street will be a high speed roadway, it would be important to provide auxiliary lanes for right turning traffic to accelerate and to decelerate for those movements, out of the through traffic stream on West 6th Street. This would require a dedicated right turn lane along the full length of West 6th Street, thus creating a seven-lane road section instead of a five-lane section."*

- *“The results of the comparison indicate that the quarter mile spacing provides adequate level of service while minimizing the width of the roadway templates needed. The quarter mile access scenario is recommended as the overall alternative to most cost effectively meet the needs of the corridor.”*

From these conclusions, it appears that a right-in / right-out access may be acceptable for this development if the applicant, at their cost, constructs an acceleration and deceleration lane on W 6th Street.

KDOT has stated in discussions that their records show that they had concerns with the W 6th Street Access Management Plan at the time of its completion and disagrees with the city's conclusions that a right-in / right-out at the proposed location would not harm the corridor. It should be noted that KDOT/City agreements have referenced the plan as a controlling document for reviewing access requests along the corridor. KDOT has firmly stated that while the street is under the authority of KDOT an access permit will not be granted for access to W 6th Street at this location and they have purchased a property interest in the access to insure this. Staff recognizes that negotiations with KDOT will need to occur for them to consider the request and has been discussing the local economic development and life-safety benefits of permitting the access for this large scale commercial development.

As noted Section 16-1201 of City Code restricts access as noted:

Access management for West 6th Street (U.S. Highway 40) between Wakarusa Drive and Kansas Highway 10 (K-10) shall be as follows: (Ord. 7465, Ord. 7534)

- (A) Upon the completion of the improvement of West 6th Street to a four lane divided arterial street, and any necessary access acquisition as may be required, **no vehicular access shall be allowed to West 6th street between Wakarusa Drive and K-10 Highway (excepting the frontage road access on the north side of West 6th Street immediately east of K-10 Highway)** except at the following designated points: Wakarusa Drive; the right-in-only and right-out-only access point on the south side of West 6th Street between Congressional Drive and Wakarusa at a location determined by the Kansas Department of Transportation; Congressional Drive, approximately 1/4 mile west of Wakarusa Drive; Queens Road, approximately 1/4 mile west of Congressional Drive; Stoneridge Drive, approximately 1/4 mile west of Queens Road; and George Williams Way, approximately 1/4 mile west of Stoneridge Drive.

Emphasis added

The applicant contends that the frontage road access is simply relocating; however, it is a more accurate representation, in staff's opinion, to say that KDOT and the City, at the time of establishing these standards, anticipated limited traffic on the frontage road and expected urban development to be reviewed to the values of the restrictions. The applicant has stated agreement with the contention that Section 16-1201 of the City Code needs to be revised to permit the plat's proposed access.

Since the establishment of the restrictions, T2030 has been approved and shows the frontage road alignment as a future collector road connecting to Overland Drive, which intersects with George Williams Way. Additionally, the City has adopted fire code standards that demand higher levels of access to commercial properties and access to 6th Street is the most logical way to achieve meeting these standards.

Staff acknowledges KDOT's concerns and also their ultimate authority for granting access; however, Staff supports the request for the right-in / right-out 6th Street access for the following reasons.

1. The W 6th Street Access Management Plan, a document referenced in City/KDOT agreements, appears to conclude that the corridor will not be degraded with this access point, but was not included in the original construction for cost efficiency reasons.
2. The TIS appears to demonstrate acceptable levels of service for the proposed transportation system.
3. Permitting the 6th Street access will provide greater convenience for consumers that will visit this large commercial development.
4. Permitting access onto 6th Street provides an efficient way for this large commercial development to meet the recently adopted fire code, which requires more access than the former code.

Options on Access

Staff recognizes that the Planning Commission is confronted with policy questions with this plat request that may not be within their scope of review. The request does not comply with Section 16-1201 of the city code and is not supported by KDOT, factors that would normally result in a staff recommendation for denial. However, staff recognizes that some of these issues demand City Commission review and precedence has been established with the Bauer Farm development for supporting greater access than agreed upon via the access management plan.

If the Planning Commission finds that the policies related to controlling access should be revised in light of rezoning the subject property to the CC 400 designation and in light of the factors noted above, then one way to voice that position would be to approve the plat, with the conditions noted related to amending the city code, and forward the approval to the City Commission for consideration of accepting the rights-of-way and easements.

If the Planning Commission determines that the adopted access standards should be upheld or reviewed and concluded by KDOT and the City Commission prior to considering the plat application, then the Commission may defer the request or deny the plat and permit the applicant to exercise their right to appeal the plat to the City Commission.

Utilities and Infrastructure

The approved preliminary plat indicated that development would proceed in phases to coincide with the increase in sanitary sewer capacity in accordance with the update to the Wastewater Master Plan. The City Utility Department indicated that the Baldwin Creek Sanitary Sewer Interceptor Line has been installed and the sanitary sewer capacity will be available to serve this development without the need for phasing for the portion of the property that slopes to the northwest corner of the property. For the portion of the property that slopes northeast (across George Williams Way), offsite sanitary sewer improvements will be necessary (approximately

300 feet of sanitary sewer). This preliminary plat includes the western portion of the Mercato Development which slopes to the northwest corner.

Easements and Rights-of-way

The following rights-of-way are shown on the plat:

- 60 ft of right-of-way is shown for Mercato Lane, the proposed access on W 6th Street
- Between 30 and 60 ft of right-of-way is shown for Mercato Drive
- 60 ft of right-of-way shown for Renaissance Drive where it is located within the subject property.
- 40 ft of right-of-way is shown for Overland Drive adjacent to the north side of the property. This right-of-way increases to approximately 140 ft on the western edge to accommodate the geometric improvements necessary for the intersection of Overland and Renaissance Drives. The dimension of the western width of right-of-way shall be noted on the plat.
- Renaissance Drive is shown in the KDOT right-of-way. The applicant is discussing the possibility of a transfer of right-of-way with KDOT. Right-of-way for Renaissance Drive is required prior to approval of this plat.

A 10 ft utility easement is located along the north and west edges of the proposed Lot 1, Block One, with the exception of the area shown as a detention tract. A 10 ft utility easement is located on the east property line of Lot 3, Block Two. A 15 ft utility easement is located along the northern property lines of Lots 1-3 of Block Two.

The southwestern and southern portion of Lot 1, Block One contains a 66 ft Southern Star gas line easement which includes a 50 ft building setback from the center of the easement. The plat proposes to relocate the gas line between Lots 1 and 2, Block Two so Mercato Drive will cross the easement at right angles, in compliance with Southern Star design standards. Southern Star approval of this relocation of gas line and easement is necessary. The plat shows an easement crossing Lot 2 Block Two diagonally. This is the existing Southern Star easement which is being proposed for vacation with the proposed relocation of the gas line. The plat shall be revised to clearly identify the easement which is being proposed for vacation. The plat shall also show the relocation of the gas line to the south rather than extending through the easement which is to be vacated. The extension of the gas line off-site to tie into the existing gas line to the southeast must be approved by Southern Star.

VARIANCE

The property owner is requesting a variance from Section 20-810(c)(i) which requires that block lengths for local streets within the City of Lawrence shall not exceed 800 ft in length unless the Subdivider demonstrates to the satisfaction of the Decision-Making Body that there will be pedestrian connections at intervals of 700 ft or less; and the proposed block must be greater than 800 ft in length because physical conditions preclude a block length of less than 800 ft. The proposed Renaissance Drive is approximately 2,000 sq ft with no intersecting streets.

Section 20-813(g) states that the Planning Commission may grant a variance from the design standards of these regulations with the exception of the standards of the wastewater disposal system standards only if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected. Below is a review of the variance request in relation to these criteria.

Criteria 1: Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

The Development Code requires shorter block lengths to ensure connectivity throughout a development and into surrounding areas. It is not possible to provide connections into the surrounding area from Renaissance Drive as it is bounded on the west by K10 Highway and the south by W 6th St/Hwy 40. This property is being platted for a CC400 Commercial Development which requires a different site layout and building types than many other types of development. In order to accommodate this type of commercial development, interior circulation will be provided through private access drives rather than public streets. Pedestrian circulation throughout the site is required in the Commercial Design Standards and shall be provided and reviewed at the site planning stage. Requiring the applicant to provide a shorter block with connector streets in a large commercial development adjacent to two access restricted highways would be an unnecessary hardship.

Criteria 2: The proposed variance is in harmony with the intended purpose of these regulations.

Per Section 20-801(a) of the Subdivision Regulations, these regulations are intended to ensure that the division of land will serve the public interest and general welfare as well as to provide for the conservation of existing neighborhoods.

This development is proposed in an undeveloped area which contains no existing neighborhoods. Access proposed with this development plan will be coordinated with the approved development plan for the property to the east. Access into and through the commercial development will be provided through private drive aisles and pedestrian pathways; therefore, the longer block length will not reduce the connectivity throughout the site. Connectivity to the west and south is not possible due to access restrictions.

Criteria 3: The public health, safety and welfare will be protected.

Renaissance Drive would provide fire access to the western portion of the development; thereby protecting the public health, safety and welfare.

Conformance

With the approved variance and recommended conditions, the preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Development Code. As noted, the plat does not comply with Section 16-1201 of the City Code and the plat has been conditioned to not be valid until this code section is amended.

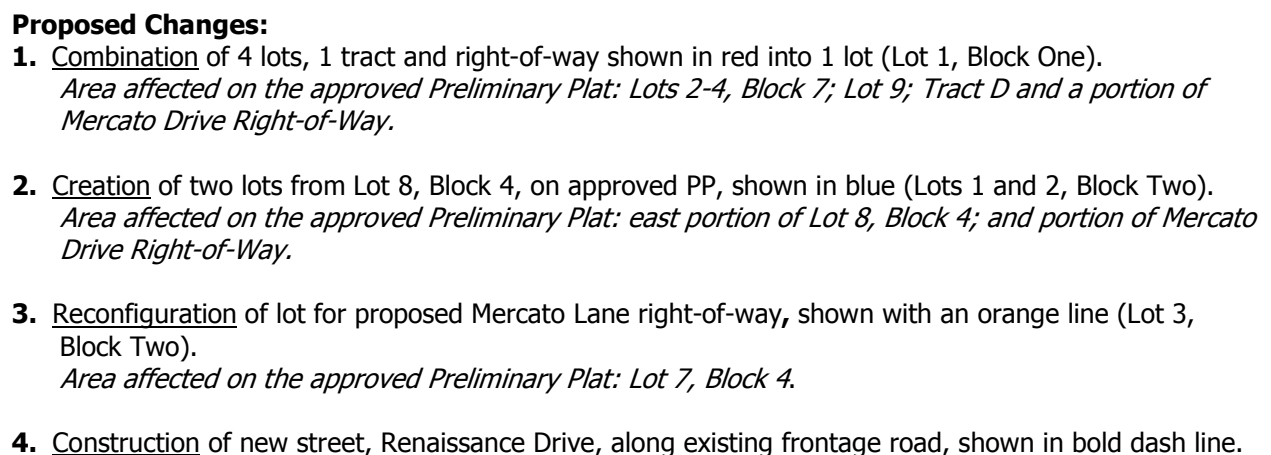


Figure 1. Summary of changes being proposed with PP-10-05-09 overlaid on previously approved plat PP-01-02-06.

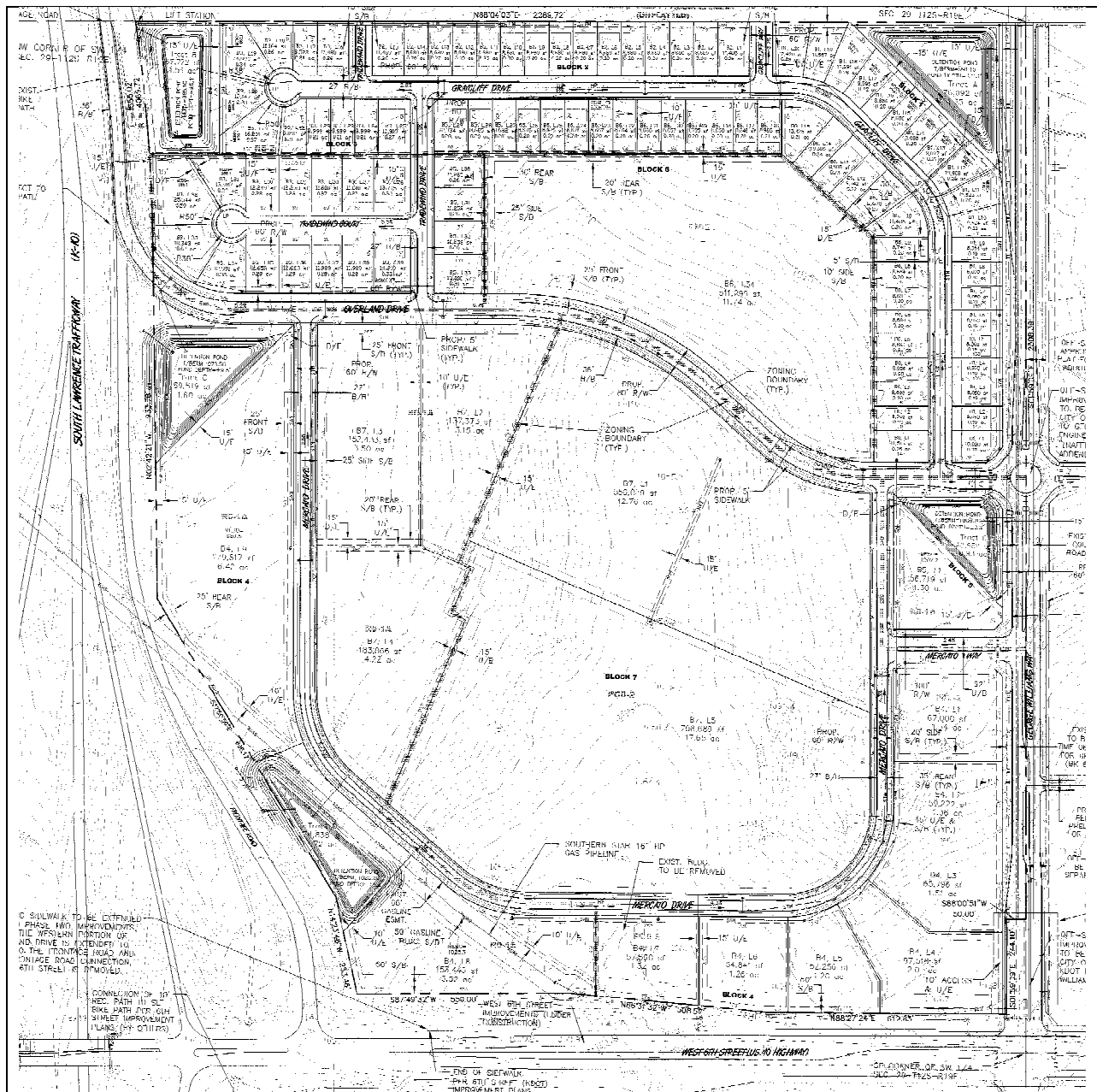


Figure 1. Previously approved preliminary plat (PP-01-02-06)