



**OFFICE OF THE CITY ADMINISTRATOR**

Johnston, Iowa  
 AGENDA COMMUNICATION  
 May 15<sup>th</sup>, 2017

**Subject:** Consider approving the following items related to the development of 19.39 acres located west of Merle Hay Road at the intersection of Merle Hay Road and NW 64<sup>th</sup> Place:

- Resolution 17-150; A resolution approving the Bricktowne Johnston Site Plan/Preliminary Plat/Construction Drawings
- Resolution 17-151; A resolution approving a Development Agreement Regarding Parkland Dedication with Bricktowne Johnston L.C.

**ACTIONS**

**REQUIRED:**

- Ordinance
- Resolution
- Approval
- Receive/File
- Attorney Review

**SYNOPSIS:**

Jensen Group has submitted a site plan / preliminary plat / construction drawings for the development of 19.39 acres. The proposed development consists of 384 apartment units spread out in five buildings, a clubhouse, a maintenance building, a bike/pet shelter, and a private open space/park. The residential units will be primarily one bedroom with a few two bedroom units also provided.

**RECOMMENDATION:**

**At their regular meeting on Monday, May 8<sup>th</sup>, 2017 the Planning & Zoning Commission voted to recommend approval of PZ Case 17-18, the Site Plans / Preliminary Plat / Construction Drawings and the Final Plat for Bricktowne Johnston with the following conditions:**

*A site lighting plan has been submitted, reviewed, and found to be in compliance with the requirements of Resolution 99-56*

1. The project shall be in conformance and in accordance with the requirements, standards and regulations of the City of Johnston, and any other requirement of state or federal law or administrative rule.
2. A full SWPPP, a NPDES permit from the Iowa DNR, and a City Grading Permit shall be provided prior to any ground disturbing activity on the site.
- ~~3. No exterior site lighting may be installed unless and until all photometric plans have been submitted, reviewed, and approved in satisfaction of Johnston's site lighting requirements as established by Resolution 99-56.~~
4. Council approval of the alternative 25 foot wide buffer between the MUC zoning district and the M-1 zoning district to the north. Said alternative buffer shall consist of the materials as shown on the site plans and shall be installed in the location as shown on the site plans.
5. Council approval of a modification to the parking requirements found in Section 166.33.3.7.b of the Johnston Code of Ordinances. Said modification being that 1.5 parking spaces per dwelling unit

and 1 not reserved parking space for each ten dwelling units be the factor to calculate parking requirements. One garage parking space per dwelling unit may be counted as a parking space towards fulfillment of the parking requirements.

6. Council acceptance of the public parkland development agreement for an equal value public parkland alternative.
7. An easement for private storm sewer in public right-of-way shall be acquired prior to installation of private storm sewer on public property.
8. **The site plans must be amended and the following items shall be completed prior to the issuance of a building permit:**
  - a. Address all site plan comments from Johnston Community Development's memo dated May 4<sup>th</sup>, 2017
  - b. Address all comments from the memo provided by Foth Infrastructure and Environment, LLC, dated May 4<sup>th</sup>, 2017.
  - c. Address all comments from Johnston Public Work's memo dated May 4<sup>th</sup>, 2017.
9. **The final plat must be amended and the following items shall be completed prior to release of the final plat for recording:**
  - a. Address all final plat comments from Johnston Community Development's memo dated May 4<sup>th</sup>, 2017

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Motion by \_\_\_\_\_, Seconded by \_\_\_\_\_ to approve Resolution 17-150; a resolution approving the site plans / preliminary plat / construction drawings for Bricktowne Johnston.

Motion by \_\_\_\_\_, Seconded by \_\_\_\_\_ to approve Resolution 17-151; a resolution approving a Development Agreement Regarding Parkland Dedication with Jensen Group.

Attachments:

- Vicinity Map
- Site Plans/Preliminary Plat/Construction Drawings, prepared by Civil Design Advantage, dated April 26<sup>th</sup>, 2017;
- Architectural Elevations, prepared by Jensen Group, dated April 26<sup>th</sup>, 2017;
- Applicant Letter Requesting Waiver of Zoning Requirements;
- Development Agreement Regarding Parkland Dedication
- Development Review Comments by Johnston Community Development, dated May 4<sup>th</sup>, 2017;
- Development Review Comments by Foth Infrastructure & Environment, LLC, dated May 4<sup>th</sup>, 2017;
- Development Review Comments by Johnston Public Works, dated May 4<sup>th</sup>, 2017;
- Development Notice and Mailing List;
- May 8<sup>th</sup>, 2017 Planning and Zoning Commission Meeting Minutes;

## RESOLUTION 17-150

### A RESOLUTION APPROVING THE SITE PLANS FOR BRICKTOWNE JOHNSTON

WHEREAS, the Planning & Zoning Commission has reviewed this request during its regular meeting on May 8<sup>th</sup>, 2017, and recommended approval of PZ Case No. 17-18 with noted conditions;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that the Site Plans for Bricktowne Johnston is hereby approved subject to the following conditions,

1. The project shall be in conformance and in accordance with the requirements, standards and regulations of the City of Johnston, and any other requirement of state or federal law or administrative rule.
2. A full SWPPP, a NPDES permit from the Iowa DNR, and a City Grading Permit shall be provided prior to any ground disturbing activity on the site.
3. A Stormwater Management Facilities Maintenance Agreement shall be provided and accepted by the City Council prior to issuance of a building permit.
4. An alternative 25 foot wide buffer between the MUC zoning district and the M-1 zoning district to the north is approved. Said alternative buffer shall consist of the materials as shown on the site plans and shall be installed in the location as shown on the site plans.
5. The requirements of Section 166.33.3.A.7.b of the Johnston Code of Ordinances are modified to 1.5 parking spaces per dwelling unit and 1 not reserved parking space for each ten dwelling units. One garage parking space per dwelling unit may be counted as a parking space towards fulfillment of the parking requirements.
6. An easement for private storm sewer in public right-of-way shall be acquired from the City prior to installation of private storm sewer on public property.
7. **The site plans must be amended and the following items shall be completed prior to the issuance of a building permit:**
  - a. Address all site plan comments from Johnston Community Development's memo dated May 4<sup>th</sup>, 2017
  - b. Address all comments from the memo provided by Foth Infrastructure and Environment, LLC, dated May 4<sup>th</sup>, 2017.
  - c. Address all comments from Johnston Public Work's memo dated May 4<sup>th</sup>, 2017.

**PASSED AND APPROVED** this 15<sup>th</sup> day of May, 2017.

\_\_\_\_\_  
PAULA S. DIERENFELD, MAYOR

ATTEST:

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

**RESOLUTION 17-151**

**A RESOLUTION ACCEPTING A DEVELOPMENT AGREEMENT FOR  
BRICKTOWNE JOHNSTON**

**WHEREAS**, Jensen Group has submitted a Site Plan / Preliminary Plat / Construction Drawings for Bricktowne Johnston which would develop 384 multiple-family residential dwelling units; and,

**WHEREAS**, Section 180.43 of the Code of Ordinances of the City of Johnston, Iowa, 2007 requires the dedication of public parkland with the development of new residential communities within the City of Johnston; and,

**WHEREAS**, Section 180.43.6 of the Code of Ordinances of the City of Johnston, Iowa, 2007 permits the developer to make a request to the City Council to meet the requirements of public parkland dedication through other arrangements agreeable to the City Council and the developer as long as such agreement provides equal value to the City; and.

**WHEREAS**, Jensen Group has made such a request to the City Council for an equal value alternative to the public parkland dedication requirement; and,

**WHEREAS**, the following action is deemed appropriate; and,

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA**, that a Development Agreement Regarding Parkland Dedication is hereby accepted and the Mayor is authorized to sign the same.

**PASSED AND APPROVED** this 15<sup>th</sup> day of May, 2017.

\_\_\_\_\_  
PAULA S. DIERENFELD, MAYOR

ATTEST:

\_\_\_\_\_  
CYNDEE RHAMES, CITY CLERK

| <u>ROLL CALL VOTE:</u> | <u>Aye</u> | <u>Nay</u> | <u>Absent</u> | <u>Abstain</u> |
|------------------------|------------|------------|---------------|----------------|
| Brown                  | ___        | ___        | ___           | ___            |
| Clabaugh               | ___        | ___        | ___           | ___            |
| Cope                   | ___        | ___        | ___           | ___            |
| Lindeman               | ___        | ___        | ___           | ___            |
| Temple                 | ___        | ___        | ___           | ___            |

|   |  |
|---|--|
| <p>PROPERTY OWNERS:</p> <p>APPLICANT:</p> <p>REPRESENTATIVES:</p> | <p>Andrew C Christenson (Trustee)<br/>5105 NW Johnston Drive<br/>Johnston, IA, 50131</p> <p>William J Wegner<br/>6508 Merle Hay Road<br/>Johnston, IA, 50131</p> <p>Maurices Inc.<br/>425 W Superior Street<br/>Duluth, MN, 55802</p> <p>Note: Property transfer to Jensen Group is expected to be completed prior to City Council consideration of the site plan/preliminary plat/construction drawings and the final plat.</p> <p>Jensen Group<br/>ATTN: Dickson Jensen<br/>4611 Mortensen Road, Suite 106<br/>Ames, IA, 50014</p> <p>Civil Design Advantage<br/>ATTN: Erin Ollendike<br/>3405 SE Crossroads Drive, Suite G<br/>Grimes, IA, 50111</p>  |
| <p>BACKGROUND &amp; PRIOR APPROVALS:</p>                          | <p>No prior site plans have been approved for the site. There currently are three residential structures on the site along with several associated accessory structures. All existing structures will be demolished to allow for the development of the site.</p>  |
| <p>ZONING &amp; BULK REQUIREMENTS:</p>                            | <p>The site is zoned Mixed Use Center with areas further defined as MUC-RO and MUC-ROC-2. The permitted uses of the MUC-RO zoned area are any use permitted in District R-4 and District C-O. The permitted uses of the MUC-ROC-2 zoned area are any use and permitted accessory use in District R-4 and C-2 with exceptions. The following are the bulk regulations for the zoning district Multiple Family uses:</p> <ul style="list-style-type: none"> <li>• Minimum Lot Area: 80,000 SF</li> <li>• Minimum Lot Width: 200 Feet</li> <li>• Front Yard Setback: 20 Feet</li> <li>• Side Yard Setback, Least Width Any One Side: 25 Feet</li> <li>• Sum of Both Side Yard Setbacks: 25 Feet</li> <li>• A zero foot side yard setback is permitted provided it can be demonstrated that fire access and building code requirements are met. Fire access to the rear of the building must be maintained.</li> <li>• Rear Yard Setback: 50 Feet</li> </ul> |

COMPREHENSIVE  
PLAN:

The subject property is located within the Merle Hay Road Overlay Zoning District. This overlay requires that parking areas be setback from the public right-of-way a minimum of 15 feet and places a street tree requirement along Merle Hay Road.

The 1998 Johnston Comprehensive Plan identified underutilized land uses adjacent to the Merle Hay Road corridor and recommended establishing the Mixed Use Center zoning district to enable conversion of stagnant and/or underutilized land parcels to higher-intensity uses befitting of land along an arterial corridor. The Mixed Use Center zoning district was thereafter created by adoption of Ordinance 605 in 2000 to facilitate recommendations from the Comprehensive plan.

After continued stagnation along the corridor, the City commissioned and adopted the Merle Hay Road Redevelopment Study in 2007 as an amendment to the Johnston Comprehensive Plan, in turn adopted by reference by the Johnston 2030 Comprehensive Plan. The completed study established development goals and concepts for the Merle Hay corridor north of NW 60<sup>th</sup> Avenue and south of approximately NW 66<sup>th</sup> Avenue. The redevelopment plan also offered suggestions to refine design guidelines and zoning ordinance provisions for the Mixed Use Center zoning district to aid in achieving the goals laid out in the plan.

The proposed housing project furthers the following goals of the Merle Hay Road redevelopment study:

- Concentrates residential development north of NW 62<sup>nd</sup> Avenue (p.28);
- ...assembles fractioned properties to form a unified concept for future development; one that will enhance the corridor and increase redevelopment opportunity for individual property owners and encourage them to cooperate in the assembly of land. (p.29);

Furthermore, the proposed project addresses growth trends and land use recommendations identified by a market assessment performed in conjunction with the Merle Hay Road redevelopment study. Specifically, the market analysis suggested development of higher density housing would build support for retail development within the Merle Hay Road corridor, and encouraged consideration of affordable senior housing (p.23). The study further encouraged concentration of high density housing north of NW 62<sup>nd</sup> Avenue.

TRAFFIC ACCESS &  
CIRCULATION:

The subject property is located between Merle Hay Road on the east and the termination of NW 59<sup>th</sup> Court on the west. The site will have two access points to Merle Hay Road and one access point to NW 59<sup>th</sup> Court. The southern access point to Merle Hay Road will be aligned with the intersection of Merle Hay Road and NW 64<sup>th</sup> place. There are no

immediate plans to install any additional traffic control devices at this intersection, such as stop lights, but this alignment would facilitate such in the future if necessary.

The access to NW 59<sup>th</sup> Court would be installed by the applicant, but would be deeded to the City as a public improvement. The City would be responsible for maintenance of the roadway within City right-of-way. The applicant may install a gate at this access point to discourage through traffic using their site as a road.

PEDISTRIAN  
CIRCULATION &  
SIDEWALKS:

As part of the parkland dedication for this project, a 10 foot wide trail will be installed along Merle Hay Road. This trail will connect into the City's trail system in the future as adjacent parcels develop / redevelop. The site will include an internal network of private sidewalks which will vary in width from 4 feet to 6 feet.

One pedestrian ramp will be installed at the intersection of NW 64<sup>th</sup> place and Merle Hay Road. This intersection is not controlled, but pedestrians can be expected to cross at this location to access locations and the trail on east side of Merle Hay Road.

PARKING AND  
LOADING:

The following are the parking requirements for Multi-Family Dwellings:

- 2 parking spaces for each dwelling unit
- 1 not reserved parking space for each 10 dwelling units
  
- 1 garage parking space may be counted as a parking space in fulfillment of the parking space

City Ordinance does permit the parking requirements be waived or modified to a lesser extent provided a report of such a change is received from the Planning and Zoning Commission and further provided said waiver or modification does not adversely affect the intent of these regulations to adequately safeguard the general public and surrounding property.

The applicant is requesting a modification of the parking requirements for multi-family dwelling units. The request is to utilize a factor of 1.5 parking spaces per unit in lieu of the 2 parking spaces per dwelling unit. The following is a table of required parking for each lot:

|       | Required Parking |
|-------|------------------|
| Lot 1 | 202              |
| Lot 2 | 151              |
| Lot 3 | 151              |
| Lot 4 | 151              |
| Lot 5 | 151              |
| Total | 806              |

The site plan identifies 729 parking spaces spread out amongst the five lots. The applicant proposes to record a blanket parking easement which would allow for each lot to utilize parking on any of the other lots. As such, staff is reviewing parking for the site as a whole instead of for each individual lot. As proposed the site would exceed the requested parking factor. Staff recommends accepting the modified parking factor because the majority of the units in the proposed development are one-bedroom units that are likely to be occupied by a single adult. The factor of 1.5 takes into account the limited number of 2 bedroom units and the possibility of a single bedroom unit being occupied by multiple adults while not causing an excessive amount of parking to be installed.

**PUBLIC UTILITIES:**

**SANITARY SEWER:** This development will install an 8-inch public sanitary sewer main on the subject property to service the five buildings. This main will connect to the existing 18-inch sanitary sewer main along the east side of Merle Hay Road. The sanitary sewer will be installed at minimal slope which will limit the extension of this sanitary sewer main to service additional lots to the west, north, or south.

The applicant has explored the feasibility of extending a sanitary sewer easement to the existing single family homes on the southwest of the site so that they could connect in the future. Unfortunately the depth of the sanitary sewer would be insufficient to provide service from the main proposed with this project. The applicant has to run a new main to the east side of Merle Hay Road and bring in fill for the site to even get the depth needed to service their five buildings.

**WATER:** There currently is a 6-inch public water main that extends through the subject property from Merle Hay Road to NW 59<sup>th</sup> Court. This main will be removed and a new 8-inch public water main will be installed on the site. The new public main will create a looped water main system by connecting to both the existing main on Merle Hay Road and the existing main on NW 59<sup>th</sup> Court.

**PRIVATE UTILITIES:**

**STORM SEWER:** Private storm sewer will be installed throughout the site. A section of the storm sewer would be installed beyond Lot 3's property boundaries within public right-of-way. Staff is recommending allowing this storm sewer to be installed as shown provided an easement for storm sewer is granted by the City Council prior to installation of such.

**DRAINAGE:**

The site will utilize two wet bottom pond retention basins. The pond along Merle Hay Road will have an overflow route to the second pond on the western portion of the site. The western pond will have an outlet into the drainage channel that runs generally north-south along the western property boundary.

**FIRE PROTECTION:**

The apartments will be sprinkled for fire protection. The typical location



of knox boxes is identified on the architectural elevations along with the typical location for fire department connections. The site will have adequate coverage from private fire hydrants which will be installed with the project.

**FLOODPLAIN:**

The site is not located within the 100-year floodplain.

**OPEN SPACE:**

30% of each of the five lots must be maintained as open space. As proposed the following open space is required and provided for each lot:

|       | Required Open Space | Provided Open Space |
|-------|---------------------|---------------------|
| Lot 1 | 85,432 SF           | 163,604 SF          |
| Lot 2 | 27,345 SF           | 29,810 SF           |
| Lot 3 | 57,012 SF           | 117,973 SF          |
| Lot 4 | 55,439 SF           | 104,291 SF          |
| Lot 5 | 28,220 SF           | 32,787 SF           |

**LANDSCAPING:**

The site is required to have 1 tree per 1,500 square feet of required open space and 1 shrub per 1,000 square feet of required open space. Buffer area may be removed from total lot area for the purpose of determining open space landscape requirements. The following is the required and provided landscaping for each lot:

|       | Required Trees | Provided Trees |
|-------|----------------|----------------|
| Lot 1 | 57             | 62             |
| Lot 2 | 17             | 20             |
| Lot 3 | 35             | 41             |
| Lot 4 | 37             | 38             |
| Lot 5 | 19             | 18             |

|       | Required Shrubs | Provided Shrubs |
|-------|-----------------|-----------------|
| Lot 1 | 85              | 95              |
| Lot 2 | 25              | 41              |
| Lot 3 | 52              | 57              |
| Lot 4 | 56              | 56              |
| Lot 5 | 29              | 36              |

In addition to the open space landscaping requirements, Lot 1 is required to have street trees spaced at fifty foot intervals per the Merle Hay Road Overlay Zoning District. For this site the street tree requirement would be 13 shade trees. The site plan shows 13 Red Oak trees along Merle Hay Road.

Staff is recommending that the landscaping plan be updated to reflect the correct open space landscaping requirements (Lot 5) and to note the correct number of plantings identified on the drawing.

The applicant would like to discuss with the City Council the possibility

of using tall native grasses in lieu of shrubs for their open space landscaping. City ordinance does not define shrubs, but the Merriam-Webster dictionary defines a shrub as “a low usually several-stemmed woody plant”. The Merriam-Webster dictionary defines a grass as “any of a large family (Gramineae synonym Poaceae) of monocotyledonous mostly herbaceous plants with jointed stems, slender sheaving leaves, and flowers borne in spikelets of bracts.” Based on these definitions tall grass is not the same as a shrub.

The applicant has indicated that they prefer the visual appearance of tall grasses around their buildings and that the long term maintenance of tall grasses is easier. Further, the applicant has stated that in their experience shrubs tend to have visual problems after five years due to winter site maintenance disturbing the lower edges of the plants. The tall grasses would be cut back in the fall which would minimize damage to the plant over the winter months.

Since the City Ordinance does not define what a shrub is or what grass is staff is looking to the City Council to make a determination of if tall grasses would meet the intent of a shrub for open space landscaping.

TREE REMOVAL:

The site plan identifies 145 trees 6-inch caliper diameter or greater that are to be removed. This removal is necessary to allow for grading/fill on the site which is necessary to provide adequate sanitary sewer depths to each of the buildings.

BUFFERS:

There is a 60 foot buffer requirement between residential land uses and light industrial land uses. The buffer would apply to the north side of the proposed Lot 2 and proposed Lot 3. As the light industrial use to the north is already developed the full buffer is the responsibility of this development. The following is the required landscaping for the buffer per City Ordinance:

|       | Width   | Overstory Trees | Understory Trees | Evergreen Trees | Shrubs | Berm |
|-------|---------|-----------------|------------------|-----------------|--------|------|
| Lot 2 | 60 Feet | 2               | 6                | 4               | 22     | Yes  |
| Lot 3 | 60 Feet | 15              | 45               | 30              | 178    | Yes  |

The applicant is requesting an alternative buffer be accepted for the site. The following is the proposed buffer material for the site (includes installing berm on one additional lot):

|       | Width   | Overstory Trees | Understory Trees | Evergreen Trees | Shrubs | Berm |
|-------|---------|-----------------|------------------|-----------------|--------|------|
| Lot 1 | 25 Feet | 3               | 0                | 6               | 0      | No   |
| Lot 2 | 25 Feet | 12              | 0                | 9               | 0      | No   |
| Lot 3 | 25 Feet | 15              | 0                | 26              | 0      | No   |

The applicant is requesting to narrow the buffer width from 60 feet to 25 feet and to extend the buffer length from 830 lineal feet to 1,215 lineal feet. The buffer materials would consist of overstory deciduous trees and evergreen trees. The buffer takes into account the location of the garages along the north property boundary which will work to buffer the residential and light industrial uses and would thus negate the need for shrubs and understory trees to buffer the low lying areas that the taller trees would not buffer in the future.

Staff is recommending that the alternative buffer request be approved.

ARCHITECTURE:

Chapter 166.35 of the City of Johnston Code of Ordinances regarding architectural standards mandates multiple-family buildings shall be designed in a manner compatible with residential uses in the vicinity and shall attempt to lessen "plainness of appearance". Toward this end, multiple-family buildings with plane walls and boxy appearance are not acceptable and architectural design shall employ the following design techniques as appropriate:

- (1) Exterior building materials shall employ a variety of textures and colors and window and door details.
- (2) The roof shall be principally of gable, hip style or similar residential roof design.
- (3) The structures' perimeter shall be varied when multiple buildings are proposed.
- (4) Multiple buildings shall be sited at angles with one another.

The elevation drawings submitted illustrate compatibility with adjacent residential uses. The buildings are articulated to appear as though they are made of multiple buildings attached with a common wall. Brick is the primary building material. There are multiple colors of brick used to again provide the appearance of multiple buildings connected by a common wall.

NPDES PERMIT:

A SWPPP and NPDES Permit are required and must be approved by City Staff prior to issuance of a City Grading Permit and any ground disturbing activity.

SITE LIGHTING:

A site lighting plan and manufacturer cut sheets have been submitted, reviewed, and found to be in compliance with the site lighting requirements of Resolution 99-56.

PARKLAND  
DEDICATION:

With any new residential development in the City of Johnston there is a public parkland dedication requirement. Five acres of public parkland shall be dedicated to the City for each 1,000 residents added to the City. The following is the calculated public parkland dedication requirement for

this development:

384 Dwelling Units X 1.615 Persons Per Dwelling Unit  
X 0.005 Acres Per Person = 3.1008 acres Public Parkland

If a developer does not desire to dedicate public parkland to the City, the developer can make a request to the City Council that the developer be allowed to meet the requirements of public parkland dedication through other arrangements agreeable to the City Council and the developer as long as such an agreement provides equal value to the City. Such agreements shall be made between the City Council and the developer in the form of a Development Agreement. A draft version of the request public parkland alternative development agreement is attached to this staff report.

To summarize the agreement, the applicant is proposing to provide a 20 foot wide public trail easement along the project's south boundary for future trail construction by the City. The applicant would also install a 10 foot wide trail adjacent to Merle Hay Road which would be deeded to the City. This easement/trail would facilitate the ultimate construction of a trail that would extend from the Library/Johnston Commons area south along Merle Hay Road, west through this site and south along NW 59<sup>th</sup> Street to connect to the school complex. The development agreement accepts the private recreational amenities of the project as providing equal value to the City by reducing demand for public parkland.

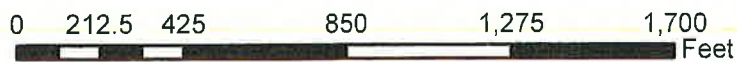
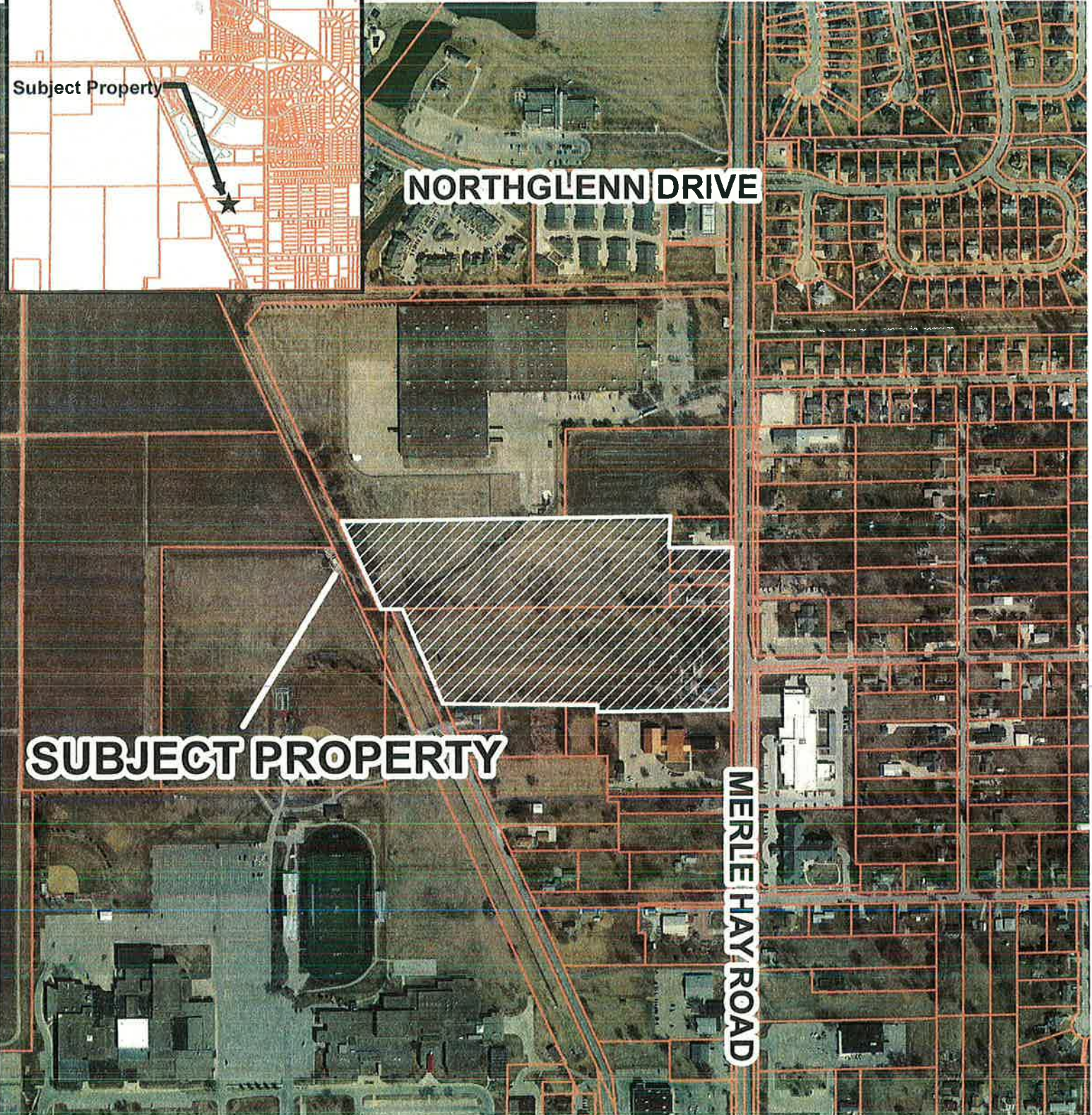
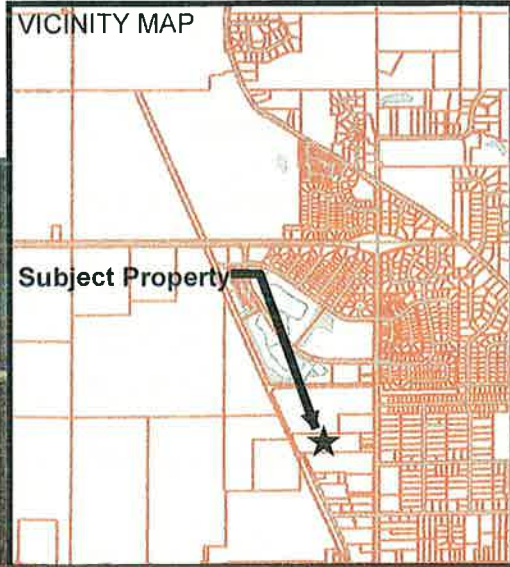
**PUBLIC NOTICE:**

Notice was placed on the City's website advertising the proposed development and a postcard notice was mailed to all properties within 320 feet of the subject property. A copy of the mailing notice and mailing list is attached. As of publication of this staff report no public comments have been received.

**CONSULTANT  
COMMENTS:**

Foth Infrastructure & Environment, LLC has reviewed the Site Plan and offered comments in their May 4<sup>th</sup>, 2017 review letter. Staff recommends a condition of approval requiring all outstanding comments from Foth's review letter be addressed prior to the issuance of a building permit.

**PZ CASE 17-18  
BRICKTOWNE JOHNSTON**



1 inch = 3,333 feet

Created by City of Johnston Department of Community Development  
6221 Merle Hay Road, P.O. Box 410, Johnston, IA, 50131-0410 (515)278-2344 Fax:(515)278-2033

H:\Community Development\2017 PZ\PZ 17-18; Bricktowne Johnston Site Plan, Preliminary Plat & Final Plat\GIS\Aerial vicinity PZ 17-18.mxd

PRELIMINARY PLAT, SITE PLAN & CONSTRUCTION DRAWINGS FOR:

# BRICKTOWNE JOHNSTON

## JOHNSTON, IOWA

VICINITY MAP  
NOT TO SCALE



LEGAL DESCRIPTION

A PART OF LOT 3, MAURICES, AN OFFICIAL PLAT AND A PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF JOHNSTON, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE NORTH 89°29'30" EAST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 830.43 FEET TO THE SOUTHEAST CORNER OF LOT 2, SAID MAURICES; THENCE NORTH 89°25'25" EAST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 384.83 FEET TO THE NORTHEAST CORNER OF SAID LOT 3; THENCE SOUTH 00°01'42" WEST ALONG SAID EAST LINE, 111.00 FEET; THENCE NORTH 89°22'20" EAST, 230.53 FEET TO THE WEST RIGHT OF WAY LINE OF MERLE HAY ROAD IN WARRANTY DEED RECORDED IN BOOK 6085 PAGE 088; THENCE SOUTH 00°05'26" WEST, 808.37 FEET; THENCE SOUTH 89°35'45" WEST, 498.72 FEET TO THE EAST LINE OF LOT 39, JOHNSTON ADDS, AN OFFICIAL PLAT; THENCE NORTH 01°36'37" EAST ALONG SAID EAST LINE, 30.08 FEET TO THE NORTHEAST CORNER OF SAID LOT 38; THENCE SOUTH 88°34'38" WEST ALONG THE NORTH LINE OF SAID LOT 38, A DISTANCE OF 110.00 FEET; THENCE SOUTH 89°28'11" WEST ALONG SAID NORTH LINE, 443.54 FEET TO THE NORTHWEST CORNER OF SAID LOT 39; THENCE NORTH 24°17'18" WEST, 386.40 FEET TO THE SOUTH LINE OF SAID LOT 3, MAURICES; THENCE SOUTH 89°26'46" WEST ALONG SAID SOUTH LINE, 87.04 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH 24°04'42" WEST ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 360.72 FEET TO THE POINT OF BEGINNING AND CONTAINING 19.39 ACRES (844,830 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD

INDEX OF SHEETS

| NO.       | DESCRIPTION                                      |
|-----------|--|
| C1.0      | COVER SHEET                                      |
| C2.0-C2.1 | DETAILS  |
| C3.0      | TOPOGRAPHIC SURVEY & DEMOLITION PLAN             |
| C4.0      | OVERALL LAYOUT & PHASING PLAN                    |
| C5.0-C5.3 | DIMENSION PLAN                                   |
| C6.0-C6.3 | GRADING PLAN                                     |
| C7.0-C7.3 | UTILITY PLAN                                     |
| C8.0      | QUANTITIES, REFERENCE NOTES & SANITARY SEWER PNP |
| C8.1-C8.4 | SANITARY SEWER PLAN AND PROFILE                  |
| C9.0-C9.1 | EROSION AND SEDIMENT CONTROL PLAN                |
| C10.0     | LANDSCAPE PLAN                                   |

GENERAL LEGEND

| PROPOSED                     | EXISTING                  |
|------------------------------|---------------------------|
| PROJECT BOUNDARY             | SANITARY MANHOLE          |
| LOT LINE                     | WATER VALVE BOX           |
| SECTION LINE                 | FIRE HYDRANT              |
| CENTER LINE                  | WATER CURB STOP           |
| RIGHT OF WAY                 | WELL                      |
| PERMANENT EASEMENT           | STORM SEWER MANHOLE       |
| TEMPORARY EASEMENT           | STORM SEWER SINGLE INTAKE |
| TYPE SW-501 STORM INTAKE     | STORM SEWER DOUBLE INTAKE |
| TYPE SW-503 STORM INTAKE     | FLARED END SECTION        |
| TYPE SW-505 STORM INTAKE     | ROOF DRAIN DOWNSPOUT      |
| TYPE SW-508 STORM INTAKE     | DECIDUOUS TREE            |
| TYPE SW-513 STORM INTAKE     | CONIFEROUS TREE           |
| TYPE SW-401 STORM MANHOLE    | DECIDUOUS SHRUB           |
| TYPE SW-402 STORM MANHOLE    | CONIFEROUS SHRUB          |
| TYPE SW-301 SANITARY MANHOLE | ELECTRIC POWER POLE       |
| STORM/SANITARY CLEANOUT      | CUT ANCHOR                |
| WATER VALVE                  | STREET LIGHT              |
| FIRE HYDRANT ASSEMBLY        | POWER POLE W/ TRANSFORMER |
| DETECTABLE WARNING PANEL     | UTILITY POLE W/ LIGHT     |
| STORM SEWER STRUCTURE NO.    | ELECTRIC BOX              |
| STORM SEWER PIPE NO.         | ELECTRIC TRANSFORMER      |
| SANITARY SEWER STRUCTURE NO. | ELECTRIC MANHOLE OR VAULT |
| SANITARY SEWER PIPE NO.      | TRAFFIC SIGN              |
| SANITARY SEWER WITH SIZE     | TELEPHONE JUNCTION BOX    |
| SANITARY SERVICE             | TELEPHONE MANHOLE/VAULT   |
| STORM SERVICE                | TELEPHONE POLE            |
| STORM SERVICE                | GAS VALVE BOX             |
| WATERMAIN WITH SIZE          | CABLE TV JUNCTION BOX     |
| WATER SERVICE                | CABLE TV MANHOLE/VAULT    |
| SAWCUT (FULL DEPTH)          | MAIL BOX                  |
| SILT FENCE                   | BENCHMARK                 |
| FIRE DEPARTMENT CONNECTION   | SOIL BORING               |
|                              | UNDERGROUND TV CABLE      |
|                              | GAS MAIN                  |
|                              | FIBER OPTIC               |
|                              | UNDERGROUND TELEPHONE     |
|                              | OVERHEAD ELECTRIC         |
|                              | UNDERGROUND ELECTRIC      |
|                              | FIELD TILE                |
|                              | SANITARY SEWER #/ SIZE    |
|                              | STORM SEWER #/ SIZE       |
|                              | WATER MAIN #/ SIZE        |

OWNER / APPLICANT

JENSEN GROUP  
CONTACT: DICKSON JENSEN  
4811 WORTENSON ROAD, STE 108  
AMES, IA 50014  
PH: (515) 233-2752

ENGINEER

CIVIL DESIGN ADVANTAGE, LLC  
CONTACT: ERIN OLLENKRE  
3405 SE CROSSROADS DRIVE, SUITE D  
GRIMES, IOWA 50111  
PH: (515) 369-4400  
FX: (515) 369-4410

SURVEYOR

CIVIL DESIGN ADVANTAGE, LLC  
CONTACT: MIKE BROONER  
3405 SE CROSSROADS DRIVE, SUITE G  
GRIMES, IOWA 50111  
PH: (515) 369-4400  
FX: (515) 369-4410

ZONING

MUC-RO  
AND  
MUC-R0C-2

FLOOD ZONE

THE SITE IS LOCATED IN ZONE X- AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL FLOOD PLAIN

MAP NUMBER: 190745 0006 D  
EFFECTIVE: JULY 19, 2009

DATE OF SURVEY

JANUARY 27, 2017

SUBMITTAL DATES

-SITE PLAN SUBMITTAL TO CITY #1: 04/07/2017  
-SITE PLAN SUBMITTAL TO CITY #2: 04/26/2017

PROPOSED USES

MULTIPLE FAMILY RESIDENTIAL

DEVELOPMENT SUMMARY

MINIMUM LOT AREA: 80,000 SF  
MINIMUM LOT WIDTH: 200'  
FRONT YARD SETBACK: 20'  
SIDE YARD SETBACK: 25' (LEAST WIDTH ANY ONE SIDE)  
SUM OF BOTH SIDE YARDS: 25'  
40' SIDE YARD SETBACK IF FIRE ACCESS AND BUILDING CODES ARE MET AND IF FIRE ACCESS TO REAR OF BUILDING IS MAINTAINED.  
REAR YARD DEPTH: 50'  
MAXIMUM DENSITY: 25 DWELLING UNITS PER ACRE

SETBACKS:

FRONT YARD = 20'  
SIDE YARD = 25'  
REAR YARD = 50'

TOTAL UNITS

= 364 UNITS

PARKING (1.5 SPACES/UNIT PLUS 1 SPACE PER EVERY TEN UNITS)

TOTAL REQUIRED = 545  
TOTAL PROVIDED = 729  
\*A PRIVATE BLANKET PARKING EASEMENT SHALL BE PROVIDED FOR THE SITE.

BENCHMARKS

JOHNSTON CITY BM#1, 3" ROUND BRASS CAP IN 6" CONCRETE MONUMENT, LOCATED IN THE MEDIAN ISLAND ON MORNINGSIDE DRIVE ON THE WEST SIDE OF MERLE HAY ROAD, IN THE CENTER OF THE ISLAND 1.5 FEET WEST OF THE NOSE OF THE MEDIAN  
ELEVATION=857.95

BURY BOLT ON 2ND HYPANT SOUTH OF THE NE CORNER OF THE PROPERTY.  
ELEVATION=836.34



UTILITY WARNING

ANY UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY AND RECORDS OBTAINED BY THIS SURVEYOR. THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES SHOWN COMPRISE ALL THE UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UTILITIES SHOWN ARE IN THE EXACT LOCATION SHOWN



CIVIL DESIGN ADVANTAGE

3405 SE CROSSROADS DR. SUITE G, GRIMES, IOWA 50111

PH: (515) 369-4400 Fax: (515) 369-4410

PROJECT NO. 1701.019

THE PROJECT REQUIRES AN IOWA NPDES PERMIT #2 AND CITY OF JOHNSTON GRADING PERMIT. CIVIL DESIGN ADVANTAGE WILL PROVIDE THE PERMITS AND THE INITIAL STORM WATER POLLUTION PREVENTION PLAN (SWPPP) FOR THE CONTRACTORS USE DURING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR UPDATING THE SWPPP THROUGHOUT CONSTRUCTION AND MEETING LOCAL, STATE AND FEDERAL REQUIREMENTS.

ALL CONSTRUCTION MATERIALS, DUMPSTERS, DETACHED TRAILERS OR SIMILAR ITEMS ARE PROHIBITED ON PUBLIC STREETS OR WITHIN THE PUBLIC R.O.W.

THE 2017 EDITION OF THE SURAS STANDARD SPECIFICATIONS, THE PUBLIC RIGHTS-OF-WAY ACCESSIBILITY GUIDELINES (PROWAG) AND ALL CITY SUPPLEMENTALS, IF APPLICABLE, SHALL APPLY TO ALL WORK ON THIS PROJECT UNLESS OTHERWISE NOTED.

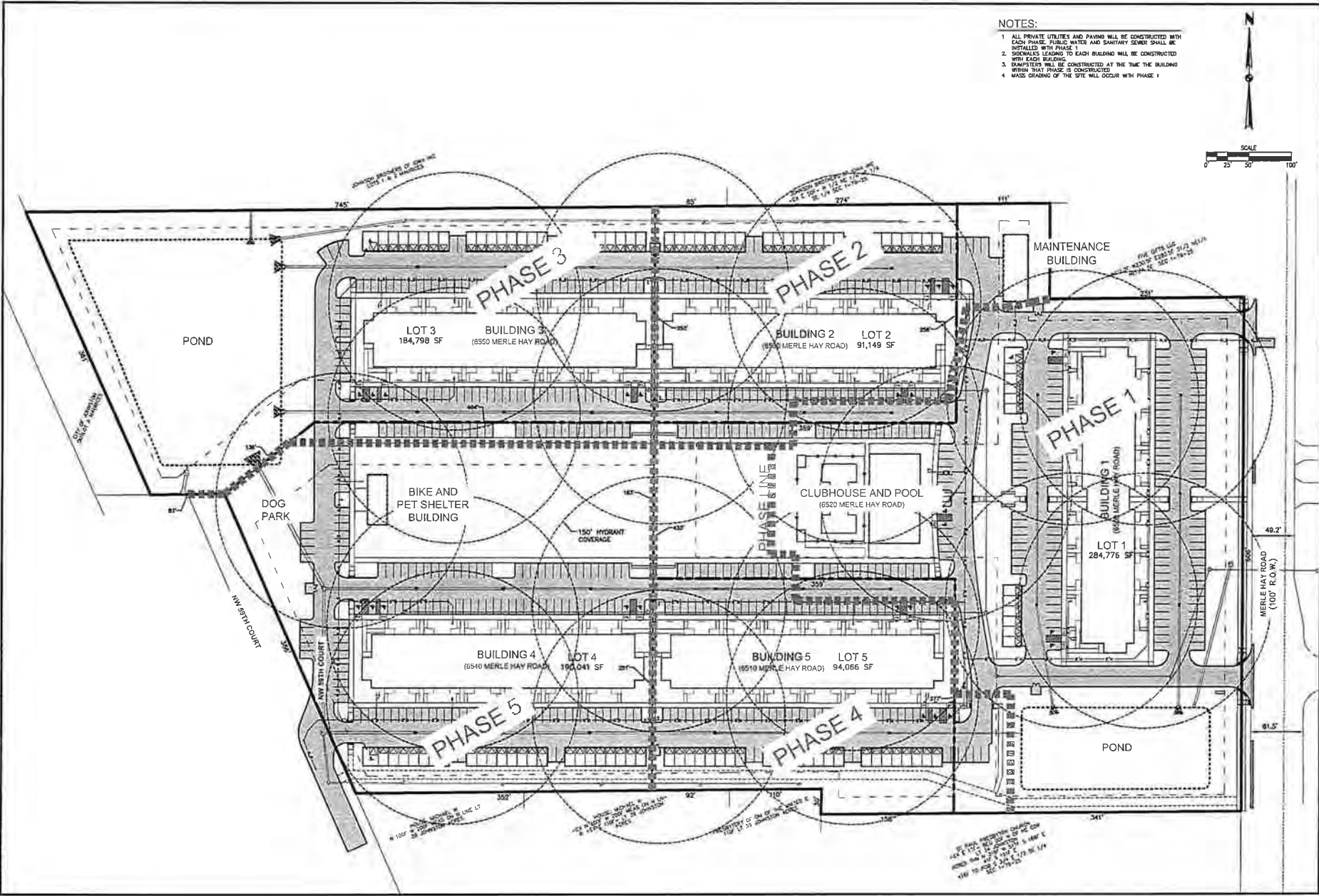
I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF IOWA.

**PRELIMINARY**  
**NOT FOR CONSTRUCTION**

DATE: \_\_\_\_\_  
SIGNED: \_\_\_\_\_  
SHEETS C1.0-C8.1

BRICKTOWNE JOHNSTON

- NOTES:
1. ALL PRIVATE UTILITIES AND PAVING WILL BE CONSTRUCTED WITH EACH PHASE. PUBLIC WATER AND SANITARY SEWER SHALL BE INSTALLED WITH PHASE 1.
  2. SIDEWALKS LEADING TO EACH BUILDING WILL BE CONSTRUCTED WITH EACH BUILDING.
  3. DUMPSTERS WILL BE CONSTRUCTED AT THE TIME THE BUILDING WITHIN THAT PHASE IS CONSTRUCTED.
  4. MASS GRADING OF THE SITE WILL OCCUR WITH PHASE 1.



| DATE | REVISIONS | DESIGNED | CHECKED | APPROVED |
|------|-----------|----------|---------|----------|
|      |           |          |         |          |

3405 S.E. CROSSROADS DRIVE, SUITE G  
 GRIMES, IOWA 50111  
 PHONE: (515) 369-4400 FAX: (515) 369-4410  
 ENGINEER: JMM



**BRICKTOWNE JOHNSTON**  
**OVERALL LAYOUT & PHASING PLAN**  
 JOHNSTON, IOWA

**C4.0**  
 1701.019







01 72 PLEX - NORTH/SOUTH ELEVATION  
1/16" = 1'-0"

EXTERIOR MATERIALS:  
73% OF TOTAL BRICK  
26% OF TOTAL MECHANICAL SCREENING  
1% OF TOTAL



02 72 PLEX - EAST/WEST ELEVATION  
1/16" = 1'-0"

EXTERIOR MATERIALS:  
100% OF TOTAL BRICK  
0% OF TOTAL



03 72 PLEX - NORTH/SOUTH ELEVATION  
1/16" = 1'-0"

EXTERIOR MATERIALS:  
73% OF TOTAL BRICK  
26% OF TOTAL MECHANICAL SCREENING  
1% OF TOTAL



04 72 PLEX - EAST/WEST ELEVATION  
1/16" = 1'-0"

EXTERIOR MATERIALS:  
100% OF TOTAL BRICK  
0% OF TOTAL



05 96 PLEX - WEST ELEVATION  
1/16" = 1'-0"

FOR REFER TO PLANS FOR EXACT LOCATION AT EACH BUILDING

EXTERIOR MATERIALS:  
73% OF TOTAL BRICK  
11% OF TOTAL MECHANICAL SCREENING  
16% OF TOTAL



06 96 PLEX - SOUTH ELEVATION  
1/16" = 1'-0"

EXTERIOR MATERIALS:  
21% OF TOTAL BRICK  
54% OF TOTAL MECHANICAL SCREENING  
25% OF TOTAL



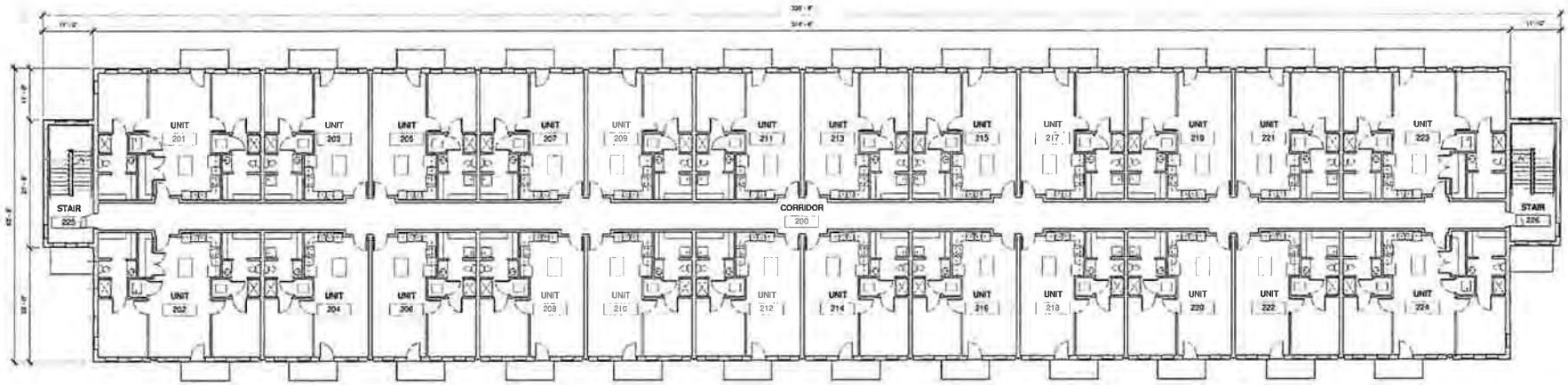
07 96 PLEX - EAST ELEVATION  
1/16" = 1'-0"

EXTERIOR MATERIALS:  
73% OF TOTAL BRICK  
11% OF TOTAL MECHANICAL SCREENING  
16% OF TOTAL

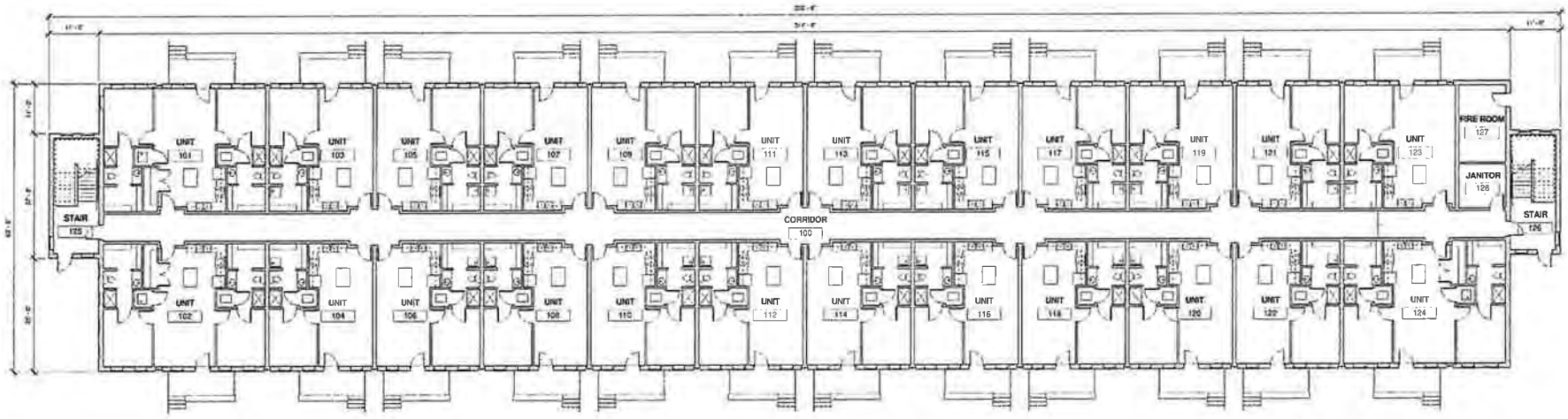


08 96 PLEX - NORTH ELEVATION  
1/16" = 1'-0"

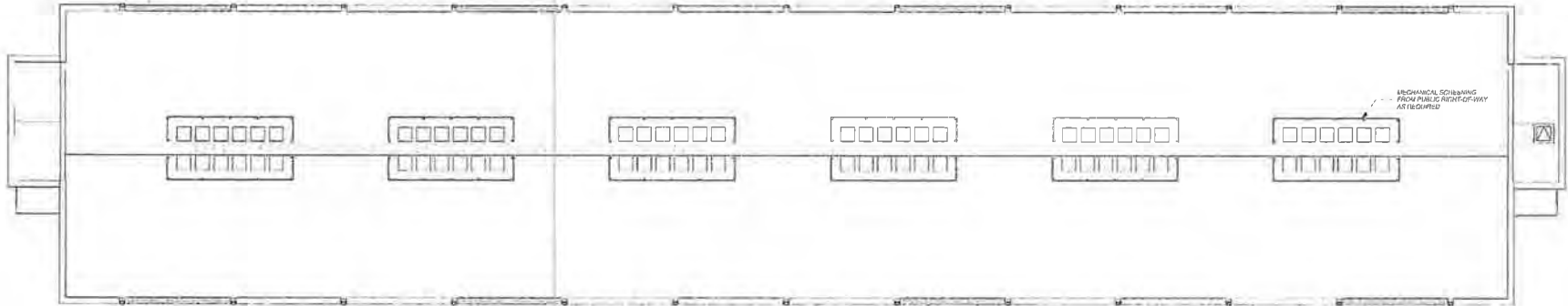
EXTERIOR MATERIALS:  
21% OF TOTAL BRICK  
54% OF TOTAL MECHANICAL SCREENING  
25% OF TOTAL



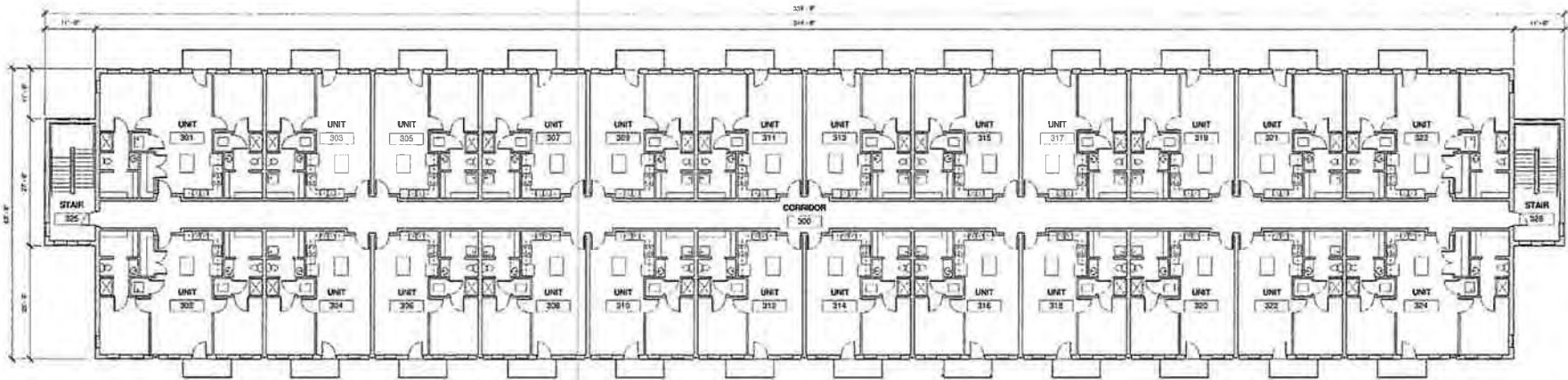
SECOND FLOOR PLAN  
1" = 10'-0"



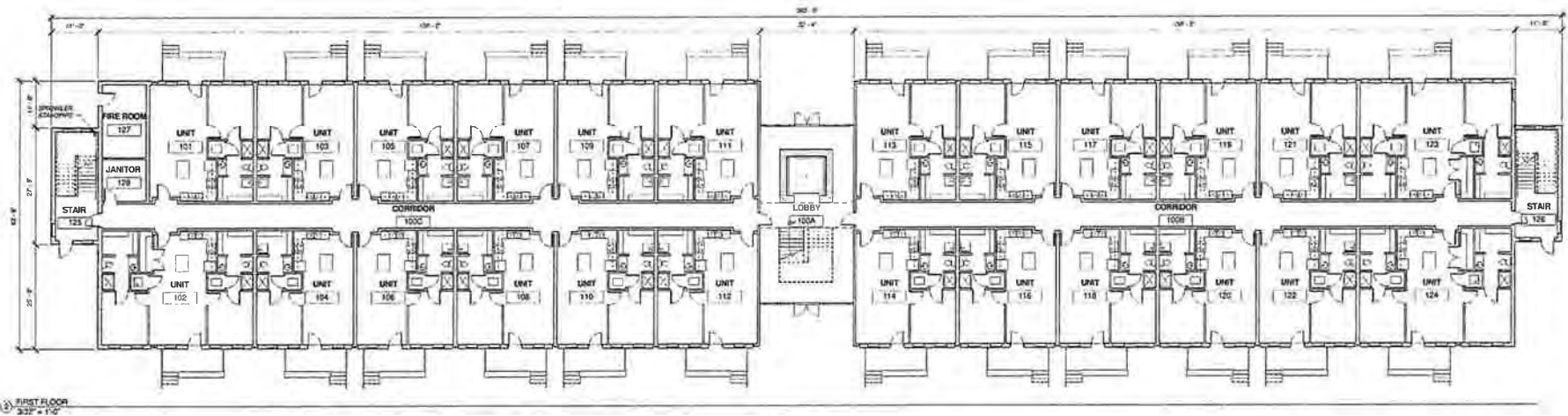
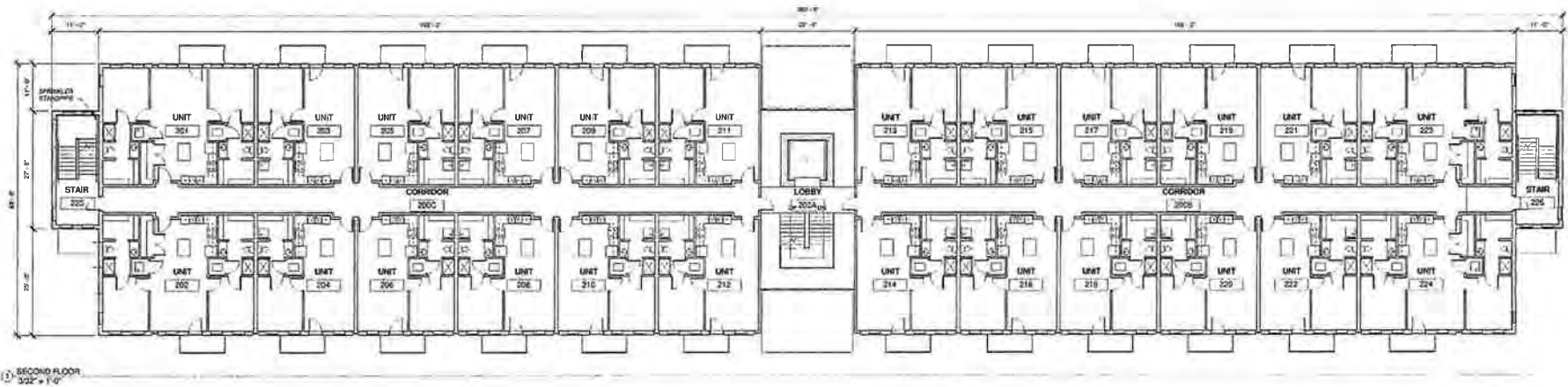
FIRST FLOOR PLAN  
1" = 10'-0"

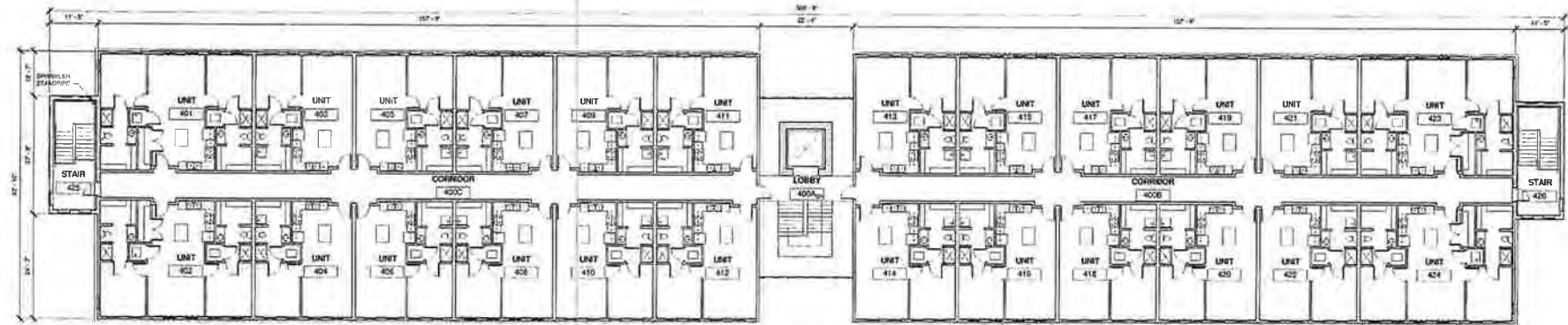


1) ROOF PLAN  
1" = 10'-0"

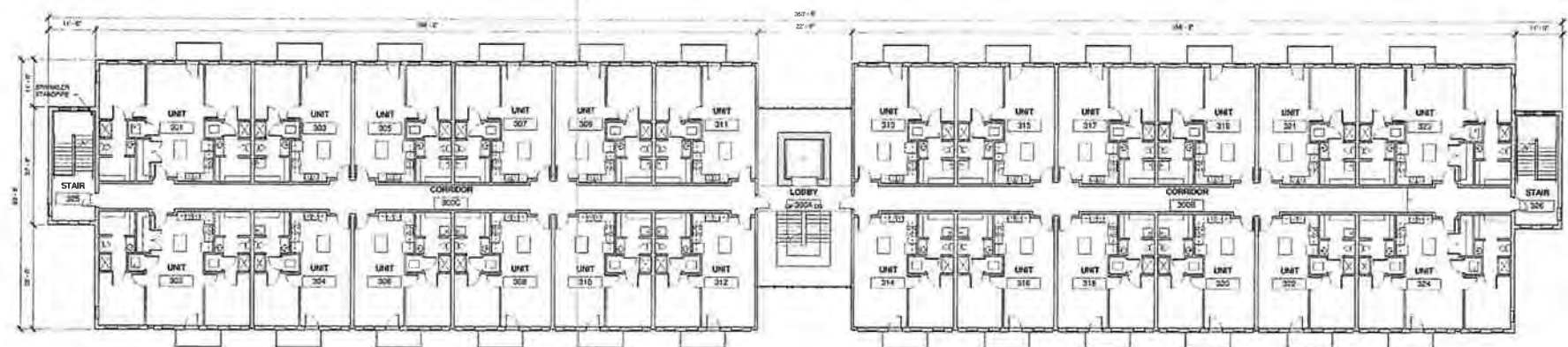


2) THIRD FLOOR PLAN  
1" = 10'-0"

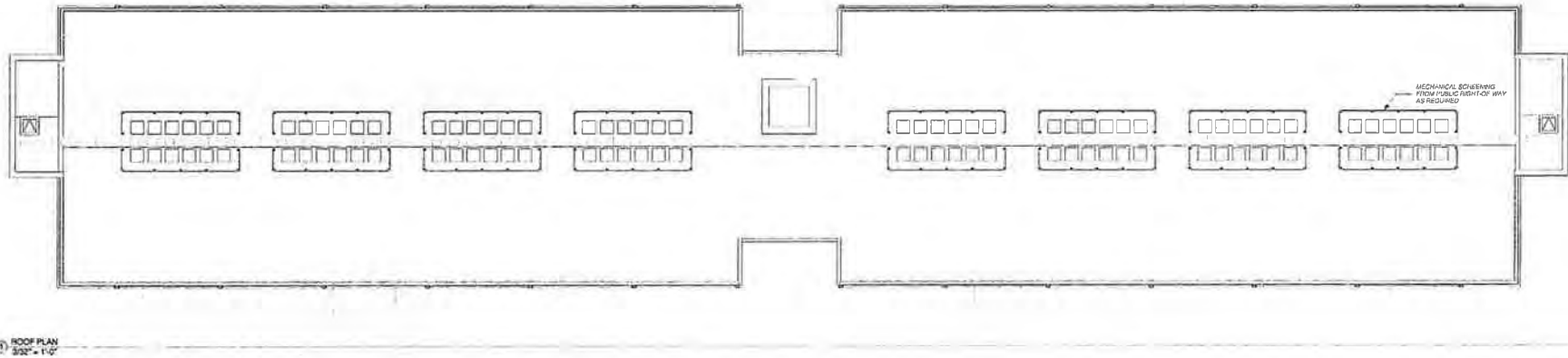




① FOURTH FLOOR  
3/22" = 1" = 0"



② THIRD FLOOR  
3/22" = 1" = 0"





07. Clubhouse Elevation B  
1/8" = 1'-0"



08. Clubhouse Elevation D  
1/8" = 1'-0"



09. Garage Elevation A  
1/8" = 1'-0"



08. Garage Elevation B  
1/8" = 1'-0"

09. Garage Elevation C  
1/8" = 1'-0"



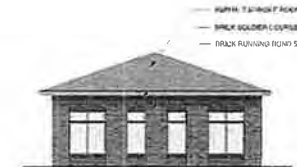
10. Garage Elevation D  
1/8" = 1'-0"



10. Clubhouse Elevation A  
1/8" = 1'-0"



10. Clubhouse Elevation C  
1/8" = 1'-0"



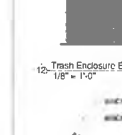
10. Maintenance Elevation B  
1/8" = 1'-0"



10. Maintenance Elevation C  
1/8" = 1'-0"



11. Trash Enclosure Elevation A  
1/8" = 1'-0"



11. Trash Enclosure Elevation B  
1/8" = 1'-0"



11. Trash Enclosure Elevation C  
1/8" = 1'-0"



11. Pet Elevation A  
1/8" = 1'-0"



11. Pet Elevation C  
1/8" = 1'-0"



11. Pet Elevation D  
1/8" = 1'-0"

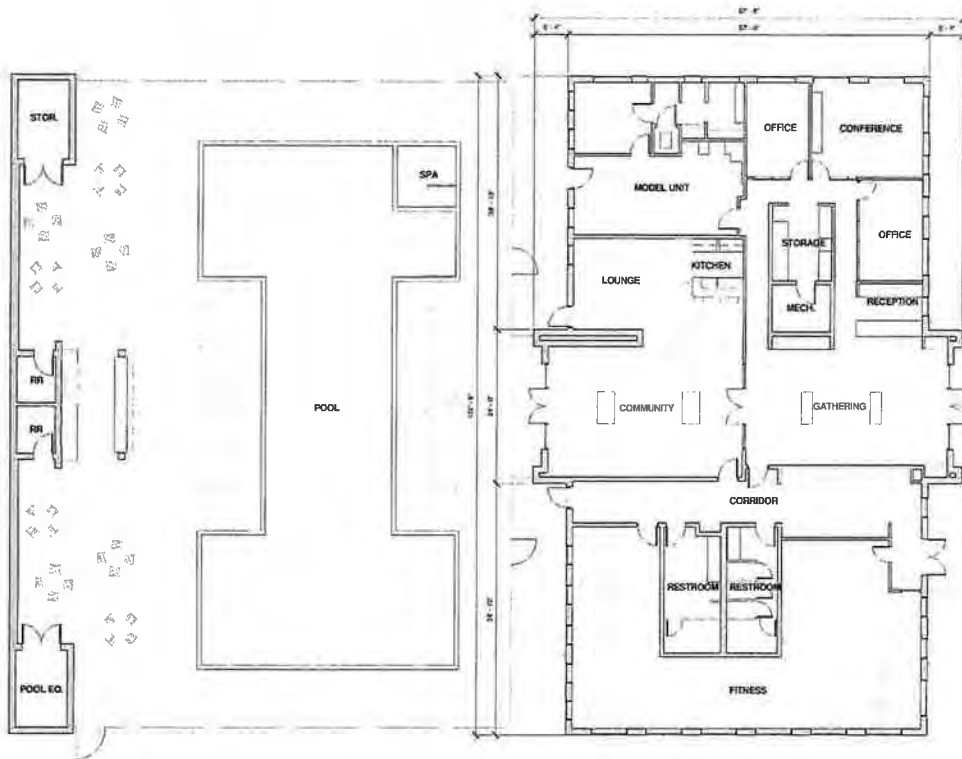


11. Pet Elevation B  
1/8" = 1'-0"

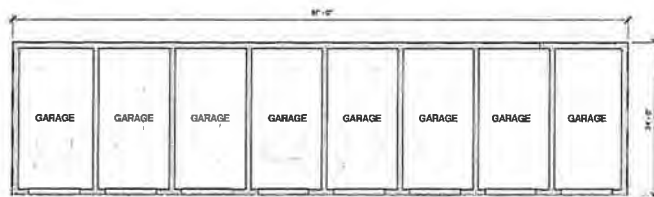


11. Maintenance Elevation A  
1/8" = 1'-0"

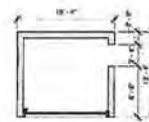
NOTE: EXTERIOR MATERIALS AT THE CLUBHOUSE, MAINTENANCE, PET, PINE GARAGE, AND TRASH ENCLOSURE BUILDINGS ARE 100% BRICK MASONRY (EXCLUDING OPENINGS AND GLASS).



ENLARGED CLUBHOUSE PLAN  
1/8" = 1'-0"



ENLARGED GARAGE PLAN  
1/8" = 1'-0"



ENLARGED TRASH ENCLOSURE PLAN  
1/8" = 1'-0"



ENLARGED MAINTENANCE PLAN  
1/8" = 1'-0"



ENLARGED PET + BIKE PLAN  
1/8" = 1'-0"



**Development Agreement Regarding Parkland Dedication  
Recorders Cover Sheet**

**Preparer Information:**

Clayton Ender  
City of Johnston  
P.O. Box 410, 6221 Merle Hay Road  
Johnston, IA 50131  
515-727-7763

**Return Document To:**

Clayton Ender  
City of Johnston  
P.O. Box 410, 6221 Merle Hay Road  
Johnston, IA 50131  
515-727-7763

**Grantors:** Jensen Group

**Grantees:** City of Johnston, Iowa

**Legal Description:**

Lots 1 – 5 Bricktowne Johnston, an Official Plat, City of Johnston, Polk County,  
Iowa

## DEVELOPMENT AGREEMENT

This Development Agreement made this \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2017, by and between the City of Johnston, an Iowa municipality with city offices at P.O. Box 410, Johnston, Iowa, 50131-0410 (hereinafter referred to as "CITY") and Bricktowne Johnston L.C. (hereinafter "OWNER") the owner of the property described below.

**WHEREAS**, OWNER wishes to subdivide and develop certain real estate in the City of Johnston, Iowa into what is to become the following legally described real estate:

Lots 1 – 5 Bricktowne Johnston, an Official Plat, City of Johnston, Polk County, Iowa

(hereinafter referred to as the "OWNER'S PROPERTY").

**WHEREAS**, it is OWNER'S intent to subdivide and develop OWNER'S PROPERTY for the construction of a multiple-family residential community (hereinafter the "Residential Community"); and

**WHEREAS**, Chapter 180.43 of the CITY'S Subdivision Regulations requires the dedication of Public Parkland from any developer who seeks to develop land for residential purposes.

**WHEREAS**, Chapter 180.43.4.A.3.c of the CITY'S Subdivision Regulations requires the dedication of 3.1008 acres of Public Parkland from OWNER based upon an expected future total of 384 dwelling units; and,

**WHEREAS**, Chapter 180.43.6 of the CITY'S Subdivision Regulations allows a developer who does not wish to dedicate public parkland to make a request to the City Council to allow the developer to meet the requirements of Chapter 180.43 through other arrangements agreeable to the City Council and Developer provided such alternative provides equal value to the City; and,

**WHEREAS**, the CITY and OWNER agree that the fair market value for undeveloped public parkland in the area of the OWNER'S Property is \$28,000 per acre; and,

**WHEREAS**, the CITY and OWNER agree that an equal value contribution to the 3.1008 acres of parkland dedication shall be \$86,822.40; and,

**WHEREAS**, OWNER hereby requests to install a ten (10) foot wide, five (5) inch thick concrete recreational trail that would be located within public right-of-way west adjacent to Merle Hay Road instead of a standard 5 foot wide, four (4) inch thick concrete sidewalk; and,

**WHEREAS**, the CITY agrees with OWNER that the cost difference between a five (5) foot wide, four (4) inch thick concrete sidewalk and a ten(10) foot wide, five (5) inch thick concrete trail is estimated to be \$13,274; and,

**WHEREAS**, the CITY agrees with OWNER that the estimated cost difference between a five (5) foot wide, four (4) inch thick concrete sidewalk and a ten (10) foot wide, five (5) inch thick concrete trail shall satisfy 0.4741 acres of the parkland dedication as required by Chapter 180.43 of the Code of Ordinances of the City of Johnston, Iowa, 2007; and,

**WHEREAS**, OWNER hereby requests to dedicate a 20 foot wide public trail easement along OWNER'S PROPERTY'S south boundary with a total area of 0.49 acres; and,

**WHEREAS**, the CITY agrees with OWNER that the 20 foot wide public trail easement shall satisfy 0.2450 acres of the parkland dedication as required by Chapter 180.43 of the Code of Ordinances of the City of Johnston, Iowa, 2007; and,

**WHEREAS**, OWNER requests to utilize private recreation amenities consisting of a private 1.6 acre central green space, a private 0.16 acre fenced in pet park, and a private clubhouse with a pool to satisfy the remainder of the public parkland dedication requirement; and,

**WHEREAS**, the City agrees with OWNER that the private recreational amenities within the residential community will reduce the demand for public parkland and as such the private recreation amenities shall satisfy 2.3817 acres of the parkland dedication as required by Chapter 180.43 of the Code of Ordinances of the City of Johnston, Iowa, 2007; and,

**NOW THEREFORE**, pursuant to the authority granted to the CITY by Iowa Code Sections 414.5 and 364.1 and in consideration of the proposed development and increased tax base to the CITY and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **APPROVAL OF SITE PLAN AND PLAT.** The City Council of the City of Johnston will approve the Site Plan and Final Plat on the OWNER'S PROPERTY, subject to any normal conditions appropriate for such plat approval.
2. **PRIVATE RECREATIONAL AMENITIES.** OWNER shall install and maintain private recreational amenities consisting of a private 1.6 acre central green space, a private 0.16 acre fenced in pet park, and a private clubhouse with a pool. Should these private recreational amenities cease being provided within

the residential community the CITY may require public parkland dedication be provided to satisfy the parkland needs of the citizens of the CITY should an equal alternative not be provided in the place of that which ceases to be provided.

3. **PUBLIC TRAIL EASEMENT.** OWNER shall dedicate to the CITY a 20 foot wide public trail easement along the south property boundary of OWNER'S PROPERTY which shall connect NW 59<sup>th</sup> Court to Merle Hay Road.

4. **TRAIL INSTALLATION.** CITY agrees with OWNER that installation of the 10 foot wide five-inch thick trail adjacent to Merle Hay Road shall occur prior to issuance of a certificate of occupancy for any lot within the plat.

5. **TRAIL MAINTENANCE, REPAIR, AND REPLACEMENT.** OWNER agrees with the CITY that OWNER shall deed the trail to the CITY as a public improvement. OWNER agrees with CITY that OWNER shall provide a maintenance bond for the trail that shall be valid for a period of four (4) years following CITY acceptance of the public improvement. The CITY agrees with the OWNER that the CITY shall be responsible for all maintenance, repair, and replacement of the trail on OWNER'S PROPERTY upon expiration of the maintenance bond.

5. **AMENDMENTS.** No amendments or variations of the terms of this Agreement shall be valid or binding unless made in writing and executed by a duly authorized representative of each party to be bound thereof.

6. **BINDING EFFECT.** This Agreement is binding upon the parties hereto and their respective successors and assigns. The parties further agree that this Agreement may be filed with the Polk County Recorder so as to be part of a public record and notify third parties of the terms contained herein. The parties further agree that this Development Agreement shall be a perpetual encumbrance on the OWNER'S Property; shall run with the land; and shall be binding on all subsequent purchasers of the Property.

7. **VALIDITY OF AGREEMENT.** If any term of this Agreement is deemed or ruled invalid by a court of law for any reason, the parties agree that there would be a failure of consideration and that this Agreement would be null and void.

**WHEREFORE,** the parties have executed this Agreement on the date and year written above.