



**CITY OF JACKSON**  
**ZONING BOARD OF ADJUSTMENT SPECIAL MEETING**  
**AGENDA**

**Thursday, February 17, 2022 at 5:30 PM**

**City Hall, 101 Court Street, Jackson, Missouri**

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**Regular Members**

Jason Liley  
Kenneth White  
Howard Hemmann  
Brent Wills

**Kevin Schaper, Chairman**

Janet Sanders, Staff Liaison

**Alternate Members**

Lynette Moore  
Mike Berti  
Vacant Position

**CALL TO ORDER**

**ROLL CALL**

**OLD BUSINESS**

1. Continuation of request for approval of a variance to allow a tree buffer in lieu of a privacy fence for construction of mini-storage units in a C-2 General Commercial Zoning District at 720 S. Old Orchard Rd. a submitted by Independence Self Storage, LLC (contingent upon successful annexation)

**ADJOURNMENT**

This agenda was posted at City Hall on February 11, 2022 at 2:00 PM.

PLEASE OBSERVE SOCIAL DISTANCING WHEN ATTENDING THIS MEETING.

## Staff Report

**ACTION ITEM:** Continuation of discussion of a request for allowance of a tree buffer in lieu of a privacy fence for construction of min-storage units in a C-2 General Commercial zoning district at 720 South Old Orchard Road (contingent upon successful annexation into the city limits).

**APPLICANT:** Independence Self Storage, LLC

**APPLICANT STATUS:** Property Owner

**PURPOSE:** To annex the property into the City of Jackson and have access to city utilities and services.

**SIZE:** 2.65 acres

**PRESENT USES:** Self-storage units currently under development in county.

**PROPOSED USE:** Self-storage units in the city limits with some climate-controlled units.

**PROPERTY ZONING:** Currently no zoning. All newly annexed property is automatically zoned R-1 Single Family. Rezoning to C-2 General Commercial is currently being pursued and has attained a positive recommendation from the Planning and Zoning Commission. A public hearing and vote of the Board of Aldermen are needed to complete the process and obtain a final decision.

**SURROUNDING ZONING:** North – R-2 Single Family Residential; South – out of city; East – R-1 Single Family Residential (30’ strip along Old McKendree driveway) otherwise C-2 General Commercial and CO-1 Enhanced Commercial Overlay; West – out of city

**HISTORY:** This property began development while in the county before the owner had interest in annexing into the city. The city obtained a 20’ utility easement across this county property from the property owner for the Williams Creek Sewer Interceptor Sewer (a trunk sewer serving the entire eastern part of town from East Jackson Boulevard north to East Main). In negotiating the easement, the city agreed to define the easement between the proposed self-storage buildings. The sewer has now been constructed and zig zags through the building layout, preventing a shift in the building locations. A pond has been located just south of the building footprints. The pond has now been drained.

**The Board of Adjustment approved in January two parts of the initial variance request regarding setbacks. Some clarification was requested from the City Attorney. That information has been added to the Comments section of this staff report.**

**This meeting is continuing a previously addressed item. It does not include a public hearing. The public hearing and opportunity for adjacent citizens to give input was on January 27, 2022.**

**TRANSPORTATION AND PARKING:** All required street frontage currently exists. No minimum parking is required for self-storage units. South Old Orchard Road is a collector street on the Major Street Plan. This section of road was designed with a 100' right-of-way to accommodate future expansion to a 4-lane pavement width with a center turn lane.

**CODE SECTION(s) REQUESTED TO BE VARIED:** Zoning Code (Chapter 65) excerpts:

**Sec. 65-12. - C-2 General commercial district regulations.**

(1) *Use regulations.* A building or premises shall be used only for the following purposes:

ww. The following uses when located fifty (50) feet or more from any residential district (as measured to the property line) and separated from an adjacent residential district by a privacy fence:

26. Self-service storage facilities.

**2009 COMPREHENSIVE PLAN:** Regional Center (commercial)

**FLOODPLAIN INFORMATION:** This property is not located in a floodplain per FEMA panel 29031C0163, dated 9/29/11.

**PHYSICAL CHARACTERISTICS:** City trunk sewer zig-zags between the footprints of the buildings under construction.

**COMMENTS:** The 2.65 acres is currently in the annexation process. The annexation, variance, and rezoning are being pursued simultaneously. All three processes are dependent upon the success of the others. If the Board of Aldermen votes to recommend approval of the variance, **any approval must be contingent upon successful annexation and rezoning.**

If the board grants the portion of the variance related to a tree buffer in lieu of a privacy fence, they may define what constitutes an adequate tree-line or landscape buffer.

**ANSWERS FROM CITY ATTORNEY** (copied into this report with his permission):

Generally, the research I performed finds the following principles:

When a board grants a variance, fair administration demands that adjacent and nearby owners should be protected from any adverse effects likely to be caused by such relief. Such protection can be accomplished by attaching conditions to the variance.

The authority to impose variance conditions is recognized legislatively through the language of the statute or ordinance empowering the board to grant variances. For us, these include Missouri Revised Statute 89.090 and Section 65-28 of the Jackson Code of Ordinances.

Section 89.090 states in relevant part:

“1. The board of adjustment shall have the following powers: (3)..., to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of the buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done,...”

Section 65-28 (5) c, states in relevant part:

“...The zoning board of adjustment may impose conditions in the granting of a variance to ensure compliance and to protect adjacent property.”

In my opinion, the enabling statute and ordinance granting the authority for the BOA to operate both infer from the language of the statute and ordinance the authority of the BOA to impose variance conditions. However, it is important that any conditions imposed are sufficiently clear, and relate directly to the land (as opposed to the person or entity, i.e. Lackamp or Independent Self Storage, LLC and how it does its business).

**Question #1**, Can BOA allow a tree buffer in lieu of a privacy fence? YES, if that is what is reasonably required to protect nearby owners and there is substantial and competent evidence to support the condition(s).

**Question #2**, Can BOA add requirements for a fence since that term is not defined? YES, if that is what is reasonably required to protect nearby owners and there is substantial and competent evidence to support the condition(s). At first glance it may seem troubling that the ordinance doesn't further define "privacy fence". However, privacy fence carries with it the idea that the fence will make sufficiently private the structure or item sought to be kept out of view. I believe this would infer that the BOA has the authority to set a height sufficient, but not more than reasonably necessary, to block the storage sheds from McKendree Hills.

**Question #3**, Can BOA require both a fence and a landscape buffer? YES, if that is what is reasonably required to protect nearby owners and there is substantial and competent evidence to support the condition(s). The conditions must be reasonable and relate to the mitigation of adverse land use impacts caused by the variant use. If there is no relation to the condition, or if the condition is more than reasonably necessary, then the condition is improper.

**Question #4**, If a tree buffer is allowed, how is it enforced? By including reasonably specific conditions as part of the variance, such as that no trees can be removed, trimmed or altered unless it is first determined that the maintenance of the tree is required and only done if inspected and agreed by the City (I haven't thought of all the ways to protect the tree line, but this gives you an idea).

**Question #5**, Is a fence required along the 500 plus depth and the 200 plus width? It appears that a fence would be required by the code, but doesn't seem necessary as I understand the makeup of the property located in these other described areas since Lackamp's property is not adjacent to structures in those locations (I may be wrong about that). It would seem that Lackamp could be granted a variance for a privacy fence in these two areas and this could be further addressed if and when property is developed. I may not be fully understanding the issue here and this could require some further discussion.

**ACTION REQUIRED:** The Board shall approve or deny this request based on the criteria for granting variances. Special conditions may be added as needed.



# VARIANCE REQUEST APPLICATION

## City of Jackson, Missouri

APPLICATION DATE: January 11, 2022

PROPERTY ADDRESS (Other description of location if not addressed):

720 South Old Orchard Road, Jackson, MO 63755

CURRENT PROPERTY OWNERS (all legal property owners as listed on current deed, including trusts, LLCs, etc):

Property Owner Name(s): Independence Self Storage, LLC.

Mailing Address: 6839 State Hwy. D,

City, State ZIP: Oak Ridge, MO 63769

PROPOSED PROPERTY OWNERS (if property is to be transferred, name(s) in which property will be deeded):

Proposed Property Owner(s):

Mailing Address:

City, State, ZIP

### CONTACT PERSON HANDLING APPLICATION:

Contact Name: Michael H. Lackamp

Mailing Address: 6839 State Hwy. D

City, State ZIP: Oak Ridge, MO 63769

Contact's Phone: 573-270-2210

Email Address (if used): mikelackamp@yahoo.com

### CURRENT ZONING: (check all that apply)

- |  |  |
|--|--|
| <input type="checkbox"/> R-1 (Single-Family Residential)       | <input type="checkbox"/> C-1 (Local Commercial)        |
| <input type="checkbox"/> R-2 (Single-Family Residential)       | <input type="checkbox"/> C-2 (General Commercial)      |
| <input type="checkbox"/> R-3 (One- And Two-Family Residential) | <input type="checkbox"/> C-3 (Central Business)        |
| <input type="checkbox"/> R-4 (General Residential)             | <input type="checkbox"/> C-4 (Planned Commercial)      |
| <input type="checkbox"/> MH-1 (Mobile Home Park)               |  |
| <input type="checkbox"/> O-1 (Professional Office)             | <input type="checkbox"/> I-1 (Light Industrial)        |
| <input type="checkbox"/> CO-1 (Enhanced Commercial Overlay)    | <input type="checkbox"/> I-2 (Heavy Industrial)        |
|  | <input type="checkbox"/> I-3 (Planned Industrial Park) |

**CURRENT USE OF PROPERTY:** \_\_\_\_\_

**PROPOSED USE OF PROPERTY:** Self Storage including climate control

**LEGAL DESCRIPTION OF TRACT** (attach a copy of the most current property deed):

**REASON FOR REQUEST:** State the reason(s) why you believe the requested variance is necessary and compliance with the zoning code creates an undue hardship that denies all beneficial use of the property. Undue hardship must be related to condition of the property, not a condition of the owner or to a financial consideration. Attach additional page(s) as needed.

**DRAWINGS:** Attach a scaled plat of the tract(s) showing the entire lot, the location and size of all buildings / structures on the lot. If any buildings are to be less than the standard minimum setbacks, include these distances on the drawing. Any approved special use permit will be based on this building layout. Changes to the layout will require a new special use permit.

**SURROUNDING PROPERTY OWNERS:** A map of the property location and a map and list of all owners of property within 185' of the property in question will be incorporated as part of this application by the City. The 185' distance is exclusive of rights-of-way. The City will prepare this map based on the most current tax information published by the Cape Girardeau County Assessor.

**PRIOR VARIANCE HISTORY:**

Have there been any prior applications for Board of Adjustment action for this property? If so, please include the date of previous application. YES ☐ NO ☒ Date: \_\_\_\_\_

Prior Variance Approved? YES ☐ NO ☐

Description of prior variance request: \_\_\_\_\_

**SITE PLAN:**

Attach a site plan of the property in question. The site plan does not need to be prepared by a surveyor, but must be adequate to clearly show the following information. This site plan must include the proposed construction, all existing structures on the property, all streets, alleys, easements, property lines, etc. Please include dimensions (measurements) of all structures and measurements from the structure in question to other structures and to all property lines. For a height variance, also include the proposed height from the lowest adjacent grade and highest adjacent grade. Show the location of all unusual physical features of the property that pertain to the problem. Measurements for the distance, setback, height, or size to be varied must be accurate. Construction cannot exceed the varied distance, size, or height approved by the Board of Adjustment.

**PHOTOS:**

Include photos of the property if they help explain the problem and/or reason for the need for a variance.

**PERMISSION TO VISIT PROPERTY:**

The owner hereby gives permission for members of the Board of Adjustment and/or city staff to enter within the boundaries of the real estate listed herein to examine the location(s) and property conditions involved in the proposed variance.

Yes ☒No ☐**OWNER SIGNATURES:**

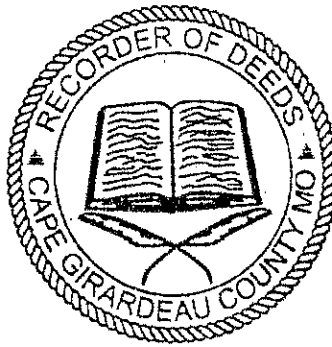
I state upon my oath that all of the information contained in this application is true. (Signatures of all persons listed on the current property deed and the authorized signer(s) for any owning corporation or trust.)

*Michael L. Lark*  
*Sandra K. Zachamp*

Please submit this application along with \$50.00 non-refundable application fee to:

Janet Sanders  
 Building & Planning Manager  
 City of Jackson  
 101 Court Street  
 Jackson, MO 63755  
 573-243-2300 ext.29 (ph)  
 573-243-3322 (fax)  
[jsanders@jacksonmo.org](mailto:jsanders@jacksonmo.org)





ANDREW DAVID BLATTNER  
RECORDER OF DEEDS  
CAPE GIRARDEAU COUNTY, MO  
eRECORDED ON  
12/16/2021 10:26:40 AM  
REC FEE: 27.00  
PAGES: 2

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### WARRANTY DEED

This Warranty Deed made and entered into this 16th day of December, 2021, by and between **W & L Enterprises, LLC, a Missouri Limited Liability Company**, hereinafter referred to as **GRANTOR**, and **INDEPENDENCE SELF STORAGE, LLC, a Missouri Limited Liability Company**, of the County of Cape Girardeau, State of Missouri, hereinafter referred to as **GRANTEE**. The mailing address of the Grantee is:

6839 State Hwy D, Oak Ridge, MO 63769

**WITNESSETH:** The Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration paid to the Grantor, the receipt of which is hereby acknowledged, does by these presents Grant, Bargain, and Sell, Convey and Confirm unto the Grantee the following described lots, tracts or parcels of land lying, being and situated in the County of Cape Girardeau and State of Missouri, to-wit:

That part of USPS No. 324 Township 31 North, Range 13 East of the Fifth Principal Meridian, Cape Girardeau County, Missouri, being more particularly described as follows: Begin at the southwest corner of McKendree Crossing Subdivision, as recorded in document No. 2018-05914 in the land records of Cape Girardeau County Missouri: thence South 80°51'49" East along the south line of said subdivision, 566.88 feet; thence leaving said south line, South 06°40'44" West 204.32 feet; thence North 80°51'49" West 562.37 feet to a point on the east right of way line of South Old Orchard Road; thence North 05°24'59" East along said east right of way line 204.56 feet to the point of beginning.

The herein described tract contains 2.65 acres, more or less. Description taken from survey dated 07/09/2021 by Rodney W. Amos, PLS# 2007000072 of Strickland Engineering, Project #21-153,

**TO HAVE AND TO HOLD** the premises aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in anywise appertaining, unto the said Grantee and unto its successors and assigns FOREVER, the said Grantor hereby covenanting that it is lawfully seized of an indefeasible estate in fee in the premises herein conveyed; that it has good right to convey the same; that the said premises are free and clear of any encumbrances done or suffered by it or those under whom it claimed title; and that it will warrant and defend the title to said premises unto the said Grantee, and unto its successors and assigns forever, against the lawful claims and demands of all persons.

**IN WITNESS WHEREOF**, the said Grantor has hereunto set its hand the day and year first above written.

**GRANTOR:**

Michael H. Lackamp  
Michael H. Lackamp, Member

Sandra K. Lackamp  
Sandra K. Lackamp, Member

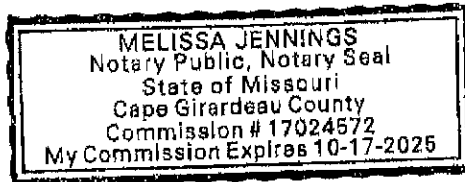
STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF CAPE GIRARDEAU )

On this 16 day of December, 2021, before me personally appeared **Michael H. Lackamp and Sandra K. Lackamp, Members of W & L Enterprises, LLC, a Missouri Limited Liability Company**, to me known to be the person described in and who executed the within Warranty Deed in behalf of said limited liability company and acknowledged to me that he or she executed the same for the purposes therein stated.

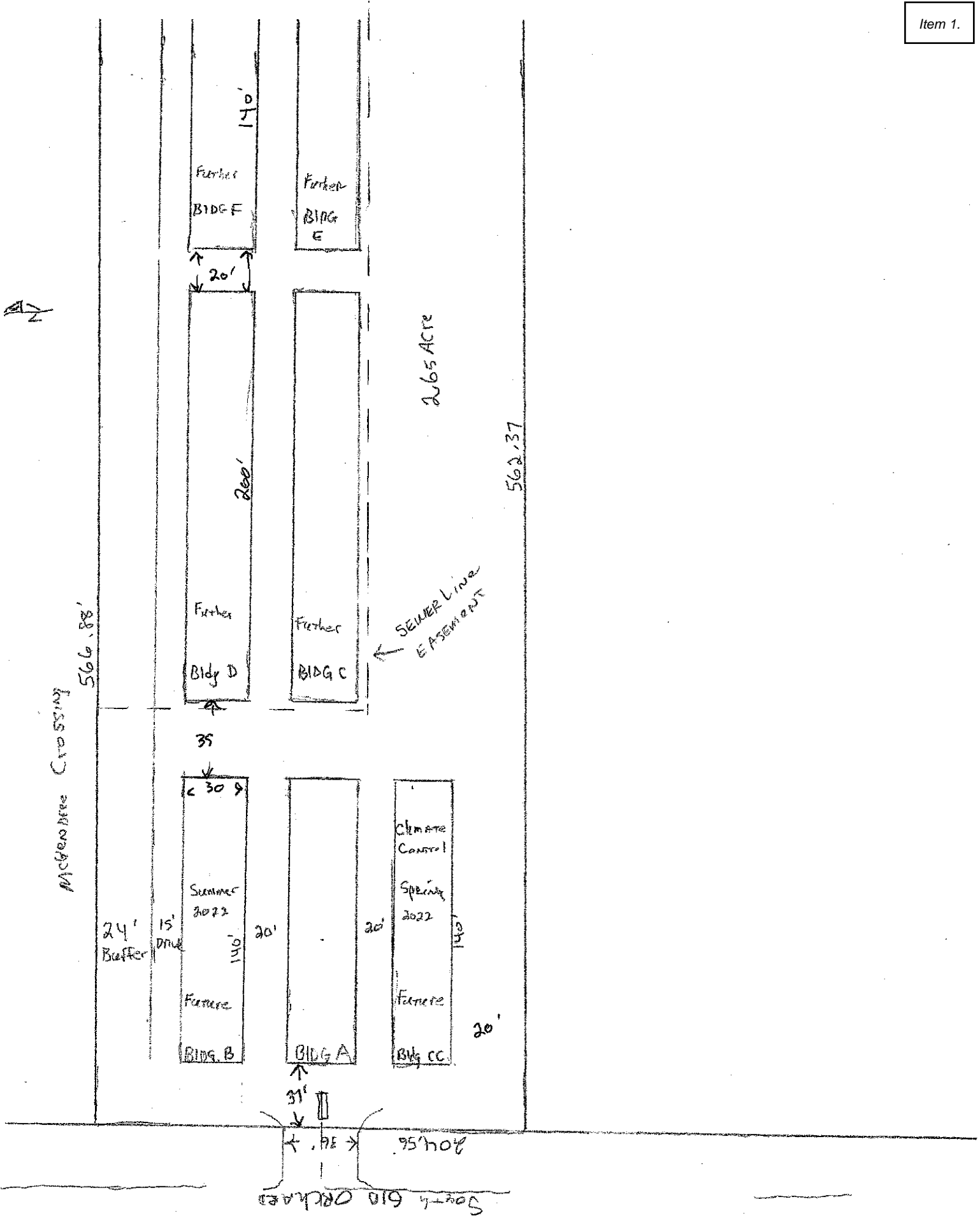
**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal, the day and year first above written.

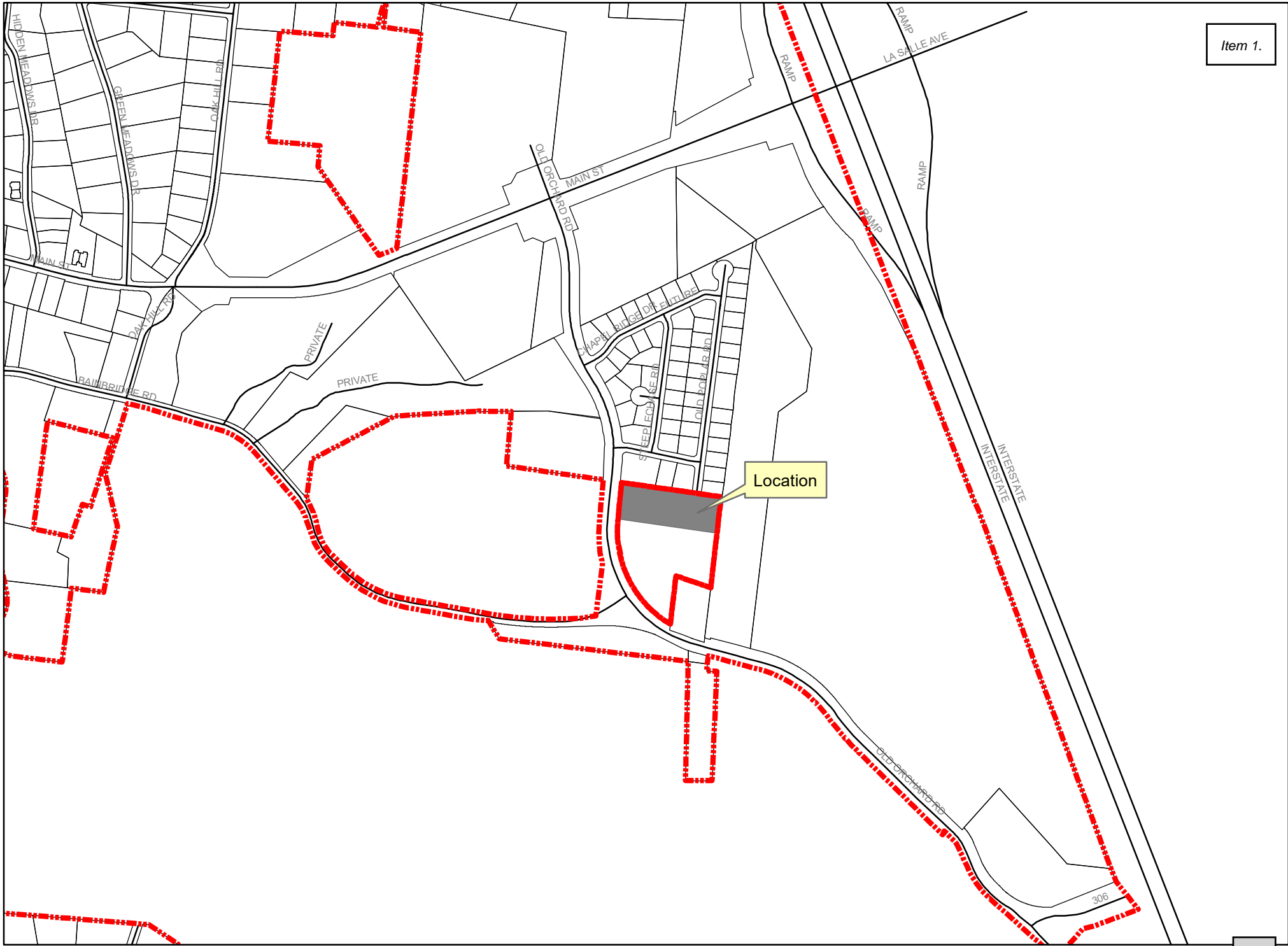
Melissa Jennings  
Notary Public

My commission expires:



2109049





720 S. Old Orchard Rd.  
Location Map

