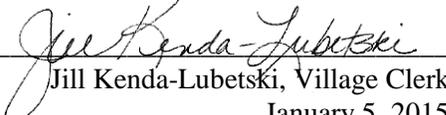


PLAN COMMISSION MEETING
Monday, January 12, 2015
Room B26, 6:30 P.M.



PLEASE TAKE NOTICE that a meeting of the Brown Deer Plan Commission will be held in the Earl McGovern Board Room at the Village Hall of the Village of Brown Deer, 4800 West Green Brook Drive, Brown Deer, Wisconsin at the above noted time and date, at which the following items of business will be discussed and possibly acted upon:

- I. Roll Call
- II. Persons Desiring to be Heard
- III. Consideration of Minutes: September 8, 2014 – Regular Meeting
- IV. Report of Staff/Commission Members
- V. Unfinished Business
- VI. Business Items
 - A) Public hearing, review and recommendation of a conditional use permit to Eco-Site LLC, for a cellular communication tower and associated equipment at 8200 N. 60th Street.
 - B) Review and Recommendation of a permanent Conditional Use Permit for a commercial dance studio at 9036 N. 51st Street
 - C) Review and Recommendation of a permanent Conditional Use Permit for a medical laboratory at 9055 N. 51st Street, Unite E
 - D) Review and Recommendation of a permanent Development Agreement for a professional office at 8759 N. Deerwood Drive
- VII. Adjournment


Jill Kenda-Lubetski, Village Clerk
January 5, 2015

PERSONS REQUIRING SPECIAL ACCOMMODATIONS FOR ATTENDANCE AT THE MEETING SHOULD CONTACT THE VILLAGE CLERK AT LEAST ONE BUSINESS DAY PRIOR TO THE MEETING.

**BROWN DEER PLAN COMMISSION
SEPTEMBER 8, 2014 MEETING MINUTES
HELD AT THE BROWN DEER VILLAGE HALL
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by President Krueger at 6:33 P.M.

I. ROLL CALL

Present: President Carl Krueger; Trustees Jeff Baker, Tim Schilz; Commissioners: Al Walters, Ryan Schmitz, Bill Hoffmann, Dan Bednar, Jeff Jaroczynski

Also Present: Michael Hall, Village Manager; Matt Janecke, Assistant Village Manager; Nate Piotrowski, Community Development Director; Jill Kenda-Lubetski Village Clerk; Rebecca Boyle, Village Attorney

Excused: Commissioners: Susan Bellehumeur

II. PERSONS DESIRING TO BE HEARD

President Krueger indicated that people wishing to speak about items on the agenda could do so during the public hearing. There were no additional persons desiring to be heard.

III. CONSIDERATION OF MINUTES: July 7, 2014 – Special Meeting

It was moved by Commissioner Schmitz and seconded by Commissioner Bednar to approve the special meeting minutes of July 7, 2014. The motion carried unanimously.

IV. REPORT OF STAFF/COMMISSION MEMBERS

Mr. Hall indicated that Staff was investigating a new opportunity to leverage Tax Incremental Financing (TIF) funding for the vacant gas station at 5091 W. Brown Deer Road. He noted that CDA counsel Marcuvitz was exploring the ability to use TIF dollars on blighted property up to ½ mile away from the boundary of an existing TIF.

V. UNFINISHED BUSINESS

None.

VI. NEW BUSINESS

- A) Public hearing, review and recommendation of an operational development agreement with RNT Development for an assisted living facility on Lot 2 of CSM 7907, also known as 8881 N. 60th Street or Beaver Creek Condominiums (including existent condominiums).**

Mr. Piotrowski reviewed the proposal and introduced the applicant who was represented by James Litwin, Paul Nicholas and Gary Tushie. Mr. Litwin gave a presentation about the history of the company and its operational plan for the site. Mr. Tushie reviewed the site, floor and architectural plans of the project. Mr. Piotrowski also added a presentation related to the land use findings for crime, traffic, zoning and economic impacts.

President Krueger opened the public hearing at 7:15 p.m.

Mike Christopulos, 8515 N. 59th Street stated that he was opposed to the project at Beaver Creek and said another location should be investigated.

Ellen Jogwer, 8715 N. Kildeer Court stated that she would like the project scaled down. She asked why so many surface parking spaces were being provided and if that could be reduced since traffic volumes would be low. Mr.

Nicholas replied that the parking lot was sized to accommodate holiday events and the overlapping of work shifts.

Don Uebelacker, 6195 Plaza Circle stated that he was concerned about the long term viability of senior assisted living and was worried that if the project was unsuccessful it could revert to apartments which the community opposed under the General Capital application in 2013.

Ivory Peoples, 6158 W. Silver Brook Lane indicated that he was concerned with the density of the project and wanted to see the overall size of the facility reduced.

Percy Heideberg, 9045 N. Silverbrook Lane stated that he was opposed to the project as proposed.

John Denecke, 8487 N. 66th Street stated his desire to have New Perspectives be a responsible community partner if approved.

Cynthia Brown, 9047 N. Silver Brook Lane stated that she was against the project as proposed and asked the Plan Commission to support the desires of the residents in attendance.

Steadman Peterson, 9407 N. Pearlette Lane stated that he was opposed to the project and added that the Village should put the proposal to a Village wide referendum.

John Phelps, 8515 N. 62nd Street asked if residents of the facility would need an endowment prior to gaining occupancy and if other governmental assistance would be involved to offset costs. Mr. Nicholas replied that many residents receive government assistance in the form of social security but noted that the project would not feature any Section 8 or 42 affordable units. He noted that Lighthouse facilities do ask possible residents for banking information to document their ability to pay for multiple months of rent.

Stephanie Richardson, 8988 N. Silver Brook Lane stated that she appreciated the goal of caring for elderly but did not like the location of the facility at Beaver Creek and felt the building was too large for the site. She asked if local residents would be given priority for renting units. Mr. Nicholas replied that it was the company's desire to serve as many local residents as possible and they would be actively recruit Brown Deer residents.

Terry Iverson, 8595 N. 58th Street stated that she was against the proposal.

Patrick Mahoney, 8634 N. 56th Street stated that Lighthouse was a wonderful company and added that they provide essential care for seniors. He noted that many other communities desire to have developments such as this in their municipalities.

Ann Griffin, 8159 N. 38th Street stated that she supported the project and noted that it was the highest and best use for the Beaver Creek site which exists in a transitional land use location. She added that the American TV location was not suitable for the project as the current building is designed for commercial use.

Karen Tuskievicz, 5893 W. Green Brook Drive stated that she was opposed to the proposal due to the significant additional traffic that it would generate.

John Christensen, 8225 N. 49th Street stated that he was concerned about having more apartments in the Village and that the facility might not be assisted living in twenty years.

DeAnne Malloy, 8942 N. Silver Brook Lane stated that the project was too big for the site and would dominate the neighborhood.

Carla Allison, 5706 W. Green Brook Drive stated that she felt the project was too big for the site and that it would not be successful and would devolve into affordable housing apartments.

Dee Howard, 5625 W. Brown Deer Road stated that she was in support of the project as there were no other good

alternatives for the site.

Augie Zanowski, 8614 N. 56th Street asked if the project could be scaled back architecturally or if the American TV site could be explored.

Monica Baran, 3656 W. Pelican Lane indicated that she was generally in favor of the assisted living land use but does not want the project to be four stories.

President Krueger closed the public hearing at 8:20 p.m.

Commissioner Jaroczynski asked why there is a difference in the number of rooms compared to beds. Mr. Nicholas explained that some rooms in the memory care facility are shared and have multiple beds.

Commissioner Bednar asked how the existing condos would fit into the new project. Mr. Litwin replied that in the future they would ultimately be rented to seniors who would be able to leverage services of the larger community/new building.

Commissioner Bednar asked if the developer looked at lowering the height of the structure by spreading it out on site. Mr. Tushie added that they also explored spreading out the building but that operationally it created challenges by elongating distances to elevators and adding obstructions to caregiver sight lines.

Commissioner Walters asked if the four stories would be too high for elderly residents. Mr. Litwin replied that they have not found this to be the case and noted that Lighthouse successfully operates taller buildings. He also noted that resident assessments are conducted prior to leasing to help group residents with similar needs together.

Commissioner Walters asked about the size of rooms and amenities. Mr. Litwin replied that rooms ranged from 350-525 square feet in memory care and up to 1100 square feet in assisted living. He added that rooms on the assisted living side are similar to apartments in that they have kitchens, living room, bathrooms and closets.

President Krueger asked if there were multiple elevators. Mr. Tushie replied that there were two.

Commissioner Hoffmann asked if the zoning district provided any height maximums. Mr. Piotrowski replied that the RPD zoning did not provide a specific standard but that the operational agreement approves site specific layout and height.

Commissioner Jaroczynski asked if there was Staff concern about the height and if the Plan Commission could make changes. Mr. Piotrowski noted it was the Plan Commission's role to determine if the building height and massing make sense for that parcel. He added that Staff analyzed the height and the density and found the density to be similar to what exists in other multi-family zoning districts while the height was not vastly out of character with the surrounding properties and that it was similar to Walmart and the Marriott.

Trustee Baker asked if guests could stay in unoccupied units to visit relatives. Mr. Nicholas said that this was not currently possible but an idea worth exploring.

Commissioner Hoffmann asked if the assisted living facility was the highest and best use for the property. Mr. Piotrowski replied that given market realities for condos and single family homes coupled with the fact that the site was not desirable for industrial or commercial purposes, Staff felt that the Lighthouse proposal was indeed the highest and best use.

Commissioner Schmitz asked if the any units could be removed to reduce the structure height. Mr. Litwin noted that this was investigated and that removing units would have an adverse impact financially to lending opportunities and would create shortfalls in the Village's TID pro-formas.

Commissioner Bednar asked how soon they expected to fill the building once open. Mr. Litwin responded that the

industry standard is to have approximately 60% occupancy after three years and noted that Lighthouse exceeds those averages.

It was moved by Commissioner Hoffmann and seconded by President Krueger to recommend approval of the development agreement with RNT Development LLC for an assisted living facility to the Village Board. The motion carried by a vote of 5-2 with Commissioners Walters and Jaroczynski opposed.

B) Public hearing, review and recommendation for a rezoning of property at 6700 W. Brown Deer Road, tax key number 030-0104-001, from B3 Commercial to PD- Planned Development

President Krueger opened the public hearing at 8:40 p.m.

Ken (no last name or address given) asked for the definition of Planned Development and if it allows for commercial use. Mr. Piotrowski explained the flexible nature of Planned Development and that all uses are possible but must be approved by the Village Board.

Commissioner Schmitz asked why Planned Development makes sense here and if the Village is overly reliant on the zoning category. Mr. Piotrowski replied that it made sense at this site given the uncertainty of commercial real estate demand and noted that it could be more marketable due to the zoning flexibility. He added that the Village's Comprehensive Plan does suggest analyzing the creation of a mixed use zoning category to lessen the reliance on planned development zoning but noted that this would take several months and would hinder redevelopment at the site.

President Krueger closed the public hearing at 8:45 p.m.

It was moved by Commissioner Schmitz and seconded by Commissioner Jaroczynski to recommend approval of rezoning resolution to the Village Board. The motion carried unanimously.

VII. ADJOURNMENT

It was moved by Commissioner Schmitz and seconded by Commissioner Jaroczynski to adjourn at 8:50 P.M. The motion carried unanimously.



Nate Piotrowski, Community Development Director



REQUEST FOR CONSIDERATION

COMMITTEE CONSIDERATION: Plan Commission
ITEM DESCRIPTION: Public hearing, review and recommendation of a conditional use permit to Eco-Site LLC, for a cellular communication tower and associated equipment at 8200 N. 60 th Street.
PREPARED BY: Nathaniel Piotrowski, Community Development Director
REPORT DATE: January 7, 2015
Applicant: Jim Kaysing, SAC Wireless agent for Eco-Site
Existing Zoning: R3 Applicable Code: Sec.121-158
VILLAGE ATTORNEY REVIEW: <input type="checkbox"/> Village Attorney has reviewed documents. <input type="checkbox"/> Village Attorney has not reviewed documents. <input checked="" type="checkbox"/> Documents provided to Village attorney.
COMPREHENSIVE PLAN REVIEW: <input checked="" type="checkbox"/> Staff has reviewed request for consistency with the Comprehensive Plan.

BACKGROUND:

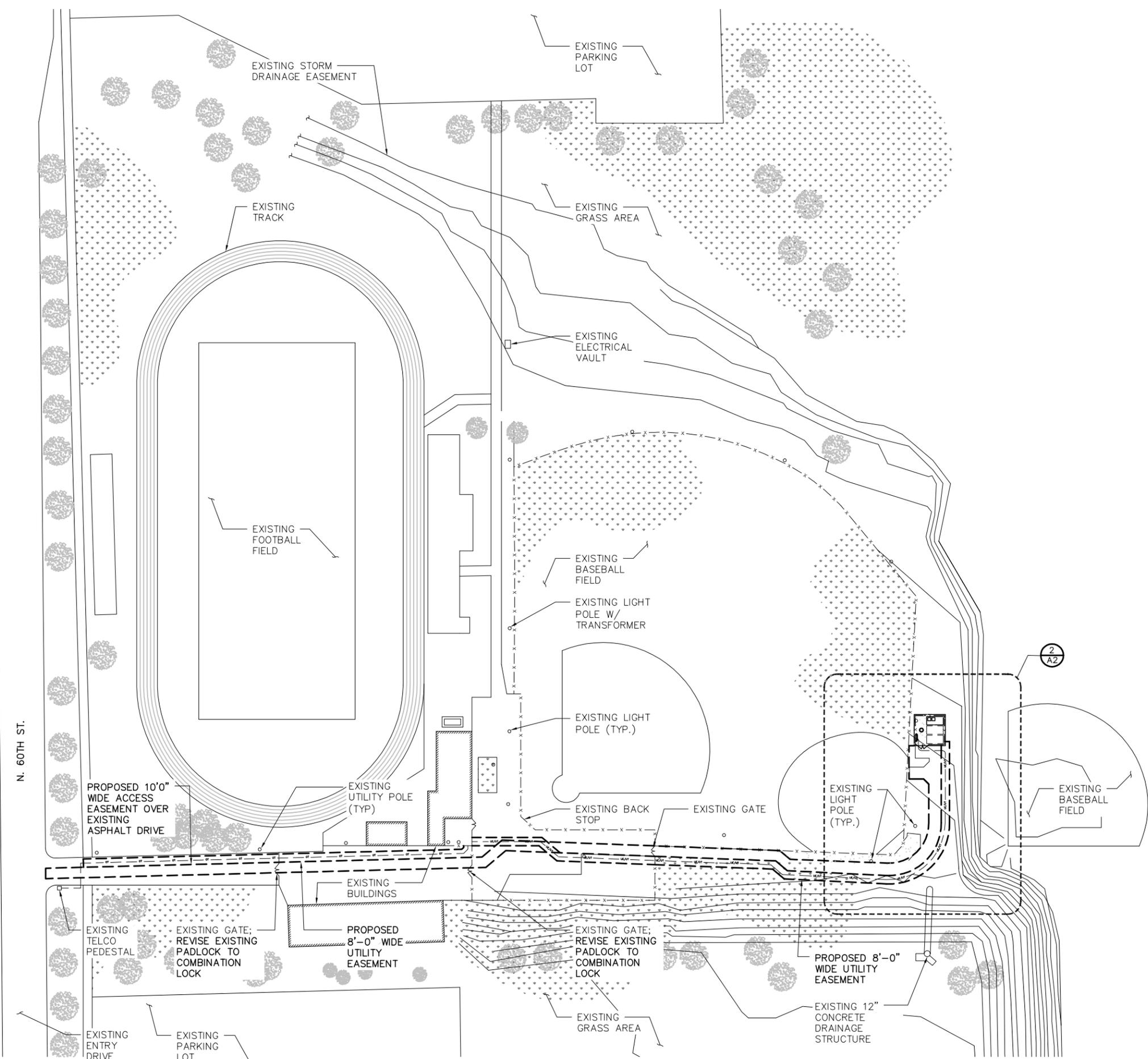
Eco-Site is proposing to erect and operate a cellular antenna tower adjacent to the main baseball and softball diamonds at the Brown Deer School District under a lease agreement with the District. The School District has not yet finalized the lease agreement but has authorized Eco-Site to pursue land use approval. A cellular antenna tower is a conditional use and requires Plan Commission review and approval of a permit by the Village Board.

Attached are plans that show the location of the proposed tower and equipment shelter. The tower would replace an existing 75 foot tall wooden light pole with a 105 steel pole. The new pole would retain lighting for the ball fields and antenna arrays would be aligned at the top. The tower will start with one array of antennas at the top. There will be opportunity to add two additional arrays. Staff has worked with the applicant and has requested a wooden privacy style fence and enhanced landscaping in lieu of the chain link fencing currently proposed.

School District Staff has also reviewed the proposal and did not have major site layout concerns however they also requested improved screening. Also attached is the draft conditional use permit.

RECOMMENDATION:

The site plan is acceptable to Village and School District Staff. Therefore Staff suggests that the Plan Commission favorably recommend the conditional use permit to the Board. Please feel free to contact Nate Piotrowski at (414) 371-3061, if you have any questions.



CLIENT:
Eco-Site
 Urban. Renewal. Wireless.
 1414 RALEIGH ROAD
 SUITE 445
 CHAPEL HILL, NC 27517
 ECO-SITE.COM

CLIENT:
T-Mobile

A&E:
S&C
 WIRELESS
 ENGINEERING GROUP
 2720 S. RIVER ROAD
 DES PLAINES, IL 60018
 WWW.S&CW.COM
 847.944.1601

**NOT FOR
 CONSTRUCTION**

IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED ARCHITECT, TO ALTER THIS DOCUMENT.

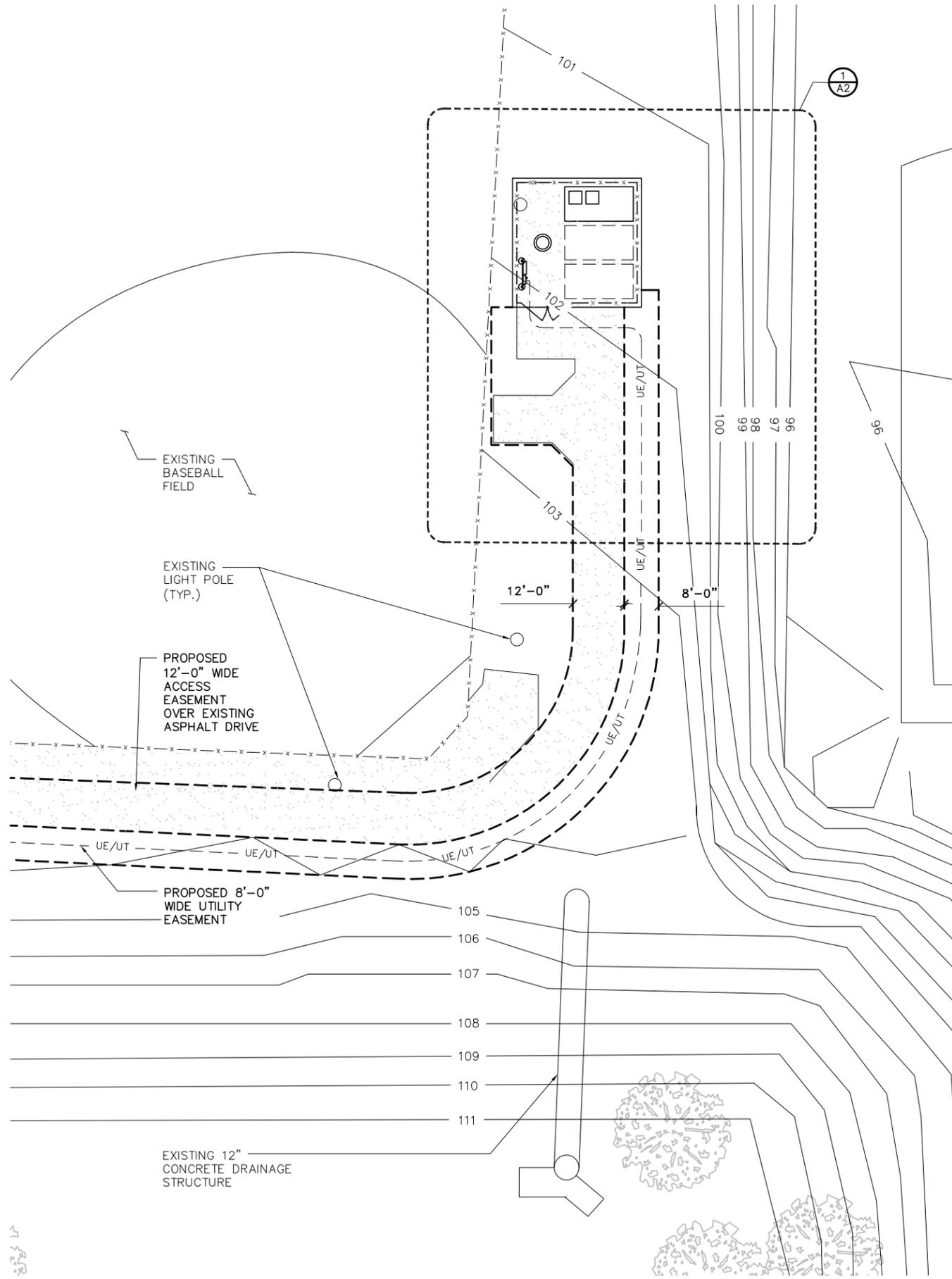
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#	DATE	DESCRIPTION	BY
A	10/27/14	FOR REVIEW	DS
0	11/18/14	LEASE EXHIBIT	DS
1	11/20/14	LEASE EXHIBIT	GP
2	12/11/14	LEASE EXHIBIT	GP

BROWN DEER HS
 T-MOBILE #: ML91303A
 ECO SITE #: WI-0002
 8060 N. 60TH ST.
 BROWN DEER, WI 53223

SHEET TITLE
SITE PLAN

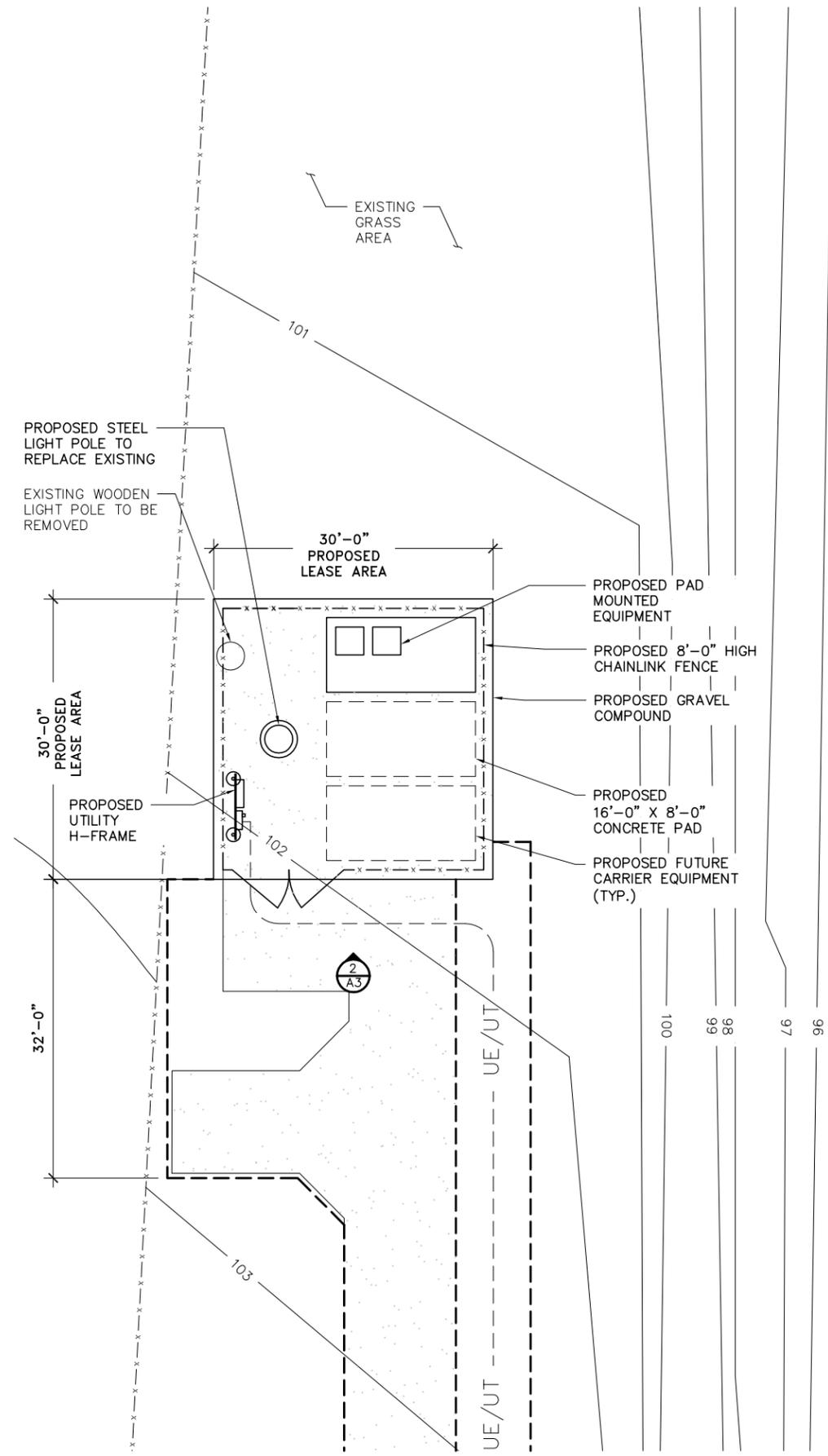
SHEET NUMBER
A1

OVERALL SITE PLAN
 SCALE: 1" = 10'-0"



ENLARGED SITE PLAN
SCALE: 1"=30'

2



COMPOUND PLAN
SCALE: 1/16"=1'-0"

1

CLIENT:

Eco-Site
Urban. Renewal. Wireless.

1414 RALEIGH ROAD
SUITE 445
CHAPEL HILL, NC 27517
ECO-SITE.COM

CLIENT:

T-Mobile

A&E:

S&C
WIRELESS
ENGINEERING GROUP

2720 S. RIVER ROAD
DES PLAINES, IL 60018
WWW.S&CW.COM
847.944.1601

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SUBMITTALS

#	DATE	DESCRIPTION	BY
A	10/27/14	FOR REVIEW	DS
0	11/18/14	LEASE EXHIBIT	DS
1	11/20/14	LEASE EXHIBIT	GP
2	12/11/14	LEASE EXHIBIT	GP

BROWN DEER HS
T-MOBILE #: ML91303A
ECO SITE #: WI-0002
8060 N. 60TH ST.
BROWN DEER, WI 53223

SHEET TITLE
**ENLARGED
SITE PLAN &
COMPOUND PLAN**

SHEET NUMBER

A2

CLIENT:

Eco-Site[®]
Urban. Renewal. Wireless.

1414 RALEIGH ROAD
SUITE 445
CHAPEL HILL, NC 27517
ECO-SITE.COM

CLIENT:

T-Mobile

A&E:

SAC[™]
WIRELESS
ENGINEERING GROUP
2720 S. RIVER ROAD
DES PLAINES, IL 60018
WWW.SACW.COM
847.944.1601

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SUBMITTALS

#	DATE	DESCRIPTION	BY
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1	11/20/14	LEASE EXHIBIT	GP
2	12/11/14	LEASE EXHIBIT	GP

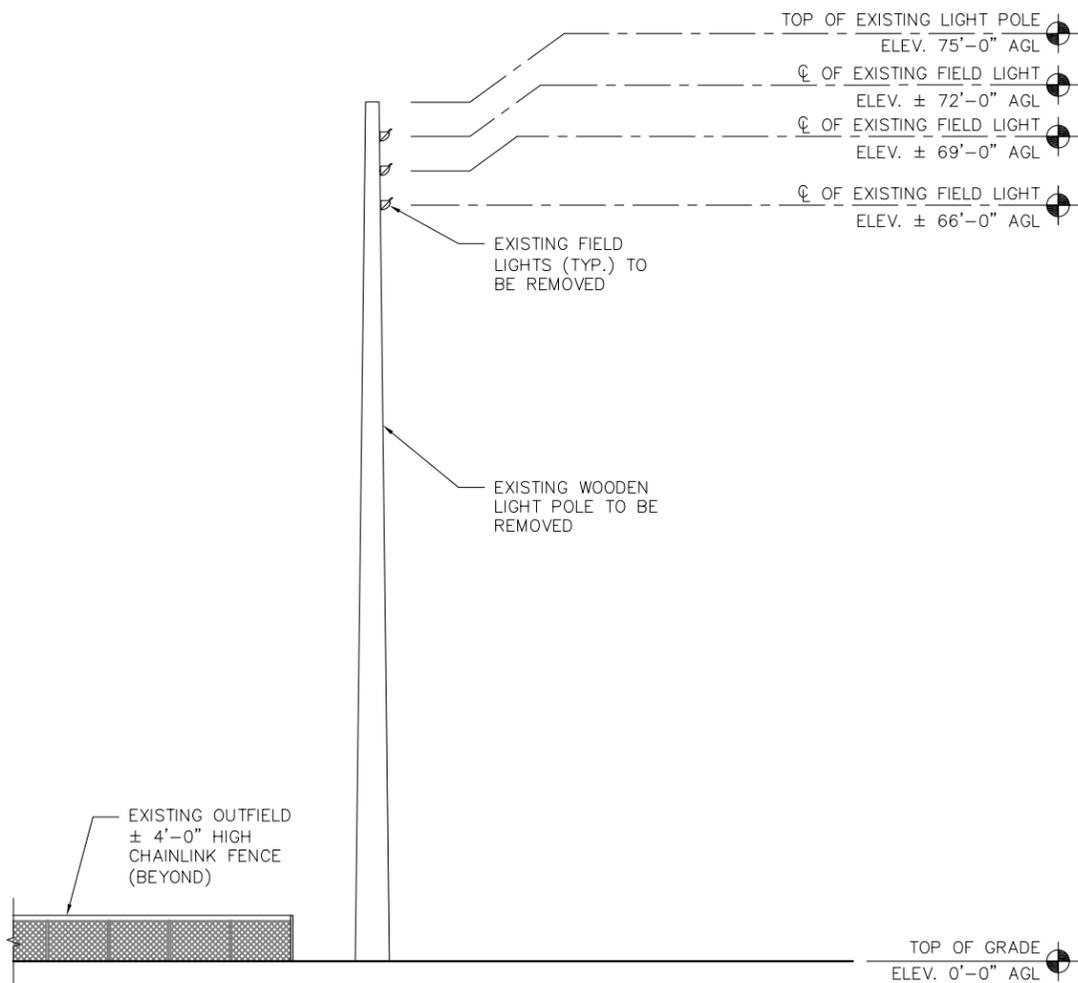
BROWN DEER HS
T-MOBILE #: ML91303A
ECO SITE #: WI-0002
8060 N. 60TH ST.
BROWN DEER, WI 53223

SHEET TITLE

WEST ELEVATIONS

SHEET NUMBER

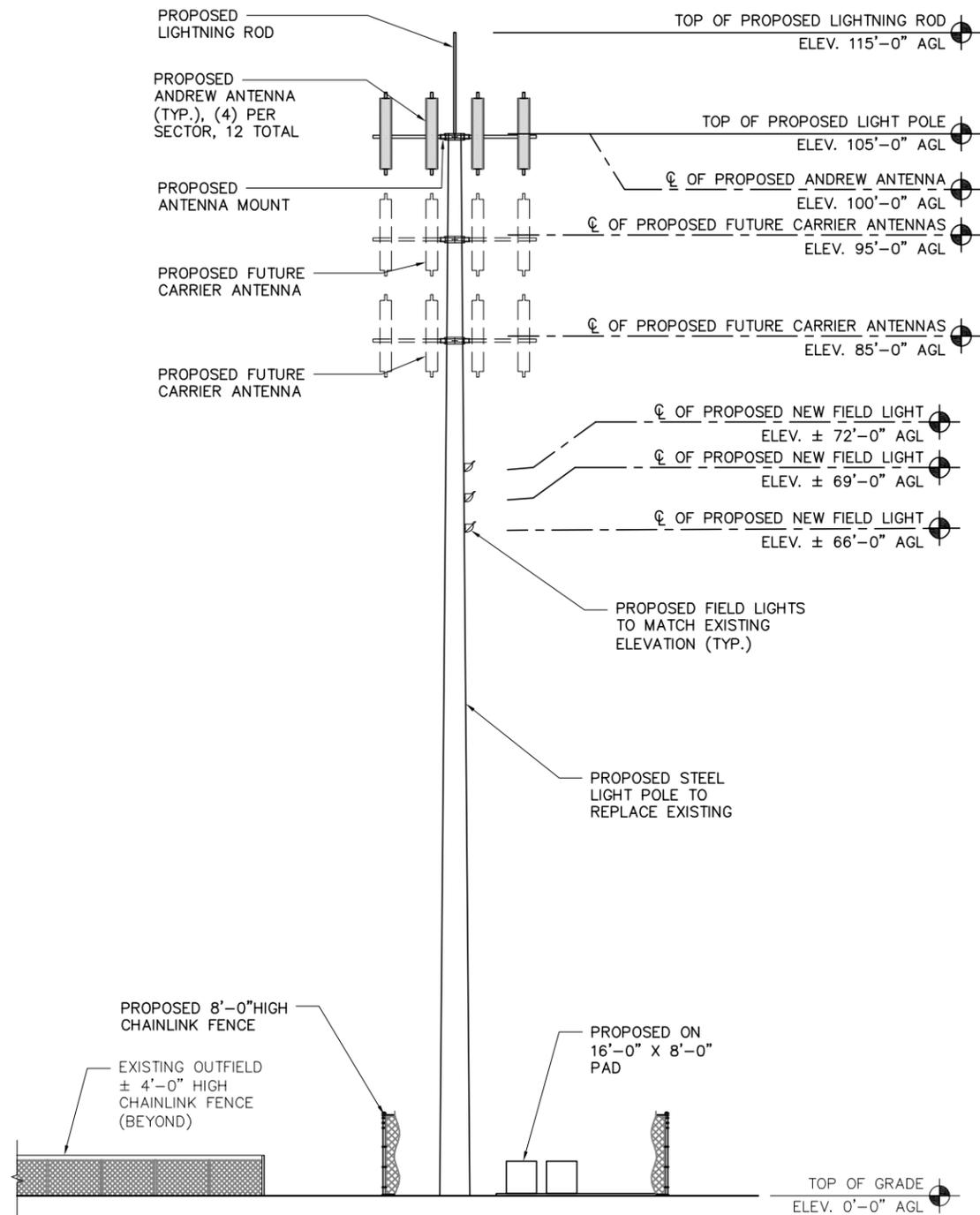
A3



EXISTING WEST ELEVATION

SCALE: 1/16"=1'-0"

1



NEW WEST ELEVATION

SCALE: 1/16"=1'-0"

2

VICINITY MAP

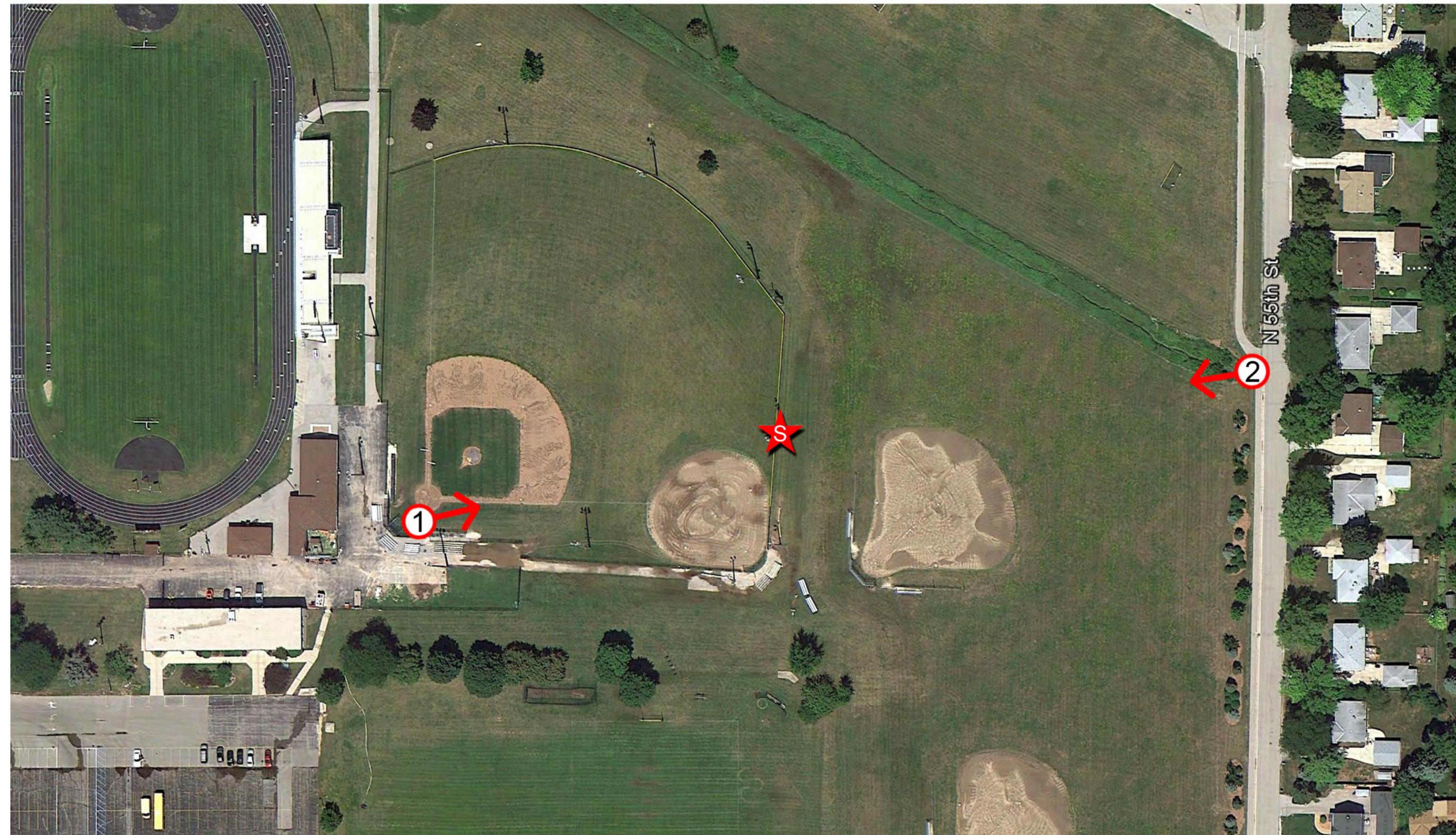
PHOTOSIMULATION VIEWPOINTS

Eco-Site[®]
Urban. Renewal. Wireless.

BROWN DEER HS
T-MOBILE ID# ML91303A
ECO-SITE ID# WI-0002
8060 N. 60TH ST.
BROWN DEER, WI 53223

SAC
WIRELESS

5865 AVENIDA ENCINAS, STE. 142B
CARLSBAD, CA 92008
OFFICE: (858) 229-6828



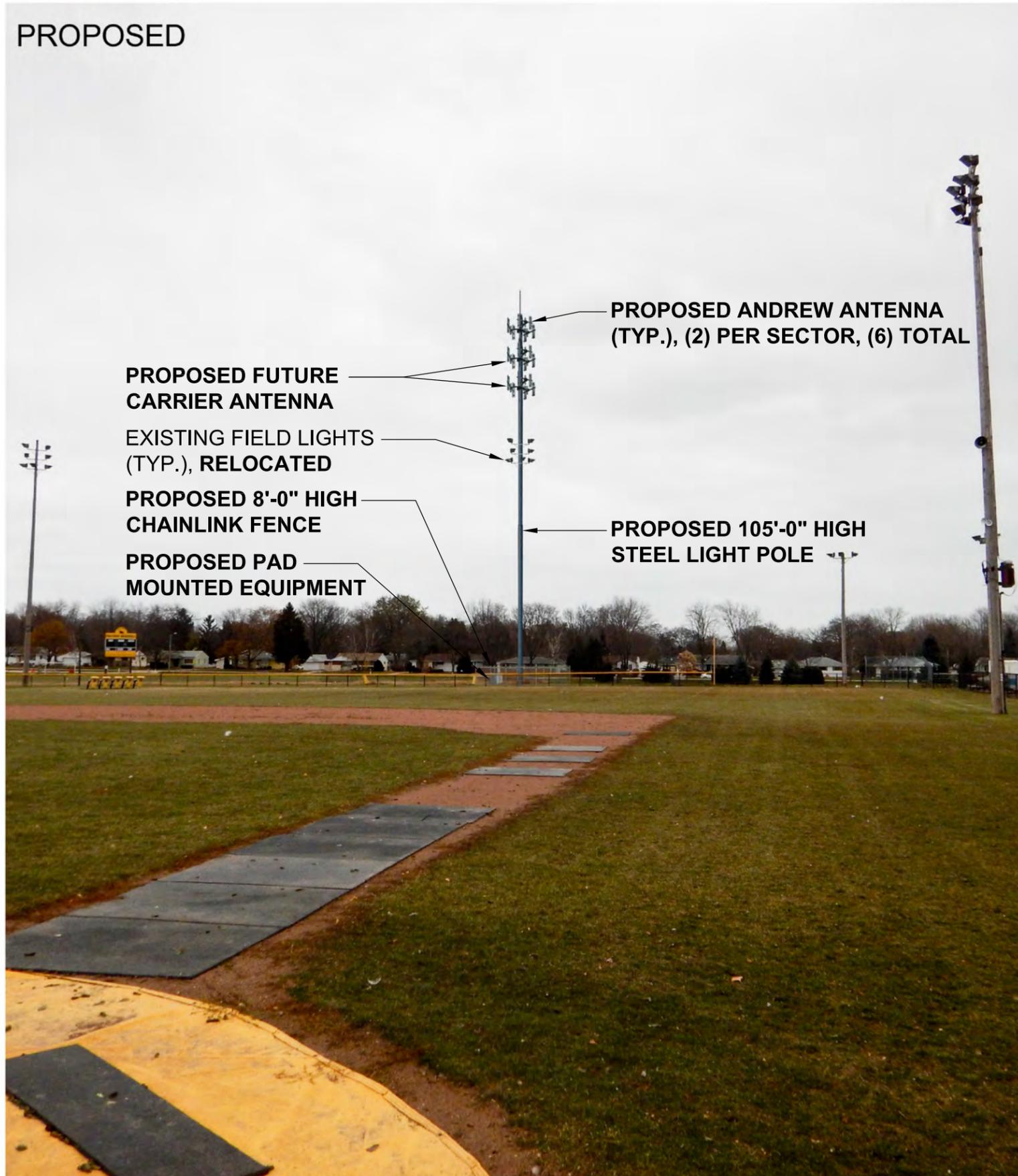
PHOTOSIMULATION VIEW 2

LOOKING NORTHWEST

EXISTING



PROPOSED



PHOTOSIMULATION VIEW 2
LOOKING SOUTHWEST

EXISTING

EXISTING FIELD LIGHTS (TYP.) TO
BE REMOVED AND RELOCATED

EXISTING 75'-0" HIGH WOODEN
LIGHT POLE TO BE REMOVED

PROPOSED

EXISTING FIELD LIGHTS
(TYP.), RELOCATED

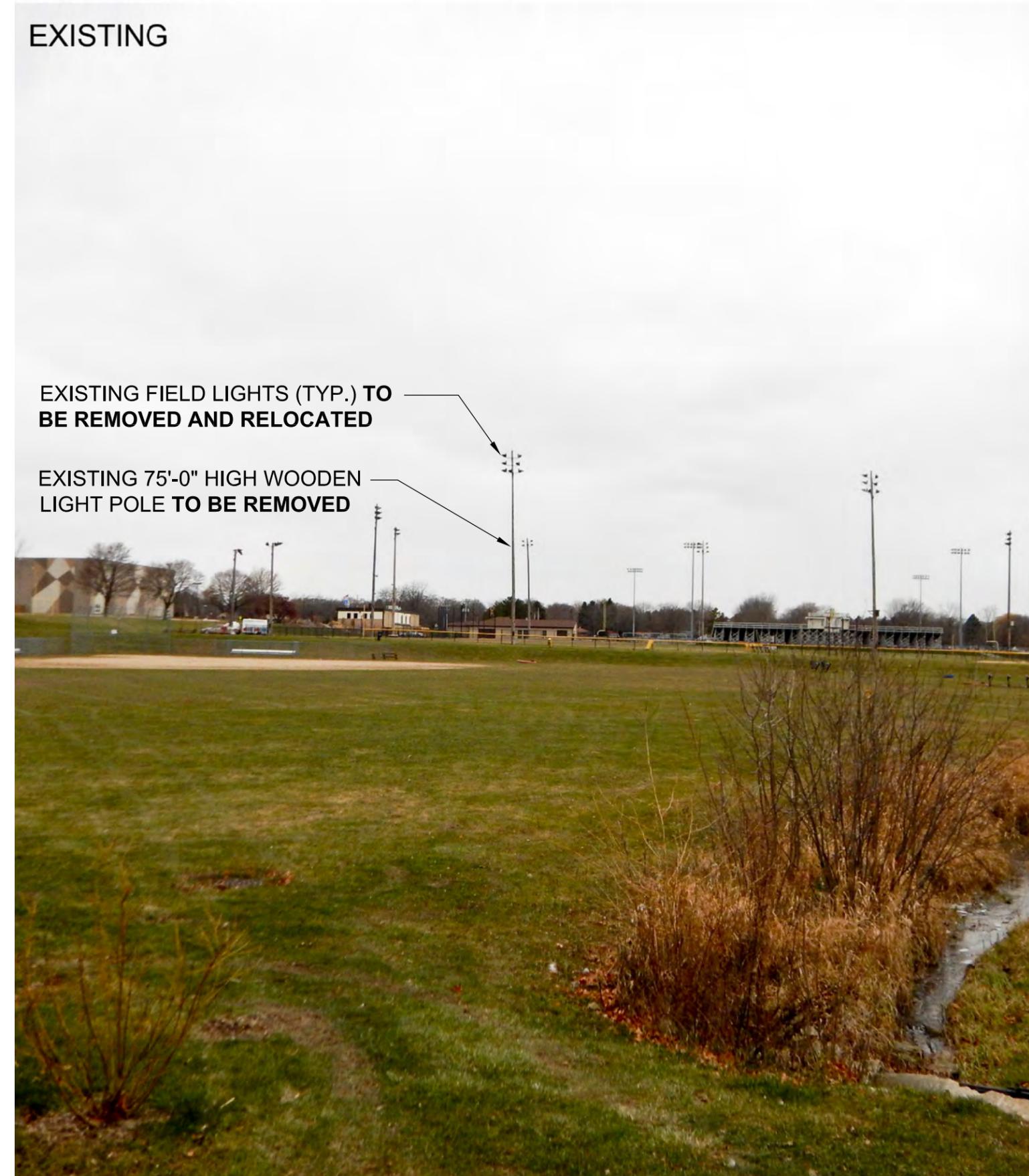
PROPOSED 105'-0" HIGH
STEEL LIGHT POLE

PROPOSED ANDREW ANTENNA
(TYP.), (2) PER SECTOR, (6) TOTAL

PROPOSED FUTURE
CARRIER ANTENNA

PROPOSED 8'-0" HIGH
CHAINLINK FENCE

PROPOSED PAD
MOUNTED EQUIPMENT



**CONDITIONAL USE
PERMIT**

**Cellular Tower, Antennas
and Equipment Shelter
Document Title**

Document Number

Before the Village Board of the Village of Brown Deer, in regard to **8200 N. 60th Street**, located in the SW 1/4 of Section 11, Township 8 North, Range 21 East, in the Village of Brown Deer, Milwaukee County, State of Wisconsin, further described in attached **Exhibit "A"**.

WHEREAS, the Zoning Code and Zoning District Map of the Village of Brown Deer, pursuant to State Statutes, provide that the premises may not be used of right for the purpose hereinafter described but that upon petition such use may be approved as a Conditional Use in particular circumstances as defined by the standards in the Zoning Ordinance; and

WHEREAS, a Petition has been made by Eco-Site LLC, and public hearing held thereon, and the Village Board of the Village of Brown Deer having determined that by reason of the particular nature, character, and circumstances of the proposed use, the proposed use with the terms and conditions hereinafter prescribed would be consistent with the requirements of the Zoning Ordinance.

NOW, THEREFORE, this Conditional Use Permit is granted authorizing that Exhibits A and B to be used for the purpose of **Cellular Tower, Antennas and Equipment Shelter** subject to compliance with the terms and conditions hereinafter stated in this Conditional Use Permit (hereinafter the "Permit").

Recording Area

Name and Return Address:

**Village of Brown Deer
4800 West Green Brook Drive
Brown Deer, WI 53223**

067-9998-003

Parcel Identification Number (PIN)

CONDITIONAL USE PERMIT
Cellular Tower, Antennas and
Equipment Shelter

067-9998-003

Document Number

Document Title

Parcel Identification Number (PIN)

THE CONDITIONS of this Permit are:

1. This Permit is granted to Eco-Site LLC, upon the representation that it is a tenant of the Premises and shall become effective upon the execution of the acceptance hereof by Eco-Site LLC as tenant of the premises and upon recording shall constitute a covenant running with the land. The Permit may not be assigned until after it has become effective. No assignment of this Permit shall be effective until the assignee delivers written notice of the assignment to the Village Board, duly undertakes in writing to comply fully with the provisions of this Permit, satisfies any monetary security requirements of this Permit and cures any violations of this Permit. This Permit shall not be assignable to any person or entity that is not the owner of the Premises.
2. The Permit shall be void unless, pursuant to the Building and Zoning Codes of the Village, the approved use commenced or the building permit is obtained within 12 months of the date of the Village Board approval noted above. Construction shall be completed within 12 months of the date the building permit is issued.
3. This Permit is subject to amendment and termination in accordance with the provisions of the Zoning Code of the Village of Brown Deer.
4. Operation of the use permitted shall be in strict conformity to the conditions set forth herein.
5. Conditions on the operation.
 - a. Type of operation permitted: **Cellular Tower, Antennas and Equipment Shelter**. The use of the Premises as a cellular tower, antennas and equipment shelter location shall be in substantial compliance consistent with the plans set forth in the Site Plans and Elevations submitted to the Village of Brown Deer in support of its request for this Permit, which are attached as **Exhibit B** and made part of this Permit. No use of the areas of the premises not identified in the site plans for the proposed use may be used without approval by the Village pursuant to its Zoning Code.
 - b. Hours during which operation is permitted: **24-hour continual operation. Public access is prohibited.**
 - c. Performance standards relating to noise, vibration, odor, smoke, dust, etc., other than applicable Village Ordinances: **Per the Village Zoning Code.**
 - d. Duration of Conditional Use: **For an initial period of one year. To be reviewed one year from the date of approval. If there are no documented complaints about the permitted use, or if documented complaints have been resolved to the satisfaction of the Village Board, the Permit, upon petition of the land owner and upon recommendation of the Plan Commission and approval of the Village Board, may be continuous pursuant to Section 121 of the Village Code.**
 - e. Other:
 - (1) **Reimburse Village for any legal, engineering and other administrative expenses required pursuant Sec. 121 of the Village Code.**
6. Conditions of the Building other than in accordance with the approved building plans.
 - (1) **None**

CONDITIONAL USE PERMIT

**Cellular Tower, Antennas and
Equipment Shelter**

067-9998-003

Document Number

Document Title

Parcel Identification Number (PIN)

7. Conditions on the Site other than in accordance with the approved site plan.
- a. Outside storage of Materials, Products or Refuse (location and screening thereof):
 - (1) There shall be no exterior storage of supplies, building materials or equipment.**
 - (2) The property shall be kept free and clear of litter and debris.**
 - b. Finished topography and building grades, retaining walls, storm water run-off:
 - (1) None.**
 - c. Sign location, size, design:
 - (1) There shall be no signs of any kind on the antennas or support structure. One identification decal with emergency contact information shall be allowed on the equipment shelter or fence provided that it cover no more than ten percent (10%) of the surface area of the elevation on which it is located.**
 - d. Exterior lighting of the site, location, design and power:
 - (1) 24-hour security lighting of the shelter shall be maintained.**
 - e. Other:
 - (1) Any hazardous conditions or deficiencies identified by the Village shall be corrected by the owner to the satisfaction of the Village within thirty (30) days of written notification.**
 - (2) Eco-Site LLC shall enter into a lease agreement with the School District of Brown Deer.**
 - (3) The owner of the equipment shall agree to appropriately screen the lease parcel with a wooden fence. Should this fence be deemed in disrepair by the Village, the owner is obligated to repair any noted deficiencies.**
 - (4) If the public utility is no longer in use it is the responsibility of the owner to remove all equipment, fencing and support material and restore the site to its pre-construction condition.**

Exhibit A

Metes and Bounds legal description here

Exhibit B

Plan Sheets C-1, ANT-1, B-2 and digital renderings



REQUEST FOR CONSIDERATION

COMMITTEE CONSIDERATION: Plan Commission
ITEM DESCRIPTION: Review and Recommendation of a permanent Conditional Use Permits and Development Agreement for: <i>Commercial Dance School at 9036 N. 51st Street</i> <i>Medical Laboratory at 9055 N. 51st Street, Unite E</i> <i>Professional Offices at 8759 N. Deerwood Drive</i>
PREPARED BY: Nathaniel Piotrowski, Community Development Director
REPORT DATE: January 7, 2015
Applicable Land Use Regulations: Sec. 121-63
VILLAGE ATTORNEY REVIEW: <input type="checkbox"/> Village Attorney has reviewed documents. <input type="checkbox"/> Village Attorney has not reviewed documents. <input checked="" type="checkbox"/> Documents provided to Village attorney.
COMPREHENSIVE PLAN REVIEW: <input checked="" type="checkbox"/> Staff has reviewed request for consistency with the Comprehensive Plan.

BACKGROUND INFORMATION:

Staff is bringing a pair of Conditional Use Permits and one development agreement back to the Plan Commission for review pursuant to the first year review provision of said permits/agreement in order to decide whether or not the land use shall be made permanent. The three items were each granted approval in the following years:

Dance Academy: June 2012, first rejected review in September 2013

Medical Laboratory: March 2013

Modus Design Offices: March 2013

Since the time of approval all uses have begun and continue operation. Only the Dance Academy has had identified issues. These issues included parking and traffic problems which were addressed with a new parking lot in 2014. Staff feels that the new off-street parking area, along with on-street restrictions, have effectively handled the problem. At this time there are no other problems with any use and suggest the uses be made permanent.

RECOMMENDATION:

Village Staff suggests the Plan Commission recommend to the Village Board that the Conditional Use Permits and Development Agreement be made continuous. Please contact Nate Piotrowski with any questions or comments at 371-3061.

**CONDITIONAL USE
PERMIT**

Commercial Dance School

Document Number

Document Title

Before the Village Board of the Village of Brown Deer, in regard to Premises at **9036 N. 51st Street** located in the SE 1/4 of Section 2, Township 8 North, Range 21 East, in the Village of Brown Deer, Milwaukee County, further described in attached **Exhibit "A"**.

WHEREAS, the Village Code and Zoning District Map of the Village of Brown Deer, pursuant to State Statutes, provide that the premises may not be used of right for the purpose hereinafter described but that upon petition such use may be approved as a Conditional Use in particular circumstances as defined by the zoning standards in the Village Code; and

WHEREAS, a Petition has been made by Lindsay Stammer of Academy of Dance Arts LLC, and public hearing held thereon, and the Village Board of the Village of Brown Deer having determined that by reason of the particular nature, character, and circumstances of the proposed use, the proposed use with the terms and conditions hereinafter prescribed would be consistent with the requirements of the Village Code.

NOW, THEREFORE, this Conditional Use Permit is granted authorizing that Exhibits A and B to be used for the purpose of an **Commercial Dance School** subject to compliance with the terms and conditions hereinafter stated in this Conditional Use Permit (hereinafter the "Permit").

Recording Area

Name and Return Address:

**Village of Brown Deer
4800 West Green Brook Drive
Brown Deer, WI 53223**

029-0093-003

Parcel Identification Number (PIN)

GRANTED, by action of the Village Board of the Village of Brown Deer this 18th day of June, 2012.

Russell V. Gompel
Russell Van Gompel, Village Clerk

Carl Krueger
Carl Krueger, Village President

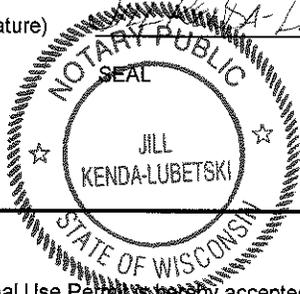
STATE OF WISCONSIN)
MILWAUKEE COUNTY) ss

Personally came before me this 13th day of August, 2012, the above-named Carl Krueger, Village President and Russell Van Gompel, Village Clerk to me known to be the persons who executed the foregoing instrument and acknowledge the same.

Jill Kenda-Lubetski (Notary Signature) Jill Kenda-Lubetski (Print name of Notary)

Notary Public, State of Wisconsin

My commission: 12-23-2012



CONDITIONAL USE PERMIT ACCEPTANCE: This Conditional Use Permit was hereby accepted this 2 day of Aug., 2012.

Lindsay Stammer [Title]

STATE OF WISCONSIN)
MILWAUKEE COUNTY) ss

This Conditional Permitted Use Permit Acceptance was acknowledged before me this 2 day of August, 2012, by

Lindsay Stammer [name] as owner [title] of Academy of Dance Arts

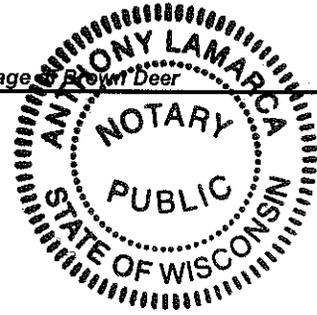
A. La Marca (Notary Signature) ANTHONY LAMARCA (Print name of Notary)

Notary Public, State of Wisconsin

My commission expires Aug 30, 2015

SEAL

Original filed in the Community Services Department of the Village of Brown Deer



CONDITIONAL USE PERMIT

Commercial Dance School

029-0093-003

Document Number

Document Title

Parcel Identification Number (PIN)

THE CONDITIONS of this Permit are:

1. This Permit is granted to Academy of Dance Arts LLC, upon the representation that it is the owner of the Premises and shall become effective upon the execution of the acceptance hereof by Academy of Dance Arts LLC as owner of the Premises and upon recording shall constitute a covenant running with the land. The Permit may not be assigned until after it has become effective. No assignment of this Permit shall be effective until the assignee delivers written notice of the assignment to the Village Board, duly undertakes in writing to comply fully with the provisions of this Permit, satisfies any monetary security requirements of this Permit and cures any violations of this Permit. This Permit shall not be assignable to any person or entity that is not a tenant of the Premises.
2. The Permit shall be void unless, pursuant to the Village Code, the approved use commenced or the building permit is obtained within 12 months of the date of the Village Board approval noted above. Construction shall be completed within 12 months of the date the building permit is issued.
3. This Permit is subject to amendment and termination in accordance with the provisions of the Village Code of the Village of Brown Deer.
4. Operation of the use permitted shall be in strict conformity to the conditions set forth herein.
5. Conditions on the operation.
 - a. Type of operation permitted: **Commercial Dance School**. The use of the Premises as a commercial dance school shall be in substantial compliance consistent with the plans set forth and submitted to the Village of Brown Deer in support of its request for this Permit, which is attached as Exhibit B and made part of this Permit. No use of the areas of the premises not identified in the site plans for the proposed use may be used without approval by the Village pursuant to its Village Code.
 - b. Hours during which operation is permitted: **Monday- Sunday 9:00am – 10:00pm. After hours access and use is strictly prohibited.**
 - c. Performance standards relating to noise, vibration, odor, smoke, dust, etc., other than applicable Village Ordinances: **Per the Village Code.**
 - d. Duration of Conditional Use: **For an initial period of one year. To be reviewed one year from the date of approval. If there are no documented complaints about the permitted use, or if documented complaints have been resolved to the satisfaction of the Village Board, the Permit, upon petition of the tenant and upon recommendation of the Plan Commission and approval of the Village Board, may be continuous pursuant to Section 121 of the Village Code of Brown Deer.**
6. Conditions of the Building other than in accordance with the approved building plans.
 - (1) **Structural improvements and any new signage shall be reviewed and approved by the Village of Brown Deer Building Board.**
 - (2) **All interior modifications shall be subject to conditions of the Wisconsin Commercial Building Code and in compliance with fire protection requirements of the North Shore Fire Department.**

CONDITIONAL USE PERMIT
Commercial Dance School

029-0093-003

Document Number

Document Title

Parcel Identification Number (PIN)

7. Conditions on the Site other than in accordance with the approved site plan.
- a. Outside storage of Materials, Products or Refuse (location and screening thereof):
 - (1) **There shall be no exterior storage of building materials, supplies or equipment associated with the dance school.**
 - (2) **The property shall be kept free and clear of litter and debris.**
 - (3) **Overnight parking of motor vehicles shall be prohibited.**
 - b. Finished topography and building grades, retaining walls, storm water run-off:
 - (1) **None.**
 - c. Sign location, size, design:
 - (1) **Per Section 121 of the Village Code and as approved by the Village of Brown Deer Building Board.**
 - d. Exterior lighting of the site, location, design and power:
 - (1) **24-hour security lighting of the dance school shall be maintained.**
 - e. Other:
 - (1) **Any hazardous conditions or deficiencies identified by the Village shall be corrected by the owner to the satisfaction of the Village within thirty (30) days of written notification.**
 - (2) **The owner shall provide private trash removal service. All trash, storage and collection shall be within the building interior or within an enclosure that screens trash and removal system from public view. The trash removal system shall be rodent-proof, covered and maintained in accordance with the direction of the North Shore Health Department.**
 - (3) **The owner shall maintain up-to-date key holder information with the Brown Deer Police Department.**
 - (4) **Crime prevention measures shall be adhered to pursuant to the Brown Deer Police Department. The owner shall meet with the Village of Brown Deer Police Department to review security and crime prevention measures prior to occupancy. If crime issues are identified after occupancy, additional meetings may be necessary at the discretion of the Brown Deer Police Department.**
 - (5) **Off street parking areas shall be maintained in good condition. Currently deteriorated parking areas shall be resurfaced within 5 years. If off street parking shortfalls are identified the owner shall provide additional parking spaces at the Village's discretion to meet parking demand.**

**CONDITIONAL USE
PERMIT**

Medical Laboratory

Document Number

Document Title

Before the Village Board of the Village of Brown Deer, in regard to Premises at **9055 N. 51st Street, Unit E** located in the SW 1/4 of Section 2, Township 8 North, Range 21 East, in the Village of Brown Deer, Milwaukee County, further described in attached **Exhibit "A"**.

WHEREAS, the Village Code and Zoning District Map of the Village of Brown Deer, pursuant to State Statutes, provide that the premises may not be used of right for the purpose hereinafter described but that upon petition such use may be approved as a Conditional Use in particular circumstances as defined by the zoning standards in the Village Code; and

WHEREAS, a Petition has been made by Ken Jaglinski of Bayshore Clinical Labs LLC, and public hearing held thereon, and the Village Board of the Village of Brown Deer having determined that by reason of the particular nature, character, and circumstances of the proposed use, the proposed use with the terms and conditions hereinafter prescribed would be consistent with the requirements of the Village Code.

NOW, THEREFORE, this Conditional Use Permit is granted authorizing that Exhibits A and B to be used for the purpose of an **Medical Laboratory** subject to compliance with the terms and conditions hereinafter stated in this Conditional Use Permit (hereinafter the "Permit").

Recording Area

Name and Return Address:

**Village of Brown Deer
4800 West Green Brook Drive
Brown Deer, WI 53223**

029-0090-001

Parcel Identification Number (PIN)

GRANTED, by action of the Village Board of the Village of Brown Deer this 22nd day of January, 2013.

Jill Kenda-Lubetski Carl Krueger
Jill Kenda-Lubetski, Village Clerk Carl Krueger, Village President

STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

Personally came before me this 1st day of April, 2013, the above-named Carl Krueger, Village President and Jill Kenda-Lubetski, Village Clerk to me, known to be the persons who executed the foregoing instrument and acknowledge the same.

Bridget M. Scott (Notary Signature)

Bridget M. Scott (Print name of Notary)

Notary Public, State of Wisconsin



My commission: 9-21-14

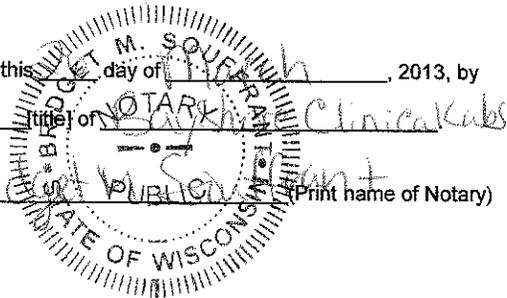
CONDITIONAL USE PERMIT ACCEPTANCE: This Conditional Use Permit is hereby accepted this 26 day of March, 2013.

Ken Jaglinski
(owner) (Title)

STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

This Conditional Permitted Use Permit Acceptance was acknowledged before me this 26th day of March, 2013, by

Ken Jaglinski [name] as owner (Title)



Bridget M. Scott (Notary Signature)

Bridget M. Scott (Print name of Notary)

Notary Public, State of Wisconsin

SEAL

My commission expires: 9-21-14

Original filed in the Community Services Department of the Village of Brown Deer

CONDITIONAL USE PERMIT

Medical Laboratory

029-0090-001

Document Number

Document Title

Parcel Identification Number (PIN)

THE CONDITIONS of this Permit are:

1. This Permit is granted to Bayshore Clinical Labs LLC, upon the representation that it is the owner of the Premises and shall become effective upon the execution of the acceptance hereof by Bayshore Clinical Labs LLC as owner of the Premises and upon recording shall constitute a covenant running with the land. The Permit may not be assigned until after it has become effective. No assignment of this Permit shall be effective until the assignee delivers written notice of the assignment to the Village Board, duly undertakes in writing to comply fully with the provisions of this Permit, satisfies any monetary security requirements of this Permit and cures any violations of this Permit. This Permit shall not be assignable to any person or entity that is not a tenant of the Premises.
2. The Permit shall be void unless, pursuant to the Village Code, the approved use commenced or the building permit is obtained within 12 months of the date of the Village Board approval noted above. Construction shall be completed within 12 months of the date the building permit is issued.
3. This Permit is subject to amendment and termination in accordance with the provisions of the Village Code of the Village of Brown Deer.
4. Operation of the use permitted shall be in strict conformity to the conditions set forth herein.
5. Conditions on the operation.
 - a. Type of operation permitted: **Medical Laboratory**. The use of the Premises as a commercial dance school shall be in substantial compliance consistent with the plans set forth and submitted to the Village of Brown Deer in support of its request for this Permit, which is attached as Exhibit B and made part of this Permit. No use of the areas of the premises not identified in the site plans for the proposed use may be used without approval by the Village pursuant to its Village Code.
 - b. Hours during which operation is permitted: **Monday- Friday 7:00am – 8:00pm**.
 - c. Performance standards relating to noise, vibration, odor, smoke, dust, etc., other than applicable Village Ordinances: **Per the Village Code**.
 - d. Duration of Conditional Use: **For an initial period of one year**. To be reviewed one year from the date of approval. If there are no documented complaints about the permitted use, or if documented complaints have been resolved to the satisfaction of the Village Board, the Permit, upon petition of the tenant and upon recommendation of the Plan Commission and approval of the Village Board, may be continuous pursuant to Section 121 of the Village Code of Brown Deer.
6. Conditions of the Building other than in accordance with the approved building plans.
 - (1) **Structural improvements and any new signage shall be reviewed and approved by the Village of Brown Deer Building Board.**
 - (2) **All interior modifications shall be subject to conditions of the Wisconsin Commercial Building Code and in compliance with fire protection requirements of the North Shore Fire Department.**

CONDITIONAL USE PERMIT
Medical Laboratory

029-0090-001

Document Number

Document Title

Parcel Identification Number (PIN)

7. Conditions on the Site other than in accordance with the approved site plan.
- a. Outside storage of Materials, Products or Refuse (location and screening thereof):
 - (1) There shall be no exterior storage of building materials, supplies or equipment associated with the medical laboratory.
 - (2) The property shall be kept free and clear of litter and debris.
 - (3) Overnight parking of motor vehicles shall be prohibited.
 - b. Finished topography and building grades, retaining walls, storm water run-off:
 - (1) None.
 - c. Sign location, size, design:
 - (1) Per Section 121 of the Village Code and as approved by the Village of Brown Deer Building Board.
 - d. Exterior lighting of the site, location, design and power:
 - (1) 24-hour security lighting of the medical laboratory shall be maintained.
 - e. Other:
 - (1) Any hazardous conditions or deficiencies identified by the Village shall be corrected by the owner to the satisfaction of the Village within thirty (30) days of written notification.
 - (2) The owner shall provide private trash removal service. All trash, storage and collection shall be within the building interior or within an enclosure that screens trash and removal system from public view. The trash removal system shall be rodent-proof, covered and maintained in accordance with the direction of the North Shore Health Department.
 - (3) The owner shall maintain up-to-date key holder information with the Brown Deer Police Department.
 - (4) Crime prevention measures shall be adhered to pursuant to the Brown Deer Police Department. The owner shall meet with the Village of Brown Deer Police Department to review security and crime prevention measures prior to occupancy. If crime issues are identified after occupancy, additional meetings may be necessary at the discretion of the Brown Deer Police Department.

**Development Agreement
By and Between
Modus Design, Inc.
And
The Village of Brown Deer**

THIS AGREEMENT is entered into as of this 18th day of February, 2013, by and between **Modus Design Inc.**, an incorporated entity hereinafter called "Operator" and the **VILLAGE OF BROWN DEER**, a municipal corporation in Milwaukee County, Wisconsin.

WITNESSETH:

WHEREAS, Modus Design Inc. is the owner of property at 8759 N. Deerwood Dr., located in the NW ¼, Section 12, T8N, R21E, Village of Brown Deer, Milwaukee County, Wisconsin.

Legally described as: (See Exhibit A)

WHEREAS, a request has been made to the Village Board of The Village of Brown Deer, Milwaukee County, Wisconsin, by Operator for approval of a Development Agreement authorizing the establishment of a business office at 8759 N. Deerwood Drive (hereinafter referred to as the "Property"); and

WHEREAS, on July 5th 1976, JAMES JAGODZINSKI and BROWN DEER entered into a Development Agreement for an automobile service garage at 8759 N. Deerwood Drive, said Agreement being recorded in the office of the Register of Deeds, Milwaukee County, Wisconsin on July 15, 1976, as Document #5019735 in Reel 943, Image 1370 to 1372; and amended by Village of Brown Deer Resolution #87-01 on March 16th, 1987; and

WHEREAS, the July 5th, 1976 Agreement, and subsequent amendment shall be released and replaced by this Agreement; and

WHEREAS, the covenants contained herein are necessary to provide for the harmonious, orderly and consistent development of the neighborhood involved.

NOW, THEREFORE, following review and consideration by the Plan Commission on February 11, 2013 and after review and consideration by the Village Board of the Village of Brown Deer on February 18, 2013, the Modus Design Inc. (parcel identification number: _____) Planned Development Agreement is hereby approved in accordance with Sections 121-250 through 121-253 of the Village of Brown Deer Village Code, the attached Exhibits A and B and covenanted and agreed as follows:

1. **Subject to review by the Brown Deer Plan Commission after one year. If there are no documented complaints about the use, or if documented complaints have been resolved to the satisfaction of the Village Board, the approval of the specific project plan for a business office becomes continuous pursuant to the Village of Brown Deer Village Code.**
2. **Outside storage of merchandise, equipment or inventory is strictly prohibited on this site.**
3. **The property shall be kept free and clear of litter and debris.**

4. **Sign location, size, design shall be in accord with Chapter 121 of the Village of Brown Deer Village Code.**
5. **All deliveries and pick-ups shall occur during the business hours of 7:00am- 6:00pm, Monday through Saturday.**
6. **Outdoor sales shall be prohibited.**
7. **Any hazardous conditions or deficiencies identified by the Village of Brown Deer shall be corrected by the owner to the satisfaction of the Village within thirty (30) days of written notification.**
8. **Any significant modifications to the site or existing building and/or expansion of the business, shall be reviewed and approved by the Plan Commission and Village Board.**
9. **Owner shall provide a private trash removal system requiring no service by or cost to the Village. All trash, storage and collection shall be within the building interior or within an enclosure that screens trash and removal system from public view. The trash removal system shall be rodent-proof, covered and maintained in accordance with the direction of the North Shore Health Department.**
10. **Crime prevention measures shall be adhered to pursuant to the direction of the Brown Deer Police Department. The owner shall meet with the Village of Brown Deer Police Department to review security and crime prevention measures prior to occupancy and then as necessary at the discretion of the Brown Deer Police Department.**
11. **That as long as the property is used for the purposes that are authorized by this Agreement, all covenants, agreements, restrictions and provisions herein contained constitute covenants running with the land and shall be binding on all parties, their heirs, assigns and successors having an interest in the land affected hereby for a period of twenty-five (25) years from the date this instrument is recorded, after which time this instrument shall automatically be extended for successive periods of ten (10) years. However, upon a showing of reasonable cause, the Village Board of the Village of Brown Deer may relieve the Operator from such covenants, agreements, restrictions, or any of them, before the expiration of twenty-five (25) years or thereafter by the adoption of a resolution so doing. The covenants herein contained may be enforced by proceedings at law or in equity by the Village against any person or persons violating or attempting to violate the same.**
12. **The invalidity of any of the covenants herein contained declared by any judgment or court order shall in no way affect any of the other provisions herein contained which shall remain in full force and effect.**
13. **Buyer shall, consistent with a targeted completion date of July 21, 2013, convert the existing structure on the premises to an office/service building, in substantial conformity with the plans**

and specifications as set forth herein, and having a minimum fair market value upon completion of \$150,000.00.

14. Buyer acknowledges that the property will be divided in substantial conformity with a proposed Certified Survey Map, attached hereto and incorporated herein, and shall so design its premises to allow for a minimum of four (4) car parking availability upon the premises it acquires in fee, and shall restrict its access to parking adjacent to the premises to the business hours of 8:00 a.m. to 6:00 p.m. and never more than five (5) cars at a given time. The parties agree that on limited occasions, not more than four days per year, a holiday party or some similar function, might cause greater use of the public parking facility than described herein.
15. The parties acknowledge that the legal description of the property, as will be provided in the Deed, shall provide for a parcel to be held in fee by Buyer, consistent with the proposed CSM attached hereto and incorporated herein.
16. The parties agree to use their best efforts, each in favor of the other, to compatibly redevelop the property by Buyer, and to redevelop the surrounding area, including street and sidewalk improvements, public parking improvements, utility improvements, sewer and drainage improvements, in a compatible and efficient fashion so as not to impede the intended purposes of each.
17. Exhibit A, attached is the legal description of the property.
18. Exhibit B, attached contains the floor plan for the property.