

---

# AGENDA ITEM

---

TO: Tim Vandall, City Administrator  
THRU: Matthew R. Schmitz, MPA – Director, Community and Economic Development  
DATE: April 7, 2022  
SUBJECT: Fence Request – 526 Hithergreen Drive

---



Anthony & Penny Overbay, property owners at 526 Hithergreen Drive, wish to expand their existing wood fence on the west side of their property into the building setback along Hillbrook Court, but not into the right of way. This meets the requirements of the code for the city, except for locating in the building setback.

The yellow line shown on the included map from Leavenworth County GIS is the approx. new location of the eastern fence to be installed, which would locate the fence within the 30' building setback shown on the plat.

Lansing Municipal Code Sec. 4-701 states "Applications for permits that contain unusual requests or invoice disputes of property lines shall be referred to the governing body for approval prior to a permit being issued." It also states in Sec 4-705, B. Side or Rear yards, Item 1., "No solid fence in a side or rear yard of residential property shall be constructed to a height greater than 48 inches above the natural contour of the ground; provided that the City Inspector may issue a permit to authorize a solid fence to be constructed to a height not to exceed seven feet around paved patios and swimming pools, the fence shall not extend beyond the building setback lines as established by the platting and zoning regulations."

In reviewing the application to place the fence with a reduced setback as shown in the attached drawing, staff finds no apparent conflicts with adjoining site triangles, or easements. Attached is the plat for Hillbrook Subdivision, which shows the owners property as Lot 6. An enlarged print of Lot 6 is also included.

Staff will approve or deny this building permit based on the City Council's subsequent decision.

Action: Staff recommends the Council approve the fence request from Anthony & Penny Overbay, property owners of 526 Hithergreen Drive.

---

## AGENDA ITEM #

---

# Leavenworth County, KS



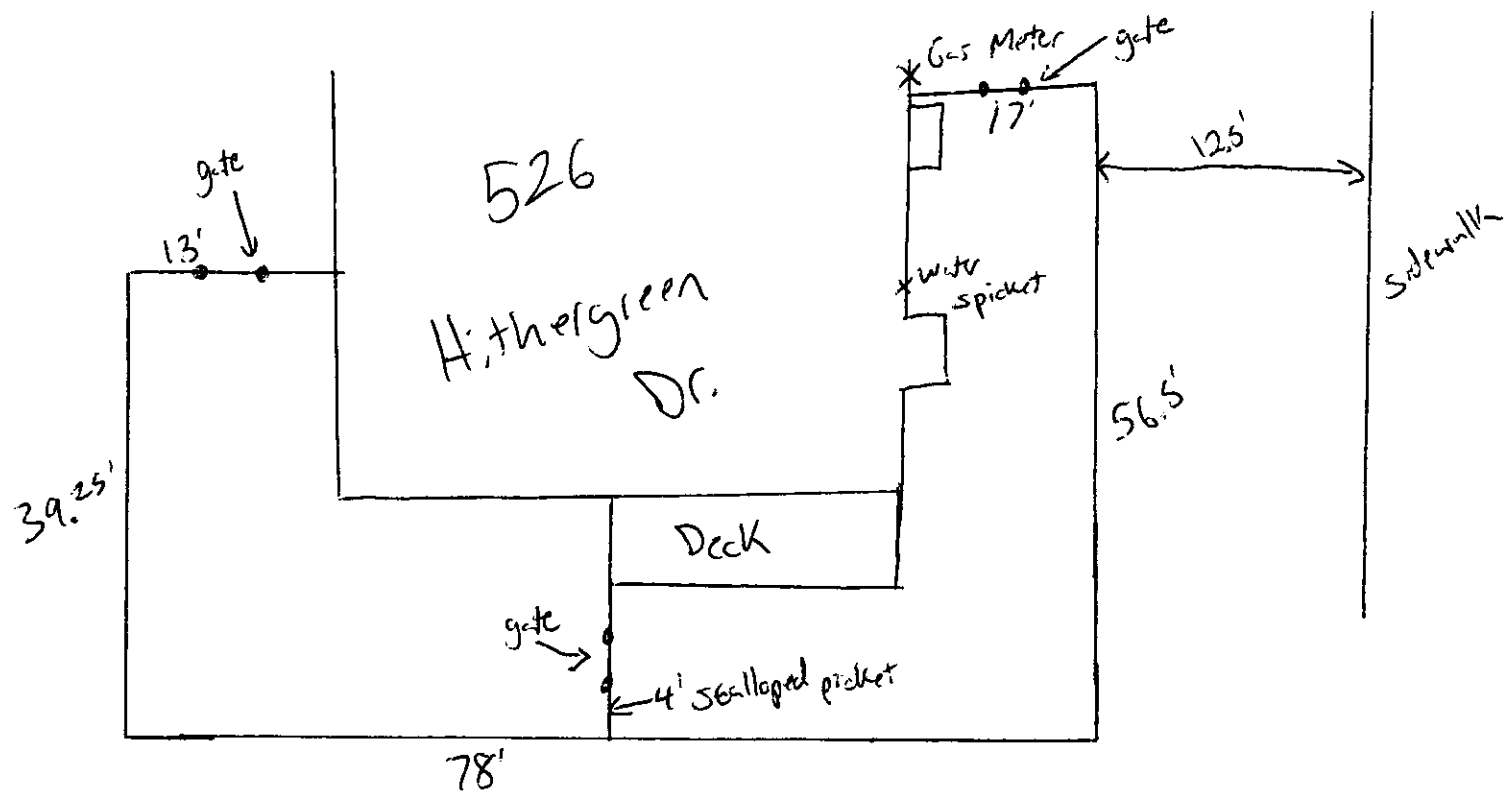
## Legend

- Address Point
- Parcel Number
- Lot Line
- Parcel
- ⋮ City Limit Line
- Major Road
- <all other values>
- 70
- Road
- <all other values>
- PRIVATE
- + Railroad
- + Section
- Section Boundaries
- County Boundary

## Notes

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION





# FENCE CRAFTERS

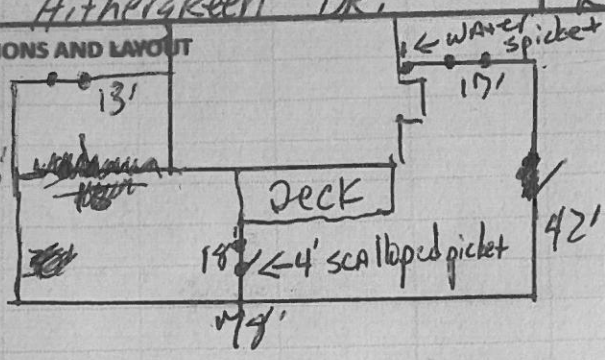
WORK ORDER  
CONTRACT  
FENCE CRAFTERS OF KANSAS CITY

913-416-8083

Eric Garner

Owner

A.OVERBAY@AOL

NAME <i>Anthony</i>	PHONE <i>913-705-9424</i>	DATE <i>3/13/22</i>
STREET <i>526 Hithergreen DR.</i>		CITY, STATE <i>Lansing, Ks.</i>
SPECIFICATIONS AND LAYOUT 		

It is the responsibility of purchaser to obtain any required permits, prior to fence being erected  
For warranty to be valid, fence identification sign must be attached and visible

Warranty on wood fences are from manufacturer & cover damage against insects & rot.  
It is a common characteristic of pine to sometime warp and crack, which is not covered under warranty

Installer is not responsible for damage to plants or trees  
Installer will exercise caution to avoid hitting or damaging underground utilities but it not responsible for any damage occurred during drilling,  
owner will assume responsibility of such damages

Under conditions of this contract the installer will provide labor and equipment to drill post holes under normal conditions only  
any additional cost of labor or rental of additional equipment to provide post holes through solid rock, concrete or any object  
foreign or natural, in or on top of ground will be at extra cost, at customers expense

Installer will not assume responsibility of property line location. Fence will be erected where purchaser directs and best knows his property line to be  
Installer will not knowingly erect fence on property not belonging to purchaser unless all properties are in agreement

All materials installed at erection site for construction of fence become property of purchaser at time of installation  
Purchaser assumes all responsibility for theft or malicious acts against such materials

Unless specifically stated, fence is not dog proof. Owner may have to take steps to correct spaces or gaps due to uneven ground conditons  
All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to

standard practices. Any alteration or deviation to above specifications will be executed only upon written  
orders, and will become and extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control

We will hereby furnish material & labor complete in accordance with the  
above specifications, for the sum of:

*(\$6894<sup>00</sup>)*

Amount Due to be paid as follows:

Deposit to start *35%*

Due upon completion *65%*

Acceptance: The above prices, specification & conditions are satisfactory & are hereby accepted.

You are authorized to do the work specified. Payment will be made as outlined above

Date of Acceptance

Signature

Signature

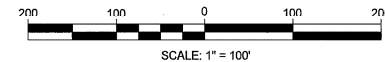


Q CURVE DATA				
CURVE NO.	RADIUS	DELTA	LENGTH	TANGENT
1.	100.00'	90°00'00"	157.080'	100.000'
2.	200.00'	36°52'51"	128.662'	66.688'
3.	200.00'	36°52'51"	128.738'	66.688'
4.	65.000'	89°59'59"	102.102'	65.000'

# HILLBROOK SUBDIVISION

## FINAL PLAT

### LANSING, KANSAS



#### LEGEND

- 1/2" SURVEY BAR FOUND UNLESS NOTED OTHERWISE
- 1/2" BAR FOUND, CONCRETE PLACED AROUND BAR
- 1/2" x 24" BAR SET IN CONCRETE
- (D) DEED
- (M) MEASURED
- D/E DRAINAGE EASEMENT
- U/E UTILITY EASEMENT
- SB SETBACK

#### LOT AREAS

LOT NO.	SQ. FT.	LOT NO.	SQ. FT.
1.	10,000.00	28.	25,949.59
2.	10,000.00	29.	27,587.48
3.	10,000.00	30.	29,587.81
4.	11,413.00	31.	12,246.25
5.	8,000.00	32.	11,300.46
6.	9,000.00	33.	28,576.04
7.	13,600.00	34.	22,291.26
8.	13,983.11	45.	13,291.04
9.	21,593.86	36.	12,361.07
10.	14,299.62	37.	19,585.60
11.	13,263.65	38.	13,473.97
12.	13,682.36	39.	11,025.00
13.	9,000.00	40.	22,575.00
14.	8,014.51	41.	19,262.26
15.	10,468.09	42.	19,792.61
16.	21,848.33	43.	15,834.08
17.	10,007.31	44.	15,834.08
18.	9,347.23	45.	1,034,356.42
19.	8,742.00	46.	17,812.89
20.	8,797.52	TRACT A	15,691.16
21.	8,853.05		
22.	9,908.57		
23.	8,663.07		
24.	23,579.10		
25.	16,207.27		
26.	17,109.79		
27.	21,679.59		

#### REFERENCES

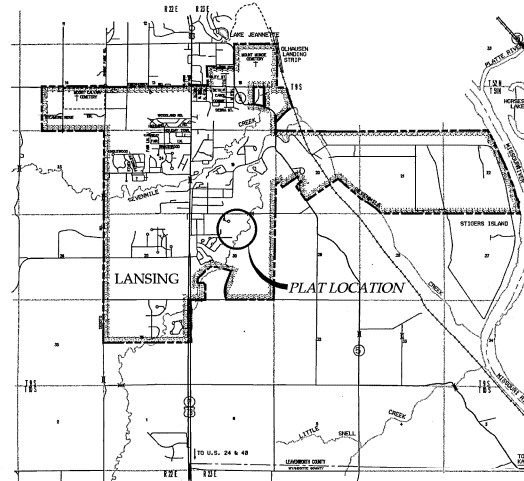
- SURVEY S-13 NO. 42, 1985, BOUNDARY SURVEY OF THIS TRACT
- KSP BOUNDARY SURVEY NO. 234, 1965, AFFIDAVIT BK 461 PG 356
- FEMA MAP 200189-0003 B, AUG 15, 1980
- FAWN VALLEY SUBDIVISION PLAT
- JAMISON COURTS SUBDIVISION PLAT
- ROAD PLANS FOR COUNTY ROUTE 24 - EAST MARY STREET, P.N. C-386-1952
- SURVEY S-6 NO. 83, 1976
- EXISTING 20' SANITARY SEWER EASEMENT - BK 560 PG 2023
- PERMANENT EASEMENT - BK 770 PG 1953-1999
- HERRING SURVEY FOR FRANCIS MCCARTHY, 10-25-1984
- COUNTY BRIDGE REPLACEMENT PLANS - PROJ. NO. 52-C-35-31-01-1999

#### RESTRICTIONS

- NO DRIVEWAYS ONTO EAST MARY STREET.
- NO MOBILE HOMES OR RESIDENCES OF A TEMPORARY NATURE.
- OFF PLAT RESTRICTIONS WILL BE FILED SEPARATELY AFTER PLAT IS RECORDED WITH THE LEAVENWORTH COUNTY REGISTER OF DEEDS.

#### NOTES

- ALL PROPOSED STREET RIGHT-OF-WAY IS 50 FEET UNLESS NOTED OTHERWISE.
- ALL EASEMENTS ARE 6' DRAINAGE AND UTILITY EASEMENTS UNLESS NOTED OTHERWISE.
- NO STRUCTURES ARE TO BE BUILT WITHIN SET BACK LINES OR EASEMENTS.
- 100 YEAR FLOOD PLAIN ELEVATION = 786.
- NO STRUCTURAL OPENINGS BELOW ELEVATION 789.
- DRAINAGE SWALES TO BE PROVIDED BETWEEN EACH LOT.
- PLOT PLANS ARE REQUIRED FOR LOTS 24-30, LOT 33, AND LOTS 42-46, SHOWING EXISTING AND PROPOSED GRADING. THE FEMA 100 YEAR FLOOD PLAIN AND THE MINIMUM STRUCTURAL OPENING ELEVATION. PLOT PLANS ARE TO BE SUBMITTED TO THE PUBLIC WORKS DEPARTMENT FOR BUILDING PERMIT APPROVAL.
- FLOOD PLAIN CERTIFICATION FOR LOTS 24-30, LOT 33 AND LOTS 42-46 ARE REQUIRED.
- 1/2" x 24" REBAR W/ CAP, RLS 356, SET AT ALL LOT CORNERS AT COMPLETION OF CONSTRUCTION.
- ERROR OF CLOSURE, 1:10,000.



#### CERTIFICATION

I HEREBY CERTIFY THAT I HAVE ACCURATELY SURVEYED THE ATTACHED SUBDIVISION AND HAVE LOCATED ALL MONUMENTS SHOWN AND THAT ALL BLOCKS, LOTS, STREETS, AND PUBLIC WAYS ARE WELL AND ACCURATELY STAKED AND MARKED TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Donald G. White R.L.S. #356



#### LEGAL DESCRIPTION

DEED BOOK 724, PAGE 1723.

A TRACT OF LAND IN THE NORTHEAST 1/4 OF FRACTIONAL SECTION 30, TOWNSHIP 9 SOUTH, RANGE 23 EAST OF THE 6th P.M., IN LEAVENWORTH COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 370.23 FEET, S 00°16'28" W (ASSUMED) FROM THE NORTHWEST CORNER OF SAID NORTHEAST 1/4;

THENCE, N 89°46'34" E, 230.00 FEET (DEED), N 89°40'28" E, 228.10 FEET (MEASURED); THENCE, N 01°21'19" W, 150.00 FEET (DEED), N 01°36'10" E, 152.73 FEET (MEASURED); THENCE, N 89°46'34" E, 150.00 FEET (DEED), N 89°35'49" E, 149.79 FEET (MEASURED); THENCE, N 09°51'28" W, 151.28 FEET (DEED), N 09°51'28" W, 147.66 FEET (MEASURED); TO THE SOUTH R.O.W. LINE OF COUNTY ROAD 24; THENCE, N 89°40'30" E, 975.86 FEET ALONG SAID R.O.W. LINE, THENCE, S 00°24'12" W, 1597.36 FEET ALONG THE EAST LINE OF THE WEST HALF OF SAID NORTHWEST 1/4; THENCE, S 89°51'39" W, 1327.67 FEET TO THE WEST LINE OF SAID NORTHWEST 1/4; THENCE, N 00°16'28" E (ASSUMED), 1296.25 FEET TO THE P.O.B. OF THIS TRACT.

CONTAINING 46.68 ACRES LESS THAT PART USED FOR ROAD PURPOSES, ALL IN LEAVENWORTH COUNTY, KANSAS

#### DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER OF THE ABOVE DESCRIBED TRACT OF LAND HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, BLOCKS AND PUBLIC WAYS (STREETS AND ROADS). THE PUBLIC WAYS HEREFOR DEDICATED ARE TO THE PUBLIC. THE UTILITY EASEMENTS ARE DEDICATED, BUT NOT LIMITED TO THE USE OF THE PUBLIC UTILITY.

THE UNDERSIGNED PROPRIETORS STATE THAT ALL TAXES ON THE ABOVE DESCRIBED TRACT OF LAND HAVE BEEN PAID AND THAT THEY HAVE CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER SHOWN ON THE ACCOMPANYING PLAT, WHICH SUBDIVISION SHALL BE KNOWN AS HILLBROOK SUBDIVISION.

#### IN TESTIMONY WHEREOF:

CHARLIE E. SCHMITZ AND LARRY T. HAHN, MANAGERS OF HILLBROOK L.L.C. SAID OWNER OF "HILLBROOK SUBDIVISION" HAVE CAUSED THESE PRESENTS TO BE SIGNED THIS 27th DAY OF Feb., 2000.

*Charlie E. Schmitz*  
CHARLIE E. SCHMITZ  
*Larry T. Hahn*  
LARRY T. HAHN

#### TREASURER'S CERTIFICATE:

I HEREBY CERTIFY AS THE COUNTY TREASURER OF LEAVENWORTH COUNTY, KANSAS, THAT ALL TAXES AND SPECIAL ASSESSMENTS DUE AND PAYABLE ON THE FOREGOING SUBDIVISION HAVE BEEN PAID THIS 8 DAY OF April, 2000.

*Janice A. Young*  
JANICE A. YOUNG, LEAVENWORTH COUNTY TREASURER

#### STATE OF KANSAS / COUNTY OF LEAVENWORTH

BE IT REMEMBERED THAT ON THE DAY AND YEAR LAST WRITTEN ABOVE, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, CAME CHARLIE E. SCHMITZ AND LARRY T. HAHN, MANAGERS OF HILLBROOK L.L.C. PERSONALLY KNOWN TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT OF WRITING AND DULY ACKNOWLEDGED THE EXECUTION OF THE SAME, IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTORIAL SEAL THIS 27th DAY OF Feb., 2000.

*Shirley A. Keller*  
NOTARY PUBLIC  
MY COMMISSION EXPIRES 6/10/2000



#### CITY ENGINEER APPROVAL

I, THE CITY ENGINEER OF THE CITY OF LANSING DO HEREBY APPROVE THE FOREGOING SUBDIVISION THIS 7 DAY OF April, 2000.

*Edward A. Schlager*  
EDWARD A. SCHLAGER, LANSING CITY ENGINEER

THIS PLAT OF "HILLBROOK SUBDIVISION" HAS BEEN SUBMITTED TO AND APPROVED BY THE CITY OF LANSING PLANNING COMMISSION THIS 3rd DAY OF December, 1999.

*James T. Pittman*  
JAMES T. PITTMAN, CHAIRPERSON  
*Maria Lagoski*  
MARIA LAGOSKI, SECRETARY

THIS PLAT OF "HILLBROOK SUBDIVISION" HAS BEEN SUBMITTED TO AND APPROVED BY THE LANSING CITY COUNCIL, THIS 17 DAY OF Feb., 2000.

*Kenneth W. Bernard*  
KENNETH W. BERNARD, MAYOR  
*Karen J. Logan*  
KAREN J. LOGAN, CITY CLERK (ATTEST)



#### COUNTY SURVEYOR CERTIFICATION

I HEREBY CERTIFY THIS PLAT MEETS THE REQUIREMENTS OF K.S.A. 58-2005. THE FACE OF THIS PLAT WAS REVIEWED FOR COMPLIANCE WITH KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS. NO FIELD VERIFICATION IS IMPLIED. THIS REVIEW IS FOR SURVEY INFORMATION ONLY.

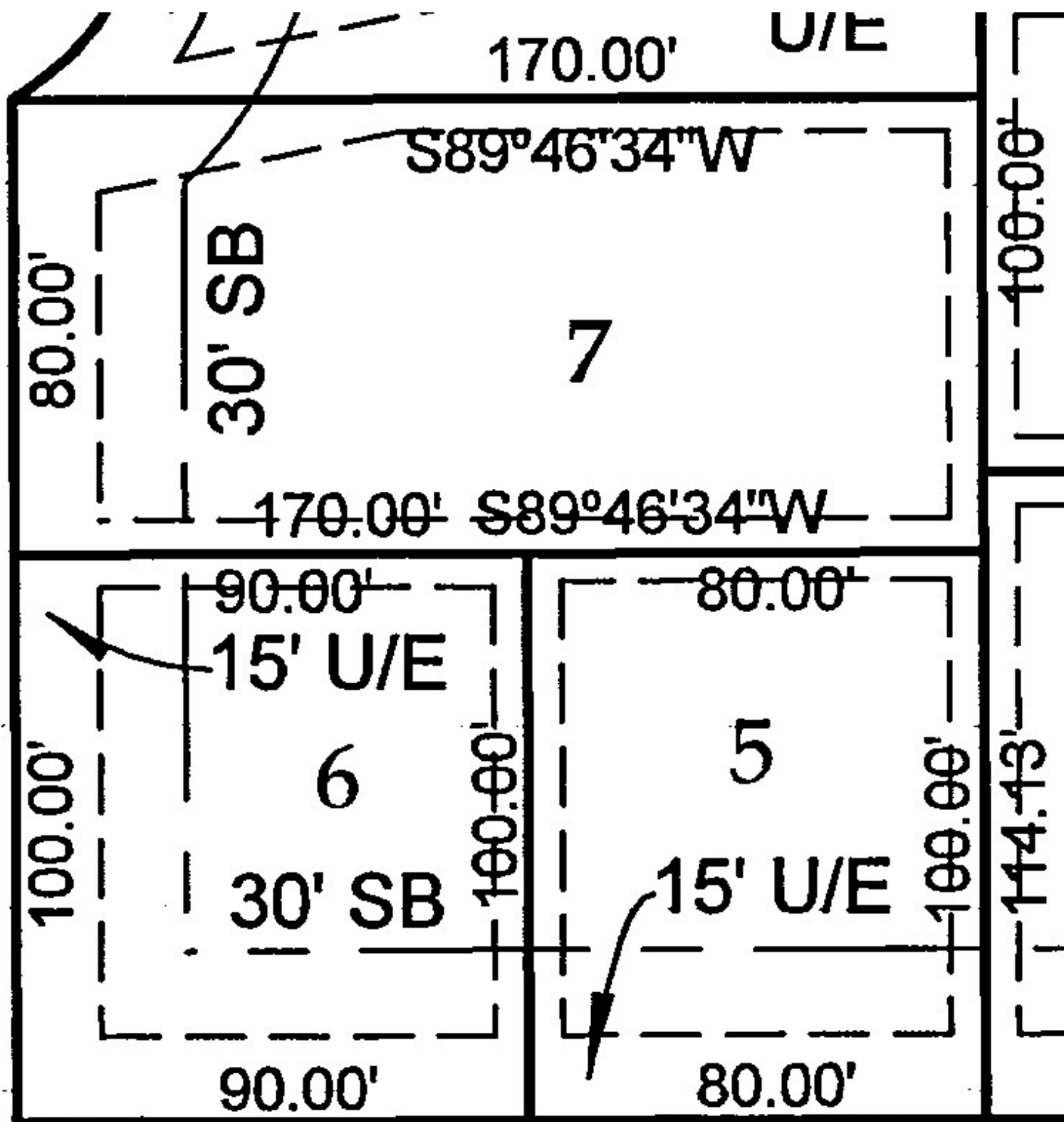
*L. Cameron Howell*  
COUNTY SURVEYOR: L. CAMERON HOWELL  
DATE: 25 APR 2000

FILED FOR THE RECORD THIS 27th DAY OF April, 2000.  
TIME 8:31 AM BOOK 13 PAGE 86

*Stacy R. Driscoll*  
LEAVENWORTH COUNTY REGISTER OF DEEDS - STACY R. DRISCOLL

D.G. WHITE & ASSOCIATES  
CONSULTING ENGINEERS  
SURVEYORS  
P.O. BOX 192 LANSING, KANSAS 66043  
(913) 727-1007 (913) 651-7948

248.30' S00°13'26"E



*HITHERGREEN DR*

320.00' N89°46'34"E



**Permit #:** 2008

**Permit Date:** 03/24/22

**Permit Type:**

**Permit Type:** Fence

**Contact Number:** 9137059424

**Applicant Email:** a.overbay@aol.com

**Description:** Removal of old 6ft privacy fence. Replace and expand with new 6ft privacy fencing.

**Valuation:** 7432.00

**Application Date:** 03/24/2022

**Issued Date:**

**Expiration Date:** 09/20/2022

**Zoning:** R-2 Single-Unit Residential District

**Easements:**

**Finished Square Footage:** 0

**Unfinished Square Footage:** 0

**Basement Finished Square Footage:** 0

**Basement Unfinished Square Footage:** 0

**Porch Square Footage:** 0

**Garage Square Footage:** 0

**Front Yard Setback (ft.):** 0

**Side Yard Setback (ft.):** 0

**Rear Yard Setback (ft.):** 0

**Status:** Waiting on Info Submittal

**Assigned To:** Matthew R. Schmitz

## Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
052-099-30-0-10-02-006.00-0	526 HITHERGREEN DR		OVERBAY,ANTHONY & PENNY		R-2 SINGLE-UNIT RESIDENTIAL DISTRICT

## Contractors

License Applied Date	License Issued Date	Company	Contractor #	License Type
2021-03-10 00:00:00.000	2021-03-10 00:00:00.000	FENCE CRAFTERS KC	CONT-1439	OCCUPATIONAL LICENSE
2021-03-10 00:00:00.000	2021-03-10 00:00:00.000	FENCE CRAFTERS KC	CONT-1439	EMPLOYEE LICENSE
2021-03-10 00:00:00.000	2021-03-10 00:00:00.000	FENCE CRAFTERS KC	CONT-1439	EMPLOYEE LICENSE
2021-03-10 00:00:00.000	2021-03-10 00:00:00.000	FENCE CRAFTERS KC	CONT-1439	EMPLOYEE LICENSE
2021-03-10 00:00:00.000	2021-03-10 00:00:00.000	FENCE CRAFTERS KC	CONT-1439	EMPLOYEE LICENSE

## Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
03/30/2022	Accessory Structure	Initial submitted plan shows fence in side setback - will take to Council for review.	Matthew R. Schmitz	Denied

## Fees

Fee	Description	Notes	Amount
Fence Permits			\$100.00
		<b>Total</b>	<b>\$100.00</b>

## Notes

Date	Note	Created By:
03/24/2022	Fence must be one foot in from property line unless written permission is obtained from adjoining property owners and is on file with this office. Any fence constructed in a utility easement is done so at owner's risk. No fence can be constructed in a drainage easement without prior approval from the Director of Public Works. Must meet all city guidelines for fences, which are on file at the office and on our website. Must call/submit request for an inspection (with 24 hours' notice) prior to installing for check of property pins and after to ensure properly installed.	Melissa Baker

## Uploaded Files

Date	File Name
03/24/2022	<a href="#">11101798-526 Hithergreen Plan.pdf</a>
03/24/2022	<a href="#">11101779-SKM_C284e22032414480.pdf</a>