



Board of Aldermen Request for Action

MEETING DATE: 12/20/2022

DEPARTMENT: Development

AGENDA ITEM: Bill No. 2970-22, Rezoning 18601 N. 169 Highway - 1st Reading

REQUESTED BOARD ACTION:

A motion to approve Bill No. 2970-22 for First Reading by Title Only to rezone 18601 N 169 Highway from R-1B to R-3 and approve a Conceptual Plan.

SUMMARY:

The ordinance would change the zoning to a portion of the current Catholic Church property to R-3P, which includes a conceptual plan restricting several otherwise allowable uses in the R-3 district, and focuses upon allowing a new education and dormitory facility to support the Herzog Foundation mission.

BACKGROUND:

The property is currently zoned R-1B, and contains the current Good Shepherd Catholic Church facility. It is adjacent to the Herzog Foundation property that was acquired from the church a few years ago. The Foundation came to the Planning and Zoning Commission in October seeking to rezone this land to B-3 in order to construct a Lodge facility. The B-3 district was required as the Lodge was to act as a hotel primarily for the Foundation, but would allow it to be used as a hotel. At that hearing, a significant amount of public input was provided to the Commission and ultimately, the Commission found that the proposed hotel use was not in compliance with the Comprehensive plan. Following that meeting, the Herzog Foundation reevaluated its submission to incorporate the public and Commissioner's concerns. The new application was to amend the request to rezone to R-3, which allows both education and dormitory uses. To address these concerns, the Foundation also added several restrictions upon the uses that are otherwise available in R-3 districts. Those restrictions effectively leave the dormitory use, along with educational uses and eliminates the more impactful uses. It also restricts future Conditional Use requests to the religious, educational, and social facilities associated with those uses. The plan also increases the setback requirements and reduces building height from 5 stories to 2. The rezoning application was simultaneously submitted with a subdivision request to create a new single lot of the rezoned property. That provision is contingent upon the zoning and conceptual plan approval and will be brought forward in January following a second reading of this zoning ordinance. If approved at a second reading, that subdivision will come forward as well. A public hearing was conducted, and the most significant concerns were of the condition of Main Street, as well as stormwater protection. Following that hearing, the commission discussed the application and sought clarification on the Main Street and stormwater issues from staff. Staff described the recent amendments to the Site Plan Review ordinance and its' incorporation of the subdivision ordinance provisions for on

and offsite public improvements, the requirement of an updated traffic impact analysis and stormwater design that will be required when any building is proposed through the site plan review process. This is also the time when road and stormwater improvements would occur. Following these assurances, the Commission voted to recommend approval of the rezoning and conceptual plan and have provided its' finding of fact for your review.

PREVIOUS ACTION:

The R-1B zoned lot was originally intended for Phase II of Rock Creek subdivision but was sold to the Catholic Church in 2009. The Herzog Foundation and Cabins were presented to the Board in the last two years.

POLICY ISSUE:

Complies with the Comprehensive Plan uses for the area.

FINANCIAL CONSIDERATIONS:

None

ATTACHMENTS:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution | <input checked="" type="checkbox"/> Plans |
| <input checked="" type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes |
| <input checked="" type="checkbox"/> Other: Findings of Fact and Planning and Zoning meeting is available for viewing online | |

FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: Focal Design Studio, Agent for Diocese of KC-St. Joseph and Herzog Foundation

Land Use Proposed: R-3 with a conceptual plan overlay

Zoning: R-1B

Property Location: 18601 N. 169 Hwy

Pursuant to the provisions of Section 400.560(C) of the Smithville Code, the Planning Commission does hereby make the following findings of fact based upon the testimony and evidence presented in a public hearing of the Planning and Zoning Commission of the City of Smithville, held on December 13, 2022, and presents these findings to the Board of Aldermen, with its' recommendations on the application.

Finding of Facts

1. *Character of the neighborhood.*
The surrounding area is a mix of R-1 single family housing to the south of the Catholic Church, as well as many acres of undeveloped land to the south and east. The lot north is B-2 and houses the Foundation offices and the four cabin buildings.
2. *Consistency with the City's Comprehensive Plan and ordinances.*
A. The existing Comprehensive Plan was approved on November 10, 2020 and calls for this area to remain Civic or Institutional. Civic and Institutional uses include, but are not limited to, educational facilities and campuses, libraries, places of worship, and other community-oriented areas. The conceptual plan proposes an educational facility and dormitory building for the support of the Herzog Foundation to the north meets this definition in that it can be considered part of the larger campus.
3. *Adequacy of public utilities and other needed public services.*
The application is to allow an 8-acre portion of the land to be used for constructing an educational and dormitory facility. All utilities and services are available currently but must be extended to this facility at the applicant's sole cost and expense.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*

The current use is as a church facility to the west, but the subject portion of the land is undeveloped.

5. *Length of time the property has remained vacant as zoned.*
The property was zoned to the existing district classification of R-1B in 2004 for the Rock Creek Subdivision. In 2009, after the housing bubble burst no construction occurred in the brand-new residential development, the future development area of the subdivision was acquired by the Catholic Church and the church was constructed.
6. *Compatibility of the proposed district classification with nearby properties.*
The adjacent land (except the church and applicants' other facilities to the north) is either residential, or vacant, undeveloped land, with a future land use designation of either agricultural or residential. The intended district will expand the impact of the uses from the original impacted area of 188th St. and 169 Hwy significantly.
7. *The extent to which the zoning amendment may detrimentally affect nearby property.*
A. No detriment is anticipated to the adjacent nearby undeveloped land.
8. *Whether the proposed amendment provides a disproportionately great loss to the individual landowners nearby relative to the public gain.*
A. No loss to landowners is expected.
9. That in rendering this Finding of Fact, testimony at the public hearing on December 13, 2022, has been taken into consideration as well as the documents provided.

Recommendation of the Planning Commission

Based on the foregoing findings of fact, we conclude that:

- A. This application and the Rezoning of this property from R-1B to B-3 is governed by Section 400.620 of the zoning ordinance of Smithville, Missouri.
- B. The proposed zoning is compatible with the factors set out in Section 400.560(C) of the zoning ordinance.
- C. The Planning and Zoning Commission of the City of Smithville, Missouri does recommend approval of rezoning the property to R-3 with the submitted Conceptual Plan overlay and future compliance with the Site Plan Ordinance when development occurs.

BILL NO. 2970-22

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF SMITHVILLE, MISSOURI.

WHEREAS, The City of Smithville received an application for rezoning a portion of 18601 169 Hwy on October 14, 2022; and

WHEREAS, the public was notified by publishing in the CT paper on November 24, 2022 and notices were mailed to adjoining property owners more than 15 days prior to the December 13 hearing.

WHEREAS, a Public Hearing was conducted before the Planning Commission on December 13, 2022; and

WHEREAS, the rezoning is to create a single R-3 lot for development of an educational facility and dormitory to support the adjacent Herzog Foundation; and

WHEREAS, the Planning Commission presented its' findings to the Board of Aldermen and recommended approval of the rezoning request; and,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI, THAT:

Section 1. Having received a recommendation from the Planning Commission, and proper notice having been given and public hearing held as provided by law, and under the authority of and subject to the provisions of the zoning ordinances of the City of Smithville, Missouri, by a majority council vote, the zoning classification(s) or district(s) of the lands legally described hereby are changed as follows:

The property legally described as:

All that part of the West half of the Southwest Quarter of Section 2, Township 53 North, Range 33 West of the Fifth Principal Meridian, located in the City of Smithville, Clay County, Missouri, being more particularly described as follows: Commencing at the West Quarter corner of said Section 2; thence North 89 degrees 41 minutes 40 seconds East along the North line of the Southwest Quarter of said Section 2, a distance of 1296.87 feet to the Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 2; thence South 00 degrees 17 minutes 14 seconds West along the East line of said Northwest Quarter, a distance of 343.83 feet to the Easterly prolongation of the South line of Lot 1, Final Plat Herzog Foundation, a subdivision of land located in Smithville, Clay County, Missouri recorded at Instrument Number 2020016029 in Book I at

Page 98.4 and the Point of Beginning of the tract of land herein to be described, said point also being on the Westerly right-of-way of North Main Street, as now established; thence South 89 degrees 42 minutes 14 seconds West along said South line and it's Easterly prolongation, a distance of s Easterly prolongation, a distance of 620.26 feet; thence South 00 degrees 17 minutes 46 seconds East, a distance of 7.00 feet; thence along a curve to the right, having a chord bearing of South 71 degrees 07 minutes 08 seconds East, a chord length of 44.02 feet and a radius of 67.00 feet, a distance of 44.85 feet; thence South 51 degrees 56 minutes 26 seconds East, a distance of 96.63 feet; thence along a curve to the right, having a chord bearing of South 31 degrees 26 minutes 30 seconds East, a chord length of 46.93 feet and a radius of 67.00 feet, a distance of 47.94 feet; thence South 10 degrees 56 minutes 32 seconds East, a distance of 704.56 feet; thence South 89 degrees 42 minutes 22 seconds East, a distance of 340.17 feet to the Westerly right-of-way North Main Street, as now established; thence North 00 degrees 17 minutes 14 seconds East along said Westerly right-of-way line, a distance of 817.56 feet to the point of beginning.

is hereby changed from R-1B to R-3P with a conceptual plan overlay.

Section 2. That the conceptual plan includes restrictions and changes upon the allowable uses, height and yard regulations in the Section 400.150 for an R-3 district, as follows:

400.150.B, subparagraphs 1-4 are allowed; subparagraph 5 is amended to exclude all listed uses except dormitories; subparagraphs 6 and 7 are allowed.

400.150.C subparagraphs 1, 3 and 4 are excluded.

400.150.D.3 is amended to allow a maximum lot coverage of thirty-five (35) percent.

400.150.E. is amended by reducing the maximum structure height to two (2) stories.

400.150.F.1.a. is amended to increase the front yard setback to 100 feet.

400.150.F.2 is amended to increase the side setback to 40 feet.

Section 3. Upon the taking effect of this ordinance, the above zoning changes, including the modifications to the current regulations as identified in the conceptual plan document shall be entered and shown upon the "Official Zoning Map" previously adopted and said Official Zoning Map is hereby reincorporated as a part of the zoning ordinance as amended.

Section 4. This ordinance shall take effect and be in full force from and after the approval.

PASSED THIS _____ DAY OF _____, 20____

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

First Reading: 12/20/2022

Second Reading 01/17/2023



STAFF REPORT
December 9, 2022
Rezoning portion of Parcel Id # 05-301-00-01-005.00

Application for Rezoning District Classification Amendment and Overlay District

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: NE corner of 18601 N 169 Hwy
Owner: Diocese of Kansas City-St. Joseph
Current Zoning: R-1B
Proposed Zoning: Part of R1B to R-3

Public Notice Dates:

1st Publication in Newspaper: November 24, 2022
Letters to Property Owners w/in 185': November 28, 2022

GENERAL DESCRIPTION:

The applicant has a contract to purchase an 8-acre parcel from the current Catholic Church site for the purpose of constructing what is now described as an education center and dormitory. The facility would include both dormitory rooms for students attending the facility's training and classes, as well as some meeting rooms. The property is along N. Main Street and lies south of the Stanley M. Herzog Charitable Foundation offices and the cabins. Currently, the Foundation lot is zoned B-2, but the proposed use of a dormitory and educational facility can be constructed on R-3. This will require rezoning this new lot to R-3.

In order to accommodate some of the identified neighbor and commissioner concerns from its' previous B-3 request, the applicant has submitted a conceptual plan overlay to be included. That overlay specifically restricts the permitted uses by eliminating all uses listed in the R-3 district permitted uses,

paragraph 5, except dormitories, as well as excluding all conditionally permitted uses except those identified in paragraph #2 related to religious, educational and social facilities.

The overlay also adjusts the setbacks from 55' (front) and 7.5' (side) to 100' and 40' respectively.

EXISTING ZONING:

The existing zoning is R-1B with a church constructed on the lot.

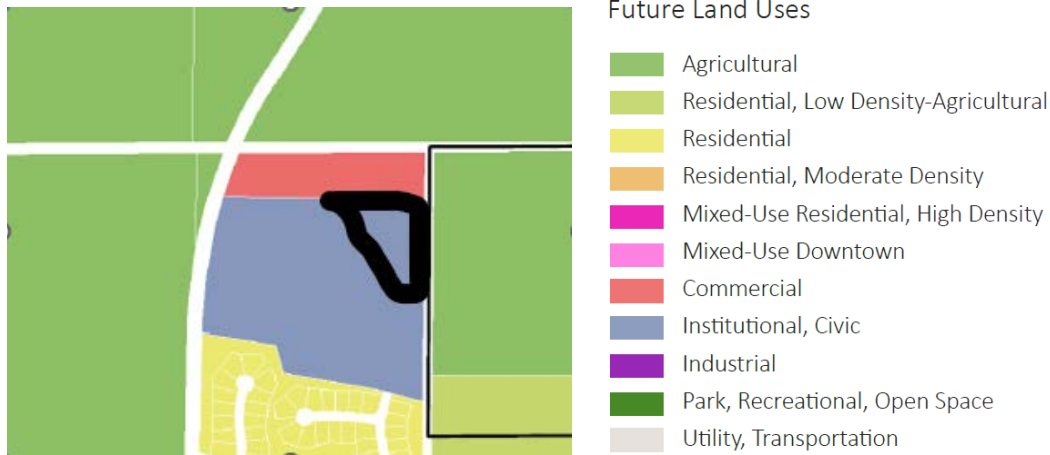
CHARACTER OF THE NEIGHBORHOOD *400.560.C.1*

The surrounding area is a mix of R-1 single family housing to the south of the Catholic Church, as well as many acres of undeveloped land to the south and east. The lot north is B-2 and houses the Foundation offices and the four cabin buildings.

CONSISTENCY WITH COMPREHENSIVE PLAN AND ORDINANCES *400.560.C.2*

The new Comprehensive Plan was approved by the Planning Commission on November 10, 2020 and adopted as the Board policy on November 17, 2020. This Comprehensive plan was adopted following the change in zoning of the current Herzog Foundation to B-2. This new plan is like previous versions of the Comprehensive Plan in that it describes the process of using the plan in rezoning decisions. "When property owners and developers request zoning changes, th[e] Future Land Use Map is one of the key considerations for the zoning recommendation with the Planning and Zoning Commission's and the Board of Aldermen's decisions and other principles in this Comprehensive Plan." *Comprehensive Plan 2030*, pg. 43.

The new Comprehensive Plan includes a new Future Land Use Map shown below, with a color-coded key to the side.



The property subject to this rezoning request is roughly the area located with the black outlined mark and contained in land described as Institutional, Civic. "Civic and Institutional uses include, but are not limited to, educational facilities and campuses, libraries, places of worship, and other community-oriented areas." *Comprehensive Plan 2030*, pg. 46-47. Please note that the B-2 property to the north originally included a B-3 parcel that was down-zoned to B-2 and increased from 2.25 to 8 acres. This proposal would increase the size of the developed area by its' proposed 8 acres and increase the zoning level to R-3 (previous submittal was B-3) with a conceptual plan. With its' conceptual plan submittal, the applicant clearly identifies how it proposes to develop the area. The proposed conceptual plan does not seek nor will it be granted site plan approval of any buildings. Any actual construction would again be subject to the site plan review process. That process also now includes off-street and on site public improvements triggered by the subdivision code. These facts are what must be used to determine if the suggested change meets the definition of Civic or Institutional Uses as described in the Comprehensive Plan or that meets the overall intent of the plan is a decision that the Planning Commission must evaluate and decide prior to its' recommendation to the Board of Aldermen.

ADEQUACY OF PUBLIC UTILITIES OR OTHER PUBLIC SERVICES *400.560.C.3*

Streets and Sidewalks:

The adjacent street (N. Main St.) is an open ditch chip seal street that is otherwise unimproved. There will be a sidewalk along the west side of N. Main St. on the Herzog Foundation Lot that this lot can access. If approved, the site plan review process, which now incorporates all aspects of the subdivision code requirements should be used for guaranteeing upgrades to those streets and sidewalks.

Water, Sewer and Storm water

The city has adequate water supply on the east of the parcel and sewer bisects the property already. A storm study will be required as a part of the site plan process prior to any construction.

All other utilities

Future Development will be conditioned upon installation of all other needed utilities at the cost of the development.

SUITABILITY OF THE USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED UNDER ITS EXISTING ZONING *400.560.C.4*

The current use is as a church facility to the west, but the subject property is undeveloped land.

TIME THE PROPERTY HAS REMAINED VACANT AS ZONED *400.560.C.5*

The property was zoned to the existing district classification of R-1B in 2004 for the Rock Creek Subdivision. In 2009, after the housing bubble burst no construction occurred in the brand-new residential development, the future development area of the subdivision was acquired by the Catholic Church and the church was constructed.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY LAND *400.560.C.6*

The adjacent land (except the church and applicants' other facilities to the north) is either residential, or vacant, undeveloped land, with a future land use designation of either agricultural or residential. The intended district will expand the impact of the uses from the original impacted area of 188th St. and 169 Hwy, but proposed gates on the Main Street side will limit the traffic impact.

EXTENT WHICH THE AMENDMENT MAY DETRIMENTALLY AFFECT NEARBY PROPERTY *400.560C.7*

To the extent that the adjacent land is undeveloped but intended to be either residential or agricultural in use, any detrimental effects are not known, but it could impact the future development of that land due to the proximity of the use. Again, the compliance with the Comprehensive plan and its' Future Land Use Map is the up to the Commission for its' recommendation to the Board

WHETHER THE PROPOSAL HAS A DISPROPORTIONATE GREAT LOSS TO ADJOINING PROPERTY OWNERS' RELATIVE TO THE PUBLIC GAIN *400.560.C.8*

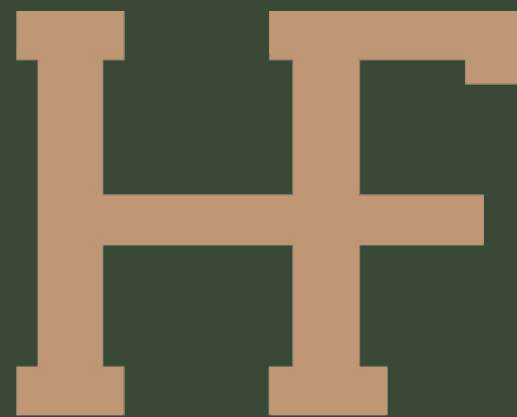
Without a specific determination as to Comp plan compliance, any detrimental effects would be prospective and any loss would be to a future development plan, so, no great loss is expected.

STAFF RECOMMENDATION:

Staff recommends that the Commission base its' decision using the decision-making infrastructure included in both the zoning ordinance and the Comprehensive Plan. The question is whether increasing the intensity of use of land that is further away from the high traffic of 169 and 188th St. meets the new Comprehensive Plan 2030 recommendations on density. Staff's findings and recommendations are based upon the current code requirements contained in the Site Plan Review provisions of the code that identifies street improvements and storm water protections be constructed in accordance with the Subdivision Code requirements.

Respectfully Submitted,

Zoning Administrator



Herzog Education Center

Planned Development Overlay: Concept Design

December 13, 2022



FOUNDATION MISSION:

ADVANCING CHRISTIAN EDUCATION

The Stanley M. Herzog Charitable Foundation's mission is to catalyze and accelerate the development of quality Christ-centered K-12 education so that families and culture flourish.





HERZOG EDUCATION CENTER:

We provide training, events, and conferences to better train leaders who are molding the next generation. These events will be a time to share best-practices and cutting-edge ideas from national thought leaders. Focuses will include institutional management, classroom management, civics education for public and private school educators, and leadership training for civic leaders.



STABLE AND RELIABLE PRESENCE



The mission and activities of The Herzog Foundation and Herzog Education Center will be a stable and reliable presence in the community.

MISSION DRIVEN

- The Herzog Education Center is a mission driven, non-profit organization focused on advancing Christian Education.
- The Center will not be used as a commercially oriented, profit-driven, facility.



COMMUNITY ENGAGED

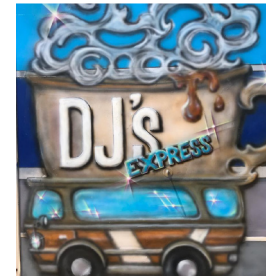
- The Herzog Foundation and Herzog Education Center will be a resource for local Community Groups, Schools and Non-profits by providing places to meet and congregate.
- The Herzog Foundation will host a variety of local groups to engage in conversations important to the local and regional community.

HERZOG GRANTEES





LOCAL BUSINESS PARTNERS



**HUMPHREY'S
SPORTS BAR &
GRILL**



DOLLAR GENERAL®



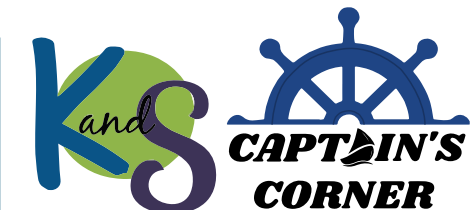
Attic Storage



Aroma Bistro



Donut Palace

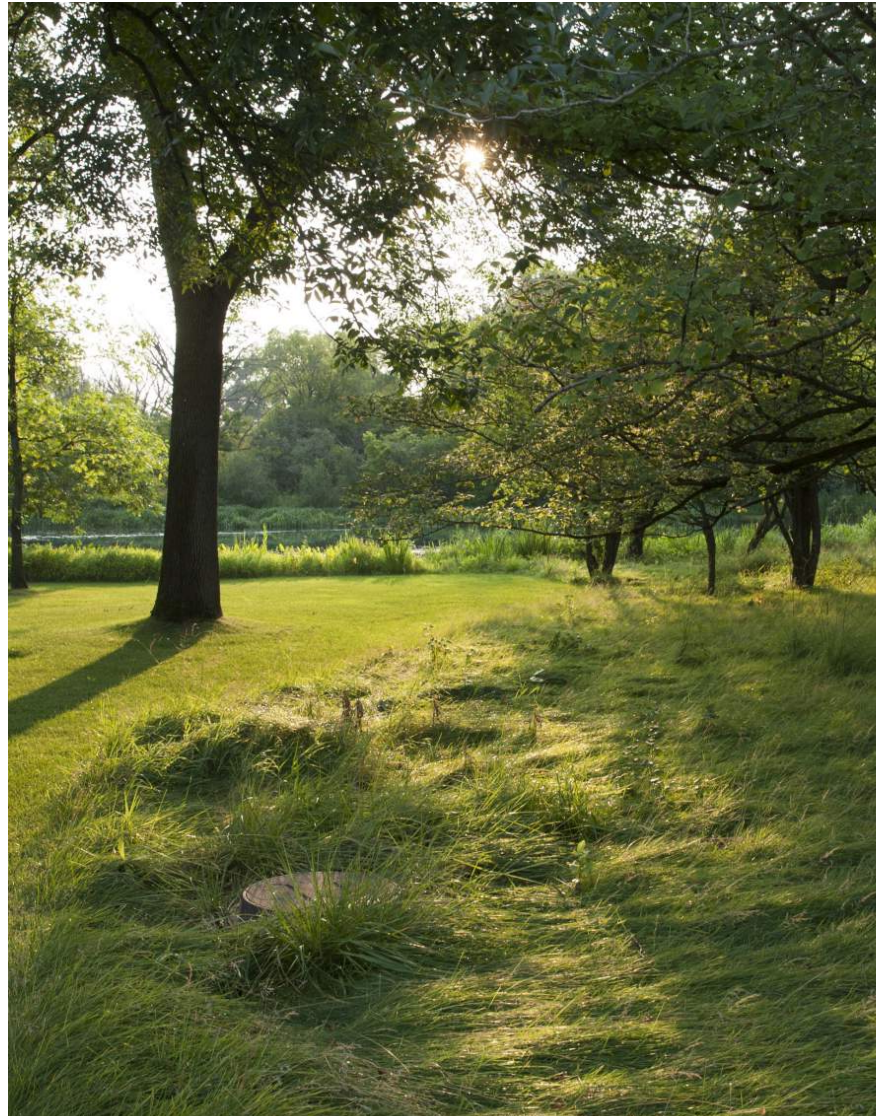


POSITIVE ECONOMIC IMPACT

- The Herzog Education Center will boost many local business by purchasing their products and services to serve its mission.
- The staff and visitors coming to the Herzog Education Center will be daily patrons of local businesses.

JOB CREATOR

28 new jobs have been created at the current Herzog Foundation, with an additional 15 jobs planned to support The Herzog Education Center.



GOOD NEIGHBOR

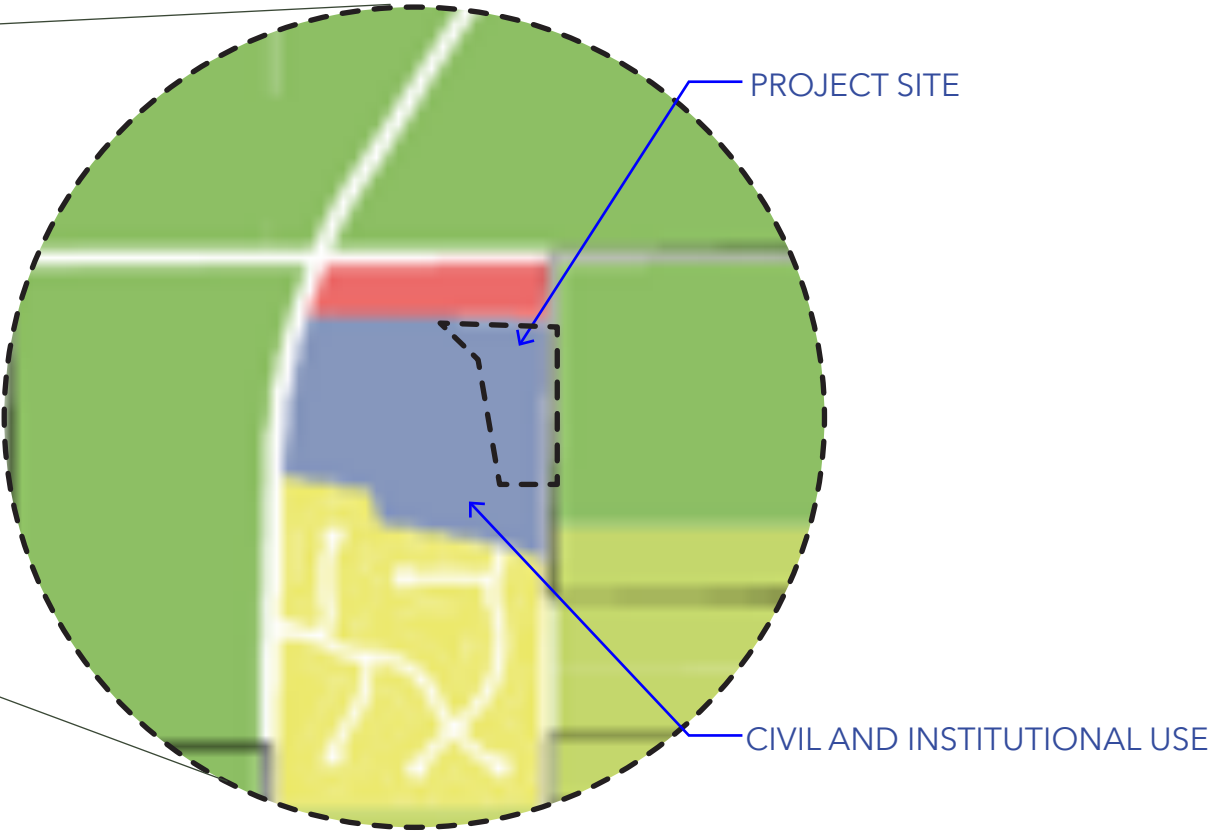
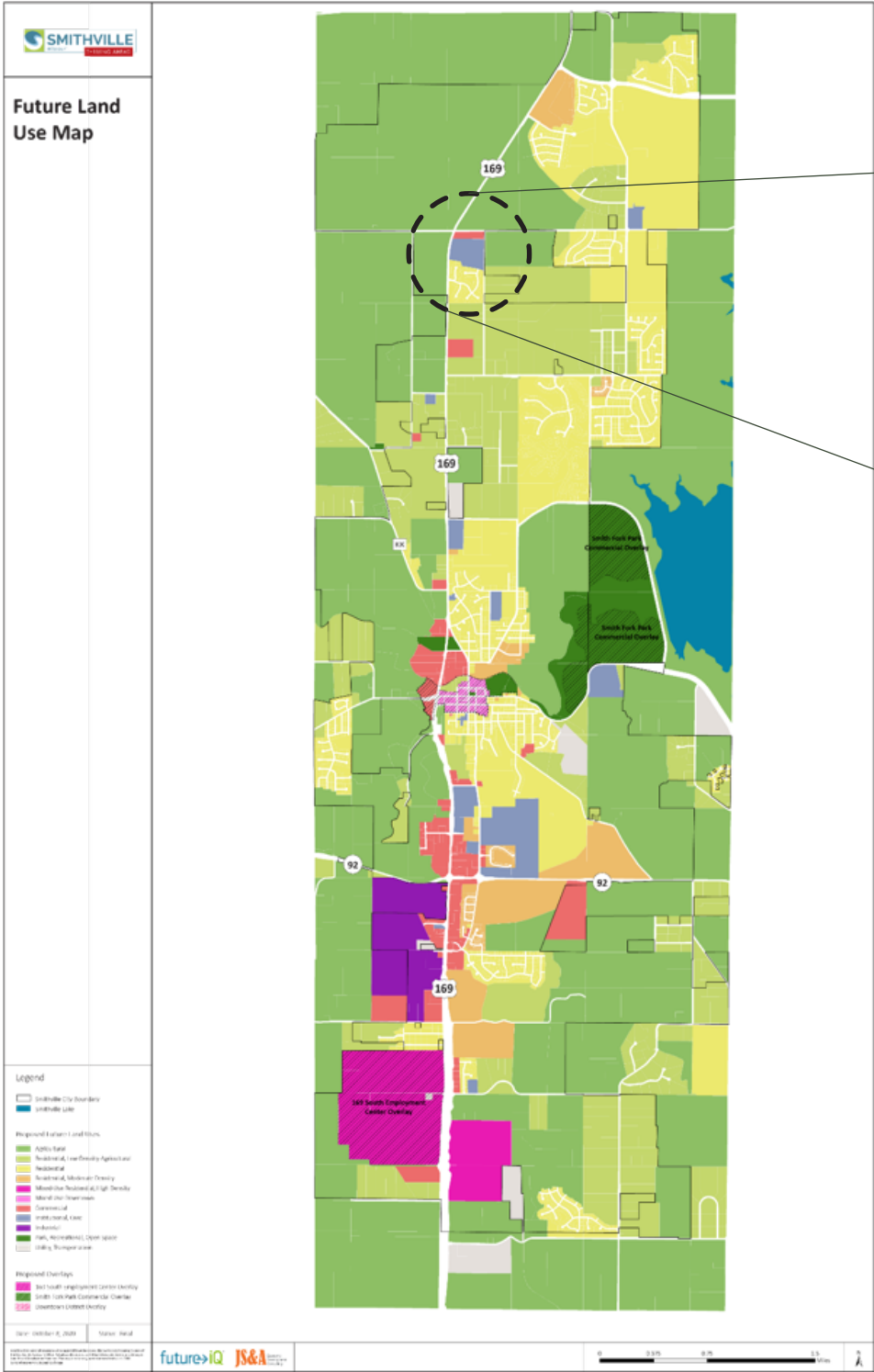
- The Herzog Foundation staff and operating budget will allow their facilities and grounds to be maintained at the highest level of attention and care.
- The design of the public utilities will be engineered by best-in-class design professionals and will not create a negative load or burden to the public water, gas or electric systems.
- The Herzog Education Center will meet all local requirements for storm water management and improve existing conditions along Main St.
- The Herzog Education Center will be a quiet neighbor with a majority of the on-site activity shielded from adjacent land owners to the south, west and east.



ARCHITECTURE AND DESIGN

- The building and grounds of the Education Center will be designed to be in-keeping with the surrounding agricultural character of Northwest Missouri buildings and landscapes.
- The building design is inspired by barns and agricultural structures from the surrounding area.
- The landscape design will use all native species and blend seamless with the surrounding prairies, fields and trees.

CITY'S COMPREHENSIVE PLAN
FUTURE LAND USE MAP



Civil and Institutional uses include, but are not limited to, educational facilities and campuses, libraries, places of worship and other community-oriented areas.

*Definition from City's Comprehensive Plan Document

CURRENT ZONING DISTRICT ‘R-1B’

Permitted Uses:

- 1. Detached, single-family dwellings.
- 2. Fire and Police protection and related activities.
- 3. Historic sites and monuments.
- 4. Parks, playgrounds, primary and secondary schools.
- 5. Signs, as provided in Sections 400.470 – 400.520 of this Code.
- 6. Accessory uses customarily incidental to permitted uses and otherwise conforming to the provisions contained in Section 400.370.

Conditionally Permitted Uses: *The following uses may be conditionally permitted provided they obtain a conditional use permit in accordance with Section 400.570 of this Code:*

- 1. Cemeteries and mausoleums.
- 2. Museums, libraries, accessory buildings associated with religious worship facilities.
- 3. Athletic fields, golf courses, tennis, handball, squash and basketball courts.

Height Regulations: The maximum height shall be thirty-five (35) feet.

Lot Coverage: The maximum lot coverage area shall be thirty percent (30%).

Setbacks

Front: 55 feet.
Side: 7.5 feet.
Rear: 20 feet.

PROPOSED ZONING DISTRICT ‘R-3’

Indicates item to be modified by Planned Development Overlay

Permitted Uses:

- 1. Single-, two- and multi-family dwellings.
- 2. Fire and Police protection and related activities.
- 3. Historic sites and monuments.
- 4. Parks, playgrounds, primary and secondary schools.
- 5. Retirement, convalescent, nursing, and rest homes; convents, monasteries, orphanages, dormitories, fraternity, and sorority houses; boarding and rooming houses.
- 6. Signs, as provided in Sections 400.470 – 400.520 of this Code.
- 7. Accessory uses customarily incidental to permitted uses and otherwise conforming to the provisions contained in Section 400.370.

Restrict all uses except for dormitories

Signage as outlined in Planned Development Overlay Submittal

Conditionally Permitted Uses: *The following uses may be conditionally permitted provided they obtain a conditional use permit in accordance with Section 400.570 of this Code:*

- 1. Recreational and entertainment uses, including amphitheaters, athletic fields, campgrounds, country clubs, golf courses and driving ranges, fairgrounds, recreation centers, resorts, riding stables, swimming clubs, tennis clubs and zoos.
- 2. Religious, educational, and social facilities, including museums; charities; accessory uses associated with houses of worship; colleges and universities (public and private); educational and scientific research services; libraries; schools for primary, secondary, vocation and higher education, daycares with more than five (5) children.
- 3. Public health and safety facilities, including, clinics, health centers, hospitals and counseling, treatment, and correctional centers.
- 4. Transportation, communication, and utility facilities, including electrical power stations and substations; railroad stations, depots and maintenance facilities, so long as adjacent to an existing railroad line; postal services; sewage treatment plants; telephone exchange stations and relay towers; and towers for communications transmission.

Restrict Uses

Restrict Uses

Restrict Uses

Height Regulations: The maximum structure height shall be five (5) stories.

Restrict maximum structure height two (2) stories
Increase lot coverage to 35%.
Allows a shorter building.

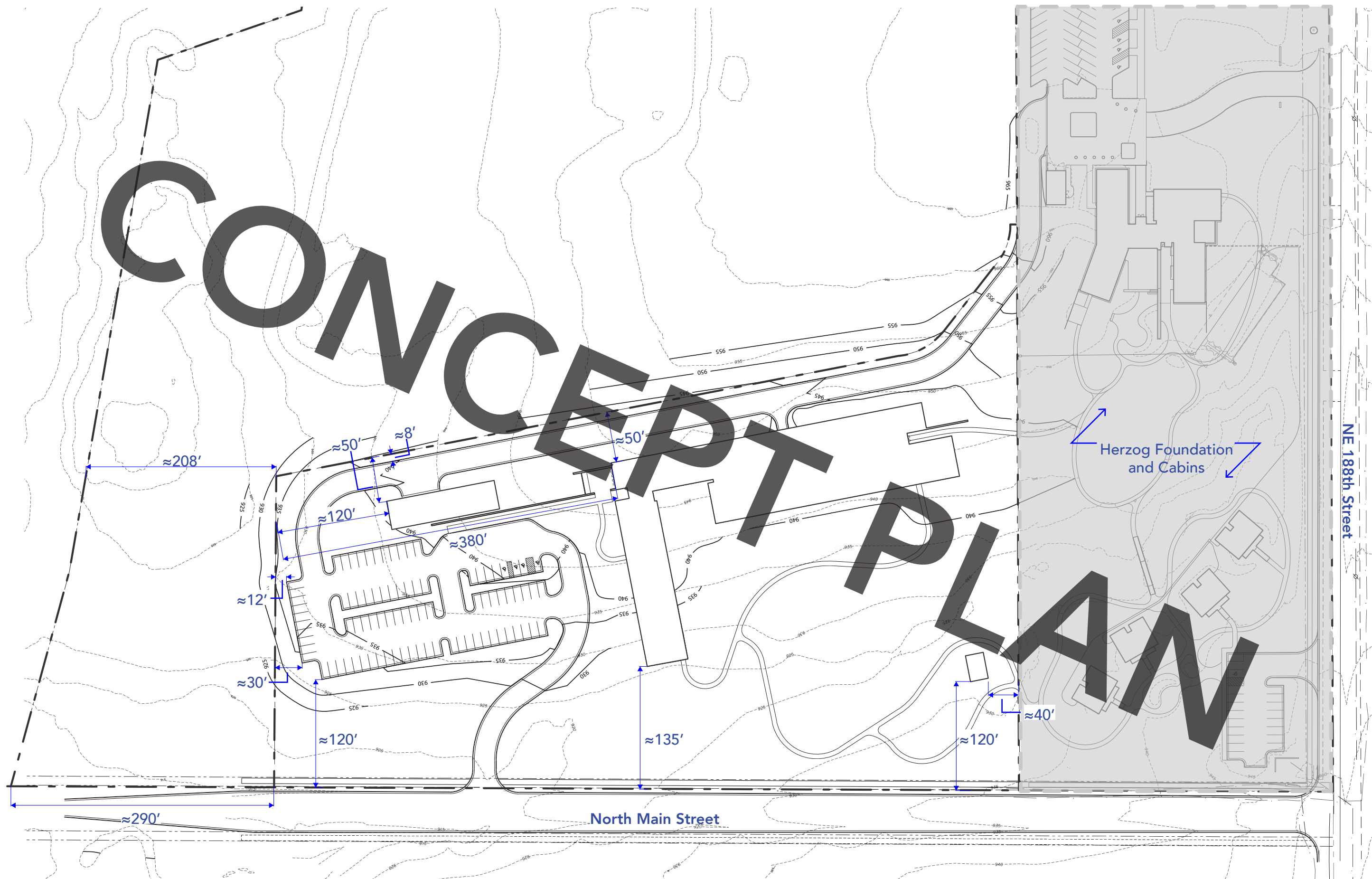
Lot Coverage: The maximum lot coverage area shall be thirty percent (30%).

Setbacks
Front: 55 feet.
Side: 7.5 feet.
Rear: 20 feet.

Revised Setbacks
Front: 100’
Side: 40’



CONCEPT PLAN



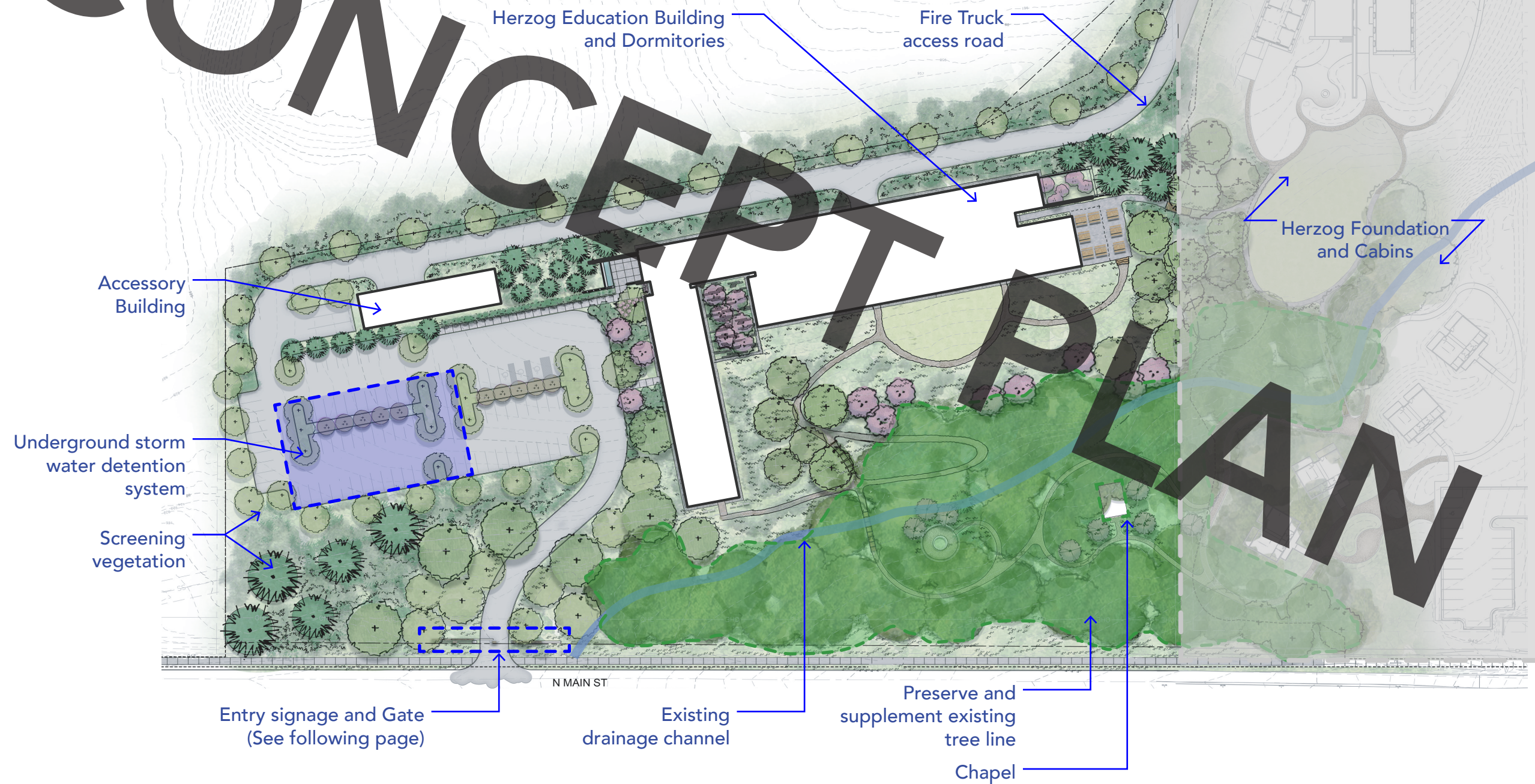
Scale: 1" = 100'-0"



Herzog Education Center
DIMENSIONED SITE PLAN

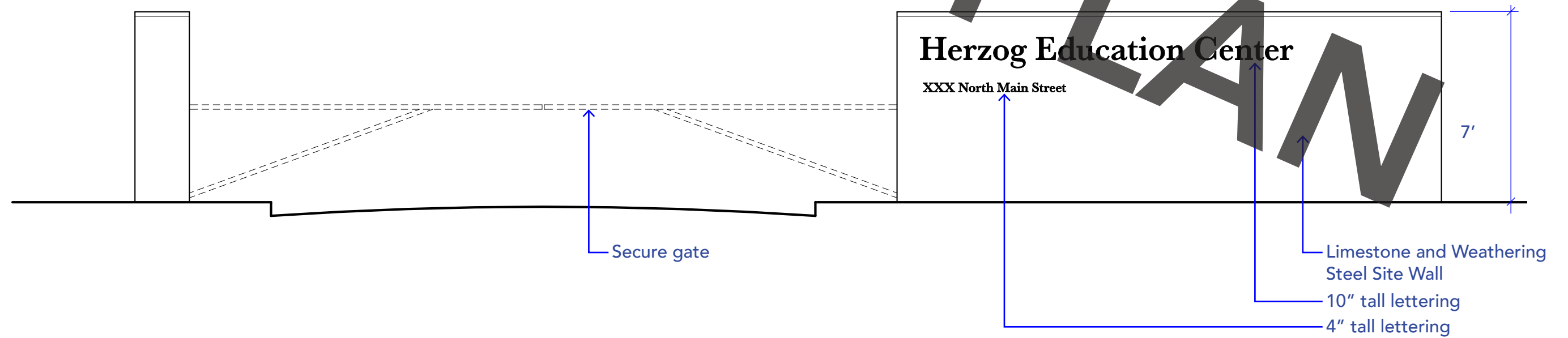
December 13, 2022

CONCEPT PLAN



Scale: 1" = 100'-0"



















H