

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI**

MONARCH FIRE PROTECTION DISTRICT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 22SL-CC00405
	)	
CITY OF WILDWOOD, MISSOURI,	)	
	)	
Defendant.	)	

**FIRST AMENDED PETITION FOR DECLARATORY JUDGMENT, AND  
PRELIMINARY AND PERMANENT INJUNCTION**

COMES NOW Plaintiff, Monarch Fire Protection District, by and through counsel, and for its First Amended Petition for Declaratory Judgment, and Preliminary and Permanent Injunction, states the following:

1. Plaintiff, Monarch Fire Protection District, is a political subdivision located in St. Louis County, Missouri, duly incorporated by the Circuit Court of St. Louis County, Missouri on July 22, 1957.
2. Plaintiff is a political subdivision of the State of Missouri created under the provisions of Chapter 321 RSMo.
3. Defendant, City of Wildwood, Missouri, is a municipal entity and a political subdivision of the State of Missouri located in St. Louis County, Missouri.

4. Venue is proper in St. Louis County as both parties are political subdivisions located within the 21<sup>st</sup> Judicial Circuit and all facts and circumstances underlying the claims set forth herein occurred in St. Louis County.
5. The Board of Directors is elected and empowered under Section 321.220 RSMo to operate the Monarch Fire Protection District, purchase property and construct fire related facilities.
6. Specifically, Section 321.220(6) RSMo states that the District and, on its behalf, the Board of Directors shall have the power and authority to acquire, construct, purchase, maintain, dispose of and encumber real and personal property , fire stations, fire protection and firefighting apparatus.
7. Additionally, Section 321.220(8) RSMo states that the Board of Directors will have management, control and supervision of all the business and affairs of the District, and construction, installation, operation and maintenance of District improvements.
8. Plaintiff, Monarch Fire Protection District, currently operates Fire House 2 within the City of Wildwood located at 18424 Wild Horse Creek Road, which was built in 1970.
9. The District cannot build a new fire house at the current site of Fire House 2 as the lot is 1.2 acres in size.
10. The City of Wildwood requires a minimum of two (2) acres in overall size to build a new fire station.
11. This rural area of the District has specific discipline and resource requirements, including the ability to transport water, off-road capability and emergency medical

transport.

12. Current Fire House 2 does not have the necessary space, infrastructure or utility to provide for an ambulance, but new Fire House 2 is designed to house and staff the necessary personnel, apparatus and equipment to provide the life-saving services.
13. The City of Wildwood did not exist when current Fire House 2 was built and Wild Horse Creek Road has changed substantially since that time.
14. On June 2, 2020, the voters of the Monarch Fire Protection District overwhelmingly approved Proposition F, in part to replace current Fire House 2 in the City of Wildwood.
15. Plaintiff only has three (3) years from the bond approval date to spend eighty-five percent (85%) of the bond funds, which is causing serious concern related to the delays created by the City of Wildwood.
16. Plaintiff purchased the property located at 18304 Wild Horse Creek Road to build a new and technologically advanced Fire House 2 to protect and serve residents of the City of Wildwood, complement the Monarch Fire Protection District and serve as a mutual aid partner with neighboring fire protection districts.
17. Upon information and belief, an outspoken neighbor in opposition to this project also attempted to purchase the property located at 18304 Wild Horse Creek Road and lost the bid by one cent (\$.01) in the best and final offer process initiated by the listing agent.
18. The District has made extensive efforts to work with the City of Wildwood, the Architectural Review Board and the Planning & Zoning Commission regarding the construction of new Fire House 2.

19. The Planning & Zoning Commission denied the District's Application for a Conditional Use Permit on March 1, 2021.
20. Thereafter, exercising its "Power of Review," following a public hearing on April 12, 2021, to review the denial of the Conditional Use Permit, the Wildwood City Council overwhelmingly voted (14-1) to overturn the denial.
21. The District has made several changes to the original design of new Fire House 2, at its expense, in an effort to improve the process with the City of Wildwood and to satisfy the parties involved, including the removal of a desired ingress driveway on Old Eatherton Road and the installation of a large privacy fence on the side of the outspoken neighbor.
22. Thereafter, the City of Wildwood delayed the approval of the Demolition Permit for the single family home that was located at 18304 Wild Horse Creek Road.
23. Additionally, the Conditional Use Permit process took several months and, in its present form, continues to contain atypical requirements, including the completion of an archaeological study at the site of the former single family home and the completion of a traffic study.
24. Upon information and belief, the City of Wildwood does not typically require an archaeological study to approve a Conditional Use Permit.
25. In response to the efforts of the City of Wildwood to further delay construction, the administrative staff and members of the Board of Directors appeared in person at Wildwood City Council Meetings on multiple occasions to offer experience and expertise regarding the four (4) person shift change that would occur at new Fire House 2 every forty eight (48) hours.

26. The new facility will house the exact same number of employees as current Fire House 2.
27. Further, upon information and belief, the City of Wildwood does not typically require a traffic study to approve a Conditional Use Permit.
28. Nevertheless, under pressure from the City of Wildwood, the Monarch Fire Protection District commissioned a traffic study to be performed by EFK Moen Civil Engineering Design, a firm recommended by the City of Wildwood, yet that completed traffic study has been rejected for reasons that are arbitrary and capricious.
29. The Conditional Use Permit demands setback footage by the District, a fellow municipal entity, in excess of the footage otherwise required by the City of Wildwood. (Please see Exhibit A attached).
30. Additionally, the western setback on the site required by the Conditional Use Permit is in excess of the zoning ordinance enacted by the City of Wildwood. (Please see Exhibit A attached).
31. The Conditional Use Permit also requires additional parking, public space and drive lane setbacks.
32. On October 18, 2021, at approximately 9:00 a.m. Wildwood City Inspector Frank Loughlin appeared on District property to stop all soil testing, requiring employees of Quality Testing and Engineering to leave the work site.
33. Despite the limited soil testing involved, the City of Wildwood required the District to obtain a Grading and Excavation Permit.
34. Soil testing does not meet the definition of “Grading” as the term is defined and

enacted by the City of Wildwood.

35. Additionally, upon information and belief, the City of Wildwood does not typically require a Grading and Excavation Permit for soil testing.
36. A Site Development Plan for new Fire House 2 was submitted by the District to the City of Wildwood Department of Planning several months ago and has yet to be approved.
37. After an ongoing effort to satisfy the City of Wildwood, the District recently received correspondence on January 6, 2022, from the Director of the Department of Planning for the City of Wildwood stating "...be advised the access easement to the Loggia Property will require a fifty (50) foot setback to be established from its eastern edge on the site."
38. Despite the timing issues involved regarding the bond funds, which have been clearly communicated, the City of Wildwood continues to change the conditions and requirements in an effort to obstruct the construction of new Fire House 2.
39. Further, the continued delays caused by the Defendant have caused the Monarch Fire Protection District to incur substantial financial damages and Plaintiff will continue to incur financial damages.
40. The actions by the City of Wildwood, in delaying and obstructing the construction of new Fire House 2, have resulted in a de facto denial of the Conditional Use Permit.
41. The City of Wildwood does not have the authority to interfere with the construction of new Fire House 2. State ex rel. St. Louis Union Trust Co. v. Ferriss, 304 S.W.2d 896.

42. The issues raised in this matter are analogous to City of Frontenac v. St. Louis County Library (St. Louis County 19SL-CC02728) as it relates to District control of the location and construction of a public facility, though the Monarch Fire Protection District is performing life-saving and property-saving services for residents and visitors of the District.
43. The Missouri Department of Transportation is aware of the construction of new Fire House 2 and does not have concerns or an objection. (Please see Exhibit B attached).
44. St. Louis County Government will still oversee the construction of new Fire House 2 and control the permit process as it does in other areas of St. Louis County.
45. Preliminary and permanent injunctive relief is required to prevent the City of Wildwood from causing irreparable harm to the Plaintiff.
46. Plaintiff has no other adequate remedy at law.

WHEREFORE, Plaintiff prays an Order of this Court that the Monarch Fire Protection District can construct new Fire House 2 on its property located at 18304 Wild Horse Creek Road, Wildwood, Missouri, pursuant to the authority in Chapter 321 of the Missouri Revised Statutes, without the approval of the Defendant, City of Wildwood, and for preliminary and permanent injunctive relief, for costs and expenses, including attorney fees, and for such other relief as this Court deems just and proper under the circumstances.

Respectfully submitted,

HOFFMAN & SLOCOMB

/s/ Mathew E. Hoffman

Mathew E. Hoffman, #44276

Paul T. Slocumb, #44931

1115 Locust Street, 4th Floor

St. Louis, MO 63101

(314) 436-7800

(314) 231-0323 (FAX)

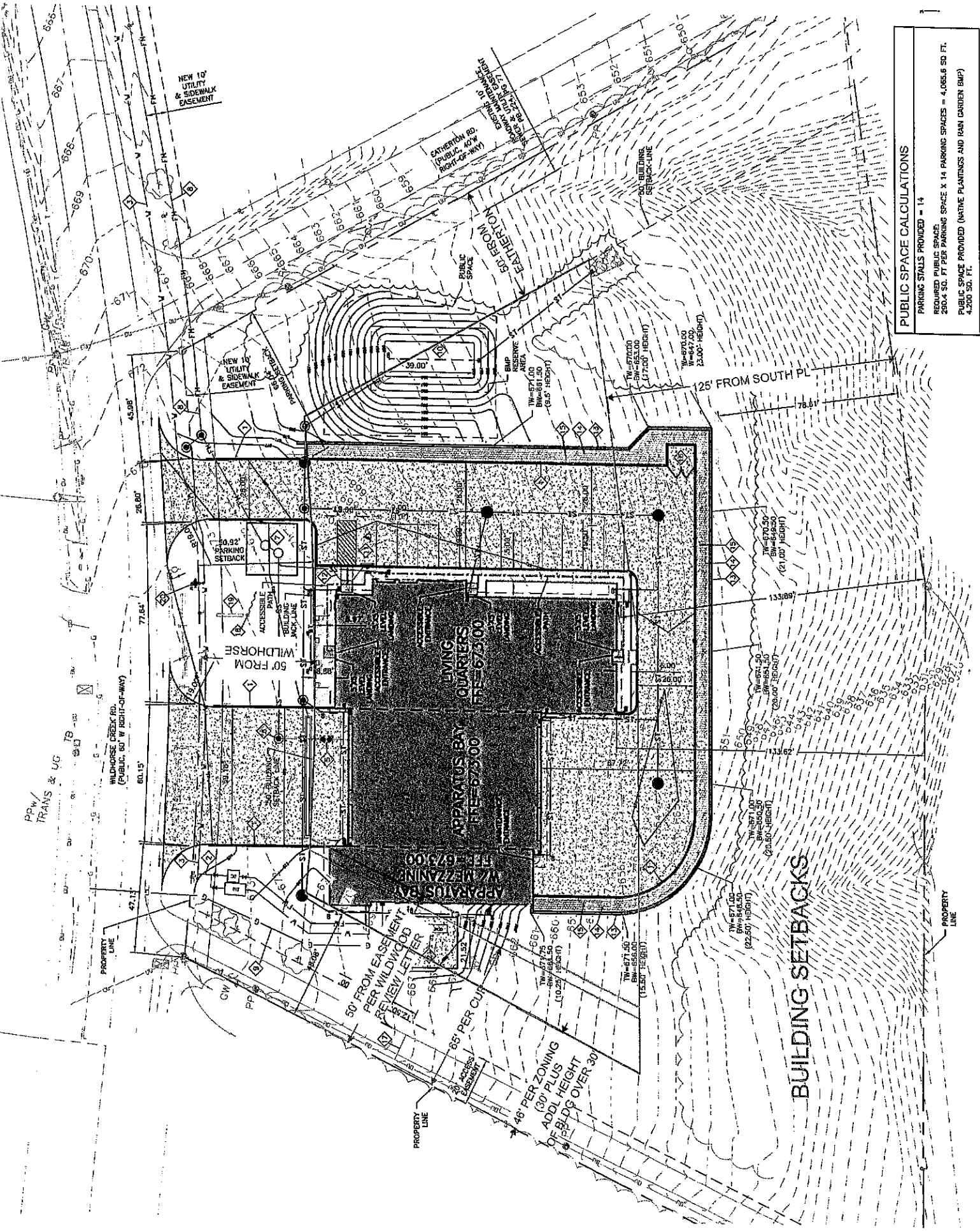
**CERTIFICATE OF SERVICE**

A copy of the foregoing sent the 6<sup>th</sup> day of April, 2022, via the Court's electronic filing system to all parties of record.

/s/ Mathew E. Hoffman



A



**PUBLIC SPACE CALCULATIONS**

PARKING STALLS PROVIDED = 14

REQUIRED PUBLIC SPACES  
 2800' SQ. FT PER PARKING SPACE X 14 PARKING SPACES = 4,085.6 SQ. FT.

PUBLIC SPACE PROVIDED (NATIVE PLANTINGS AND RAIN GARDEN BMP)  
 4,200 SQ. FT.

**BUILDING SETBACKS**

48' PER ZONING  
 (30' PLUS  
 ADDL. PLUS  
 OF BLDG HEIGHT  
 18' BLDG OVER 30')

50' FROM EASEMENT  
 PER WILDCRACK  
 REVIEW LETTER  
 10/27/21

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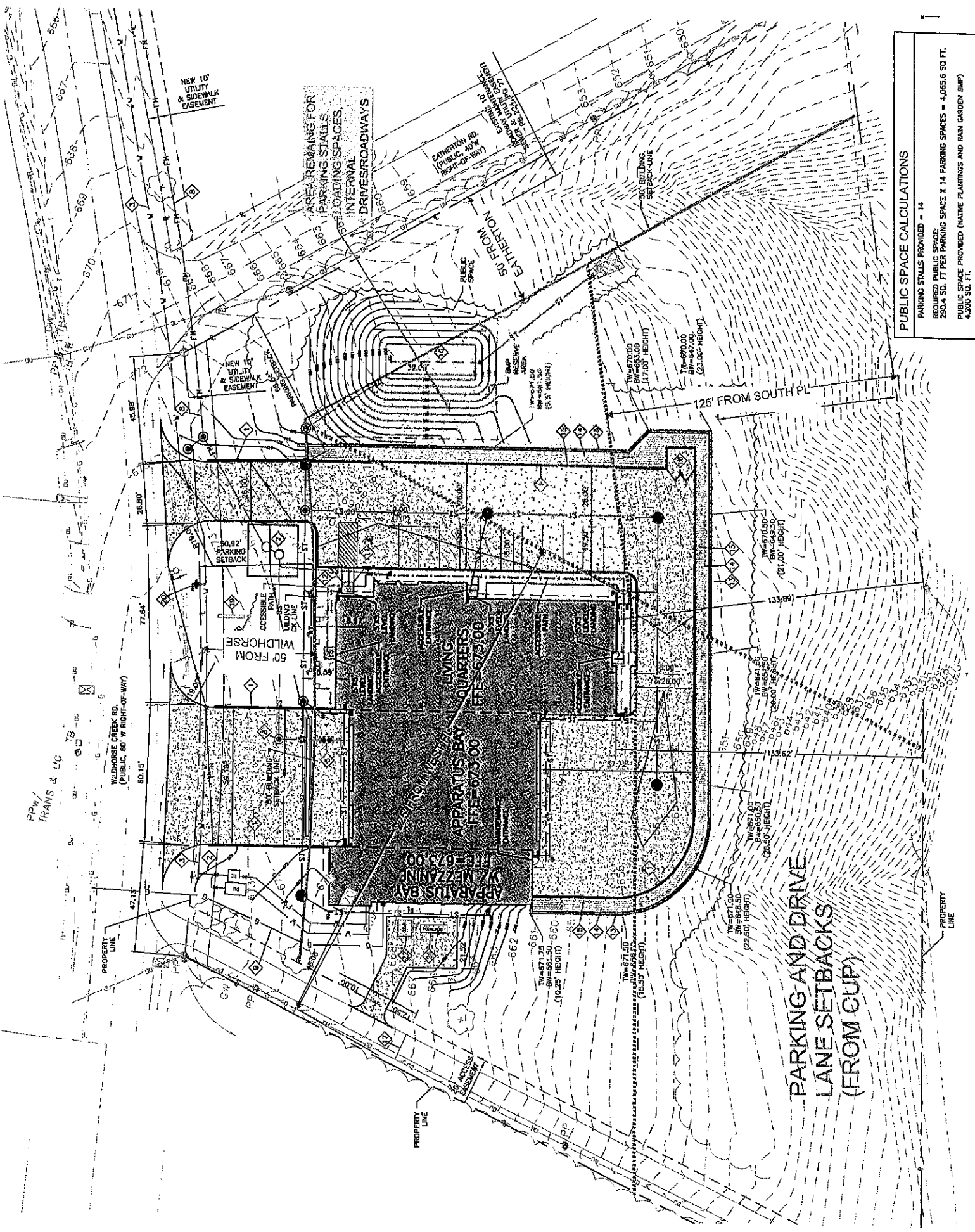
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 10/27/21



**PUBLIC SPACE CALCULATIONS**

PARKING STALLS PROVIDED = 14  
 REQUIRED PUBLIC SPACE = 2804 SQ. FT PER PARKING SPACE X 14 PARKING SPACES = 4,065.6 SQ. FT.  
 PUBLIC SPACE PROVIDED (NATIVE PLANTINGS AND IRON CHEDEN BIAP) = 4,200 SQ. FT.

**PARKING AND DRIVE  
 LANE SETBACKS  
 (FROM CURB)**

**B**

Missouri Department of Transportation

1590 Woodlake Drive  
Chesterfield, Missouri 63017-5712  
314.275.1500  
Fax: 573.522.6475  
1.888.ASK MODOT (275.6636)

February 4, 2021

Joshua N. Mandell, AIA, LEED AP BC+C  
FGM Architects  
One Metropolitan Square, Ste 1945  
St. Louis, MO 63102

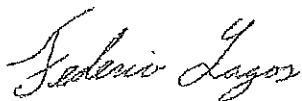
RE: Monarch Fire House #2  
18304 Wild Horse Creek Rd.

Dear Mr. Mandell:

The Missouri Department of Transportation has reviewed conceptual plans for the fire house relocation on Wild Horse Creek Rd. The department will allow two curb cuts on Wild Horse Creek Rd. in this instance when considering the limitations of Eatherton Rd. access for this type of use.

Should you have any questions or comments, you may contact me via email at [federico.lagos@modot.mo.gov](mailto:federico.lagos@modot.mo.gov).

Respectfully,



Federico Lagos  
Senior Traffic Specialist  
Missouri Department of Transportation



*Our mission is to provide a world-class transportation system that is safe, innovative, reliable and dedicated to a prosperous Missouri.*

[www.modot.org](http://www.modot.org)



**From:** Federico Lagos <[Federico.Lagos@modot.mo.gov](mailto:Federico.Lagos@modot.mo.gov)>  
**Sent:** Tuesday, November 3, 2020 8:23 AM  
**To:** 'Sara Andert' <[sandert@civildesigninc.com](mailto:sandert@civildesigninc.com)>; Jerrod Joggerst <[JerrodJ@fgmarchitects.com](mailto:JerrodJ@fgmarchitects.com)>  
**Cc:** Josh Mandell <[joshM@fgmarchitects.com](mailto:joshM@fgmarchitects.com)>  
**Subject:** RE: Monarch Fire District - New Engine House at 18304 Wildhorse Creek Rd

Sara,

We can allow the curb cuts due to the nature of the low traffic generation from a fire house. Also, we understand that Old Eatherton Rd is not your typical side street due to its width, lack of shoulders, and topography at that location. Please proceed with your design.

**FEDERICO "FRED" LAGOS**

*Senior Traffic Specialist*

**Missouri Department of Transportation**

St. Louis District – Highway Safety and Traffic  
1590 Woodlake Drive, Chesterfield, MO 63017  
636-208-3423 (mobile)  
Monday – Friday 8:00 a.m. to 4:30 p.m.  
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