

ORDINANCE NO. 1771

AN UNCODIFIED ORDINANCE OF THE LODI CITY COUNCIL  
AMENDING THE OFFICIAL DISTRICT MAP OF THE CITY OF LODI  
AND THEREBY REZONING 349, 401, AND 415 EAST HARNEY LANE  
(APN 062-290-38, 062-290-37, AND 062-290-14) FROM R-MD,  
RESIDENTIAL MEDIUM DENSITY, TO PD(38), PLANNED  
DEVELOPMENT NUMBER 38, FOR THE MILLER RANCH  
DEVELOPMENT PROJECT, AND FURTHER APPROVING THE  
ASSOCIATED DEVELOPMENT PLAN

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WHEREAS, the Planning Commission adopted Resolution No. P.C. 06-04 approving the request of Jeffrey Kirst on behalf of Tokay Development for the Miller Ranch Development Project at its meeting of January 25, 2006; and

WHEREAS, a Mitigated Negative Declaration (ND-05-01) and Mitigation Monitoring and Reporting Program (MMRP) has been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines provided hereunder. Further, the Planning Commission has reviewed and considered the information contained in said Negative Declaration and MMRP with respect to the project identified in its Resolution No. P.C. 06-02, and recommended approval at its meeting of January 25, 2006; and

WHEREAS, the Planning Commission of the City of Lodi recommended approval of the request of Jeffrey Kirst on behalf of Tokay Development for the award of 65 medium density Growth Management Allocation units (GM-05-003) subject to conditions set forth in Resolution P.C. 06-04; and

WHEREAS, the Planning Commission of the City of Lodi recommends approval of the request of Jeffrey Kirst on behalf of Tokay Development for a zone change (Z-05-04) from Residential, Multiple-Family to Planned Development and the Associated Development Plan (file Z-05-04) to the City Council of the City of Lodi, subject to the following mitigation measures and conditions of approval:

1. All mitigation measures for the project identified in the Mitigation Monitoring and Reporting Program of the Initial Study/Mitigated Negative Declaration (ND-05-01) are hereby incorporated into this recommendation of approval:

Mitigation Measure GEO-1: Prior to the issuance of a grading permit, a Geotechnical Investigation shall be prepared for the project site. The project applicant shall incorporate any grading and site preparations as recommended in the Preliminary Geotechnical Investigation.

Mitigation Measure HYD-1: As a condition of approval of the final grading and drainage plans for the project, the Public Works department shall verify that the Master Utility Plan for the site will comply with the City's storm water requirements.

Mitigation Measure HYD-2: Prior to the approval of the final grading and drainage plans, the project engineer shall provide a hydraulic analysis to the Public Works Department for verification that implementation of the proposed drainage plans would comply with the City's storm water requirements.

Mitigation Measure HYD-3: The project shall include landscape areas, as shown, titled "Revised 2005 Development Plan" prepared by Baumbach & Piazza, Inc., dated May 2005 to allow for groundwater recharge.

Mitigation Measure HYD-4: As a part of the compliance with National Pollutant Discharge Elimination System (NPDES) requirements, a Notice of Intent (NOI) and associated fees would need to be submitted to the Central Valley Regional Water Quality Control Board (CVRWQCB) providing notification and intent to comply with the General Permit to Discharge Storm Water Associated with Construction Activity for this project (copies of the NOI and fee payment shall be provided to the City). Prior to construction and site grading, a Storm Water Pollution Prevention Plan (SWPPP) is required for construction activities and remediation on-site. The project applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction and life of the project. The SWPPP would act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with the implementation and operation of the propose project. The project proponent shall prepare a SWPPP designed to reduce potential impacts to surface water quality through the construction period of the project. The SWPPP must be maintained on-site and made available to City inspectors and/or RWQCB staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.

Mitigation Measure AIR-1: The following construction equipment mitigation measures are to be implemented at construction sites to reduce construction exhaust emissions:

1. Use electric equipment for construction whenever possible in lieu of fossil fuel-fired equipment;
2. Properly and routinely maintain all construction equipment, as recommended by the manufacturer manuals, to control exhaust emissions;
3. Shut down equipment when not in use for extended periods of time to reduce emissions associated with idling emissions;
4. Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use to 7:00 a.m. to 7:00 p.m.; and
5. Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak hour of vehicular traffic on adjacent roadways.

Mitigation Measure AIR-2: Consistent with Regulation VIII, Fugitive PM<sub>10</sub> Prohibitions of the SJVAPCD, the following controls are required to be implemented at all construction sites and as specifications for the project.

1. All disturbed areas, including storage piles, which are not being used on a daily basis for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
3. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
4. During the demolition of existing buildings, all exterior surfaces of the building shall be wetted during demolition.
5. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least 6 inches of freeboard space from the top of the container shall be maintained.
6. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.)
7. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emission utilizing sufficient water or chemical stabilizer/suppressant.
8. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
9. Site with 150 or more vehicle trips per day shall prevent carryout and trackout. Prevention measures include requiring all trucks to drive over a bed of gravel to rid the tires of dirt and mud prior to exiting the site.

Mitigation Measure TRAF-1: To mitigate its share of traffic impacts on City streets, the project applicant/developer shall be subject to traffic impact fees assessed by the City of Lodi.

Mitigation Measure TRAF-2: To mitigate its share of impacts on SR-99, the project applicant/developer shall be subject to fees on a "Fair Share" basis as stipulated in the soon-to-be-adopted regional traffic impact fees established by the San Joaquin County Council of Governments.

Mitigation Measure BIO-1: Consistent with the San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), a SJMSCP biological survey must be completed and the appropriate fees shall be paid prior to receiving building permits.

Mitigation Measure HAZ-1: To ensure that the project does not interfere with emergency evacuation plans, grading and building plans shall be subject to review and approval by the Fire Department.

Mitigation Measure NOI-1: To minimize temporary construction noise impacts on surrounding residences, construction hours shall be limited to 7:00 a.m. to 7:00 p.m., seven days a week.

Mitigation Measure NOI-2: To minimize long-term noise impacts on future residents, a sound attenuation study shall be submitted for review and approval by the Planning Division. Said study shall provide measure to reduce the potential outdoor noise to a level acceptable for residential units (below 60db) as stipulated in the Noise Element of the General Plan. Measures may include sound attenuation walls, increased insulation and insulated windows.

Mitigation Measure PUB-1: The project applicant/developer shall be subject to development impact fees for fire and police services established by the City of Lodi.

Mitigation Measure PUB-2: The project applicant/developer shall be subject to school impact fees established by Lodi Unified School District.

Mitigation Measure AES-1: Plans submitted for building permits shall show architectural enhancements for street side elevations of units 41-63. Architectural enhancements shall be similar to that provided on the front elevations of said units including, but not limited to, decorative iron work, window banding, shutters, and varying roof-lines. Said plans shall be subject to the review and approval of the Community Development Director.

Mitigation Measure AES-2: Plans submitted for the masonry wall along Harney Lane (whether or not a sound wall is required) shall include decorative treatments such as cap stones and columns. Additionally, clinging vines (on three-foot centers) and other landscaping shall be planted against to wall. Design of the wall shall be subject to the review and approval of the Community Development Director.

Mitigation Measure AES-3: Outdoor lighting associated with the proposed development shall be designed and located to minimize ambient light levels for any given application, consistent with public safety standards. Lighting shall be placed in areas of pedestrian activity and at residential entrances, and shall be minimized elsewhere. Ornamental, pedestrian scale lighting fixtures shall be utilized when possible. Lighting fixtures shall be shielded and directed downward to minimize glare on neighboring properties.

Mitigation Measure CULT-1: If deposits of prehistoric or historical archaeological materials are encountered during project construction activities, all work within 50 feet of the discovery shall be stopped and a qualified archaeologist shall be contracted to evaluate the discoveries and make recommendations regarding their potential significance and extent throughout the site. If such deposits cannot be avoided, they shall be evaluated for their California and National Register eligibility. If the deposits are not eligible, additional mitigation is not necessary. If the deposits are eligible, they shall be avoided or adverse project effects shall be mitigated. Upon completion of the archaeologist's evaluation, a report shall be prepared documenting the methods and results of the research, and recommendations for additional mitigation. In accordance with the City's General Plan Urban Design and Cultural Resources Element, the City shall consult the California Archeological Inventory, Central California Information Center, at Stanislaus State University, for recommended mitigation measures.

2. Prior to the development of the Miller Ranch Development project, the applicant/developer shall file for a tentative subdivision map. Review and approval of the tentative subdivision map is a discretionary action and additional conditions of approval may be placed on the project at that time.
3. All applicable state statutes, and local ordinances, including all applicable Building and Fire Code requirements for hazardous materials shall apply to the project.
4. Prior to submittal of building permits, the applicant shall submit construction elevations, perspective elevations, precise landscape and irrigation plans, as well as building materials for the review and approval of the Community Development Director. Said plans shall indicate that all corner lots shall have architectural treatments on both street facing elevations.
5. Prior to submittal of building permits, the applicant shall submit a walls and fencing plan. Said plan shall show all proposed walls and fencing. Fencing visible to the public right of way shall be constructed of treated wood or alternative material to prevent premature deterioration. Furthermore, all fencing within the project site shall be designed with steel posts, or a functional equivalent, to prevent premature deterioration and collapse.
6. The proposed public lanes shall incorporate stamped concrete, pavers, or an equivalent subject to approval by the Public Works Department and Community Development Department.
7. The proposed project shall be subject to the San Joaquin County Air Pollution Control District Rules.
8. The proposed project should incorporate as many energy conserving and emission reducing features as possible, as outlined in correspondence from San Joaquin County Air Pollution Control District, dated January 13, 2006, and kept on file in the Community Development Department.
9. Prior to submittal of any further plan check or within 90 days of the approval of this project, whichever occurs first, the applicant shall sign a notarized affidavit stating that "I(we), \_\_\_\_\_, the owner(s) or the owner's representative have read, understand, and agree to the conditions approving GM 05-003." Immediately following this statement will appear a signature block for the owner or the owner's representative which shall be signed. Signature blocks for the City Community Development Director and City Engineer shall also appear on this page. The affidavit shall be approved by the City prior to any improvement plan or final map submittal.

10. As shown on the development plan, submitted by Baumbach and Piazza and dated May 2005, and as further described in correspondence from the project applicant, the proposed development shall be subject to the development criteria described in the following table:

Standard	Proposed Project
Minimum lot size	2,625 sq.ft.
Minimum lot width	50 feet
Building Height	2 stories not to exceed 35 feet
Front Setback	7 feet and 6 inches to 12 feet
Side Setback	4 feet
Street side setback	4 feet
Rear Setback	8 feet
Parking Spaces	2 covered spaces per unit
Lot Coverage	50%

11. Subsequent staff review of above required plans, elevations, fencing, walks, public lane surfaces, etc., shall require payment of fees at the hourly rate of City staff conducting said review.
12. The applicant shall reimburse the City for the full cost of outside planning consultant fees payable by the City for work performed for review analysis and preparation of reports on behalf of the project.

**BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:**

Section 1. The Lodi City Council hereby approves the Mitigated Negative Declaration (ND-05-01) and the Mitigation Monitoring and Reporting Program (MMRP) as identified in Planning Commission Resolution No. P.C. 06-02.

Section 2. The City Council hereby approves the request of Jeffrey Kirst on behalf of Tokay Development for the award of 65 Medium Density Growth Management Allocation Units (GM-05-003) subject to the conditions set forth in Planning Commission Resolution No. P.C. 06-02.

Section 3. The Lodi City Council hereby approves the request of Jeffrey Kirst on behalf of Tokay Development for a zone change (Z-05-04) from Residential, Multiple-Family to Planned Development and the Associated Development Plan (Z-05-04) subject to the mitigation measures and conditions set forth above as numbers 1 through 12, inclusive.

Section 4. The Official District Map of the City of Lodi adopted by Title 17 of the Lodi Municipal Code is hereby amended as follows, subject to the mitigation measures and conditions set forth above as numbers 1 through 12, inclusive:

7.92 acres located at 349, 401, and 415 East Harney Lane (APN 062-290-38, 37, and 14) are hereby rezoned from R-MD, Residential Medium Density, to PD(38), Planned Development Number 38, as shown on Exhibit "A" attached hereto.

Section 5. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 7. The alterations, changes, and amendments of said Official District Map of the City of Lodi herein set forth have been approved by the City Planning Commission and by the City Council of this City after public hearings held in conformance with provisions of Title 17 of the Lodi Municipal Code and the laws of the State of California applicable thereto.

Section 8. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 9. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 1<sup>st</sup> day of March, 2006.



SUSAN HITCHCOCK  
Mayor

Attest:



SUSAN J. BLACKSTON  
City Clerk

State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1771 was introduced at a regular meeting of the City Council of the City of Lodi held February 15, 2006, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held March 1, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Johnson, Mounce, and  
Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hansen

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1771 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.



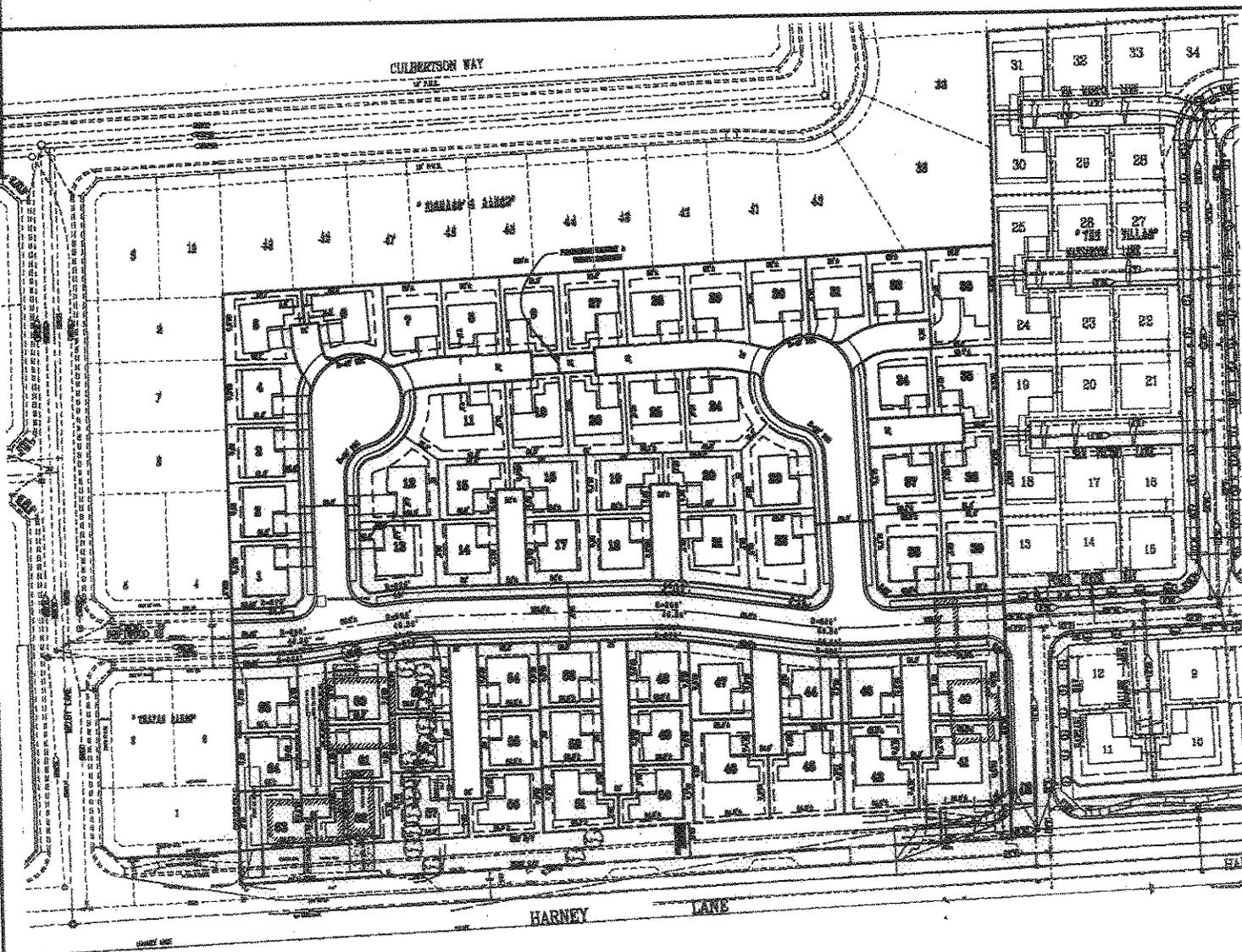
SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:



JANICE D. MAGDICH  
Deputy City Attorney

# EXHIBIT A



**LEGEND**

○	SEWER	---	PROPOSED SIDEWALK
○	WATER	---	PROPOSED DRIVEWAY
○	12" R/W	---	PROPOSED DRIVEWAY
○	6" R/W	---	PROPOSED DRIVEWAY
○	4" R/W	---	PROPOSED DRIVEWAY
○	3" R/W	---	PROPOSED DRIVEWAY
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○	0.000000000000000000000000000100973999063203125000000017381622222222126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.00000000000000000000000000005048699953160625000000008690811111111111126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000252434997658203125000000004345405555555555126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.000000000000000000000000000012621724878291250000000021727027777777777126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.000000000000000000000000000006310862389145728125000000010863513888888888126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.00000000000000000000000000000315543119457812500000000543175944444444126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.00000000000000000000000000000157771597289140625000000027158972222222126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000007888579864457031250000000135794888888888126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000003944289932228515625000000067897444444444126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000001972144966114257812500000003394872222222126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000000986072483057281250000000169743888888888126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000000493036241528640625000000084871944444444126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000000246518120764062500000004243597222222126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000000123259060382031250000000212179888888888126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.000000000000000000000000000000006162953019106250000000106089944444444126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.000000000000000000000000000000003081476509553125000000005304497222222126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000000015407382547781250000000265224888888888126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.0000000000000000000000000000000007703691273891250000000132612444444444126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.00000000000000000000000000000000038518456369406250000000663062222222126768535370741281563126213125" R/W	---	PROPOSED DRIVEWAY
○	0.000000000000000000000000000000001925922818470312500000003315311111111111126768535370741281563126213125" R/W	---	