

Staff Report

STORMWATER REQUIREMENTS FOR REDEVELOPMENT PROJECTS AND ENFORCEMENT OF REQUIREMENTS FOR THE EARL MAY PARKING LOT RECONSTRUCTION

October 10, 2017

BACKGROUND:

On June 13, 2017, the City Council referred the letter dated May 25, 2017, from Roseland, Mackey, Harris for a memo. In response to this letter, the City Council also directed staff to note how the City's enforcement of the stormwater site requirements differ from those of other peer communities in Iowa.

The City of Ames adopted Chapter 5B Post Construction Stormwater Management Ordinance on April 22, 2014. This Ordinance meets the requirements of the U.S Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) permit program as administered by the Iowa Department of Natural Resources (IDNR). The City of Ames was required to obtain an NPDES Permit for the discharge of stormwater from a Municipal Separate Storm Sewer System (MS4 Permit).

The Ordinance requires that site improvements be designed to control water quantity (flow rates and flood control) and to improve water quality (pollution remediation) from the stormwater runoff of applicable development properties within the City. It also encourages the use of low impact development to increase on-site infiltration, reduce pollutant loads in receiving waterways, and reduce stormwater runoff volumes from developed areas.

ORDINANCE APPLICABILITY THRESHOLDS:

There are commonly two thresholds reflected in stormwater management requirements in most communities having ordinances, which **typically apply to both new development and redevelopment projects**. One is the **area of land being disturbed** by the project; the other is the **amount of impervious area being created**. The thresholds for Ames are:

- Any new development or redevelopment **disturbing more than one acre** of land.
- Any new development of redevelopment **creating more than 10,000 SF** of **impervious cover**.

Staff researched several other cities that have stormwater management ordinances, including the other two public university communities. A table is attached (Attachment 1) that describes the various requirements and applicability thresholds along with exemption criteria. **A summary of the threshold levels including both new development and redevelopment projects is shown, below.**

Land Disturbance

Cedar Rapids	All development
Cedar Falls	0.57 Acres (25,000 SF for redevelopment)
Cedar Falls	1 Acre (new development)
Ames	1 Acre
Council Bluffs	1 Acre
Waterloo	1 Acre
Iowa City	3 Acres
Sioux City	Impervious threshold only

Impervious Cover

Cedar Rapids	All development
Cedar Falls	5000 SF
Waterloo	5000 SF
Sioux City	5000 SF
Ames	10,000 SF
Council Bluffs	Land disturbance threshold only
Iowa City	Land disturbance threshold only

PARKING LOT RECONSTRUCTION REQUIREMENTS

Staff surveyed several peer communities in Iowa regarding whether their stormwater management ordinances apply to parking lot reconstructions and what applicability thresholds apply. The results specific to **parking lot reconstruction** are shown, below.

<u>Community</u>	<u>Threshold</u>
Ames	10,000 SF
Cedar Falls	25,000 SF
Cedar Rapids	Only required if area is expanded
Iowa City	3 acres
Johnston	Only required if area is expanded*
Sioux City	Only required if area expanded greater than 5,000 SF
Waterloo	If reconstructing greater than 50% of the existing parking lot

* Stormwater management required if there is a known stormwater issue in the area

As it relates to the Earl May situation, the City’s Post Construction Stormwater Management Ordinance requirements apply when impervious cover created exceeds 10,000 square feet. In Ames, this applies to parking lots being completely reconstructed. The Earl May project (approximately 25,000 sq. ft.)

entirely removed a parking lot area to bare soil and then rebuilt a new parking lot area exceeding 10,000 square feet (not simple maintenance such as patching or resurfacing). This initiated the ordinance requirements, which have been consistently applied since the inception of the ordinance. The rationale here is that once the pavement was removed and returned to bare soil, there was an opportunity to install storm water management features that was lost when the parking lot was repaved.

OPTIONS:

As shown above, there are many varied approaches. A few options that City Council may consider are shown, below.

Option 1:

Take no action.

Option 1 affirms the current requirements and applicability standards.

Option 2:

Exempt parking lot reconstruction projects that have a new square footage equal to or less than the original footprint from the ordinance requirements.

This option is pursued, however, it would result in these projects taking place without the opportunity to create stormwater quantity or quality improvements. If Option 2 is selected, Section 5B.1(8)(a) would need to be amended to exempt this activity.

Option 3:

Select some other higher threshold in terms of square footage or acreage for which parking lot reconstruction projects must meet the ordinance requirements.

If Option 3 is selected, Section 5B.1(8)(a) would need to be amended to specifically identify the threshold at which this activity must meet the ordinance requirements.

Option 4:

Select some other higher threshold in terms of square footage or acreage for all types of redevelopment projects, not just parking lots, to meet the ordinance requirements.

If Option 3 is selected, Section 5B.1(8)(a) would need to be amended to specifically identify the thresholds at which redevelopment activity must meet the ordinance requirements.

SUMMARY OF IOWA MUNICIPALITIES STORMWATER MANAGEMENT ORDINANCE APPLICABILITY AND EXCEPTIONS

CITY	APPLICATION	EXEMPTIONS
<u>Ames</u>	<ol style="list-style-type: none"> 1. All development and redevelopment within the city: <ol style="list-style-type: none"> a. Disturbing 1 acre of more of land or b. Creating at least 10,000 square feet of impervious cover. <i>Impervious cover means surfaces (roads, sidewalks, driveways, and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, and stone, rooftops as well as soils compacted by urban development.</i> 	<ol style="list-style-type: none"> 1. <i>Agricultural activity.</i> 2. <i>Additions or modifications to an existing single family property.</i> 3. <i>Stormwater Management Design standards do not apply to any area within a 1,000 foot distance from any City of Ames drinking water well located in the Southeast Well Field and Youth Complex Well Field. In these specific area, developments will need to meet requirements for storm water quality-based treatment or a combination of quantity and quality based treatment, as approved by both the Director of Public Works and the Director of Water and Pollution Control.</i>
<u>Cedar Rapids</u>	<ol style="list-style-type: none"> 1. All development within the city. Development is defined as “improvement of land from its existing state”. 2. Stormwater detention basins intended to serve single family residential development shall be publicly owned and maintained, unless approved otherwise by the City Engineer. 3. Non-single family lots with an overall area of one acre or more shall provide on-site stormwater detention. Non-single family lots with an overall area less than one acre shall comply with one of the following, as approved by the City Engineer: <ol style="list-style-type: none"> a. Privately owned, on-site detention basin. b. Tributary to a privately or publicly owned detention basin. In some watersheds, on-site stormwater detention may be required, at the discretion of the City Engineer, for non single-family lots with an overall area of less than one acre. 4. At the discretion of the City Engineer, if a detention basin serves non-single family zoning districts and can provide stormwater attenuation for a substantial drainage area, the facilities may be publicly owned and maintained. 	<ol style="list-style-type: none"> 1. Agricultural use of land 2. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards; 3. Land within flood plain areas as designated in the Federal Emergency Management Agency maps in effect at the time of development. 4. Areas deemed appropriate by the City Engineer.
<u>Cedar Falls</u>	<ol style="list-style-type: none"> 1. Land disturbing activity exceeding 43,560 square feet in area on land previously vacant of buildings or largely free of previous land disturbing activity other than traditional agricultural activities; or 2. Land disturbing activity creating 5,000 square feet in area or more of impervious cover; or 3. Land disturbing activities that are smaller than the minimum square feet applicability criteria set forth in this subsection, if such activities are part of a larger common plan of development that may or may not take place at the same time; or 4. Land disturbing exceeding 25,000 square feet in area where the existing land is being redeveloped. 	<ol style="list-style-type: none"> 1. Any logging or agricultural activity which is consistent with an approved soil conservation plan or an approved timber management plan. 2. Additions or modifications to existing single family structures.

SUMMARY OF IOWA MUNICIPALITIES STORMWATER MANAGEMENT ORDINANCE APPLICABILITY AND EXCEPTIONS

<u>CITY</u>	<u>APPLICATION</u>	<u>EXEMPTIONS</u>
<u>Council Bluffs</u>	1. Development of one acre or more of land or less than one acre if proposed disturbance is part of a larger common plan of development that meets the one acre minimum.	1. Any logging or agricultural activity consistent with an approved soil conservation plan of a timber management plan. 2. Additions of modifications to existing single family structures. 3. Developments that do not disturb more than one acre of land provided they are not part of a larger common development plan. 4. Repairs to any stormwater management implementations deemed necessary by the City.
<u>Iowa City</u>	1. Development which results in an aggregate gross area of three (3) acres or more of drainage from or to a single drainage area. The gross aggregate drainage area shall include streets and other dedicated lands.	1. Excludes the central business district. 2. Excludes the area designated as the new south side neighborhood.
<u>Sioux City</u>	1. Construction activity creating 5,000 or more square feet of impervious surface. <u>Redevelopment Projects:</u> Decisions on permitting and on-site storm water requirements shall be governed by special storm water sizing criteria found in the storm water design manual. These criteria are dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the environmental services department.	1. Logging or agricultural activity consistent with an approved soil conservation plan or a timber management plan. 2. Additions or modifications to existing single-family structures. 3. Developments that do not create more than 5,000 square feet of impervious surface, provided they are not part of a larger common development plan. 4. Repairs to any storm water treatment practice deemed necessary by the city engineer.
<u>Waterloo</u>	1. Land disturbing activity exceeding forty-three thousand five hundred sixty (43,560) square feet or more in area on land previously vacant of buildings or largely free of previous land disturbing activity; or 2. Land disturbing activity creating five thousand (5,000) square feet or more in area of impervious surface; or 3. Land disturbing activity that is smaller than the minimum area criteria set forth in this subsection, if such activities are part of a larger common plan of development that may or may not take place at the same time; or 4. Construction of new parking and storage areas or the expansion, reconstruction or hard surfacing of existing parking lots or storage areas. The addition of granular material to the existing footprint of a granular surfaced parking lot or storage area shall not be considered reconstruction.	1. Development or redevelopment of property within the central business district, as defined in the current city of Waterloo zoning ordinance. 2. Any additions or modifications to existing single-family dwellings provided that said additions and/or modifications do not create a dwelling with impervious surfaces greater than five thousand (5,000) square feet. 3. Any logging activity consistent with an approved timber management plan. 4. Any agricultural activity consistent with an approved soil conservation plan.

May 25, 2017

Mayor and City Council
City of Ames
515 Clark Avenue
Ames, Iowa 50010

Honorable Mayor and Council,

I am writing on behalf of our client BJS Enterprises, property owner at 1601 South Kellogg Ave, the site of the Earl May Garden Center. The building exterior was recently improved and a part of that project was the replacement of exterior paving that was severely deteriorated. The existing site plan was approved by the City of Ames in June of 1998, a copy of which is attached.

The construction project was reviewed by the Building Inspections Department and it was determined no building permit was required for the work as it was cosmetic in nature and did not affect life safety elements. During the process of construction our office was contacted by the Planning and Housing Department and notified the department had determined the work being performed required a Site Development Plan be submitted and approved.

City of Ames Municipal Code Sections 29.1501 and 29.1502 refer to the issuance of Building and Zoning permits and the requirement for a Site Development Plan Review prior to issuance of these permits. As our project did not require a Building Permit we feel the requirement for a Site Development Plan Review is invalid. Section 29.1502(2)(b) lists several additional exceptions to the requirement for a Site Development Plan Review. These include that no additional parking is required, no increase of storm run-off is created, and the development does not exceed 150 square feet of area. In this case Planning staff interpreted the 150 square foot exception to apply to paving area and sited this as the determining factor in our need to submit a Site Development Plan. Using this interpretation any paving maintenance work in Ames exceeding 150 square feet would trigger the requirement for a full Site Development Plan review. This is an unrealistic requirement that would place an overwhelming burden on property owners and the Planning Department staff to review countless plan submissions. An area of 150 square feet is less than the size of a single parking stall and these types of maintenance projects are performed innumerable in a community the size of Ames.



On behalf of our client and other property owners in Ames we would request that council consider a text amendment to clarify this interpretation and create a realistic expectation for when a full Site Development Plan review is required.

Regardless of our objection to the staff request we did submit a site plan for review. The property owner has incurred fees for a property survey, plan preparation and submission fees approaching \$5,000 to submit this plan. As a result of this submission the property owner is being asked to remove a 5'-0" wide portion of new pavement in order to provide a landscape buffer on the east side of the property. This pavement existed before the project and is clearly shown on the approved Site Plan from 1998. We consider this project to be property maintenance and the owner should be able to replace paving for maintenance purposes that are part of an earlier approved Site Plan. The owner uses this paving area as merchandise display and has already given up parking stalls and merchandise area to bring the size of the parking stalls and drives into conformance with current standards. Asking them to give up more area to create a landscape buffer in a Highway Oriented Commercial zone to screen the very merchandise they are trying to sell is pointless.

Secondly, as a part of this Site Development Plan review, we are being told the replacement of the existing paving requires enforcement of the Post Construction Stormwater Management requirements of Chapter 5B. We take exception to this interpretation and have argued our point with the Public Works department with the only response being that they have interpreted this consistently. Chapter 5B clearly states "City stormwater requirements apply to any new development, **redevelopment disturbing 1 acre or more of land**, or to any development disturbing less than said acreage of land if the amount of impervious cover **created** exceeds 10,000 square feet." The accompanying definitions in 5B are also clear with the descriptions of "development" vs. "re-development". I would argue that the project under consideration is maintenance and not "development or re-development", but in a worst case could be considered re-development. The requirement for re-development is clearly stated as 1 acre or more of land disturbance. This project encompasses roughly 26,000 square feet, therefore less than 1 acre and should not be subject to the requirements of Chapter 5B. I would further argue that no impervious cover has been **created** with this project as it was all existing before the project and the quantity of paving has decreased from the approved site plan as a result of this project.



In addition, a neighboring property owner less than 400' away completed a similarly sized concrete paving project within the last calendar year without any interaction with the Planning Department and did not comply to either the landscape screening or storm water ordinances. When I contacted this property owner the response was that the project was maintenance and did not require a DRC review. As these requirements are not being enforced consistently it is easy to see why our client is reluctant to comply with the requests of the Planning staff.

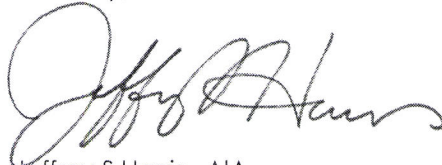
I am currently working with other property owners in Ames who are considering paving maintenance work in excess of 10,000 square feet and are currently putting projects "on hold" based on staff's interpretation of this section of code. This interpretation is leading to a continued deterioration of private infrastructure and a reluctance of property owners to take on these types of projects due to the greatly increased cost of meeting this section of code. A clarification needs to be made to the application of this code section to maintenance work as opposed to new development and re-development of property.

Again, on behalf of our client and other property owners in Ames we would request that council consider a text amendment to clarify this interpretation and create a clear expectation for when conformance to Chapter 5B is required.

If you have any questions please feel free to call.

Thank you.

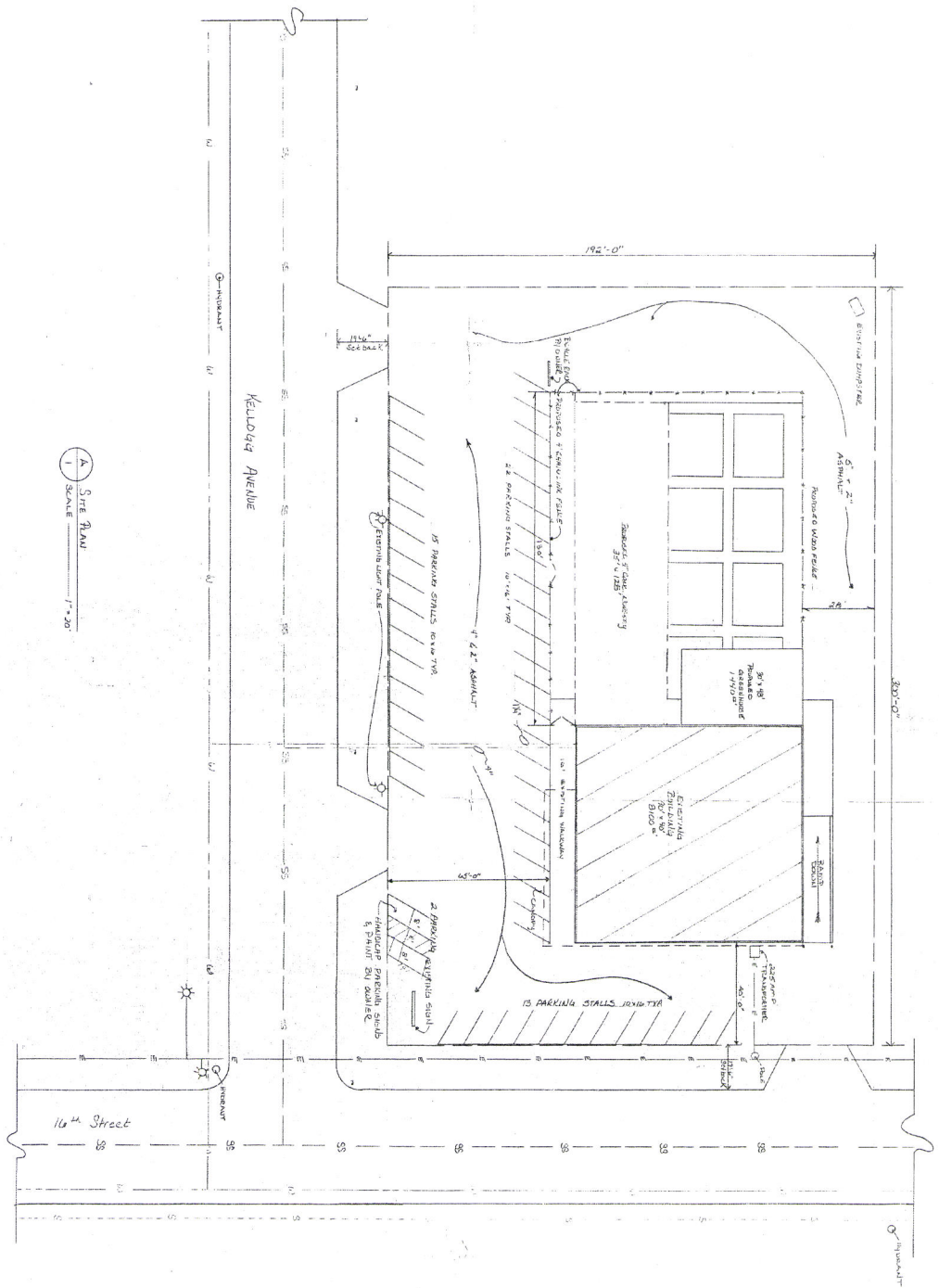
Sincerely,



Jeffrey S Harris AIA
Principal

encl.





A
1
Site Plan
SCALE 1" = 20'

RECEIVED
JUN 18 1938
OFFICE OF THE
CITY ENGINEER

EARL MAY Seed & Nursery
SHRIVER CONSTRUCTION CO.
JEFFERSON, IOWA

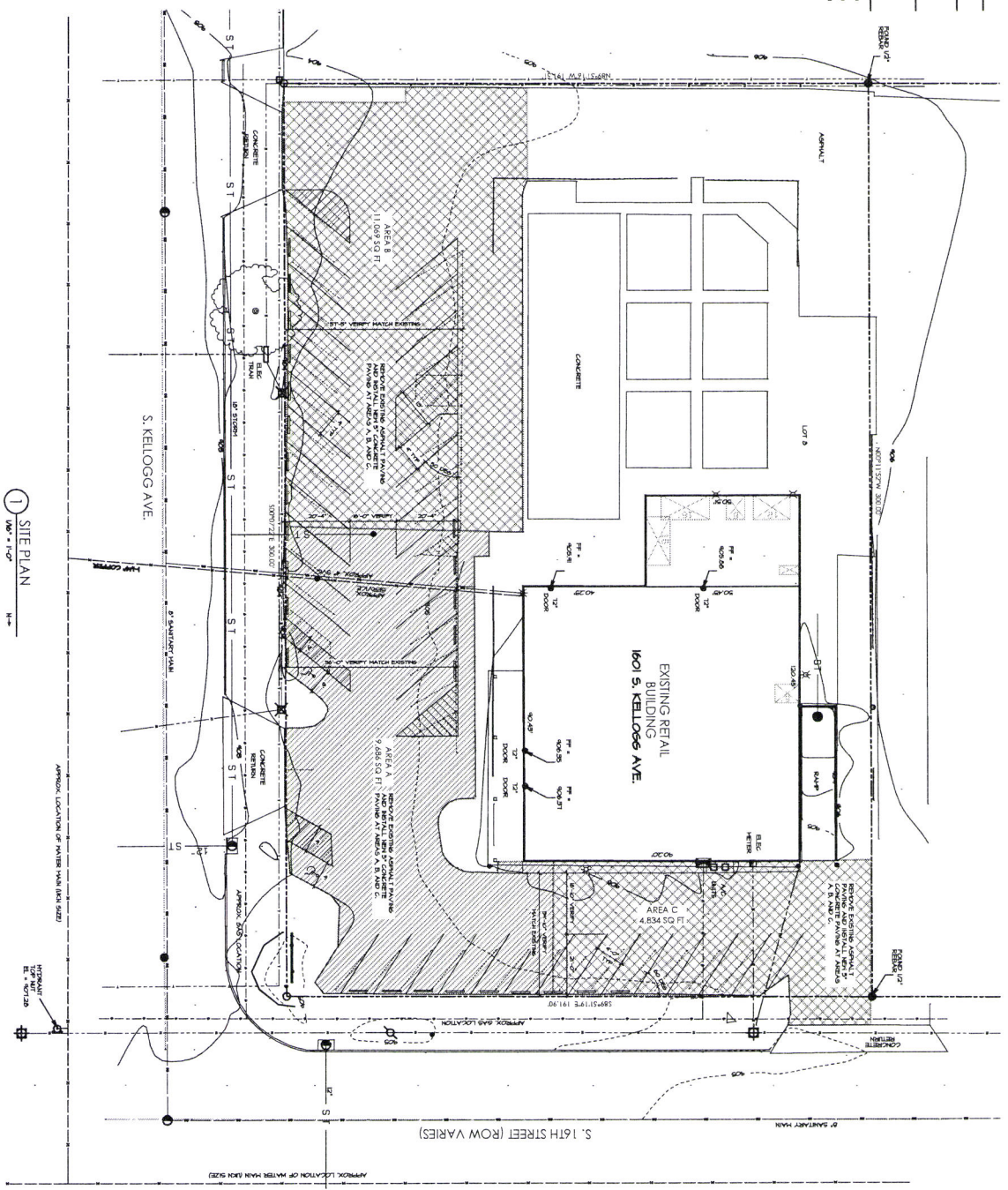
APPROVED
By *[Signature]*
Date *[Date]*

- Notes
- A. Location: Jefferson, Iowa
 - B. Proposed: 15' x 20' x 12'
 - C. Dwyer: 15' x 20' x 12'
 - D. Applicant: EARL MAY SEED & NURSERY, 1914 ALBERTA AVENUE, JEFFERSON, IOWA
 - E. Assessor: JEFFERSON, IOWA
 - F. Electric: 15' x 20' x 12'
 - G. Water: 15' x 20' x 12'
 - H. Sewer: 15' x 20' x 12'

PROJECT ADDRESS
 1601 S. KELLOGG AVE
 OWNER/APPLICANT
 256 EAST 10TH ST
 DES MOINES, IA 50319
 LOT/SITE
 3100 WYASS ADDRESS
 ZONING

BUILDING AREA/USE
 CASE NUMBER: 1601 S. KELLOGG AVE
 TOTAL SQUARE FEET
 STORM RUNOFF
 EXISTING BUILDING AREA/USE
 EXISTING BUILDING AREA/USE
 EXISTING BUILDING AREA/USE
 EXISTING BUILDING AREA/USE

PARKING REQUIREMENTS
 TOTAL PARKING SPACES
 TOTAL PARKING SPACES
 TOTAL PARKING SPACES



1 SITE PLAN
 1/8" = 1'-0"

Roseland
 Mackay
 Haffis
 Architects PC

1601 S. Kellogg Ave, Des Moines, IA 50319
 515.262.6213
 www.roselandmackayhaffis.com

Print/Record
 DMC/10/2016 1/23/17

Revision Record
 DMC/10/2016 1/23/17

Consulted

PRELIMINARY ONLY
 NOT FOR CONSTRUCTION

EARN LAMT GARDEN
 CENTER
 ANEAS, IOWA
 SITE PLAN

A1.0

CONCEPT ARCHITECTURE
 ARCHITECTS PC