

4. SPECIAL USE PERMIT NO. 2009-5 - 10788 West 159th Street

1. APPLICANT: Artisan Earthworks is the applicant for this request.
2. REQUESTED ACTION: The applicant is requesting approval of a special use permit, for a 10-year period of time, to allow a contractor's yard and storage.
3. LOCATION: The subject property is located at 10788 West 159th Street.
4. EXISTING ZONING: This property is currently zoned RP-OE, Planned Open Space Estate Residential District.
5. NEIGHBORHOOD CHARACTERISTICS: The special use permit is located in the middle of the Vineyard development which is a planned open space residential development. This subdivision is under development but currently has only a single home under construction along the north property line. An existing home on the east side of the development is located on the special use permit property. To the south across 159th Street are single-family homes on property zoned R-1, Single-Family Residential District. Additional single-family homes are located to the east, north and west of the Vineyard subdivision on large lots.
6. CONFORMANCE WITH THE MASTER PLAN: The Master Plan does not specifically state where contractor's yards are permissible.
7. ANALYSIS: The applicant applied for a special use permit to allow a contractor's yard and storage for a ten-year time frame. The applicant submitted two legal descriptions; one for an existing home and barn on the east side of the Vineyard, and the other being on the west side which has a barn on-site. The applicant, which is also the developer of the Vineyard property, has stated that the subdivision is not selling as fast as they hoped. Therefore, they want to use the property as a contractor's storage yard for Artisan Earthworks until the economy picks up and the Vineyard lots start selling.

The applicant provided a list of construction vehicles currently stored on the eastern property, which is attached. These vehicles are stored in between the barn and the house on the east side of the property, but are mostly screened from 159th Street by a berm. This eastern barn is used for the storage of vehicles, materials and maintenance of the vehicles. In addition to the outside storage of the vehicles, a rock pile is located on this eastern special use permit property. The applicant has stated the rock pile will be used for improvements on the Vineyard subdivision. The barn

and outside storage is visible from the residences to the east and north (Tu Lakes and Harmony South subdivisions).

The barn on the western property currently has construction vehicles stored inside and outside the barn. However, there are considerably fewer vehicles than located on the eastern special use permit property.

The applicant initially requested a 10-year time frame but has agreed to limit the request to two years. The staff explained to the applicant that if a 10-year time frame was granted, staff would recommend the parking area and drives be paved and additional screening methods be constructed to limit the visibility of the outside storage. However, since the applicant agreed to a two-year time frame, staff is not requesting any improvements at this time. If the applicant does request an extension, staff will review the application at that time and its impact on surrounding properties. In all likelihood staff will recommend additional improvements be constructed on-site to limit the impact on the adjacent properties as stated previously. Staff is comfortable with two years to allow for the economy to improve, as well as, allow the applicant to find a more suitable location for this type of activity.

ENVIRONMENTAL IMPACTS: Engineering staff has received two complaints from neighboring property owners related to erosion control and drainage since late 2008. Complaints include silt leaving the site and draining onto 157th Terrace, and diversion of surface drainage onto an adjacent landowner's property due to berms built along 159th Street. Staff has been working with the applicant to remedy these issues since spring 2009 and is taking action independently of this special use permit to resolve these outstanding issues. Because these issues have not been resolved at the time of this staff report, staff recommends stipulations that require these issues to be remedied in a timely manner. If this request is denied, Community Services and Engineering Services will undertake enforcement action to address these drainage and erosion control issues.

8. STAFF RECOMMENDATION: The staff recommends approval of Special Use Permit No. 2009-5, for a two-year time period, subject to the following stipulations:
 - a. The development shall be in accordance with Exhibit "A" (Site Plan), and Exhibit "B" (Building Elevations), which are filed in the office of the Planning Commission Secretary at City Hall and which are incorporated by reference as if set out in full herein. In addition, the development shall follow and comply with all regulations and

SPECIAL USE PERMIT NO. 2009-5 - 10788 West 159th Street - continued

standards of the City of Overland Park, unless specifically exempted by the Governing Body.

- b. No outdoor storage of vehicles or materials shall occur outside of the approved special use permit boundaries as shown on the attached site plan.
- c. No rock crushing shall occur on-site except for the use on the Vineyard subdivision.
- d. Within 30 days of the Planning Commission approval for the special use permit application, the applicant must provide erosion and sediment control protection, in conformance with the City's standards, for any portion of the site that is not permanently stabilized.
- e. Within 30 days of the Planning Commission approval for the special use permit application, the applicant must regrade or otherwise make site improvements as necessary to eliminate diversion of surface flows onto the property at 10646 West 159th Street. Surface flows onto 10649 West 159th Street after such regrading or site improvements shall not be greater than the preconstruction condition.
- f. The location and geometrics of all driveways and parking areas are subject to review and approval by the Planning and Development Services Department.