

CITY OF MITCHELL
CITY PLANNING COMMISSION AGENDA
COUNCIL CHAMBERS, CITY HALL, 612 N.MAIN ST
DATE: December 10, 2018 TIME: 12:00 PM, NOON

1. CALL TO ORDER:
2. ROLL CALL:
3. Declaration Of Conflicts Of Interests
4. APPROVE AGENDA:
5. Approval Of Minutes: November 13, 2018

Documents:

[PLANNINGCOMMINUTES11132018.PDF](#)

6. Schedule Next Meeting: January 14, 2019
7. Plan Approval: Village Bowl, 1500 N Duff, Zoned HB (Revised From Previous Plan)

Documents:

[VILLAGEBOWLREVISED.PDF](#)
[VILLAGEBOWLAERIAL.PDF](#)
[VILLAGEBOWLFIRSTPLAN.PDF](#)

8. Plat: Tract 1 Of Odland's First Addition An Addition In The East 860 Feet (E 860') Of The South 646 Feet (S 646') Of The Southeast Quarter (SE 1/4) Of Section 18, T 103 N, R 60 W Of The 5th P.M., Davison County, South Dakota

Documents:

[3-ODLAND, ALICIA-GIS.PDF](#)
[ODLANDPLAT.PDF](#)

9. VARIANCE:

Boyd Reimnitz owner of 620 W 5th Ave, legally described as the W 50' of Lots 7, 8 and 9, Block 17, Rowley's 2nd Addition, City of Mitchell, Davison County, South Dakota, is requesting a side yard on a corner variance of 12' vs 20' for placement of a detached garage. The property is zoned R2 Single Family Residential District.

Documents:

[REMINITZAPP.PDF](#)
[REIMNITZNOH.PDF](#)
[REMINITZVARPLAN.PDF](#)
[REMINITZNEIGHBORS.PDF](#)
[REIMNITZVAR620W5THAVEAERIAL.PDF](#)

10. CONDITIONAL USE PERMIT: (Table From 12/19/2016 Meeting)

West Havens Storage LLC has applied for a conditional use permit for construction of self-service storage facility at 1522 W Havens Ave, legally described as the East 140' of Irregular Tract 4A located in the SW 1/4, Section 21, T 103 N, R 60 W of the 5th P.M., Less PE-1, Platted Various, City of Mitchell, Davison County, South Dakota. The property is zoned HB Highway Oriented Business District. (Board of Adjustment tabled

this conditional use permit indefinitely on 12-19-16, the planning commission requested a drainage plan be completed).

Documents:

[WESTHAVENSAPP.PDF](#)
[WESTHAVENNOH.PDF](#)
[WESTHAVENDRAINAGEPLAN.PDF](#)
[WESTHAVEN2016PLAN.PDF](#)
[WESTHAVENSNEIGHBORS.PDF](#)
[WESTHAVENMAPS.PDF](#)
[WESTHAVENSAERIAL.PDF](#)

11. Approval Of Plan: Anytime Fitness 1620 S Burr, HB District, Expansion Of Parking Lot

Documents:

[ANYTIME FITNESS PROPOSED PARKING LAYOUT WITH PARCEL SHADED 11-15-18.PDF](#)
[HOHNAERIAL.PDF](#)
[BURR STREET LAYOUT MAP FOR ANYTIME FITNESS.PDF](#)

12. Discussion Of Reducing The Width Of The Right-Of-Way On North Main St, 12th To By-Pass

Documents:

[12THMAINST.PDF](#)
[15THMAINST.PDF](#)
[BYPASSMAINST.PDF](#)

13. Discussion: Small Center Wireless Communication Facilities Ordinance

Documents:

[SCF ORDINANCE- FOR PLANNING COMMISSION DISCUSSION.PDF](#)

14. OTHER BUSINESS:

15. PUBLIC INPUT: If You Need To Address The City Planning Commission On An Item That Was Not On The Agenda, Excluding Personnel Items, Please Come Forward To The Podium And State Your Name And Your Concern. Presentations Are Limited To Three Minutes. Items Will Be Considered But No Action Will Be Taken At This Time.

16. ADJOURNMENT:

"The City of Mitchell invites all interested parties to give oral or written comments. If special accommodations are required, please notify the Public Works Department at 605-995-8433 at least 24 hour prior to the scheduled meeting."

**CITY OF MITCHELL
CITY PLANNING COMMISSION MINUTES
November 13, 2018**

NOT APPROVED

Chairman Larson called to order the November 13, 2018 City Planning Commission Meeting to order at 12:00 pm in the Council Chambers, 612 N Main St, Mitchell, South Dakota.

Members Present: Larson, Genzlinger, Molumby, Jirsa, Osterloo and Allen

Members Absent: Fergen & Quenzer

Staff Present: Putnam, T. Johnson, J. Johnson, Hegg, London, Sandoval, Croce, Ellwein

Declaration of Conflicts of Interest: none declared

Approval of Agenda: Motion by Molumby, seconded by Genzlinger to approve the agenda as presented. All members present voting aye, motion carried.

Approval of Minutes: Motion by Molumby, seconded by Jirsa to approve the minutes of the October 22, 2018 meeting. All members present voting aye, motion carried.

Schedule Next Meeting: Motion by Osterloo, seconded by Jirsa to schedule the next meeting for November 26, 2018. All members present voting aye, motion carried.

Plan Approval: Village Bowl, 1500 N Duff, zoned Highway Oriented Business District. Steve Brinkman was present to answer questions. Appropriate exists were discussed. Hegg gave a summary of the applicable codes. Motion by Jirsa, seconded by Molumby to approve the plan as submitted. All members present voting aye, motion carried.

Plan Approval: Holiday Inn Express, 810 E Spruce St, zoned Industrial District. Hegg indicated this all-interior work and updating the rooms. Motion by Genzlinger, seconded by Osterloo to approve the plan as presented. All members present voting aye, motion carried.

Conditional Use Permit: Bill & Barbara Goldammer are requesting a conditional use permit to operate a retail and trade business at 2020 & 2040 East 8th Avenue, legally described as Lot 1 Ex Lot A & B of Lot 1 & Lot A of Lot 1 of Collellas Subd. SE ¼ of Section 14 & NE ¼ of Section 23, T 103 N, R 60 W, Davison County, South Dakota. The property is zoned UD Urban Development District. Bill Goldammer was present to answer questions. No one testified in opposition. The commission reviewed the written comments. The public notice was published on November 1 & 8, 2018 and letters to the neighboring property owners were sent November 1, 2018. Mr. Goldammer indicated that he wishes to periodically sell farm equipment at this location. Motion by Genzlinger, seconded by Jirsa to recommend the board of adjustment approve the conditional use permit with the permit that the permit expires if Goldammer ceases the business. Roll Call: Molumby yes, Genzlinger yes, Osterloo yes, Larson yes, Jirsa yes, Quenzer absent, Fergen absent. Five ayes, 0 nays 2 absent. Motion carried.

Conditional Use Permit: Alex Hartman & Alexandra Gerriets are requesting a conditional use permit to operate a family residential childcare center in their home at 1513 W Hanson, legally described as Lot 13, Block 8, Potter's Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R3

Medium Density Residential District. The applicant was not present. No one testify in opposition. The commission reviewed written comments. The public notice was published on November 1 & 8, 2018 and letters to the neighboring property owners were sent on November 1, 2018. Motion by Molumby, seconded by Osterloo to recommend the Board of Adjustment approves the conditional use permit with three conditions 1) the house pass a fire inspection 2) the permit is not transferable and 3) if the business ceases to operate for a period of six months or longer a new permit would be required. All members present voting aye, motion carried.

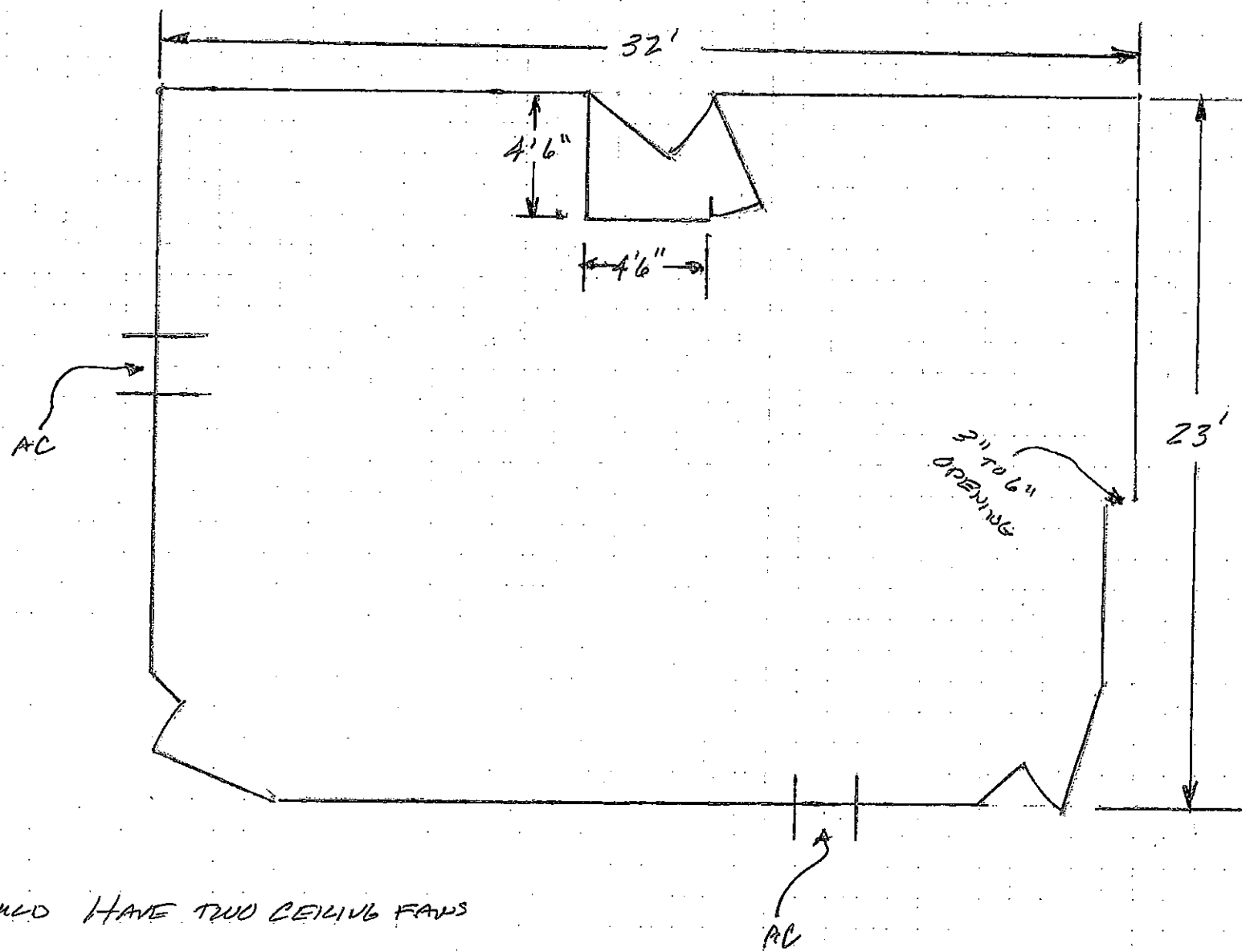
Variances: The Rosewood Court Assisted Living Center at 2101 N Sanborn Blvd, legally described as the North 237.8' except the West 456.8' of Lot F, A Replat of Lots 100 & 101 in the NE ¼ of Section 16, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota is requesting a back yard variance of 8' 8 ½" vs. 25' as required and a side yard variance of 4' 7" vs 5' as required. They wish to construct an addition. The property is zoned R4 High Density Residential District. Representatives of Puetz Corp. and Rosewood Court Living were present to answer questions of the project. The owners wish to add 8 more units to the existing 16 units. The addition will be to north and update the office area. They are also upgrading the sprinkler system. The fire marshal has reviewed the plan and it is acceptable. The existing detached garage is to be removed. Motion by Jirsa, seconded by Genzlinger to recommend the Board of Adjustment approve the variance. Roll Call vote: Osterloo aye, Genzlinger aye, Jirsa aye, Larson aye, Molumby aye, Fergen absent, Quenzer absent. Motion carries 5-0-2 absent.

Public Input: none

Chairman Larson adjourned the meeting at 12:25 pm.

Chairman

Date



Eric
770-9722

- * SHOULD HAVE TWO CEILING FANS
- * AT LEAST SIX CEILING HEATERS
- * TWO TO THREE EXHAUST FANS

Click text location.

Addn

Village MITCHELL

City View 1

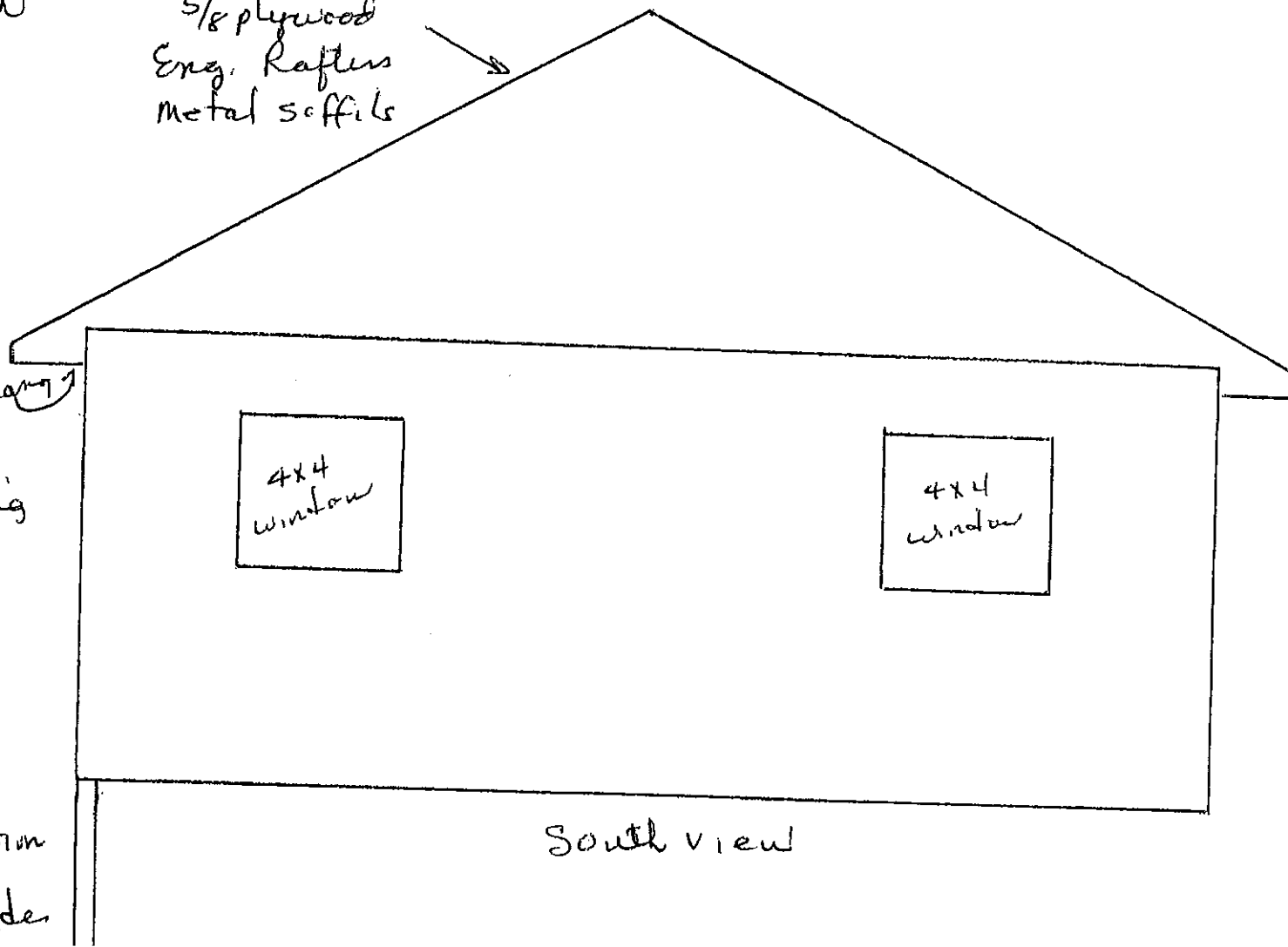
Construction
501 S ohlman
Mitchell, S.D
57301

lage Bowl
N Duff
Mitchell S.D

Asphalt shingle
5/8 plywood
Eng. Rafters
metal soffits

2' overhang
wood siding

foundation
walls
on grade



South view

NT Const.
501 S Oaklawn
Mitchell, SD
999-0163
2
Village Bowl
500 N Duff
Mitchell SD

old Building

3'x6'8" walk door

addition

old Building

East View

3'x6'8" walk door

4'x4 window

4'x4 window

32'

South View

Southwest Corner

st
w

18'

Alicia Odland
Replatting-moving north
Variance in Lot Size 407(4)
+/- 23.88 acres to create
lot size of +/- 1.12 acres
approved 5-8-18.
Plat approved 6-12-18.

Jeff Terveen
% Sign Pro

17

Leroy & Darlene Tiede

Marilyn & Lynn Odland

40690 253RD ST

253 ST

Kevin & Louise Thurman

Kevin & Louise Thurman

19

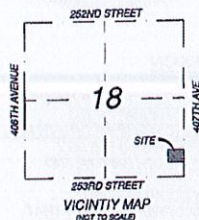
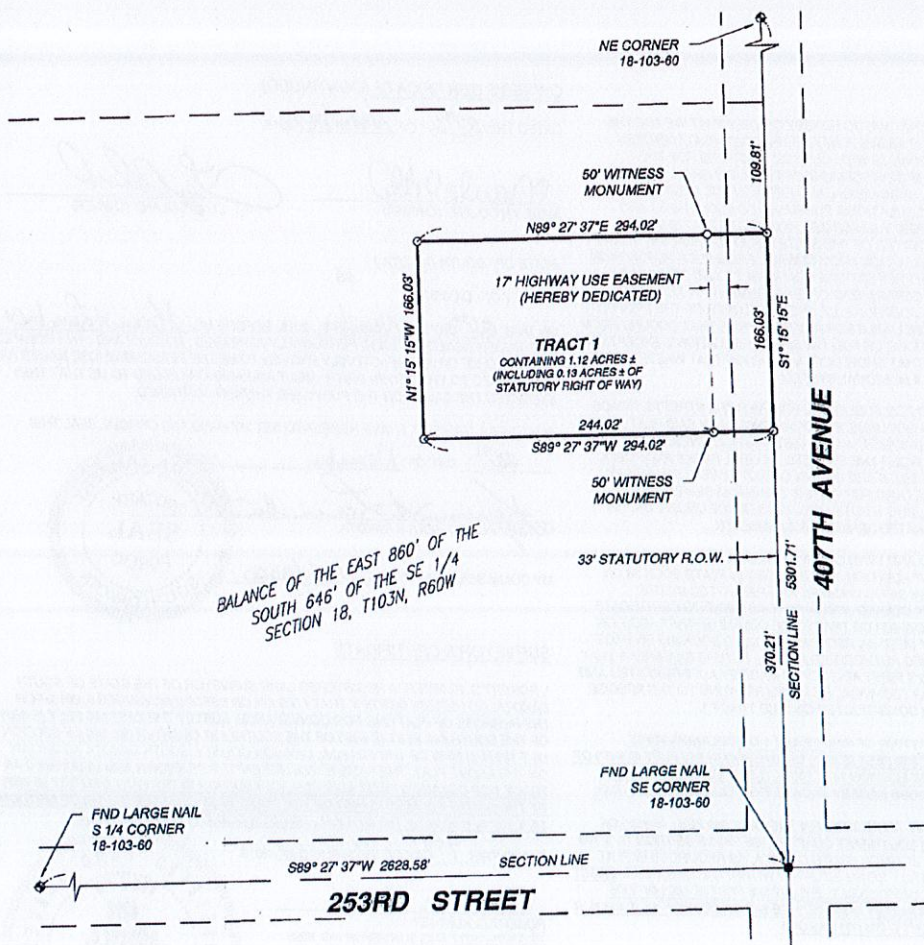
20

407 AVE

MITCHELL

TRACT 1 OF ODLAND'S FIRST ADDITION

AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA



SURVEYOR'S NOTES

1. BEARINGS ARE BASED ON UTM ZONE 14 NORTH.
2. ALL DISTANCES ARE GROUND.
3. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. EASEMENTS OF RECORD WERE NOT RESEARCHED.



LEGEND

- PROPOSED PROPERTY LINE
- - - EXISTING PROPERTY LINE
- FOUND SURVEY MONUMENT AS NOTED
- SET NO.5 REBAR W/CAP RLS NO. 8298 (UNLESS NOTED OTHERWISE)

PREPARED BY:

infrastucture
 design group, inc.

520 N LAWLER ST., SUITE 400
 MITCHELL, SD 57301
 PHONE: 605-292-0231
 WEB: infrastucturedg.com

TRACT 1 OF ODLAND'S FIRST ADDITION
 AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646')
 OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF
 THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA

PROJ. NO.: 18044
 DATE: 11/6/2018
 DRAWN BY: RDK
 CHECKED BY: BMK
 SHEET NO: 1 OF 3

TRACT 1 OF ODLAND'S FIRST ADDITION

AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA

OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS THAT WE DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF ALL LAND INCLUDED IN THE ABOVE PLAT AND THAT SAID PLAT HAS BEEN MADE AT OUR REQUEST AND IN ACCORDANCE WITH OUR INSTRUCTIONS FOR THE PURPOSE OF TRANSFER, AND THAT THE DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION, AND EROSION AND SEDIMENT CONTROL LAWS, ORDINANCES, AND REGULATIONS. PURSUANT TO SDCL 11-3-8.1 AND 11-3-8.2 THE DEVELOPER OF THE PROPERTY DESCRIBED WITHIN THIS PLAT SHALL BE RESPONSIBLE FOR PROTECTING ANY WATER OF THE STATE LOCATED ADJACENT TO OR WITHIN SUCH PLATTED AREA FROM POLLUTION FROM SEWAGE FROM SUCH SUBDIVISION AND SHALL, IN PROSECUTION OF SUCH PROTECTIONS CONFORM TO AND FOLLOW ALL REGULATION OF THE SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES RELATING TO THE SAME. ADDITIONALLY, THE DEVELOPER OF THE PROPERTY DESCRIBED WITHIN THIS PLAT SHALL BE LIABLE FOR ANY POLLUTION THAT OCCURS FROM FAILURE TO EXECUTE SUCH PROTECTIONS OR FOLLOW SUCH REGULATIONS, EXCEPTION BEING THOSE LOTS IN SUBDIVISIONS THAT SHOW DOCUMENTATION THAT WASTEWATER DRAINAGE SHALL BE CONNECTED TO A MUNICIPAL SYSTEM.

WE HEREBY DEDICATE TO THE PUBLIC FOR PUBLIC USE FOREVER THE STREETS, ROADS AND ALLEYS, AND PARKS AND PUBLIC GROUNDS, IF ANY, AS SHOWN ON SAID PLAT, INCLUDING ALL SEWERS, CULVERTS, BRIDGES, WATER DISTRIBUTION LINES, SIDEWALKS, AND OTHER IMPROVEMENTS ON OR UNDER THE STREETS, ALLEYS, PARKS AND PUBLIC GROUNDS WHETHER SUCH IMPROVEMENTS ARE SHOWN OR NOT. WE ALSO HEREBY GRANT EASEMENTS TO RUN WITH THE LAND FOR WATER, DRAINAGE, SEWER, GAS, ELECTRIC, TELEPHONE, OR OTHER PUBLIC UTILITY LINES OR SERVICE UNDER, ON, OR OVER THOSE STRIPS OF LAND DESIGNATED HEREON AS EASEMENTS.

THE UNDERSIGNED MARILYN ODLAND AND LYNN ODLAND ORIGINALLY PLATTED, AS OWNERS, TRACT 1 OF ODLAND'S FIRST ADDITION AS RECORDED IN PLATE BOOK 34 ON PAGE 22. SUCH ORIGINAL PLAT IS NOW BEING VACATED AND REPLATTED BY THE FOREGOING PLAT. MARILYN AND LYNN ODLAND JOIN IN ON THIS OWNER'S CERTIFICATE WITH ALICIA ODLAND, THE CURRENT OWNER OF TRACT 1 OF ODLAND'S FIRST ADDITION BY VIRTUE OF A CERTAIN WARRANTY DEED AS RECORDED IN DEED BOOK 818 ON PAGE 307, TO CLARIFY TO THE UNDERSIGNED AUTHORITIES AND ALL FUTURE EXAMINERS THAT THIS REPLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION IS MADE BY ALL INTERESTED AND EFFECTED PARTIES AND IS DONE FOR TECHNICAL REASONS RELATING TO THE PRECISE LOCATION OF IMPROVEMENTS BEING CONSTRUCTED ON SAID TRACT 1.

WE FURTHER CERTIFY THAT THIS PLATTING OF SAID TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA DOES HEREBY VACATE THE FOLLOWING PLATTING:

TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, AS RECORDED IN PLAT BOOK 34 ON PAGE 22, HEREBY VACATED, BEING SITUATED WITHIN THE DESCRIBED TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA

DATED THIS 20th DAY OF November, 2018.


ALICIA ODLAND (OWNER)

STATE OF: SOUTH DAKOTA)

COUNTY OF: DAVISON)

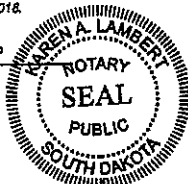
ON THIS 20th DAY OF November, 2018, BEFORE ME, Karen A. Lambert, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED, ALICIA ODLAND, KNOWN TO ME OR SATISFACTORILY PROVEN TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES THEREIN CONTAINED.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL THIS

20th DAY OF November, 2018.

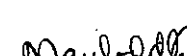

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES: 09/24/2020



OWNER'S CERTIFICATE (CONTINUED)

DATED THIS 20th DAY OF November, 2018.


MARILYN ODLAND (OWNER)


LYNN ODLAND (OWNER)

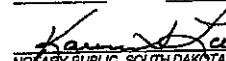
STATE OF: SOUTH DAKOTA)

COUNTY OF: DAVISON)

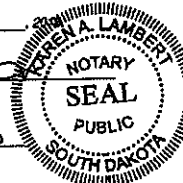
ON THIS 20th DAY OF November, 2018, BEFORE ME, Karen A. Lambert, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED, MARILYN AND LYNN ODLAND, KNOWN TO ME OR SATISFACTORILY PROVEN TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES THEREIN CONTAINED.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL THIS

20th DAY OF November, 2018.


NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES: 09/24/2020

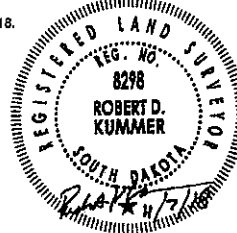


SURVEYOR'S CERTIFICATE

I, ROBERT D. KUMMER, A REGISTERED LAND SURVEYOR OF THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT I DID ON OR BEFORE NOVEMBER 6, 2018, FOR THE PURPOSE OF PLATTING FOR CONVEYANCE, SURVEY THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA AS SHOWN ON THE ABOVE PLAT. THE SAME SHALL HEREAFTER BE KNOWN AND DESCRIBED AS TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA.

DATED THIS 7th DAY OF November, 2018.


ROBERT D. KUMMER
REGISTERED LAND SURVEYOR NO. 8298



RESOLUTION OF CITY PLANNING COMMISSION

WHEREAS, THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, HAS BEEN SUBMITTED TO THE CITY PLANNING COMMISSION OF SAID CITY OF MITCHELL, SOUTH DAKOTA; AND

WHEREAS, THE CITY PLANNING COMMISSION, IN REGULAR MEETING ASSEMBLED, HAD DULY CONSIDERED SAID PLAT AND FINDS AS A FACT THAT SAID PLAT IS IN CONFORMITY AND DOES NOT CONFLICT WITH THE MASTER PLAN FOR THE CITY OF MITCHELL, SOUTH DAKOTA, HERETOFORE ADOPTED BY THIS COMMISSION;

NOW THEREFORE, BE IT RESOLVED BY THE CITY PLANNING COMMISSION OF MITCHELL, SOUTH DAKOTA, THAT THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, BE AND THE SAME IS HEREBY APPROVED AND ITS ADOPTION BY THE CITY COUNCIL OF THE CITY OF MITCHELL, SOUTH DAKOTA, IS HEREBY RECOMMENDED.

I, _____, CHAIRMAN/VICE CHAIRMAN OF THE CITY PLANNING COMMISSION FOR THE CITY OF MITCHELL, SOUTH DAKOTA, DO HEREBY CERTIFY THAT THE FOREGOING RESOLUTION WAS PASSED BY THE CITY PLANNING COMMISSION OF MITCHELL, SOUTH DAKOTA, AT A MEETING THEREOF HELD ON THE _____ DAY OF _____, 20____.

CHAIRMAN/VICE CHAIRMAN CITY PLANNING COMMISSION

PREPARED BY:


design group, inc.

520 N LAWLER ST., SUITE 400
MITCHELL, SD 57301
PHONE: 605-292-0231
WEB: infrastructuredg.com

TRACT 1 OF ODLAND'S FIRST ADDITION
AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA

PROJ. NO.: 18044
DATE: 11/8/2018
DRAWN BY: RDK
CHECKED BY: RDK
SHEET NO. 2 OF 3

TRACT 1 OF ODLAND'S FIRST ADDITION

AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA

RESOLUTION OF CITY COUNCIL

WHEREAS, IT APPEARS THAT THE CITY PLANNING COMMISSION OF THE CITY OF MITCHELL, SOUTH DAKOTA, DID DULY CONSIDER AND DID RECOMMEND THE APPROVAL AND ADOPTION OF THE HEREINAFTER DESCRIBED PLAT, AT ITS MEETING HELD ON THE ____ DAY OF _____, 2018; AND

WHEREAS, IT APPEARS FROM AN EXAMINATION OF THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA THAT SAID PLAT IS IN ACCORDANCE WITH THE SYSTEM OF STREETS AND ALLEYS SET FORTH IN THE MASTER PLAN ADOPTED BY THE CITY PLANNING COMMISSION OF THE CITY OF MITCHELL, SOUTH DAKOTA, AND THAT SUCH PLAT HAS BEEN PREPARED ACCORDING TO LAW;

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MITCHELL, SOUTH DAKOTA, THAT THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA BE AND THE SAME IS APPROVED AND THE DESCRIPTION SET FORTH THEREIN AND THE ACCOMPANYING SURVEYOR'S CERTIFICATE SHALL PREVAIL.

I, _____, FINANCE OFFICER/DEP. FINANCE OFFICER OF THE CITY OF MITCHELL, SOUTH DAKOTA, DO HEREBY CERTIFY THAT THE FOREGOING RESOLUTION WAS PASSED BY THE CITY OF MITCHELL, SOUTH DAKOTA, AT A MEETING THEREOF HELD ON THE ____ DAY OF _____, 20____.

FINANCE OFFICER/DEP. FINANCE OFFICER

CERTIFICATE OF ROAD AUTHORITY

THE LOCATIONS OF THE EXISTING APPROACHES ARE HEREBY APPROVED. ANY CHANGE IN THE LOCATIONS OF THE EXISTING APPROACHES SHALL REQUIRE ADDITIONAL APPROVAL.

BY: _____ ROAD AUTHORITY _____ TITLE _____ DATE _____

RESOLUTION OF COUNTY PLANNING COMMISSION

WHEREAS, THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, HERETOFORE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF DAVISON COUNTY, SOUTH DAKOTA HAS BEEN SUBMITTED TO THE COUNTY PLANNING COMMISSION OF THE SAID COUNTY OF DAVISON, SOUTH DAKOTA; AND

WHEREAS, THE COUNTY PLANNING COMMISSION, IN REGULAR MEETING ASSEMBLED, HAD DULY CONSIDERED SAID PLAT AND FINDS AS A FACT THAT SAID PLAT IS IN CONFORMITY AND DOES NOT CONFLICT WITH THE MASTER PLAN FOR THE COUNTY OF DAVISON, SOUTH DAKOTA, HERETOFORE ADOPTED BY THIS COMMISSION;

NOW THEREFORE, BE IT RESOLVED BY THE COUNTY PLANNING COMMISSION OF DAVISON COUNTY, SOUTH DAKOTA, THAT THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, PREPARED BY ROBERT D. KUMMER, A LAND SURVEYOR, BE AND THE SAME IS HEREBY APPROVED AND ITS ADOPTION BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DAVISON, SOUTH DAKOTA, IS HEREBY RECOMMENDED.

THE UNDERSIGNED HEREBY CERTIFIES THAT THE FOREGOING RESOLUTION WAS PASSED BY THE COUNTY PLANNING COMMISSION OF DAVISON COUNTY, SOUTH DAKOTA, AT A MEETING THEREOF HELD ON THE ____ DAY OF _____, 2018.

CHAIRMAN/VICE-CHAIRMAN OF DAVISON COUNTY PLANNING COMMISSION

RESOLUTION BY BOARD OF COUNTY COMMISSIONERS

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DAVISON COUNTY, SOUTH DAKOTA, THAT THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, WHICH HAS BEEN SUBMITTED FOR EXAMINATION PURSUANT TO LAW, IS HEREBY APPROVED AND THE COUNTY AUDITOR IS HEREBY AUTHORIZED AND DIRECTED TO ENDORSE ON SUCH PLAT A COPY OF THIS RESOLUTION AND CERTIFY THE SAME.

DATED THIS ____ DAY OF _____, 2018.

CHAIRPERSON/VICE CHAIRPERSON, BOARD OF COUNTY COMMISSIONERS
DAVISON COUNTY, SOUTH DAKOTA

AUDITOR'S CERTIFICATE

I, _____, DO HEREBY CERTIFY THAT I AM THE DULY ELECTED, QUALIFIED, AND ACTING COUNTY AUDITOR OF DAVISON COUNTY, SOUTH DAKOTA, AND THAT THE ABOVE RESOLUTION WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF DAVISON COUNTY, SOUTH DAKOTA AT A REGULAR MEETING HELD ON _____, 2018, APPROVING THE ABOVE PLAT.

AUDITOR/DEPUTY AUDITOR, DAVISON COUNTY, SOUTH DAKOTA

COUNTY TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT ALL TAXES WHICH ARE LIENS UPON ANY LAND INCLUDED IN THE ABOVE (AND THE FOREGOING) PLAT, AS SHOWN BY THE RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID.

DATED THIS ____ DAY OF _____, 2018.

COUNTY TREASURER/DEPUTY TREASURER
DAVISON COUNTY, SOUTH DAKOTA

DIRECTOR OF EQUALIZATION

I HEREBY CERTIFY THAT A COPY OF THE PLAT OF TRACT 1 OF ODLAND'S FIRST ADDITION, AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, HAS BEEN RECEIVED BY ME AND FILED IN MY OFFICE.

DIRECTOR OF EQUALIZATION/DEPUTY DIRECTOR OF EQUALIZATION
DAVISON COUNTY, SOUTH DAKOTA

REGISTER OF DEEDS

FILED FOR RECORD THIS ____ DAY OF _____, 2018, AT _____

O'CLOCK ____ M., AND RECORDED IN BOOK ____ OF PLATS ON PAGE ____.

REGISTER OF DEEDS/DEPUTY REGISTER OF DEEDS
DAVISON COUNTY, SOUTH DAKOTA

PREPARED BY:

infrastructure
design group, inc.

520 N LAWLER ST., SUITE 400
MITCHELL, SD 57301
PHONE: 605-292-0231
WEB: infrastructuredg.com

TRACT 1 OF ODLAND'S FIRST ADDITION
AN ADDITION IN THE EAST 860 FEET (E 860') OF THE SOUTH 646 FEET (S 646') OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 18, T 103 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA

PROJ. NO.: 18044

DATE: 11/6/2018

DRAWN BY: RDK

CHECKED BY: RDK

SHEET NO: 3 OF 3

APPLICATION FOR A VARIANCE

TO: THE MITCHELL PLANNING COMMISSION AND THE BOARD OF
ADJUSTMENT THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA.

The undersigned applicant(s) and owner(s), Boyd Reimnitz, hereby make application for a variance pursuant to the provisions of the City of Mitchell Zoning Code as amended.

This Application is for the following described real property:

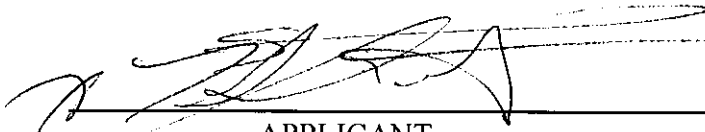
W 50' of Lots 7 & 8 & 9, Block 17, Rowley's 2nd, City of Mitchell, Davison County,
South Dakota (620 W 5th Ave)

The applicant of the above described real estate are requesting an side yard on corner variance of 12 feet vs 20 feet as required for construction of an accessory building. The said real property is zoned R2 Single Family Residential District.

The names and addresses of the current property owners within one hundred and forty feet (140') of the applicant's property (excluding streets and alleys) will be notified upon the filing of this application.

Applicant(s) request that dates be set for public hearings before the Mitchell Planning Commission and the Board of Adjustment. Furthermore, the applicant(s) request the City of Mitchell to publish the appropriate notice(s) in accordance with the City of Mitchell's Ordinances.

Dated this 11 of Nov., 2018.



APPLICANT

OWNER

NOTICE OF HEARING

To: The Planning Commission, Board of Adjustment of the City of Mitchell, Mitchell South Dakota, and to the general public:

YOU ARE HEREBY NOTIFIED that Boyd Reimnitz owner of 620 W 5th Ave, legally described as the W 50 feet of Lots 7, 8 & 9, Block 17, Rowley's 2nd Addition, City of Mitchell, Davison County, South Dakota, is requesting a side yard on a corner variance of 12' vs 20' for addition of a detached garage .The property is zoned R2 Single Family Residential District.

YOU ARE FURTHER NOTIFIED, that public hearings will be held by the Planning Commission on December 10, 2018 at 12:00 P.M and the Board of Adjustment on December 17, 2018 at 6:00 P.M., at the Council Chambers, Mitchell City Hall. All interested parties may attend the public hearings and provide comments in regards to the applicant's request.

Dated at Mitchell, South Dakota, this 26th day of November 2018.

Michelle Bathke

FINANCE OFFICER

Publish once: November 29, 2018

Approximate Cost:

620 W 5th

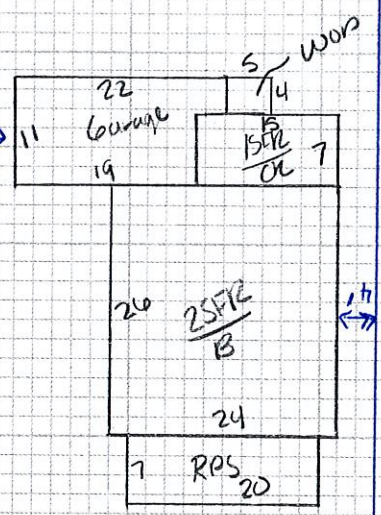
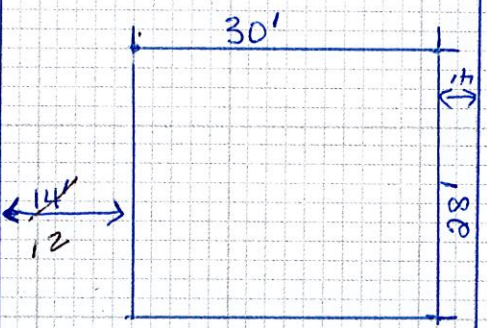
N MINNESOTA

7' BLVD
5' SIDEWALK

1/2 ALLEY 8'

50'

150'



5th Ave

LINDA THOMPSON
616 W 5TH AVE
MITCHELL SD 57301

PHILIP & SANDRA SPANOS
608 W 5TH AVE
MITCHELL SD 57301

JAMES & JENNIFER FALOR
509 N WISCONSIN ST
MITCHELL SD 57301

BANK OF NEW YOR MELLON
1661 WORTHINGTON RD STE 100
WEST PALM BEACH FL 33409

IRENE TISCHLER
GILBERT FALLER
513 N WISCONSIN
MITCHELL SD 57301

JAMES D HOHN
613 W 6TH AVE
MITCHELL SD 57301

RODNEY & JANICE OZANNE
617 W 6TH AVE
MITCHELL SD 57301

JILL PICKET
MICK CLAYTON
621 W 6TH AVE
MITCHELL SD 57301

CLARKE COMPANIES LLC
47035 250TH ST
BALTIMORE MD 21203

STACEY SCHOENFELDER
705 W 6TH AVE
MITCHELL SD 57301

SYLVIA LEE
700 W 5TH AVE
MITCHELL SD 57301

GOLD KEY PROPERTIES
1660 E 8TH AVE
MITCHELL SD 57301

DANIELLE DEKRUIF
708 W 5TH AVE
MITCHELL SD 57301

MARK HARRINGTON
701 W 5TH AVE
MITCHELL SD 57301

LYNN LEE
705 W 5TH AVE
MITCHELL SD 57301

RANDY & MIAE HORVATH
709 W 5TH AVE
MITCHELL SD 57301

KROHMER PROPERTIES
PO BOX 1264
MITCHELL SD 57301

JEAN NELSON
704 W 5TH AVE
MITCHELL SD 57301

IGENA JOHNSTON
708 W 4TH AVE
MITCHELL SD 57301

KAREN & RICHARD BRUNS
714 W 4TH AVE
MITCHELL SD 57301

MIKE & JEAN SCHERSCHLIGT
621 W 5TH AVE
MITCHELL SD 57301

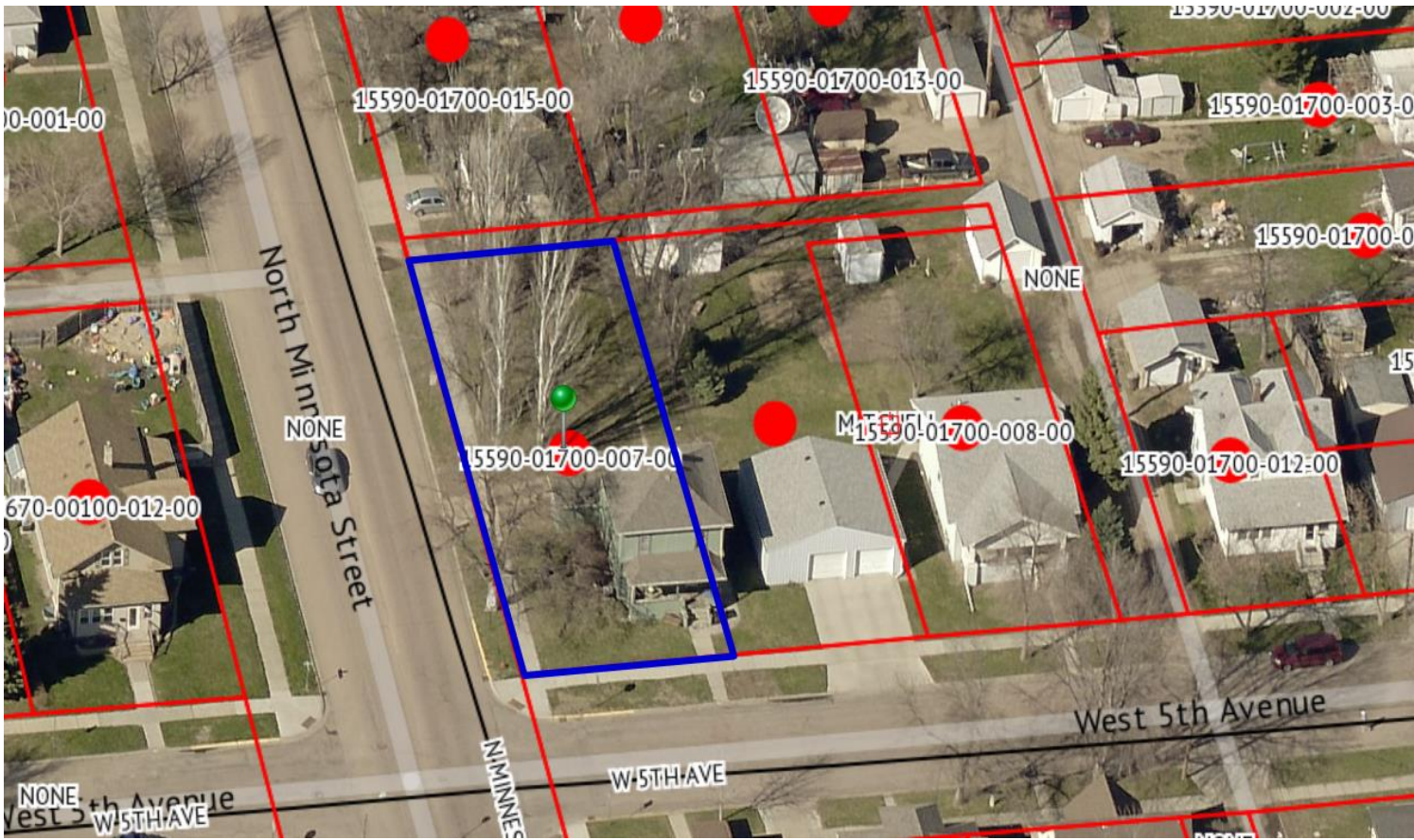
ARTHUR & DONNA GEORGOPOULOS
602 6TH ST
BATTLECREEK IA 51006

DEBORAH SKISRUD-BUEBER
615 W 5TH AVE
MITCHELL SD 57301

TYSON & SHAWN PATTON
421 N WISCONSIN ST
MITCHELL SD 57301

CHARLES & CHERYL BRUCKMAN
616 W 4TH AVE
MITCHELL SD 57301

DENNIS HOELTZNER
608 W 4TH AVE
MITCHELL SD 57301



APPLICATION FOR A CONDITIONAL USE PERMIT/VARIANCE

TO: THE MITCHELL PLANNING COMMISSION AND THE BOARD OF
ADJUSTMENT THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA.

The undersigned applicant(s) and owner(s), WEST HAVENS STORAGE hereby is
submitting an application for a CONDITIONAL USE/VARIANCE pursuant to the provisions of
the City of Mitchell Zoning Code as amended.

This Application is for the following described real property:

A Plat of Irregular Tract 4B-1, A Subdivision of Previously Platted Irregular Tract 4B in
the SW ¼ of Section 21, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County,
South Dakota. (1522 W. Havens Ave)

Applicant(s) and owner(s), WEST HAVENS STORAGE of the above described real
estate is a conditional use permit to construct self-service storage facility buildings. The said real
property is within the HB Highway Oriented Business District.

The names and addresses of the current property owners within one hundred and forty
feet (140') of the applicant's property (excluding streets and alleys) will be notified upon the
filing of this application.

Applicant(s) request that dates be set for public hearings before the Mitchell Planning
Commission and the Board of Adjustment. Furthermore, the applicant(s) request the City of
Mitchell to publish the appropriate notice(s) in accordance with the City of Mitchell's
Ordinances.

Dated this 28 of September, 2016.

West Havens Storage LLC
APPLICANT

[Signature]
OWNER

NOTICE OF HEARING

To: City Planning Commission, City of Mitchell Board of Adjustment and the General Public,

You are hereby notified, that West Havens Storage has applied for a conditional use permit for construction of self-service storage facility buildings at 1522 W. Havens Ave, legally described as The East 140 feet of Irregular Tract 4A Located in the SW ¼ Section 21, T 103 N, R 60 W of the 5th P.M., Less PE-1, Platted Various, City of Mitchell, Davison County, South Dakota. The property is zoned HB Highway Oriented Business District.

You are further notified, the City Planning Commission will be conducting a hearing on this application on October 24, 2016 at 12:00 pm and the Board of Adjustment will be holding a hearing on November 7, 2016 at 6:30 pm, all meetings will be in the Council Chambers, City Hall, 612 N. Main St, Mitchell, SD. All interested parties may attend the hearings.

Dated at Mitchell, South Dakota, this the 5th day of October, 2016.

Michelle Bathke

Finance Officer

Publish Twice: October 13 & October 25, 2016.

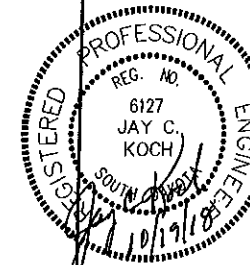
Approximate Costs:



SPN
& Associates

Engineers - Planners - Surveyors
2100 North Sanborn Boulevard - P.O. Box 398
Mitchell, South Dakota 57301-0398
Phone: (605) 996-7761 - Fax: (605) 996-0015

Certificate
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of South Dakota.



Plan Horiz. Scale:	1" = 30'
Drawn By:	RLA
Checked By:	JCK
Date:	10/16/2018
Project No.:	15151
File Name:	15151-Los Sombreros Ren

Project Name:
**Los Sombreros
Rentals
Site Plan**

Located In:
**Mitchell,
South Dakota**

Sheet Name:
Proposed Drainage Plan

Sheet Number:	Total Sheets:
1	3

Connect 10" PVC
Storm Sewer to
Existing Inlet.
Inv. Elev. 1343.50

10" PVC Storm Sewer

Existing Area Inlet
Rim Elev. = 1346.84
N Inv Elev. = 1343.23 (10" PVC)

Drop Inlet
Rim Elev. 1347.50
Inv. Elev. 1344.00

Proposed Curbing
for Storage Area.
See Detail A-A.

North Wall
Elev. 1348.50

12'

Building Footing
Elev. 1350.00

Curb Cut for
Drainage
Elev. 1349.20

Storage Floor
Gravel/Rock
Elev. ±1347.50

**Section A-A Storage Area
Cross-Section**

Proposed
Curbing/Foundation
Wall for
Storage Area

Proposed roof sloped to
west. If roof sloped to
east, gutters, downspouts,
and piping will be required
to carry water to storage
area.

Hotel

Restaurant

NOTE CONCERNING UNDERGROUND UTILITIES:
UNDERGROUND UTILITIES WERE NOT LOCATED FOR
THIS SURVEY.

Building

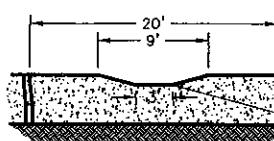
Building

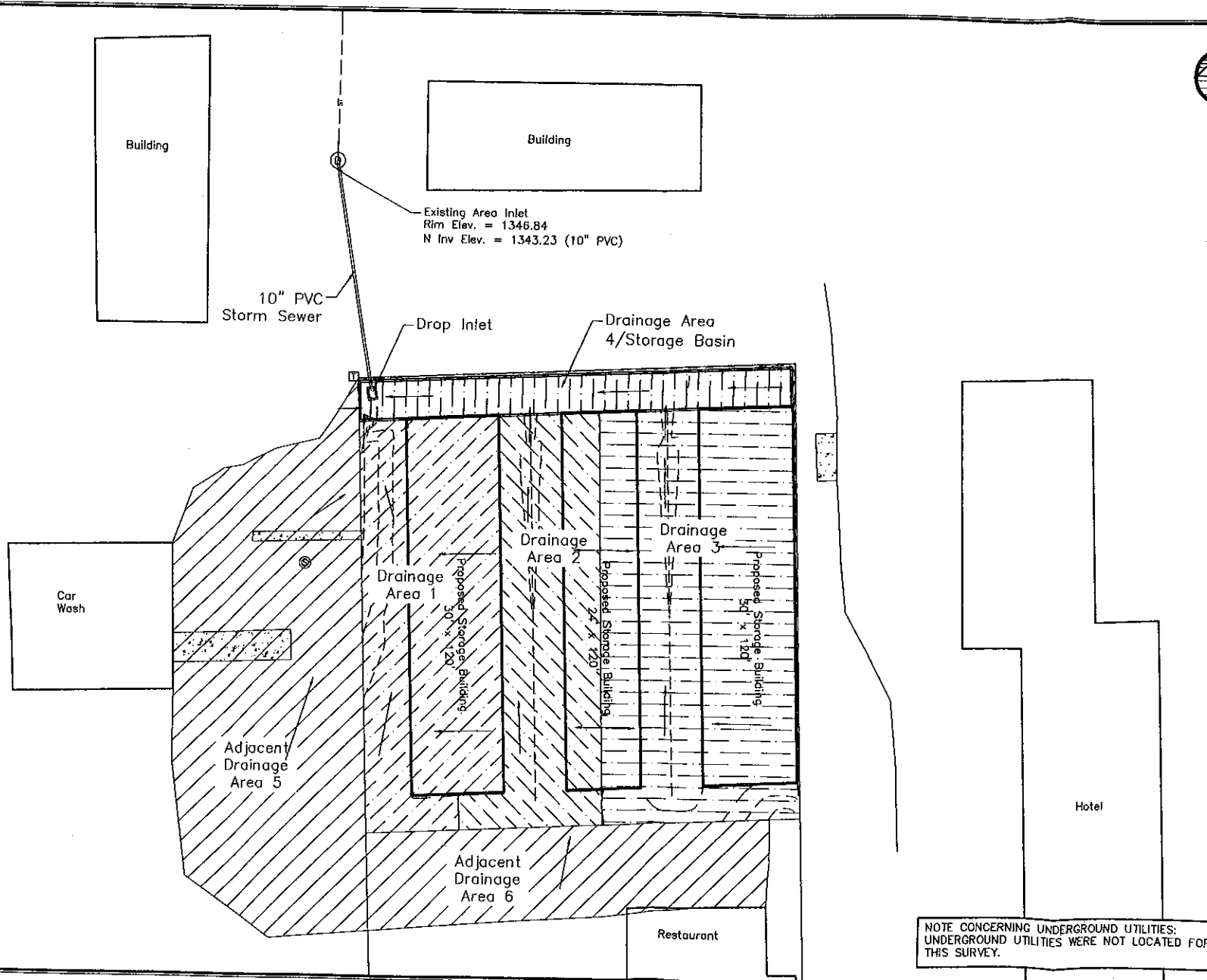
Car
Wash

Building Footing
Elev. 1350.00

Curb Cut for
Drainage
Elev. 1349.20

**Section B-B Curb Cut
Cross-Section**

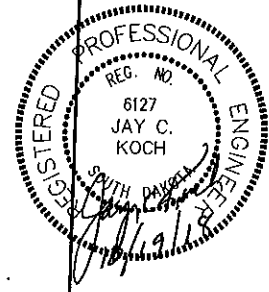




SPN
& Associates

Engineers - Planners - Surveyors
2100 North Sison Boulevard - P.O. Box 398
Mitchell, South Dakota 57301-0398
Phone: (605) 996-7761 - Fax: (605) 996-0015

Certificate
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of South Dakota.



Plan Horiz. Scale:	1" = 30'
Drawn By:	RLA
Checked By:	JCK
Date:	10/16/2018
Project No.:	15151
File Name:	15151-Los Sombremos Ren

Project Name:
Los Sombremos Rentals Site Plan

Located In:
Mitchell, South Dakota

Sheet Name:
Proposed Drainage Plan

Sheet Number:	Total Sheets:
2	3

NOTE CONCERNING UNDERGROUND UTILITIES:
UNDERGROUND UTILITIES WERE NOT LOCATED FOR THIS SURVEY.

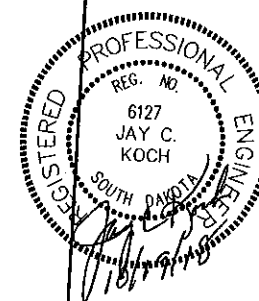


SPN
& Associates

Engineers - Planners - Surveyors
2100 North Swanton Boulevard - P.O. Box 598
Mitchell, South Dakota 57301-0598
Phone: (605) 996-7761 - Fax: (605) 996-0015

Certificate

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of South Dakota.



Plan Horiz. Scale:	1" = 30'
Drawn By:	RLA
Checked By:	JCK
Date:	10/16/2018
Project No.:	15151
File Name:	15151-Los Sombreros Ren

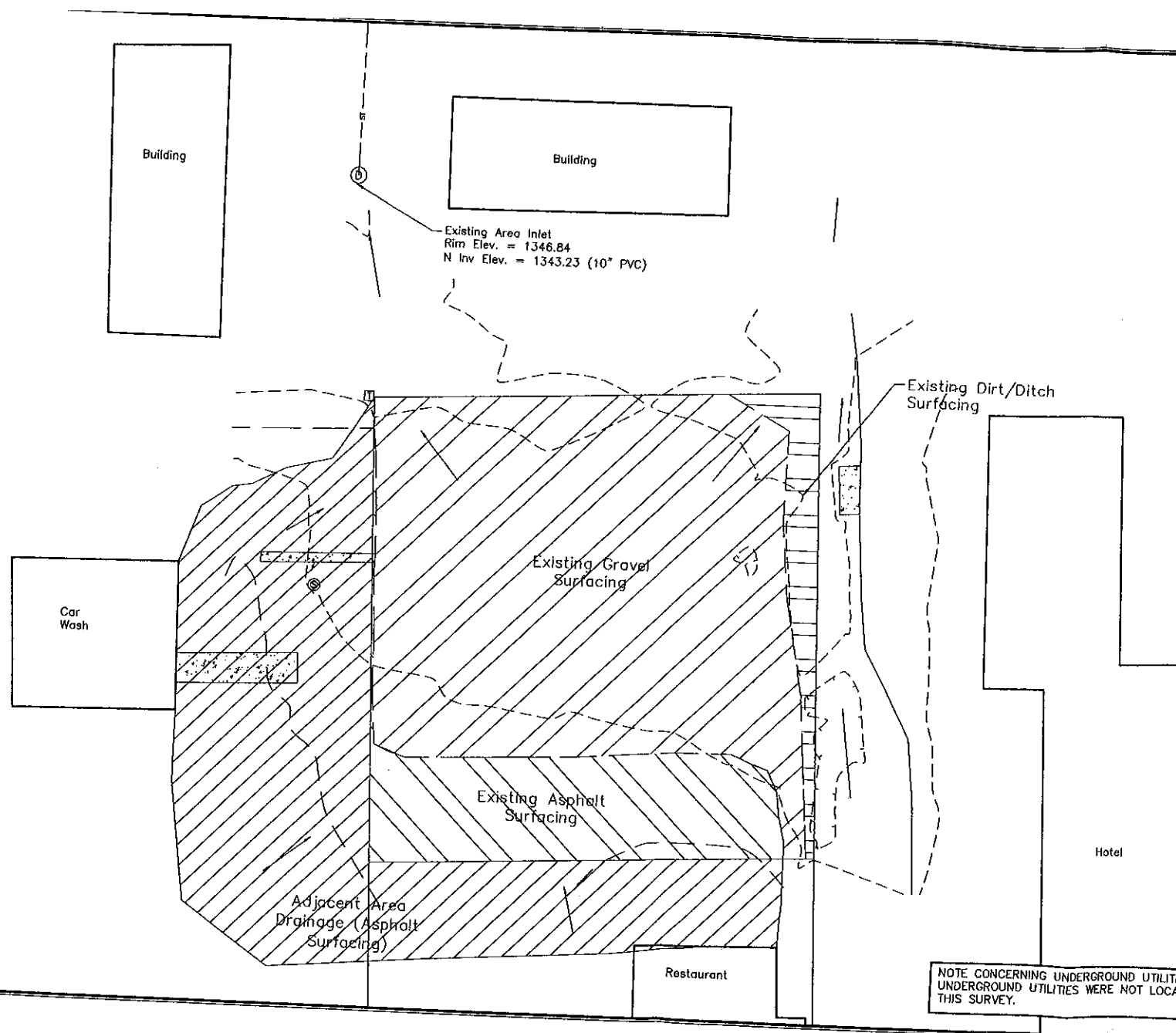
Project Name:
Los Sombreros Rentals Site Plan

Located in:
Mitchell, South Dakota

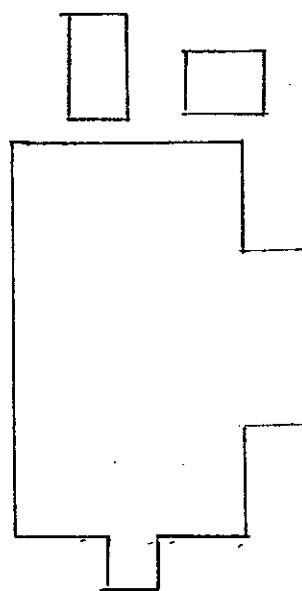
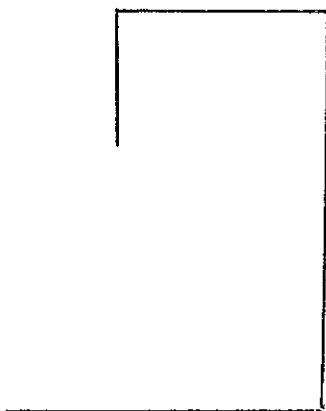
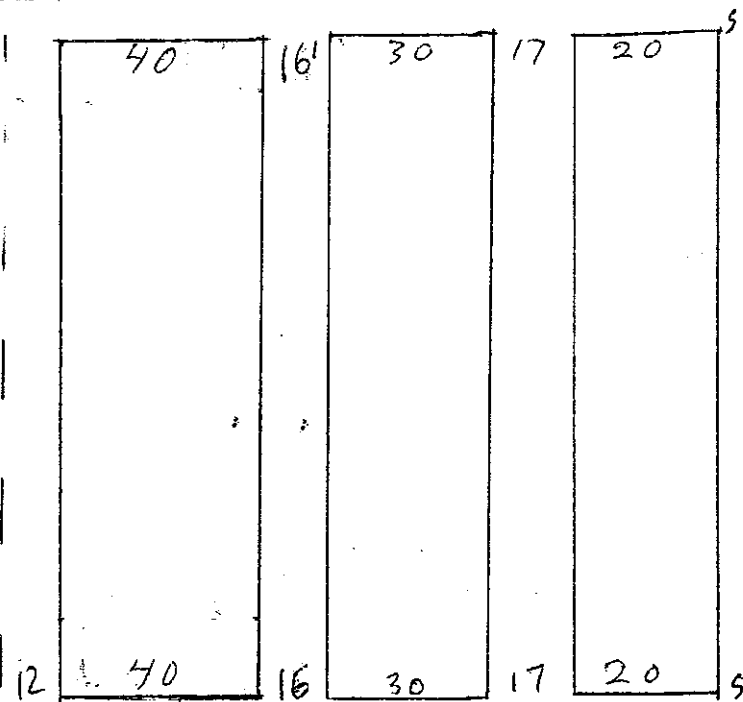
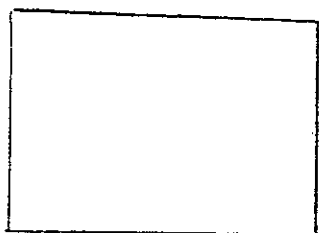
Sheet Name:
Existing Drainage Plan

Sheet Number:	Total Sheets:
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NOTE CONCERNING UNDERGROUND UTILITIES:
UNDERGROUND UTILITIES WERE NOT LOCATED FOR THIS SURVEY.

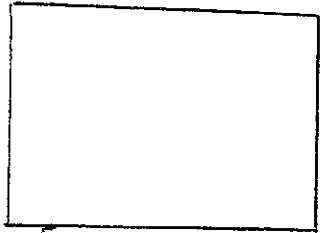


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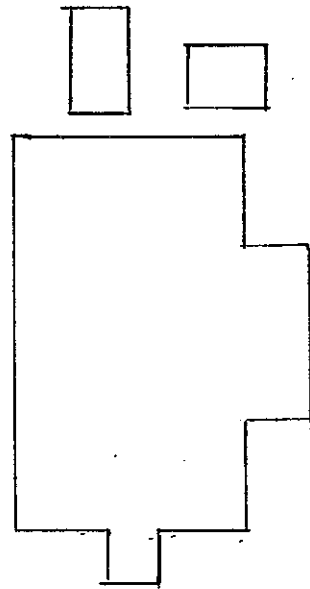
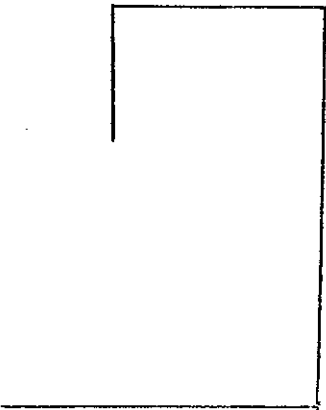
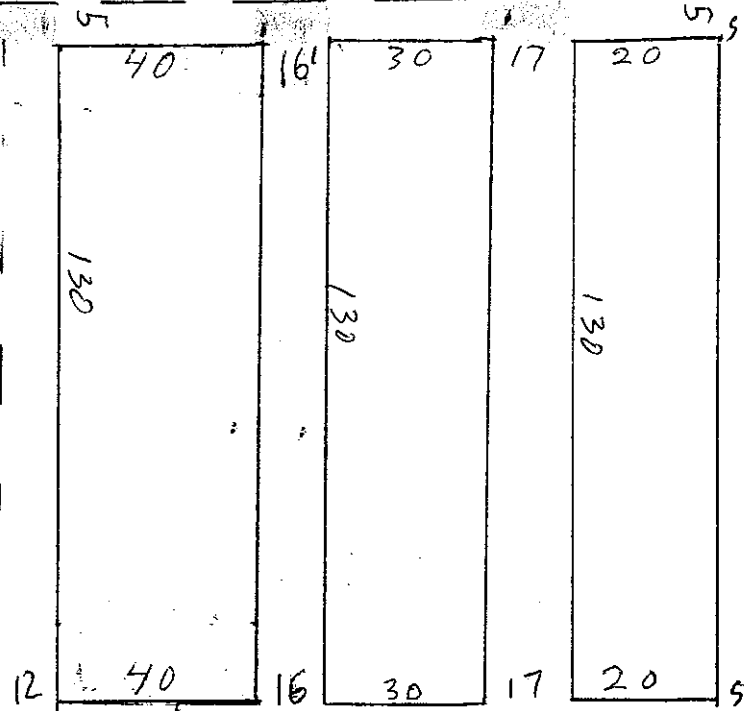


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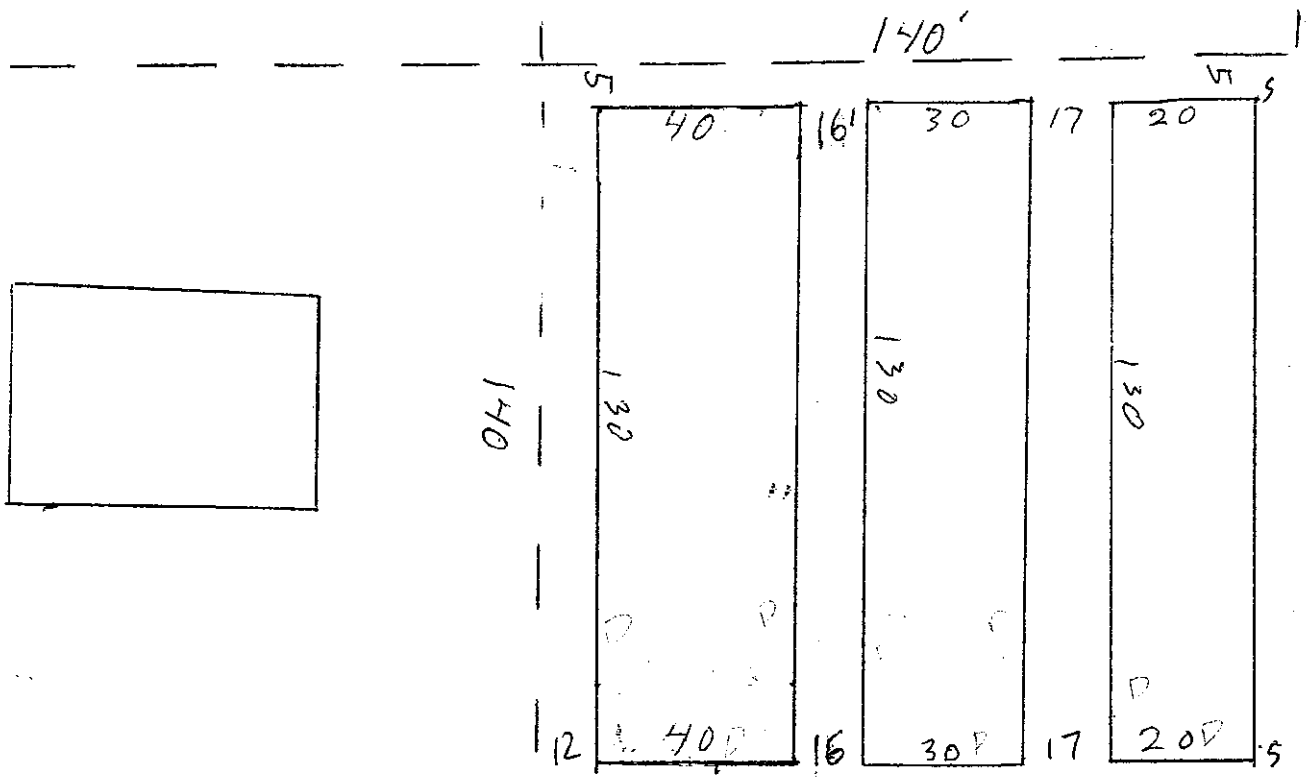


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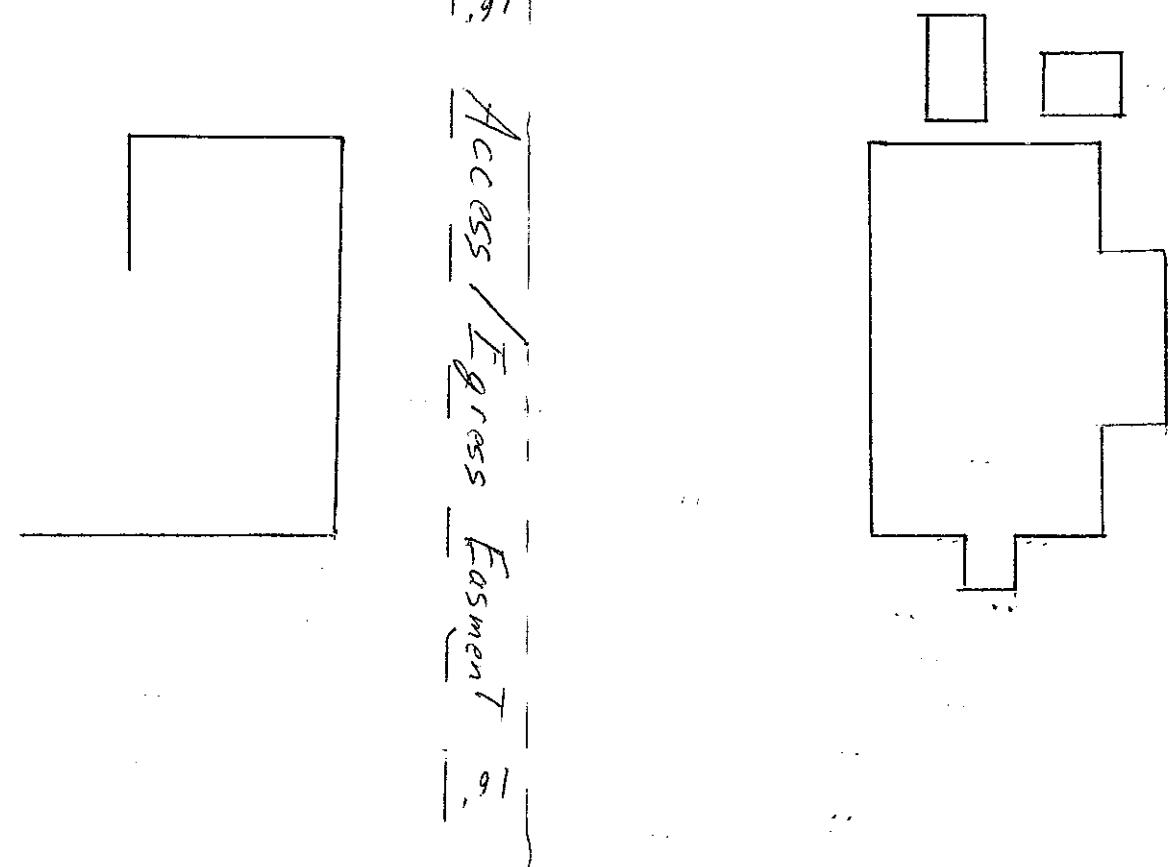


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WEST HAVENS STORAGE LLC

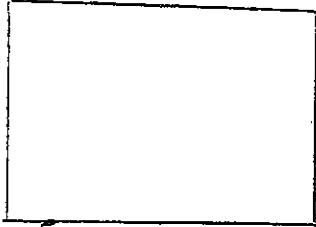


Access Egress Easement

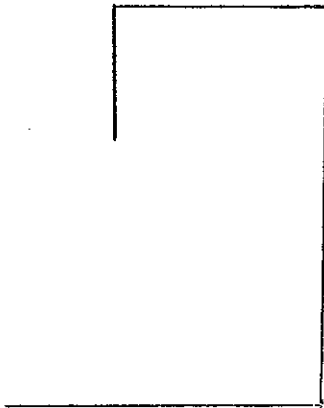
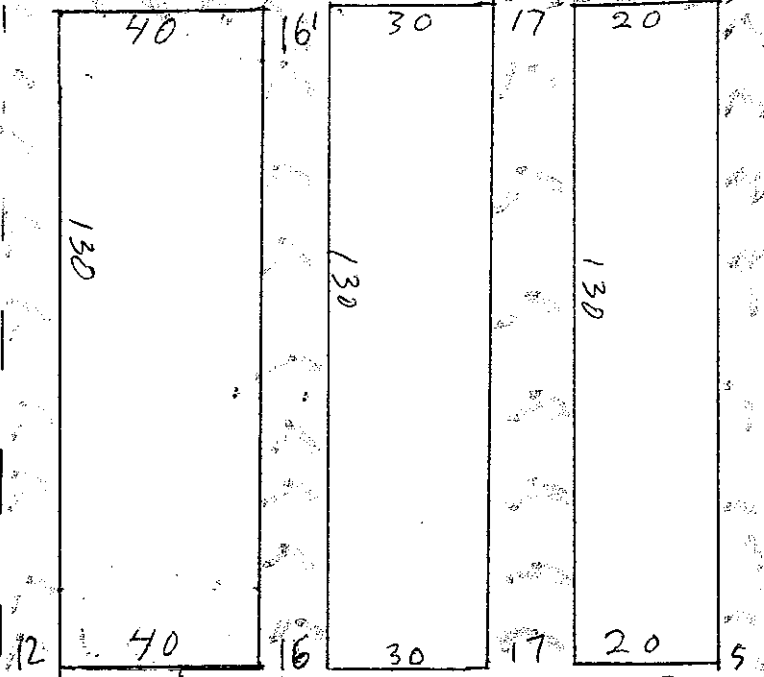


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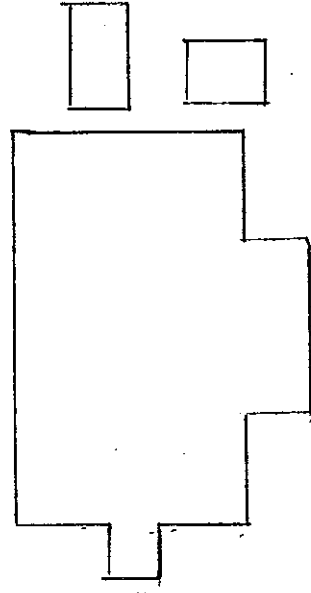
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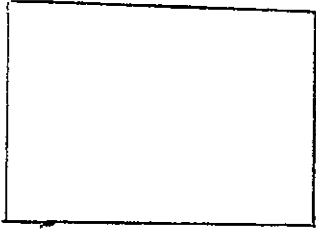
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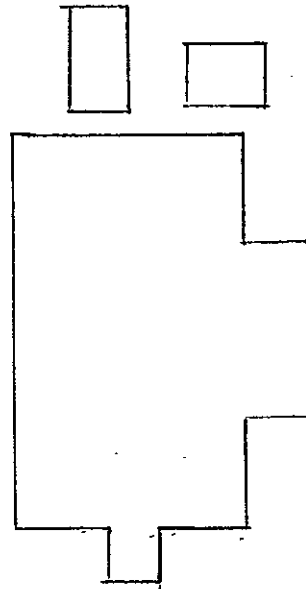
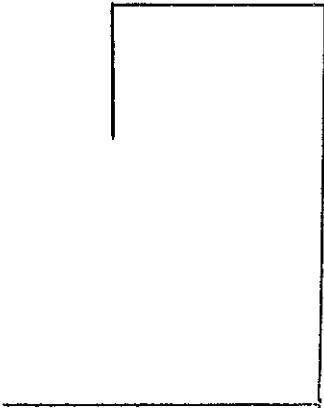
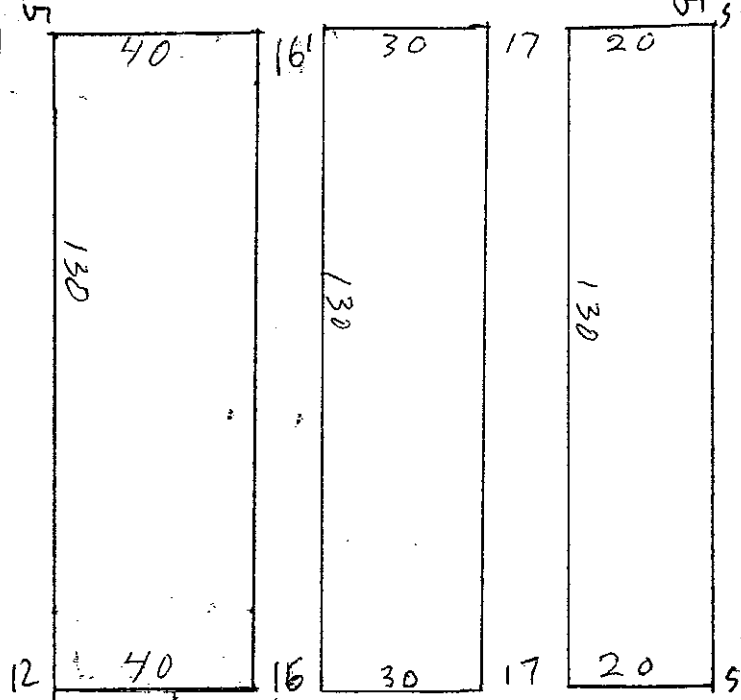
140



140



140



WEST HAVENS STORAGE LLC

WIEBELHAUS PROPERTIES LLC
1817 QUIETT LN
MITCHELL SD 57301

MEYERS OIL CO INC
1500 W 5TH AVE
MITCHELL SD 57301

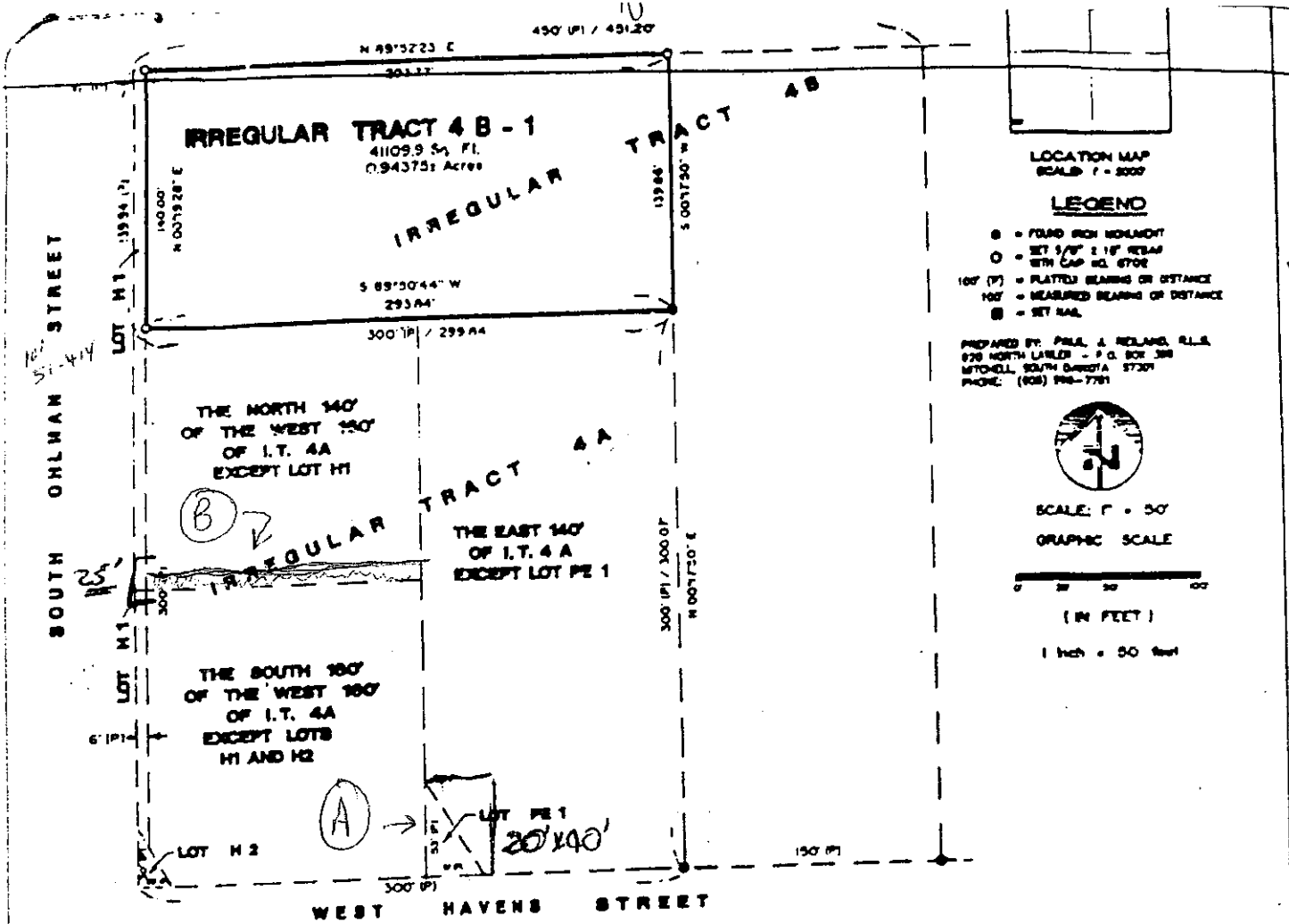
ASHIRWAD LLC
1518 W HAVENS AVE
MITCHELL SD 57301

L & J PROPERTIES LLC
1525 W ELM AVE
MITCHELL SD 57301

ANTHONY MOTEL INC
C/O MICHAEL HARROUN
1210 W HAVENS AVE
MITCHELL SD 57301

GRACE LLC
1525 W HAVENS
MITCHELL SD 57301

LOS SOMBREROS RENTALS LLC
407 N MAIN ST
MITCHELL SD 57301



A PLAT OF IRREGULAR TRACT 4B-1, A SUBDIVISION OF PREVIOUSLY PLATTED IRREGULAR TRACT 4B IN THE SW 1/4 OF SECTION 21, T 103 N, R 60 W OF THE 5th P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA.

SURVEYOR'S CERTIFICATE

I, Paul J. Johnson, Registered Land Surveyor in and for the State of South Dakota, do hereby certify that I am a Registered Land Surveyor in and for the State of South Dakota. At the request of Leslie P. Johnson and Carmen Johnson, as parties, and as a condition of the plat, I did on or prior to November 24, 1999, survey those parcels of land described as follows: IRREGULAR TRACT 4B-1, A SUBDIVISION OF PREVIOUSLY PLATTED IRREGULAR TRACT 4B IN THE SW 1/4 OF SECTION 21, T 103 N, R 60 W OF THE 5th P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA.

In my professional opinion, and to the best of my knowledge, information and belief, the within and foregoing plat is true and correct.

Dated this 18th day of December, 1999.

Registered Land Surveyor 6508702



OWNER'S CERTIFICATE, DEDICATION AND AGREEMENT OF PROTECTION OF WATER

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned, hereby certify that we are the absolute and undivided owners of all of the land included in the within and foregoing plat. We are the owners of a portion of ground located in PREVIOUSLY PLATTED IRREGULAR TRACT 4B IN THE SW 1/4 OF SECTION 21, T 103 N, R 60 W OF THE 5th P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA. That the plat has been made at our request and under our direction for the purposes indicated therein, which said property is as surveyed and platted and hereafter be known as IRREGULAR TRACT 4B-1, A SUBDIVISION OF THE PREVIOUSLY PLATTED IRREGULAR TRACT 4B IN THE SW 1/4 OF SECTION 21, T 103 N, R 60 W OF THE 5th P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, as shown by this plat, and we hereby dedicate to the public for public use forever as such the streets and alleys, if any, as shown and marked on this plat, and that development of the land included within the boundaries of said Irregular Tract 4B-1 shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations. Further that there shall be no development of the land included within the boundaries of said Irregular Tract 4B-1 and South Cheyenne Street on the west side of Irregular Tract 4B-1. Pursuant to Section 11-3-1 and 11-3-2 the developer of the property described within this plat shall be responsible for protecting any waters of the state located adjacent to or within such platted area from pollution from sewage from such subdivision and shall, in prosecution of such protection, conform to and follow all regulations of the South Dakota Department of Environment and Natural Resources relating to the same. Additionally the developer of the property described within this plat shall be responsible for any pollution that occurs from failure to comply with protection or failure to regulate or effectively regulate these sites in subdivisions that show documentation that waste water drainage shall be connected to a municipal system.

IN WITNESS WHEREOF, we have hereunto set our hands this 3rd day of December, 1999.

STATE OF SOUTH DAKOTA
DAVISON COUNTY

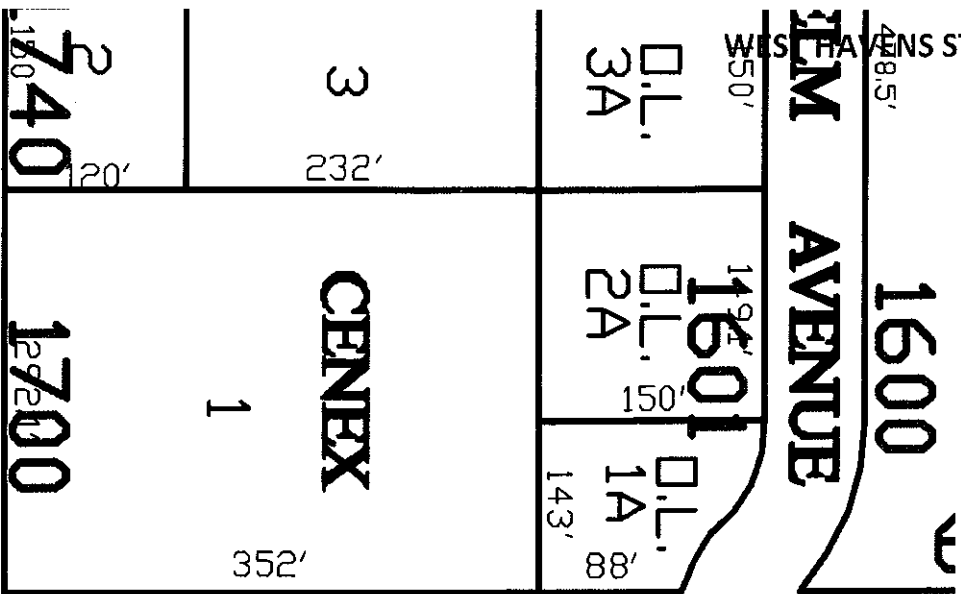
Leslie P. Johnson
Leslie P. Johnson

Carmen Johnson
Carmen Johnson

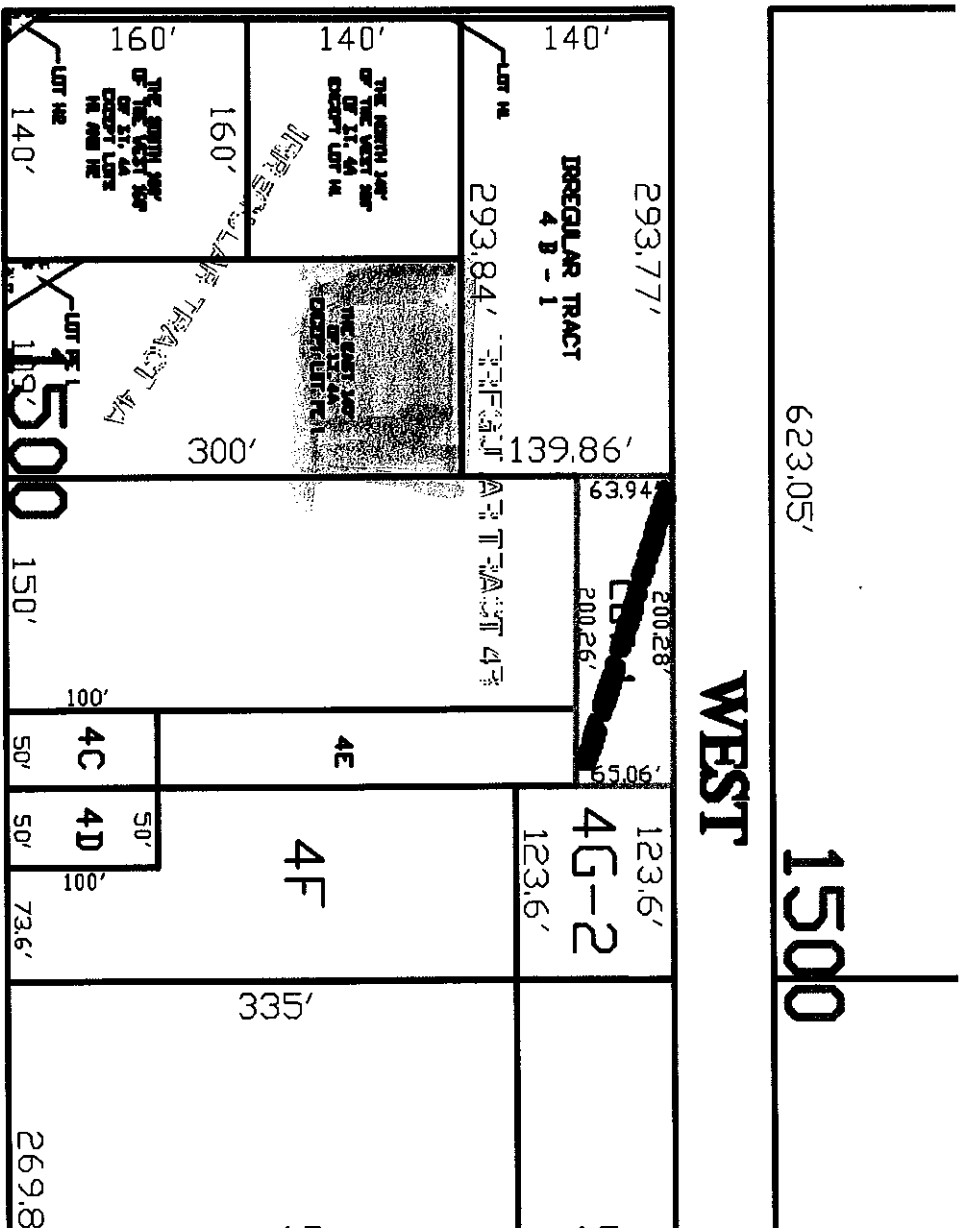
Witness the 3rd day of Dec.

Melody Hohn
Melody Hohn

The undersigned officer, personally appeared: Paul J. Johnson

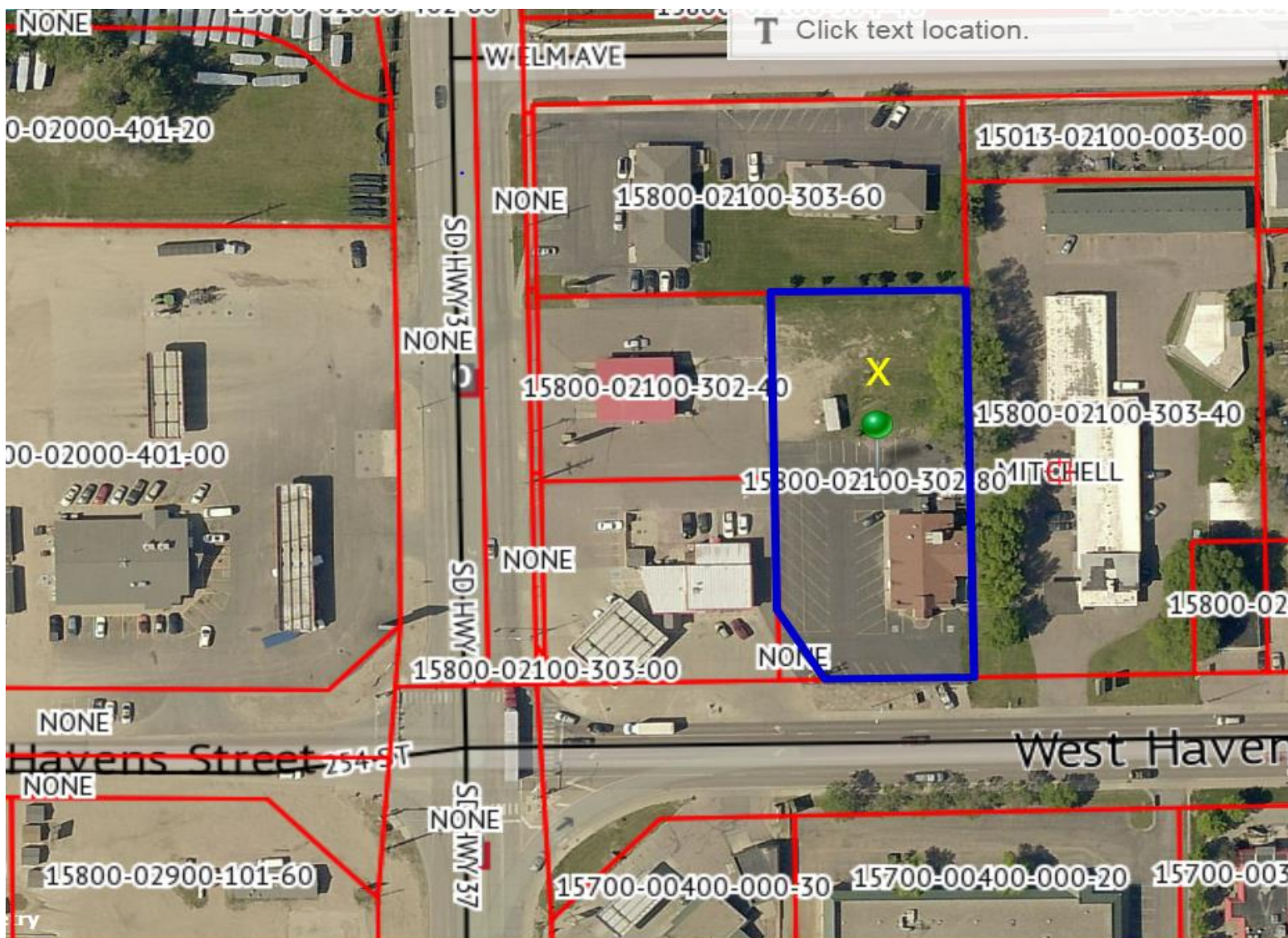


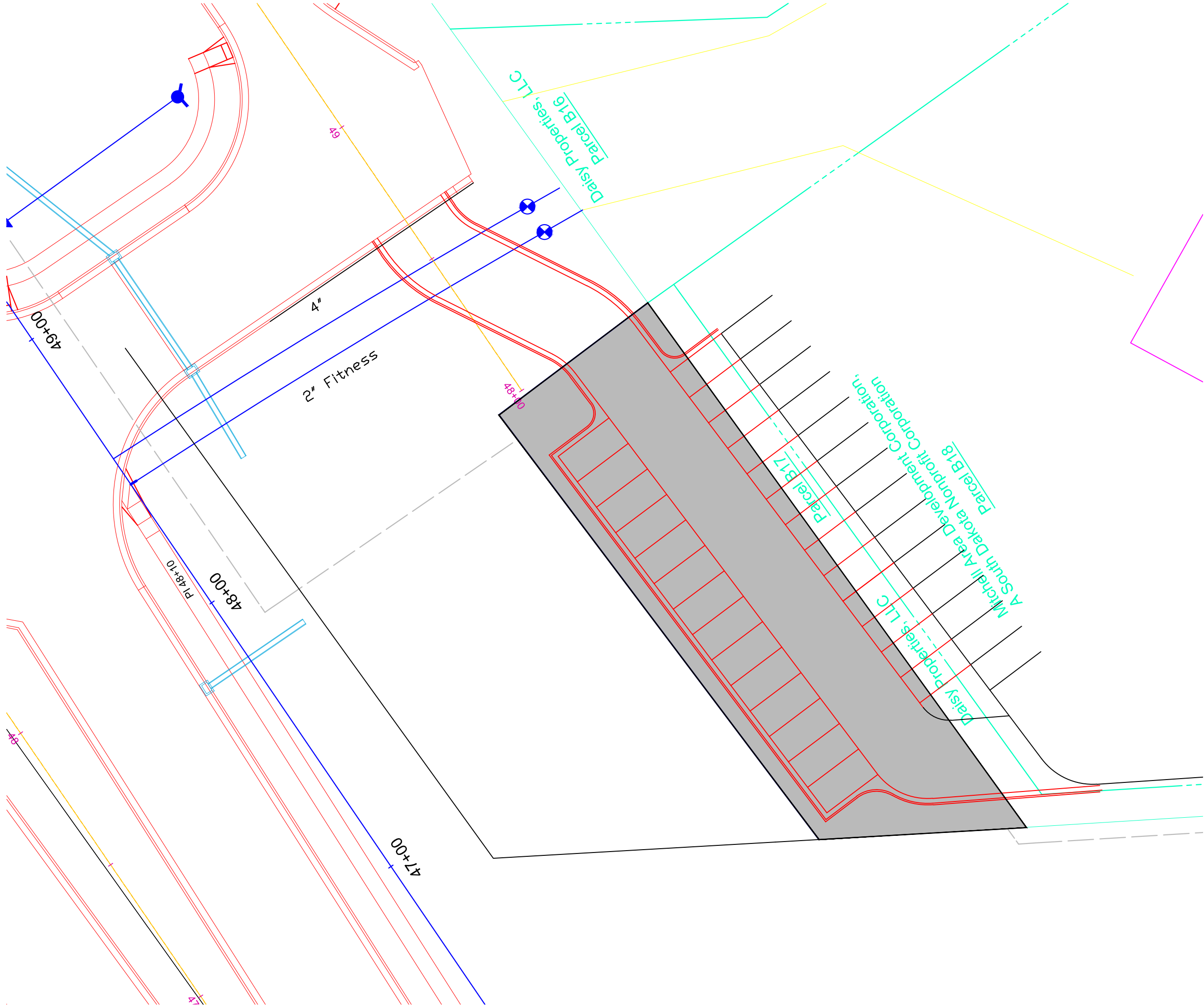
SOUTH OLHMAN STREET



WEST

HAVEN







Click a starting point.

15680-00000-001-00

Former Campbell's

NONE

15023-00000-001-00

15800-01500-301-20

15320-

Pool

West 12th Avenue

W-12TH AVE

N MAIN ST

North Main Street

MITCHELL

E-12TH AVE

N LAWLER ST

avenue

0-00400-017-00

15610-00400-001-00

15610-00300-012-00

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15610-002

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15610-00300-009-00

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ORDINANCE NO. _____
AN ORDINANCE ADOPTING PROVISIONS FOR SMALL CELL WIRELESS COMMUNICATION FACILITIES; ADDING A NEW CHAPTER _____ TO THE MUNICIPAL CODE OF THE CITY OF _____; PROVIDING FOR PERMITS; AND PROVIDING FOR AN EFFECTIVE DATE.

Section 1. Purpose

The provisions of this Chapter shall be known as the Small Cell Facilities Regulations. It is the purpose of these provisions to develop standards and siting criteria, and to establish removal procedures. It is further the purpose of these provisions:

- (a) To establish regulations and siting standards for small cell wireless communication facilities (SCFs), whether in the public right-of-way or on other public or private property, in a manner that will protect the public's health, safety, and welfare and maintain the aesthetic integrity of the community;
- (b) To facilitate the provision of wireless communication services;
- (c) To provide regulations which are specifically not intended to, and shall not be interpreted or applied to: (1) prohibit or effectively prohibit the provision of wireless services; (2) unreasonably discriminate among functionally equivalent service providers; or (3) regulate wireless communication facilities and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

Section 2. Definitions

As used in this Chapter, the following terms shall have the meanings set forth below:

Antenna. Any communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services. This definition does not include broadcast radio or television antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Applicant. Any person who submits an application as or on behalf of a Wireless Provider.

City. The city of _____, South Dakota.

Collocation. The mounting or installation of an antenna or a small cell facility on a pre-existing Utility Pole or SCF Support Structure and/or modifying a Utility Pole or SCF Support Structure for the purpose of mounting or installing an antenna or SCF on that Utility Pole or SCF Support

Structure in order to transmit and/or receive radio frequency signals for communications purposes.

Department. The Department of Public Works of the City.

Director. The director of the Department.

FCC. The Federal Communications Commission.

Height. The vertical distance measured from the base of the structure at grade to the highest point of the structure, including the antenna.

Network Interface Device. The telecommunications demarcation and test point separating the wireless facility and the wireline backhaul facility.

Person. An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

Public Right-of-Way or Right-of-Way or ROW. The surface and space above and below any street, sidewalk, avenue, boulevard, alley, lane, easement, right-of-way, highway or thoroughfare open for public use in which the city has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public.

Small Cell Facility or SCF. A Wireless Facility that either meets both of the following qualifications or is within a Stealth Design that is consistent with the design guidelines:

1. Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three cubic feet; and
2. Each provider's equipment enclosures shall be no larger than 28 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meters, concealment measures, Network Interface Device, underground enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switches, cable, conduit, and vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.
3. The facility is mounted (i) on a Utility Pole or SCF Support Structure 50 feet or less in height including antennas; (ii) on a Utility Pole or SCF Support Structure no more than 10 percent taller than other adjacent structures of substantially similar design; or (iii) on an existing Utility Pole or SCF Support Structure where the facility does not extend the height of the Utility

Pole or SCF Support Structure on which it is to be located to a height of more than the greater of either 50 feet or the height of such Utility Pole or SCF Support Structure plus 10 percent.

Small Cell Facility Permit. A permit authorizing the installation, construction, and maintenance of a Small Cell Facility.

Small Cell Facility Support Structure or SCF Support Structure. A structure, such as a monopole; tower, either guyed or self-supporting; billboard; building; or other existing or proposed structure designed to support or capable of supporting SCFs. Such term does not include a Utility Pole.

Stealth Design. Any SCF that is integrated as an architectural feature of a Utility Pole or changes a support structure design so that the purpose of the Utility Pole or SCF Support Structure for providing wireless services is not as readily apparent. This includes the ability of SCFs to blend into the neighborhood environment at a given location and camouflage or conceal the SCF subject to applicable law.

Utility Pole. A pole or similar structure that is or may be used in whole or in part to facilitate telecommunications, electric distribution, lighting, traffic control, signage, or to carry lines, cables, or other similar function, or for location or collocation of Small Cell Facilities. Such term does not include a SCF Support Structure.

Wireless Facility. Equipment at a fixed location that enables Wireless Services between user equipment and a communications network, including (i) equipment associated with wireless communications; (ii) radio transceivers; (iii) antennas; (iv) coaxial or fiber optic cable located on a Utility Pole or SCF Support Structure or immediately adjacent to the Utility Pole or SCF Support Structure or directly associated with equipment located on the Utility Pole or SCF Support Structure; (v) regular and backup power supplies and rectifiers; and comparable equipment, regardless of technological configuration. The term includes SCFs but does not include (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities.

Wireline Backhaul Facility. An above-ground or underground wireline facility used to transport communications data from a wireless facility network interface device to a network.

Wireless Infrastructure Provider. A person that builds or install wireless facilities or Utility Poles or SCF Support Structures, but not a Wireless Provider.

Wireless Provider. A Wireless Infrastructure Provider or a Wireless Services Provider.

Wireless Services. Any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile, provided to the public.

Wireless Services Provider. A person who provides wireless services.

Section 3. Applicability

- A. Administrative Review: For all SCF installation types, including new and replacement Utility Poles and SCF Collocations to existing SCF Support Structures or existing Utility Poles, the Department shall issue permits in accordance with the terms and procedures set forth in this Chapter.
- B. Zoning Exemption: All SCF installations shall be exempt from general zoning restrictions unless a provision of such zoning code is explicitly cited by a section of this Chapter.
- C. Exempt Activities: This Chapter shall not apply to: (i) routine maintenance; or (ii) the replacement of an SCF, Utility Pole, or SCF Support Structure which was previously approved pursuant to this Chapter with another SCF, Utility Pole, or SCF Support Structure that is the same or substantially similar.

Section 4. Siting and Collocation Criteria

- A. SCFs shall:
 - (i) be located on existing structures, such as Utility Poles or SCF Support Structures; or
 - (ii) be located on public property and structures if expected performance of the SCF would be substantially similar to a proposed site and the controlling public entity agrees to the placement.
- B. Applications for locations other than those listed above may not be approved administratively. However, an Applicant who has shown a good faith effort to locate within one of the above listed locations but has found it not to be technically feasible, economically feasible, or to be an undue burden to so locate shall submit a written statement indicating the reasons why said locations are not feasible and may request a Special Review of the application as provided under Section 5(C)(2).

Section 5. Small Cell Facility Permits

- A. Permit Required. An SCF Permit shall be required to install any SCF, Utility Pole, or SCF Support Structure. Applications for an SCF Permit shall be considered and approved pursuant to the provisions of this Section. An SCF Permit shall be deemed to include all other municipal permits which may be necessary to place and construct an SCF, Utility Pole, or SCF Support Structure as represented in an approved application.

The granting of an SCF Permit pursuant to this Chapter is not a grant of any franchise. All applications shall first be reviewed administratively and then, if not eligible for administrative approval, may be considered via the Special Review process.

B. General Review Provisions

1. Review Period: The Department must approve or deny all SCF Permit applications pursuant to this Chapter (i) within ninety (90) days after the date an application is filed for an SCF Permit Application to place a new Utility Pole or SCF Support Structure, or (ii) within sixty (60) days after the date an application is filed for collocation of an SCF. If approved, the permit shall be issued on or before day ninety (90) or sixty (60). If no permit is issued on or before day ninety (90) or sixty (60), whichever is applicable, the application shall not be deemed approved.
2. Tolling of Review Period: An Applicant and the Department can mutually agree in writing to toll the applicable review period at any time.
3. Final Decision. By the end of the applicable review period, the City must advise the applicant in writing of its final decision. If the final decision is to deny the application, the final decision shall state the basis for denial, including specific code provisions on which the denial is based.
4. Nondiscrimination: The Department shall process all applications under this Chapter in a nondiscriminatory manner.

C. Small Cell Facility Permit Process

1. Administrative Review Process: An application submitted pursuant to this subsection shall be reviewed as follows:
 - a. Submission of Application: Applicant shall submit a complete SCF Application accompanied by any corresponding application fee to the Department.
 - b. Review for Completeness: The Department shall review the application for completeness following submittal. The Department must provide a written notice of incompleteness to the Applicant within ten (10) days of receipt of the SCF Permit Application, clearly and specifically delineating all missing information. Information specified in a notice of incompleteness shall be limited to that which is relevant to the approval or denial of an Application under this Chapter. Applicant shall then submit all information specified in the notice of incompleteness. The applicable

review period shall restart at zero on the date the Applicant provides the missing information to complete the application. For subsequent determinations of incompleteness, the applicable review period shall be tolled if the Department provides written notice within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information.

- c. An application may not be approved via the Administrative Review Process unless the proposed SCF, Utility Pole, or SCF Support Structure meets all applicable location and design requirements of this Chapter. An application may be approved via the Administrative Review Process if the proposed SCF, Utility Pole, or SCF Support Structure meets all applicable location and design requirements of this Chapter.

2. Special Review Process:

- A. An Applicant may request a Special Review of an application which is not eligible for administrative approval due to not meeting the applicable location or design requirements of this Chapter and where compliance with said requirements is not technically feasible, economically feasible, or poses an undue burden.
- B. Special Reviews shall be conducted by the Planning and Zoning Commission in a public meeting. Notice of such meeting shall comply with SDCL 1-25-1.1. The review hearing and final decision shall take place within the applicable sixty (60) or (90) day review period.
- C. The Planning and Zoning Commission must approve, by majority vote of all members, an SCF application upon finding that the proposed installation has no reasonable alternative which better fits the location and design requirements of this Chapter. The Commission shall deny an application which does have a reasonable alternative which better fits the location and design requirements of this Chapter. For an alternative to be reasonable, the alternative must be technically feasible, economically feasible, and must not impose an undue burden.
- D. After the Planning and Zoning Commission has made a determination on an SCF application, the Department shall issue an SCF permit if the application was approved. If denied, the Department shall provide a notice of final decision including the grounds upon which the Planning and Zoning Commission denied the application.

D. Small Cell Facility Permit Applications

1. Application Form: The Director shall designate or develop an Application Form for an SCF Permit. The Director shall allow for Applications to be consolidated pursuant to this Section. Each Applicant must submit a complete Application for each permit desired.
2. Consolidated Applications: Each SCF Permit request in a Consolidated Application shall be considered individually.
3. All applications for the construction of a Utility Pole or other SCF Support Structure submitted under this Chapter shall include the following:
 - a. Photo Simulations. A photo simulation of a reasonably representative installation type that includes to-scale visual simulations that show unobstructed before-and-after construction daytime views from at least two angles, together with a map that shows the location of the proposed installation, including all equipment. A separate set of such materials shall be required for any design which is materially different.
 - b. Noise Study. A noise study for the SCF if (a) requested by the city, (b) the proposed site is within twenty (20) feet of a residential structure, and (c) the application proposes to utilize equipment which may produce a persistent or chronic audible tone at such distance.
 - c. Radio Frequency (RF) Emissions Compliance. Whereas the FCC has exclusive jurisdiction to establish radio frequency emission safety standards, the City may only require a written report or statement, signed and sealed by a South Dakota licensed engineer or signed by a competent employee of the applicant, which explains compliance with the RF emissions limits established by the FCC.
 - d. Utility Pole or SCF Support Structure Inspection: For Collocations or modifications to existing Utility Pole or SCF Support Structure, Applicant shall inspect the structure to which a proposed SCF would be attached and determine, based on a structural engineering analysis by a South Dakota registered professional engineer, the suitability of the Pole or structure for the Applicant's purposes. The structural engineering analysis shall be submitted to the Department and shall certify that the Utility Pole or SCF Support Structure can reasonably support the proposed SCF.
 - e. New and Replacement Utility Poles and SCF Support Structures. For new and replaced Utility Poles and SCF Support Structures, Applicant shall submit foundation drawings demonstrating the foundation and new or

replacement Utility Pole or SCF Support Structure can reasonably support the SCF.

- f. Design Justification. A clear and complete written analysis that explains how the proposed design complies with the applicable design standards under this Section. A complete design justification must identify all applicable design standards under this Chapter and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.
- g. Site Plan. A site plan clearly indicating the location, type, height and width of the proposed pole, on-site land uses and zoning, adjacent land uses and zoning, distances to nearby objects, structures, and property lines, adjacent roadways, proposed means of access, utility runs, and other information which may uniquely impact the SCF's fitness for a particular site.
- h. Aesthetic Compliance Summary. An explanatory statement of aesthetic considerations and requirements factored into Applicant's design such as stealthing, finishing, fencing, landscaping, or other elements which may impact the visual appeal of the SCF.
- i. A clear and complete written statement of purpose which shall minimally include: (1) a description of the technical objective to be achieved; (2) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (3) full-color signal propagation maps.

E. General Standards

- 1. Utility Pole Design: An existing Utility Pole may be replaced or extended to accommodate Small Cell Facilities subject to the following requirements:
 - a. Replacement and New Utility Poles: Replacement Utility Poles shall be substantially similar to the height, width, color, and material of the original or adjacent Utility Poles. The City may approve minor deviations up to the minimum additional height needed to allow for the required clearance from electrical wires to accommodate an antenna or antennas and may also approve minor deviations up to fifty percent (50%) of the pole width at its base, not to exceed thirty inches (30"), when housing equipment is placed within the pole base. Replacement Utility Poles shall be located as close as possible to the existing Utility Pole, and the replaced Utility Pole shall be removed. Replacement street lights and poles shall

conform to the adopted streetscape design standard for the zoning district. New Utility Poles shall mimic the design of a Replacement Utility Pole that is most suitable for the proposed location.

- b. Existing Utility Pole: The height of any antennas at the top of an existing Utility Pole or any pole extender, shall be no higher than the greater of either 50 feet or the height of such Utility Pole or SCF Support Structure plus 10 percent.
- c. Equipment Concealed: Whenever technically feasible, antennas, cabling, and equipment shall be fully concealed within a Pole, or otherwise camouflaged to appear to be an integrated part of a Pole.
- d. Flush-Mounting and Pole-top Antennas: When technically feasible, antennas will be flush-mounted on a Pole, which means either: (1) mounted directly to the pole with no gap other than that which may be required for screws, bolts, or similar hardware; (2) located at the top of the Pole; or side mounted by mounted arm as needed for required clearance . Canisters attached to the top of a Pole shall not exceed the diameter of the Pole, unless technically required, and then shall not be more than fifty percent (50%) greater than the diameter of the Pole at the point of attachment or up to 16” in diameter, whichever is greater.
- e. Antenna Design: Each antenna shall be located in an enclosure of no more than three (3) cubic feet in volume, or in case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three (3) cubic feet. Antennas and antenna enclosures shall be designed such that at least four (4) antennas or antenna enclosures having a collective volume of no more than twelve (12) cubic feet may be collocated on the same Pole.
- f. No Illumination: Small Cell Facilities shall not be illuminated except for small status LEDs installed by the manufacturer. Such LEDs may not be of a nature which is likely to distract a vehicle or pedestrian due to brightness, size, blinking, other similar condition, or any combination thereof.
- g. Generators and Battery Backup: Generators are not permitted for Small Cell Facilities. A battery backup may be permitted if it is concealed consistent with the provisions of this Chapter.
- h. Cabinet Location and Dimensions: Any equipment cabinet for a Small Cell Facility shall utilize the smallest cabinet enclosure that is technically

feasible to enclose the equipment. Disconnect switches may be located outside of the primary equipment cabinet.

- i. **Painting, Coating, or Finish Material:** The exterior of an SCF shall be painted, coated, or be of a material which draws minimal attention from an observer. For example, an SCF painted in blaze orange or safety green is highly likely to draw attention and be distracting. An SCF finished with polished aluminum is more likely to be distracting than an SCF finished with matte grey paint.
2. **Ground-Mounted Small Cell Facilities:** To allow full use of the Public Right-of-Ways by pedestrians, bicyclists, and other users, and particularly in urban design districts and underground districts, all ground-mounted equipment shall to the extent feasible be undergrounded in a vault meeting the City's Construction Standards, incorporated into street furniture, or concealed in the base of a Pole, and shall comply with the Americans with Disabilities Act (ADA), City construction standards, and any applicable State or federal regulations in order to provide clear and safe passage within the Public Right-of-Ways. The location of any ground-mounted equipment, including, to the extent undergrounding such equipment is not technologically feasible, street furniture, replacement Poles, and any new Poles shall comply with the Americans with Disabilities Act (ADA), City Construction Standards, and any applicable State or federal regulations in order to provide clear and safe passage within the Public Right-of-Ways.
3. **Building-Mounted Small Cell Facilities:** Antennas may be mounted to a building if the antennas do not interrupt the building's architectural theme.
 - a. **Balanced Design:** Small Cell Facilities attached to the side or roof of buildings shall employ a symmetrical, balanced design for all façade-mounted antennas. Subsequent deployments on a structure's exterior will be required to ensure consistent design, architectural treatment and symmetry with any existing Small Cell Facilities on the same side of the structure.
 - b. **Architectural Preservation:** The interruption of architectural lines or horizontal or vertical reveals is prohibited unless demonstrated to be unavoidable.
 - c. **Complementary Architecture:** New architectural features, such as columns, pilasters, corbels, or other ornamentation that conceal an antenna or antennas, may be used only if the new feature complements the architecture of the existing building.

- d. Mounting Brackets: Small Cell Facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.
 - e. Concealment: Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed conduit, cabling and wiring is prohibited.
 - f. Matching Paint: Small cell facilities, and all visible mounting hardware, shall be painted and textured to match adjacent building surfaces.
 - g. Permission: All installations of a Small Cell Facility shall have permission from the Utility Pole or SCF Support Structure owner to install the Small Cell Facility on such Utility Pole or SCF Support Structure. Nothing in this Section affects the need for an Applicant seeking to place a Small Cell Facility on a Utility Pole or SCF Support Structure that is not owned by the City to obtain from the owner of the Utility Pole or SCF Support Structure any necessary authority to place the Small Cell Facility, nor shall any provision of this Section be deemed to affect the rates, terms, and conditions for access to or placement of a Small Cell Facility on a Utility Pole or SCF Support Structure not owned by the City. This Section does not affect any existing agreement between the Department and an entity concerning the placement of Small Cell Facilities on any City-owned Utility Pole or SCF Support Structure.
4. Preferred Projecting or Marquee Sign: Small Cell Facilities replicating a projecting or marquee sign must comply with the City's sign regulations. A sign permit is required unless the Small Cell Facilities are placed entirely within an existing sign. All antennas shall be completely screened by the façade of the sign. All cables and conduit to and from the sign shall be routed from within a building wall. Cable coverings may be allowed on the exterior of the building wall in limited circumstances and in situations where the coverings are minimally visible and concealed to match the adjacent building surfaces.
 5. Parking Lot Lighting: Small Cell Facilities are permitted as attachments to or replacements of existing parking lot light fixtures. The design of the parking lot light fixture shall be in accordance with applicable Municipal Code and Construction Standards, except that a pole extender up to five (5) feet in height may be utilized.
 6. Purely Aesthetic Standards: To the extent that a requirement is purely aesthetic, an SCF applicant shall not be required to meet a more burdensome standard than

other users of the right-of-way. Other users of the right-of-way shall meet the purely aesthetic standards of this Chapter for new or replacement deployments to the extent which is technically and economically feasible.

Section 6. Permit Conditions

- A. A permittee shall comply with all applicable law, including, but not limited to, applicable historic preservation ordinances of the City and utility undergrounding requirements.
- B. Issuance of any permit pursuant to this Chapter shall not confer any ownership rights in the Public Right-of-Way.
- D. No permittee may construct, operate, place, locate, or maintain any Small Cell Facility so as to interfere with the use of the Public Right-of-Way by the City, the general public, or any other persons authorized to use or be present in or upon the Public Right-of-Way.
- E. No permittee or affiliate thereof shall take any action or cause any action to be done which may impair or damage any ROW, or other property located in, on or adjacent thereto. Any and all Public Right-of-Way, public property, or private property that is disturbed or damaged by the permittee or affiliate thereof during the construction, operation, maintenance, or repair of a Small Cell Facility shall be promptly repaired by permittee. In the event permittee fails to make such repairs within a reasonable time period, the City may complete or cause to be completed the repair work and bill the actual and reasonable costs to the permittee plus a fine in an amount to be set by the City Council by resolution. Public property, private property, and Public Right-of-Way must be restored to a condition as good as or better than before the disturbance or damage occurred to the satisfaction of the City.
- F. In the event of an unexpected repair or emergency, the owner of a Small Cell Facility may commence such repair and emergency response work as required under the circumstances, provided it shall notify the City promptly before such repair or emergency work, or the next day thereafter if advance notice is not practicable.
- G. Each permittee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state, and local requirements.
- H. Every Small Cell Facility shall be subject to the right of periodic inspection by the City, after notification to the Small Cell Facility owner. Each operator must respond to requests for information regarding its system and plans for the system as the City may from time to time issue, including requests for information regarding its plans for construction, operation and repair of the Public Right-of-Way.

- I. The City retains the right and privilege, after notifying the Small Cell Facility owner, to move any Small Cell Facility located within the Public Right-of-Way as the City may determine to be necessary, in response to any public health or safety emergency.
- J. To the extent permitted by South Dakota law, the City shall not be liable for any damage to any Small Cell Facility within the Public Right-of-Way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the Public Right-of-Way by or on behalf of the City, except to the extent such damage is due to or caused by the City's negligence or willful misconduct.
- K. Restoration shall comply with the following:
 - 1. When a permittee, or any person acting on its behalf, does any work in or affecting any Public right-of-way, it shall, at its own expense, promptly remove any obstructions therefrom and restore such right-of-way or property to the same, or better than the, condition which existed before the work was undertaken. As used in this section, "promptly" shall mean as soon as required by the City in the reasonable exercise of the City's discretion.
 - 2. If weather or other conditions do not permit the complete restoration required hereunder, the permittee shall temporarily restore the affected right-of-way or property. Such temporary restoration shall be at the permittee's sole expense, and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
 - 3. A permittee or other person acting on its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the right-of-way.
 - 4. Restoration and repair work shall be the responsibility of the permittee for two (2) years after completion thereof. Such work shall be limited to further restoration or repairs arising out of deficient completion of the initial work but shall not include further restoration or repairs arising out of events not related to the initial completion of the work.
- L. The site and Small Cell Facilities and SCF Support Structures, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans. This includes, but is not limited to, mowing, weeding and trimming.

M. All graffiti on Small Cell Facilities must be removed at the sole expense of the permit holder after notification by the City to the owner or operator of the small cell facilities.

N. Certificate of Completion

1. A certificate of completion will only be granted upon satisfactory evidence that the SCF was installed in substantial compliance with the approved plans and photo simulations.
2. If it is found that the SCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall make any and all such changes required to bring the SCF installation into compliance within the timeframe established by the municipality. Failing to obtain a Certificate of Completion within the applicable timeframe shall cause a permit to be revoked.

O. Compliance: All Small Cell Facilities must comply with all standards and regulations of the FCC and any State or other federal government agency with the authority to regulate small cell facilities.

P. Applicant Insurance

Each applicant shall secure and maintain the following liability insurance policies insuring the applicant and including the City, and its elected and appointed officers, officials, boards, commissions, agents, representatives and employees as additional insureds, as their interest may appear under this section except workers compensation and employer's liability, which insurance shall be maintained during and for one (1) years after termination of the permit:

1. General liability insurance with limits of:
 - a. \$5,000,000 per occurrence for bodily injury (including death); and
 - b. \$2,000,000 for property damage resulting from any one accident; and
 - c. \$5,000,000 general aggregate including premise-operations, products/completed operations, and explosion, collapse and underground hazards.
2. Automobile liability for owned, non-owned and hired vehicles in the amount of \$2,000,000 combined single limit for each accident for bodily injury and property damage
3. Worker's compensation within State statutory limits and employer's liability insurance with limits of \$1,000,000 each accident/disease/policy limit.

Upon receipt of notice from its insurer(s) Applicant shall provide City with thirty (30) days prior written notice of cancellation of any required coverage.

The applicant shall obtain, furnish to the City replacement insurance policies meeting the requirements of this Section.

Section 7. Relocation

All small cell facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel on or safety of the public right-of-way or obstruct any legal use of the City's right-of-way or uses of the right-of-way by utilities or other providers. If, in the reasonable determination of the City, a small cell facility needs to be relocated for reasons of public health, safety or welfare, or ROW maintenance or construction projects, then the small cell facility shall be relocated at the owner's or operator's expense. If the owner or operator of the small cell facility fails to complete any relocation as required by the City within ninety (90) days of mailing of written notice, the City may commence and complete the relocation and charge the owner or operator of the small cell facility for the actual and reasonable costs of the relocation, including reasonable any attorneys' fees and expenses, as well as a fine in an amount to be set by the City Council by resolution.

Section 8. Removal of Abandoned Small Cell Facilities, Utility Poles, and Other SCF Support Structures

Any SCF, Utility Pole or other SCF Support Structure that is not operated for a continuous period of twelve (12) months or is no longer authorized by a Small Cell Facility Permit or other permit shall be considered abandoned, and the owner of such SCF, Utility Pole or other SCF Support Structure shall so notify the City in writing and remove the same within ninety (90) days of giving notice to the City of such abandonment. Failure to remove an SCF, Utility Pole, or other SCF Support Structure within said ninety (90) days shall be grounds for the City to remove the SCF, Utility Pole, or SCF Support Structure, at the owner's expense, including all costs and reasonable attorneys' fees, as well as a fine in an amount to be set by the City Council by resolution. If there are two (2) or more users of a single Utility Pole or SCF Support Structure, then these provisions shall not become effective until all users cease using the Utility Pole or SCF Support Structure.

Section 9. General Indemnification

In addition to and distinct from the insurance requirements of this Chapter, each applicant hereby agrees to defend, indemnify and hold harmless the City and its officers, officials, boards, commissions, employees, agents and representatives from and against any and all damages, losses, claims and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the acts, omissions, failure to act or misconduct of the applicant or its affiliates in the construction, installation, operation,

maintenance, repair, removal or replacement of the SCF. This Section shall not require the Applicant to indemnify or hold harmless the City for any losses, claims, damages, and expenses arising out of or resulting from the negligence or willful misconduct of the City.

Section 10. Appeal Process

If a permit is denied in the administrative review process, then the applicant may appeal that decision to the Planning Commission for further consideration. If that same permit or a request for a Conditional Use Permit is denied by the Planning Commission, then the applicant may appeal that decision to the City Council for further consideration.

Section 11. Application Fees and Rates

- A. Application Fees. A permit for SCF including a Utility Pole or SCF structure shall be limited to \$500 for up to five SCFs, and \$100 for each additional SCF on the application.
- B. Recurring Fees. A wireless provider authorized under this Chapter to place SCFs and any related Utility Pole or SCF Support Structure in the ROW shall pay to the City a ROW access fee of \$270 per site per year to cover all recurring fees, including the cost of ongoing monitoring of each site for compliance with the terms of this Chapter and for the health, safety, and welfare of the general public, and for the attachment of SCF's to City-owned or controlled Utility Poles or SCF Support Structures. Recurring fees shall be paid annually on or before January 15th of each year beginning the calendar year after installation.
- C. The application fee and the recurring fees under this Section shall be the sole compensation that the Wireless Provider shall be required to pay the City. However, the rates of either the application fee or the recurring fees may be increased due to extreme circumstances but in no case may such fees exceed a reasonable approximation of the City's actual and reasonable costs.

Section 12. Severability

The various parts, sentences, paragraphs, sections and clauses of this Chapter are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

Section 13. Conflict

These Small Cell Facilities Regulations are in addition to other regulations in the Municipal Code. In case of a conflict between regulations, the more restrictive provisions shall apply.

WHEREUPON, a motion was passed and the Ordinance declared adopted this ____ day
of _____, 2018.

CITY OF _____, SOUTH DAKOTA

Mayor

ATTEST:

City Clerk

FIRST READING:

SECOND READING:

PUBLISHED:

EFFECTIVE THE ____ DAY OF _____, 2018.