

CITY OF MITCHELL
CITY PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS CITY HALL
612 N MAIN ST
MAY 24, 2021, 12:00 PM (NOON)

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **Declaration Of Conflicts Of Interests**
4. **APPROVE AGENDA:**
5. **APPROVAL OF MINUTES: MAY 10, 2021**

Documents:

[PLANNINGCOMMINUTES5102021.PDF](#)

6. **SCHEDULE NEXT MEETING: JUNE 14, 2021**
7. **PLAT: LOT 2, BLOCK 5 OF THE WOODS FIRST ADDITION, A SUBDIVISION OF THE EAST 1/2 OF THE SW 1/4 SECTION 23, T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA**

Documents:

[AERIAL2B5WOODS.PDF](#)
[PLATL2B5WOODS.PDF](#)

8. **REZONING LOTA-3, SUB OF LOT A, SW 1/4 SECTION 27, 103-60, EX. S 128 FEET THEREOF, CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA (201 & 201 1/2 E. NORWAY AVE FROM TWC TO R4**

Documents:

[HEEZENPLAN.PDF](#)
[APPHEEZEN.PDF](#)
[NEIGHBORSHEEZEN.PDF](#)
[NOHHEEZEN.PDF](#)
[LETTERSHEEZEN.PDF](#)
[AERIALHEEZEN.PDF](#)

9. **HEARING AND RECOMMENDATION ON AN ORDINANCE CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS**

Documents:

[ORDINANCE O2021-06 CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS \(003\).PDF](#)
[CANNABIS ZONING MAPS.PDF](#)

10. **OTHER BUSINESS:**

11. 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.

12. 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
MAY 10, 2021**

NOT APPROVED

Chairman Larson called the May 10, 2021 City Planning Commission Meeting to order at 12:00 PM in the Council Chambers, City Hall, 612 N Main St, Mitchell, SD.

Members Present: Larson, Sonne, Molumby, Jirsa, Osterloo, Genzlinger, and Allen
Member Absent: Penney

Staff Present: Putnam, Schroeder, Croce, T. Johnson, J. Johnson, London, Ellwein, and Mayor Everson

Declaration of Conflicts of Interests: none

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

Approval of Minutes: Motion by Jirsa, seconded by Sonne to approve the minutes of the April 26, 2021 meeting. All members present voting aye, motion carried.

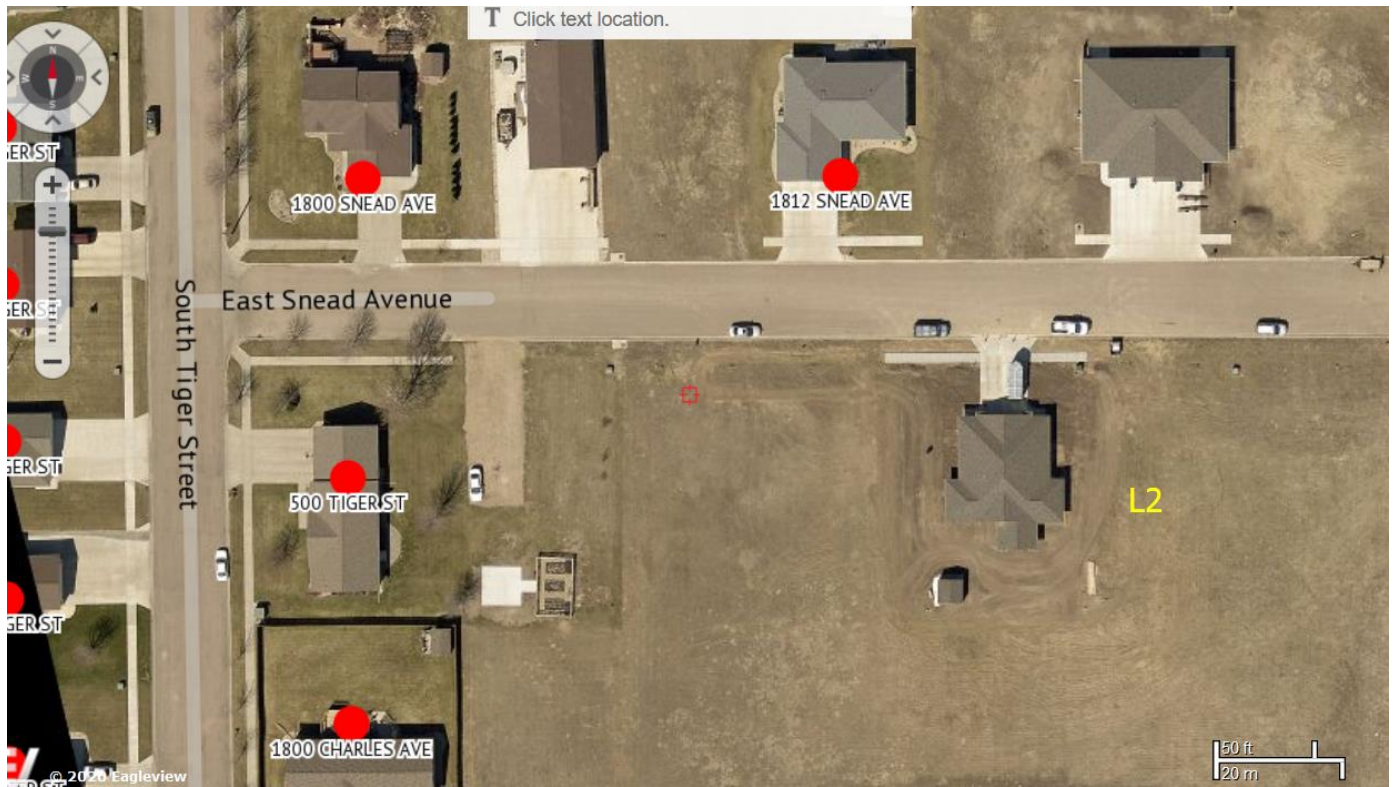
Schedule the Next Meeting: Motion by Molumby, seconded by Genzlinger to schedule the next meeting for May 24, 2021. All members present voting aye, motion carried.

Conditional Use Permit: Erika Hennessey has applied for a conditional use permit to operate a family residential child care center in her home at 1325 Palmer Place, legally described as Lot 5 & W 3' of Lot 4, Gardenview Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R2 Single Family Residential District. The applicant was not present. The commission reviewed the comments from the neighboring property owners. A public notice was provided to the *Mitchell Republic* and letters to the affected property owners were mailed. Motion by Jirsa, seconded by Osterloo to recommend the Board of Adjustment approve the conditional use permit with three conditions; 1. Pass a fire inspection, 2. The permit is not transferable, and 3. If the business ceases to operate then a new permit will be required. Roll Call Vote: Jirsa yes, Sonne yes, Molumby yes, Osterloo yes, Genzlinger yes, Larson yes, Penney absent. 6 yes 0 no 1 absent. Motion carried.

Hearing and Recommendation: An ordinance amending 10-9B-3, Woodland Heights Planned Development District, Lot 7, Block 1 of Woodland Heights Subdivision from Subarea A, which is designated only for two-family dwelling to Subarea B which is designated only for single family. Dan Boehmer, Manager of Ethan Co-op indicated that he has a client that wishes to construct a single family home on this lot. Putnam stated this is amending the PUD and moving one parcel to another Subarea. A public notice has been provided to the *Mitchell Republic* and letters to the neighbors were sent. Motion by Osterloo, seconded by Jirsa to recommend approval of this ordinance. All members present voting eye.

Public Input: Neil Putnam, City Planner, announced that he will be retiring next week and this will be his last planning commission meeting. He state he is very grateful for the opportunity and wish his successor well.

Chairman Larson adjourned the meeting at 12:15 PM.





1 Inch = 100 Feet

LEGEND

- = FOUND IRON MONUMENT
- = SET 5/8" X 18" REBAR WITH PLASTIC CAP NO. 8702
- 100' (P) = PLATTED BEARING OR DISTANCE
- 100' = MEASURED BEARING OR DISTANCE
- = SET NAIL
- ▲ = SET SURVEY SPIKE
- 4.00 CH (P) = PLATTED DISTANCE IN CHAINS
- = FOUND NAIL
- ◇ = SET 3/8" X 12" SPIKE W/WASHER P.W.-8702
- WM = WITNESS MONUMENT

NOTE:
THIS SURVEY WAS PERFORMED WITHOUT THE REPORT OF A TITLE REPORT OR TITLE COMMITMENT. EASEMENTS OF RECORD WERE NOT RESEARCHED AND ARE NOT SHOWN UNLESS OTHERWISE NOTED.

PREPARED BY: PAUL J. REILAND, R.L.S.
2100 NORTH SANBORN BLVD. - P.O. BOX 398
MITCHELL, SOUTH DAKOTA 57301
PHONE: (605) 996-7761

BEARINGS ARE BASED ON AN ASSUMED COORDINATE SYSTEM USING GPS GRID BEARINGS/GROUND DISTANCES

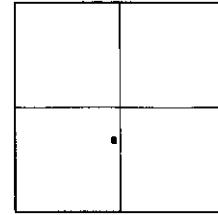
EASEMENTS WITHIN LOT 2, BLOCK 5 DEDICATED BY THIS PLAT:

FRONT ALONG SNEAD AVENUE = 5' UTILITY EASEMENT

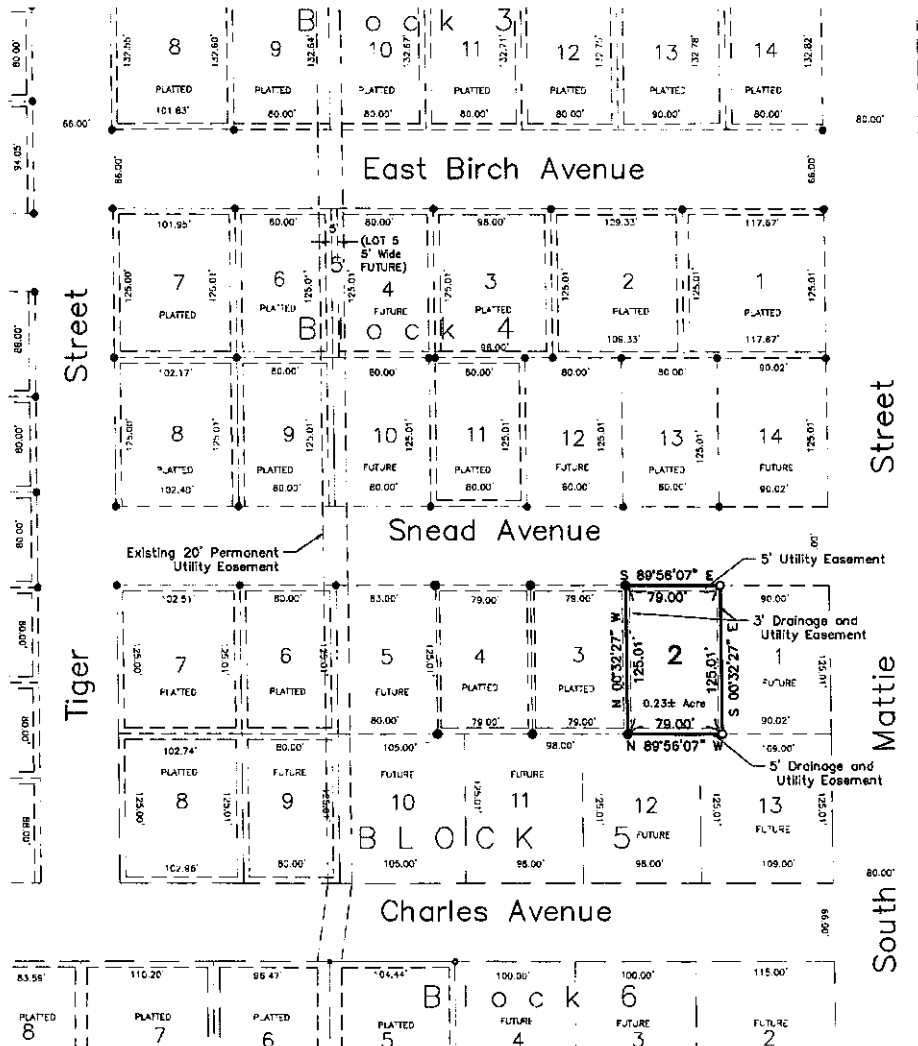
SIDES AS SHOWN = 3' DRAINAGE AND UTILITY EASEMENT

REAR AS SHOWN = 5' DRAINAGE AND UTILITY EASEMENT

SEC. 23, T 103 N, R 60 W



LOCATION MAP
SCALE: 1" = 3000'



A PLAT OF LOT 2, BLOCK 5 OF THE WOODS FIRST ADDITION, A SUBDIVISION OF THE EAST 1/2 OF THE SW 1/4 OF SECTION 23, T 103 N, R 60 W OF THE 5TH P.M., CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA

SURVEYOR'S CERTIFICATE

I, Paul J. Reiland, the undersigned, do hereby certify that I am a Registered Land Surveyor in and for the State of South Dakota. At the request of CJM Consulting, Inc., a South Dakota corporation, as owner, and under its direction for purposes indicated therein, I did on or prior to May 11, 2021, survey those parcels of land described as follows: LOT 2, BLOCK 5 OF THE WOODS FIRST ADDITION, A SUBDIVISION OF THE EAST 1/2 OF THE SW 1/4 OF SECTION 23, 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 _____ day of _____, 2021.

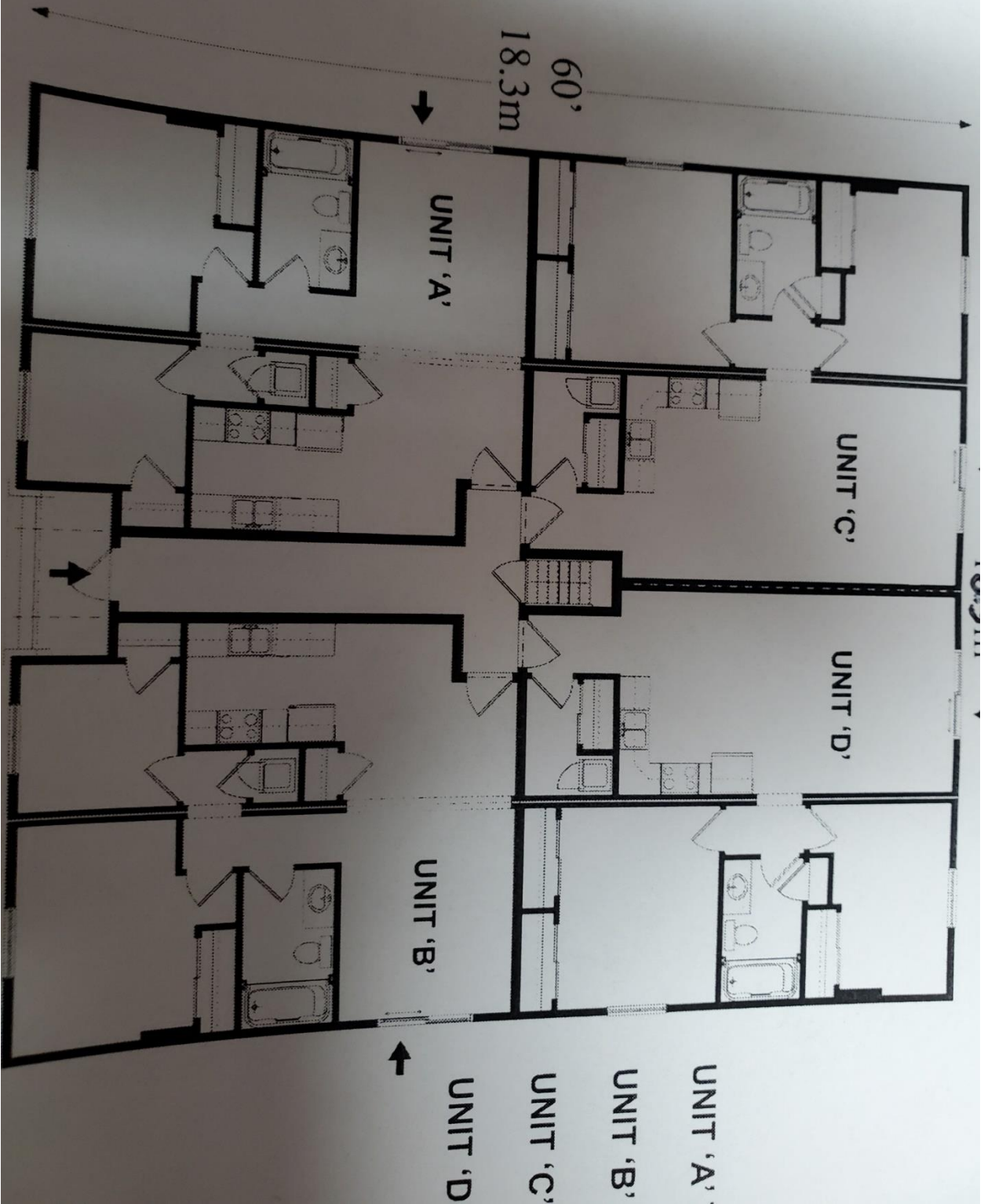
Registered Land Surveyor #SD6702

SPN

& Associates
Engineers, Planners and Surveyors
2100 North Sanborn Blvd. - P.O. Box 398 Mitchell, South Dakota 57301
Phone: (605) 996-7761 Fax: (605) 996-0016



& Associates
Engineers, Planners and Surveyors
 2100 North Sanborn Blvd. - P.O. Box 398 Mitchell, South Dakota 57301
 Phone: (605) 996-7761 Fax: (605) 996-8015



APPLICATION FOR REZONING

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

The undersigned applicant(s) Jason Heezen DVM is making an application for a rezoning request pursuant to the provisions of the City of Mitchell Zoning Code as amended.

This Application is for the following described real property:

Lot A-3, Sub of Lot A, SW ¼ Section 27, 103-60, Ex. S 128 feet thereof, City of Mitchell, Davison County, South Dakota (201 & 201 ½ E. Norway Ave)

Applicant(s) Jason Heezen DVM of the above described real estate, request the zoning classification of his property to be changed from TWC Transportation, Warehousing, and Commercial District to R4 High Density Residential District, for the purpose of converting the building into apartments.

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 City Council. Furthermore, the applicant requests the City of Mitchell to publish the appropriate notice(s) in accordance with the City of Mitchell's Ordinances.

Dated this 4 of May, 2021.



APPLICANT



OWNER

JASON HEEZEN
25640 386TH AVE
PLANKINTON SD 57368

SCHUH RENTAL PROPERTIES
41280 ROCK CREEK DR
MITCHELL SD 57301

CITORI HOLDINGS
177 S HARMON DR
MITCHELL SD 57301

ROGER KLOCK
615 W NORWAY AVE
MITCHELL SD 57301

FRED NAGEL
301 HOMER CT
MITCHELL SD 57301

ATC SEQUOIA LLC
PO BOX 723597
ATLANTA GA 31169

TLK RENTALS LLC
419 E JUNIPER AVE
MITCHELL SD 57301

JAMES RIVER HOUSING
1221 E HAVENS AVE
MITCHELL SD 57301

NOTICE OF HEARING

TO: Mitchell City Planning Commission, Mitchell City Council, and the General Public:

The City Planning Commission has scheduled a public hearing and action on the following ordinance. The hearing will be Monday, March 24, 2021 at 12:00 pm, the City Council will consider 1st Reading of the Ordinance on Monday, June 7, 2021 at 6:00 pm and 2nd Reading and Adoption on Monday, June 21, 2021 at 6:00 pm, all meetings will be held in the Council Chambers, City Hall, 612 N Main St, Mitchell, SD. All interested parties may attend and provide testimony.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MITCHELL, THAT CHANGES THE ZONING DISTRICT CLASSIFICATION OF THE REAL PROPERTY LEGALLY DESCRIBED AS;

Lot A-3 Sub of Lot A, SW ¼, Section 27, 103 N, R 60 W Ex. The S 128 feet thereof, City of Mitchell, Davison County, South Dakota from TWC Transportation, Warehousing, and Commercial District to R4 High Density Residential District and the official zoning map is to be changed to reflect the same.

BE IT ORDAINED BY THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA:

Section 1: That changes the zoning district classification of the real property legally described as;

Lot A-3 Sub of Lot A, SW ¼, Section 27, 103 N, R 60 W Ex. The S 128 feet thereof, City of Mitchell, Davison County, South Dakota from TWC Transportation, Warehousing, and Commercial District to R4 High Density Residential District and the official zoning map is to be changed to reflect the same.

Section 2. The City Finance Officer shall publish notice of this ordinance and the same shall be effective 20 days after the completed publication thereof, unless the referendum shall be invoked as provided by law.

Passed and approved this the _____ day of _____, 2021.

MAYOR

ATTEST:

FINANCE OFFICER

{SEAL}

FIRST READING: June 7, 2021
SECOND READING: June 21, 2021
ADOPTION: June 21, 2021

Published three times: April 16 & 23, 2020 and May 7, 2020

Approximate Costs:

City of Mitchell | Public Works
612 North Main Street | Mitchell, SD 57301
Phone: 605-995-8433 | Fax: 605-995-8410
CityOfMitchell.org



May 12, 2021

TO WHOM IT MAY CONCERN:

YOU ARE HEREBY NOTIFIED, That Jason Heezen has requested that the property located at 201 E Norway Ave, legally described as Lot A-3 Sub of Lot A, SW ¼, Section 27, T 103 N, R 60 W Ex. The S 128 feet thereof, City of Mitchell, Davison County, be rezoned from TWC Transportation, Warehousing, and Commercial District to R4 High Density Residential District. The owner wishes to convert the building to apartments. .

YOU ARE FURTHER NOTIFIED that the City Planning Commission will be conducting a hearing on this request May 24, 2021 at 12:00 pm (Noon) and the City Council will hold first reading of this ordinance chance on June 7, 2021 at 6:00 pm and second reading and final adoption on June 21, 2021 at 6:00 pm, all meetings will be in the Council Chambers, City Hall, 612 N Main St, Mitchell, South Dakota. All interested parties may attend the hearings.

I/we Allen + Patty Schuk
✓Property Owner(s)

Address 41280 Rock Creek Drive

X Approve

_____ Disapprove

Comments: Isn't the best fit in a TWC zone

No response will indicate approval

City of Mitchell | Public Works
612 North Main Street | Mitchell, SD 57301
Phone: 605-995-8433 | Fax: 605-995-8410
CityOfMitchell.org



May 12, 2021

TO WHOM IT MAY CONCERN:

YOU ARE HEREBY NOTIFIED, That Jason Heezen has requested that the property located at 201 E Norway Ave, legally described as Lot A-3 Sub of Lot A, SW ¼, Section 27, T 103 N, R 60 W Ex. The S 128 feet thereof, City of Mitchell, Davison County, be rezoned from TWC Transportation, Warehousing, and Commercial District to R4 High Density Residential District. The owner wishes to convert the building to apartments.

YOU ARE FURTHER NOTIFIED that the City Planning Commission will be conducting a hearing on this request May 24, 2021 at 12:00 pm (Noon) and the City Council will hold first reading of this ordinance change on June 7, 2021 at 6:00 pm and second reading and final adoption on June 21, 2021 at 6:00 pm, all meetings will be in the Council Chambers, City Hall, 612 N Main St, Mitchell, South Dakota. All interested parties may attend the hearings.

I/we Lori Kummer Lori Kummer
Property Owner(s)

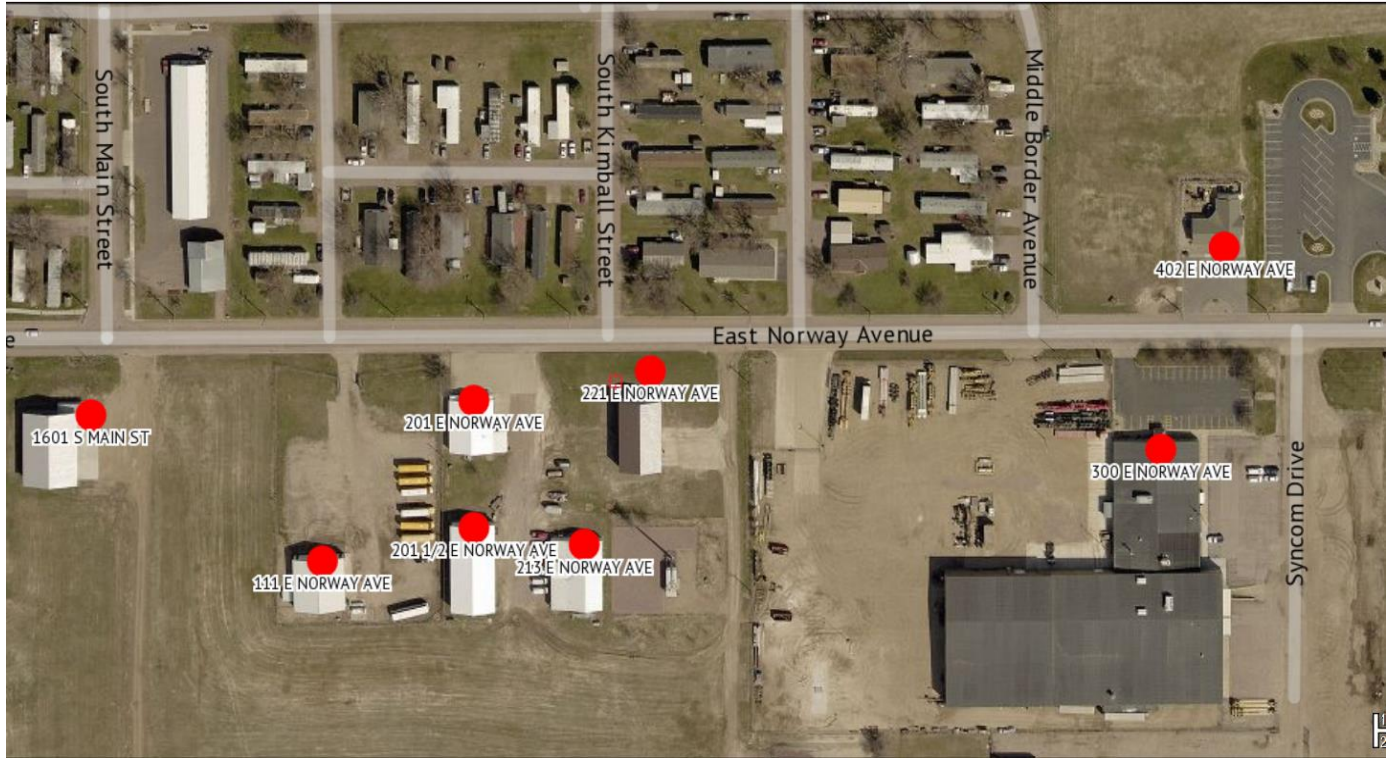
Address 217 E Norway

☐ Approve ☒ Neutral
☐ Disapprove

Comments:

I'm not opposed; however, high density residential in the middle of commercial + transportation does not seem to be an appropriate fit or location. As long as my use prevails, then I'm okay with the rezoning of 201 E. Norway Ave.

No response will indicate approval



ORDINANCE #O2021-

AN ORDINANCE CREATING ZONING REGULATIONS FOR CANNABIS ESTABLISHMENTS.

WHEREAS, Initiated Measure 26 (IM 26), regarding Medical Cannabis, was passed by South Dakota voters in November 2020; and

WHEREAS, the provisions of IM 26 have been codified under South Dakota Codified Laws (SDCL) Chapter 34-20G; and

WHEREAS, such state statutes explicitly provide local governments with certain regulatory authority over aspects of cannabis establishments, including zoning matters; and

WHEREAS, the City of Mitchell has the lawful authority to regulate other aspects relating to cannabis establishments by and through its use of existing municipal powers.

BE IT ORDAINED BY THE CITY OF MITCHELL, SOUTH DAKOTA AS FOLLOWS:

Section 1.

That a NEW CHAPTER be ADDED to the Mitchell City Code under Title 9 – Zoning Regulations – to read as follows:

“Chapter 15 – Cannabis Establishments

9-15-1: Intent:

In order to minimize the negative effects cannabis establishments have on adjacent land uses, and to promote the public health, safety and general welfare of the city, the city council adopts the following regulations, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods. Adoption of these regulations is not intended to unreasonably restrict the opportunity of cannabis establishments to locate in the city, but is for the purpose of preventing a concentration of certain cannabis establishments in any one area.

9-15-2: Definitions:

Unless an alternative definition is explicitly stated in this section, this chapter utilizes the definitions for cannabis related terms which are defined by SDCL 34-20G-1.

BLIGHTED AREA: an area characterized by traits such as dilapidation, overcrowding, deterioration, dangerous structures, unsanitary, inadequate infrastructure, nuisance, or other factors which inhibit the growth and development of an area.

CANNABIS (or MARIJUANA): all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state, except for drying or curing and crushing or crumbling. The term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

CANNABIS CULTIVATION FACILITY: a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

CANNABIS DISPENSARY: a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

CANNABIS PRODUCT MANUFACTURING FACILITY: a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

CANNABIS TESTING FACILITY: a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

CANNABIS ESTABLISHMENT: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

MENTAL HEALTH FACILITY: an entity engaged in diagnosing, treating, caring for, or counseling people requiring mental health services, including substance abuse disorders, but which does not regularly provide other types of personal health services.

NON-LICENSED CANNABIS ESTABLISHMENT: an entity which would otherwise meet the definition of a cannabis establishment but which is not legally licensed.

9-15-3: Regulations Relating to Cannabis Cultivation Facilities:

No cannabis cultivation facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis cultivation facility shall be considered a permitted use in the following districts: HB highway oriented business district; TWC transportation, warehousing, and commercial district; and I industrial district. A cannabis cultivation facility shall be considered a conditional use in the following districts: CB central business district.

9-15-4: Regulations Relating to Cannabis Testing Facilities:

No cannabis testing facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis testing facility shall be considered a permitted use in the following districts: HB highway oriented business district; TWC transportation, warehousing, and commercial district; and I industrial district. A cannabis testing facility shall be considered a conditional use in the following districts: CB central business district.

9-15-5: Regulations Relating to Cannabis Product Manufacturing Facilities:

No cannabis product manufacturing facility shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis product manufacturing facility shall be considered a permitted use in the following districts: HB highway oriented business district; TWC transportation, warehousing, and commercial district; and I industrial district. A cannabis product manufacturing facility shall be considered a conditional use in the following districts: CB central business district.

9-15-6: Regulations Relating to Cannabis Dispensaries:

A. No cannabis dispensary shall be owned or operated at a location within the city's zoning jurisdiction except as provided by this section. A cannabis dispensary shall be considered a permitted use in the following districts: HB highway oriented business district; TWC transportation, warehousing, and commercial district; and I industrial district. A cannabis dispensary shall be considered a conditional use in the following districts: CB central business district.

B. No cannabis dispensary shall operate within three hundred feet (300') of an educational institution, religious institution, childcare center (excluding family residential childcare), preschool, nursery, detention facility, or mental health facility. No cannabis dispensary shall operate within one thousand feet (1,000') of another cannabis dispensary. Distances shall be measured from the closest point of the property lines but excluding public rights of way. Such buffer distance requirements may be waived via the variance process so long as the zoning district for the proposed location would be allowed if the applicable buffer distance requirement were waived.

9-15-7: Additional Variance and Conditional Use Factors for Cannabis Establishments:

In addition to any other factor which may be properly considered in the grant or denial of a variance or conditional use permit, the following factors shall be relevant for variance and conditional use requests relating to cannabis establishments:

1. That the proposed land use is consistent with the intent of this chapter and will not be contrary to public interest or injurious to nearby properties.
2. That the proposed land use will not cause or contribute to the formation or expansion of blighted area.
3. That all applicable ordinances and regulations will be observed.

9-15-8: Prohibited Districts for Cannabis Establishments:

A. All types of cannabis establishments are prohibited in the following districts: all R residential districts, NS neighborhood shopping, PL public lands and institutions district, CN conservation district, UD urban development district, and all PUD planned unit development districts.

B. All non-licensed cannabis establishments are prohibited in all zoning districts.

Section 2.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3.

The City Finance Officer shall cause notice of adoption of this ordinance to be published in the official newspaper and twenty (20) days after the completed publication, unless the referendum is invoked, this ordinance shall become effective.

Adopted by majority vote of the Mitchell SD City Council in regular session this ____ day of _____, 2021.

Robert B. Everson, Jr. – Mayor

Attest:

(seal)

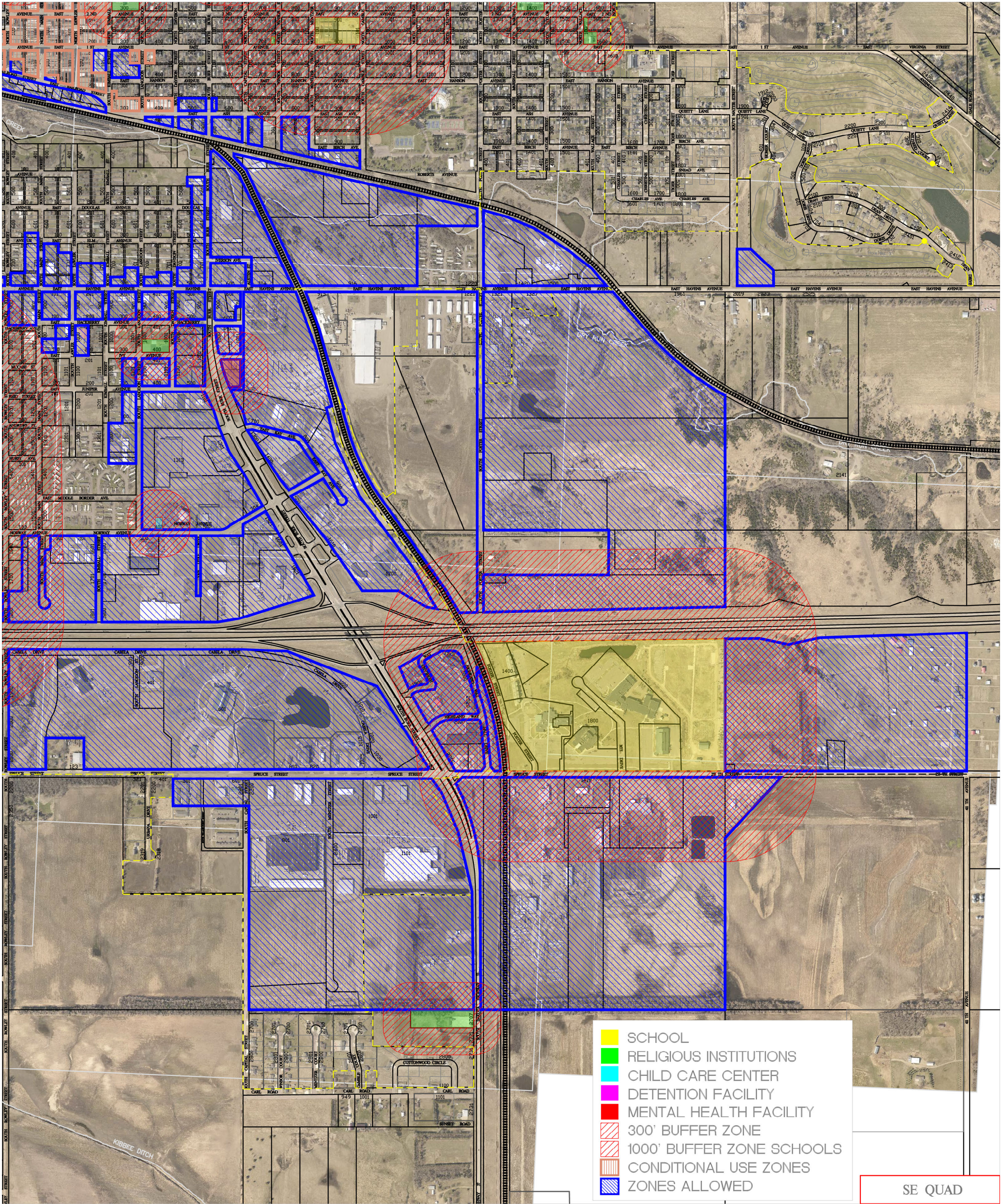
Michelle Bathke – City Finance Officer

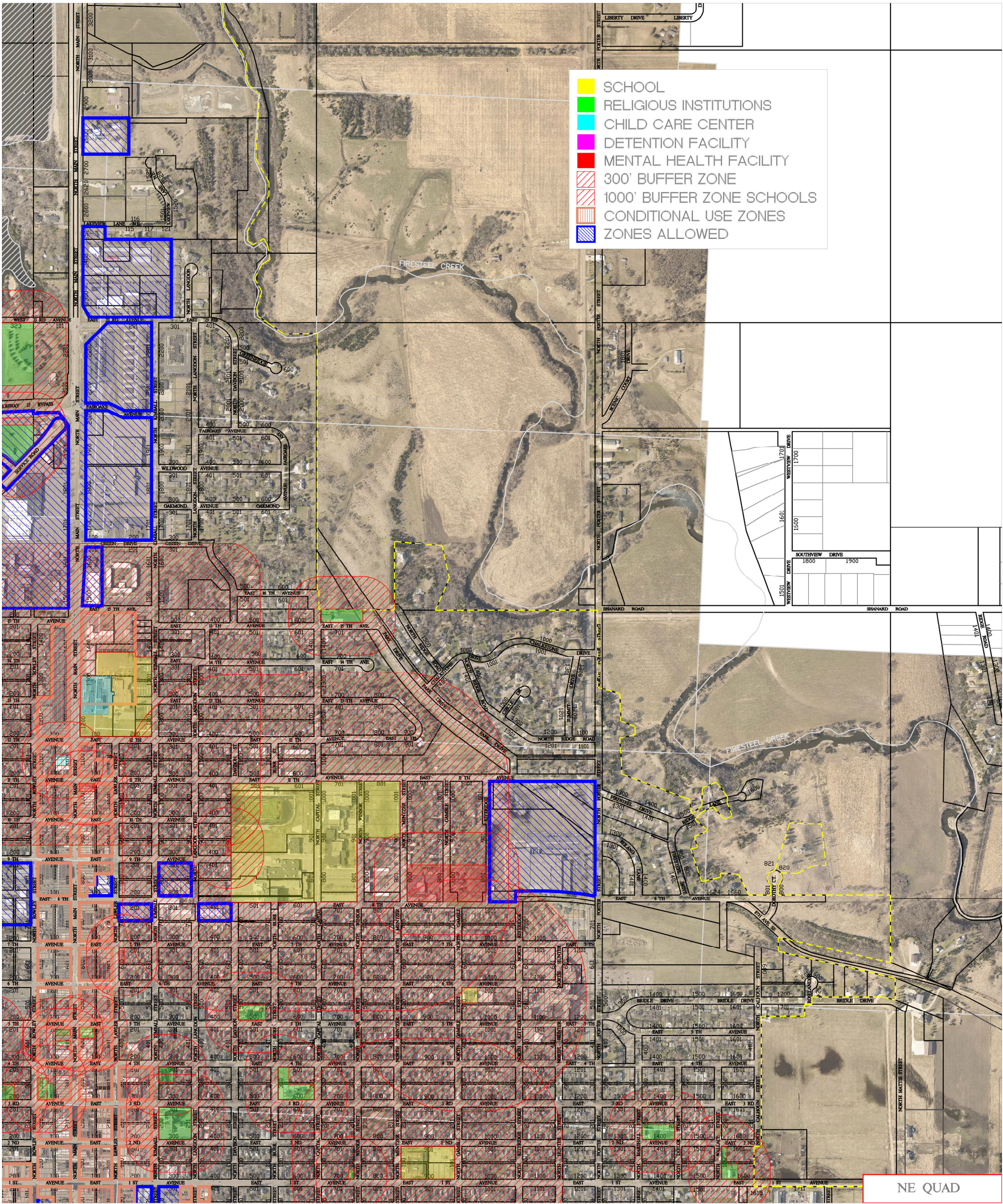
First Reading: _____

Second Reading: _____

Adoption: _____

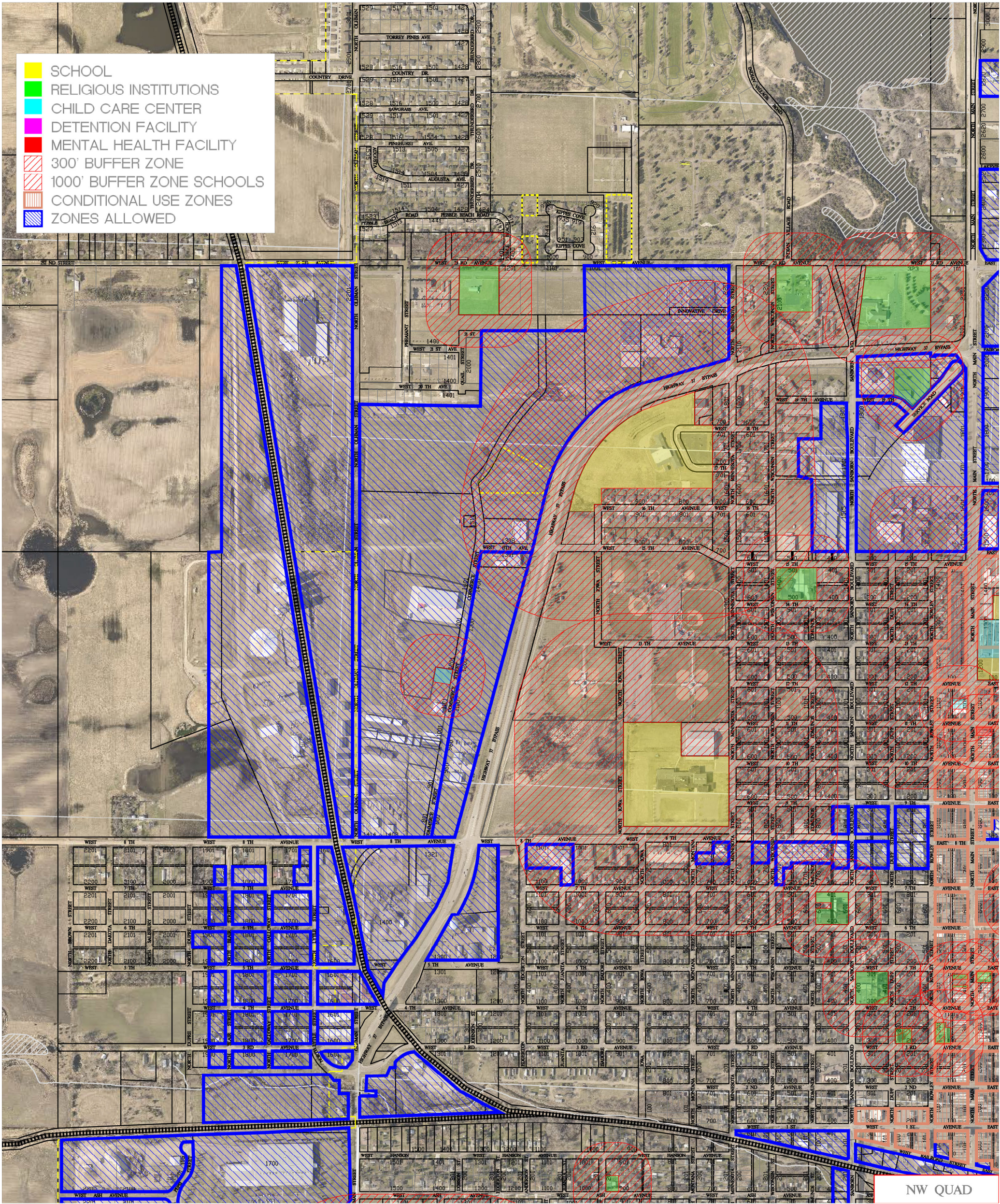
Published: _____





NE QUAD

- SCHOOL
- RELIGIOUS INSTITUTIONS
- CHILD CARE CENTER
- DETENTION FACILITY
- MENTAL HEALTH FACILITY
- 300' BUFFER ZONE
- 1000' BUFFER ZONE SCHOOLS
- CONDITIONAL USE ZONES
- ZONES ALLOWED



NW QUAD

