



HEART OF THE BLACK HILLS™

City Hall - 243 Deerfield Road, Hill City, SD 57745, (605) 574-2300

Planning & Zoning Commission Agenda

Tuesday, January 21, 2020 at 5:30 P.M.



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- Dial: 1-605-313-5111, Enter Access Code: 574154#

1) Call to Order

2) Pledge of Allegiance

3) Roll Call – (Attendance of Commissioners to Determine Quorum)

4) Consent Calendar: (Approval via roll call vote)

- A. Approval of January 21, 2020 Agenda
- B. Approval of January 6, 2020 Minutes

5) Public Comment:

Members of the public may speak to any matter not on the agenda. Remarks are limited to two minutes per speaker.

6) Discussion Items:

- A. Bull Run Subdivision Planned Unit Development Discussion
- B. #P2020-02, Parcel #5230276012, Bull Run Subdivision, Preliminary Plat
- C. Transient Merchants & Temporary Structures – Amending HCMC Title 3 Chapter 3.09
- D. Amending Chapter 10: Sign Regulations within Title 9 of HCMC – Definition of Abandoned.

7) Reports:

- A. Commissioners
- B. P&Z Liaison
- C. Development Services Coordinator
 - 1. B2019-27 – Design change
 - 2. C2018-06 – Review of Conditional Use Permit

Adjournment – Next Meeting is Monday, February 3, 2020 @ 5:30pm

Hill City
Planning and Zoning Commission Minutes
January 06, 2020

- I. **Call to Order** - At 5:34 PM Chairman, Dale Householder called the meeting to order.
- II. **Pledge of Allegiance** - The Pledge of Allegiance was recited.
- III. **Roll Call** – Development Services Coordinator Dani Schade called the roll. Commissioners Rollie Noem, Dale Householder, and Keith VanNess were present. Also in attendance was Mayor Kathy Skorzewski. Commissioner Connie Wolters and Alderman Bill Miner joined in via conference phone and from the community, 12 attendees signed the attendance sheet. Commissioner Ron Walker and Account Clerk Betsy Brose were absent.
- IV. **Consent Calendar** –
Wolters didn't remember the Commission making a final decision on who was making the determination of the 50% deterioration of signs (although the 4th paragraph of page 4 of the 12/16/19 minutes stated, *"The Commissioners agreed to make the change from the code official (Schade) determining the 50% deterioration of signs to the Commission making that determination."* Householder confirmed that no final decision was made, rather it's up for later discussion when they discuss the sign ordinance again. Noem made a motion to approve the Consent Calendar, including approval of the 01/06/20 Agenda and the 12/16/19 Minutes; seconded by VanNess. Schade conducted a roll call vote; Wolters, Noem, Householder and VanNess all vote aye. Motion carried.
- V. **Public Comment** – None.
- VI. **Action Items** –
 - A. **Parcel #5125426003, Building Permit #B2019-27, New Home**
This permit is for a new 2-bedroom, 2½-bath single family home that will consist of 1,106 sq. ft. on the main level, a 720 sq. ft. finished basement and a 720 sq. ft. attached garage. Decks will total 432 sq. ft. The lot size is 5.28 acres. Boden Construction will be the contractor. This home will be built on the adjacent lot to the east of the Bodensteiner home and will be used as a full time residence. Schade explained, when Boden Construction built 23968 Thompson, they added an additional water line and paid the tap fee for this future house. This new home will have an onsite wastewater system; no sewer connection will be necessary since the sewer connection would be over 200' away from the lot line. City will be inspecting the septic system as it is installed; deep hole inspection occurred on Dec. 10th. Setback requirements for wastewater system components are 10' per Pennington County. The setback for the absorption field will be 35'. Setbacks for lots zoned R1 are 25' front/side/rear. Setbacks per site plan will be 176' on front, 100' west side, 171' east side and over 600' to the rear.

Noem made a motion to approve; seconded by Wolters. All members in favor; motion carried.

B. 209 Main Street, Non-conforming Electronic Sign

Schade provided a brief history of the electronic sign atop the Hill City Café. A sign permit was originally approved in 2009. However in recent years the sign has not been operating; Google Map pictures indicated the sign was working in 2011, however in August of 2013 it appeared dormant; other businesses/people have also reported the sign has not been operating for quite some time. Back in October 31, 2018 Schade sent a letter to the owner regarding the sign, which is now considered a non-conforming sign - it's been abandoned/blank for over 1 year and electronic signs are no longer allowed in the Central Business District (CBD). Subsequent letters were sent out, with not much response. Shortly before Christmas 2019, the sign started running again. Since then, Schade has been getting calls wondering why there is an electronic sign in the CBD as they are not allowed per code. When the Phase 3 building (remodeling) permit came to P&Z, it was approved with the condition that the non-conforming abandoned electronic sign is removed from the awning before work commences. The sign was in a dormant status when the condition was placed. Letters were sent to owner on 10/31/18, 12/6/19 and 12/17/19 giving her 10 days to remove it. Since the owner has not removed it as required, Schade asked the P&Z Commission how they would like her to proceed.

Patricia Houska, owner of the Hill City Café, explained when they remodeled the Café in 2012 she lost the remote to change the sign. Houska stated Schade came up to her when she was trying to keep her awning and told her she had to get that sign going before the first of the year (2020) because the P&Z was changing their permits (though Schade had previously noted she'd asked her to get it working by the first of the year 2019). Householder asked Houska if she was aware that it wasn't working for quite a long time. Houska stated she was aware of that - she lost the remote and didn't want to display incorrect information (she thought it read that they opened at 4 AM for hunters as stated during hunting season years ago). Householder confirmed with Houska that the information being displayed is still inaccurate (as it reads its 77 degrees). Houska will have to take it apart to find a serial number so she can get a new remote for it. She mentioned some other electronic signs in town that aren't on; however it was noted that those businesses aren't currently open and according to code, if it's non-functional for 12 consecutive months then it becomes noncompliant. Houska stated she never paid attention to that, but she paid \$10K for the sign, she'd like to keep it on and it's helped her business since she's turned it back on.

VanNess thought it'd be good to give Houska some more time to get the sign to work correctly. Houska said it works. Noem, doesn't think an electronic sign has a place in our CBD, but it's there and was grandfathered in, however it's in violation because it wasn't in use for 12 consecutive months, therefore it has to come under the requirements of the new ordinance (2014), which state those signs are not allowed in the CBD; it lost the grandfathering when it was non-functioning for 12 consecutive months. Wolters agreed with Noem, stating they have seen quite a number of items relative to the grandfather-clauses – if they allow for this they set precedence and would have to do it with others. She believes they need to stick with what was determined, which is what a lot of the merchants want as well. Wolters reiterated it was a condition of the Phase 3 building permit, in which work couldn't be started until that sign (which was not working at the time) was taken down. Houska stated nobody told her that. Householder explained, it was

made very explicit to her contractor, (who was present at that meeting) and he agreed to it. Houska stated he never told her anything about that; she would never agree to it and would never take it down. Houska stated Schade came up while she was working on the awning and told her she had to get it going and she got it going. Wolters feels they would be doing a disfavor to themselves if they allowed it and bypassed the law. Bill Miner, Alderman, referenced state code, and wondered if proper notice was provided to owner; this was confirmed - notice was initially sent on October 31, 2018. Victor Alexander, from the public, questioned the “non-functionality” of the sign and stressed that business owners need to have a little slack in order to make a living, especially in the winter months. Randy Berger, from the audience, noted they’re making rules for the CBD and right away they’re already starting to backpedal on something that was grandfathered in. He also mentioned that she’s still been in business, regardless of whether the sign is working or not; there’s no need for a blinking sign. Mayor Skorzewski provided an explanation of how the removal of this sign is tied to a building permit, which is why is it at the P&Z level, noting there is a process to be followed, in the event Houska decides to bring it to City Council.

Noem made a motion to affirm the conditions of the building permit which includes the requirement that the sign comes down; seconded by Wolters. Schade conducted a roll call vote; Noem, aye; Householder, nay; Wolters, aye; VanNess, nay. Motion dies; (building permit stands as originally issued).

C. 427 Main Street, Permanent Sign Permit #S2020-01, 3 Wall Signs

This sign permit is for 3 wall signs. Currently there are no signs on this structure. Schade noted, all the measurements of structure/windows & doors were supplied by the applicant/building owner and reviewed the calculations. The Applicant is requesting two signs on the front wall – (1) at 2.5’ x 10’ with a square footage of 25’ and (1) at 2.5’ x 8’ with a square footage of 20 sq. ft. Total square footage of signs requested for this front wall is 45 sq. ft. – well below the allowable 184 sq. ft. Applicant is asking for a 2.5’ x 10’ sign (25 sq. ft.) on the north side wall, which is well below the allowable 290.9 sq. ft. for signage on this wall. VanNess wondered if it was customary for the applicant to supply the measurements. Schade stated she typically she goes out and takes measurements and explained she looks in the property file first to see if signage has been allowed before and looks for prior measurements – sometimes if there was sign in place before that was the same size, a new permit would not be necessary. In this case, there has not been a same size sign for this property and there were some discrepancies in the measurements the applicant provided vs. what was in the file prior. Therefore she reached out to the applicant to see if he could verify those measurements or if she could come out and measure because of the discrepancy. The applicant verified the measurements as he put on the application. Although Householder had no question of the applicant’s figures, he was concerned that if it’s common practice for staff to go out and measure, then that should be continued; rather than making an exception or setting a precedence of going along with someone else’s figures. Skorzewski explained, in this instance it wouldn’t make a difference regarding which calculations were used, because it wouldn’t affect the outcome, as both sets of measurements would allow for the signs requested.

Wolters made a motion to approve the sign permit (but would like to talk more about this later); seconded by Noem. Wolters stated she's noticed a lot of work going on at this building but has never seen a building permit come through for any renovations. Schade confirmed there has not been a permit submitted for this renovation and doesn't know what is going on. VanNess feels since it's customary, Schade should go and measure the building and would like it tied to the motion. Wolters was in agreement; seconded by Noem. Motion was amended to approve, with the stipulation the figures are verified. All members in favor, motion carried.

Skorzewski confirmed from an operational process perspective, in any instance where Schade notices a discrepancy or feels there is something that needs to be verified, regardless of what the outcome would be, the Commission's consensus it to have Schade confirm measurements.

VII. Discussion Items –

A. Sign Ordinance Amendment – Temporary Signs, Billboards & Deteriorating Signs

Schade explained once she gets confirmation from the Commission on the following points mentioned at the last P&Z meeting, she'll put them into code format and bring it back to the next meeting as an action item in hopes of moving forward.

The first item up for discussion was Code 1008.2.3 – Special Promotion, Event and Grand Opening Signs. Schade read the current code, the proposed code changes and some new suggestions. Discussion took place. Comments from the public were received. After discussion, the Commissioners agreed to stick with the one annual permit for \$120 and making Grand Opening and Anniversary signs exempt with an allowable period of 2 weeks.

Air puppets were discussed. It was agreed to put them back under the prohibited portion of the sign code.

1004.7 Maintenance, Repair & Removal was discussed. It was agreed to change the proposed additional sentence in this section to read *"or when any sign's ad copy has deteriorated by 50% as recognized by the Code Official and affirmed by the Planning & Zoning Commission."*

Figure 1008.1.2 (2) – On Premise Free-Standing Signs/Commercial and Industrial Zones Vehicular Speed Subject to Posted Limits 35 and Above Miles Per Hour. The Commission had discussed keeping this height/sign area chart in for on premise free standing signs to allow for larger properties (such as a hotel) to be able to have a larger on premise sign. Wolters, an advocate of the Comprehensive Plan, and doesn't want to see big signs, however the other Commissioners were in agreement to leave it as is.

The distance required between off premise signs, which is currently 300' was previously discussed and the Commission decided to increase the distance to 500' between off premise signs. However there was some discussion at the last meeting regarding increasing this distance.

Wolters would like to see it be increased to 750'. Noem was in favor of the 500'. With the current code, 10 signs could be placed from the Visitor's Center to the edge of city limits just past China Gulch Rd. - with an increase to 500', 6 signs would be allowed. Comments from the public were heard. The Commissioners agreed on 500'.

B. Amending HCMC Title Three, Chapter 3.09, Licensing & Regulation of Transient Merchants/Temporary Structures.

Schade presented her staff report, read three letters from concerned citizens regarding this topic, and reviewed the current code along with the Transient Merchant Committee's recommendations. The recommendations include:

- Strengthened the definition of Transient Merchant to include "exposed for sale at any place in this City that is not located in a permanent structure and/or is not located in a permanent location."
- Definition of Temporary Structure – meaning any structure without any permanent foundation or footings.
- Removed from current definition of Transient Merchant: "a business operated more than three months in one place by the same person shall be deemed a 'permanent business' but one discontinued within 3 months thereafter shall prima facie be presumed a temporary business, and its operator a transient merchant." (This sentence has been interpreted to mean in practice that any merchant who operates more than 3 months – such as 3 months and 1 day – would not have to pay a transient merchant license).
- Added under license required: A Transient Merchant operating inside the building of an established or permanent business is not required to have a Transient Merchant's License with the City. (this was already allowed elsewhere in this code)
- Shifted responsibility for state sales tax licensing requirements verification to the business owner who rents a portion of their inside business space to a transient merchant.
- Added under Application: A) license application must be submitted to Finance Office 30 days prior to commencement of business (gives City staff the time to verify compliance with licenses and structures used). B) Added "applicant must provide, with application, proof that all applicable requirements of Hill City Municipal Code, SD Dept. of Revenue, SD Dept. of Health, SD Electrical Code and SD Plumbing Code, where applicable, are being met. C) Added requirement of listing City of Hill City as an additional insured to merchant's liability insurance policy.
- Increased fee for Transient Merchant License from \$600.00 to \$750.00 for a 12 day period. Clarified 12 days must be consecutive.
- Allowance for temporary signage up to 16 square feet is included with approved application.
- Cleaned up Toilet Facilities language so it's easier to understand.
- Added "The Transient Merchant/Temporary Structure License must be posted in each individual stand during operation".
- Replaced in Sanitation: "Merchants should check with the City's Public Works Department for the location of dumpsters to be used for disposal of trash." with "Merchants are responsible for providing for their own trash removal."

Changes to Location:

- Included examples of temporary structures (vending stands, tents, sheds, vehicles, booths, canopies, etc.).
- Clarified private property to “private property zoned Commercial”.
- Added “except that no such structures shall be allowed in the locally designated Central Business District.”
- Added “All temporary structures shall be dismantled and removed from the premises no later than 1 day after transient merchant license end date. “
- Added “all temporary structures used by transient merchants must adhere to the current IBC Code version adopted by Common Council.”
- Added “All temporary structures must be outside of clear sign triangles at streets, alleys and driveways.”
- Added “no exterior storage of any kind will be permitted.”

Under Exemptions:

- Eliminated #1 (the buying and selling of goods by cooperative associations purchased in car lot for personal use of its members).
- Split #2 into separate exemptions and added the word “non-profit”. Eliminated specific promotions and added “for special community wide promotions being sponsored by the Hill City Area Chamber of Commerce or the city of Hill City.”
- Added “lemonade stands or other similar activities operated by minors or children or youth groups.”
- Added “rummage sales, yard/garage or estate sales.”
- Added “in any district, a contractor’s temporary structure and equipment sheds incidental to a valid building permit.”
- Added a penalty for non-compliance. “Failure to obtain a license as required by this chapter or any other violations of this chapter may be punishable by the maximum fine and jail as prescribed for Class 2 misdemeanors under South Dakota law for each offense. Each day of operation without such a license or without compliance with the terms of this chapter shall be deemed a separate offense.

Schade explained, this was the first overview of the Committee’s recommendations to the Commission; discussions on these topics will start at the next P&Z meeting. Schade noted copies of the proposed changes will be available on our website and at the front desk. Householder thanked the Committee for working on this, stating they did a fantastic job. Stacia Peters, who was on the Committee wanted to point out that we need to be careful not to make things so restrictive that we are making business difficult in Hill City – we don’t want to turn people away and hopes that some of the transient merchants that come to Hill City will eventually turn into permanent year round investors in the community.

VII. Reports

- A. **Commissioners** – Noem thinks we need to do more as a community with recycling and feels it’s our responsibility to promote a green community as best we can; noting that perception goes a long way. Perhaps in conjunction with the new garbage receptacles, we could look into recycling bins as well. He’d like to discuss this more at a later date.
- B. **P&Z Liaison** – Skorzewski provided a brief recap of the last Council meeting. There is another vacancy in the Public Works Dept.
- C. **Development Services Coordinator** –
 - 1. **2019 Statistics** – Schade provided the 2019 statistics for her Department.

Meeting Adjourned at 7:40 PM - Next Meeting is Tuesday, January 21, 2020 at 5:30 PM

Dale Householder, Chairman

Betsy Brose, Account Clerk



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Phone: 605.574.2300 ~ Fax: 605.574.4327

PLANNING & ZONING DEPARTMENT STAFF REPORT
January 21, 2020

Discussion Item No. A
Bull Run Subdivision Planned Unit Development Discussion

PROPERTY ADDRESS:	Parcel #5230276012
LEGAL DESCRIPTION:	Tract A, Matkins Addition #8, Sec 30, T1S, R05E
ZONING DISTRICT:	R2 - PUD
APPLICANTS:	KTM DESIGN SOLUTIONS INC.
DEED HOLDER:	PINK CABIN LLC (KIP MATKINS HAS SOLD THIS LOT TO PINK CABIN LLC, JIM SCULL, WITH CLOSING WEEK OF JANUARY 13, 2020. RECEIVED NOTIFICATION FROM PENNINGTON ROD THAT DEED HAS BEEN FILED ON 1-16-2020 SHOWING CHANGE OF OWNERSHIP)

GENERAL INFORMATION

Letter dated January 3, 2020 from KTM Design Solutions outlined developers plan for the proposed new Bull Run Subdivision (see attached). Applicant plan is to provide for a mixture of diversified, affordable and safe housing which includes 'tiny homes' and single family dwelling units.

Building materials will consist of concrete foundations, timber structure for exterior and interior walls, pre-engineered roof and floor trusses. All units (including tiny homes) will be on concrete foundations.

Applicants are asking for the following exceptions for this planned unit development (PUD):

1. Minimum frontage reduced to 50'. Note: Lot 1 and Lots 12 thru 16, Block 1 are further reduced due to configuration.
2. Minimum lot size for single family homes reduced to 3,900 square feet.
3. Minimum lot size for tiny homes reduced to 2150 square feet.
4. Minimum right of way reduced to 50'
5. Minimum front yard setbacks for single family reduced to 20'.
6. Minimum front yard setbacks for tiny homes reduced to 15'.
7. Minimum side yards for all lots reduced to 4'.

8. Minimum rear yard setbacks for single family reduced to 20'.
9. Minimum rear yard setbacks for tiny homes reduced to 5'.
10. Minimum street width reduced to 24', posted with no parking.

(**Reference chart** attached showing exceptions requested in comparison with what our current zoning for this parcel requires per HCMC).

Title 9, Chapter 13 Planned Unit Development in HCMC states:

1301.1 Approval. Planned unit developments shall be allowed by planning commission approval in any zoning district.

1301.2 Intent. These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within a PUD. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purposes, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects.

(Copy of Chapter 13, Planned Unit Development attached)

CONFORMANCE WITH HILL CITY'S MUNICIPAL CODE:

Comprehensive Plan: The proposed land use does not conflict with the intent or goals of Hill City's Comprehensive Plan. A development of affordable housing is a goal of the Comprehensive Plan.

Title 9 Zoning & Subdivision Regulations: The proposed PUD does meet the standards as set forth in Title 9, Chapter 13, Planned Unit Development.

Title 3 Chapter 3.12 Flood Damage Prevention: Firm Panel 46103C1141H dated June 3, 2013 indicates that there is no flood hazard area on this property.

COMMENTS, CORRECTIONS AND ADDITIONS:

1. Staff recommends to applicant to remove from list of exceptions - #4 if referring to Quinn Drive extension as HCMC Table 1405.6.1 requires a Local Road to have a 50' minimum width right of way, therefore not needing an exception/variance.
2. Removal of #10, if referring to Quinn Drive extension, as HCMC Table 1405.6.1 requires a minimum of 24' travel width, therefore not needing an exception/variance.
3. Work with city engineer to determine if exception/variance to curve radius would be required per HCMC 1405.6.1.

4. Tiny Home Construction exceptions to the following 2006 IBC codes, with the spirit of these exceptions to come as close as possible to the requirements of:
 - a. Section R304 of 2006 IBC Residential Building Code for minimum room areas.
 - b. Section R311.5 of 2006 IBC Residential Building Code for stairway width. Riser height and tread depth to be adhered to
 - c. Section R305 of 2006 IBC Residential Building Code for ceiling height.
 - d. Lofts used as dwelling spaces (not storage) to follow 2006 IBC Codes for Mezzanines (Section 505) with variances allowed on height requirements.

Submitted by Dani Schade, Development Services Coordinator.

January 3, 2020

Mrs. Dani Schade, Development Services Coordinator
City of Hill City
PO Box 395
243 Deerfield Road
Hill City, South Dakota 57745

RE: Planned Unit Development – Bull Run Subd. – Residential Development – Hill City, South Dakota

Dear Dani:

Please find all the attached application materials and supporting documentation required to satisfy the City of Hill City's requirements for a Planned Unit Development for the proposed Bull Run Subdivision.

Pink Cabin, LLC is proposing to develop Tract A of Matkins Addition #8 at the northwestern terminus of Quinn Road. Pink Cabin is proposing to create 40 residential lots from approximately 6.51 acres. The goals of the subdivision are:

- Provide for a mixture of diversified, affordable, and safe housing which includes "tiny homes" and single-family dwelling units.
- Provide affordable and safe workforce housing that meets the needs of the community.
- Provide reasonable access to regional employment hubs and educational facilities.
- Provide common areas which may include community gardens and walking trails to provide for a healthy lifestyle.

We anticipate construction on the project to be started in the winter of 2020 to meet the community's pressing needs for such facilities with completion in early summer of 2020.

Attached are documents relating to the proposed development including:

- Preliminary Plat Application
- Preliminary Plat
- Letter of Intent for Planned Unit Development
- Vicinity Map

As clarification to the Preliminary Plat submittal, we offer the following discussion:

- Lots 1 – 20, Block 1 are single family with the exception of Lot 15. These lots range from 4,792 sf to 12,504 sf in size. Lot 15 will be a dedicated park and is 1,743 sf in size.
- Lots 1 – 20, Block 2 are single family lots. These lots range from 3,921 sf to 7,405 sf in size.
- Lots 13 – 20, Block 2 are "tiny home" lots. These lots range from 2,178 sf to 2,614 sf in size.

Building Materials will consist of concrete foundations, timber structure for exterior and interior walls, pre-engineered roof & floor trusses. Finishes include pre-finished horizontal hard board lap siding with earth tone hues. The roof will consist of fiberglass shingles.

Engineering Design Reports will be prepared to verify adequate utilities are available for the site and subdivision. At this time it is believed that adequate water pressure for normal operations and fire flows are provided to the site by the City of Hill City. We will also verify capacity within our proposed sanitary sewer network and discuss drainage in our reports.

Exceptions requested with this application include:

- ✓• Minimum frontage reduced to 50'. Note: Lot 1 and Lots 12 thru 16, Block 1 are further reduced due to configuration.
- ✓• Minimum lot size (single family) reduced to 3,900 sf.
- ✓• Minimum lot size (tiny home) reduced to 2,150 sf
 - Minimum right-of-way reduced to 50' —
- ✓• Minimum front yard setback (single family) reduced to 20 feet
- ✓• Minimum front yard setback (tiny home) reduced to 15 feet
- ✓• Minimum side yard setbacks (all lots) reduced to 4 feet
- ✓• Minimum rear yard setback (single family) reduced to 20 feet
- ✓• Minimum rear yard setback (tiny home) reduced to 5 feet
 - Minimum Street Width reduced to 24', posted with no parking.

We look forward to working with you and City staff on this great community project. Thank you for your help and please contact us if you need any additional information.

Thank you for your help.

Sincerely,
KTM Design Solutions, Inc.



Michael Towey, PE

Enclosures



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**BULL RUN SUBDIVISION
 EXCEPTIONS (VARIANCES) REQUESTED WITH PLANNED UNIT DEVELOPMENT**

HCMC Table 502.1 Residential Bulk Regulations	Minimum Lot Area	Lot Dimensions Minimum Lot Width	Lot Dimensions Minimum Lot Depth	Setback Requirements Minimum Front Yard	Setback Requirements Minimum Side Yard	Setback Requirements Minimum Rear Yard
Division 2a	35,000 sf	125'	150'	25'	10	25
Division 2b	20,000 sf	100'	125'	25'	10	25
Division 2c (6 at 10,000 sf +)	10,000 sf	75'	100'	25'	5	25
Adjustments requested with the Bull Run Subdivision PUD		50' Lot 12 further reduced to 20' due to configuration.		20'	4'	20'
Division 2d (21 at 5,000 sf +) (12 under 5,000 sf)	5,000 sf	50'	90'	25'	5	25
Adjustments requested with the Bull Run Subdivision PUD	2150 sf Tiny Home 3900 sf SFH	50' Lot 1 & Lots 12 thru 16, Block 1 further reduced due to configuration (still meet HCMC driveway width of 9' for private driveways + 4' each side setbacks for a total of 17')	43' Tiny Home 65' SFH	15' Tiny Home 20' SFH	4' Tiny Home 4' SFH	5' Tiny Home 20' SFH

(#) indicates number of lots with this square footage +/-

CHAPTER 13 PLANNED UNIT DEVELOPMENT

SECTION 1301 GENERAL

1302.3 Ownership. The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

1301.1 Approval. Planned unit developments (PUDs) shall be allowed by planning commission approval in any zoning district. No such planned unit development permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this code. Compliance with the regulations of this code in no way excuses the developer from the applicable requirements of a subdivision ordinance, except as modifications thereof are specifically authorized in the approval of the application for the planned unit development.

1301.2 Intent. These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within a PUD. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.

SECTION 1302 CONDITIONS

1302.1 Area. No planned unit development shall have an area less than that approved by the planning commission as adequate for the proposed development.

1302.2 Uses. A planned unit development which will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning district and shall be accompanied by an application for a zoning amendment, except that any residential use shall be considered a permitted use in a planned unit development, which allows residential uses and shall be governed by density, design and other requirements of the planned unit development permit.

Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use district.

1302.4 Design. The planning commission shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected.

1302.4.1 Density. Density of land use shall in no case be more than 15 percent higher than allowed in the zoning district.

1302.4.2 Arrangement. Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

1302.4.3 Specific regulations. Lot area, width, yard, height, density and coverage regulations shall be determined by approval of the site development plan.

1302.5 Open spaces. Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

1. Dedication of the land as a public park or parkway system; or
2. Creating a permanent, open space easement on and over the said private open spaces to guarantee that the open space remain perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the legislative body.

1302.6 Landscaping. Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the planning commission for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall also be submitted to the planning commission with the application.

1302.7 Signs. The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application.

1302.8 Desirability. The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general well being of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety or general welfare of persons residing in the vicinity of the planned unit development.

SECTION 1303 PLANNING COMMISSION DETERMINATION

1303.1 Considerations. In carrying out the intent of this section, the planning commission shall consider the following principles:

1. It is the intent of this section that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.

2. It is not the intent of this section that control of the design of a PUD by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this section.

3. The planning commission shall be authorized to approve or disapprove an application for a PUD.

In an approval, the commission shall be permitted to attach such conditions as it deems necessary to secure compliance with the purposes set forth in this chapter. The denial of an application for a PUD by the planning commission shall be permitted to be appealed to the legislative body of the jurisdiction.

SECTION 1304 REQUIRED CONTRIBUTIONS

1304.1 General. The legislative body, as part of the approval of a PUD, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

1. Dedication of land for public park purposes.
2. Dedication of land for public school purposes.

3. Dedication of land for public road right-of-way purposes.

4. Construction of, or addition to, roads serving the proposed project when such construction or addition is reasonably related to the traffic to be generated.

5. Installation of required traffic safety devices.

6. Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

SECTION 1305 PLANNING COMMISSION ACTION

1305.1 Approval. The planning commission shall have the authority to require that the following conditions for a planned unit development (among others it deems appropriate) be met by the applicant:

1. That the proponents intend to start construction within 1 year of either the approval of the project or of any necessary zoning district change, and intend to complete said construction, or approved stages thereof, within 4 years from the date construction begins.

2. That the development is planned as one complex land use rather than as an aggregation of individual and unrelated buildings and uses.

1305.2 Limitations on application.

1. Upon approval of a PUD, construction shall proceed only in accordance with the plans and specifications approved by the planning commission and in compliance with any conditions attached by the jurisdiction as to its approval.

2. Amendment to approved plans and specifications for a PUD shall be obtained only by following the procedures here outlined for first approval.

3. The code official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.



243 Deerfield Road ~ P.O. Box 395 ~ Hill City ~ South Dakota ~ 57745
Phone: 605.574.2300 ~ Fax: 605.574.4327

PLANNING & ZONING DEPARTMENT STAFF REPORT

January 21, 2020

Discussion Item No. B P2020-02

PROPERTY ADDRESS:	Parcel #5230276012 (Top O' Hill & Quinn Drive)
LEGAL DESCRIPTION:	Tract A, Matkins Addition #8, Sec 30, T1S, R05E
ZONING DISTRICT:	R2
APPLICANTS:	KTM DESIGN SOLUTIONS INC.
DEED HOLDER:	KIP MATKINS (KIP HAS SOLD THIS LOT TO PINK CABIN LLC, JIM SCULL, WITH CLOSING WEEK OF JANUARY 13, 2020)

GENERAL INFORMATION

The subject lot is the lot approved for a TIF for an attainable housing project that will be developed by Jim Scull. This will be a planned unit development (PUD) with approximately 40 lots and have a Home Owner's Association and covenants.

The proposed new legal description will be: Lots 1 thru 20 of Block 1, Lots 1 thru 20 of Block 2, and Dedicated Public Right of Way, Bull Run Subdivision. There are no other Bull Run Subdivisions within Pennington County.

The character of the land is relatively flat except towards the north where it slopes after the electrical Right of Way/easement. The power line easements will be in the rear yards of these residences.

The area of public right of way (when Top O' Hill was originally built) is to be vacated by the City of Hill City and split between Tract A Matkins Addition No. 8 and Lot 2 of Chute Roosters Tract. This will correct Lot 2 of Chute Rooster slight encroachment by building and provide for a straightening of the shared lot line between the two properties at the north end. The Commission will see a second plat in the future for Lot 2 of Chute Roosters Tract showing the west balance of this ROW being vacated.



Requests for comments sent on December 30, 2019 to: City Administrator, City Attorney, City Engineer, Black Hills Electric & Black Hills Energy (for powerlines), Pennington County ROD, Equalization, and Pennington GIS. Currently the city is without a public works director which normally would have requested comments from. Received comments from all but City Attorney and Black Hills Electric. Requested changes are listed in Comments/Corrections section.

Commission will see a change of Certificate of Ownership name on final plat since applicant is closing on the property soon.

CONFORMANCE WITH HILL CITY'S MUNICIPAL CODE:

Comprehensive Plan: The proposed land use does not conflict with the intent or goals of Hill City's Comprehensive Plan.

Title 9 Zoning & Subdivision Regulations: The proposed Preliminary Plat does meet the standards as set forth in Title 9 in relation to a PUD.

Title 3 Chapter 3.12 Flood Damage Prevention: Firm Panel 46103C1141H dated June 3, 2013 indicates that there is no flood hazard area on this property.

COMMENTS, CORRECTIONS AND ADDITIONS TO P2020-02:

1. Final subdivision plat to state: "This Land is Covenanted".
2. ROD requests Quinn Drive to be stated next to "To Be Dedicated Public Right of Way" and at west curve of new extension.
3. Reminder to applicant that the City of Hill City is not accepting ownership of road with this plat approval. Road needs to be completely built, approved by City Public

Work's Director and a separate resolution by City Council accepting the road per HCMC 1403.1 (6, 7, 8).

4. Due to west curve radius measurement, City Engineer is recommending per AASHTO (The American Association of State Highway and Transportation Officials Standards) a speed limit on Quinn Drive of 15mph and a sign at the curve (turn arrow) to alert drivers of the sharp turn.
5. Black Hills Electric Coop would like their easement of 40' identified on plat. Specifically stating 40'width. They would also like the plat amended showing that this easement is theirs – not Black Hills Power & Light.
6. Add a 'vicinity map – represents the geographic relationship of the proposed subdivision with the surrounding area.
7. If lot 15 is for the community park to be management by the HOA, please indicate on plat.
8. Property at the northwest corner to be ghosted in "NW1/4SE1/4NE1/4 Less Lot H1, Lot H2 and ROW". This is the legal for Derek Alexander's lot.

PLANNING DEPARTMENT RECOMMENDATIONS:

The Planning & Zoning Department has reviewed this Preliminary Plat application and recommends that the Planning & Zoning Commission approve it with the following corrections/additions as outlined in the comments, corrections and additions section of this report.

Submitted by Dani Schade, Development Services Coordinator.



Change of Plat Application

(version 15-1)

(Deadline: 12pm Wednesday prior to P&Z Meeting)

RECEIVED

JAN 03 2020

#P2020-02

SKETCH

X

PRELIMINARY

City of Hill City, SD
FINAL

NOTE: A Preliminary Plat application must be submitted prior to a final plat submission. Sketch plats are optional.

Lot Consolidation <input type="checkbox"/>	Subdivision <input checked="" type="checkbox"/>	Other (describe) _____
--	---	------------------------

Applicant Name	KTM Design Solutions Inc, MICHAEL TOWEY, PE	
----------------	---	--

Mailing Address	628 1/2 Sixth Street, Suite 201	Phone	605.791.5866
-----------------	---------------------------------	-------	--------------

City	Rapid City	State	SD	Zip	57701
------	------------	-------	----	-----	-------

Email Address	michaelt@ktm-dsi.com
---------------	----------------------

Information for all involved lots and property owners must be provided. Attach additional sheets if necessary.

Total number of property owners involved	1	Total number of lots created/affected	40
--	---	---------------------------------------	----

Owner Information (use a separate sheet for each owner and/or lot)

Owner Name:	Pink Cabin LLC, Jim Scull	
-------------	---------------------------	--

Mailing Address	PO Box 7591	Phone	605.342.2379
-----------------	-------------	-------	--------------

City	Rapid City	State	SD	Zip	57709
------	------------	-------	----	-----	-------

Email Address	jscull@scullconst.com
---------------	-----------------------

Lot Information (Detailed information can be obtained using RapidMap at www.rcgov.org/gis/rapidmap.html)

LOT address or location	Top O'Hill Avenue	
-------------------------	-------------------	--

Parcel ID #	52 30 276 012	Tax ID #	66117
-------------	---------------	----------	-------

Existing Lot #	Proposed Lot #	Block	Subdivision
Tract A			Matkins Add #8

Section	Township	Range	Current Acres	Proposed Acres	Current Zoning	Proposed Zoning
30	15	SE	6.51		R2	R2 PUD

Existing Legal Description	Tract A of Matkins Addition #8 Section 30, T15, RSE, BHM, Hill City Pennington County, South Dakota
----------------------------	---

Proposed Legal Description	see Attached Plat
----------------------------	-------------------

Describe how water and sewer is/will be achieved (i.e. public/private):	City water and Sewer
---	----------------------

Describe how access to lot from public R.O.W. will be achieved:	Top O'Hill Avenue and Quinn Drive
---	-----------------------------------

Kip R. Matkins
Owner Signature

1/6/2020
Date

PERMIT # P2020-02

Purpose of re-plat (include description of proposed uses):
Subdivide parcel into 40 residential lots 20-00087#

Surveyor/Engineer: KTM Design Solutions Phone 605.791.5866
 Address 628 1/2 Sixth Street, Suite 201, RC, SD, 57701

Sketch Plat Checklist	
• Completed application with information on all lots (proposed and existing) and property owners included	✓
• 8.5"X11" sketch of proposed consolidation/subdivision	✓

Preliminary Plat Checklist (Preliminary Plats will be routed to Pennington County for pre-approval)	
• Completed application with information on all lots (proposed and existing) and property owners included	✓
Detailed engineer drawing to scale of proposed consolidation or subdivision	
• Five (5) large copies -- maximum 24" X 36 (maximum one (1) inch equals one hundred (100) feet	✓
• One (1) small copy 8" X 11" or 11" X 17"	✓
• One (1) digital copy (may be sent to Hill City Planning and Zoning via email)	<u>will send</u>
• If permanent structures exist on lot(s) to be platted, include location survey(s) with submission	N/A

Final Plat Checklist	
• Completed application with information on all lots (proposed and existing) and property owners included	
• Original Mylar Drawn <u>in Ink</u>	
• Ten (10) large copies -- maximum 24" X 36"	
• One (1) small copy -- 8.5" X 11" or 11" X 17"	
• One (1) digital copy (may be sent to Hill City Planning and Zoning via email)	
• Proof of ownership and/or standing may be required if lot ownership is not evident (i.e. trusts, corporations)	

FINAL PLATS SHOULD INCLUDE THE FOLLOWING INFORMATION

- Boundary lines of the subdivision including distances angels or bearings, and all section lines
- Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use
- All lengths, angles and curves are to be dimensioned
- Boundaries of the property, locations, scales and true north shall be shown
- Number to shown each block or site
- Subdivision name, scale and date
- All other requirements outlined in South Dakota Codified Law and Hill City Ordinances

Kip R. Mathews
Applicant Signature

1/16/2020
Date

PERMIT #

P2020-02

REQUIRED FINAL PLAT CERTIFICATES

(Sample text)

All Certificate blocks shown in **BOLD** must be signed prior to the submittal of a final plat application.

Ownership Certificates are required for each property owner. *Certificate(s) of Highway or Street Authority* must be signed by all affected government agencies that own adjacent street right(s)-of-way (city, county, and/or state).

CERTIFICATE OF OWNERSHIP

STATE OF SOUTH DAKOTA
 COUNTY OF PENNINGTON S.S.
 I, the undersigned do hereby certify that I am the owner of the land shown and described hereon; that the survey was done at my request for the purpose indicated hereon; that I do hereby approve the survey and within plat of said land; and that the development of this land shall conform to all existing applicable zoning, subdivision, and erosion and sediment control regulations.
 Any land shown on the within plat as dedicated to public right of way is hereby dedicated to public use and public Utility use as such, forever, but such dedication shall not Be construed to be a donation of the fee of such land.

Owner _____

On the ___ day of 20___, before me, a Notary Public, personally appeared _____ known to me to be the person described in the foregoing instrument and acknowledged tome that (he, she) signed the same.

Notary Public: _____

My Commission Expires: _____

CERTIFICATE OF COUNTY TREASURER

I, Treasurer of Pennington County, do hereby certify that all taxes which are liens upon the within described lands are fully paid according to the records of my office.

Dated this ___ day _____, 20___.

 Treasurer of Pennington County

CERTIFICATE OF REGISTER OF DEEDS

STATE OF SOUTH DAKOTA
 COUNTY OF PENNINGTON S.S.
 Filed this ___ day of ___ 20___, at ___ o'clock ___ M in Document # _____

Fee: \$ _____

Register of Deeds

CERTIFICATE OF DIRECTOR OF EQUALIZATION

I, Director of Equalization of Pennington County, do Hereby certify that I have on record in my office a Copy of the within described plat.

Dated this ___ day of _____, 20___.

 Director of Equalization of Pennington County

APPROVED: _____

Director of Equalization of Pennington County

CERTIFICATE OF SURVEYOR

STATE OF SOUTH DAKOTA
 COUNTY OF PENNINGTON S.S.

I, Registered Land Surveyor

No, _____ in the State of South Dakota, do hereby certify that at the request of the owner(s) listed hereon I have surveyed that tract of land shown, and to the

best of my knowledge and belief, the within plat is a representation of said survey, Easements or Restrictions of miscellaneous record or private agreements that are not known to me are not shown hereon.

In witness whereof, I have hereunto set my hand and Seal,

 (Name) Registered Land Surveyor Date

CERTIFICATE OF HIGHWAY OR STREET AUTHORITY

The location of the proposed lot lines with respect to the Highway or Street as shown heron is hereby approved. Any approach or access to the Highway or Street will require additional approval.

Dated this ___ day of _____, 20___.

 Highway Street Authority

CERTIFICATE OF FINANCE OFFICER

STATE OF SOUTH DAKOTA
 COUNTY OF PENNINGTON S.S.

I, Finance Officer of the City of Hill City, do hereby

Certify that all special assessments which are liens upon the described lands are fully paid according to the

Records of my office.

Dated this ___ day of _____, 20___.

 Finance Officer of the City of Hill City

RESOLUTION BY GOVERNING BOARD

STATE OF SOUTH DAKOTA
 COUNTY OF PENNINGTON S.S.

I, Finance Officer of the City of Hill City do hereby certify that at an official meeting held on _____,

20___, the Common Council, by resolution, did approve the plat as shown hereon.

 Finance Officer of the City of Hill City

PERMIT # P2020-02



(Shaded Area For Office Use Only)

APPLICATION REVIEW

- Application Complete
- Required plans and sketches included
- Flood Hazard Map Checked
- Submitted to Planning and Zoning Commission (Meeting Date and Time: _____)
- Submitted to City Council (Meeting Date and Time: _____)
- Fees Paid
- Scanned to digital address file

Plans examiner notes:

PLANNING AND ZONING COMMISSION

Meeting Date:

Action:

Notes:

CITY COUNCIL

Meeting Date:

Action:

Notes:

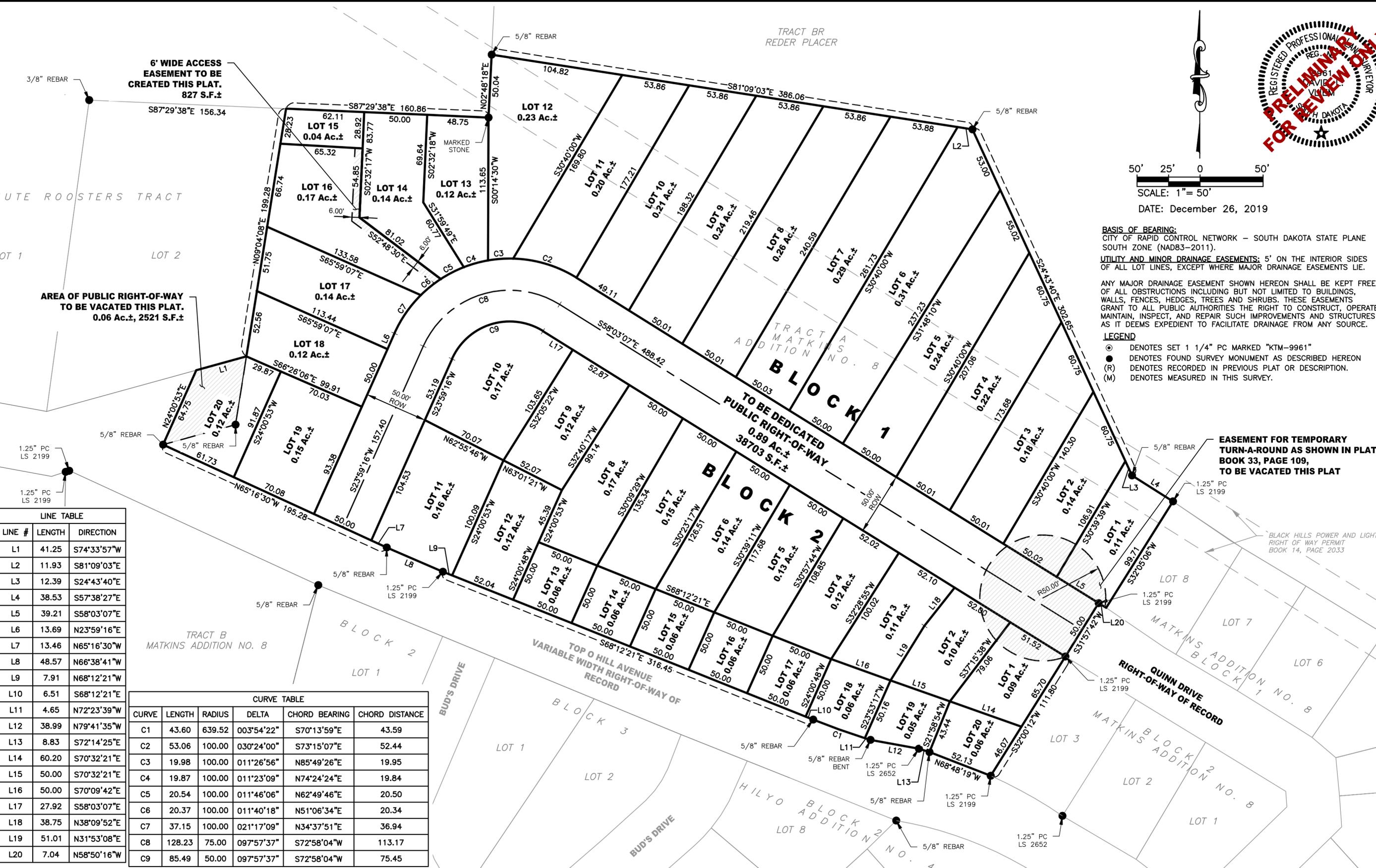
FEE RECORD

Application Fee \$ 50⁰⁰ Date Paid 1/3/20 Cash/MO/Check# 001293 Receipt # 6361

**PLAT OF
LOTS 1 THRU 20 OF BLOCK 1, LOTS 1 THRU 20 OF BLOCK 2,
AND DEDICATED PUBLIC RIGHT-OF-WAY
BULL RUN SUBDIVISION
(formerly Tract A of Matkins Addition No. 8)
LOCATED IN SECTION 30, T1S, R5E, B.H.M.,
CITY OF HILL CITY, PENNINGTON COUNTY, SOUTH DAKOTA.**

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	41.25	S74°33'57"W
L2	11.93	S81°09'03"E
L3	12.39	S24°43'40"E
L4	38.53	S57°38'27"E
L5	39.21	S58°03'07"E
L6	13.69	N23°59'16"E
L7	13.46	N65°16'30"W
L8	48.57	N66°38'41"W
L9	7.91	N68°12'21"W
L10	6.51	S68°12'21"E
L11	4.65	N72°23'39"W
L12	38.99	N79°41'35"W
L13	8.83	S72°14'25"E
L14	60.20	S70°32'21"E
L15	50.00	S70°32'21"E
L16	50.00	S70°09'42"E
L17	27.92	S58°03'07"E
L18	38.75	N38°09'52"E
L19	51.01	N31°53'08"E
L20	7.04	N58°50'16"W

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	43.60	639.52	003°54'22"	S70°13'59"E	43.59
C2	53.06	100.00	030°24'00"	S73°15'07"E	52.44
C3	19.98	100.00	011°26'56"	N85°49'26"E	19.95
C4	19.87	100.00	011°23'09"	N74°24'24"E	19.84
C5	20.54	100.00	011°46'06"	N62°49'46"E	20.50
C6	20.37	100.00	011°40'18"	N51°06'34"E	20.34
C7	37.15	100.00	021°17'09"	N34°37'51"E	36.94
C8	128.23	75.00	097°57'37"	S72°58'04"W	113.17
C9	85.49	50.00	097°57'37"	S72°58'04"W	75.45

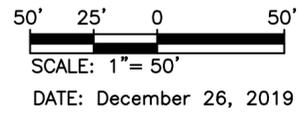


6' WIDE ACCESS EASEMENT TO BE CREATED THIS PLAT. 827 S.F.±

AREA OF PUBLIC RIGHT-OF-WAY TO BE VACATED THIS PLAT. 0.06 Ac.±, 2521 S.F.±

EASEMENT FOR TEMPORARY TURN-A-ROUND AS SHOWN IN PLAT BOOK 33, PAGE 109, TO BE VACATED THIS PLAT

BLACK HILLS POWER AND LIGHT RIGHT OF WAY PERMIT BOOK 14, PAGE 2033



BASIS OF BEARING:
CITY OF RAPID CONTROL NETWORK - SOUTH DAKOTA STATE PLANE SOUTH ZONE (NAD83-2011).

UTILITY AND MINOR DRAINAGE EASEMENTS: 5' ON THE INTERIOR SIDES OF ALL LOT LINES, EXCEPT WHERE MAJOR DRAINAGE EASEMENTS LIE.

ANY MAJOR DRAINAGE EASEMENT SHOWN HEREON SHALL BE KEPT FREE OF ALL OBSTRUCTIONS INCLUDING BUT NOT LIMITED TO BUILDINGS, WALLS, FENCES, HEDGES, TREES AND SHRUBS. THESE EASEMENTS GRANT TO ALL PUBLIC AUTHORITIES THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN, INSPECT, AND REPAIR SUCH IMPROVEMENTS AND STRUCTURES AS IT DEEMS EXPEDIENT TO FACILITATE DRAINAGE FROM ANY SOURCE.

- LEGEND**
- ⊙ DENOTES SET 1 1/4" PC MARKED "KTM-9961"
 - DENOTES FOUND SURVEY MONUMENT AS DESCRIBED HEREON
 - (R) DENOTES RECORDED IN PREVIOUS PLAT OR DESCRIPTION.
 - (M) DENOTES MEASURED IN THIS SURVEY.

**PLAT OF
 LOTS 1 THRU 20 OF BLOCK 1, LOTS 1 THRU 20 OF BLOCK 2,
 AND DEDICATED PUBLIC RIGHT-OF WAY
 BULL RUN SUBDIVISION
 (formerly Tract A of Matkins Addition No. 8)
 LOCATED IN SECTION 30, T1S, R5E, B.H.M.,
 CITY OF HILL CITY, PENNINGTON COUNTY, SOUTH DAKOTA.**

CERTIFICATE OF OWNERSHIP
 State of South Dakota
 County of Pennington S.S.

I, Kip Matkins, do hereby certify that I am the owner as shown and described hereon; that the survey was done at my request for the purpose indicated hereon; that I do hereby approve the survey and within plot of said land; and that the development of this land shall conform to all existing applicable zoning, subdivision, and erosion and sediment control regulations.

Any land shown on the within plat as dedicated to public right-of-way is hereby dedicated to public use and public utility use as such, forever, but such dedication shall not be construed to be a donation of the fee of such land.

In witness whereof, I have set my hand and seal.

By: _____, Kip Matkins

On this ____ day of _____, 20____, before me, a Notary Public, personally appeared Kip Matkins, known to me to be the person described in the foregoing instrument and acknowledged to me that he signed the same.

NOTARY PUBLIC: _____
 My commission expires: _____

CERTIFICATE OF FINANCE OFFICER

I, Finance Officer of the City of Hill City, do hereby certify that all special assessments which are liens upon the within described lands are fully paid according to the records of my office.

Dated this ____ day of _____, 20 ____.

Finance Officer of the City of Hill City _____

RESOLUTION BY GOVERNING BOARD
 State of South Dakota S.S.
 County of Pennington

I, Finance Officer of the City of Hill City, do hereby certify that at an official meeting held on _____, 20____, the Common Council, by resolution, did approve the plat as shown hereon.

Finance Officer of the City of Hill City _____



CERTIFICATE OF SURVEYOR

I, David Lee Vliem, Registered Land Surveyor No. 9961 in the State of South Dakota, do hereby certify that at the request of the owners listed hereon, I have surveyed the tract of land shown, and to the best of my knowledge and belief, the within plat is a representation of said survey. Easements or restrictions of miscellaneous record or private agreements that are not known to me are not shown hereon.

In witness whereof, I have hereunto set my hand and seal.

David Lee Vliem, Registered Land Surveyor _____ Date: _____

CERTIFICATE OF HIGHWAY OR STREET AUTHORITY

The location of the proposed lot lines with respect to the Highway or Street as shown hereon is hereby approved. Any approaches or access to the Highway or Street will require additional approval.

Dated this ____ day of _____, 20 ____.

Highway Street Authority _____

CERTIFICATE OF COUNTY TREASURER

I, Treasurer of Pennington County, do hereby certify that all taxes which are liens upon the within described lands are fully paid according to the records of my office.

Dated this ____ day of _____, 20 ____.

Treasurer of Pennington County _____

CERTIFICATE OF DIRECTOR OF EQUALIZATION

I, Director of Equalization of Pennington County, do hereby certify that I have on record in my office a copy of the within described plat.

Dated this ____ day of _____, 20 ____.

Director of Equalization of Pennington County _____
 Director of Equalization of Pennington County _____

CERTIFICATE OF REGISTER OF DEEDS
 State of South Dakota S.S.
 County of Pennington

Filed this ____ day of _____, 20 ____

Document # _____.

Register of Deeds _____

PREPARED BY:



628 1126th Street, Suite 201, Rapid City, SD 57701
 Phone: (605) 791-5866 | Email: engineers@ktmnds.com

CIVIL ENGINEERING • LAND SURVEYING • LAND PLANNING
 PROJECT MANAGEMENT • CONSTRUCTION ADMINISTRATION



243 Deerfield Road ~ P.O. Box 395 ~ Hill City ~ South Dakota ~ 57745
Phone: 605.574.2300 ~ Fax: 605.574.4327

PLANNING & ZONING DEPARTMENT STAFF REPORT

January 21, 2020

Discussion Item C

Amending HCMC Title Three, Chapter 3.09 Licensing & Regulation of Transient Merchants

GENERAL INFORMATION

In 2009, a petition with approximately 175 signatures, was presented to City Hall requesting that the City ban temporary structures within the Downtown Business area. Signatures included business owners, property owners, and visitors. There was no action taken on this petition. In 2019, another petition, with 83 signatures including business & property owners, requesting the City take action to ban temporary merchants operating in temporary structures from the Central Business District. Those business owners include: Harley Davidson, The Handbag Store, Farmer's Daughter, Alpine Inn, Beef Jerky Store, Things That Rock, Heart of the Hills Antiques, Stage Stop Leather, The Jon Crane Gallery, Cream, Ben West Gallery, Mountain Souvenirs, Harney Peak Inn, Art Forms Gallery, Black Hills Institute of Geological Research, Bumpin Buffalo, Granite Sports and others.

The petition had asked the Planning & Zoning Commission to review and rewrite city ordinances that allow temporary structures with transient merchants to set up business within the Central Business District.

BACKGROUND:

The following minute excerpts are from both City Council (CC) and Planning & Zoning (PC) showing the history of transient merchant/temporary structures from 1990 to current. Unless there was a specific issue with a transient merchant, the minutes reflecting approval of the merchants are NOT included below.

6-18-1990 CC: Temporary Business Stands Permit: The Committee appointed by Mayor Cornelison were Don Gerken, Charles McKay and Tomi Van Loh. They met and reviewed the City's present ordinance on licensing for peddlers & solicitors and compared with the Ordinance received from Sturgis. They presented a proposed Ordinance for the Council to adopt for transient business licensing.

The proposed ordinance was reviewed and discussed. John Conaway moved to approve adopting the ordinance with the provision that the last line of Section G. be deleted and adding "and proof of Valid Sales Tax Number" to the end of the last sentence of Section C., second by Alice Smith. Discussion.

John Conaway amended his motion to accept the proposed Ordinance as an added amendment to Hill City Ordinance 3.19 (this addition then becoming 3.19.3), second to the amended motion by Alice Smith. Vote on the motion amendment: Alice Smith, Charles McKay, John Conaway, aye; Roberta Meiners, nay. Vote on the original motion as amended: Alice Smith, Charles McKay, John Conaway, aye; Roberta Meiners, nay.

8-22-1994 CC: A license was issued to Vernon Schemp, a transient merchant to conduct business in Continental Café lot during Bike week. On Thursday evening of that week the State Sales Division shut his business down because the tax license he possessed was only good for Minnehaha County. Friday he called City Hall and wanted

a refund of his money because had to shut down. Finance Officer explained that the cost of the license isn't prorated and whether he is open for one day or 12, it is the same price. Schemp also stated that he had been doing business in Hill City for 3 previous years and had never paid the fee before. FO explained that he should've been charged the past years also, and therefore he had gotten 3 free years. FO told him the council would have to make a decision on this matter. McKay moved to deny refund of any money to Vernon Schemp. Wipf seconded. Vote all aye.

5-22-1995 CC: Dick Luntz personal opinion about selling or displaying merchandise in the right of way is he doesn't want to see Hill City look like a "tent city". Ed Hanson commented that Mike Colvin merchandise doesn't block the sidewalk but the people that are looking at it do. Luntz also wants city junk ordinance to have some teeth in it. Luntz also stated he feels Hill city is losing sales tax revenue from tax being collected but not reported to state. State Tax agent will have to look into this.

7-24-1995 CC: Finance Officer has been getting calls requesting information on transient licenses. The state Health Department has asked that we forward anything dealing with food of any kind, to their office before we make a decision. A state Sales Tax License must be obtained before a vendor can sell anything.

7-13-1998 CC: Callahan would like the council to consider revising the transient license at the next meeting.

8-24-1998 CC: Transient License: Callahan would like to see tents done away with except for craft fairs. He says craft fairs is the only place a tent should be able to be put up. Also feels selling beer should be done away with unless they are in business for four months out of a year. Research should be done on selling of beer.

9-14-1998 CC: TITLE THREE - LICENSES AND PERMITS: Moran presented the headings of this permit. Wipf to approve with changes. Anderson seconded. All vote aye. Transient Licenses cannot sell beer or alcohol. Callahan moved for attorney to draft this ordinance for next meeting. Anderson seconded. All vote aye.

5-10-1999 CC: APPLICATION FROM SPIRIT FORCE MUSIC: His permit application was approved and Moran will send him a letter and tell him that. If he sells any tapes outside of Alpine Inn he will need a transient license every 12 days.

8-14-2000 CC: There was significant discussion about bike rally temporary licenses, "tents", etc.

8-31-2000 CC: Transient licenses and tents/structures for beer sales were discussed

6-10-2002 CC: Discussion of Transient Merchant licenses – anyone with ideas how to handle these temporary businesses are encouraged to send suggestions to Moran.

6-24-2002 CC: Carmen Tovar - food service - cannot serve food all summer out of a tent but could for a special event if approved by the health dept. Moran has prepared a letter to send to various summer businesses that requirements may be stricter in the future.

Transient merchants - Anderson moved and Nimitz seconded for Moran to send a letter to two seasonal merchants that based on the City ordinances, their business requests may not be approved next year. All voted aye.

7-08-2002 CC: Lynn Moran - Letters were sent to Sonny Schriener and Vic Alexander in regard to the accessory structures for the vendors on their properties.

Gray moved and LaCroix seconded to authorize H camp to have a bike wash during the motorcycle rally on Vic Alexander's property without the necessity of a Transient Merchants License fee since it is a non-profit organization. All voted aye.

7-14-2003 CC: The transient merchant ordinance was discussed. Moran said apparently there have been several inquiries about what this means. Mayor Stach asked about the snow cone shop and Moran felt it was in

violation. Mayor asked about Carmen Tovar setting up a tent in Jack Jewett's lawn. Moran felt Tovar is a temporary business (less than 3 months operation) and is in violation. Stach asked about the hot dog stand with an awning outside the business. Moran felt he was in violation. Stach asked about the pony rides. The understanding was that the owner was to write up his proposed business and present it to the Council, but has not appeared. During the discussions, Gray and Johnson felt that law enforcement should enforce the ordinances.

Gray moved and Nichols seconded for the Finance Officer to prepare complaints and have the deputies deliver them to the four businesses that violate the transient merchant ordinance. All voted aye.

7-28-2003 CC: Moran said regarding changing the Transient Merchant Ordinance she suggests striking words after "no person" and prior to "shall engage in any business". Nichols moved and LaCroix seconded to reword the ordinance, as stated, which means that a temporary business cannot be operated except under a transient license. All voted aye.

8-11-2003 CC: Amendment of 3.12 Transient Merchants - Gray moved and LaCroix seconded to approve the second reading to change the definition of a transient merchant. All voted aye.

5-14-2004 CC: Transient Merchant considerations were discussed.

2-14-2005 CC: Nichols moved and LaCroix seconded to approve the first reading of Ord. 3.12 re landowners who allow Transient Merchants, to provide porta potties. All voted aye.

2-28-2005 CC: Tana move and Noble seconded to approve the second reading of Ord 3.12 with changes of porta potty wording. Discussion was that it would discourage transient merchants because the cost to those merchants for leasing property would increase significantly. All voted aye.

7-25-2005 CC: Gray moved and LaCroix seconded to have the Finance Officer approve Transient Merchant Licenses for the City. All voted aye.

11-28-2005 CC: Nichols moved and LaCroix seconded to approve new Special Events and vendors be exempt from transient merchants' licenses and merchants be able to use banners. All voted aye.

4-24-2006 CC: Department of Revenue is warning individuals of potential fraud risk from transient vendors.

8-28-2006 CC: Transient merchants during the rally were discussed.

6-11-2007 CC: Transient Merchant Licenses for less than \$600 and the twelve days now allowed was discussed. Johnson moved and Maxfield seconded for Moran to draft a Transient Merchant License ordinance amendment, for consideration, to allow from one to twelve day licenses. All voted aye.

7-9-2007 CC: Gray moved and Johnson seconded to approve the second reading of Ord 3.09 regarding Transient Merchant Licenses to include shorter license times available with the fee to be \$150 per day up to 12 day licenses of \$600. All voted aye.

6-25-2007 CC: Gray moved and Maxfield seconded to approve the first reading of Amended Ord. 3.09 to set Transient Merchant License fees for less than 12 days at \$150 per day. All voted aye.

8-13-2007 CC: Discussion followed on Transient Vendors and bathroom facilities. Ordinance 3.09(E) addresses toilet facilities being furnished for vendors by land owners. One porta-potty must be furnished for every two transient merchant licenses. Future Transient Merchant licenses must furnish proof of porta-potty rental receipt. 2007 violators will be ticketed by code enforcement.

Gray moved and Johnson seconded to approve the second reading of Ord 3.09 regarding Transient Merchant Licenses to include shorter license times available with the fee to be \$150 per day up to 12 day licenses of \$600. All voted aye.

2-11-2008 CC: New Business: Moratorium on transient businesses during the month of August: Mayor Voorhees addressed the issue of the increasing number of transient businesses and the problems that have surfaced because of that, particularly during August each year. The Mayor asked the council and citizens to think about how they want the Rally to affect Hill City. Direction and control of the issues need to be in place and the information made known to the transient vendors and ordinances enforced. Other discussion was regarding the collection of sales tax and how strictly this was enforced. Motion by Nichols, seconded Johnson to direct City Attorney to re-work ordinance on transient merchants to make it more enforceable. All voted aye. The Rally Committee was discussed as possibly addressing the transient vendor issue also.

2-25-2008 CC: Moran will also edit the Transient Merchant Ordinance to reflect the rules regarding porta-potties and their uses. Council woman Nichols made motion to direct Moran to give transient vendor ordinance to city staff and council woman Nichols for review, seconded by Johnson. All voted aye.

3-10-2008 CC: Economic Development: Gray- Gray reported at the last Economic Development meeting a realtor attended representing a potential buyer of the old city hall building on Main Street. The suggestion of the potential buyer is to tear down the building and create a vendor space for the rally. This prompted the ED to form a subcommittee which met with the intention of determining the best use of the space and still maintain the integrity of Hill City's cultural history and the milieu of Main Street. No definitive decision has been formed, however a suggested moratorium for a year on vendor tents in the central business district was discussed. The committee is also looking at perhaps creating a town or village square and incorporating the area behind the buildings into the plan. The intention would be to funnel traffic to the business district instead of the by-pass.

3-24-2008 CC: McMacken reported on an application for a transient vendor license for two weekends in June during the Thomas the Train event. Family Catering, Inc. from Rapid City made a request for a reduced fee. The owner, Mr. Phipps, presented his request for the reduction in fee to 50 percent of what is normally charged based on the possibility of unfavorable weather and other variables impacting his business. The ordinance states the \$600 fee for transient vendors is based on a 12 day limit. For less than 12 days the fee is \$150 per day. Discussion followed and it was determined the lesser fee would set a precedent the city was not willing to create. Motion Gray, seconded Nichols to accept the application for the license at the regular fee of \$600. All voted aye.

7-27-2009 CC: City Administrator Brett McMacken gave an update on Rally related items. First of all he noted most regular businesses do not like the transient vendors. They are not happy with the tents.

10-12-2010 CC: Gail Crane stated the Main Street closure has negatively impacted the businesses and the street should be left open. She stated her opinion that the outside vendors and tents made Hill City look like Sturgis. The impact has been negative for the city's unity and caused Hill City to lose its unique "realness" and diversity. Brenda Nolting stated the city should understand the bikers are coming anyway and should embrace that but still do what is in the best interests of the city. Vic Alexander stated his type of businesses are better off without the rally. However, like it or not they are here, he said. Jim Peterson reported that as the bikers are aging they have more disposable income but they want a reprieve from Sturgis and look for a quiet time in Hill City. He also stated the city should guard against the sale of buildings that would be used for the rally only, and hang onto the local retailers.

8-22-2011 CC: McMacken reported the rally was similar to prior years with issues on transient vendors, sound permits, banner permits, and concert noise complaints. It was reported to McMacken that this was not what Hill City is all about.

7-2-2018 PC: Tent Update - Per Householder's request, Schade provided an update on the status of the large retail tent located on Main Street. Schade explained the person running the tent (Divine Leather, Inc.), now owns

the lot. He has been doing business there during the Sturgis Rally for a number of years; this year he came earlier. Per our code, a Transient Vendor is anyone who is in business for three months or less. He will be here for 48 days and had paid his transient vendor fee. Schade has inspected the tent; all appears to be acceptable. He has obtained his transient license from City Hall and has provided proof that he is registered with the SD Dept. of Revenue.

7-9-2018 CC: Mayor Wickware-Klein stated there was a lot of concern about the tent in town. She has investigated the situation with the City. All ordinances are being followed and appropriate licensing has been filed.

7-23-2018 CC: Mayor Wickware-Klein said some local businesses have voiced concern over the tent in town. Does Council want to review the current ordinance?

9-4-2018 PC: Temporary Structures – Householder explained when the temporary transient merchant erected his tent along Main Street this summer there were a number of people who voiced concerns, therefore he felt it warranted further discussion to see if there was any reason or desire to modify our existing code, which allows for these temporary structures. He was hoping more people who had voiced concern would've shown up to discuss this matter. Schade read Title 3 regarding Transient Merchants. *3.09.03: A 'temporary business' is one established for temporary operation only. A business operated more than three (3) months in one place by the same person shall be deemed a "permanent business", but one discontinued within three (3) months thereafter shall prima facie be presumed a temporary business, and its operator a transient merchant.* The transient merchant fee is \$600 for each 12-day period. The fee for less than a 12-day period shall be \$150 per day.

Schade explained this merchant paid the City \$2,400 for his duration, in addition to this money received, the City will also be collecting sales tax revenue. It was also noted the owner of this business is also an owner of the property where the tent is housed. Conversation took place. Householder clarified, this discussion needs to pertain to the entire City and not be directed at that particular tent. There was no interest in doing anything differently at this time; Householder permanently tabled this discussion.

12-17-2018 PC: HCMC 103.4 Moved & Temporary Buildings, Structures & Uses

Schade explained this was on the P&Z Commission's list of things they wanted to look at, more specifically looking at the time allotted for temporary structures because our current HCMC does not give us a specific time frame it just says temporary – Schade read “Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.” The reason this got on the list is because last summer a temporary, large tent along Main Street was erected prior to the Rally for a time period of appx. 48 days under a transient merchant license. There were many complaints about this situation including calls to City Hall inquiring how & why this was allowed. Chairman Householder directed the Commission that this ordinance allowing temporary structures should be reviewed.

The prior code did not address temporary buildings or structures. Schade stated if we go back even further to November 14, 2005, the Hill City Council Minutes show that Gray moved and LaCroix seconded to approve the second reading amending the ordinance 3.06 to adopt the International Building Code 2006 series in its entirety - all voted aye. Schade noted if you look at the IBC Codes and what they reference as far as temporary structures, the time period that is stated is 180 days, which Schade feels historically that is what Hill City has been adhering to when it comes to temporary structures. Schade noted there are some temporary structures that have been setting for about 11 years; she asked the Commission what they would like to do in regards to this section of the code.

8-5-2019 PC: Randy Berger, Warrior's Work & Ben West Gallery, made a statement on behalf of area citizens, property owners and business owners in regards to concerns of current Hill City rules for temporary structures / vendor tents who come to town for a short period of time, conduct business and leave with their money. Berger presented a petition dated August 1, 2019 which included 84 signatures (27 who are business owners, Berger stated), asking the Hill City Planning & Zoning (P&Z) Commission and the City of Hill City to review and re-evaluate the rules for temporary structures conducting for-profit business ventures for extended time periods.

Some reasons for this petition include: it is unfair to other commercial property owners who make a significant investment in Hill City and their properties; temporary tents lack the small-town look, feel and charm that makes Hill City what it is today and what it desires to be in the future - not ending up like Sturgis and temporary tents undercut sales and viability of our year-round businesses during the busiest times of the year, for a minimal cost.

The Commissioners felt this was a matter they should look further into and decided to establish a committee for this topic; they will involve business owners and two Commissioners – anyone interested in participating in that Committee should let Householder know.

8-12-2019 CC: A task force is being created regarding transient vendors.

8-19-2019 PC:

Correction to minutes: Randy Berger, re: Transient Vendors, by including a comment make by Patty Houska (Colvin) who stated she had to build a building in 1993-1994 (Bargain Barn) because the City didn't want them using tents anymore. VanNess seconded the motion, with the noted change. Brose conducted a roll call vote; Wolters, Householder, Walker and VanNess all vote aye. Motion carried.

8-29-2019: First Meeting of the Transient Vendor/Temporary Structure Committee. Committee members are Chairman Ron Walker, Stacia Peters, Chris VanNess, Connie Wolters & Randy Berger.

9-11-2019: Second meeting of the committee.

9-16-2019 PC: Update on Temporary Structure Committee Discussions

Schade explained, this committee has met two times and seem to be in agreement so far with the following: protect the Central Business District from Transient Merchants by prohibiting temporary structures not tied to an active building permit; shorten the timeframe for transient merchants to one 12-day period per year; require proof that the SD Dept. of Revenue and/or Health Dept. requirements are met; possibly requiring a bond; ensure that any temporary structure used by these vendors meet the IBC codes (garbage collection, restroom location and inside storage are provided). The committee will be looking at other City ordinances for suggestions. Also mentioned to help track merchants was a possible business registration requirement

9-25-2019: Third meeting of the committee.

10-16-2019: Fourth meeting of the committee.

10-30-2019: Fifth meeting of the committee.

Committee Recommendations:

1. Strengthened the definition of Transient Merchant to include “exposed for sale at any place in this City that is not located in a permanent structure and/or is not located in a permanent location.”
2. Definition of Temporary Structure – meaning any structure without any permanent foundation or footings.
3. Removed from current definition of Transient Merchant: “a business operated more than three months in one place by the same person shall be deemed a ‘permanent business’ but one discontinued within 3 months thereafter shall prima facie be presumed a temporary business, and its operator a transient merchant.” (This sentence has been interpreted to mean in practice that any merchant who operates more than 3 months – such as 3 months and 1 day – would not have to pay a transient merchant license).
4. Added under license required: A Transient Merchant operating inside the building of an established or permanent business is not required to have a Transient Merchant’s License with the City. (this was already allowed elsewhere in this code)
5. Shifted responsibility for state sales tax licensing requirements verification to the business owner who rents a portion of their inside business space to a transient merchant.

6. Added under Application: A) license application must be submitted to Finance Office 30 days prior to commencement of business (gives City staff the time to verify compliance with licenses and structures used). B) Added “applicant must provide, with application, proof that all applicable requirements of Hill City Municipal Code, SD Dept. of Revenue, SD Dept. of Health, SD Electrical Code and SD Plumbing Code, where applicable, are being met. C) Added requirement of listing City of Hill City as an additional insured to merchant’s liability insurance policy.
7. Increased fee for Transient Merchant License from \$600.00 to \$750.00 for a 12 day period. Clarified 12 days must be consecutive.
8. Allowance for temporary signage up to 16 square feet is included with approved application.
9. Cleaned up Toilet Facilities language so it’s easier to understand.
10. Added “The Transient Merchant/Temporary Structure License must be posted in each individual stand during operation”.
11. Replaced in Sanitation: “Merchants should check with the City’s Public Works Department for the location of dumpsters to be used for disposal of trash.” with “Merchants are responsible for providing for their own trash removal.”
12. Changes to Location:
 1. Included examples of temporary structures (vending stands, tents, sheds, vehicles, booths, canopies, etc.).
 2. Clarified private property to “private property zoned Commercial”.
 3. Added “except that no such structures shall be allowed in the locally designated Central Business District.”
 4. Added “All temporary structures shall be dismantled and removed from the premises no later than 1 day after transient merchant license end date. “
 5. Added “all temporary structures used by transient merchants must adhere to the current IBC Code version adopted by Common Council.”
 6. Added “All temporary structures must be outside of clear sign triangles at streets, alleys and driveways.”
 7. Added “no exterior storage of any kind will be permitted.”
13. Under Exemptions:
 1. Eliminated #1 (the buying and selling of goods by cooperative associations purchased in car lot for personal use of its members).
 2. Split #2 into separate exemptions and added the word “non-profit”. Eliminated specific promotions and added “for special community wide promotions being sponsored by the Hill City Area Chamber of Commerce or the city of Hill City.”
 3. Added “lemonade stands or other similar activities operated by minors or children or youth groups.”
 4. Added “rummage sales, yard/garage or estate sales.”
 5. Added “in any district, a contractor’s temporary structure and equipment sheds incidental to a valid building permit.”
14. Added a penalty for non-compliance. “Failure to obtain a license as required by this chapter or any other violations of this chapter may be punishable by the maximum fine and jail as prescribed for Class 2 misdemeanors under South Dakota law for each offense. Each day of operation without such a license or without compliance with the terms of this chapter shall be deemed a separate offense.

PLEASE NOTE: A Side by Side Code Comparison Chart is a separate file.

Advertising for this meeting for this subject done via: Chamber of Commerce Newsletter (will run continuous), Hill City website, Chamber/Business email list blast, and a mass USPS mailing to all commercial property owners within the city limits.

CURRENT HCMC 3.09 LICENSING AND REGULATION OF TRANSIENT MERCHANTS	PROPOSED LANGUAGE CHANGED TO:
3.09.01 PEDDLING FROM VEHICLES ON STREETS	No changes recommended
3.09.02 PEDDLING IN PARKS	No changes recommended
<p>3.09.03 LICENSING OF TRANSIENT MERCHANTS</p> <p>A. Definitions For the purpose of this Section, a ‘transient merchant’ is any person, firm or corporation, partnership or association, or agent thereof, transacting a temporary business where goods other than alcoholic beverages are exposed for wholesale or retail sale at any place in this City (under no circumstances may alcoholic beverages be sold under a transient license). A “temporary business” is one established for temporary operation only. A business operated more than three (3) months in one place by the same person shall be deemed a “permanent business,” but one discontinued within three (3) months thereafter shall prima facie be presumed a temporary business, and its operator a transient merchant.</p> <p>B. Transient Merchant’s License Required. No person shall engage in any business as a transient merchant without a transient merchant’s license for each structure, stand, tent, car, vehicle, booth or place used by such merchant.</p>	<p>3.09.03 TRANSIENT MERCHANTS AND TEMPORARY STRUCTURE LICENSE REQUIRED.</p> <p>A. Definitions For the purpose of this Section, a "transient merchant" is any person, firm or corporation, partnership or association, or agent thereof, transacting a business where goods and/or services are exposed for sale at any place in this City <i>that is not located in a permanent structure and/or is not located in a permanent location. Temporary Use means any use that is not located in a permanent structure and is not the primary use of the property. Temporary Structure means a structure without any permanent foundation or footings.</i></p> <p>B. Transient Merchant's License Required. No person shall engage in any business as a transient merchant without a transient merchant's license for each structure, stand, tent, car, vehicle, booth or place used by such merchant. <i>A Transient Merchant operating inside the building of an established or permanent business is not required to have a Transient Merchant's License with the City. Business owner where transient merchant is conducting inside business is responsible for ensuring said transient merchant has complied with state sales tax licensing requirements.</i></p>

<p>C. Application. To obtain a license, a transient merchant shall file in the City Finance Office a verification application stating his or her name and residence; description and identification of the place in which he or she proposes to do business; description of the goods he or she intends to handle; the date he or she acquired such goods; the name and address of the last person from whom he or she acquired them; and the place from whence they were last moved; and proof of valid and current South Dakota sales tax license.</p>	<p>C. Application. To obtain a license, a transient merchant shall file in the City Finance Office, <i>30 days prior to the commencement of business</i>, an application stating his or her name and residence; description and identification of the place in which he or she proposes to do business; description of the goods or services he or she intends to handle; the date he or she acquired such goods; the name and address of the last person from whom he or she acquired them; and the place from whence they were last moved. <i>Applicant must provide, with application, proof that all applicable requirements of Hill City Municipal Code, South Dakota Department of Revenue, South Dakota Department of Health, South Dakota Electrical Code and South Dakota State Plumbing Code, if applicable, are being met. With such application, the transient merchant must also provide a certificate of liability insurance with the City of Hill City listed as an additional insured to said policy.</i></p>
<p>D. Fee and Duration of License. The Transient Merchant’s License fee shall be Six Hundred Dollars (\$600.) for each 12 day period. The City Finance Officer shall note on the license the time period for which it is effective and the location of the toilet facilities associated with said license. The Transient Merchant’s License fee for less than a 12 day period shall be One Hundred Fifty (\$150.) per day.</p>	<p>D. Fee and Duration of License. The Transient Merchant’s License Fee shall <i>be Seven Hundred & Fifty Dollars (\$750.) for the maximum 12 consecutive day period.</i> The City Finance Officer shall note on the license the time period for which it is effective and the location of the toilet facilities associated with said license. The Transient Merchant’s License fee for less than a 12 day period shall be One Hundred Fifty (\$150.) per day. <i>(1) One temporary sign up to 16 square feet maximum is included with the approved application.</i></p>

<p>E. Toilet Facilities.</p> <p>It shall be the responsibility of any landowner or business who allows transient merchants on his/her property (that is to say, one or more contiguous lots) to provide for toilet facilities, and said owner or business shall provide a porta potty for each two transient merchant enterprises located on said property (of one or more contiguous lots). That is to say, for each two transient merchant licenses, there shall be provided one porta potty on the same premises as the transient merchant is located. If there is only one transient license holder located on said property, then said owner or business shall provide for toilet facilities within his/her own business or structure, and if there is none, then a porta potty shall be provided.</p>	<p>E. Toilet Facilities.</p> <p><i>Must contain or provide City approved toilet facilities such as porta potties or contracted with owners of permanent toilet facilities within 300 ft. of proposed location of business. Written confirmation of permission to use neighboring toilet facilities will be required. Facilities must be available for both employees and customers.</i></p>
<p>F. Issuance.</p> <p>On filing the application and payment of the fee prescribed in this Section, the City Finance Officer shall issue a license to the applicant to do business at the place described in the application, and for the time which the license fee has been paid in advance.</p>	<p>F. Issuance.</p> <p>On filing the application and payment of the fee prescribed in this Section, the City Finance Officer shall issue a license to the applicant to do business at the place described in the application, and for the time which the license fee has been paid in advance. <i>The Transient Merchant/Temporary Structure License must be posted in each individual stand during operation.</i></p>
<p>G. Sanitation.</p> <p>Transient Merchants shall keep the grounds their stands are located on clean and the area must be returned to its original condition when vacating the location. Failure to keep the area clean can be cause of revocation of the Transient Merchant's License. Merchants should check with the City's Public Works Department for the location of dumpsters to be used for disposal of trash.</p>	<p>G. Sanitation.</p> <p>Transient Merchants shall keep the grounds their stands are located on clean and the area must be returned to its original condition when vacating the location. Failure to keep the area clean can be cause for revocation of the Transient Merchant's License. <i>Merchants are responsible for providing for their own trash removal.</i></p>
<p>H. Location.</p> <p>Transient Merchant boots may be located on any piece of private property, but sidewalks must have a minimum of 5 feet width of unobstructed space for the clear flow of pedestrian traffic. Individual property owners have the right to negotiate terms for the rental of their property and also retain the right to refuse having any Transient Merchants set up on their property. A Transient Merchant operating inside the building of an established or</p>	<p>H. Location.</p> <p><i>Transient Merchant Temporary Structures such as, but not limited to, vending stands, tents, sheds, vehicles, booths, canopies, awnings and fences may be erected on private property zoned Commercial provided a temporary permit is obtained, except that no such structures shall be allowed in the locally designated Central Business District. Such permit shall be issued by the code official for a period not to exceed 12 days.</i></p> <p><i>1. All temporary structures shall be dismantled and removed from the</i></p>

<p>permanent business is not required to have a Transient Merchant's License.</p>	<p><i>premises no later than 1 day after transient merchant license end date.</i></p> <ol style="list-style-type: none"> <i>2. All temporary structures used by transient merchants must adhere to the current IBC Code version adopted by Common Council.</i> <i>3. All temporary structures must be outside of clear sight triangles at streets, alleys and driveways. Sidewalks must have a minimum of 5 feet width of unobstructed space for the clear flow of pedestrian traffic.</i> <i>4. No exterior storage of any kind will be permitted.</i>
<p>I. Exemptions from Section.</p> <p>This section shall not apply to the following types of sales and activities.</p> <ol style="list-style-type: none"> 1. The buying and selling of goods by cooperative associations purchased in car lot for personal use of its members. 2. To sales where the proceeds are to be used exclusively for religious, charitable or benevolent purposes; or for special promotions being sponsored by the Hill City Area Chamber of Commerce, such as the Heart of the Hills Arts and Crafts Festival and Kris Kringle Day. 3. To sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers. A sale will be deemed to have been made for future delivery if the product or services are to be delivered at least 7 days subsequent to the date of the sale. 4. To sales of fruits, vegetables, or farm or garden products. 5. Articles manufactured or produced by the person selling or offering the same for sale. Provided, however, if a person is selling items which the person manufactures or produces and items which the person does not manufacture or produce, then the person shall be required to purchase the Transient Merchant's License required under the provisions of this Ordinance. <p>For the purpose of this Section, and article shall be deemed to be manufactured or produced by the person selling or offering the same for sale if the value of a person's labor in the manufacture or production constitutes more than 50% of the retail selling price of the product. In order for a person to be exempt from the provisions of this Ordinance, they must sell exclusively articles manufactured or produced by the person selling or offering the same for sale.</p>	<p>I. Exemptions from Section</p> <p>This Section shall not apply to the following types of sales and activities:</p> <ol style="list-style-type: none"> <i>1. To sales where the proceeds are to be used exclusively for religious, charitable, non-profit or benevolent purposes.</i> <i>2. For special community wide promotions being sponsored by the Hill City Area Chamber of Commerce or the City of Hill City.</i> 3. To sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufactures. A sale will be deemed to have been made for future delivery if the product or services are to be delivered at least 7 days subsequent to the date of the sale. 4. To sales of fruits, vegetables or farm or garden products. <i>5. Lemonade stands or other similar activities operated by minors or children or youth groups.</i> <i>6. Rummage sales, yard/garage or estate sales.</i> <i>7. In any district, a contractor's temporary structure and equipment sheds incidental to a valid building permit.</i>

(there is no penalty section in our current ordinance)

*J. Penalties for Non Compliance.
Failure to obtain a license as required by this chapter or any other violations of this chapter may be punishable by the maximum fine and jail as prescribed for Class 2 misdemeanors under South Dakota law for each offense. Each day of operation without such a license or without compliance with the terms of this chapter shall be deemed a separate offense.*



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PLANNING & ZONING DEPARTMENT STAFF REPORT

January 21, 2020

Discussion Item D

Amending Chapter 10: Sign Regulations within Title 9 of HCMC – Definition of Abandoned Sign

GENERAL INFORMATION

At the last City Council meeting, there was a question by council regarding the definition of Abandoned Signs, especially in relation to electronic signage.

Currently our code states in Chapter 10, Sign Regulations, Section 1002 Definitions:

Abandoned Sign. A sign structure that has ceased to be used for the display of sign copy or as otherwise defined by South Dakota state law.

South Dakota state law (SDCL 31-29-62 Definition of Terms) defines an abandoned sign as:

A sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of twelve consecutive months.

Council would like the Planning & Zoning Commission to review and possibly clarify this definition in their sign ordinance revision as it relates to electronic signage. To help the Commission discuss this, the following definitions are provided:

Per Lawinsider.com:

Abandoned Sign means any controlled sign (the sign facing) of which the sign face has been partially obliterated, dilapidated, has unsafe conditions or (been painted out,) has remained blank (or has obsolete advertising matter) for a continuous period of 12 months or more.

Per Sign Research Organization:

Abandoned Sign. A sign that for a period of at least ____ consecutive days or longer no longer advertises or identifies a legal business establishment, product or activity.

Rapid City's definition of Abandoned Sign:

ABANDONED SIGN. An on-premises or off-premises sign which meets 1 or more of the following:
a. No longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product or activity conducted or product available on or off the premises where such a sign is displayed;

- b. *The business it advertises has discontinued business in the city of Rapid City;*
- c. *Any sign declared unlawful by the Building Official;*
- d. *Any sign not properly maintained or which no longer displays an advertising message.*

Pennington County:

Abandoned Sign: A sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of twelve continuous months. The twelve month period for determining if a sign is abandoned commences upon notification of violation to the offender.

Custer City

Doesn't have a specific definition of abandoned sign. However, under non-conforming, unsafe and unlawful signs says:

Existing nonconforming signs shall constitute nonconforming use. Any lawful use or occupancy of land or premises existing at the time of the adoption of the sign ordinance may be continued, even though the use or occupation does not conform to the provisions of the ordinance. However, if the nonconforming use or occupancy is discontinued for a period of more than one year, any subsequent use or occupancy shall conform with the sign ordinance. (Source: SDCL 11-2-26).

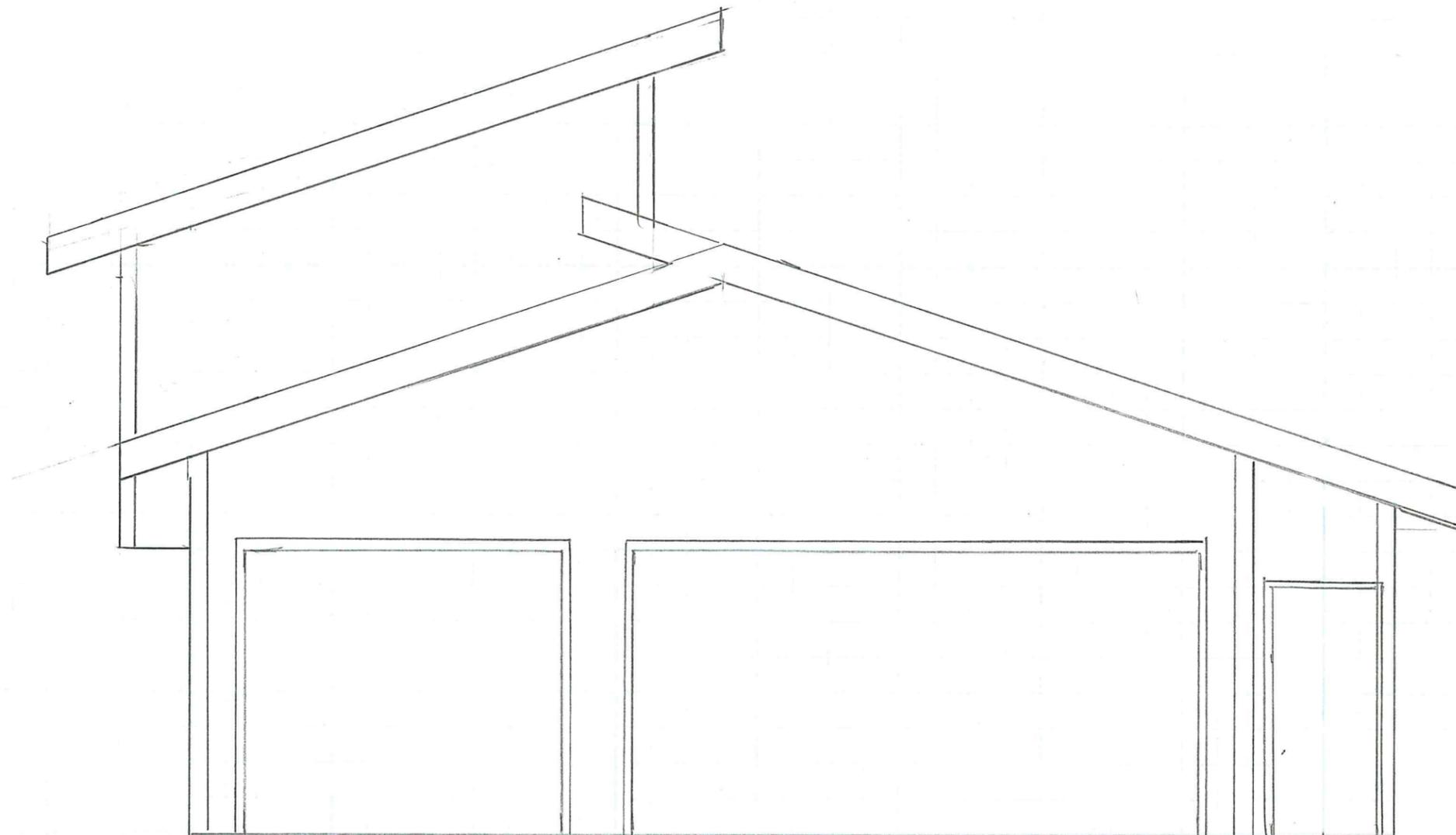
Under their Maintenance Section on Signs (15.10.040):

- B. All signs shall be maintained. If any sign fails to be maintained by the owner the Planning Administrator shall notify the owner of the sign that the sign is in violation of this section, and that if the violation is not corrected within thirty (30) days, the sign will be subject to immediate removal.*
- C. All signs structures shall display message. If any sign fails to display a message for 30 consecutive days, the Planning Administrator shall notify the owner of the sign that the sign is in violation of this section, and that if the violation is not corrected within thirty (30) days, the sign will be subject to immediate removal. (Ord. 832, 2019)*

Submitted by Dani Schade, Development Services Coordinator.

Boden Construction
Scale $\frac{1}{4}'' = 1'$

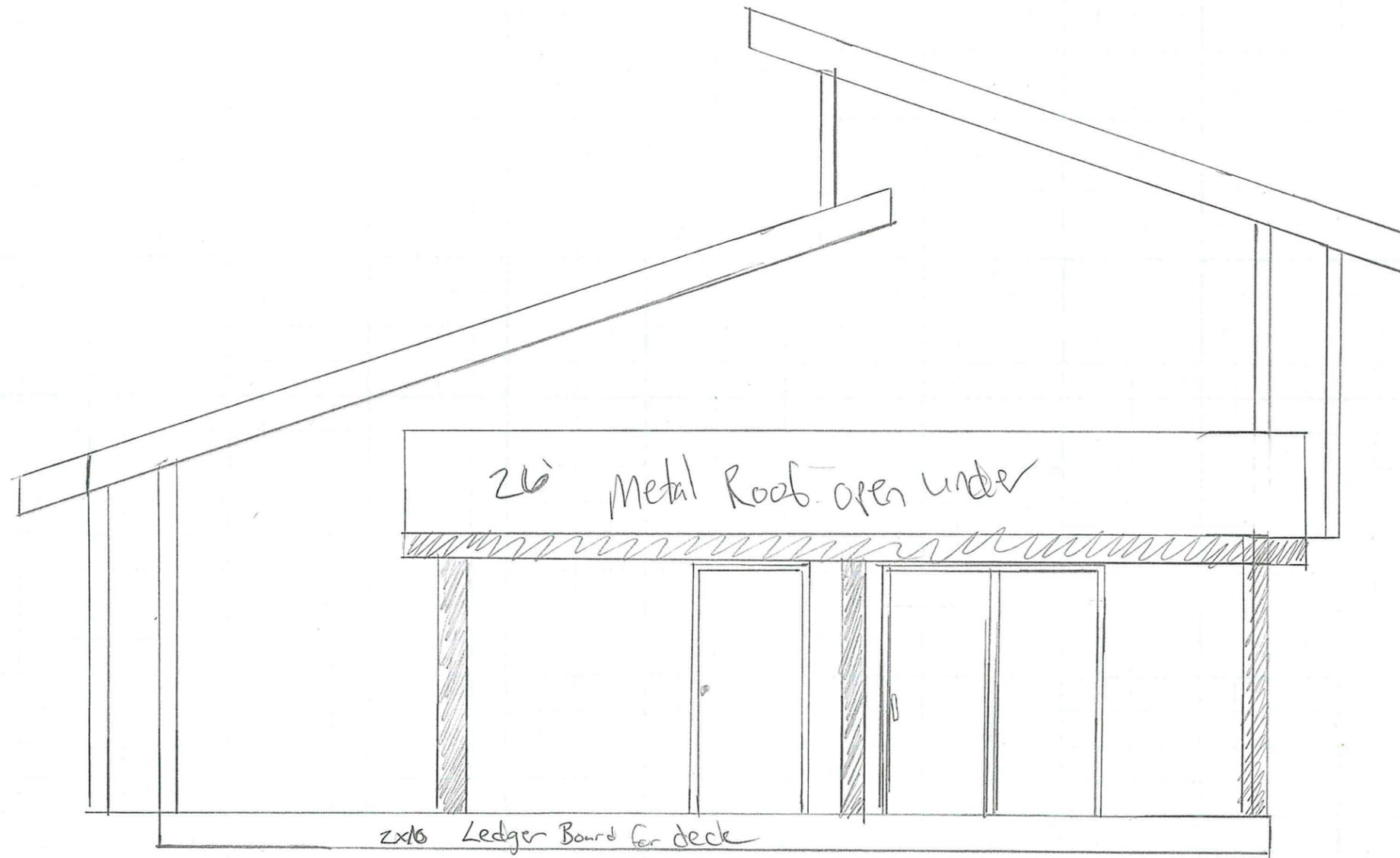
Front Elevation



Basen Construction

Scale 1/4" = 1'

Back Elevation



Boden Construction

Scale 1/4" = 1'

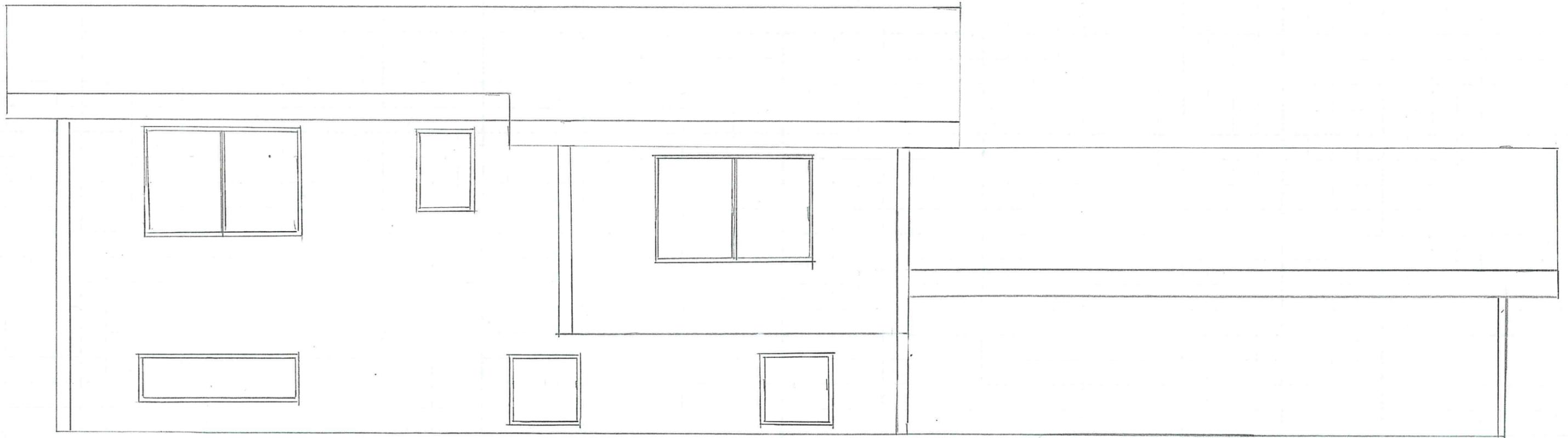
Right Elevation



Baden Construction

Scale $\frac{1}{4}'' = 1'$

Left elevation



Boden Construction

24'

32'

4' TALL WALL

4' TALL WALL

4' TALL WALL

Typical Garage Floor:

4" Concrete Slab
Reinforced per Code
Compacted granular fill
Sloped to overhead doors

18"
9' overhead door

2'

16' overhead door

30'

THICK edge

THICK edge

9' 6"

13'

10'

13'

13'

13'

14'

garage = 720 sq'

Notes

All Exterior Walls are to be 8" poured w/ Reinforcement

Scale 1/4" = 1'

MAIN FLOOR = 1106 sq'

24'

9'

25'

58'

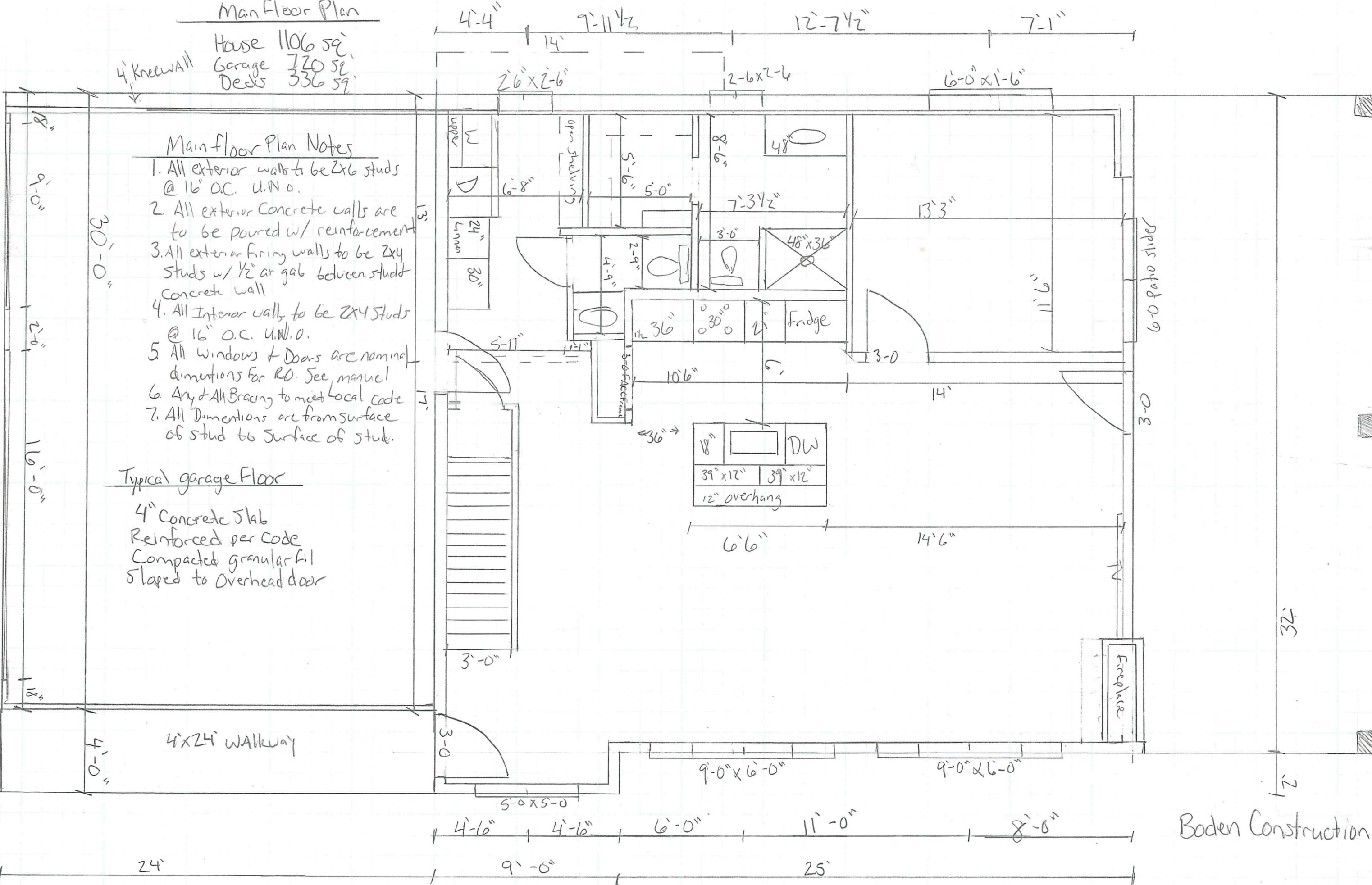
32'

12'

Main Floor Plan

House 1106 sq'
 Garage 720 sq'
 Decks 336 sq'

4' Knee Wall



Main Floor Plan Notes

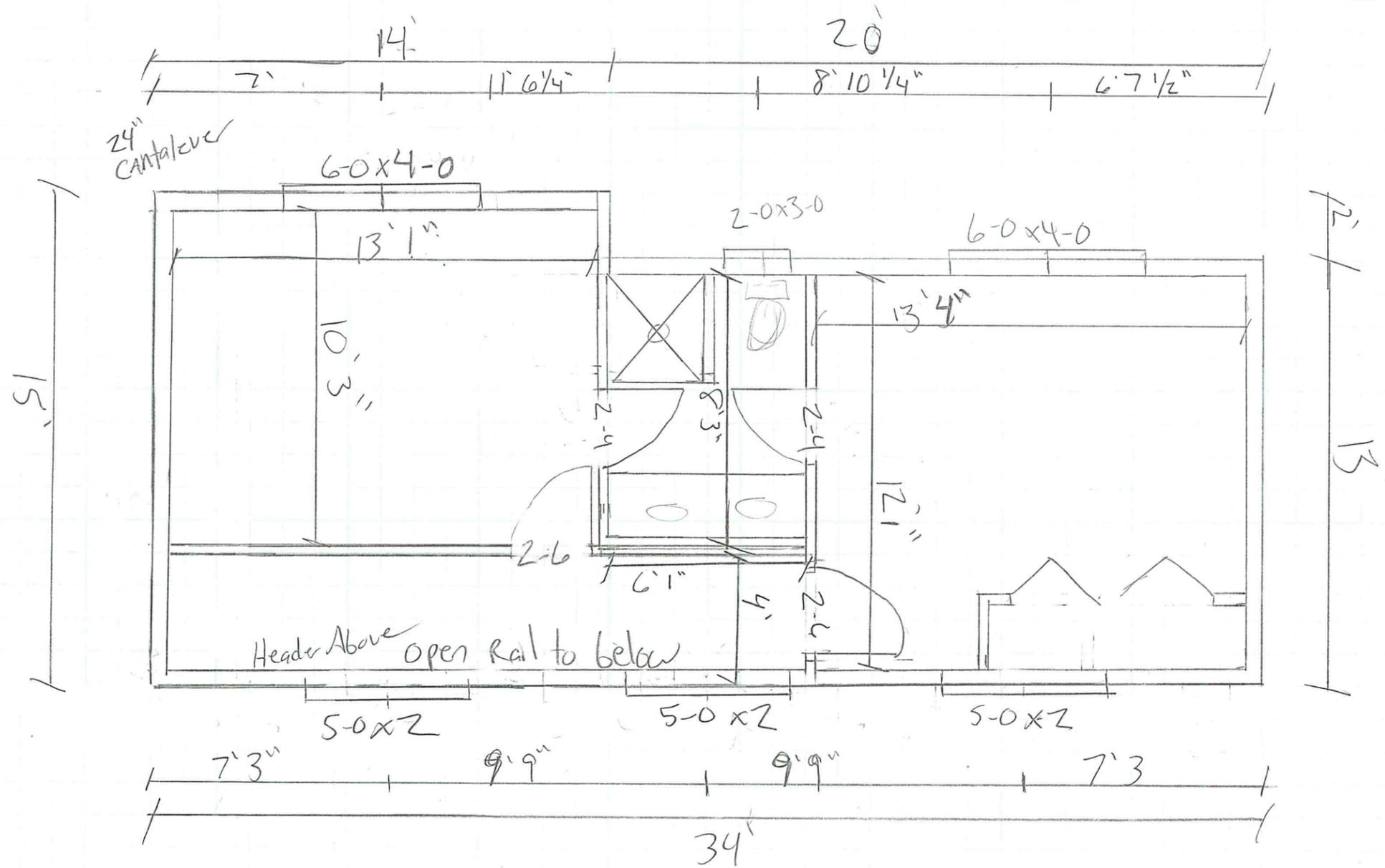
1. All exterior walls to be 2x6 studs @ 16" O.C. U.N.O.
2. All exterior concrete walls are to be poured w/ reinforcement
3. All exterior firing walls to be 2x4 studs w/ 1/2" air gap between stud & concrete wall
4. All interior walls to be 2x4 studs @ 16" O.C. U.N.O.
5. All windows & doors are nominal dimensions for R.O. See manual
6. Any & All Bracing to meet local code
7. All dimensions are from surface of stud to surface of stud.

Typical garage floor

4" Concrete Slab
 Reinforced per code
 Compacted granular fill
 Sloped to overhead door

Boden Construction

Boden Construction



Second Floor Plan Notes

1. All Exterior wall to be 2x6 studs 16" OC
2. All Interior wall to be 2x4 stud 16" OC
3. All Windows are nominal dimensions
For R/O See manufactures specs
4. All Bracing to meet Local Code
5. All dimensions are from surface of stud to surface of stud
6. 9 1/2" BCI Floor Joist

4665 sq'
Scale 1/4" = 1'