BROOKINGS COUNTY PLANNING & ZONING COMMISSION

BROOKINGS CITY & COUNTY GOVERNMENT CENTER
520 3rd St, 310 Chambers, Brookings, SD 57006

AGENDA

1. **7:00 PM: Call to Order**

2. **Approval of Minutes from November 1st, 2016 Meeting**

   Documents:

   November 1st, 2016 DRAFT Minutes.pdf

3. **Items to be Added to Agenda by Commission Members or Staff**

4. **Invitation for Citizens to Schedule Time on the Commission Agenda for an Item Not Listed**
   (Time limited to 5-minutes per person to address the commission.)

5. **Approval of Agenda**

6. **Convene as Brookings County Board of Adjustment**
   (The Board of Adjustment needs 2/3 approval of the full board to approve any agenda item.)

7. **Appeal of Building Permit #6089**

   Appeal of Building Permit #6089 - Tabled from November 1st, 2016 meeting. Appeal by Brad Olson regarding the issuance of Building Permit #6089 on September 15, 2016 by the Brookings County Development Office.

8. **Convene as Brookings County Planning and Zoning Commission**
   (The Planning and Zoning Commission needs 2/3 approval of the full board to approve any agenda item.)

9. **Consideration of Plats**

   A. **2016plat014**

   2016plat014: "Plat of Lots 1, 2 & 3 Gebhart Addn in NW1/4 Sec. 2, T109N, R48W of the 5th P.M., Brookings County, South Dakota."

   Documents:

   2016plat014 Staff Report.pdf

   B. **2016plat015**

   2016plat015: "Plat of Lots 5B & 5C of Block 1 in Lake Park Second Addtn in the E1/2 NE1/4 & Govt. Lot 7 all in Sec. 28, T109N, R50W, in Brookings County, South Dakota."

   Documents:

   2016plat015 Staff Report.pdf

10. **Department Reports**

    A. **Chairman to appoint nominating committee for election of officers for 2017.**

11. **Adjourn**

12. **Public Notices**

BROOKINGS COUNTY DEVELOPMENT DIRECTOR
BROOKINGS CITY & COUNTY GOVERNMENT CENTER
520 3rd Street, Suite 200
BROOKINGS, SOUTH DAKOTA 57006
(605)-696-8350
ROBERT W. HILL
TELEPHONE (605) 696-8350
FAX (605) 696-8355
E-MAIL: zoning@brookingscountysd.gov

November 1st, 2016 Minutes

Brookings County Planning & Zoning Commission
November 1st, 2016 – 7:00 PM
Brookings City & County Government Center
310 Chambers

Chair Robbins called the meeting to order at 7:05 PM. Commission members present were: Lee Ann Pierce, Robert Rochel, Kimberly Elenkiwich, Darrell Nelson, Darrel Kleinjan, Terrell Spence, Randy Jensen, and alternate board member Roger Erickson. Absent were Michael Vande Weerd and alternate board member Tom Davis.

Chair Robbins read **agenda item # 2: Approval of minutes from October 4th, 2016 meeting.** Terrell Spence moved to approve the minutes. Darrel Kleinjan second. Chair Robbins called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Robbins read **agenda item # 3: Items to be added to agenda by commission members or staff.** None added.

Chair Robbins read **agenda item # 4: Invitation for citizen to schedule time on the commission agenda for an item not listed. Time limited to 5 minutes per person to address the board.** No one scheduled time to address the board.

Chair Robbins read **agenda item # 5: Approval of Agenda.** Darrell Nelson moved to approve the agenda. Robert Rochel second. Chair Robbins called for a voice vote. 9 -ayes and 0 - nays, motion carried.

Chair Robbins stated, "We are now acting as the Brookings County Board of Adjustment" read the opening statement and **agenda item # 6: Appeal of Building Permit #6089: appeal by Brad Olson regarding the issuance of Building Permit #6089 on September 15, 2016 by the Brookings County Development Office.** Terrell Spence moved to approve the appeal request. Kimberly Elenkiwich second. Chair Robbins opened up for discussion and asked Mr. Hill for his staff report. Mr. Hill stated, "We do have an appeal before us from Mr. Olson, it was submitted to our office on October 19th, 2016." Mr. Hill noted that several items listed in the beginning weren't part of the appeal regarding the building permit 6089 and he would only address items related to the issuance of

the building permit. Mr. Hill then stated, "The building permit 6089 was issued on September 15th, 2016 for a large building – 480 feet wide x 1020 feet long. It met all setbacks for buildings. We issued the building permit and when we issued the building permit in the remarks area we did make a statement that referenced the conditional use permit that was issued in 2014 and is currently under appeal. Typically on our building permits when we make notes on the bottom that just references if that particular building was discussed. The building permit that was issued was issued for livestock up to 499 head or less than 499 head. It was not issued for a confined animal feeding operation of anything over a Class D which in our zoning ordinance is anything over 0-499. So the first part of the appeal which was sent to everyone on the same day we received it, in our opinion is not appealable at this board at this time." Mr. Hill then addressed the item #4 noted in the appeal letter stating, "There is a check block on the building permit that states complies with zoning regulations. Our belief is we checked yes because it meets the setbacks of 100 feet from the ROW, it is a county road so it is 150 feet, 50 feet rear yard and 25 feet on the sides to allow a building. In Brookings County if you own the land you can build any sized building you want on the land. What the zoning board has control over is the usage of the land, buildings and items such as this. In Brookings County in the Agricultural Zone we do not have a building size limitation. The appeal states that *'this is incorrect and the application does not comply with all the*
Zoning regulations as the applicant has not obtained the required Conditional Use Permit as stated in the County Zoning Ordinances. This is at best a misrepresentation and worst an out-right fabrication, as pointed out earlier in opposition statement one.' Once again our defense is it met all setback requirements for the agricultural zone, so we marked yes in that block." Mr. Hill then addressed the portion of the appeal letter that stated, *'Lastly, in the remarks section it stated, that, "2014CU011 CAFO APPROVED AND ON FILE." The CAFO may be approved, but, pending litigation puts the CUP approval in an "at best" precarious state and subject to the ruling of the court. Therefore, we believe that the issuance of this building permit is premature and legally in question.'* Mr. Hill stated, "That is in the remarks column, no one is denying that fact, but nowhere in the building permit do we allow the individual to stock the barn if it is built per the building permit with any more than 499 Animal Units." Mr. Hill then referenced and read South Dakota codified law, SD 11-2-55. He noted that a building permit per SD 11-2-55 is considered an ad ministerial act and gave an example (if someone wants a building permit no matter what zoning area you are in, if you meet all the setbacks (side yard, front yard and rear yard) and building height then a building permit can be issued.) He further noted that where ad ministerial acts are not in place is when someone needs a variance, which takes it out of the ad ministerial acts category and puts it into to an appealable act by the Board of Adjustment that is the position of my office." Mr. Hill stated, "Lastly but not least at 4:30 PM my office received a correspondence from Donahue Law office stating, "The applicant for the conditional use permit, which is Killeskillen, LLC, has no issue if we table this particular issue until the next zoning meeting to see if there is a decision made on the conditional use permit. Which would make this particular appeal mute in

point." Mr. Hill noted that if the board chose to table it (appeal), it would be tabled to the next Zoning meeting which would be Tuesday, December 6th, 2016. Chair Robbins opened up for questions from the board, hearing none Chair Robbins called the appellant forward. Board member Kimberly Elenkiwich stated, "Given what we know here now, to me it makes the most sense to table this item to the next zoning meeting. Especially since we will be getting an answer (regarding the CAFO) in a very short time." Kimberly Elenkiwich then moved to table the appeal request until the next (December 6th, 2016) zoning meeting. Darrel Kleinjan second. Chair Robbins opened for additional discussion from the board regarding the request to table until the December 6th, 2016 meeting, hearing none he called for a roll-call vote: Pierce-aye, Rochel-aye, Elenkiwich-aye, Nelson-aye, Kleinjan-aye, Erickson-aye, Spence-aye, Jensen-aye, Robbins-aye. 9-ayes, 0-nays, motion carried. Chair Robbins noted it would be put on the agenda for the December 6th, 2016 meeting.

Chair Robbins stated, "We are now acting as the Brookings County Planning and Zoning Commission" read the opening statement and **agenda item # 7: Consideration of Plats: a. 2016plat010: "Plat of Lots 6,7 & 8 in Block 1 of Pearson-Overby Addition an Addition in Govt Lot 4 of Section 22, T112N, R47W of the 5th P.M., Brookings County, South Dakota."** Lee Ann Pierce moved to approve the plat. Darrell Nelson second. Chair Robbins opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Mr. Pearson has applied for a final plat for non-lake front lots on Lake Hendricks, "Lots 6, 7 and 8 in Block 1 of the Pearson-Overby Addition" located on the south east side of Lake Hendricks. The preliminary plat was approved at the March 1st, 2016 meeting of the Brookings County Planning and Zoning Commission. Lots 1-5 in Block 1 were platted on April 5th, 2016. The lots meet the Lake Park – Density, Area and Yard Regulations for non-lake front lots." Mr. Haugen used visuals to describe the plat. Chair Robbins opened up for questions from the board. Board member Nelson asked a question regarding assurance that the lots were actually 20,000 square feet. Mr. Haugen noted that the surveyor pins and the surveyors stamp on the plat verify this and it would fall back on the surveyor. Luke Muller from First District Association of Local Governments noted that the surveyor would risk losing his license if the lots weren't correct in size. Chair Robbins opened up for discussion from the audience. Lynn Graham came forward, identified herself and asked, "Have lots been approved for storage units?" Mr. Haugen stated this plat is for bare lots that are buildable for residences or for garages, not for storage units to be rented out." He also noted that a conditional use permit would be required. Chair Robbins asked for additional questions from the audience, hearing none he asked the board for questions or comments, hearing none he called for a roll-call vote: Rochel-aye, Elenkiwich-aye, Nelson-aye, Kleinjan-aye, Erickson-aye, Spence-aye, Jensen-aye, Pierce-aye, Robbins-aye. 9-ayes, 0-nays, motion carried.

Chair Robbins read **agenda item b. 2016plat011: "Plat of Lot 1 of Madsen Addition in the SE1/4 of Section 32, T112N, R52W of the 5th P.M., Brookings County, South Dakota."** Roger Erickson moved to approve the plat Kimberly Elenkiwich second. Chair Robbins opened up for discussion and asked

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Mr. Haugen for his staff report. Mr. Haugen stated, "The Madsen's are platting off an existing 14.60 acre building site from the rest of the quarter. The building site contains out buildings and a feed yard, a new residence could be built at this location as it is an existing building site. The original house was removed when the owners built a new house directly to the east of this building site. The new house is not included in this plat. The property is located in the southwest corner of the quarter. There are approximately 12 acres located south of Lot 1 and West of the driveway that has a separate existing driveway for access and will remain part of the remaining quarter." Mr. Haugen used visuals to describe the plat. Chair Robbins opened up for questions from the board, hearing none. Chair Robbins opened up for discussion from the audience, seeing none. Chair Robbins asked the board for questions or comments, hearing none he called for a roll-call vote: Elenkiwich-aye, Nelson-aye, Kleinjan-aye, Erickson-aye, Spence-aye, Jensen-aye, Pierce-aye, Rochel-aye, Robbins-aye. 9-ayes, 0-nays, motion carried.

Chair Robbins read **agenda item c. 2016plat012: "Plat of Lot 1 of Gebhart Addition in the SE1/4 of Section 11, T109N, R48W of the 5th P.M., Brookings County, South Dakota."** Robert Rochel moved to approve the plat Darrell Nelson second. Chair Robbins opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "The Gebhart estate is platting off an existing 20.70 acre building site from the rest of the quarter. The building site contains a residence, outbuildings, grass and shelterbelts." Mr. Haugen used visuals to describe the plat. Chair Robbins opened up for questions from the board. Board member Rochel asked what the distance between the tree line and platted line would be. Board members discussed issues of farm ground vs. shelterbelt area. Mr. Haugen noted, "At this time we do not have any required setbacks from trees when platting off an area." Board discussed need in the future to address the need for establishing a setback requirement from trees when platting any areas in the future. Chair Robbins opened up for discussion from the audience, seeing none. Chair Robbins asked the board for questions or comments, hearing none he called for a roll-call vote: Kleinjan-aye, Spence-aye, Jensen-aye, Erickson-aye, Pierce-aye, Rochel-aye, Elenkiwich-aye, Nelson-aye, Robbins-aye. 9-ayes, 0-nays, motion carried.

Chair Robbins read **agenda item d. 2016plat013: "Plat of Lot 8 of Ramlo Shores Subdivision in Govt Lot 4 in Section 21, T112N, R47W of the 5th P.M., Brookings County, South Dakota."** Roger Erickson moved to approve the plat Terrell Spence second. Chair Robbins opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Manuel Ramlo is platting off Lot 8 in Ramlo Shore Subdivision at Lake Hendricks. The preliminary plat was approved on May 1, 2001 by the Brookings County Planning and Zoning Commission. A final plat is submitted when a lot is sold. The lot contains 22,538 square feet. The lots meet the Lake Park – Density, Area and Yard Regulation for Lake Front lots." Mr. Haugen used visuals to describe the plat. Chair Robbins opened up for questions from the board, hearing none. Chair Robbins opened up for discussion from the audience, seeing none. Chair Robbins asked the board for questions or comments, hearing none he called for a roll-call vote: Erickson-aye, Spence-aye, Jensen-aye,

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Pierce-aye, Rochel-aye, Elenkiwich-aye, Nelson-aye, Kleinjan-aye, Robbins-aye. 9-ayes, 0-nays, motion carried.

Chair Robbins read **agenda item # 8: Department Reports.** Mr. Haugen reported to the board that Jan Sanderson had been in the office to discuss the possibility of construction a building on his land for use by SGS. He noted that SGS has done seed plots on the property since 2014 (this was the 3rd growing season). The building would be used by SGS to: house machinery in the off season and provide an area to complete maintenance on it, store the seed used for the plots, and contain a small office for SGS to use for paperwork and documentation of their field trials - No one would be full time at the building five days a week. Mr. Haugen noted this would be similar to facilities in the area used by: SD Crop Development, Syngenta and Pioneer. Mr. Sanderson would use the building later for his garden operations. Board members discussed: why the need, ownership, setbacks, and possible future growth in the area. The board agreed that the use is permitted and is ok to issue a building permit. Mr. Hill reported: 1) County Commission wanted to express their appreciation and thanks to the board members. 2) Two board member terms were open and Darrell Nelson and Mike Vande Weerd had reapplied, were reappointed and would be on the board for another 4 years. 3) Caution at this time of year, watch for deer on the move. 4) Time to winterize your vehicles. Mr. Hill requested that Luke Muller be allowed give a short update on the plan regarding the zoning ordinance review. Luke Muller gave a brief summary regarding the zoning ordinance review. Mr. Haugen also reported that there would be a possible joint meeting with the city regarding a rezoning issue in the joint area. The city would be setting the time and date. The area would go from city R-1 to a heavy B-3. Noting, the city has the jurisdiction but want to possibly change the use.

Chair Robbins asked for a motion to adjourn. Randy Jensen made a motion to adjourn the meeting, Roger Erickson second. Chair Robbins called for a voice vote. 9-ayes, 0-nays.

Chair Robbins adjourned the meeting at 7:55 PM.

Rae Lynn Maher
Brookings County
Development Department.

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2016plat014 – December 6th, 2016

Prepared by Richard Haugen

Applicants/Owners: Richard Gebhart Estate, 48280 216th St, Elkton, SD 57026.

Legal Description: Plat of "Lots 1, 2, & 3, of Gebhart Addition, in the NW1/4 Section 2, Township 109 North, Range 48 West of the 5th P.M., Brookings County, South Dakota."

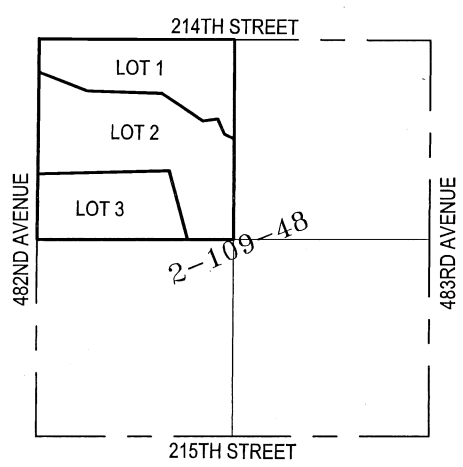
2016plat014: The Gebhart estate is platting an existing 154.92 acre parcel into three (3) separate parcels (lots). Lot 1: Contains 47.8 acres consisting of grass and pastureland.
Lot 2: Contains 76.1 acres of pastureland.
Lot 3: Contains 39.4 acres of farm land.

The Beacon map shows the old railroad track that ran across the property. The estate recently purchased that strip of land from the railroad, so it is now included in the whole parcel. The surveyor provided an aerial view of the property with the lot lines on it so you can see how the land would be divided.

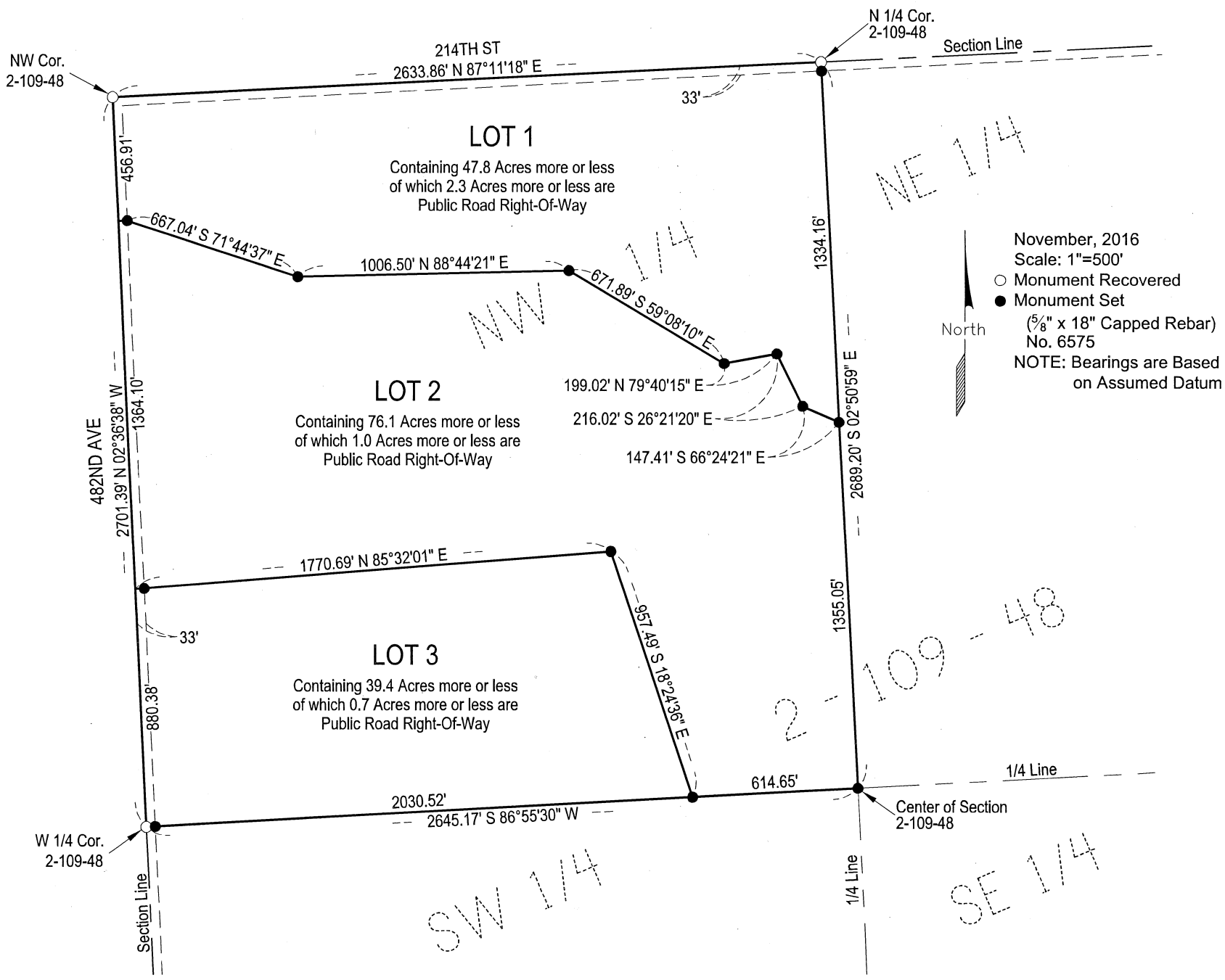
The plat meets the platting requirements and the 2016 Comprehensive Plan-Unincorporated Rural Area Land Use statement on page 24 for Agricultural Land Use.

PLAT OF

LOTS 1, 2, & 3, OF GEBHART ADDITION, IN THE NW ¼ OF SECTION 2, TOWNSHIP 109 NORTH, RANGE 48 WEST OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA.



Vicinity Map



SURVEYOR'S CERTIFICATE

I, Mike J. Lapka, a Registered Land Surveyor of the State of South Dakota, do hereby certify that I did on or before November 7th, 2016, survey a parcel of land located in the NW¼ of Section 2, T109N, R48W of the 5th P.M., Brookings County, South Dakota, as shown on the plat, and marked upon the ground thereof in the manner shown on the plat and that the attached is a true and correct representation of said survey and that the parcel of land so platted contains: **"PLAT OF LOTS 1, 2, & 3, OF GEBHART ADDITION, IN THE NW ¼ OF SECTION 2, TOWNSHIP 109 NORTH, RANGE 48 WEST OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA".**

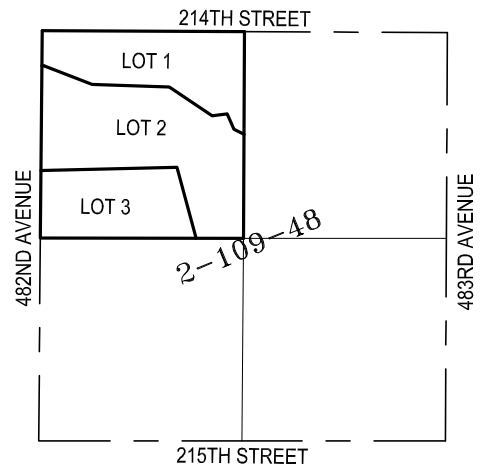
IN WITNESS WHEREOF, I have executed the Surveyor's Certificate this 7th day of November, 2016.

Prepared By:

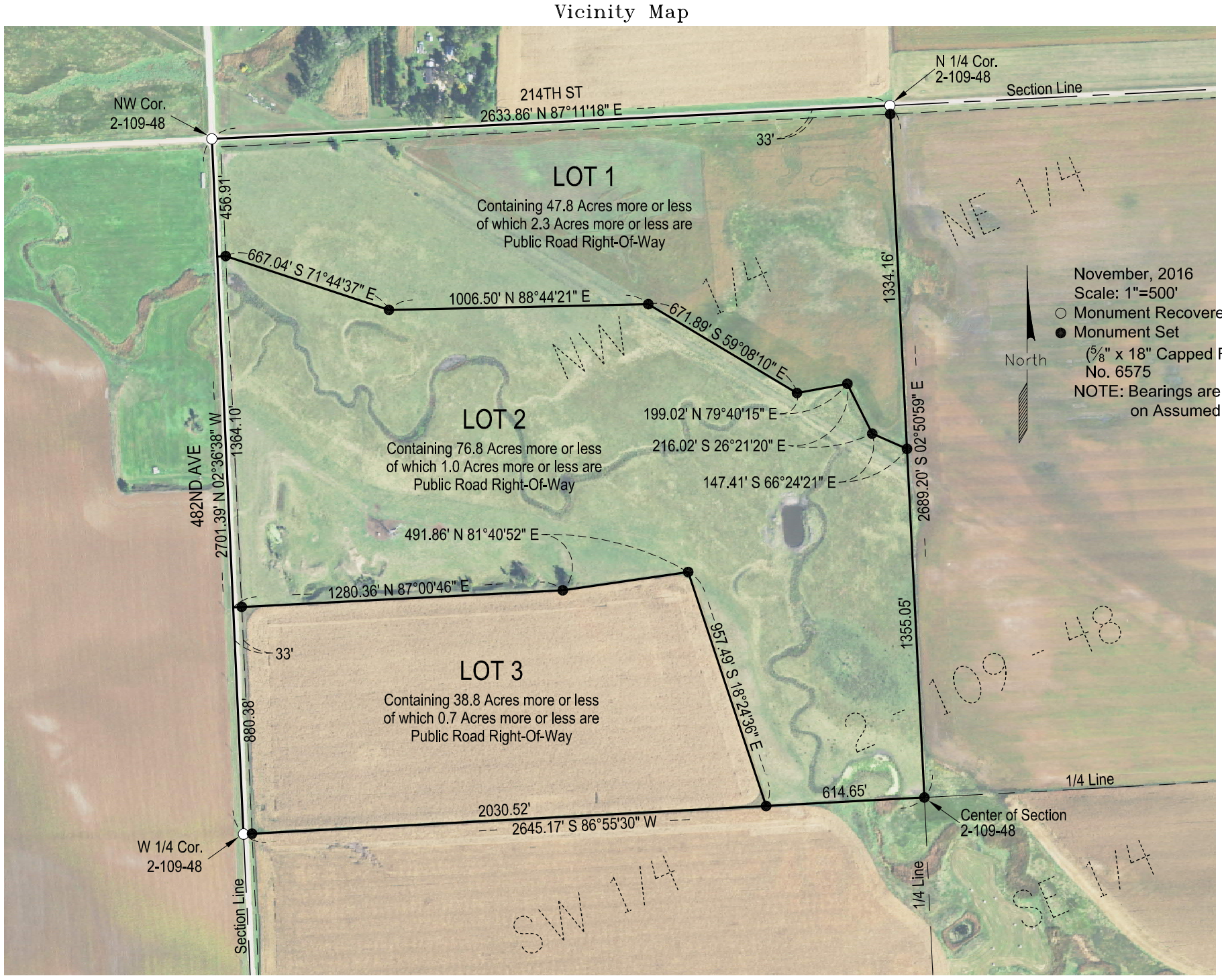
CIVIL DESIGN INC
Civil Engineers & Land Surveyors
Brookings, South Dakota
Ph. 605-696-3200

PLAT OF

LOTS 1, 2, & 3 OF GEBHART ADDITION IN THE NW ¼ OF SECTION 2, TOWNSHIP 109 NORTH, RANGE 48 WEST OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA.



Vicinity Map



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IN WITNESS WHEREOF, I have executed the Surveyor's Certificate this 7th day of November, 2016.

Prepared By:

CIVIL DESIGN INC

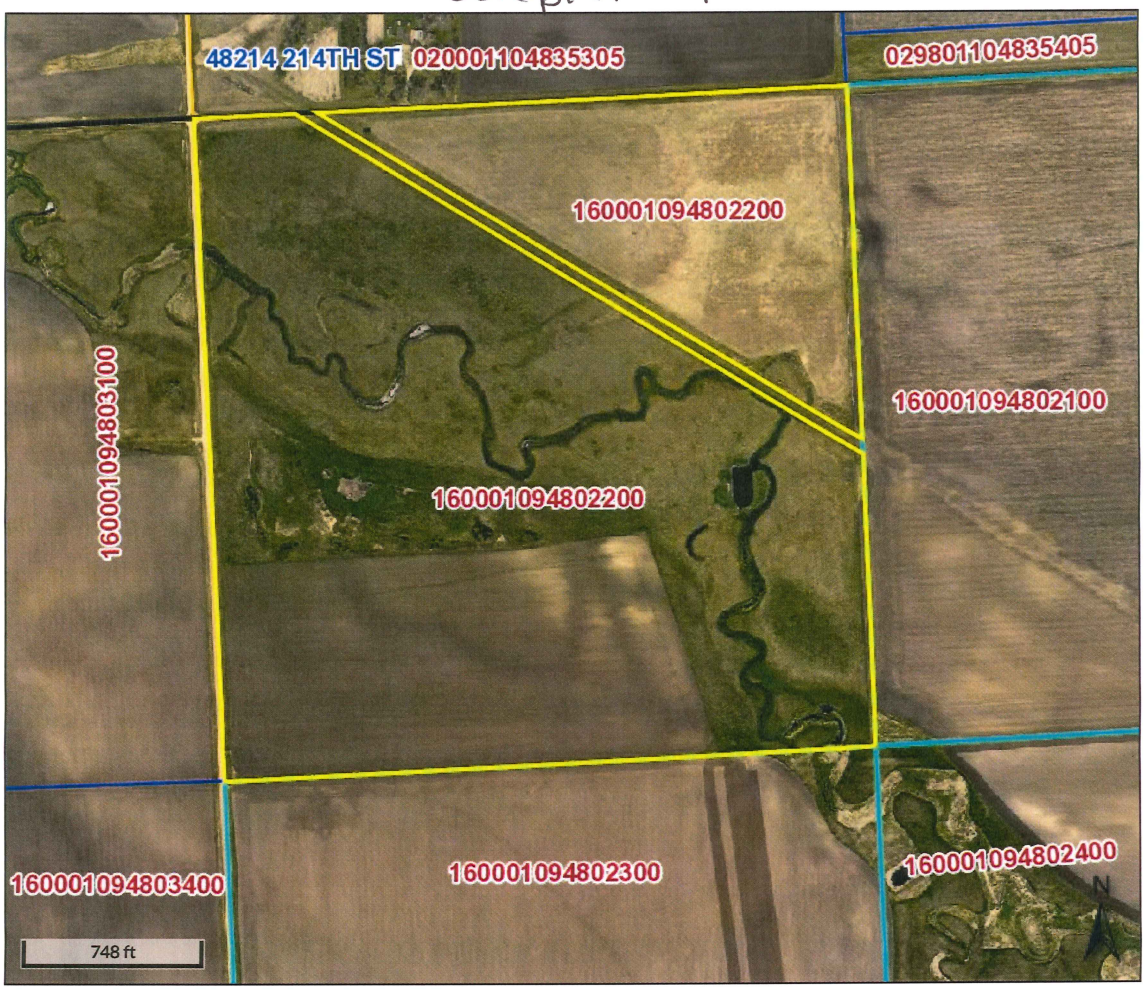
Civil Engineers & Land Surveyors

Brookings, South Dakota

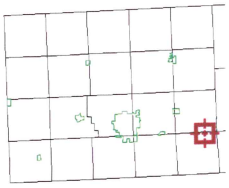
Ph. 605-696-3200

Beacon™ Brookings County, SD

2016plat014



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels

Parcel ID	160001094802200	**Alternate ID**	n/a	**Owner Address**	GEBHART, RICHARD
Sec/Twp/Rng	2-109-48	**Class**	AGA		48280 216TH ST
Property Address		**Acreage**	154.92		ELKTON SD 57026
District	1603 - PARNELL TWP/ELKTON SCH				
Brief Tax Description	NW 1/4 EXC. RR & INC OL 'A' SEC 2-109-48 154.92 AC				
	(Note: Not to be used on legal documents)				

Date created: 11/8/2016

Developed by
The Schneider Corporation

2016plat015 – December 6th, 2016

Prepared by Richard Haugen

Applicant/Owner: D & B Properties III LLC (Duane Harms), PO Box 940, Brookings, SD 57006.

Legal Description: "Plat of Lots 5B and 5C of Block 1 in Lake Park Second Addition in the E1/2 NE1/4 and Government Lot 7 all in Section 28-T109N-R50W, Brookings County, South Dakota."

2016plat015: D & B Properties is re-platting Lot 5A into Lots 5B and 5C. The original plat was approved by this board on August 22nd, 2013 and was filed on September 5th, 2013. They were granted conditional use 2013cu009 on August 22nd, 2013 by this board to build twin homes on Lots 4, 5 and 6 and conditional use 2016cu010, to build twin homes on Lot 4 and 5A was approved by this board on June 7th, 2016, as 2013cu009 was going to expire. Lot 5 was re-platted to Lot 5A on December 1st, 2015 for a property line adjustment and the sale of the twin homes on Lot 6A and 6B.

A twin home is being constructed on Lot 5A and one-half of the twin home is sold, which why they are subdividing the lot into Lots 5B and 5C at this time, so the lot can go with the home.

The lot meets the 20,000 square feet for Lake Park development. This is located in the subdivision north of the Brookings Country Club on 469th Ave (Brookings County Road 19).

21698-00-03

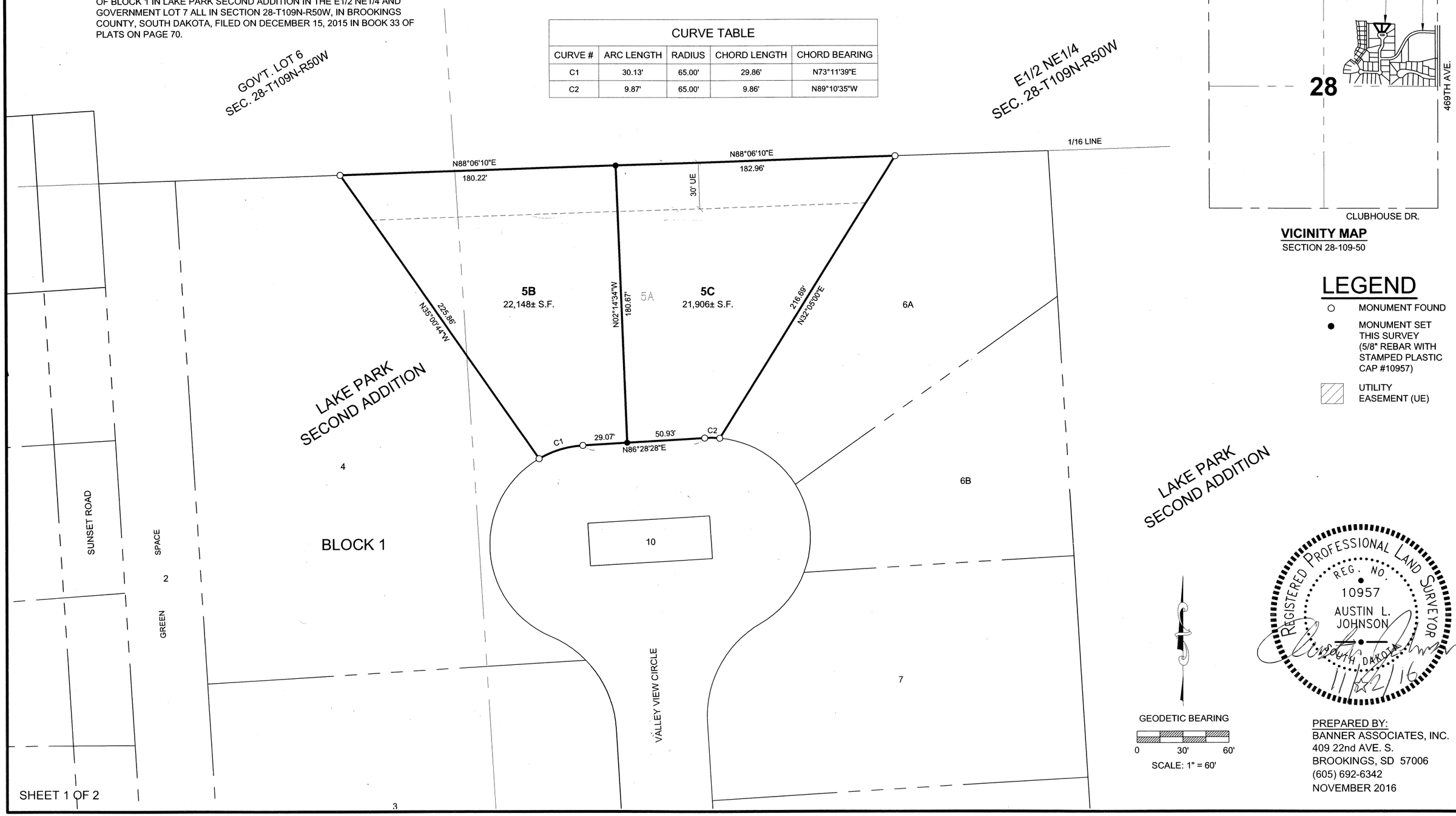
PLAT OF

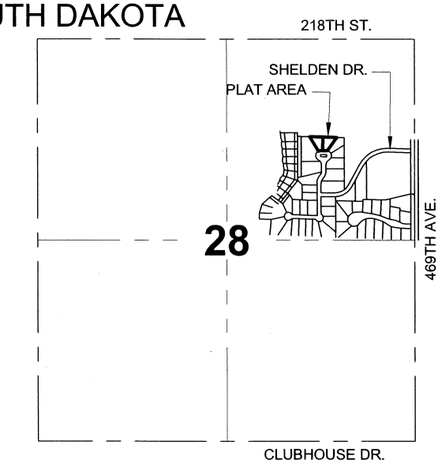
LOTS 5B AND 5C OF BLOCK 1 IN LAKE PARK SECOND ADDITION

IN THE E1/2 NE1/4 AND GOVERNMENT LOT 7 ALL IN SECTION 28-T109N-R50W, IN BROOKINGS COUNTY, SOUTH DAKOTA

VACATION NOTICE:
THIS PLAT SHALL VACATE LOT 5A OF THE PLAT OF LOTS 5A, 6A AND 6B OF BLOCK 1 IN LAKE PARK SECOND ADDITION IN THE E1/2 NE1/4 AND GOVERNMENT LOT 7 ALL IN SECTION 28-T109N-R50W, IN BROOKINGS COUNTY, SOUTH DAKOTA, FILED ON DECEMBER 15, 2015 IN BOOK 33 OF PLATS ON PAGE 70.

CURVE TABLE				
CURVE #	ARC LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING
C1	30.13'	65.00'	29.86'	N73°11'39"E
C2	9.87'	65.00'	9.86'	N89°10'35"W





VICINITY MAP
SECTION 28-109-50

LEGEND

- ○ MONUMENT FOUND
- ● MONUMENT SET THIS SURVEY (5/8" REBAR WITH STAMPED PLASTIC CAP #10957)
- UTILITY EASEMENT (UE)

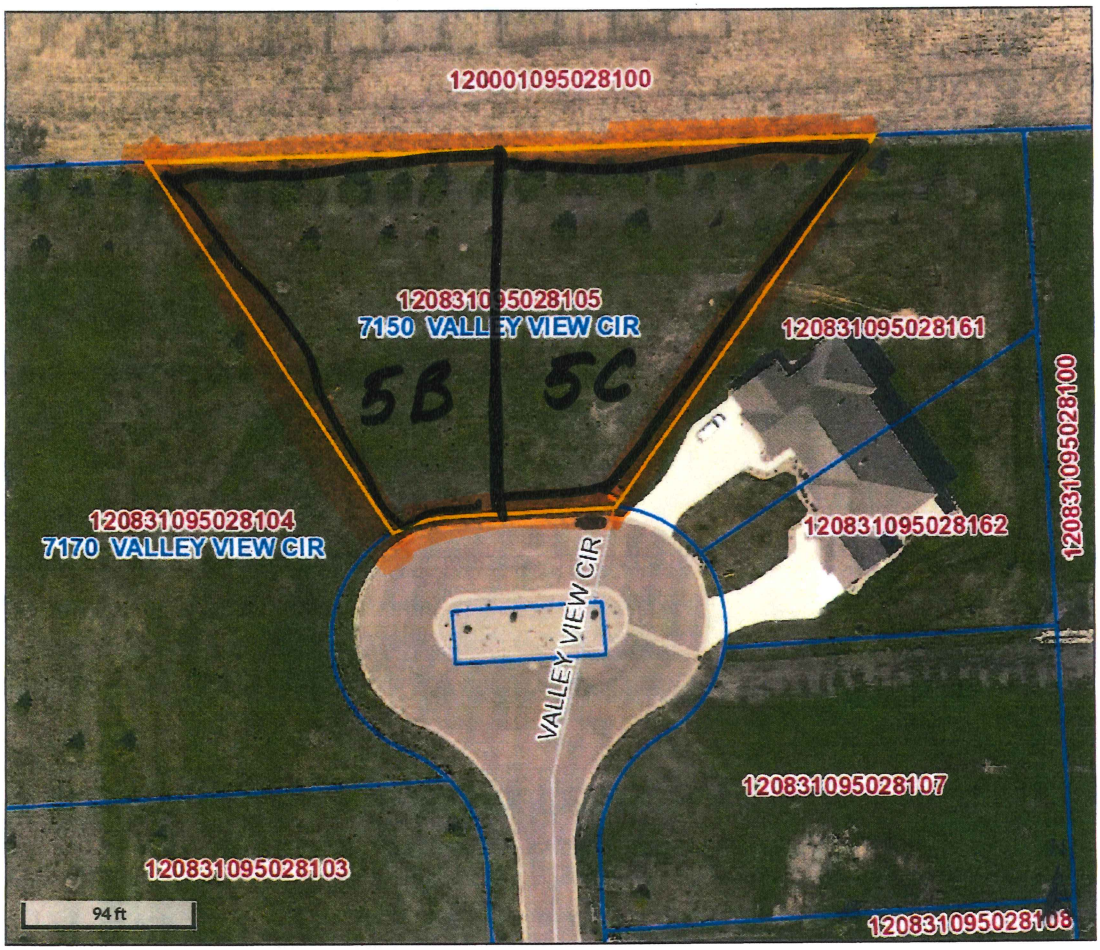
REGISTERED PROFESSIONAL LAND SURVEYOR
REG. NO. 10957
AUSTIN L. JOHNSON
SOUTH DAKOTA
11/22/16

PREPARED BY:
BANNER ASSOCIATES, INC.
409 22nd AVE. S.
BROOKINGS, SD 57006
(605) 692-6342
NOVEMBER 2016

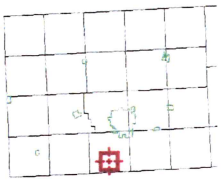
SHEET 1 OF 2

2011 replat 015

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

Parcel ID	120831095028105	**Alternate ID**	n/a	**Owner Address**	D & B PROPERTIES III LLC
Sec/Twp/Rng	28-109-50	**Class**	NAC		PO BOX 940
Property Address	7150 VALLEY VIEW CIR	**Acreage**	n/a		BROOKINGS SD 57006
	BROOKINGS				

District 12014 - MEDARY TWP/BROOKINGS SCH/LK CAM

Brief Tax Description LAKE PARK SECOND ADDN LOT 5 IN NE1/4 SEC 28-109-50 45,851 SF

(Note: Not to be used on legal documents)

Date created: 11/14/2016
Last Data Uploaded: 2/18/2014 4:02:57 AM

Developed by
The Schneider Corporation