

RECEIVED 08 27 2021

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WRIGHT JOHNSON & OLDEATHER, L.L.P.

ATTORNEYS AT LAW

ESTABLISHED 1857

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1900 U.S. BANK BUILDING  
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L. BRUCE WRIGHT  
ROBERT J. ROUTH  
DAVID R. BUNTAIN  
TERRY R. WITTLER  
RICHARD A. SPELLMAN  
DAVID O. COLVER †  
DONALD E. BURT (INACTIVE)  
STEPHEN H. NELSEN (INACTIVE)

† ATTORNEYS ADMITTED IN COLORADO ONLY

December 20, 2021

**VIA U.S. MAIL and Email: [cityofmilford@windstream.net](mailto:cityofmilford@windstream.net)**

Jeanne Hoggins  
City Clerk  
City of Milford, Nebraska  
505 First Street  
P.O. Box 13  
Milford, NE 68405

Re: Conditional Use Permit – 1100 West 1<sup>st</sup> Street, Milford, Nebraska  
Our File No: 24902.005

Dear Jeanne:

On behalf of the applicant, Hoppe & Son, LLC, I am pleased to submit the application for a Conditional Use Permit for the proposed multifamily residential project located at 1100 West 1<sup>st</sup> Street in Milford.

The property is located in the R-3 Zoning District, and, pursuant to Section 5.09.03 of the Milford Zoning Ordinance, a multiple family dwelling of more than 4 units is a conditional use in the R-3 Zoning District.

Section 6.06 of the Milford Zoning Ordinance contains the findings that must be considered for approval of a conditional use permit. This project meets every requirement:

**6.06.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.**

Based on the previously approved use, the proposed use should be acceptable. The property was previously approved for a 30 bed nursing home. If the operation of the property for 30 residents with the appropriate number employees and guests of the residents was permissible, the proposed use should be acceptable. The existing building's footprint and exterior will remain the same, but the use will be truly

residential, rather than the previously approved commercial residential healthcare facility.

**6.06.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.**

The property is a vacant nursing home. The nursing home was previously approved for a conditional use permit. The proposed residential use is more compatible with the adjacent residential and school properties than a commercial residential healthcare facility is, and that commercial use was previously approved. The proposed use should be seen as better fit than the previously approved use, so it is difficult to say that the use is detrimental in any way based on prior use.

**6.06.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.**

One concern with multifamily development might be the size of the buildings and the additional density, but in this case that is not an issue. The project does not proposed new construction on vacant land. The existing building's footprint and exterior will remain the same, so there is no change in the architectural effects in relation to the adjacent properties. The property was previously used as a 30 bed healthcare facility, so a 19-24 residential unit should be considered more comparable with the adjacent properties.

**6.06.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.**

The proposed development will not result in the significant changes to the access, drainage, etc. The property was previously operated as a nursing home and the existing facilities were sufficient. Any changes for the new use will not be significant.

**6.06.05 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.**

Similar to the answers provided above, the property's access was previously sufficient for a 30-bed nursing home facility. When considering the residents, guests, and employees of the facility, the residential use should not result in a significant increase in traffic. Also, to the extent there is a concern regarding additional traffic in this location during school drop-off and pick-up times, it is

important to note that any kids living in these units would just walk to school, so that could alleviate traffic concerns rather than intensify them.

**6.06.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.**

The proposed use is residential, so this should not be a particular concern.

**6.06.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.**

The proposed use is residential, so this should not be a particular concern.

**6.06.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.**

The proposed use is residential, so this should not be a particular concern.

**6.06.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.**

This will not be an issue.

**6.06.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.**

See the answers provided above. The transition from a 30 bed nursing home to a 19-24 unit apartment should not result in in a substantial increase in traffic.

**6.06.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.**

See the answers provided above. The transition from a 30 bed nursing home to a 19-24 unit apartment should not result in in a substantial increase in the burden on public facilities.

December 20, 2021  
Page 4

Enclosed please find the Conditional Use Permit application and conceptual site plan. Please let me know if you have any questions. I look forward to discussing this soon. Thanks.

Sincerely,



Andrew R. Willis  
For the Firm

Enclosure

**APPLICATION FOR CONDITIONAL USE PERMIT**  
**Milford, Nebraska**

Date 11/24/2021

Property Owner's Name Hoppe & Son, LLC

Address 1100 West 1st Street, Milford, NE 68405

Phone No. \_\_\_\_\_ (Home) (402) 489-1600 \_\_\_\_\_ (Work)

Pursuant to the Milford Zoning Ordinance, application is hereby made for the following proposed use of property or structure: Multi-Family dwelling unit of more than 4 units

Legal Description of Property See Exhibit A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Lot Size 110,642/2.54 (Sq. Ft./ Acres)      Zoning District R-3

Will use in all other respects conform to the applicable regulations of the district in which it is located? Yes

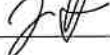
Will use conform to all other applicable regulations and laws of any governmental jurisdiction? Yes

Will use have adequate water, sewer and drainage facilities? Yes

Will ingress and egress be designed to minimize traffic congestion on the public streets/roads? Yes

Estimated Cost of Structure \$ \$100,000

5631 South 48th Street, Suite 220, Lincoln, NE 68516

Applicant's Signature 

Mailing Address NE 68516

**Enclosed:** Site Plan \_\_\_\_\_ Easements Attached

Application fee is Non-Refundable.

**OFFICE USE ONLY**

Permit No. \_\_\_\_\_ Permit is: \_\_\_\_\_ transferable, \_\_\_\_\_ transferable upon review/renewal

Date \_\_\_\_\_ Approved \_\_\_\_\_  
Approved with Added Conditions \_\_\_\_\_  
Disapproved \_\_\_\_\_

\_\_\_\_\_  
Chair, Milford Planning Commission

Date \_\_\_\_\_ Approved \_\_\_\_\_  
Approved with Added Conditions \_\_\_\_\_  
Disapproved \_\_\_\_\_

\_\_\_\_\_  
Chair, City Board of Trustees

ATTEST:  
City Clerk

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

EXHIBIT A

Legal Description of the Property

1100 West 1<sup>st</sup> Street, Milford, NE 68333

A tract of land in the City of Milford, Seward County, State of Nebraska described as follows:

Commencing at the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 2, Township 9 North, Range 3 East of the 6th P.M., Seward County, Nebraska; thence East 715 feet to the Point of Beginning; thence North 430 feet; thence East 225 feet; thence South 134 feet; thence East 82 feet; thence South 296 feet to the South line of the Northwest Quarter of the Southwest Quarter of said Section; thence West 307 feet to the point of beginning.

Together with the beneficial easements created by an Easement by and between Steven A. Hillyer and Patricia Jacob Hillyer, his wife, Kevin P. Wenzl and Kathryn L. Wenzl and W.S.T. Care, Inc., d/b/a Crestview Care Center dated February 16, 1986 and recorded February 18, 1986 in Book 70, Page 9 in the Office of the County Clerk, Seward County, Nebraska.

Together with the beneficial easement created by a Decd by and between Milford Community Home, Inc., a Nebraska corporation and Seward Clinic, P.C. a Nebraska professional Corporation dated May 12, 1975 and recorded August 5, 1975 in Book 86, Page 325, in the office of the County Clerk, Seward County, Nebraska.

EASEMENT FOR ELECTRIC LINES

Homer Schweitzer et ux

to

Consumers Public Power District

Filed February 19, 1965 8:05 A.M.

George H. King, County Clerk

Fee: \$3.25

EASEMENT FOR ELECTRIC LINES

KNOW ALL MEN BY THESE PRESENTS:

That Homer Schweitzer and Mary Schweitzer his wife, of Seward County, Nebraska, in consideration of \$30.00, (If grantor is not married add words "an unmarried person") receipt of which is hereby acknowledged, and for the purpose of securing the same, for 1 pole and 2 anchors when set on the following described property, do hereby grant and convey unto the Consumers Public Power District (hereinafter called "District") (and to

(Leave blank if no other grantees)

its (their) lessees, successors and assigns, the permanent right, privilege and easement of a right-of-way to construct, operate, maintain and remove all necessary poles, wires, guys and other necessary equipment in connection therewith, on and across the following described property situated in Seward County, Nebraska, more particularly described as follows:

Part of the northwest one-quarter of the southwest one-quarter (NW 1/4 SW 1/4) of Section two (2), township nine (9) north, range three (3) east of the 6th P.M.

The pole line herein contemplated shall be located on the property approximately as follows:

One (1) pole to be located approximately one (1) foot east of the west property line; and two (2) anchors to be located on the north property line about thirty-four (34) and forty (40) feet east of the above mentioned pole.

The Grantee(s) shall also have the privilege and easement of ingress and egress across the property to its (their) officers and employees for any purpose necessary in connection with the construction, operation, maintenance, inspection and removal of said line.

The Grantee(s) shall also have the right at any time to trim or remove such trees and underbrush as may in any way endanger or interfere with the safe operation of the lines and equipment used in connection therewith.

The Grantee(s) shall at all times exercise all due care and diligence to avoid injury or damage to the crops, livestock and other personal property of the Grantor, and the Grantee(s) shall indemnify and save harmless the Grantor from any such damage and loss arising or occurring to such property solely by reason of the construction, operation, maintenance and removal of said transmission lines.

The Grantee(s) agree(s) that should the transmission lines constructed hereunder be abandoned for a period of five years, the right-of-way or easement hereby secured shall then cease and terminate, and this contract shall be of no further force and effect.

Signed the 27 day of October, A.D., 1964.

WITNESS

Virgil Storrs
Virgil Storrs
Virgil Storrs
Virgil Storrs

Homer Schweitzer
Homer Schweitzer
Mary Schweitzer
Mary Schweitzer

Grantor

STATE OF NEBRASKA, )
COUNTY OF Seward ) ss.

On this 27 day of October, 1964, before me the undersigned, a Notary Public in and for said County and State, personally appeared Homer Schweitzer and Mary Schweitzer personally to me known to be the identical person(s) who signed the foregoing instrument as Grantor and who acknowledged the execution thereof to be their voluntary act and deed for the purposes therein expressed.

WITNESS my hand and notarial seal the date above written.

Virgil Storrs
Notary Public
Virgil Storrs

Virgil Storrs
General Notary Seal
Commission Expires
Oct. 29, 1966
State of Nebraska

My Commission expires on the 29 day of October, 1966.

Blue Border
100% MINIMUM LENGTH

KNOW ALL MEN BY THESE PRESENTS:

THAT Milford Community Home, Inc., a Nebraska Corporation, of the County of Seward, and State of Nebraska, in consideration of the sum of Forty-Three Thousand and no/100 - - - - - \$43,000.00 -- DOLLARS, in hand paid by Seward Clinic P.O., a Nebraska Professional Corporation of Seward County, State of Nebraska, do hereby sell and convey unto the said Seward Clinic, P.C., a Nebraska Professional Corporation the following described premises, situated in Seward County, State of Nebraska, to-wit:

A tract of land in the Northwest Quarter Southwest Quarter Section 2, Township 9 North, Range 3 East of the Sixth P.M., Seward County, Nebraska more particularly described as follows: Commencing at a point 1,050 feet east of the Southwest Corner Northwest Quarter Southwest Quarter of said Section 2; thence north on a line parallel with the west line of the Northwest Quarter Southwest Quarter of said Section 2, a distance of 430 feet; thence west on a line parallel with the south line of the Northwest Quarter Southwest Quarter of said Section 2 a distance of 110 feet; thence south on a line parallel with the west line of the Northwest Quarter Southwest Quarter of said Section 2 a distance of 134 feet; thence east on a line parallel with the south line of the Northwest Quarter Southwest Quarter of said Section 2 a distance of 82 feet; thence south on a line parallel with the west line of the Northwest Quarter Southwest Quarter of said Section 2 a distance of 296 feet; thence east on the south line of the Northwest Quarter Southwest Quarter of said Section 2 a distance of 28 feet to the place of beginning. There is hereby reserved an easement for the right of ingress and egress through the described property to the grantors and their assigns.

together with all appurtenances thereunto belonging, and

NEBRASKA DOCUMENTARY, STAMP TAX. AUG 5 1975 \$ 47 30 BY [Signature]

and the said covenant to warrant and defend the said premises against any acts of said parties of the first part. And hereby relinquishes all

in and to the above described premises. Signed this 12th day of May.

In the presence of



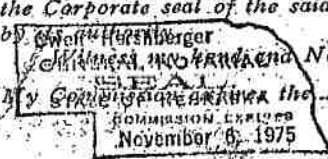
MILFORD COMMUNITY HOME, INC. A Nebraska Corporation BY: [Signature] President

STATE OF NEBRASKA } Seward County } ss. Jay L. Dunlap

On this 24th day of July, 1975, before me, the undersigned, a Notary Public in and for said County, personally came Jay L. Dunlap, President of the

Milford Community Home, Inc., a Nebraska Corporation to me personally known to be the President and the identical person whose name is affixed to the above conveyance, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of the said Milford Community Home, Inc., a Nebraska Corporation, and that the Corporate seal of the said Milford Community Home, Inc. was thereto affixed

by [Signature] Notarial Seal at [Signature] in said county the day and year last above written. Signed this 12th day of May, 1975. [Signature] Notary Public.





STATE OF \_\_\_\_\_ }  
County } ss.  
On this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ before me,  
the undersigned, a Notary Public in and for said County,  
personally came \_\_\_\_\_, President of the  
\_\_\_\_\_ to me personally known to be the President and the identical person whose name is affixed to the above conveyance,  
and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed  
of the said \_\_\_\_\_, and that  
the Corporate seal of the said \_\_\_\_\_ was thereto affixed  
by its authority.  
Witness my hand and Notarial Seal at \_\_\_\_\_ in said county the day and year last above written.  
My Commission expires the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Notary Public.



FILED	INDEXED	RECORDED	COMPALED	PAGED
✓	✓			

DEED  
FROM  
Ford Community Home Inc.

TO  
Seward Clinic, P.C.

STATE OF Nebraska }  
Seward County } ss.

Entered in Numerical Index and filed for  
in the office of the Register of Deeds of  
County, the 5th day of  
August, 19 75  
3 o'clock and 00 minutes P. M., and  
y recorded in Book 86

Deeds on page 325  
*John D. G. [Signature]*  
Register of Deeds.

Fee \$6.25  
Deputy.

257

State of Nebraska, County of Seward ) ss.  
Filed for record on Feb. 18, 1986 at 10:30  
a.m. and recorded in book 70, page 9.

*John D. Goll*  
County Clerk

EASEMENT

Fee: \$25.50

Steven A. Hillyer is the owner of record of the following described real estate:

A tract of land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 2, Township 9 North, Range 3 East of the 6th P.M., Seward County, Nebraska, more particularly described as follows: Commencing at a point 1050 feet East of the SW corner NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 2; thence North on a line parallel with the West line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 2, a distance of 430 feet; thence West on a line parallel with the South line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 2 a distance of 110 feet; thence South on a line parallel with the West line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 2 a distance of 134 feet; thence East on a line parallel with the South line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 2 a distance of 82 feet; thence South on a line parallel with the West line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 2 a distance of 296 feet; thence East on the South line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section a distance of 28 feet to the place of beginning.

Steven A. Hillyer and Patricia Jacobs Hillyer, his wife, have contracted to sell said real estate to Kevin P. Wenzl and Kathryn L. Wenzl.

W.S.T. Care, Inc., d/b/a Crestview Care Center, a corporation, is the owner of the following described property which adjoins the above described property on the east side of the property so owned by said W.S.T. Care, Inc.:

A tract of land in the City of Milford, Seward County, Nebraska described as follows: Commencing at the Southwest corner of the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section Two (2), Township Nine (9) North, Range Three (3) East of the 6th P.M., Seward County, Nebraska; thence East 715 feet to the place of beginning; thence North 430 Feet; thence East 225 Feet; thence South 134 Feet; thence East 82 Feet; thence South 296 Feet to the South line of the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of said Section; thence West 307 Feet to the place of beginning, with all rights of way and easements appurtenant thereto, all improvements thereon and all fixtures of a permanent nature if any, in their present condition, known as Southview Limited,

A garage building owned by said W.S.T. Care Center, Inc., partially encroaches and rests upon the property, first heretofore described and being sold, as shown by the plat and survey of record attached hereto and made a part hereof by this reference marked Exhibit A for which encroachment no permission or easement was granted to said W.S.T. Care Center, Inc. or its predecessors in ownership.

NOW THEREFORE, Steven A. Hillyer and Patricia Jacobs Hillyer, husband and wife, and Kevin P. Wenzl and Kathryn L. Wenzl, husband and wife, hereinafter designated as Grantor do hereby grant and convey to W.S.T. Care Center, Inc., d/b/a Crestview Care Center, a corporation, hereinafter designated as Grantee the following easement:

1. Grantor for valuable consideration grants and conveys to grantee an easement to that portion of the land first heretofore described upon which said garage building now rests and is located and situate in accordance with the plat attached hereto and made a part hereof.

2. Grantee acknowledges that it has no right, title or interest in and to any of the real estate heretofore first described, except this easement as is granted and conveyed to it by this document and will claim no interest in and to said real estate heretofore first described except that granted by this easement.

3. Grantor grants to grantee the right of ingress and egress to the area upon which said garage is located as to that portion of the property first heretofore described upon which said garage building or portion thereof is situate and located for use as a garage and for maintenance and repair necessary from normal wear and tear in and around said garage.

4. Grantee agrees that it will not rebuild said garage if the same is destroyed or becomes unusable or enlarge the same and will use said garage only for that purpose for which it was constructed and has been used and in the event of removal of said garage, grantee agrees to remove the same, including the cement slab located upon the property granted hereby and fill the ground from which the same is removed to the level of the surrounding ground. The intention of this easement is to grant to grantee an easement to said portion of land upon which said garage is situate and located so as to enable grantee to continue to use said garage and grantee agrees that it will terminate the use of said garage to comply with the terms of the contract when said garage deteriorates to the extent that grantee determines it is no longer usable as such or otherwise, and will remove the same upon such determination that its deterioration and condition render it no longer usable by grantee and hold grantors harmless therefore and for the expense of removal and leveling the area from which the cement slab is removed.

This agreement shall be binding upon the heirs, devisees, personal representatives, successors and assigns of the parties hereto.

Dated February 17 1986.

Steve Hillier  
Grantor

Patricia Jacobs Hillier  
Grantor

Kathryn L. Wang  
Grantor

Kevin P. Wang  
Grantor

W.S.T. Care Center, Inc.,  
d/b/a Crestview Care Center,  
a corporation, Grantee

by: *(Signature)*  
President

STATE OF NEBRASKA )  
                              ) *(Signature)*  
County of Seward    ) ss.

On this 17 day of Feb, 1986, before me, the undersigned a notary public, duly commissioned and qualified for in said county, personally came STEVEN A. HILLYER nad PATRICIA JACOBS HILLYER, husband and wife, to me known to be the identical persons whose names are affixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

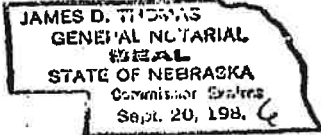
GENERAL NOTARY - State of Nebraska  
GUDRUN E. SIMS  
My Comm. Exp. Sept. 30, 1988

*(Signature)*  
Notary Public

STATE OF NEBRASKA )  
County of Seward ) ss.

On this 16 day of February 1986, before me, the undersigned a notary public, duly commissioned and qualified for in said county, personally came KEVIN P. WENZL and KATHRYN L. WENZL, husband and wife, to me known to be the identical persons whose names are affixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed.

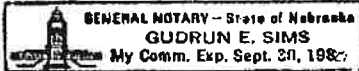
Witness my hand and notarial seal the day and year last above written.



James D. Thomas  
Notary Public

STATE OF NEBRASKA )  
County of ) ss.

On this 16 day of February 1986, having been duly sworn upon oath comes TIMOTHY JULIFS, President of W.S.T. Care, Inc., d/b/a Crestview Care Center and that such President acknowledges this instrument as his voluntary act and deed and the voluntary act and deed of W.S.T. Care, Inc., d/b/a Crestview Care Center, a corporation, and that he has authority to acknowledge and execute this document as President.

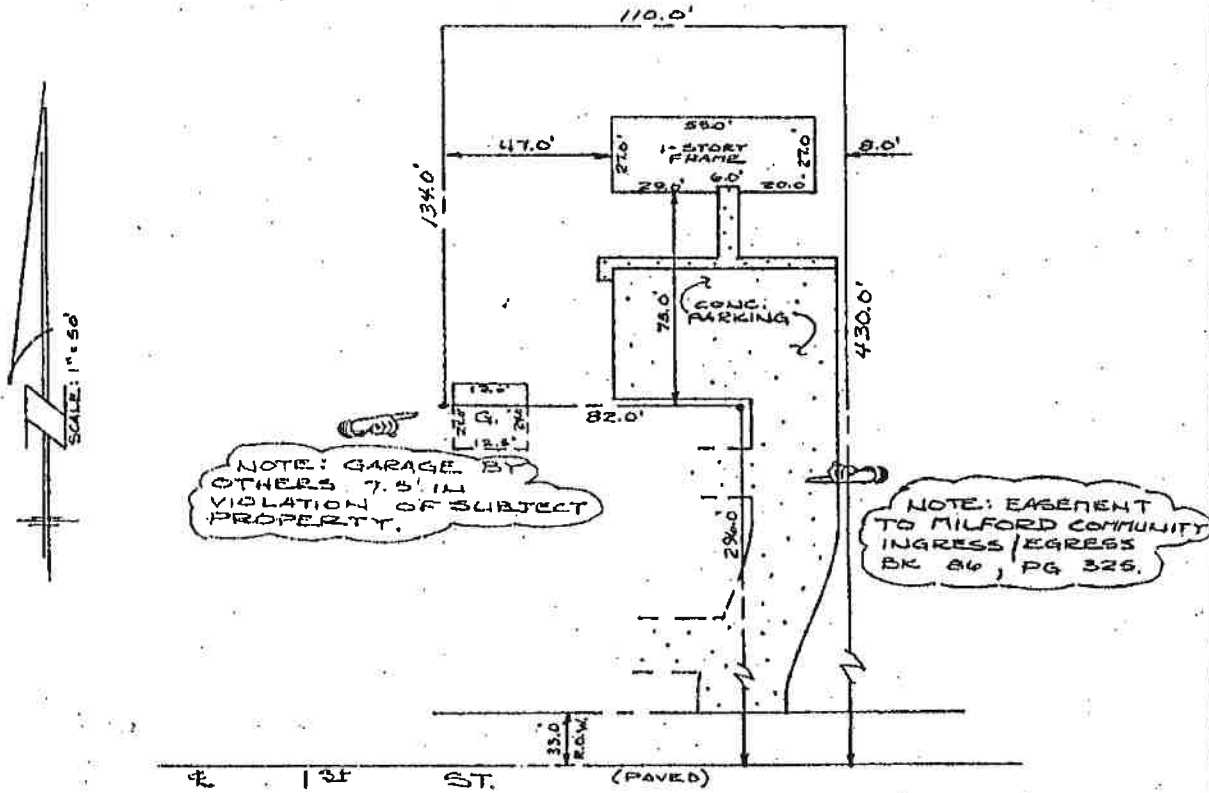


Gudrun E. Sims  
Notary Public

PROPERTY IMPROVEMENT LOCATION PLAT

FIRSTIER

1080 1<sup>ST</sup> ST, MILFORD



LEGAL DESCRIPTION: That part of the NW/4, SW/4 of Section 2, T9N, R3E of the 6th P.M. Milford, Seward County, Nebraska as described on Exhibit "A" attached hereto.

DATE OF CERTIFICATE  
2/13/86

REVISED



SURVEYOR'S CERTIFICATE

To the Lienholders and/or the owners of the premises inspected, and to Mr. Kevin Wenzl and FirstTier Mortgage Co.

The undersigned does hereby certify that the inspection made this day on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way in evidence or known to me, except as shown hereon, and that said property has access to and from a dedicated roadway. The foregoing is shown with an accuracy necessary to satisfy the needs of a lender or insurer. This plat is not a boundary survey and is not to be used for any purpose whatsoever other than those specifically stated above.

*Jesse W. Winger*

**Professional Surveyors, Inc.**

123 SO. 84TH - SUITE 8  
LINCOLN, NEBRASKA 68510  
(402) 483-5480

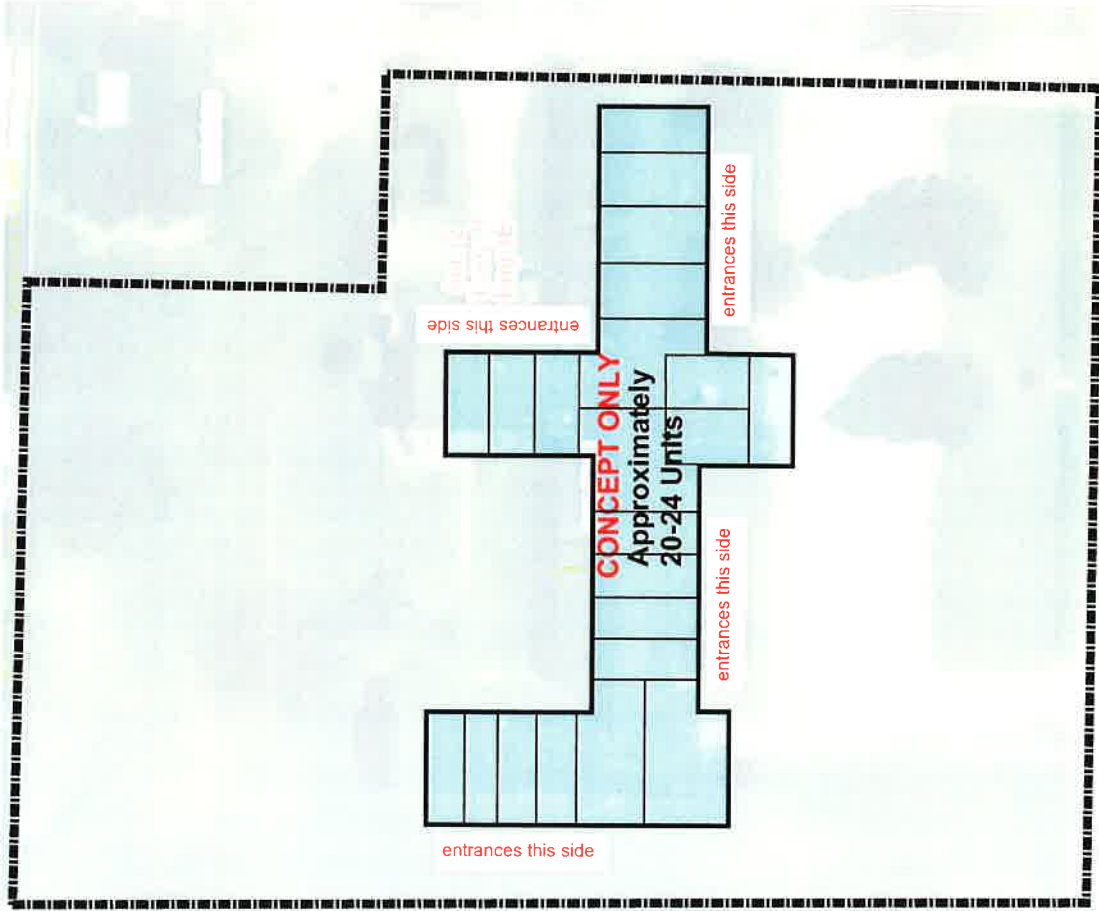
JESSE W. WININGER, L.S.  
PRESIDENT

PROJECT NO.  
86204

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### General Project Information-

Building is approximately 17,400SF and is anticipated to net between 20-24 apartment units. Units will consist of a mix of 1BR and 2BRs and will be between roughly 550SF to 650SF in size.



## SITE CONCEPTUAL PLAN

SCALE: AS SHOWN  
DRAWN BY: BJ  
DATE: 1/1

APPROVED:  
CHECKED BY:



HOPPE DEVELOPMENT

Milford Nursing Home Renovation