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Version B (Modify)

NO 03898 ✓ Pages 5

Doc Tax _____

Fee \$ 34.⁰⁰ P&M \$ 4.50

Fees Pd \$ _____ Gen Fee \$ 29.50

Check# _____

Refund _____ Due 34.⁰⁰

THE STATE OF NEBRASKA }
MADISON COUNTY } ss

This instrument filed for record
the 23 day of October 2023
at 10:30 A.M. and recorded in
Book 2023 Page 03898

Diane S Tykocyn Register of Deeds

By the City of Norfolk, 309 N. 5th Street, Norfolk, Nebraska 68701

Conditional Use Permit.
Resolution No. 2023PC-8

WHEREAS, Conover Properties, L.L.C has an approved Conditional Use Permit 2022PC-7 for a drive-thru on property located Northwest of the intersection of W. Madison Avenue and S. 3rd Street legally described as follows:

Tract 1

That part of Lots 14, 15 and 16, in Block 3 in Mathewson's Addition to the City of Norfolk, as surveyed, platted and recorded, bounded and described as follows, to-wit: Beginning at a point on the East line of said Lot 16, 39 feet and 6 inches North of the Southeast Corner of said Lot 16 at the Southeast Corner of the Theatre building situated upon the parcel hereby conveyed; running thence West 150 feet 2 1/2 inches more or less, mainly along the South line of said Theatre building, to a point on the West line of said Lot 14, which is 41 feet 6 1/4 inches North of the Southwest Corner of said Lot 14; thence North along said West line of said Lot 14, 97 feet 9 1/2 inches to a point 10 feet West of the Northwest Corner of said Theatre building; thence East 28.7 feet mainly along the North line of said Theatre building to a turn in the wall of said Theatre building; thence North 3 feet and 6 inches along the line of said Theatre building to a turn in said wall, thence East 11.3 feet along the line of said Theatre building to a turn in said wall; thence South 3 feet 6 inches along the line of said Theatre building to a turn in said wall; thence East 15 feet and 6 inches to the center line of the wall between said Theatre building and the cement block building there adjoining on the East; thence South 10 feet and 3 inches along said center line of said wall to the center line of the wall between the said cement block building and the one story brick building there adjoining on the South; thence West 5 feet and 4 inches along said center line of said wall to the center line of wall between said Theatre building and said one story brick building there adjoining on the East; thence South 26 feet along said center line of said wall to the center line of the wall between said Theatre building and said one story brick building there adjoining on the North; thence East 99 feet and 6 inches along said center line of said wall to a point in the East line of said Lot 16, which is 101 feet North of the Southeast corner of said Lot 16; thence South along said lot line 61 feet and 6 inches to the place of beginning;

EXCEPT a tract described as follows: Part of Lots 14 and 15, in Block 3, Mathewson's Addition to the City of Norfolk, Madison County, Nebraska, described

as follows: Beginning at a point 47 feet South and 94 feet 2 inches West of the Northeast corner of Lot 16, Block 3, Mathewson's Addition to the City of Norfolk, Madison County, Nebraska; said point being on the center line of the wall between the Theatre building on the parcel herein described and the cement block building there adjoining on the East; thence North 8 feet 3 inches along said center line of said wall, to a point where the North line, extended, of said theatre building intersects the said center line of said wall between said cement block building and said theatre building; thence West 15 feet and 6 inches, along said North line of said theatre building, to a turn in the wall of said theatre building, thence North 3 feet 6 inches along the line of said theatre building to a turn in the wall of said theatre building; thence West 11.3 feet along the line of said theatre building to a turn in the wall of said theatre building; thence South 3 feet 6 inches along the line of said theatre building to a turn in the wall of said theatre building; thence West 28.7 feet, mainly along the North line of said theatre building; to a point in the West line of said Lot 14, 36 feet 8 1/4 inches South of the Northwest corner of said Lot 14, thence South along the West line of said Lot 14, approximately 99 feet to a point 41 feet 6 1/4 inches North of Southwest corner of said Lot 14; thence East 10 feet, thence North approximately 87 feet to a point 47 feet South and 10 feet East of the Northwest corner of said Lot 14, thence East 45 feet 10 inches to the point of beginning.

Tract II

That part of Lots 15 and 16, Block 3 in Mathewson's Addition to the City of Norfolk, Madison County, Nebraska, described as follows: Beginning at a point 75 feet South of the Northeast corner of said Lot 16, said point being the center line of the wall between the one story brick building on the parcel herein described and the theatre building there adjoining on the South; thence West 99 feet 6 inches, along the said center line of said wall, to the center line of the wall between said one story brick building and the theatre building adjoining on the West, thence North 26 feet, along the center line of said wall to the center line of the wall between said one story brick building and the said theatre building there adjoining on the North; thence East 5 feet 4 inches along said center line of said wall to the center line of the wall between the cement block building on the parcel herein described and the theatre building there adjoining on the West; thence North 2 feet along the center line of said wall to a point 47 feet South of the North line of said Lot 15, thence East 94 feet 2 inches to the East line of said Lot 16; thence South 28 feet to the point of beginning.

Tract III

That part of Lots 14, 15 and 16, Block 3, Mathewson's Addition to the City of Norfolk, Madison County, Nebraska, as surveyed, platted and recorded, bounded and described as follows, to-wit: Beginning at the Southeast corner of said Lot 16, and running thence North along the East line of said Lot 16, 39 feet and 6 inches (39'6") to the Southeast corner of the brick theatre building situated on the parcel adjoining on the North of the parcel hereby conveyed; thence West 150 feet and 2 1/2 inches (150' 2 1/2"), mainly along the South wall of said theatre building, to a point on the West line of said Lot 14, 41 feet and 6 1/4 inches (41' 6 1/4") North of the Southwest corner of said Lot 14; thence South along the West line of said Lot 14, 41 feet and 6 1/4 inches (41' 6 1/4") to the Southwest corner of Lot 14; thence East 150 feet to the place of beginning; LESS that part of Lot 14 described as follows: Beginning at the Southwest corner of said Lot 14; thence East, on lot line 9.5 feet; thence North, parallel to the West line of Lot 14, 41.39 feet; thence Westerly 9.5 feet to a point on the West line of said Lot 14, said point being 41.52 feet North of the Southwest corner of said Lot 14; thence South 41.52 feet to the point of beginning; and

WHEREAS, the property described above is presently included in Zoning District C-2; and

WHEREAS, the Planning Commission of the City of Norfolk conducted a public hearing on October 3, 2023 receiving input and data from the applicant and the general public concerning the Conditional Use Permit, said hearing having been duly noticed; and

WHEREAS, on June 22, 2022, the Planning Commission approved the Conditional Use Permit by a vote of 7 to 0; and

WHEREAS, no appeal was taken within 15 days of the Planning Commission decision; and

WHEREAS, the Madison County Register of Deeds filed and recorded the Conditional Use Permit on July 11, 2022; and

WHEREAS, on September 18, 2022 Valerie Grimes, Norfolk Zoning Official, filed with the City an appeal of the Planning Commission's approval of a Conditional Use Permit to the applicant; and

WHEREAS, pursuant to Norfolk City Code Section 27-56 the Planning Commission may, following a public hearing review a Conditional Use Permit and leave the Conditional Use Permit unaltered, revoke the permit or alter permit, adding deleting or modifying the condition & restriction contained in the permit, reverse, affirm or modify the decision of the Planning Commission; and

WHEREAS, information and testimony both in favor of and in opposition to the Conditional Use Permit of Conover Properties, L.L.C. were presented at said hearing.

NOW THEREFORE, in consideration of the foregoing recitals and based upon the evidence and testimony received at the public hearing, the Planning Commission of the City of Norfolk, Nebraska hereby adopt the following Resolution:

BE IT RESOLVED by the Planning Commission of the City of Norfolk, Nebraska that the Conditional Use Permit 2022PC-7 approving the Conditional Use Permit of Conover Properties, L.L.C is hereby modified and Conover Properties, L.L.C. is hereby granted a Conditional Use Permit for a drive-thru subject to the following conditions:

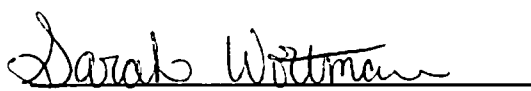
1. The attached site plan is hereby approved and shall be complied with;
2. APPLICANT shall work with city staff for a plan to permit vehicle stacking on Madison avenue;
3. Pursuant to the Norfolk City Code, the Conditional Use Permit shall run with the land;
4. Failure to observe and maintain the conditions and restrictions of the Conditional Use Permit shall be considered a violation of The Code of the City of Norfolk, Nebraska subject to penalty as provided herein and may be grounds for review including alteration or termination of the permit;
5. All procedures and standards outlined in Section 27-56 of the Norfolk City Code pertaining to Condition Use Permits shall be observed and the Conditional Use Permit granted herein shall be subject to the provisions of the Norfolk City Code that provide for an appeal to be taken within 15 days of the decision of the Planning Commission, and;

- 6. There shall be compliance with any other applicable City, County, State, or Federal regulations that may apply, and;
- 7. An optional footpath, up to 18" in width made of rock, pavers or concrete, to the bench(es) and/or a tree mulch ring of standard mulch or rock may be included in the attached approved site.

PASSED AND APPROVED this 3rd day of October, 2023.

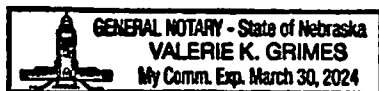
ATTEST:

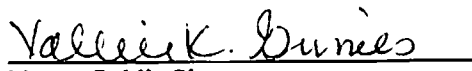

 Dan Spray
 Planning Commission Chair

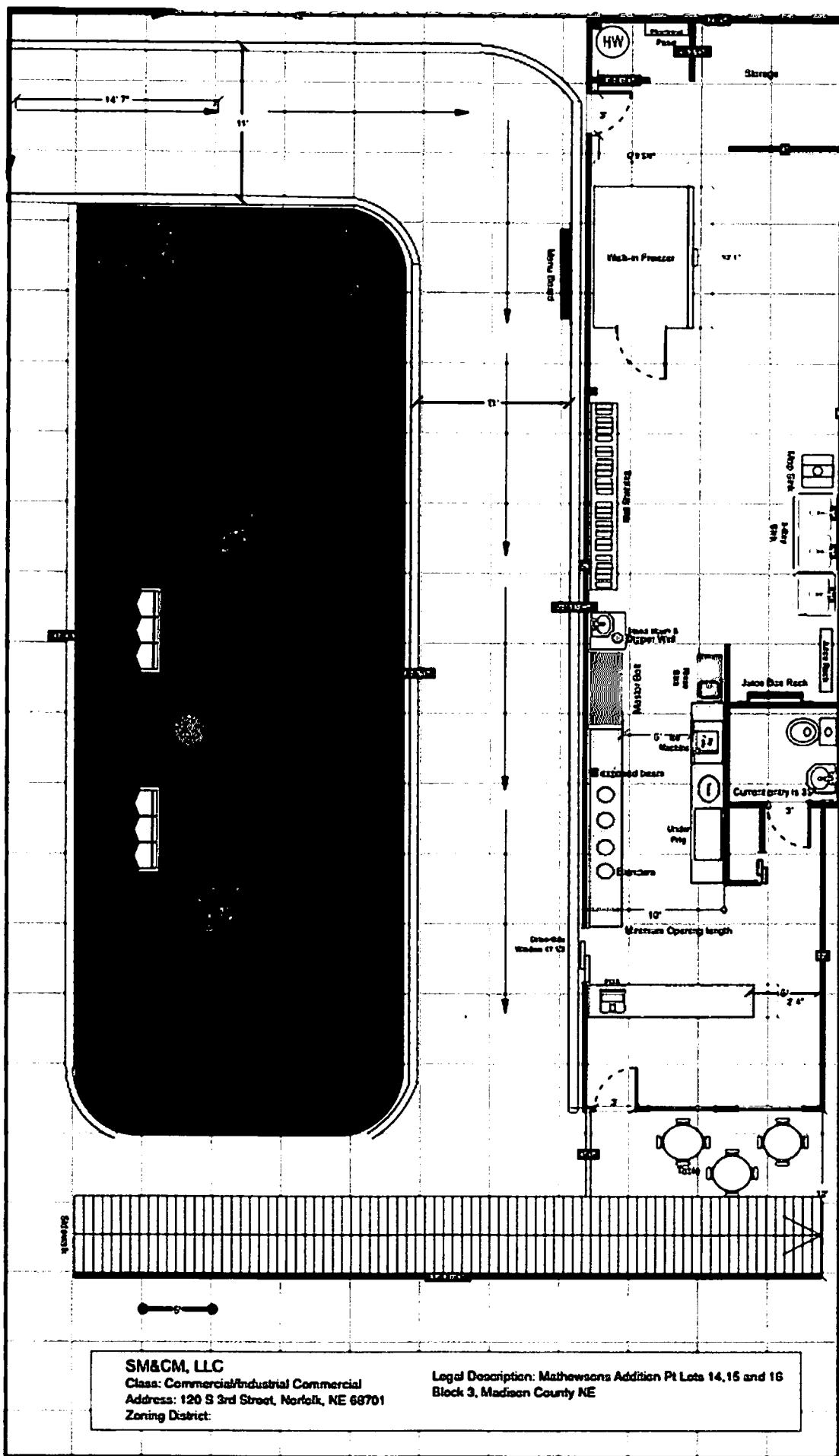

 Sarah Wortmann
 Planning Commission Secretary

Approved as to form: 
 Danielle Myers-Noelle
 City Attorney

The foregoing instrument was acknowledged before me this 3rd day of October, 2023 by Dan Spray, Planning Commission Chair and Sarah Wortmann, Planning Commission Secretary of the City of Norfolk.




 Notary Public Signature
 Valerie K. Grimes
 Notary Public Printed



SM&CM, LLC
Class: Commercial/Industrial Commercial
Address: 120 S 3rd Street, Norfolk, NE 68701
Zoning District:

Legal Description: Mathewsons Addition Pt Lots 14, 15 and 16
Block 3, Madison County NE