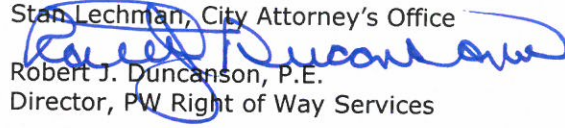


## REQUEST FOR RESOLUTION FOR MAJOR ENCUMBRANCE PERMIT

**TO:** Stan Lechman, City Attorney's Office

**FROM:**   
Robert J. Duncanson, P.E.  
Director, PW Right of Way Services

**ROW NO.:** 2015-ENCROACHMENT-0000028

**DATE:** September 25, 2015

**SUBJECT:** Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to MPD Properties, LLC, their successors and assigns, to encroach into the right-of-way with building wall at 3734 Osage Street.

**It is requested that the above subject item be placed on the next available Mayor Council Agenda.**

This office has investigated the request from Ryan Phillips of MPD Properties, LLC dated 7/17/2015, for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Comcast Corporation; Commission For People With Disabilities; Councilperson Espinoza; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Fire Department; Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Public Works: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; Qwest Corporation; Regional Transportation District; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to MPD Properties, LLC, their successors and assigns, to encroach with building wall into 3734 Osage Street.

**INSERT PARCEL DESCRIPTION ROW 2015-ENCROACHMENT-0000028-001 HERE**

## **STANDARD PROVISIONS**

The revocable permit ("Permit") granted by this resolution is expressly granted upon and subject to each and all of the following terms and conditions:

- (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations at 2000 West 3<sup>rd</sup> Avenue, 303.446.3759, and prior to commencing construction.
- (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that are necessary for installation and construction of items permitted herein.
- (c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 12600 West Colfax Ave, Suite B-310, Lakewood, Colorado, 80215 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate underground facilities prior to commencing any work under this permit.
- (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Manager of Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments shall be approved by the Manager of Public Works and the Director of the Building Inspection Division prior to construction. Upon completion, a reproducible

copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of Public Works.

- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.
- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of Public Works, and each such policy shall contain a statement therein or

endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

**SPECIAL CONDITIONS FOR THIS PERMIT**

- (p) None.

A map of the area is attached hereto.

RJD: acp

cc: Asset Management, Steve Wirth  
City Council Office, Shelley Smith  
Councilperson Espinoza and Aides  
Department of Law, Karen Aviles  
Department of Law, Brent Eisen  
Department of Law, Shaun Sullivan  
Department of Law, Caroline Martin  
Department of Law, Adam Hernandez  
City Attorney Office, Angela Garcia  
Public Works, Alba Castro  
Public Works, Angela Casias  
Project File

Property Owner:  
MPD Properties  
c/o Ryan Phillips  
3734 Osage St  
Denver, CO 80211

Agent:  
Ryan Phillips  
3734 Osage St  
Denver, CO 80211



**ORDINANCE/RESOLUTION REQUEST**

Please email requests to Angela Casias  
at [angela.casias@DenverGov.org](mailto:angela.casias@DenverGov.org) by **12:00 pm on Monday**.

*\*All fields must be completed.\*  
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: 9/25/2015

Please mark one:  Bill Request or  Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes  No

If yes, please explain:

2. **Title:** (Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: **grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.**)

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to MPD Properties, LLC, their successors and assigns, to encroach into the right-of-way with building wall at 3734 Osage Street.

3. **Requesting Agency:** Public Works Engineering and Regulatory & Analytics

4. **Contact Person:** (With actual knowledge of proposed ordinance/resolution.)

- **Name:** Adam Perkins
- **Phone:** 720-865-3036
- **Email:** adam.perkins@denvergov.org

5. **Contact Person:** (With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)

- **Name:** Angela Casias
- **Phone:** 720.913.8529
- **Email:** angela.casias@denvergov.org

6. **General description/background of proposed ordinance including contract scope of work if applicable:**

Resolution granting a revocable permit to MPD Properties, LLC to encroach into the right-of-way with building wall at 3734 Osage Street.

**\*\*Please complete the following fields:** (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field – please do not leave blank.)

- a. **Contract Control Number:** N/A
- b. **Contract Term:** Renewed annually
- c. **Location:** 3734 Osage Street
- d. **Affected Council District:** D1 Espinoza
- e. **Benefits:** N/A
- f. **Contract Amount (indicate amended amount and new contract total):** N/A

7. **Is there any controversy surrounding this ordinance?** (Groups or individuals who may have concerns about it?) **Please explain.**

None.

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: \_\_\_\_\_

Date Entered: \_\_\_\_\_



**DENVER**  
THE MILE HIGH CITY

## EXECUTIVE SUMMARY

**Project Title: 2015-ENCROACHMENT-0000028 3734 Osage St**

**Description of Proposed Project: Resolution granting a revocable permit to MPD Properties, LLC to encroach into the right-of-way with building wall at 3734 Osage Street.**

**Explanation of why the public right-of-way must be utilized to accomplish the proposed project:** An ALTA survey was performed in anticipation of preparing construction plans for a 2nd floor addition. The survey revealed that the structure currently rests outside of the property line on the Osage side by approximately .21 feet at the southwest corner and .31 feet at the northwest corner. The building was purchased by current owners in 2011 and the building survey at that time did not include information regarding location of building in proximity to property line. The building was originally constructed in 1974 and to the knowledge of the current owners has always been in its current location. It is not feasible or cost effective to relocate the structure such that it does not extend over the property line.

**Has a Temp MEP been issued, and if so, what work is underway: No**

**What is the known duration of an MEP: Permanent**

**Will land be dedicated to the City if the vacation goes through: N/A**

**Will an easement be placed over a vacated area, and if so explain: N/A**

**Will an easement relinquishment be submitted at a later date: N/A**

**Additional information: N/A**

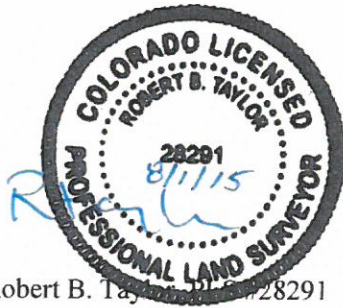
**EXHIBIT A**

A PARCEL OF LAND SITUATED IN THE NE 1/4 OF SECTION 28, T3S, R68W OF THE 6<sup>TH</sup> PM, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF LOT 7, CENTRAL SUBDIVISION AN ADDITION TO THE TOWN OF HIGHLANDS; THENCE S00°00'00"W ALONG THE WEST LINE OF SAID LOT 7, A DISTANCE OF 3.92 FEET, WITH ALL BEARINGS HEREIN RELATIVE THERETO, TO THE **POINT OF BEGINNING**;

THENCE CONTINUING S00°00'00"W ALONG THE WEST LINE OF SAID CENTRAL SUBDIVISION AS AN ADDITION TO THE TOWN OF HIGHLANDS, A DISTANCE OF 61.00 FEET  
THENCE S90°00'00"W, A DISTANCE OF 0.50 FEET;  
THENCE N00°00'00"E, A DISTANCE OF 61.00 FEET;  
THENCE N90°00'00"E, A DISTANCE OF 0.50 FEET TO THE **POINT OF BEGINNING**.

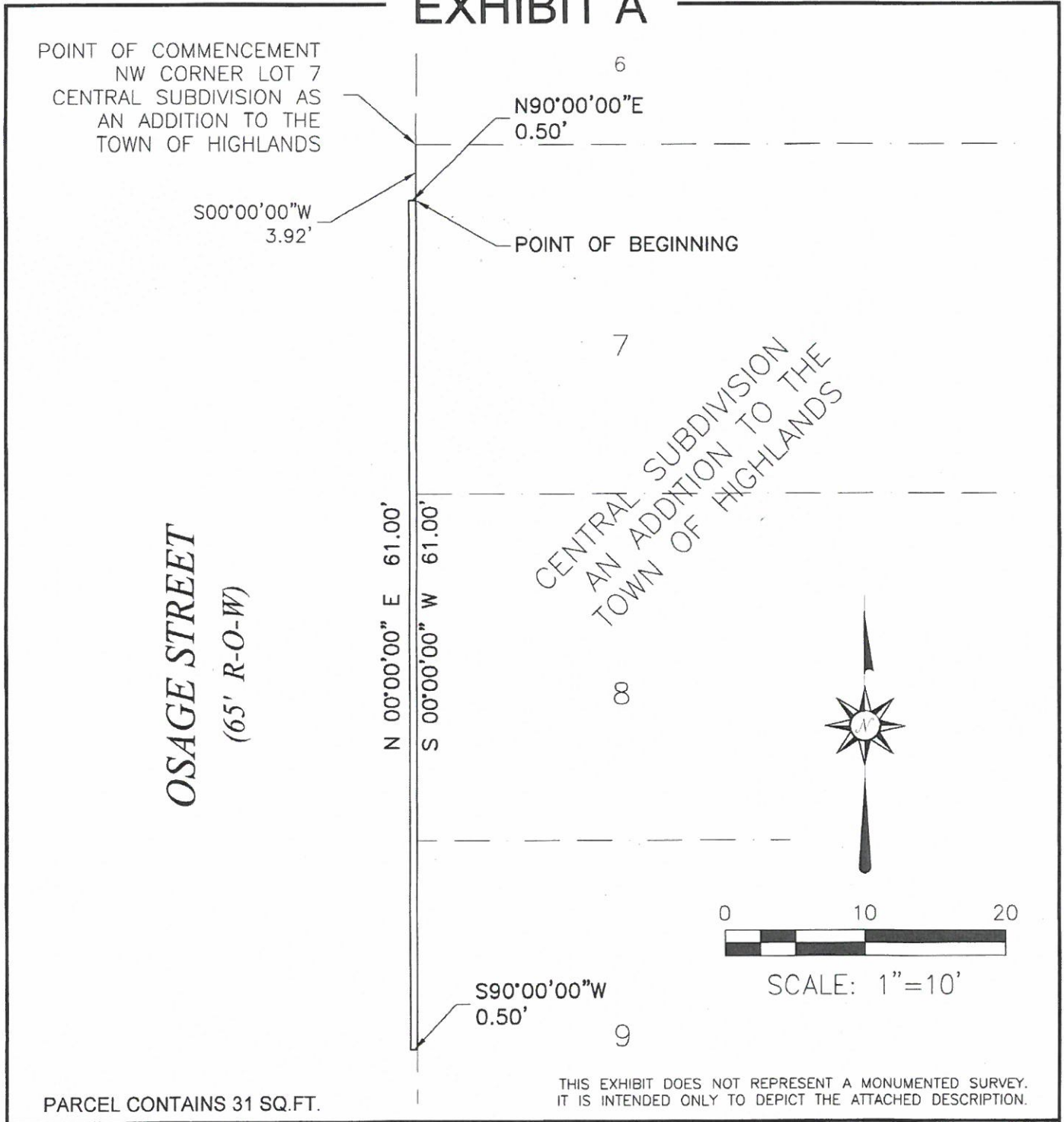
CONTAINING 31 SQUARE FEET (0.0007 ACRES) MORE OR LESS.



Prepared By: Robert B. Taylor, License 28291  
For and on behalf of  
LCON LLC  
P.O. Box 261176  
Lakewood, CO 80226



# ILLUSTRATION FOR EXHIBIT A



PARCEL CONTAINS 31 SQ.FT.

THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY.  
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

## CITY AND COUNTY OF DENVER

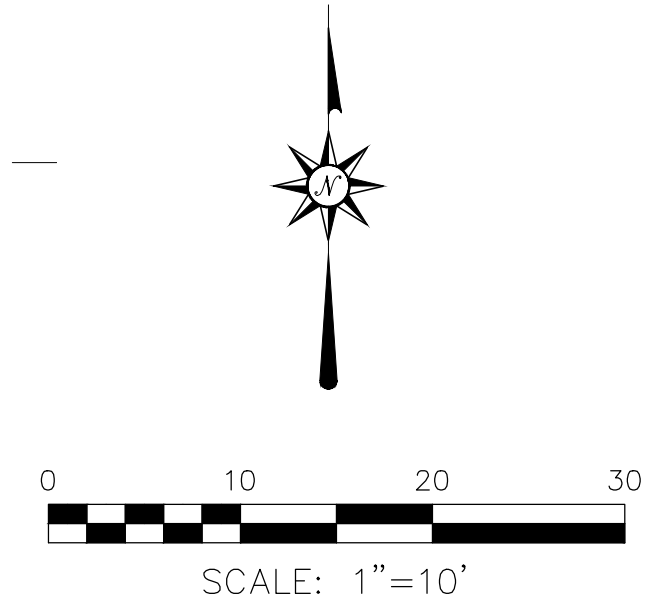
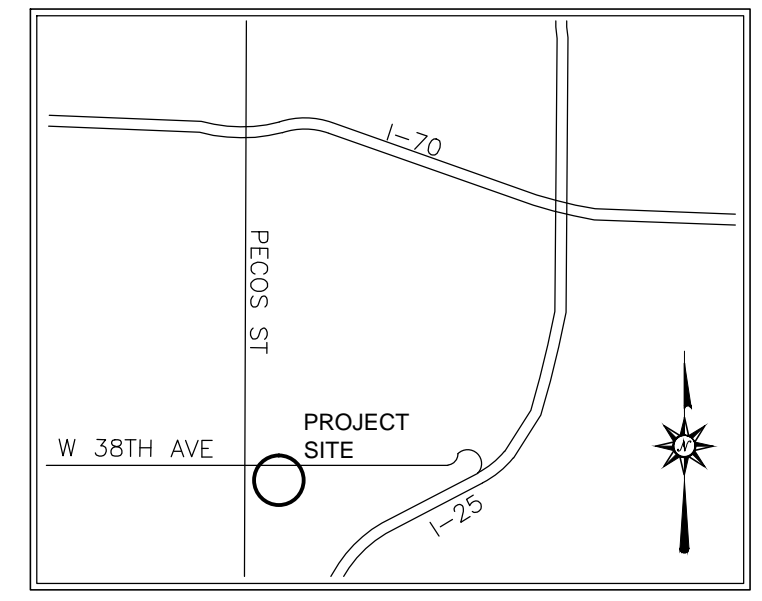
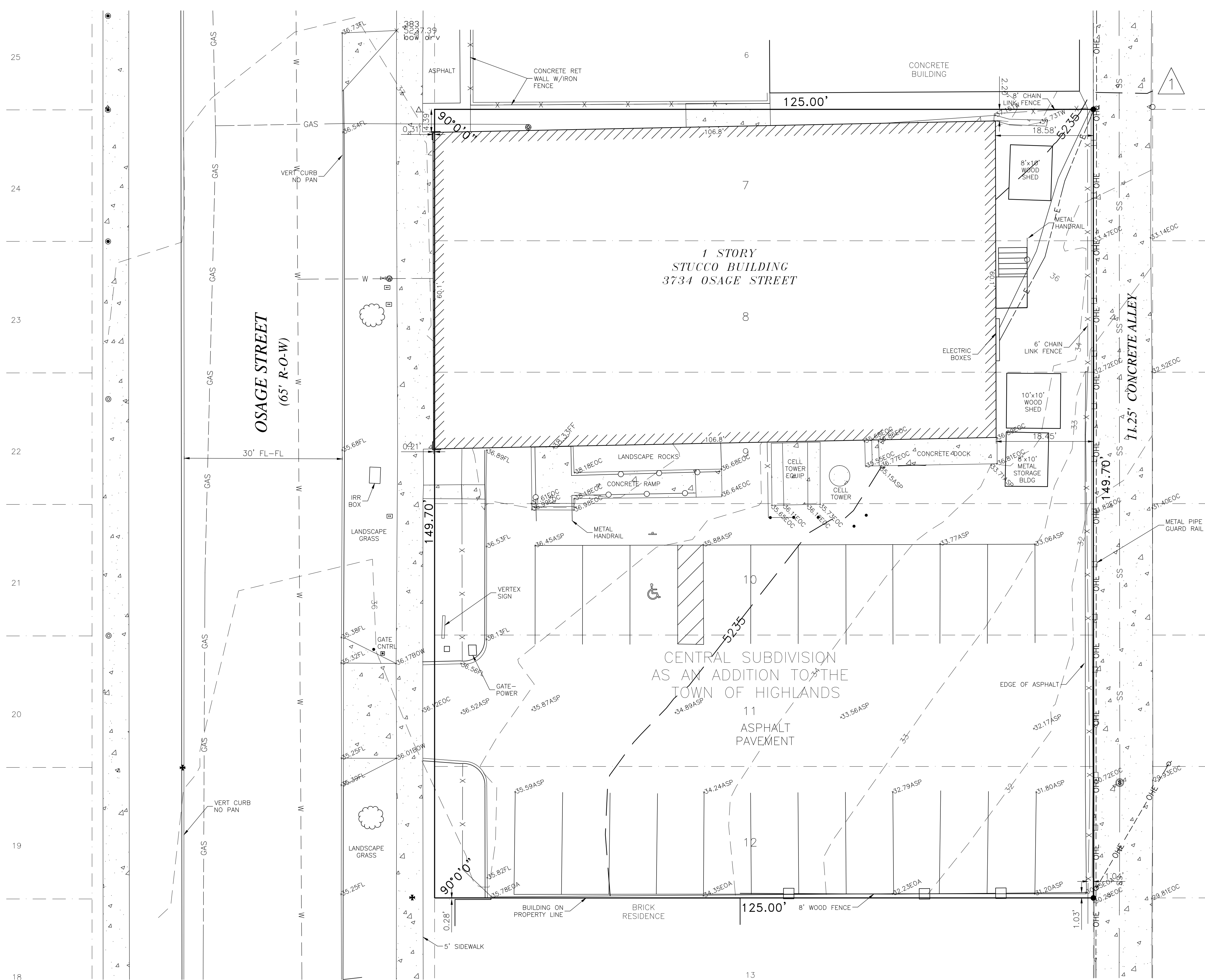
A PARCEL OF LAND SITUATED IN THE NE 1/4  
OF SECTION 28, T3S, R68W OF THE 6TH PM,  
CITY AND COUNTY OF DENVER, STATE OF  
COLORADO.

DRAWN BY: RBT	SCALE: 1" = 10'	<b>LCON LLC</b> Land Consultants · Land Surveyors P.O. BOX 261176 Lakewood, CO 80226
JOB NO.: MG1507	DATE: 08/01/15	

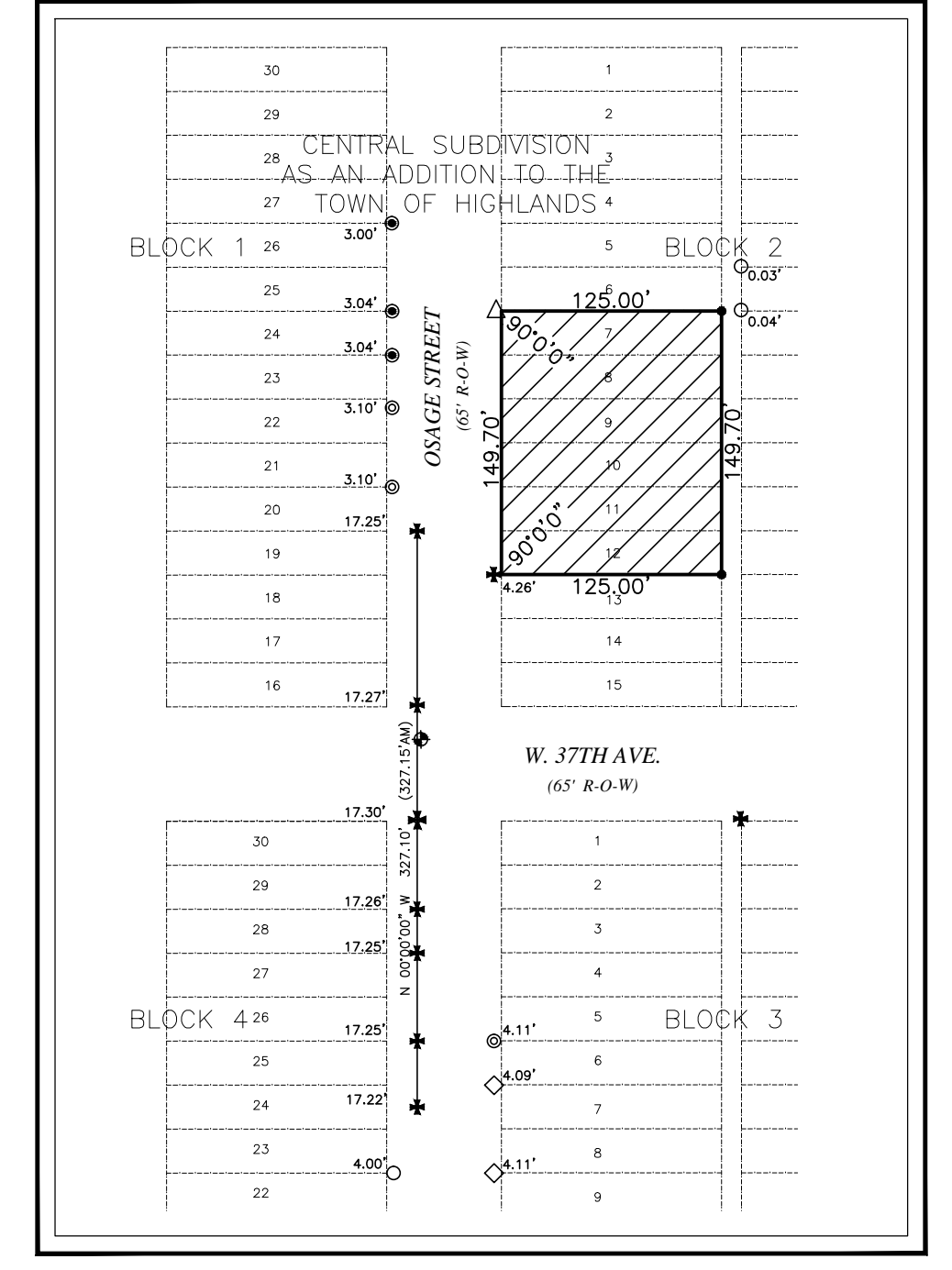


# TOPOGRAPHIC IMPROVEMENT SURVEY

LOCATED IN THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE 6TH PM, CITY AND COUNTY OF DENVER, STATE OF COLORADO



- LEGEND**
- ⊙ FOUND NAIL & DISK UNREADABLE
  - FOUND NAIL & DISK PLS #16828
  - ◇ FOUND NAIL & DISK PLS #26598
  - ✱ FOUND CHISELED CROSS
  - ◆ FOUND RANGE POINT
  - FOUND P&C UNREADABLE
  - SET NO. 5 REBAR W/YEL W/WASHER PLS #28291
  - △ SET 3' O/S NAIL W/WASHER PLS #28291
  - ⊙ WATER METER
  - ⊕ WATER VALVE
  - ⊕ FIRE HYDRANT
  - ⊕ SANITARY SEWER MH
  - ⊕ SIGN
  - ⊕ LIGHT POLE
  - ⊕ POWER POLE
  - ⊕ TRANSFORMER
  - ⊕ PHONE PED
  - ⊕ IRRIGATION BOX
  - BOLLARD

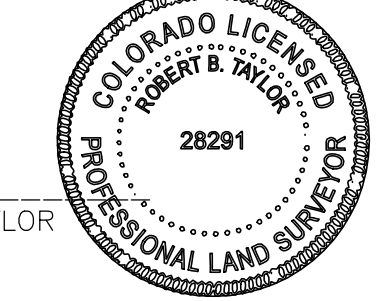


**PROPERTY DESCRIPTION**

LOTS 7 TO 12, BLOCK 2, CENTRAL SUBDIVISION AS AN ADDITION TO THE TOWN OF HIGHLANDS, CITY AND COUNTY OF DENVER, STATE OF COLORADO.  
CONTAINING 18,713 SQUARE FEET, 0.43 ACRES MORE OR LESS.

**SURVEY CERTIFICATION**

I, ROBERT B. TAYLOR, A PROFESSIONAL LAND SURVEYOR HEREBY CERTIFIES TO MPD PROPERTIES LLC AND VERTEX MCGLAMERY, THAT THIS TOPOGRAPHIC IMPROVEMENT SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION FROM A FIELD SURVEY CONDUCTED IN APRIL 2015, USING NORMAL STANDARDS OF CARE AND PRACTICE AND THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THIS PLAT ACCURATELY DEPICTS THE RESULTS OF SAID SURVEY.



ROBERT B. TAYLOR  
PLS #28291

**GENERAL NOTES**

1. UTILITY INFORMATION WAS OBTAINED FROM FIELD OBSERVATION AND RECORD MAPS. THE LOCATION OF UNDERGROUND UTILITIES ARE SHOWN BASED ON VISIBLE EVIDENCE ONLY AND NO RESPONSIBILITY IS ACCEPTED FOR THEIR ACCURACY. THE LOCATIONS OF UNDERGROUND UTILITIES SHOULD BE FIELD VERIFIED PRIOR TO ANY DIGGING ON OR ADJACENT TO THE SUBJECT PROPERTY.
2. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUE 18-4-508, C.R.S.
3. SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF SURVEYOR.
4. THE BASIS OF BEARINGS FOR THIS SURVEY IS N00°00'00"E (ASSUMED) ALONG THE NORTH-SOUTH 17.25' OFFSET LINE ON THE WEST SIDE OF OSAGE STREET. THE SE CORNER OF LOT 20, BLOCK 1 AND THE NE CORNER OF THE S 1/2 OF LOT 24, BLOCK 4 ARE FOUND CROSSES CUT INTO THE EXISTING CURB. ADDITIONAL FOUND MONUMENTS ARE SHOWN AND DESCRIBED.
5. THE PROJECT BENCHMARK IS CCD (496A) BRASS CAP LOCATED ON THE SPC AT THE SE CORNER OF 38TH AVENUE AND PECOS STREET. ELEVATION=5244.15 (NAVD 88).
6. SITE ADDRESS: 3734 OSAGE STREET, DENVER, COLORADO 80211.
7. THERE ARE 21 STANDARD PARKING SPACES AND 1 HANDICAP SPACE.
8. THE EXISTING BUILDING HAS COSMETIC BRICK ADHERED TO THE FRONT FACING PORTION OF THE BUILDING AT THE NORTHWEST AND SOUTHWEST CORNERS WHICH EXTENDS SLIGHTLY INTO THE RIGHT OF WAY FOR OSAGE STREET AS SHOWN.
8. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATE SHOWN HEREON.
9. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY LCON LLC TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. LCON LLC WAS NOT PROVIDED A TITLE COMMITMENT TO USE IN THE PREPARATION OF THIS TOPOGRAPHIC IMPROVEMENT SURVEY

**INDEXING STATEMENT**

DEPOSITED THIS DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_M., IN BOOK \_\_\_\_\_ OF THE COUNTY SURVEYOR'S LAND SURVEY/RIGHT-OF-WAY SURVEYS AT PAGE(S) \_\_\_\_\_, RECEPTION NUMBER \_\_\_\_\_.