



Planning Department

180 NE 2nd Street
Hermiston, OR 97838
Phone: (541)567-5521
Fax: (541)567-5530
planning@hermiston.or.us

To: Planning Commission
From: Clinton Spencer, City Planner
Subject: Seventh Day Adventist Church Variance Request
Date: May 2, 2016

Louis Hanson has submitted a request for a major variance on behalf of the Seventh Day Adventist Church located at 855 W Highland Ave. The property is described as 4N 28 15BA Tax Lot 901 and is zoned Single-Family Residential (R-1). The applicant has requested a variance from the maximum sign height of eight feet in residential zones. §155.35(C) establishes that free standing signs in low density residential areas are limited to eight feet in height. The property is zoned Single-Family Residential which is classified as a low density residential zone. The applicant is requesting the planning commission grant a variance from the eight foot height limitation and approve the construction of the sign with a 14 foot height. The proposed sign is 4 feet high and 8 feet wide or 32 square feet which is consistent with the sign size for conditional uses in the R-1 zone. With the exception of the sign height, the size and placement on the property meet the requirements of the sign code.

According to the applicant, an application for a sign permit was approved by the building department but rescinded upon a second review when the building inspectors verified the height of the sign exceeded the maximum allowed height. The applicant contends that since the sign was originally permitted with a 14 foot height by the building department, the city should honor the original permit issuance. Courts have historically held that issuance of a permit by a city which does not meet all of the standards of the code does not nullify those provisions.

Consideration of the variance allows the city additional authority in potential conditions which would allow the applicant to construct a taller sign while mitigating potential negative impacts of the sign. For instance, variable message LED signs such as the one proposed are relatively new in the city and there is no clear language governing their unique properties. Staff's experience has been that the city has received numerous complaints about the brightness of the existing LED signs at night time. The planning commission may choose to limit brightness and flashing or even require a slow text scroll speed to limit distractions to drivers.

Per §157.225(A) of the Hermiston Code of Ordinances, the planning commission may grant variances where it can be shown that, owing to special and unusual circumstances, literal interpretation of the zoning code would cause an undue or unnecessary hardship.

Criteria

The specific criteria relied upon by the planning commission are contained in §157.225(A)(1) of the Hermiston Code of Ordinances. In granting a variance, the applicant must demonstrate that all of the following criteria have been met:

1. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography or other circumstances over which the applicant has no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as possessed by owners of other property in the same zone or vicinity.
3. The authorization of the variance shall not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any development patterns or policy.
4. It is impossible to maintain the zoning ordinance and at the same time, build, erect or use the structure.
5. The variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.

It is not necessary to restate other ordinances and statutory requirements of the variance as part of the proceedings. The granting or denial of the variance will not affect the requirements of the City of Hermiston to comply with building, plumbing and electrical codes, other ordinances, statutory or regulatory compliance issues.

Draft Findings

Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography or other circumstances over which the applicant has no control.

1. The building department originally issued a permit and later rescinded the permit due to a previously unnoticed height violation.

The variance is necessary for the preservation of a property right of the applicant that is substantially the same as is possessed by owners of other property in the same zone or vicinity.

2. There are several similar signs on other properties in low density residential zones which exceed the height limitation.
3. The applicant has noted that West Park Elementary, First Christian Church, and the Hermiston High School are all within 1000 feet of the proposed sign, within a low density residential zone, and already have signs in excess of 8 feet in height.

4. In addition to the signs in relatively close proximity, noted in Finding #4, Rocky Heights Elementary, Sandstone Middle School, Armand Larive Middle School, and Desert View Elementary also have signs in excess of 8 feet in height.

The authorization of the variance shall not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any development pattern or policy.

5. The extra height will keep the LED messages out of the sightline of drivers approaching the sign at night, creating a safer driver environment.
6. Allowing extra height for the sign will better protect the investment in the sign by preventing it from being slapped or vandalized by passing pedestrians.
7. Placing the sign at a higher height will prevent children from hiding behind it during VBS activities during the summer.

It is impossible to maintain the zoning ordinance requirements and at the same time build, erect or use the structure.

8. The engineering drawings were submitted and approved by the city on November 19, 2015 and a permit was issued on January 18, 2016. The applicant subsequently poured the footing necessary for a 14 foot high sign.

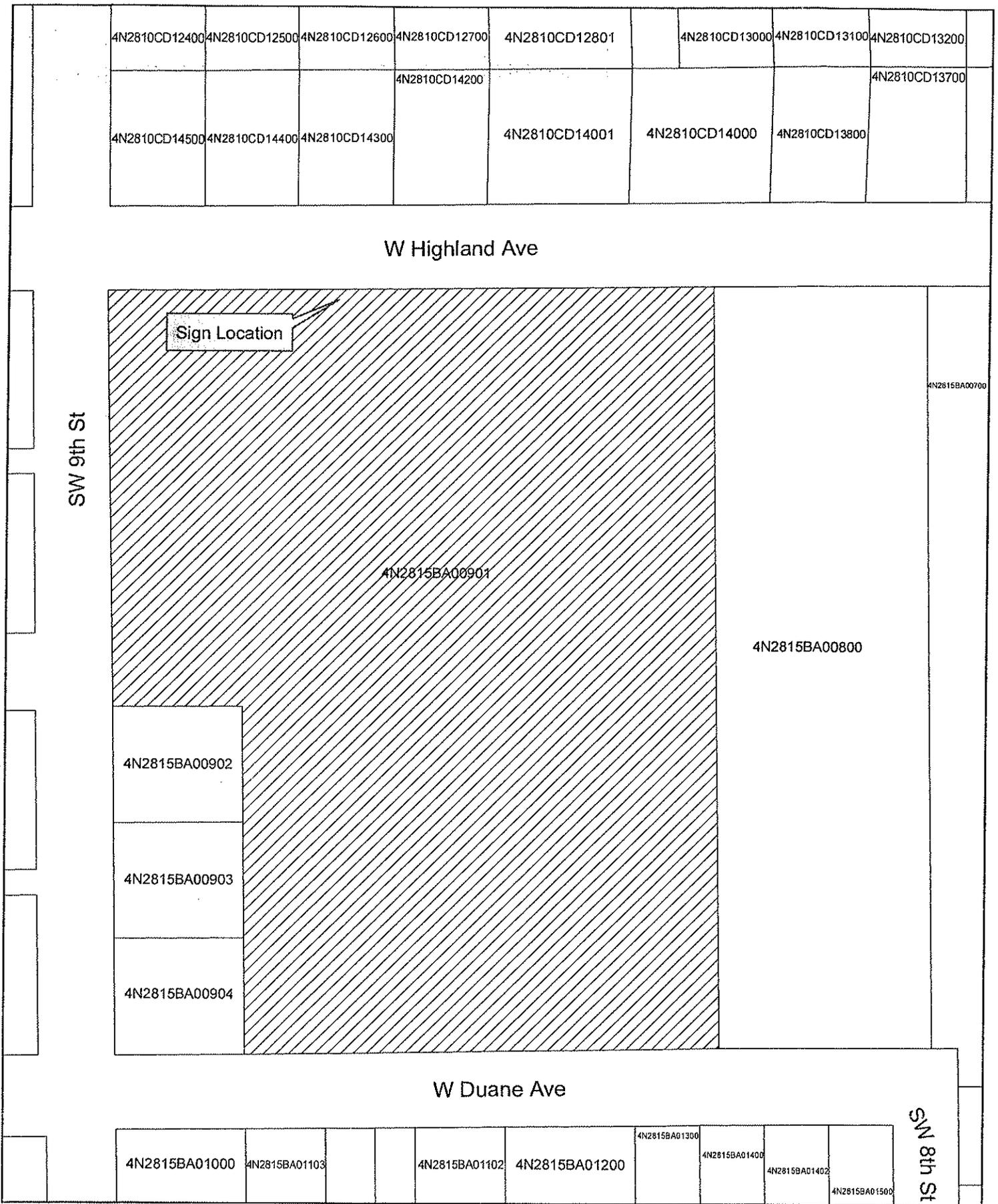
The variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.

9. The applicant received a permit to build a sign at 14 feet in height but later had to modify the design at the direction of the building department.

Staff Recommendation

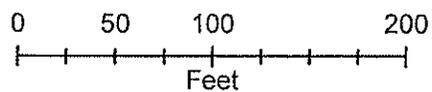
The planning commission may choose to approve or deny the variance requested by the Seventh Day Adventist Church. The applicant notes that several other property owners have signs as high or higher than the proposed sign and they wish to exercise a similar property right. Should the planning commission choose to approve the variance request, staff recommends the following conditions be placed upon the placement and operation of the sign:

1. The sign shall operate at the lowest possible brightness level from dusk to dawn.
2. Flashing text and blinking graphics shall not be used.



Legend

-  Area of Proposed Variance
-  Property Line
-  City Limits



CITY OF HERMISTON

APPLICATION FOR MAJOR VARIANCE

Pursuant to the provisions of §157.225 of the Hermiston Code of Ordinances, application is hereby made for a variance for the following described property:

Name of Applicant: HERMISTON SDA CHURCH Phone: 541-567-8241

Mailing Address: 855 W. HIGHLAND

Name of Owner (If Different): Phone:

Mailing Address:

Legal Description: Assessor's Map No: 15 BA Tax Lot No: 901

Subdivision (If Applicable):

Please Attach a Metes and Bounds Legal Description

Street Address:

Current Zoning Designation: R1

Variance Requested: MAX SIGN HEIGHT OF 8 FT NEEDED 14 FT 8 IN.

IMPORTANT!: Oregon's Land Use Planning Laws and §157.225 of the Hermiston Code of Ordinances require the planning commission to make "findings of fact" with regard to variance requests. The findings provide justification to either approve or deny the application. Read the questions that follow and answer them as completely as you can; use additional sheets if necessary. Your responses will be used by the City to make findings and evaluate the merits of your request. The chances of a successful application depend upon the adequacy of the arguments you present to justify approval of the application.

- 1. Explain what exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, topography or other circumstances over which the applicant has no control. (Note: These exceptional circumstances should relate to the land rather than persons.)

BUILDING DEPT ISSUED PERMIT & RECORDED IN

- 2. Why is the variance necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity?

THIS MORE CLOSELY MATCHES OTHER SIGNS IN LIKE ZONE & AREA SEE ATTACHED PHOTOS

3. Explain why the authorization of the variance would not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any development pattern or policy.

EXTRA HEIGHT WOULD KEEP LIGHTS ABOVE TRAFFIC EYE LEVEL AT NIGHT WOULD KEEP SIGN FROM BEING SLAPPED TO SEE IF THEY COULD MAKE IT FLICKER OR GO OUT KEEP KIDS AT VBS FROM HIDING BEHIND IT

4. Explain why it is impossible to maintain the zoning ordinance requirements and, at the same time, build, erect or use the structure.

ENGINEERING DRAWINGS WERE OK'ED 11-16-15 BUILDING PERMIT # B-146-15 ISSUED 11-19-15 1-18-16 RECEIVED SIGN 2-17-16 DUG FOOTING + POURED CEMENT + INSPECTION SIGNED OFF LATER THAT DAY CHUCK RECEIVED THE PERMIT

5. Explain why the variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.

SAME AS ABOVE - SIGN WAS OK'ED BUILT AND RECEIVED

ADDITIONAL INFORMATION TO BE FURNISHED & ATTACHED TO APPLICATION:

1. Evidence that applicant is owner or purchaser of the property or has written permission of such owner to make an application for the variance.
2. Two copies (one digital copy) of a site plan (11"x17") drawn to scale, showing the location of the property concerned with all proposed or existing building(s), and the location of all highways, streets and alleys.

The above statements are true to the best of my belief and knowledge. As applicant, I understand that the planning commission requests my attendance, or the attendance of my authorized representative.

I am the _____ owner/ owner's authorized representative
(If authorized representative, please attach letter signed by owner.)

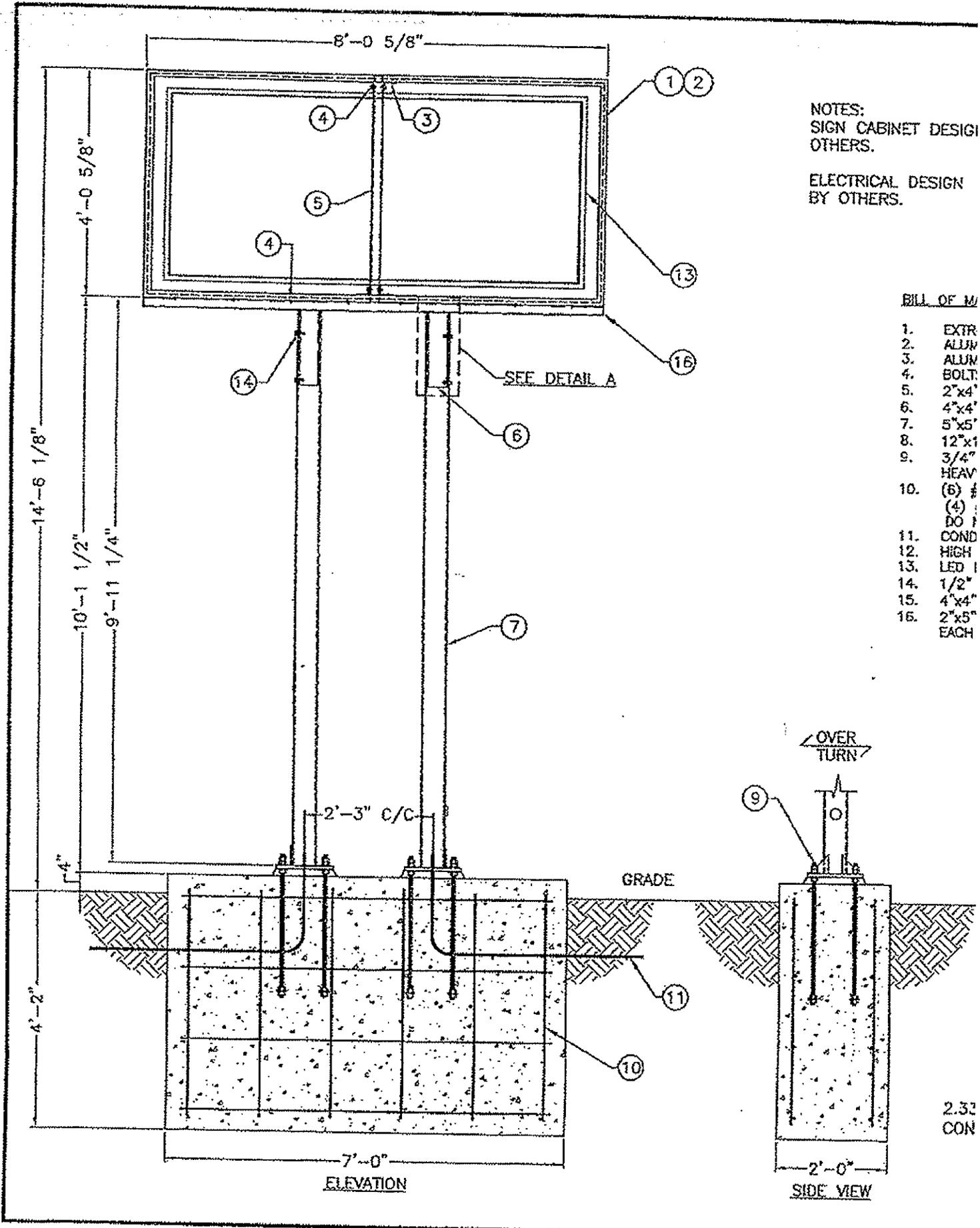
Signature of Application:  Date: 4-12-16

OUT-OF-POCKET EXPENSES FOR MAILING & PUBLICATION COST WILL BE BILLED LATER

NOTE: The Hermiston Planning Commission meets the second Wednesday of each month. Because of public notice requirements and time constraints, this application must be returned to City Hall no less than **four weeks** prior to the hearing date. If you have any questions about completing the application or the procedure, please feel free to contact the planning department at the Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, Oregon 97838, or telephone (541) 567-5521. The City's fax number is (541) 567-5530.

Office Use Only

Date Filed: 4/23/14 Received By: W. J. [Signature] Meeting Date: 5/11/14
Fee: \$420.00 Date Paid: 4/23/14 Receipt No: XBPCF# 16594097



2.32
CON

City of Hermiston
Building Department
INSPECTION REQUEST
Ph. 667-5025 Fax: 567-6731

Date Requested: 2/17 Time: _____ Type Inspection: SIGN FOOTING
CABO: Structural Mechanical Mobile Home Set-up Electrical Plumbing
Commercial: Structural Mechanical Electrical Plumbing Other _____
Permit #: B0146-15 Owner: SEVENTH DAY ADVENTIST Address: 855 W HIGHLAND AVE
City: HERMISTON
Inspection Scheduled: _____ Date: _____ Mon. Tue. Wed. Thur. Fri. AM PM
Contractor: TOP NOTCH Phone #: _____
Comments: READY WED MORNING
Request Taken By: _____

INSPECTION REPORT

Date Inspected: 2-17-16 Time: _____ Type of Inspection: _____
 Approved Unable to Inspect Reinspection Required Finaled

Comments: _____
Feature appeared to permit
get back to contractor's mercy place
to start work here

Call for Reinspection of Corrections Ok to Continue After Corrections Made
and Form Signed and Returned to Building Dept.
Owner/Contractor Signature: _____ Date: _____
Inspected By: [Signature] Date: _____

Building Permit

Job Location Card



B-146-15

Permit Number

11-19-15

Date

855 W. HIGHLAND AVE.

Job Address

FOR INSPECTIONS CALL 541-667-5025

It is the responsibility of the permit holder to post the card in a conspicuous location at the job site. Card should remain posted until completion of project.

BUILDING PERMIT

CITY OF HERMISTON

215 E. Gladys Avenue
Hermiston, OR 97838
(541) 667-5025



Date <u>11-19-15</u>	Receipt # _____
Building Permit	No. <u>B-146-15</u>
Valuation	\$ <u>29,000.00</u>
Building Permit Fee	\$ <u>245.05</u>
Plan Review Fee	\$ <u>159.28</u>
Investigation Fee	\$ <u>—</u>
State Surcharge	\$ <u>29.41</u>
TOTAL	\$ <u>433.74</u>

HERMISTON SDA CHURCH is hereby granted permission
to ERECT POLE SIGN

on 4N28 15BA T.L. # 901

This permit is issued on the express condition that the construction shall conform in all respects to the statements certified to in the application for such permit and that all work shall be done in accordance with the ordinances of the City of Hermiston and the State of Oregon pertaining to the construction of buildings. Permits become null and void if work is not commenced within 180 days of issue date or if work is suspended for more than 180 days.

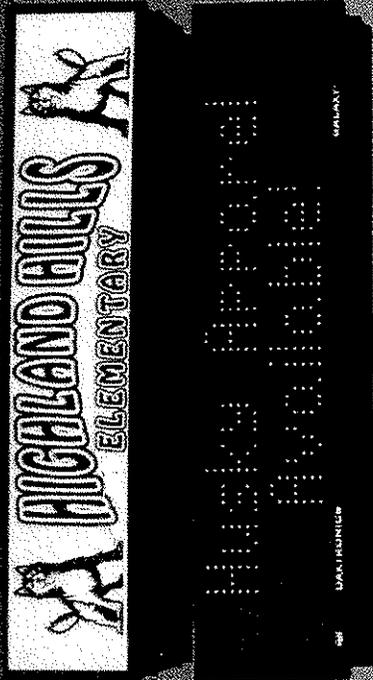
Street Address 855 W. HIGHLAND AVENUE

Contractor OWNER

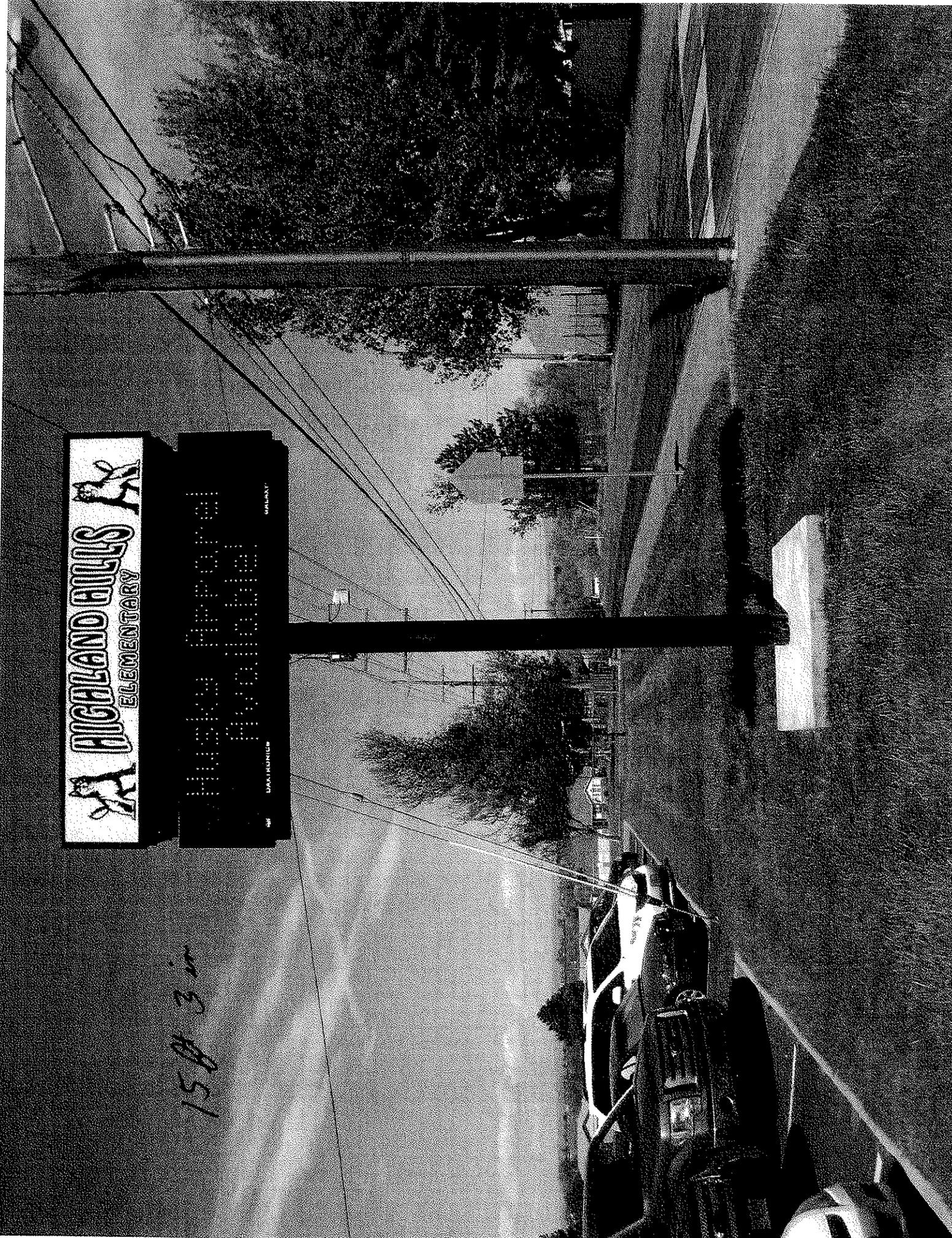
By [Signature] Building Inspector

CODE REQUIREMENTS

The City Building Codes Department does not survey parcels. Approval granted for the placement of structures is subject to modification by actual surveyed location of easements, rights of way and lot lines. The owner is responsible for ensuring accuracy of set backs.



15 ft 3 in



SANDSTONE MIDDLE SCHOOL

TESTING SEASON HAS STARTED
THANK YOU PARENTS FOR YOUR
SUPPORT



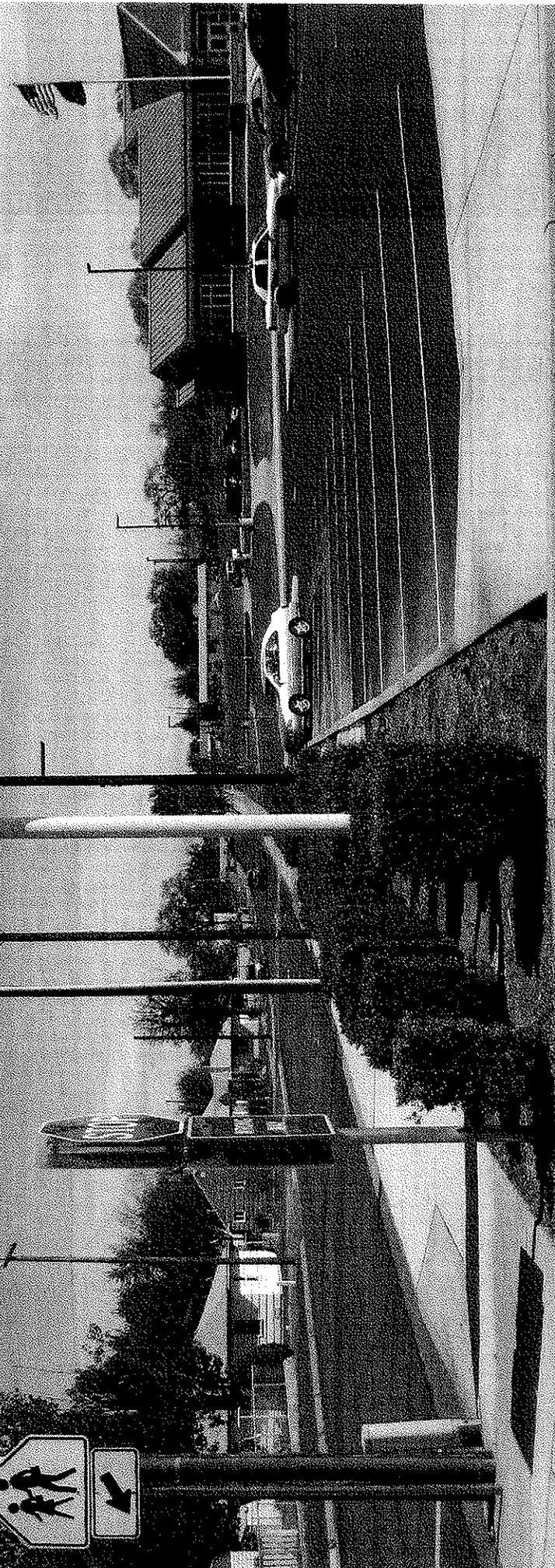
HAWKS

10ft 6 in



SUNSET
ELEMENTARY

15 ft 6 in



West Park
Elementary

1407 4th



1407 4th

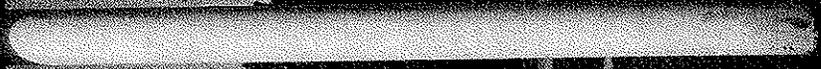


APRIL



DESERT VIEW
ELEMENTARY

178

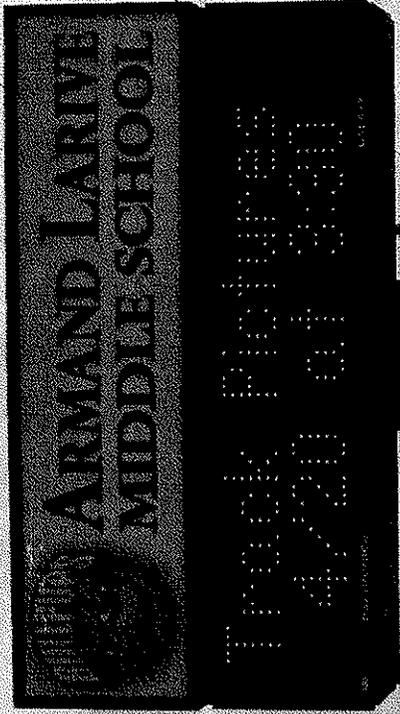


W JOB



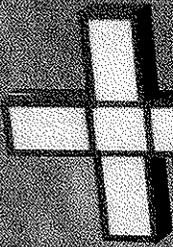
178





13 ft 6 in





FIRST CHRISTIAN CHURCH

MESSAGE SERIES :
" BUILDING A BLESSED LIFE "

WORSHIP 10:30 AM SUNDAY SCHOOL 9:30

800

130



