



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Wednesday, September 2, 2020 @ 6pm**  
**Virtual Zoom Meeting**

NOTICE TO THE PUBLIC

Public Comment:

Notice is hereby given that the Board of Adjustment of the City of Billings, Montana will hold a public meeting on **Wednesday, September 2, 2020, at 6:00 p.m.** Due to the COVID-19 health concerns, the format of the City Board of Adjustment meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1<sup>st</sup> Floor at 2825 3<sup>rd</sup> Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to **Board via email before 1:00 PM on Wednesday, September 2, 2020.** All emails received prior to this time will be read into the record for the public hearing. The Public may call in during specific Public Comment periods at **(406) 237-6165.** All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed here

<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>.

**Call the meeting to order.**

**Introduction of City Board of Adjustment Members and Planning Department Staff.**

**Public Comment**

**Approval of Minutes:**

The minutes of the Board meeting of August 5, 2020.

**Disclosure of any Conflict of Interest-Members of the Commission and Staff**

**Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff**

**a.The Exparté Communication Binder is available at the Sign-In and Agenda Station.**

**Regular Business:**

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

## **Public Hearings:**

- a. City Variance 1318 - 213 S 30th Street – Lot area and setbacks - A variance from 27-308 requiring a minimum lot size of 13,000 square feet to allow a minimum lot size of 7,000 square feet, and requiring a 5 foot side setback and 15 foot rear setback to allow zero (0) foot side and rear setbacks in a Residential Multi Family-Restricted (RMF-R) zone, on Lots 19-20, Block 166, Billings Original Townsite, a 7,000 square foot parcel of land. The purpose of the variance is to allow three (3) existing single family dwellings a rebuild letter. Presented by; Karen Husman, Planner I.

## **Other Business/Announcements**

## **Adjournment**

Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may call this hearing at 406-237-6165 or provide written testimony. Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> Ave North, Billings, MT 59101 or phone 247-8676.

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@ci.billings.mt.us](mailto:bartleyr@ci.billings.mt.us)

**City Board of Adjustment**

**Meeting Date:** 09/02/2020

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**Information**

**Subject**

The minutes of the Board meeting of August 5, 2020.

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**Attachments**

2020\_08\_05\_BOA\_MIN

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**CITY BOARD OF ADJUSTMENT**

MINUTES August 5, 2020

Name	Title	01/01/2020	02/05/2020	03/04/2020	04/01/2020	05/06/2020	06/03/2020	07/01/2020	08/05/2020	09/02/2020	10/07/2020	11/05/2020	12/02/2020	
David Mitchell	Member	-	-	A	-	1	-	1	E					
Dave Hagstrom	Member	-	-	1	-	1	-	1	1					
Paul Hagen	Member	-	-	1	-	1	-	1	1					
Jeff Bollman	Vice Chair	-	-	E	-	1	-	1	1					
Oscar Heinrich	Member	-	-	E	-	1	-	1	1					
Martin Connell	Member	-	-	1	-	1	-	1	1					
Mark Noennig	Chair	-	-	1	-	1	-	1	1					
<b>TOTAL NUMBER OF APPLICATIONS 2020</b>		<b>01/01/2020</b>	<b>02/05/2020</b>	<b>03/04/2020</b>	<b>04/01/2020</b>	<b>05/06/2020</b>	<b>06/03/2020</b>	<b>07/01/2020</b>	<b>08/05/2020</b>	<b>09/02/2020</b>	<b>10/07/2020</b>	<b>11/05/2020</b>	<b>12/02/2020</b>	<b>TOTAL</b>
<b>Variance</b>		-	-	2	-	5	-	5	2**					<b>12</b>

\*\*1 Item continued and 1 postponed both from 7/1/2020 meeting.

Chair Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met virtually thru Zoom <https://zoom.us/j/95905224215>.

Nicole Cromwell introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; and Robbin Bartley, Administrative Assistant.

**Attending:** Scott Aspenlieder, Robert Ybarra

**Public Comment**

Chair Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none.

## **Approval of Meeting Minutes**

Meeting minutes for July 1, 2020.

## **Motion**

Board Member Heinrich moved and Board Member Hagstrom seconded the motion to approve the July 1, 2020 minutes. The motion carried with a unanimous voice vote.

## **Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits**

A form has been implemented for disclosures. If any Member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here.

## **Public Hearings**

Nicole Cromwell reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting and acting on each variance.

**Continued item City Variance 1313 - City Variance 1313 – 521 Judith Lane – Detached structure size, and height** - A variance from 27-310(i) requiring the side wall height of a detached structure be no greater than the side wall height of the existing residential structure to allow 12-foot side walls, and from 27-310(i) requiring a maximum detached structure footprint of 1,386 square feet to allow maximum footprint of 1,575 square feet in a Residential-7000 (R-70) zone, on Lot 10 and the East ½ of Lot 11, Block 2, Broadmoor Subdivision, a 36,124 square foot parcel of land. The purpose of the variance is to allow construction of a new detached garage. Tax ID: A03255

## **RECOMMENDATION**

Staff is recommending the following conditions for the variance 1313 request;

1. The variance from 27-310(i) to allow 12-foot side walls, and allow maximum footprint of 1,575 square feet in a Residential-7000 zone. The purpose of the variance is to allow construction of a new detached garage. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 10 and the East ½ of Lot 11, Block 2, Broadmoor Subdivision, a 36,124 square foot parcel of land. Any future construction will require compliance with all other zoning regulations and city ordinances that apply at the time of construction or re-construction.
3. The applicant will submit and obtain a building permit for the garage within 1 year of variance approval and have the addition completed within 2 years.
4. The applicant will construct the garage in substantial conformance to the drawings submitted with this variance request.
5. Construction or demolition activity will not occur prior to 7am or after 8pm daily.
6. The applicant shall meet all other city code requirements for the proposed garage with the exception of this variance.
7. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
8. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**Questions for staff:** NONE

**Public Hearing**

Chairman Noennig opened the public hearing at 6:09PM and asked if there was anyone wishing to speak in favor or against City Variance 1313.

**Applicant:**

**Robert Ybarro II, 521 Judith Lane**

The intent of the new garage is to keep his investments secure from weather and other theft. This will improve the neighborhood and keep my surroundings neat.

**Favor**

NONE

**Opposed**

NONE

**Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

At 6:12PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion to and Board Member Hagen seconded the motion to conditionally approve **City Variance 1313** with Staff recommendations.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell			X
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

**The motion to approve City Variance 1313 passed with a 6-0 vote.**

**Postponed item City Variance 1315 – 1053 Lincoln Lane – Lot area -** A variance from 27-308 requiring a minimum lot size of 19,200 square feet to allow a minimum lot size of 18,290 square feet in a Residential-7000 (R-70) zone, on Parcel F of Certificate of Survey 537 a 18,290 square foot parcel of land. The purpose of the variance is to allow two new duplex structures on the property. Tax ID: D05547

## **RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1315. Based on the Determinations for granting a variance.

1. The variance is to allow a lot area of 18,290 sf to construct a second duplex. No other variance is intended or implied with this approval.
2. Limited to Parcel F of Certificate of Survey 537, generally located at 1053 Lincoln Lane.
3. Shall meet all other code requirements with the exception of this variance.
4. Will be developed in substantial conformance to the site plan submitted.
5. No construction activity prior to 7 a.m. or after 8 p.m. daily.
6. Apply for & receive approval of a building permit within 1 year & complete construction within 2 yrs of BOA approval. Failure will void the variance.
7. Annexation must be completed prior to any construction activity on the property.
8. These conditions shall run with the land described

## **Questions for staff:**

Board member Hagen asked if a letter was received complaining about the fence being too close. Staff replied regarding letters received. There is a complaint regarding persons climbing the fence. Staff reads a letter from Jim Olmhausen. Chairman Noennig asked staff to address the 4 plex comment. Staff replied the approval is not for a 4 plex but for a duplex. R-7000 zoning does not allow a 4 plex. The lot variance is very specific and will allow 2 duplex units.

## **Public Hearing**

Chairman Noennig opened the public hearing at 6:21PM and asked if there was anyone wishing to speak in favor or against City Variance #1315.

## **Applicant:**

Scott Aspenlieder, Performance Engineering

The applicant intends to renovate the existing building.

Member Heinrich asked if there is adequate parking and if the trees will be preserved. Scott replied there will be parking in the garage, the proposed duplex has a 2 car garage. The trees will be kept as much as possible.

Board member Bollman asked if it will be 1 or 2 story. Scott replied the plans have not been made yet, usually the developer builds 1 story units. All height requirements will be met.

## **Favor**

## **Opposed**

Susan Hayes, 1039 Lincoln Lane

Ms. Hayes read a letter into the record written by her parents who are neighbors to this property.

Chairman Noennig closed the public hearing at 6:35PM and called for a motion.

Board member Hagstrom knows of this property and stated it is an extremely blighted. This will be a definite improvement in the area.

**Motion**

Board Member Heinrich made a motion to approve and Board Member Connell seconded the motion to approve **City Variance 1315 with staff recommendations and Finding of Fact.**

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell			X
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

**The motion to approve City Variance #1315 passed with a 6-0 vote.**

**Other Business:**

September 2, 2020 meeting, 1 application.

**ADJOURNMENT: The meeting adjourned at 6:38 PM.**

**ATTEST: DRAFT. To be approved by a motion at the next regularly scheduled meeting.  
Robbin Bartley, Administrative Assistant.**



**City Board of Adjustment**

**Meeting Date:** 09/02/2020

**SUBJECT:** City Variance 1318 - 213 S 30th Street

**THROUGH:** Monica Plecker

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

City Variance 1318 - 213 S 30th Street – Lot area and setbacks - A variance from 27-308 requiring a minimum lot size of 13,000 square feet to allow a minimum lot size of 7,000 square feet, and requiring a 5 foot side setback and 15 foot rear setback to allow zero (0) foot side and rear setbacks in a Residential Multi Family-Restricted (RMF-R) zone, on Lots 19-20, Block 166, Billings Original Townsite, a 7,000 square foot parcel of land. The purpose of the variance is to allow three (3) existing single family dwellings a rebuild letter. Presented by; Karen Husman, Planner I.

**RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report.

**APPLICATION DATA**

OWNERS: Vilavong Keutla

PURPOSE: allow three (3) existing single family dwellings a rebuild letter

LEGAL DESCRIPTION: Lots 19-20, Block 166, Billings Original Townsite

ADDRESS: 213 S 30th Street

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: RMF-R

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
201 S 30th St	268	11/25/80	Side SB 3'	Y	
317 S 30th ST	1236	7/16/2016	SB	Y	
201 S 29th St	1260	6/7/17	Lot area, SB	Y	
302 S 24th St	218	6/26/79	Front SB	Y	
2302 4th Ave S	630	12/18/90	Front SB	Y	
2410 5th Ave S	710	12/6/74	Front SB	Y	Front SB to zero

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: RMF-R  
Land Use: Residential & Residential-Multi Family  
SOUTH: Zoning: RMF-R  
Land Use: Residential & Residential-Multi Family  
EAST: Zoning: RMF-R  
Land Use: Residential & Residential-Multi Family  
WEST: Zoning: RMF-R  
Land Use: Residential & Residential-Multi Family

## **BACKGROUND**

This is a variance from 27-308 requiring a minimum lot size of 13,000 square feet to allow a minimum lot size of 7,000 square feet, and requiring a 5 foot side setback and 15 foot rear setback to allow zero (0) foot side and rear setbacks in a Residential Multi Family-Restricted (RMF-R) zone. The purpose of the variance is to allow three (3) existing single family dwellings to be reconstructed on the lot.

The property is in a high density residential area and although there is not a historic amount of variances granted in the area, there are similar properties with multiple units, some attached and some detached. The property at 214 S 29th Street (directly across the alley from the subject property) has three dwelling units (one SFD and one duplex) on a lot of 8,680 square feet, without the benefit of a variance approval. Approval of this variance will allow the applicant to rehabilitate the property. This infill development will allow the rehabilitation three structures on the property in disrepair needing extensive work or demolition. The new owner intends to make the property safe and habitable. The Growth Policy supports infill development on on this type of property.

## **SUMMARY**

The Board of Adjustment shall make the following determinations prior to granting a variance:

**1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are not any special circumstances that exist in this situation other than the three single family dwellings were constructed on the land, two in 1900 and one in 1935. The existing structures were built prior to zoning, and are now non-conforming. The property owner would like to have the ability to reconstruct the same number of units on the property. The Project ReCode update for this parcel will be the Mixed Residential Neighborhood (NX1) that will allow one to four dwelling units in a structure. The new code will not require minimum lot area for dwellings but will require a minimum lot width for each structure.

**2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

There have been similar variances granted in the surrounding neighborhood. Denying the variance would deprive the applicant of rights commonly enjoyed by other tracts in the same district.

**3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

The variance will not allow the applicant any special privileges. Similar variances have been granted in the area.

**4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

The variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy. Approval of this variance would allow the applicant to bring the property mostly into conformance with the current zoning code and acquire a rebuild letter for financing purposes.

**5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending the following conditions for the variance request:

1. The variance is to allow the existing three homes (or 1 duplex and 1 single family dwelling) on the 7,000 square foot parcel of land, and to allow zero (0) foot side and rear setbacks to conform to zoning in order to allow a rebuild letter. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 19-20, Block 166, Billings Original Townsite generally located at 213 S 30<sup>th</sup> Street.
3. The applicant/and/or property owner shall meet all other city code requirements with the exception of this variance.
4. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

The applicant is not intending any construction at this time, so a time limit is not proposed for this variance.

**7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**

The granting of this variance would not allow a use that is not allowed in the zoning district –residential dwellings are allowed in the RMF-R zone.

## **RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report.

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### **Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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Subject Property



North



Northwest



Southeast



South



West

Application and Applicant Letter

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1318 - Project # P2-20-20182

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # A01096 CITY ELECTION WARD # 1

Legal Description of Property: BGT BLOCK 166 LOT 19 AND 20

Address or General Location (If unknown, contact City Engineering): 213 S 30TH ST  
BILLINGS MT 59101

Zoning Classification: MULTIFAMILY RESTRICTED

Size of Parcel (Area & Dimensions): 7000 SQ

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application

Variance(s) Requested: LOT AREA AND SETBACK

Facts of Hardship: EXISTING DEVELOPMENT BUILT FOR AFFORDABLE HOUSING

\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): VILAYONG KEUTLA  
(Recorded Owner)  
1311 AVENUE F BILLINGS MT 59102  
(Address)  
206-909-1455 QKEUTLA@GMAIL.COM  
(Phone Number) (email)

Agent(s): \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] Date: 8-3-20  
(Recorded Owner)



8/3/20

To: The Chairperson of the Board of Adjustment

My name is Vilavong Keutla, the new owner of 213 S 30<sup>th</sup> St, Billings MT 59101

I am seeking a lot variance due to the lot size of 7000 sf, it currently has three dwelling units on the property and was used in the past as a rental by the previous owner. Over time the condition of the property due to lack of maintenance is deteriorating and is currently not safe and suitable for renting to the public. My intention is to do a major rehab, however it might be more economical to demolish and start over especially the two dwelling units in the front.

However with the current zoning would only be allowed to have no more than two dwelling units. I seek your approval to continue to have three dwelling units on site, by doing this it will provide more affordable housing to the public in the area of constrain supply.

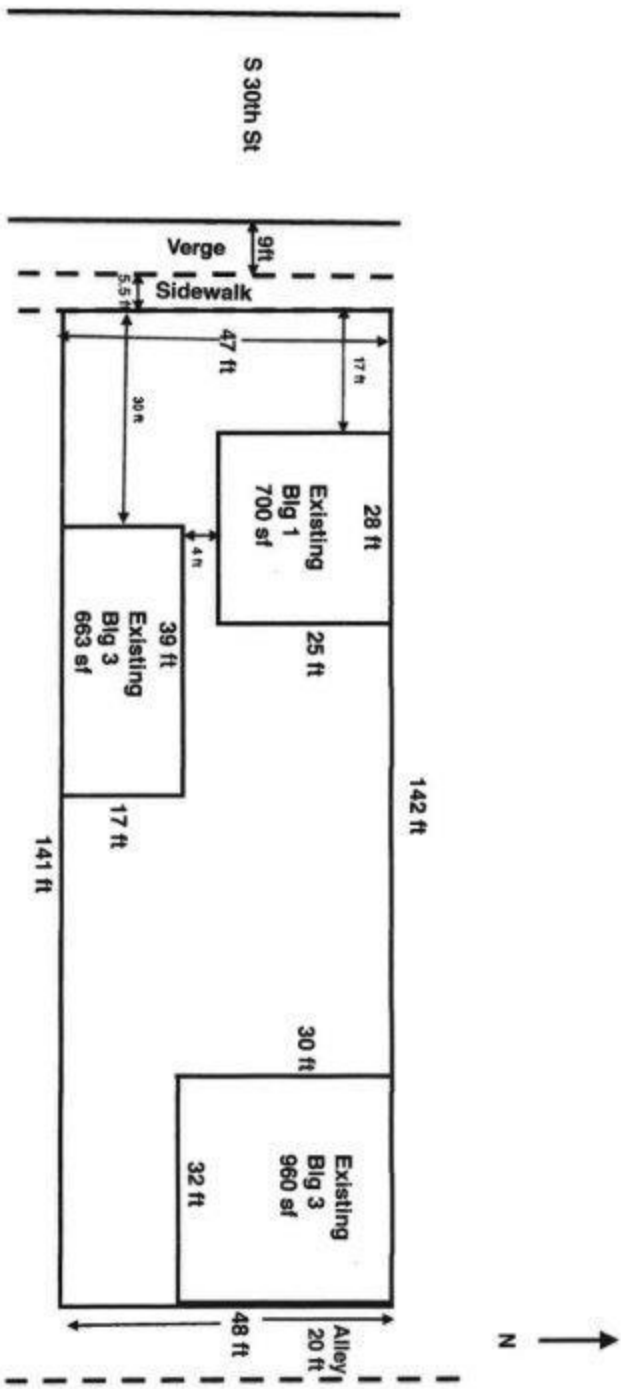
This will also cleanup the neighborhood and promote a sense of pride in the community, as we're taking old and unsafe homes and turning it into a place someone would be proud to call home.

Thank you for your time and consideration to making the area a better place to live.

Sincerely,



Vilavong Keutla



Lot Variance Site Plan  
 213 S 30th St, Billings MT 59101  
 BILLINGS ORIGINAL TOWNSITE, S03, T01 S, R26 E, BLOCK 166, LOT 19 - 20