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5 Attorneys for Plaintiff

8 MONTANA EIGHTH JUDICIAL DISTRICT COURT
CASCADE COUNTY

10 CITY OF GREAT FALLS,

11 Plaintiff,

12 v.

13 FIRST UNITED METHODIST CHURCH
OF GREAT FALLS F/K/A FIRST
14 METHODIST CHURCH OF GREAT
FALLS, MONTANA;

15 Defendant.

Cause No. **BDV-22-0252**

Hon. **ELIZABETH A. BEST**

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

17 COMES NOW the City of Great Falls, Montana as Plaintiff ("City") and for its *Complaint*
18 against the above-named Defendant First United Methodist Church of Great Falls ("First
19 United"), states and alleges as follows:

GENERAL ALLEGATIONS

20 1. The City is a local government unit as referenced in Article XI, Section 1 of the
21 Montana Constitution and is an incorporated first-class city organized and existing under the
22 laws of the State of Montana.

1 2. First United is a domestic non-profit corporation organized and operating under the
2 laws of the State of Montana.

3 3. This Court has jurisdiction over this cause of action pursuant to Mont. Code Ann.
4 §§ 27-8-101 *et seq.* (Montana Uniform Declaratory Judgments Act) and Mont. Code Ann. § 76-
5 2-308.

6 4. Venue is proper in this Court because all elements of the dispute outlined herein
7 arise in Cascade County, Montana.

8 **FIRST UNITED'S CREATION OF A TENT ENCAMPMENT AND THE**
9 **CITY'S CODE ENFORCEMENT EFFORTS**

10 6. The property at issue is the real property located at 610, 618 and 622 2nd Ave. N.,
11 Great Falls, Montana, and more particularly described as Lots 1 through 6, Block 306, Great
12 Falls Original Townsite, Township 12 North, Range 03 East, Section 12 (collectively, the
13 "Property"). The Property is located within the incorporated city limits of Great Falls, Montana
14 and is owned by First United.

15 7. The Property is currently zoned C-4—Central Business Core.

16 8. On information and belief, sometime in 2021, First United began using the
17 Property as an “emergency shelter,” allowing individuals to sleep on the Property’s exterior
18 grounds, primarily in the parking lot, landscaped areas, and building vestibules. Defendants held
19 the Property open to individuals for such use at various times in 2021.

20 9. Throughout the early part of 2022, the City received complaints from businesses,
21 City residents, and Neighborhood Councils regarding the activities being allowed on the
22 Property. The complaints included allegations of drug use, harassment of passers-by, and
assaults by individuals residing on the Property.

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1 10. In response to these complaints, on March 21, 2022, the City's Planning and
2 Community Development Director Craig Raymond ("Raymond") met with Reverend Jeff
3 Wakeley at the Property. During the meeting Raymond advised Wakeley that First United's use
4 of the Property as an "emergency shelter" is not allowed as a matter of right in the C-4 zoning
5 district in which the Property is located and an "emergency shelter" land use is allowed in a C-4
6 district only if a property owner has applied for and received a conditional use permit (CUP) for
7 that type of land use. During the meeting, Wakeley assured Raymond that First United intended
8 to apply for a CUP.

9 11. Raymond followed-up the meeting with a letter to Wakeley reiterating that First
10 United's use of the Property violated City ordinances, and requesting First United initiate an
11 application for a CUP within ten days.

12 12. First United failed to file a complete application for the CUP process within the
13 timeline requested by Raymond.

14 13. On April 11, 2022, Raymond sent another letter to Wakeley, inquiring as to the
15 reasons the City had not receive a CUP application or any other contact from First United.
16 Raymond advised that First United must either "(1) cease and desist in allowing any Emergency
17 Shelter activities on the property or (2) contact my office to schedule a pre-application meeting
18 and initiate the process for applying for a CUP." The letter gave First United seven days to
19 comply.

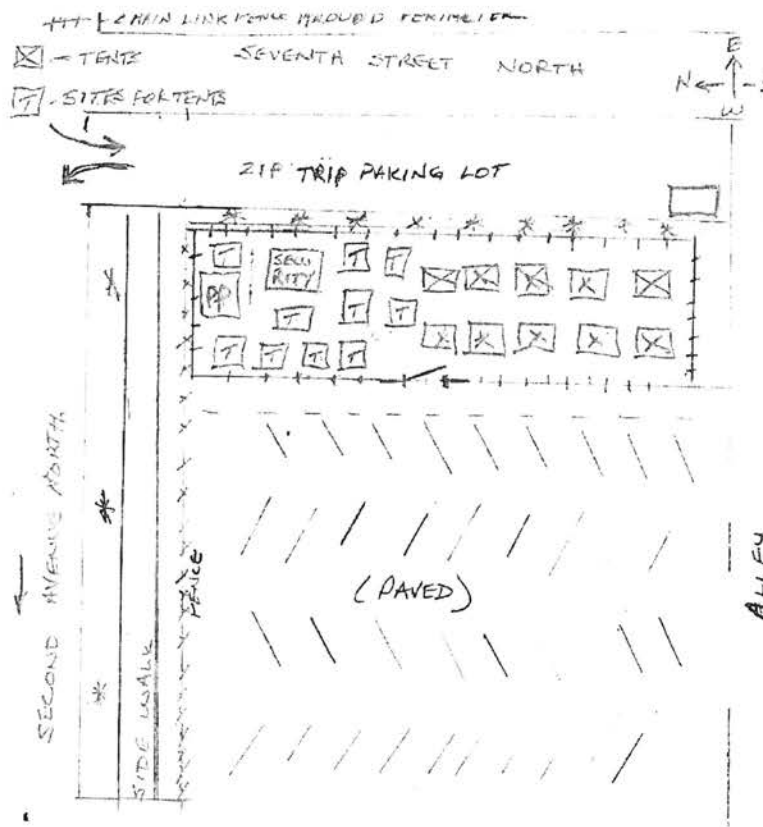
20 14. Throughout April of 2022, City personnel received reports and complaints that
21 people had begun erecting tents and other temporary shelters on the exterior of the Property.

22 15. On April 29, 2022, eleven days after the deadline set by the Raymond, First United
delivered to the City an application for a conditional use permit for its activities. The CUP
application was incomplete, however, lacking a signature, a site plan, and the required fee.

1 16. On May 6, 2022, after further prompting by Raymond, First United delivered a
2 complete CUP application (the "Application") to the City.

3 17. The Application outlined the full scope of First United's intentions with respect to
4 its planned use of the exterior grounds of the Property.

5 18. The Application revealed that First United planned to create a tent "encampment
6 on the unpaved section of the church's parking lot." As set-out in the Application, "[t]he
7 encampment would contain up to 10 tents [presumably, provided by First United] along with
8 space for people to set up their own tents." The Application included the following site plan:



19 As shown, the site plan contemplates the accommodation of at least twenty tents on the Property.
20 The full Application is attached hereto as **Exhibit A**.

21 19. On or about May 12, 2022, Raymond sent a second Notice of Violation letter to
22 Reverend Wakeley and First United. In the letter, Raymond reminded Wakeley that the Property

1 could not be used as an “Emergency Shelter” as a matter of right, and that such a use required the
2 City’s *prior* review and approval of First United’s CUP application. Raymond further advised
3 Wakeley that “the presence of tents and camping activity” is not a permitted use, *at all*, in an
4 area zoned C-4, and the presence of tents on the Property was a violation of City zoning
5 ordinances, citing OCCGF 17.16.46.080 and Mont. Code Ann. § 76-2-308. Raymond gave First
6 United ten days from the date of the letter to “prompt[ly] remov[e] all tents and other camping
7 equipment and activities.”

8 20. To date, First United has not complied with the City’s May 12, 2022 demand to
9 remove the all tents and camping equipment from the Property. In fact, First United’s
10 encampment has continued to grow. As of May 26, 2022, the encampment boasted 15 tents and 2
11 camping trailers.

12 21. In addition to the tents and camping trailers, the Property is littered with blankets
13 and other bedding, garbage, garbage bags, food coolers, barbeques, and other items indicative of
14 a make-shift organic encampment.

15 22. The individuals currently inhabiting the Property lack basic services or
16 infrastructure, such as running water, showers, electricity, and places to prepare food and dispose
17 of waste.

18 23. Pursuant to Mont. Code Ann. §§ 76-2-308 and 17.16.46.020 and 080 OCCGF, the
19 City has the authority to enforce all land use requirements including the authority to:

- 20 1. Prevent unlawful erection, construction, reconstruction, alteration, repair,
21 conversion, maintenance, or use;
- 22 2. Restrain, correct, or abate a violation;
3. Prevent the occupancy of such building, structure, or land; and
4. Prevent any illegal act, conduct, business, or use in or about such premises.

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1 **FIRST UNITED IS OPERATING AN ILLEGAL**
2 **CAMPGROUND ON THE PROPERTY**

3 24. A C-4 zoning designation does not allow a “campground” land use and does not
4 allow “emergency shelter” use without a conditional use permit.

5 25. OCCGF § 17.20.3.060, exhibits 20-1 through 20-3, list the uses allowed in the
6 City’s various base zoning districts. As set-out in exhibit 20-1, a “campground” is not a
7 permitted use in an area zoned as C-4.

8 26. Under Mont. Code Ann. § 50-52-101, a "campground" means a place ... that is
9 used or is intended for public camping, where people can camp, secure tents or cabins, or park
10 trailers, camping trailers, pickup campers, automobiles, and recreational vehicles for camping
11 and sleeping purposes.”

12 27. First United’s use of the Property as an “encampment” for the siting of upwards of
13 twenty tents, camping trailers, and other shelters, to accommodate the sleeping purposes of
14 dozens of people, constitutes a “campground” land use as prohibited by City’s land use and
15 zoning regulations.

16 **COUNT ONE: DECLARATORY JUDGMENT**

17 28. The allegations of Paragraphs 1-27 above are incorporated herein by this reference
18 as if fully set forth in this paragraph.

19 29. In accordance with Mont. Code Ann. §§ 27-8-201, *et seq.* and § 76-2-308, the City
20 seeks a judgment from the Court declaring that First United is using the Property as a
21 “campground” as prohibited by the City’s zoning ordinances and that such use constitutes a
22 continuing violation of the City’s land use regulations as set forth in Official Code of the City of
Great Falls.

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1 **COUNT TWO: PRELIMINARY AND PERMANENT INJUNCTION**

2 30. The allegations of Paragraphs 1-29 above are incorporated herein by this reference
3 as if fully set forth in this Paragraph.

4 31. The City has notified First United that its use of the Property as a campground
5 violates the City's zoning regulations. Rather than cooperate with the City, First United has
6 largely ignored the City's demands and has, in fact, expanded the nature and extent of its
7 improper use of the Property as a campground.

8 32. Mont. Code Ann. § 76-2-308(2) and OCCGF 17.16.46.080 explicitly authorize the
9 City to seek temporary and/or permanent injunctive relief to enjoin a violation of the City's
10 zoning and land use regulations.

11 33. The City is entitled to both preliminary and permanent injunctive relief enjoining
12 First United from using or allowing the parking lots, landscaped areas, and other exterior areas of
13 the Property to be used (1) for overnight sleeping or camping, or (2) as an area to place tents,
14 trailers, camping trailers, pickup campers, automobiles, or recreational vehicles, for camping or
15 sleeping purposes.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, the Plaintiff City of Great Falls respectfully prays for relief from the Court
18 for its *Complaint for Injunctive and Declaratory Relief* as follows:

19 1. That the Court enter an *Order*, pursuant to Mont. Code Ann. §§ 27-8-101 *et seq.*
20 and § 76-2-308, declaring that First United's use of the Property as a campground constitutes a
21 continuing violation of the City's zoning and land use regulations.

22 2. That the Court enter an *Order* permanently enjoining First United from using or
allowing the parking lots, landscaped areas, and other exterior areas of the Property to be used as
a campground in violation of the City's zoning and land use regulations, i.e., used (1) for

1 overnight sleeping or camping, or (2) as an area to place tents, trailers, camping trailers, pickup
2 campers, automobiles, or recreational vehicles, for camping or sleeping purposes.

3 3. That the Court enter an *Order* directing the appropriate law enforcement officials
4 to assist with the enforcement of the above-described injunctive relief; and

5 4. That the Court enter an Order awarding the City such further relief as it may deem
6 just and proper.

7 RESPECTFULLY submitted this 27th day of May, 2022.

8 CITY OF GREAT FALLS

9 By: 

Jeffrey M. Handoien, City Attorney

David G. Dennis, Deputy City Attorney

EXHIBIT “A”

CITY OF GREAT FALLS
PLANNING & COMMUNITY DEVELOPMENT DEPT.
P.O. BOX 5021, GREAT FALLS, MT. 59403 5021
406.455.8430 • WWW.GREATFALLSMT.NET

Date Stamp



LAND USE APPLICATION

Homeless Ministry

Name of Project (if applicable):

610 Second Avenue North, Great Falls, Montana

Project Address:

First United Methodist Church

Applicant/Owner Name:

P.O. Box 1444, Great Falls, Montana 59401

Mailing Address:

406/459-3114

Phone:

churchoffice@umcgreatfalls.org

Email:

Reverend Jeff Wakeley

Representative Name:

719-427-0269

Phone:

jeffwakeley@gmail.com

Email:

- ☐ Annexation by Petition: \$500
- ☐ Preliminary Plat, Major: \$1,500 + \$50/lot
- ☐ Final Plat, Major: \$1,500 + \$25/lot
- ☐ Minor Subdivision: \$1,250
- ☐ Zoning Map Amendment: \$2,000
- ☒ Conditional Use Permit: \$1,500
- ☐ Planned Unit Development: \$2,000
- ☐ Amended Plat, Non-administrative: \$1,000

LEGAL DESCRIPTION:

Lot/Block/Subdivision:

Section/Township/Range:

ZONING (ZONING MAP AMENDMENT ONLY):

LAND USE (CONDITIONAL USE ONLY):

Current:

Proposed:

Current:

Proposed:

I (We), the undersigned, understand that the filing fee accompanying this application is not refundable. I (We) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (We) further understand that public hearing notice requirements and associated costs for land development projects are my (our) responsibility. I (We) further understand that other fees may be applicable per City Ordinances. I (We) also attest that the above information is true and correct to the best of my (our) knowledge.

Applicant/Owner's Signature:

Reverend Jeff Wakeley

Date:

5/5/2022

Representative's Signature:

Date:

First United Methodist Church of Great Falls, MT
Outline of Present and Planned Ministry to the Homeless

The First United Methodist Church of Great Falls purpose and mission is to minister on behalf of Jesus Christ to the people living and working in the community of downtown Great Falls, regardless of their beliefs, sexual orientation, ethnicity, social and economic status. People who are houseless and living on the streets are one group who especially need our help and ministry. While some choose to live on the streets. Many live on the streets because of mental illness or economic hardship and lack of affordable housing. We recognize that in the ministering to the people living on the streets that there are those whose primary purpose for coming to the church is to drink and cause who do gather at the church for the purpose of drinking and causing a public disturbance. Much of what we are experiencing today with people living on the streets is due in part to the ongoing effects of the Pandemic.

Our present ministry to people living on the streets includes the following:

1. The Monday through Friday daily distribution of lunch bags.
2. A regular Tuesday Evening Community meal in our Fellowship Hall from 5:00 until 6.
3. Monday through Friday access to entering the church from 10 a.m.- 12 noon to get lunch, to sit or use the bathrooms, from 10:00 am - 12 noon.
4. Use of Porta-Potty in the parking lot for people living on the streets to use when the church building is closed.
5. Allowing persons living on the street to gather on the property to socialize with the condition that they do not drink or use drugs. People who drink are told to leave the property, Persistent offenders can and have been permanently criminally trespassed.
6. Allowing people living on the street to sleep on the property overnight including allowing people to set up tents on the property. They can sleep on the property as long as they don't drink and are not causing a public disturbance. They are also required to clean up after themselves. We are presently directing people to sleep on the East side of the church in and near the parking lot.

Our Future Plans:

1. Working with a non-profit agency to create and manage a temporary encampment for those living on the streets on the unpaved section of the church's parking lot. The encampment would contain up to 10 tents along with space for people to set up their own tents. The encampment would be a ministry of the church but managed by a non-profit group. The encampment would be fenced off and monitored for safety. The Church is working with the Ad-hoc group that has been meeting to address the issue of homelessness since January of this year. They are in the process of incorporation to become a 501C-3.
2. Creation of a Walk-In Center inside the Church for persons to gather and socialize during the day and receive help. The Walk-In center would be similar to St. Vincent

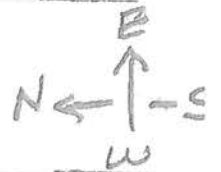
DePaul's Angel Room which is open Sun through Wednesday. Ours would be open Thursday and Friday. The Center would include a daily meal. The kitchen will have to be remodeled and brought up to standard health department codes.

3. Working with Law Enforcement in coming up with solutions to address the problems of those persons who habitually break our rules and the city ordinances about public drinking and creating a public disturbance on our property.

CHAIN LINK FENCE AROUND PERIMETER

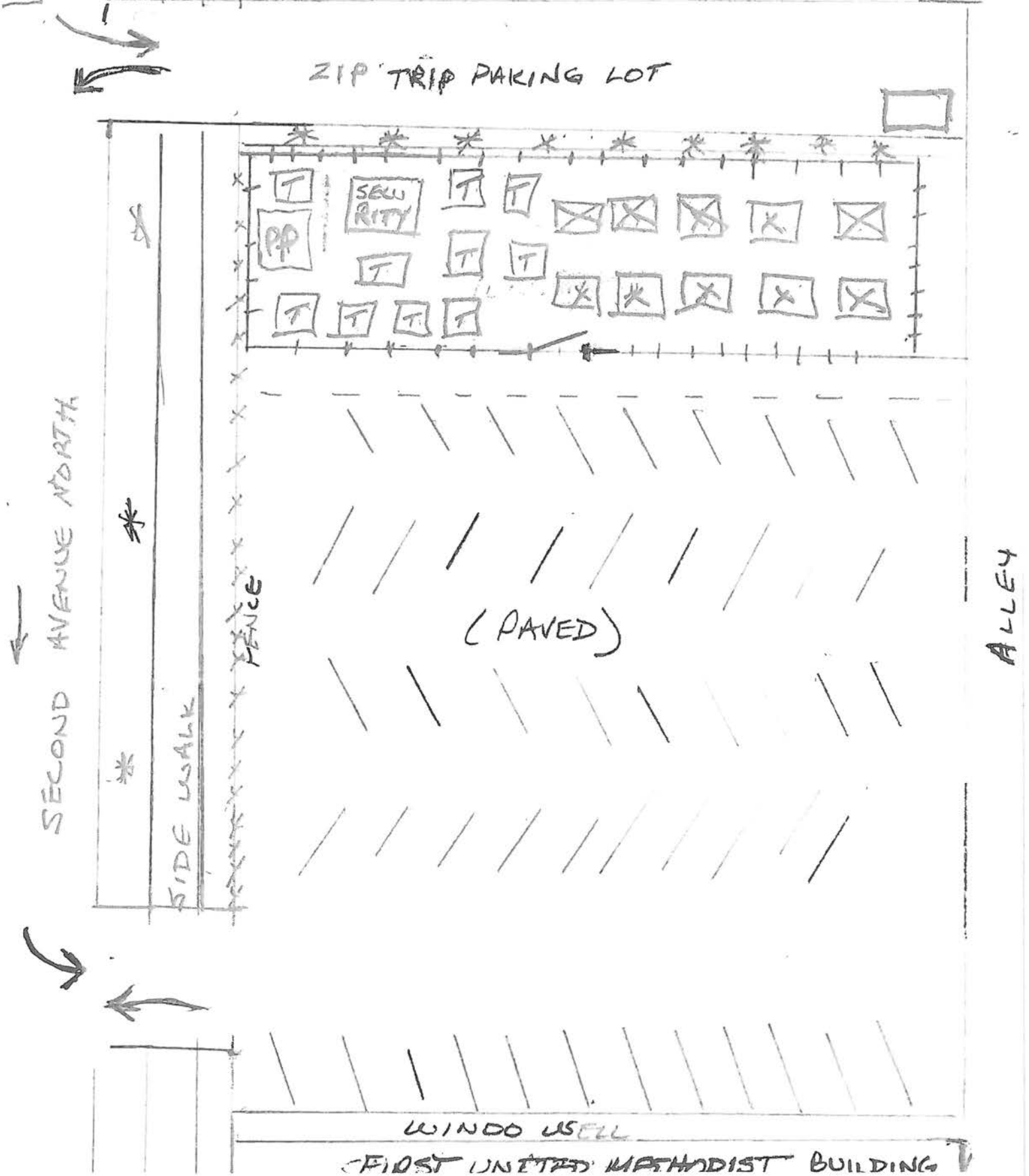
☒ TENTS

SEVENTH STREET NORTH



☐ T SITES FOR TENTS

ZIP TRIP PARKING LOT



SECOND AVENUE NORTH

SIDE WALK

FENCE

(PAVED)

ALLEY

WINDO WELL

FIRST UNITED METHODIST BUILDING