



**AGENDA
PLANNING COMMISSION OF THE
CITY OF WHITE BEAR LAKE, MINNESOTA
MONDAY, JULY 31, 2023
7:00 P.M. IN THE CITY HALL COUNCIL CHAMBERS**

1. CALL TO ORDER AND ATTENDANCE

2. APPROVAL OF AGENDA

3. APPROVAL OF THE MINUTES

- A. Minutes of the Planning Commission meeting on June 26, 2023

4. PUBLIC HEARING

- A. **Case No. 23-24-Z:** A City initiated text amendment to the City Code, Article XIII – Zoning Code concerning tobacco and cannabis related uses.
- B. **Case No. 23-22-V:** A request by **Saputo Cheese USA** for a 22.4 foot variance from the 30 foot minimum setback in the front yard, per code section 1303.190, Subd.5.c.1 in order to expand the boiler room located at 4041 Highway 61.
- C. **Case No. 23-23-V:** A request by **Kaia Kroll** for a variance from the 11 foot maximum height per code section 1302.030, subd.4.i.1.b in order to reconstruct a garage that is taller than the house located at 1876 5th Street.

5. DISCUSSION ITEMS

- A. City Council Meeting Overview

6. ADJOURNMENT

Next Regular City Council Meeting August 8, 2023

Next Regular Planning Commission Meeting August 28, 2023



**MINUTES
PLANNING COMMISSION MEETING
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
MONDAY, JUNE 26, 2023
7:00 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ATTENDANCE

MEMBERS PRESENT: Mike Amundsen, Mark Lynch, Andrea West, Jim Berry, Ken Baltzer, Pam Enz, Erich Reinhardt

MEMBERS ABSENT: n/a

STAFF PRESENT: Jason Lindahl, Community Development Director; Ashton Miller, City Planner; Shea Lawrence, Planning Technician

OTHERS PRESENT: Brett Kvam, Samantha Kvam, Brian A Wings, Rod Collins, Elaine Collins, Trevor Judd

2. APPROVAL OF AGENDA

It was moved by Member **West** and seconded by Member **Lynch** to approve the agenda as presented.

Motion carried, 7:0.

3. APPROVAL OF THE MINUTES

A. Minutes of May 22, 2023

It was moved by Member **Amundsen** and seconded by Member **Baltzer** to approve the minutes of May 22, 2023.

Motion carried, 7:0.

4. CASE ITEMS

A. Case No. 23-21-PUD & Z & P: A request by Element Design Build for both general and development stage approval of a Planned Unit Development, per code Section 1301.070, a rezoning from B-3: Auto Oriented Business to R-5: Single-Family – Two-Family Medium Density Residential, per Section 1301.040, and Preliminary and Final Plat approval, per Sections 1401.020 and 1401.030, in order to construct 9 townhomes on the property located at 2502 County Road E.

Jason Lindahl, Community Development Director discussed the case. Staff recommended approval of the case as proposed.

Member Berry opened public hearing.

Project Manager from Element Design-Build, Ryan McKilligan, provided an overview of the review phase so far. He explained that feedback gathered during previous proposals included a preference for townhomes on the site instead of apartments. McKilligan explained that they took that feedback into consideration during the design process and that now they are proposing 9 townhomes. McKilligan added that concerns brought up by the community throughout the process included parking, density, building height and storm water management. He provided further information on how these concerns are addressed in the proposal.

McKilligan explained that the original proposal included 18 units of apartments and townhomes, and now the proposal is down to 9 for-sale townhomes – 4 of which will be situated off County Rd. E, while the other 5 will be facing Bellaire Ave. The proposed development is roughly 8 feet shorter in height, parking exceeds City standards with almost 2.9 off street stalls per unit, and storm water has been addressed in their plans. McKilligan explained that the townhomes on the County Rd E side are located about 37 feet off the curb, and the townhomes on Bellaire are about 30 feet off the curb to create vibrance and walkability. McKilligan explained that a benefit of dedicating 12 feet to the county in order to expand their right of way, is that it pushes the development further from the street and increases visibility for drivers and pedestrians. McKilligan explained that each townhome will be 3 bedrooms with 2 bathrooms with a two car tuck under garage and that the site will include two amenity spaces, one in the northwest corner of the site and one in the former carwash building. The site will also include 8 surface parking stalls for guest parking. McKilligan added that the site will feature plenty of trees and landscaping throughout. He explained that the storm water concept involves using the southeast corner of the site as a bio swale to filter the storm water before it gets to the storm water pipes. McKilligan concluded that the input gathered throughout this process has worked to make the proposal better.

Member West asked who will be responsible for maintaining the common spaces. McKilligan explained there will be a covenant put in place that lays out the responsibilities of maintaining the property. With the HOA dues, the building and exterior will be maintained. Member West asked if there will be sidewalks leading up the units. McKilligan answered that there will be sidewalks leading up to each unit and that there is a grade change of about 3.5 feet so there will be some steps.

Member Lynch asked to clarify about the drainage on the site. McKilligan responded that their storm water basin will be located on the southeast corner of the site. The basin will drain to the north, as there will be a pipe that slopes down to connect to that existing catch basin.

Member Enz asked about guest parking. She wondered if people would choose to park on the street so they wouldn't have to walk as far. McKilligan explained people generally

prefer private parking to street parking and that guests could enter through resident's garage doors. Enz asked if it would be possible to add a sidewalk so people wouldn't have to walk around the building. McKilligan explained that it may be possible, but it would impact their storm water management system.

Member Berry opened the public hearing.

Rod Collins of 3475 Glen Oaks Ave thanked the developer for taking into account the input of the neighbors. Collins asked if the storm water management plan is the same in this proposal as the previous proposal. He asked for clarification on the maintenance agreement for the common spaces and how those common spaces will be used. He added that overall he thinks the proposal is great. McKilligan answered that the storm water management plan is essentially the same as the previous proposal, except that the storm water basin is a slightly different shape. The basin catches the water then filters through the deeply rooted plants and sand layer before it reaches the pipe. McKilligan explained that the storm water management will require a maintenance agreement that will be drafted up by the City Attorney and then be recorded with Ramsey County to ensure that the storm water continues to be maintained by the owner.

Member Lynch asked if that would mean that Element Design-Build enters into the maintenance agreement now, but then once the units are sold, the maintenance agreement would shift into the HOA's name and would be the HOA's responsibility from that point on. McKilligan answered yes. McKilligan responded that common spaces would be maintained through contracted services. McKilligan added that the community room likely wouldn't require for tenants to reserve the room. He explained that while there will be contracted services for maintenance, it will also be expected that residents do their part to keep common spaces clean, which would be explained in the covenants of the Homeowners Association. Member Berry added that the maintenance expectations would likely be a part of the bylaws of the HOA filed with the state.

Lindahl added that storm water maintenance agreements are a common practice for cities and developers that are recorded with the County which hold the HOA as the responsible party. Member Lynch asked if a maintenance agreement like this is a standard business operation for an HOA, and Lindahl responded yes and there would be HOA documents developed for the site.

Member Berry closed the public hearing.

Member Lynch explained that he thinks dedicating more space for green space and drainage is more important than adding a sidewalk for visitors.

Member Amundsen explained that he has been a supporter of the proposals from Element Design-Build for this location and wished the applicant good luck as they proceed through this process. Member Enz agreed.

It was moved by Member **Amundsen** to recommend approval of 23-21-Z a rezoning from B-3: Auto Oriented Business to R-5: Single-Family – Two-Family Medium Density Residential, seconded by member **Enz**.

Motion carried 7:0.

It was moved by Member **Amundsen** to recommend approval of 23-21-PUD for both general and development stage approval of a Planned Unit Development, seconded by member **Baltzer**.

Motion carried 7:0.

It was moved by Member **Amundsen** to recommend approval of 23-21-P the preliminary plat for Wildwood Rowhomes, seconded by member **Enz**.

Motion carried 7:0.

Lindahl explained that this case will go before council twice, on July 11 and July 25.

- B. Case No. 23-17- PUD & Z & P:** A request by Brian Wings for both general and development stage approval of a Planned Unit Development, per code section 1301.070, a rezoning from B-2: Limited Business to R-B: Residential Business, per section 1301.040, and Preliminary and Final Plat approval, per sections 1401.020 and 1401.030, in order to construct a 14 unit nursing home on the property located at 2687 County Road D.

Ashton Miller, City Planner, discussed the case. Staff recommended approval of the case as proposed.

Member Enz asked what an incidental wetland is. Miller responded that she understands it is a wetland that develops in areas that are not naturally occurring wetlands. Lindahl added that when wetlands are analyzed they look at the type and quality and believes that because this is an incidental it didn't meet the minimum standards to characterize it as a specific type of wetland and that they are most likely depressions that handle water.

Brian Wings, 3900 Van Dyke St, the applicant offered to answer any questions from the commissioners. He explained that the current proposal reflects the input received through the concept plan process. He provided detail on the incidental wetland noting it was the result of the demolition of the house that left a depression on the site. Wings extended his appreciation for the City staff throughout the process.

Member Berry closed the public hearing.

It was moved by Member **Amundsen** to recommend approval of 23-17-P, seconded by Member **Lynch**.

Motion carried 7:0.

It was moved by Member **Amundsen** to recommend approval of 23-17-Z, seconded by Member **West**.

Motion carried 7:0.

It was moved by Member **Amundsen** to recommend approval of 23-17-PUD, seconded by Member **Enz**.

Motion carried 7:0.

Lindahl added that this case will go before council twice on July 11th and July 25th.

- C. Case No. 23-19-CUP:** A request by Brett and Samantha Kvam for a conditional use permit, per code section 1302.125 in order to establish an accessory dwelling unit (ADU) in the home at the property located at 4008 White Bear Avenue.

Shea Lawrence, Planning Technician, discussed the case. Staff recommend approval of the case as proposed.

Member Berry asked about the concept of allowing family members only, but this has been expanded. Lawrence added that the applicants do intend to rent the unit to people outside of their family for some supplemental income.

Member West asked if there are any requirements for Airbnb, stating other cities have regulations for short term rentals. Lindahl replied that other communities do have standards for short term rentals, but White Bear Lake currently does not. If an ADU is rented to a non-family member, a rental license is required like every other rental property. There may be some discussion about short term rental standards in the zoning code update.

Berry asked if the rental license would enforce the conditional use permit. Lindahl stated no, those requirements are geared toward life safety. The conditions in the resolution would be zoning related.

Member Berry opened the public hearing.

Brett and Samantha Kvam, applicants, explained they don't have specific plans and are open to short term, mid, or long term rentals.

Berry commented that the driveway curves, which is a plus.

Member West asked about the laundry situation. Brett noted that is why they considered

short term rental. Samantha added that they would allow the tenants to use the space and they would go elsewhere.

Member Berry closed the public hearing.

Member Amundsen added that he appreciates when homeowners come forward when they realize their property is out of compliance and they try to make things right.

It was moved by Member **Amundsen** to recommend approval of 23-19-CUP, seconded by Member **West**.

Motion carried 7:0.

D. Case No. 23-20-V: A request by Midwest Exteriors LLC MN for a variance from the four foot maximum height allowed for a fence in the front yard, per code section 1302.030, subd.6.4 in order to construct a six foot fence around the entire property located at 3944 Hoffman Road.

Miller discussed the case. Staff recommended approval of the case as proposed.

Reinhardt asked what material the fence will be. Miller responds that it will be a chain link fence.

Berry opened the public hearing.

Trevor Judd, the applicant, explained they want the fence for security reasons because the property has previously been broken into. They would like the fence to provide extra security once they have their work vehicles on site which will have their tools in them.

Member Berry closed the public hearing.

It was moved by Member **Amundsen** to recommend approval of Case No. 23-20-V, seconded my Member **Baltzer**.

Motion carried, 7:0.

5. DISCUSSION ITEMS

A. City Council Meeting Overview

Lindahl explained that the lot split on 8th St. and the variance on Clarence St. were approved at the last City Council meeting. Additionally, the concept plan for a Scooter's Coffee on Highway 96 was withdrawn by the applicant before the Concept Plan went to City Council meeting.

Lindahl expressed his thanks to Member Reinhardt for his nine years of service to the

community as a planning commissioner. Lindahl added that administration is working to fill the vacant spot.

6. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Amundsen**, seconded by Member **Baltzer** to adjourn the meeting at 8:43 p.m.

DRAFT



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Planning Commission
From: Jason Lindahl, AICP Community Development Director
Date: July 31, 2023
Subject: **Zoning Ordinance Text Amendment Related to Certain Tobacco & Cannabis Related Uses**

SUMMARY

The Planning Commission will consider a zoning ordinance text amendment related to certain tobacco and cannabis related uses. Specifically, the proposed zoning ordinance text amendment would create tobacco product shop and cannabis retailer uses and assign these uses to the B-4, General Business District.

BACKGROUND

In September of 2022, the City adopted separate interim ordinances authorizing the study and imposing moratoriums on (1) the establishment or expansion of tobacco shops and (2) the sale of cannabis products within the City of White Bear Lake. These items were initiated by staff to address historically undefined standards for tobacco shops, to establish initial zoning regulations associated with businesses selling edible cannabinoid products at retail under Minnesota Statutes, Section 151.72, and in anticipation of the eventual retail sales of cannabis products by cannabis businesses under Minnesota Statutes, chapter 342.

Tobacco Shops. The City currently does not expressly regulate tobacco product shops as a separate use. The City has experienced businesses who started as a retail business but became a tobacco product shop even though that use is not recognized as a permitted use in the City's zoning regulations. In addition, the City's tobacco regulations should be updated to keep pace with recent changes in both federal and state laws.

As a result, the city now has 6 existing tobacco shop uses. The location of these uses is shown on the attached map. Of the 6 existing tobacco shops, 2 are located in the B-2, Limited Business District 1 is located in B-4, General Business, 1 is located in the B-5, Central Business, 1 is located in the DCB, Diversified Central Business, and 1 is located in the LVMU, Lake Village Mixed Use districts.

Sale of Cannabis Products. Beginning on July 1, 2022, it became legal to sell certain edible cannabinoid products containing tetrahydrocannabinol (THC) ("Cannabis Products") in Minnesota. The authorizing legislation allowed Cannabis Products to be sold if certain requirements were met, including that there are not more than 5mg of THC per dose and 50mg

of THC per container, the purchaser is at least 21 years old, and the products are not marketed toward children. The authorizing legislation did not address local regulations on the sale of such products which left local governments uncertain as to their scope of authority and needing to study whether to adopt local regulations.

In 2023, the Minnesota Legislature enacted, and the Governor signed, Minnesota Session Laws, Chapter 63 – H.F. No. 100 (the Act), which is comprehensive legislation relating to cannabis, including, but not limited to, the establishment of the Office of Cannabis Management (OCM), legalizing and limiting the possession and use of cannabis and certain hemp products by adults, providing for the licensing, inspection, and regulation of cannabis businesses and hemp businesses, taxing the sale of cannabis flower, cannabis products, and certain hemp products, establishing grant and loan programs, amending criminal penalties, providing for expungement of certain convictions, and providing for the temporary regulation of certain edible cannabinoid products.

The Act provides local units of government certain authority related to cannabis businesses, including the authority to:

1. Require local registration of certain cannabis businesses operating retail establishments.
2. Adopt reasonable restrictions on the time, place, and manner of the operation of cannabis businesses, provided that such restrictions do not prohibit the establishment or operation of a cannabis businesses.
3. Limit the number of certain cannabis businesses based on the population of the community.
4. Prohibit the operation of a cannabis business within 1,000 feet of a school or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field. A map illustrating how these buffers apply to the City of White Bear Lake is attached for your reference.

The City is expressly authorized by Minnesota Statutes, Section 342.13(c) to adopt reasonable time, place, and matter restrictions on the operation of cannabis businesses. The OCM will be developing sample regulations for local governments to consider when adopting or amending its regulations relating to the sale of cannabis products. It is not clear when these guidance documents will be available and so the proposed ordinance is intended to apply to cannabis businesses licensed under Minnesota Statutes, chapter 342 in case the guidance documents are not available in time to update these regulations before January 1, 2025. The City anticipates being able to update these regulations before that date, but if that is not reasonably possible the City Council does not want to leave a gap in the zoning regulations applicable to state licensed cannabis businesses.

Community Comment. Under the City's zoning regulations, zoning amendment applications require a public hearing. Accordingly, the City published notice of this request and the public hearing in the White Bear Press. That notice directed all interest parties to send questions or comments to the Planning Department by mail, phone or email or to attend the public hearing where they could learn about the request, ask questions and provide feedback. As of the writing of this report, the city had received no comments or questions regarding this

application. Staff will provide an update on all public comments received during the public hearing.

ANALYSIS

City Code Section 1301.040 outlines the process for amendments to the zoning code. It requires the Planning Commission to hold a public hearing to review the proposed amendment and then make a recommendation to the City Council. The City Council must then review the recommendation from the Planning Commission and hold two readings of the proposed ordinance before it can be published and put into effect. A draft of the proposed zoning ordinance text amendment is attached for your reference.

Section 130.040, Subdivision 1 outlines six (6) criteria for the Planning Commission and City Council to weigh when considering a zoning amendment. These criteria and staff's finding for each are outlined below. Based on these findings, staff recommends approval of the attached draft ordinance.

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.

Finding: The 2040 Comprehensive plan does not specifically address either tobacco product shops or cannabis retailers. However, it does include several land use categories intended to guide future commercial activities. A description of these future land use categories and the various zoning districts associated with these land use categories is provided below. Based on this information, staff believes the B-4, General Business district within the commercial future land use category would be the most consistent with the general guidance of the 2040 Comprehensive Plan.

Commercial. Includes a wide range of general commercial uses, such as retail, office, automobile-oriented businesses, and personal service establishments. May also include public facilities as deemed appropriate. Associated zoning districts may include B-1, Neighborhood Business, B-2, Limited Business, B-3, Auto Oriented Business or B-4, General Business.

Downtown. Downtown encompasses a broad range of uses and intensities, including residential, commercial, and institutional. It is intended that development contribute to the pedestrian-scale, walkable environment that is already present in Downtown. The mix in Downtown is anticipated to be approximately 70% commercial, 20% residential, and 10% institutional. Residential densities are anticipated to range 12 to 50 units per acre. Associated zoning districts may include the B-5, Central Business or the DCB, Diversified Central Business.

Lake Village. Lake Village is intended as a mixed-use district with a mix of commercial, office, civic/institutional, and residential uses. Development is to be guided by the Lake Village Master Plan. The mix may occur vertically within the same structure or horizontally with multiple structures on the same site. When mixed vertically it is intended that

commercial or civic/institutional uses would occupy the first floor and residential or office the upper floors. It is anticipated that approximately 50% of uses would be non-residential and 50% would be residential with residential densities of 25 to 60 units per acre. Guiding documents include the Lake Village Master Plan and associated zoning includes the Lake Village Mixed Use District.

2. The proposed use is or will be compatible with present and future land uses of the area.

Finding: Assigning tobacco product shops and cannabis retailers to the B-4, General Business District would position these uses in the most compatible locations throughout the community. The purpose of the B-4, General Business District is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region and are located in areas which are well served by collector or arterial street facilities outside the Central Business District. This would allow these uses to locate around other commercial areas and generally away from lower density residential neighborhood, schools or parks.

3. The proposed use conforms with all performance standards contained herein.

Finding: Since the proposed draft ordinance creates new uses and assigns them to a particular zoning district and does not identify a specific proposal or parcel, staff cannot analyze whether either of these proposed uses conforms with all of the performance standards of the B-4, General Business District. However, assigning them to the B-4 district will require them to meet all of the associated performance standards of this district.

4. The proposed use will not tend to or actually depreciate the area in which it is proposed.

Finding: The proposed uses are similar in operation to other commercial uses allowed in the B-4, General Business District. Therefore, it is reasonable to conclude these uses will be compatible and not tend to or actually depreciate the area in which they are proposed.

5. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

Finding: All of the B-4, General Business District areas within White Bear Lake have access to municipal public services. The specific service needs of a particular use and site will be evaluated through the application review process and applicants will be required to address any deficiencies prior to issuance of a permit.

6. Traffic generation by the proposed use is within capabilities of streets serving the property.

Finding: The purpose statement of the B-4, General Business District specifically notes properties within this zone are located in areas which are well served by collector or arterial street facilities outside the Central Business District. As a result, traffic generated by either a tobacco product shops or a cannabis retailers should be within the capabilities of the

streets serving these properties.

Potential Non-Conformities. As with any zoning amendment, this change has the potential to create non-conformities. In this case, the six existing tobacco product shops came into existence prior to the proposed zoning standards to regulate this type of use. The recommended zoning standards would limit these uses to the B-4, General Business District and make all six of the existing sites non-conforming. Any non-conforming use is governed under Minnesota Statute 462.357, Subdivision 1e. This law states legal non-conformities generally have a statutory right to continue through repair, replacement, restoration, maintenance, or improvement but not through expansion. These rights run with the land and are not limited to a particular landowner. If the benefited property is sold, the new owner will have the same rights as the previous owner. However, it should be noted that by statute, the City may prohibit any non-conformity that cease for a period of more than one year.

RECOMMENDATION

Staff recommends approval of a zoning ordinance text amendment related to certain tobacco and cannabis related uses. Specifically, the proposed zoning ordinance text amendment would create tobacco product shop and cannabis retailer uses and assign these uses to the B-4, General Business District.

ATTACHMENTS

Draft Ordinance

Map

**CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING THE ZONING REGULATIONS IN THE
MUNICIPAL CODE OF THE CITY OF WHITE BEAR LAKE REGARDING
TOBACCO PRODUCT SHOPS AND CANNABIS RETAILERS**

The Council of the City of White Bear Lake does ordain:

ARTICLE I. Tobacco Products Shop. Chapter 1302 of the Municipal Code of the City of White Bear Lake is hereby amended by adding a new Section 1302.160 as follows:

§1302.160 TOBACCO PRODUCTS SHOP

Subd. 1. Purpose. The purpose of this section is to allow tobacco products shops in certain zoning districts within the City, subject to certain regulations.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision.

- a) Day Care. “Day care” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- b) Public Park. “Public park” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- c) Residential Treatment Facility. “Residential treatment facility” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- d) School. “School” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- e) Tobacco Products Shop. A retail establishment with a current tobacco license issued by the City that:
 - 1) Has an entrance door opening directly to the outside;
 - 2) Prohibits persons under the age of 21 years from entering the establishment at any time;
 - 3) Is in compliance with all applicable provisions of this Code; and

- 4) Derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, and electronic delivery devices, as defined in Minnesota Statutes, section 609.685, and in which the sale of other products is merely incidental.

The term does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Subd. 3. Allowed Use. A tobacco products shop is a permitted use within the following zoning districts:

- a) B-4, General Business District

Subd. 4. Separation Buffer. A tobacco products shop shall not be located within 1,000 feet of a school and shall not be located within 500 feet of a day care, residential treatment facility, or a public park.

Subd. 5. Performance Standards. Tobacco products shops shall comply with all of the performance standards for the district in which the use is located.

ARTICLE II. Cannabis Businesses. Chapter 1302 of the Municipal Code of the City of White Bear Lake is hereby amended by adding a new Section 1302.170 as follows:

§1302.170 CANNABIS BUSINESS

Subd. 1. Purpose. The purpose of this section is to initially establish zoning regulations associated with businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and in anticipation of the eventual retail sales of cannabis products by cannabis businesses under Minnesota Statutes, chapter 342. The City is expressly authorized by Minnesota Statutes, section 342.13(c) to adopt reasonable time, place, and matter restrictions on the operation of cannabis businesses. The City has adopted a moratorium on cannabis business, which does not apply to businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and anticipates updating these regulations before the moratorium expires no later than January 1, 2025. The Office of Cannabis Management will be developing sample regulations for local governments to consider when adopting or amending its regulations. It is not clear when these guidance documents will be available and so these regulations are intended to apply to cannabis businesses licensed under Minnesota Statutes, chapter 342 in case the guidance documents are not available in time to update these regulations before January 1, 2025. The City anticipates being able to update these regulations before that date, but if that is not reasonably possible the City Council does not want to leave a gap in the zoning regulations applicable to state licensed cannabis businesses.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision. If a term is not defined herein, it shall have the meaning

given the term in Section 1301.030 of this Code and, if not defined therein, it shall have the meaning given it in Minnesota Statutes, section 151.72 or Minnesota Statutes, section 342.01.

- a) Cannabis Business. “Cannabis business” means any business offering for sale or selling at retail an edible cannabinoid product, as defined in Minnesota Statutes, section 151.72, subdivision 1(f), to the public or any business included in the definition of cannabis business in Minnesota Statutes, section 342.01, subdivision 14.
- b) Day Care. “Day care” means a facility that is licensed by the Minnesota Department of Human Services as any of the following: (1) an adult day care licensed under Minnesota Rules, parts 9555.9600 to 9555.9730; (2) a residential or nonresidential day care program required to be licensed under Minnesota Statutes, section 245A.03; (3) a family day care or group family day care facility required to be licensed under Minnesota Rules, parts 9502.0315 to 9502.0445; or (4) any other day care facility required to be licensed by the state to provide day care services.
- c) School. “School” means a public or private facility that provides educational programs to 10 or more persons that are under the age of 21 in a classroom setting. The term includes, but is not limited to, any school operated by an independent school district or a charter school operating under Minnesota Statutes, chapter 124E.
- d) Residential Treatment Facility. “Residential treatment facility” means a facility providing mental health, alcohol, or drug treatment services established or operated in accordance with Minnesota Rules, chapter 2960, or Minnesota Statutes, chapters 245G or 260C.
- e) Public Park. “Public park” means an open space, playground, athletic field, or other facility owned by the City, a school district, the county, or other public entity that is open to, and regularly used by, those under the age of 21.

Subd. 3. Allowed Use. A cannabis business is a permitted use within the following zoning districts:

B-4, General Business District

Subd. 4. Separation Buffer. A cannabis business shall not be located within 1,000 feet of a school and shall not be located within 500 feet of a day care, residential treatment facility, or a public park.

Subd. 5. Performance Standards. Cannabis businesses shall comply with all of the performance standards for the district in which the use is located.

ARTICLE III. Severability. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section

or provision of this ordinance.

ARTICLE IV. Effective Date. This ordinance shall become effective on the first day of publication after adoption.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the __ day of _____ 2023.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

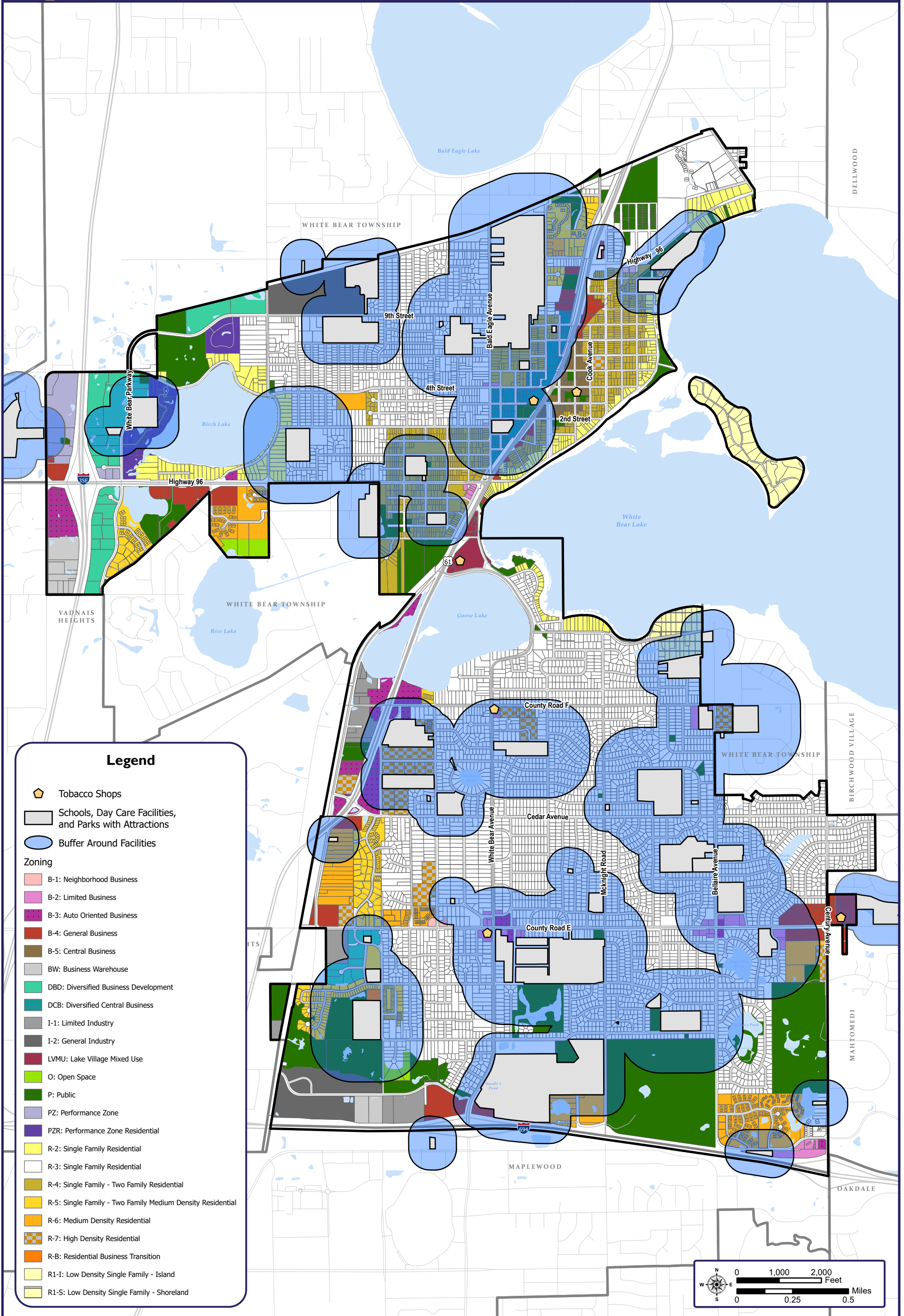
(~~Strikeout~~ indicates matter to be deleted, double underline indicates new matter.)

First Reading: August 8, 2023
Initial Publication: _____
Second Reading: August 22, 2023
Final Publication: _____
Codified: _____
Posted on web: _____



THC Buffer

City of White Bear Lake





City of White Bear Lake
Community Development Department

MEMORANDUM

TO: The Planning Commission
FROM: Ashton Miller, City Planner
DATE: July 31, 2023
SUBJECT: Saputo Variance – 4041 Highway 61 – Case No. 23-22-V

SUMMARY

The applicant, Pelco Construction LLC, on behalf of Saputo, is requesting a 22.4 foot variance from the 30 foot minimum setback in the front yard, in order to expand the boiler room at the property located at 4041 Highway 61. The 144 square foot addition will allow Saputo to install a larger boiler to increase capacity at the site. Based on the findings made in this report, staff finds that the applicant has demonstrated a practical difficulty with meeting the City's zoning regulations as required by Minnesota Statute 462.357, Subd.6 and recommends approval of this request.

GENERAL INFORMATION

Applicant/Owner: Pelco Construction LLC / Saputo

Existing Land Use / Zoning: Food & Drink Processing Plant; zoned I-1: Limited Industry

Surrounding Land Use / Zoning: North: Warehouses; zoned I-1: Limited Industry
 Drive-Thru Restaurant; zoned B-3: Auto-Oriented Business
 South: Public Works Facility; zoned P: Public
 East: Church; zoned R-7: High Density Residential
 West: Single Family Homes; zoned RO: Low Density Residential (Gem Lake)

Comprehensive Plan: Industrial

Lot Size & Width: Code: 20,000 square feet; 100 feet wide
 Site: 434,293 square feet; 520 feet wide

60 Day Review Date: August 11, 2023

BACKGROUND INFORMATION

The subject site fronts three streets – Highway 61 on the east, County Road F on the north, and

Hoffman Road on the west. City records indicate the building, owned by Kohler Ice Cream Mix, was first constructed in 1961. A warehouse was added in 1964 and office space, storage and a cooler were added in 1967. Major additions were subsequently constructed in 1974, 1977, 1978, 1982, 1985, 1988, 1990, 1991, 1995, 2001, 2003, 2005, and 2009. Setback variances were granted for a number of these additions:

- 1974 – a 10 foot and an 8 foot variance from the 30 foot setback for an addition and garage along Highway 61;
- 1978 – a 22 foot variance to allow silos to sit 8 feet from the Highway 61 property line;
- 1980 – a 4 foot variance from the 10 foot setback from an interior lot line for an addition;
- 2000 – a 27.7 foot variance from the 30 foot setback for a loading bay addition along Highway 61 (expired without being constructed);
- 2000 – a 23.1 foot variance from the 30 foot setback for a silo along Highway 61;
- 2003 – a 15 foot variance from the 30 foot setback for an addition;
- 2005 – an 18.8 foot variance from the rear property line for an addition, a 20.8 foot variance for the construction of the boiler room and a 22.1 foot variance for an incubator room on the Highway 61 side of the site.

The site was originally zoned GB: General Business. In 1983, the zoning code was updated and the GB zoning district became the B-3: Auto-Oriented Business zoning district. In 1985, the business was rezoned from B-3 to I-1: Limited Industry and a conditional use permit was granted for major truck repair.

There is an existing fire lane along the east side of the property between the building and Highway 61. A portion of the fire lane extends into the Minnesota Department of Transportation (MnDOT) Highway 61 right-of-way. When the past four variances went through the approval process, staff acknowledged that the encroachment existed and noted that the drive lane would remain 16 feet in width, the minimum required. The Fire Department has reviewed this proposal and similarly finds it acceptable since the width of the drive lane will not be reduced any more than what currently exists (review memo attached).

Community Comment. Under state law and the City's zoning regulations, variance applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice directly to adjacent property owners of the subject site. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. Staff did not receive any comments from the community. During the public hearing, staff will provide an update if any public comments are received prior to the Planning Commission meeting.

ANALYSIS

Review Authority. City review authority for variance applications is considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the legal standard. The city's role is limited to applying the legal standard of practical difficulties to the facts

presented by the application. Generally, if the application meets the review standards, the variance should be approved.

Variance Review. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute the City may choose to add conditions of approval that are directly related to and bear a rough proportionality on the impact created by the variance.

Staff has reviewed the variance request against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds the applicant has demonstrated a practical difficulty. The standards for reviewing a variance application and staff's findings for each are provided below.

1. Is the variance in harmony with the purposes and intent of the ordinance?

Finding: The purpose of the I-1: Limited Industry zoning district is to provide for the establishment of warehousing and light industrial development. The overall character of the I-1 district is intended to be transitional in nature, thus industrial uses allowed in this District shall be limited to those which can compatibly exist adjacent to the B-W: Business-Warehouse District or commercial uses, but require isolation from residential uses.

The variance is in harmony with the purpose and intent of this ordinance. The building is used for warehousing and light industry and the variance to allow an expansion of the boiler will not change the use. The expansion is proposed on the Highway 61 side of the site, isolated from the residential properties to the west, and consistent with the purpose of the district.

2. Is the variance consistent with the comprehensive plan?

Finding: The Future Land Use Map in the 2040 Comprehensive Plan guides the property as Industrial. According to the Comprehensive Plan, this designation is meant for properties with uses such as manufacturing, warehousing, office/warehouse, shipping, and research and development. Limited outdoor storage or processing may occur with these types of uses. The facility is used as a manufacturing and warehousing plant. The expansion of the boiler does not change the use of the facility, so is consistent with the comprehensive plan's Future Land Use Map.

The proposal is also consistent with several of the guiding principles in the economic competitiveness section of the comprehensive plan. One guiding principle is to, "support the development of a strong, vibrant, livable community that attracts jobs, population, and investment" and another is to, "promote employment opportunities within the City for persons in all educational levels and career phases." The increased production capacity of the new

boiler promotes continued investment by the company into the city, job retention of a variety of job types, and growth in product exported from the city.

3. Does the proposal put the property to use in a reasonable manner?

Finding: This proposal puts the subject property to use in a reasonable manner. The proposed boiler expansion will allow increased capacity of the facility to process their products consistent with the industrial nature of the zoning district. There are relatively few industrially zoned properties in the city, meaning it would be difficult to find and relocate to another site that would meet the expanding needs of the business. It is reasonable then for the business to utilize the space it has in this location for light industry and warehousing.

4. Are there unique circumstances to the property not created by the landowner?

Finding: There are not unique circumstances to the property not created by the landowner, however the historical layout of the building necessitates the setback variance in this location. The boiler was constructed in 2005 in this location based on the layout of the facility. The old boiler and the new boiler shared certain components so it was logical to place them in close proximity. Because the boiler from 2005 already encroaches into the setback, unless the system was completely relocated, any sort of expansion would also encroach and thus need a variance.

5. Will the variance, if granted, alter the essential character of the locality?

Finding: Granting the requested variance will not alter the essential character of the surrounding neighborhood. As demonstrated in the above list of previous variances granted for the site, there are multiple points where the building or a piece of equipment encroaches at the same distance or even closer to the property line than what is currently being requested. The proposed expansion will not impede sight lines since the edge of the pavement of Highway 61 is over 50 feet from the property line and the area is screened with trees.

RECOMMENDATION

Staff recommends approval of the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A building permit shall be obtained before any work begins.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.

Attachments:

Resolution

Zoning/Location Map

Fire Department Memo – Dated 7/25/23

Staff Graphic

Previous Variance Site Plan – Dated 01/24/05

Applicant's Narrative & Plans (4 Pages)

RESOLUTION NO.

**RESOLUTION GRANTING A SETBACK VARIANCE FOR
4041 HIGHWAY 61 WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, Saputo has requested a 22.4 foot variance from the 30 foot minimum setback in the front yard, per code section 1303.190, Subd.5.c.1 in order to expand the boiler room at the following location:

LEGAL DESCRIPTION: Part of Lots 8 & 9, Block 4, REARRANGEMENT OF WHITE BEAR PARK, according to the recorded plat thereof, Ramsey County, Minnesota.
PID 273022110034

WHEREAS, the Planning Commission held a public hearing as required by the Zoning Code on July 31, 2023; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variance is in harmony with purposes and intent of the ordinance.
2. The requested variance is consistent with the 2040 Comprehensive Plan.
3. Granting the requested variance will allow the property to be used in a reasonable manner.
4. There are not unique circumstances to the property not created by the landowner; however, the historical layout of the building necessitates the setback variance in this location.
5. Granting the requested variance alone will not alter the essential character of the neighborhood.

BE IT FURTHER RESOLVED, that the City Council of the City of White Bear Lake hereby approves the requested variance, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A building permit shall be obtained before any work begins.

RESOLUTION NO.

4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

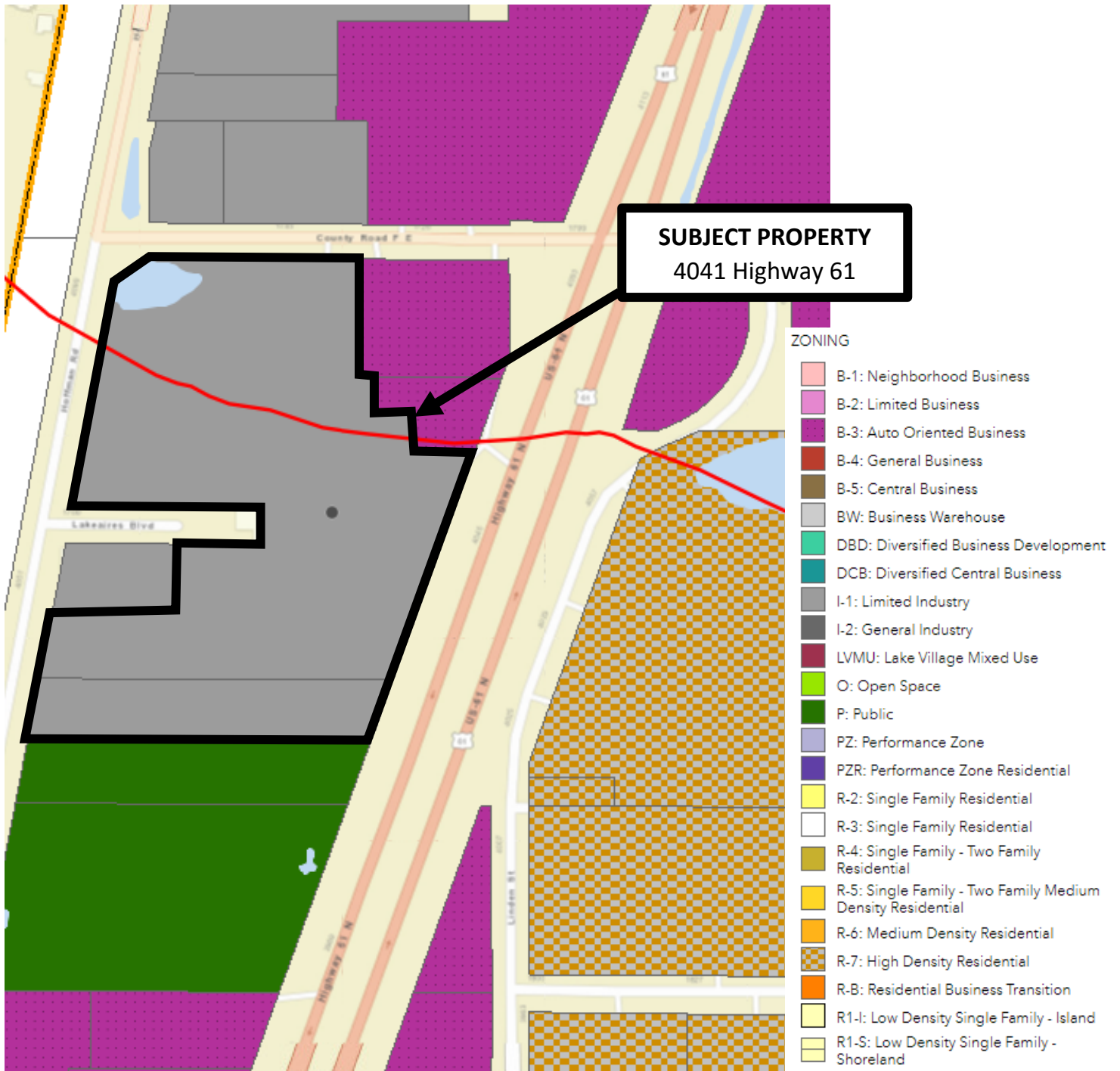
ATTEST:

Caley Longendyke, City Clerk

Approval is contingent upon execution and return of this document to the City Planning Office. I have read and agree to the conditions of this resolution as outlined above.

Applicant's Signature

Date



City of
White Bear Lake
Planning & Zoning
651-429-8561

CASE NO. : 23-22-V

CASE NAME : 4041 Highway 61 – Saputo Variance

DATE : 7-31-2023



City of White Bear Lake Fire Department

4701 Highway 61 N.
White Bear Lake, Minnesota 55110
651-429-8568 | www.whitebearlake.org



July 25, 2023

Saputo Dairy Foods
4041 Highway 61
White Bear Lake, MN 55110

Dear Saputo Dairy Foods:

Thank you for submitting documents for Fire Department review. The plans for the above project located at 4041 Highway 61 have been evaluated. Please review the comments within this document.

Please let me know if I can assist you further.

Sincerely,

Kurt Frison
Assistant Fire Chief / Fire Marshal
651-762-4842

Encl.



City of White Bear Lake Fire Department

4701 Highway 61 N.
White Bear Lake, Minnesota 55110
651-429-8568 | www.whitebearlake.org



General Comments

1. Fire Access Road

The MSFC 2020 states fire access roads shall be a minimum of 20' wide. These lanes may be reduced if the building is fully protected by a fire sprinkler system. It is recommended that the existing fire access road parallel to Highway 61 remain 15'11" wide to match the existing narrowest distance from the building to the fence. This is also the dimensions that was accepted in the 2000 variance process. All fire access roads shall have 13'6" of clear height.

2. Fire Sprinkler System

The fire sprinkler system shall be installed compliant with provisions of 2016 NFPA Standard 13, Installation of Sprinkler Systems. The proper coverage shall be provided by the fire sprinkler system. A city permit required prior to initiation of work. The sprinkler system shall be current on annual inspection and testing. Any deficiencies noted during those reports shall be corrected.

3. Construction

The required fire-resistance rating of rated construction shall be maintained. Openings through rated construction for the passage of wiring, sleeves, conduit, piping, etc. shall be protected by repair with approved materials which maintains the rating of the construction damaged, altered, breeched or penetrated.

4. Signage

Rooms containing controls for air-conditioning systems, sprinkler risers and valves, or other fire detection, suppression or control elements shall be identified for the use of the fire department. Approved signs required to identify fire protection equipment and equipment location, shall be constructed of durable materials, permanently installed and readily visible.

Codes and Standards Used for this Review

This review is based on the following codes and standards as adopted and in effect in the State of Minnesota at the time of plan submittal.

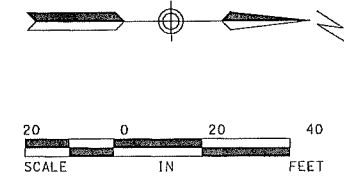
- 2020 Minnesota State Fire Code
- NFPA 72, 2016 edition
- NFPA 13, 2016 edition

Previous Variance Approvals - 2005

SCALE FOR:
KOHLER MIX SPECIALTIES

- NOTES**
- 1.) This survey is not a partial boundary survey only. The right of way for Highway 61 is established by description contained in Document No. 1635179.
 - 2.) This survey does not purport to show underground utilities. Contact Gopher State One Call at 651-454-0002 for precise onsite location of utilities prior to any excavation.
 - 3.) This survey was prepared without the benefit of current title work. Easements, appurtenances, and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a current title insurance commitment or attorney's title opinion.

LOCATION OF PROPERTY SURVEYED
Part of Lots 5 & 9, Block 4, REARRANGEMENT OF WHITE BEAR PARK, according to the recorded plat thereof, Ramsey County, Minnesota.



LEGEND

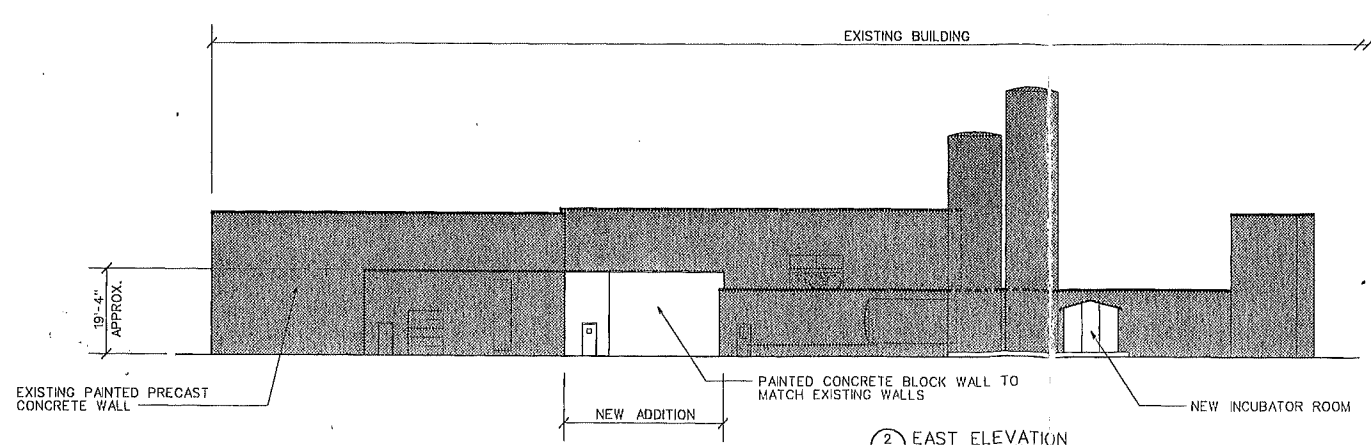
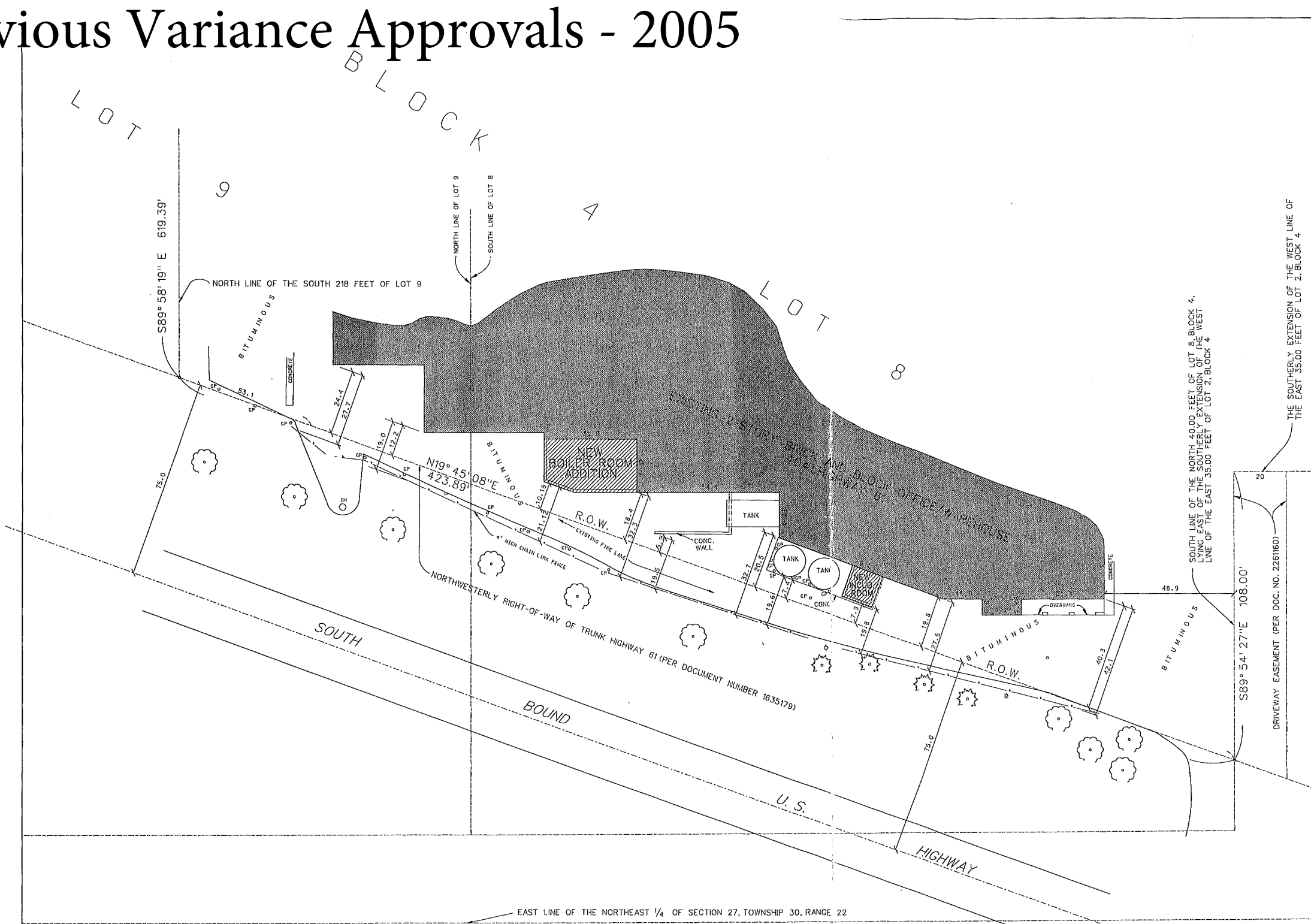
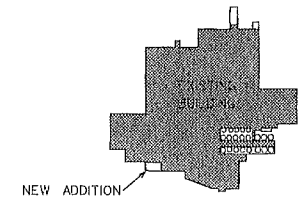
ASH	DENOTES ASH TREE
SPCG	DENOTES SPRUCE TREE
TREE	DENOTES TREE UNKNOWN VARIETY
MPL	DENOTES MAPLE TREE
EMH	DENOTES ELECTRIC MANHOLE
MH	DENOTES MANHOLE
SANC	DENOTES SANITARY SEWER CLEAN OUT
WV	DENOTES WATER VALVE
SAN S	DENOTES SANITARY SEWER
ST S	DENOTES STORM SEWER
R.C.P.	DENOTES REINFORCED CONCRETE PIPE
BH	DENOTES BEEHIVE CATCH BASIN
RD	DENOTES ROOF DRAIN
PP	DENOTES POWER POLE
CBOX	DENOTES CONTROL BOX
OHE	DENOTES OVERHEAD ELECTRIC
COL.	DENOTES COLUMN
CONC.	DENOTES CONCRETE
GP	DENOTES GUARD POST
HYD	DENOTES FIRE HYDRANT
TRANS	DENOTES ELECTRIC TRANSFORMER
VP	DENOTES VENT PIPE
GW	DENOTES GUY WIRE
GRDL	DENOTES GROUND LIGHT

GENERAL NOTES:

1. PREPARATION OF THIS SITE PLAN WERE TAKEN FROM A CERTIFICATE OF SURVEY BY SUNDE LAND SURVEYING, LLC. (JULY 14, 2000 REVISED ON DECEMBER 29, 2004 AND JANUARY 3, 2005) AND THE OWNER.

1 SITE PLAN

KEY PLAN



Evans Freimuth Architects, LLC
 1635179
 REG. NO. 15237
 DATE
 SIGNATURE: JAMES M. EVANS
 PRINT NAME: JAMES M. EVANS
 LICENSE NO. 15237
 STATE OF MINNESOTA
 ARCHITECTS, LLC
 Evans Freimuth Architects, LLC
 1/24/05
 SITE PLAN & EAST ELEVATION
 BOILER ROOM ADDITION FOR:
KOHLER MIX SPECIALTIES
 WHITE BEAR LAKE
 MINNESOTA
 0434
 P1

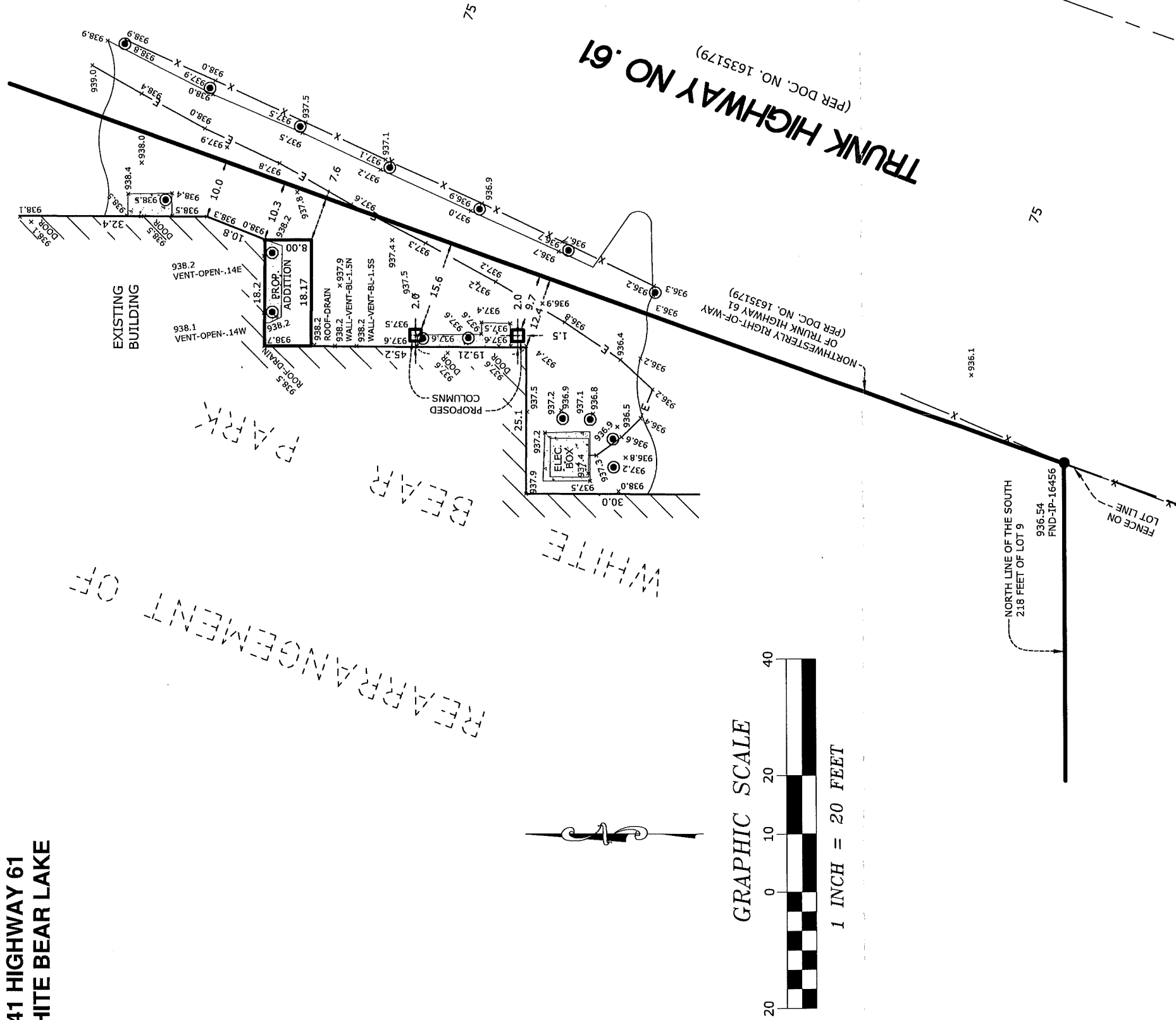


Narrative

1. The property is zoned limited industry which is to provide for the establishment of warehouse and light industrial development. We feel that if the variance is granted that there is isolation from any residential property.
2. The code requires a 30' setback from the east property line. The addition would not meet that setback requirement. Therefore, a variance is necessary.
3. We have a unique circumstance to this property because of the location of the existing boiler room. Saputo is upgrading their boiler capacity to increase production in the plant. The new boiler is designed to increase production capacity of the plant it is approximately 5' longer than the existing boiler. Which requires us to add an 8' x 18' addition on the south side of the existing boiler room.
4. If this variance is granted, it will not alter the character of the building or site.
5. The variance that we are asking for is consistent with the comprehensive plan, the comprehensive plan guides the property (industrial) which is described as clustered in areas and with access to important freight routes and the interstate highway system.

PARTIAL SURVEY/SITE PLAN

~for~ PELCO CONSTRUCTION, LLC
~of~ 4041 HIGHWAY 61
WHITE BEAR LAKE



LEGEND

- DENOTES IRON MONUMENT FOUND
- DENOTES EXISTING ELEVATION
- DENOTES BOLLARD
- E— DENOTES UNDERGROUND ELECTRIC LINE
- X— DENOTES FENCE
- ▭ DENOTES BITUMINOUS SURFACE
- ▨ DENOTES CONCRETE SURFACE

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 06/06/23.
- Bearings shown are on Ramsey County datum.
- Parcel ID Number: 27-30-22-11-0034.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.

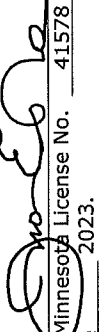
BENCHMARK

MNDOT GSTD #95084
STATION NAME: CHURCH
ELEVATION: 935.02
DATUM: NAVD 88

LEGAL DESCRIPTION

Part of Lots 8 & 9, Block 4, REARRANGEMENT OF WHITE BEAR PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

By: 
Minnesota License No. 41578


Dated 9th day of June 2023.

REVISIONS

NO.	DATE	DESCRIPTION	BY
1			
2			

FIELD CREW: JH/JR
BEARING DATUM: Ramsey

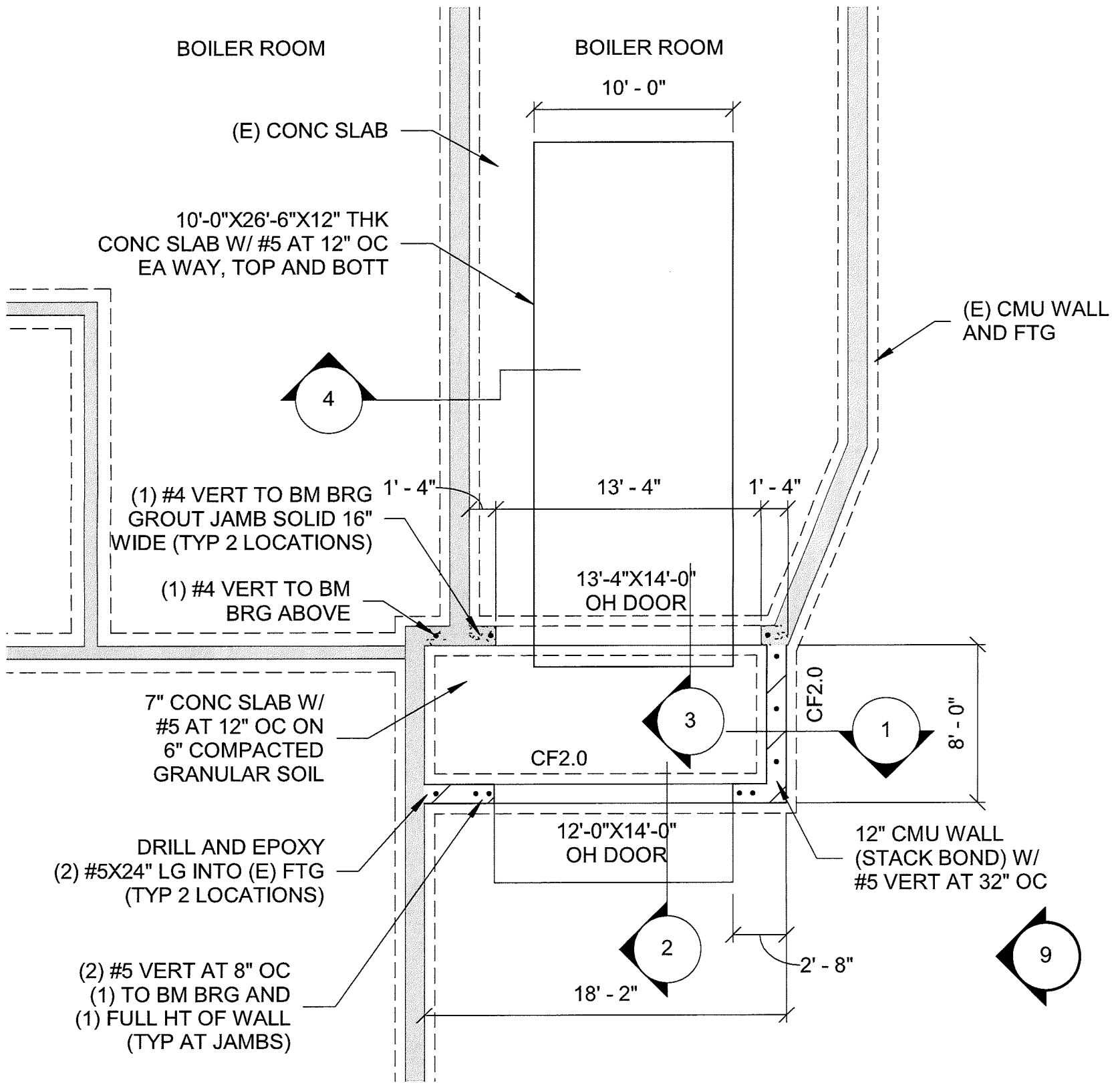
JOB NO. 200356LS
DRAWN BY: BCD
DATE: 06-09-23
SCALE: 1" = 20'

**E.G. RUD & SONS, INC.**
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com

Larson Engineering, Inc.
 3524 Labore Road
 White Bear Lake, MN 55110-5100
 651.481.9120 Fax: 651.481.9201
 www.larsonengr.com

SUBJECT: Boiler Room Addition
 Partial Plans & Sections

SHEET NO. S1
 PROJECT NO. 11220889
 BY: DRH DATE: 05/22/2023



P1

PARTIAL PLAN - FOUNDATION
 1/8" = 1'-0"



Larson Engineering, Inc.

3524 Labore Road
White Bear Lake, MN 55110-5100
651.481.9120 Fax: 651.481.9201
www.larsonengr.com



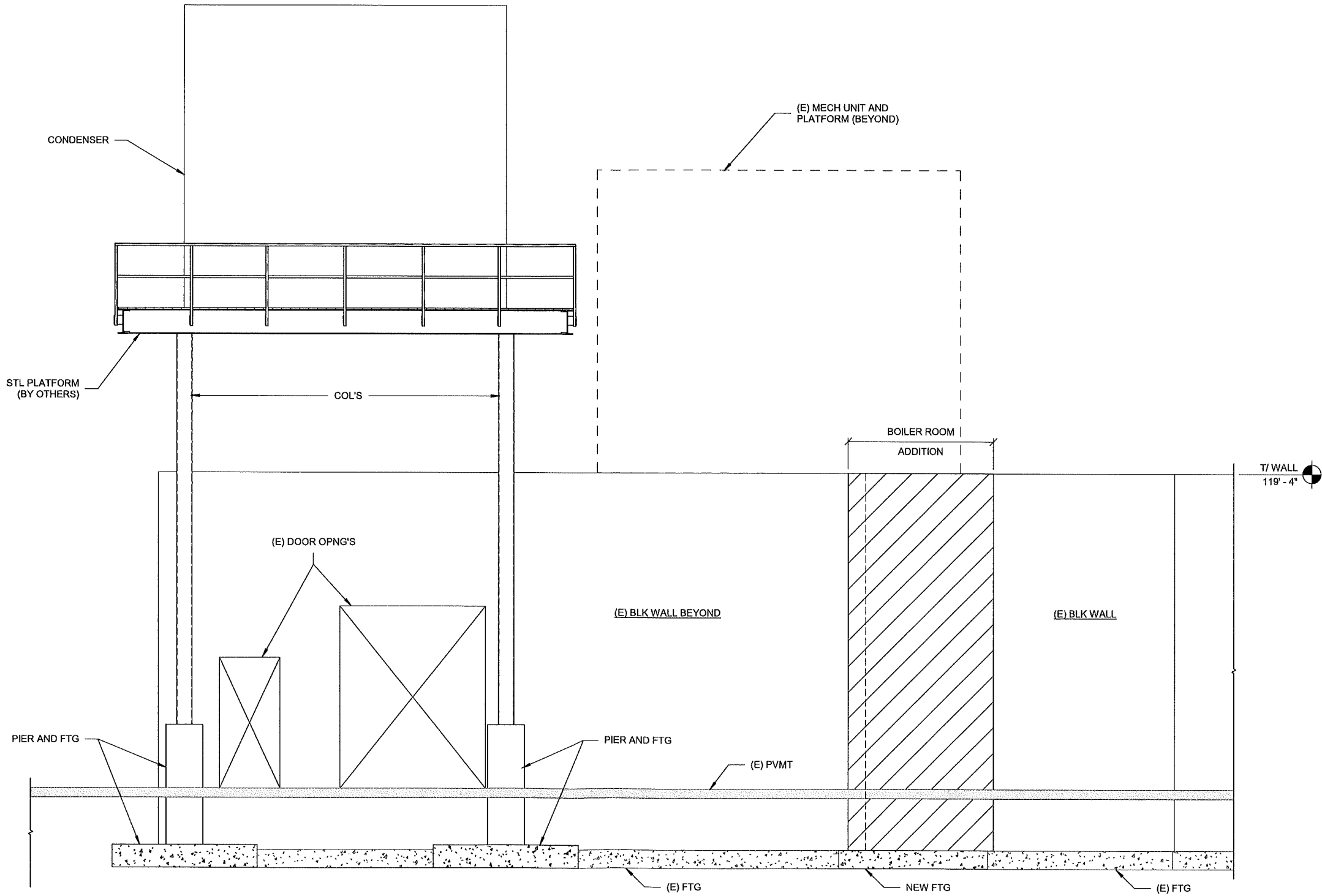
SUBJECT:

Boiler Room Addition
Partial Plans & Sections

SHEET NO. S11

PROJECT NO. 11220889

BY: DRH DATE: 05/22/2023



9

EAST ELEVATION

3/8" = 1'-0"



City of White Bear Lake
Community Development Department

MEMORANDUM

TO: The Planning Commission
FROM: Shea Lawrence, Planning Technician
DATE: July 31, 2023
SUBJECT: 1876 5th Street Variance – Case No. 23-23-V

SUMMARY

The applicant, Kaia Kroll, is requesting 4 foot variance from the 11 foot maximum height for accessory buildings and structures per code section 1302.030, subd.4.i.1.b in order to reconstruct a garage that is taller than the house located at 1876 5th Street.

Based on the findings made in this report, staff finds that the applicant has demonstrated a practical difficulty with meeting the City's zoning regulations as required by Minnesota Statute 462.357, Subd.6 and recommends approval of this request.

GENERAL INFORMATION

Applicant/Owner: Kaia Kroll
 Existing Land Use / Zoning: Two Unit Dwelling; Zoned: R-3: Single-Family Residential
 Surrounding Land: All directions: R-3: Single Family Residential
 Comprehensive Plan: Low Density Residential
 Lot Size & Width: Code: 10,500 square feet; 80 feet wide
 Site: 12,750 square feet; 75 feet wide
 60 Day Review Date: August 10, 2023

BACKGROUND

The subject site is located at 1876 5th Street which is on the south side of 5th Street between Krech Avenue and Wood Avenue. The property contains a single story side by side duplex. The property was platted in 1914 as part of the W.F. Krech's Addition to White Bear. According to Ramsey County GIS, the house was originally constructed in 1957.

The property contains a one-story, side-by-side duplex and is located in the R-3, Single Family Residential district and duplexes are not a permitted use in this district. However, the City has record of the property being used as a duplex back to 1975 making the property non-forming or "Grandfathered." Any non-conforming use is governed under Minnesota Statute 462.357, Subdivision 1e. This law states legal non-conformities generally have a statutory right to continue through repair, replacement, restoration, maintenance, or improvement but not through expansion. These rights run with the land and are not limited to a particular landowner. If the benefited property is sold, the new owner will have the same rights as the previous owner. However, it should be noted that by statute, the City may prohibit any non-conformity that cease for a period of more than one year.

The existing garage is located within the 5 foot side yard setback required for accessory structures. The proposed garage will be slightly relocated to comply with the required setback.

The code limits the height of a detached garage to 15 feet or the height of the house, whichever is more restrictive. The single story house is approximately 11 feet in height, technically limiting the garage to the same 11 feet. The variance requested is to allow the garage to be constructed at the 15 foot height limitation.

Community Comment. Under state law and the City's zoning regulations, variance applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice directly to adjacent property owners of the subject site. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. Staff did not receive any comments from the community. During the public hearing, staff will provide an update if any public comments are received prior to the Planning Commission meeting.

ANALYSIS

Review Authority. City review authority for variance applications is considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the legal standard. The city's role is limited to applying the legal standard of practical difficulties to the facts presented by the application. Generally, if the application meets the review standards, the variance should be approved.

Variance Review. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute the City may choose to add conditions of approval that are directly related to and bear a rough proportionality on the impact created by the variance.

Staff has reviewed the variance request against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds the applicant has demonstrated a practical difficulty. The standards for reviewing a variance application and staff's findings for each are provided below.

1. Is the variance in harmony with the purposes and intent of the ordinance?

Finding: The purpose of the general building and performance standards is to “assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.” Approving a height variance for the garage is compatible with the neighborhood as nearby properties would be allowed a fifteen foot garage where the houses are at least 15 feet tall. The requested height variance for a garage will result in a new construction garage which is an improvement that will aid in the prevention of urban blight, deterioration and decay. Additionally the new garage will be brought more into compliance, as the garage currently sits within the required 5 foot side yard setback. The new garage will be located at least 5 feet from the side lot line.

2. Is the variance consistent with the comprehensive plan?

Finding: The Future Land Use Map in the 2040 Comprehensive Plan guides the property as Low Density Residential which is characterized by single family homes. Garages are complementary uses to residential properties. According to the Comprehensive Plan this category allows densities of 3 to 9 units per acre. With the duplex located at this site, the property is at a density of 6.8 units per acre, which falls within the density range for Low Density Residential. Reconstructing the garage on site will not impact the density of the property or the surrounding neighborhood, therefore the proposed variance is not inconsistent with the 2040 Comprehensive Plan.

3. Does the proposal put the property to use in a reasonable manner?

Finding: This proposal puts the subject property to use in a reasonable manner. A fifteen foot tall detached garage is permitted on other properties in the R-3 district where the principal structure is 15 feet or taller. Further the code requires two parking stalls per unit, one of which must be fully enclosed. This proposal provides the required parking stalls for the subject property.

4. Are there unique circumstances to the property not created by the landowner?

Finding: The height of the principal structure on site is 11 feet tall as measured to the mean of the roofline. Because of this, the garage is limited to 11 feet in height as well. If the principal structure were 4 feet taller or had another story the proposed garage would not need a variance. The height of the house creates a restraint for the homeowner and is not practical under modern accessory building needs, therefore staff finds that a 4 foot height variance is reasonable.

5. Will the variance, if granted, alter the essential character of the locality?

Finding: The proposed variance will not alter the essential character of the locality. Garages are required for residential properties in White Bear Lake and other properties in the neighborhood have detached garages of a similar height. The neighboring property located at 1882 5th Street was granted a 1.5 foot height variance to construct a 16.5 foot tall garage.

RECOMMENDATION

Staff recommends approval of the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A building permit shall be obtained before any work begins.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.
5. Exterior building color, design, and material of the garage shall be compatible with the principal structure.

Attachments:

Resolution

Zoning/Location Map

Applicant's Narrative and Plans

RESOLUTION NO.

**RESOLUTION GRANTING A HEIGHT VARIANCE FOR
1876 5TH STREET WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, Kaia Kroll, has requested a 4 foot variance from the 11 foot maximum height per code section 1302.030, subd.4.i.1.b in order to reconstruct a garage that is taller than the house located at the following location:

LEGAL DESCRIPTION: W. F. KRECH'S ADD. TO,WHITE BE N 1/2 OF FOL; EX E 90 FT; LOT 2 & EX W 75 FT; LOT 3 BLK 1. PID 143022320006.

WHEREAS, the Planning Commission held a public hearing as required by the Zoning Code on July 31, 2023; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variance is in harmony with purposes and intent of the ordinance.
2. The requested variance is consistent with the 2040 Comprehensive Plan.
3. Granting the requested variance will allow the property to be used in a reasonable manner.
4. There are unique circumstances to the property not created by the landowner.
5. Granting the requested variance alone will not alter the essential character of the neighborhood.

BE IT FURTHER RESOLVED, that the City Council of the City of White Bear Lake hereby approves the requested variance, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A building permit shall be obtained before any work begins.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.
5. Exterior building color, design, and material of the garage shall be compatible with the

RESOLUTION NO.

principal structure.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

Approval is contingent upon execution and return of this document to the City Planning Office.
I have read and agree to the conditions of this resolution as outlined above.

Applicant's Signature

Date



SUBJECT PROPERTY
1876 5th Street

- ZONING**
- B-1: Neighborhood Business
 - B-2: Limited Business
 - B-3: Auto Oriented Business
 - B-4: General Business
 - B-5: Central Business
 - BW: Business Warehouse
 - DBD: Diversified Business Development
 - DCB: Diversified Central Business
 - I-1: Limited Industry
 - I-2: General Industry
 - LVMU: Lake Village Mixed Use
 - O: Open Space
 - P: Public
 - PZ: Performance Zone
 - PZR: Performance Zone Residential
 - R-2: Single Family Residential
 - R-3: Single Family Residential



City of
White Bear Lake
Planning & Zoning
651-429-8561

CASE NO. : 23-23-V

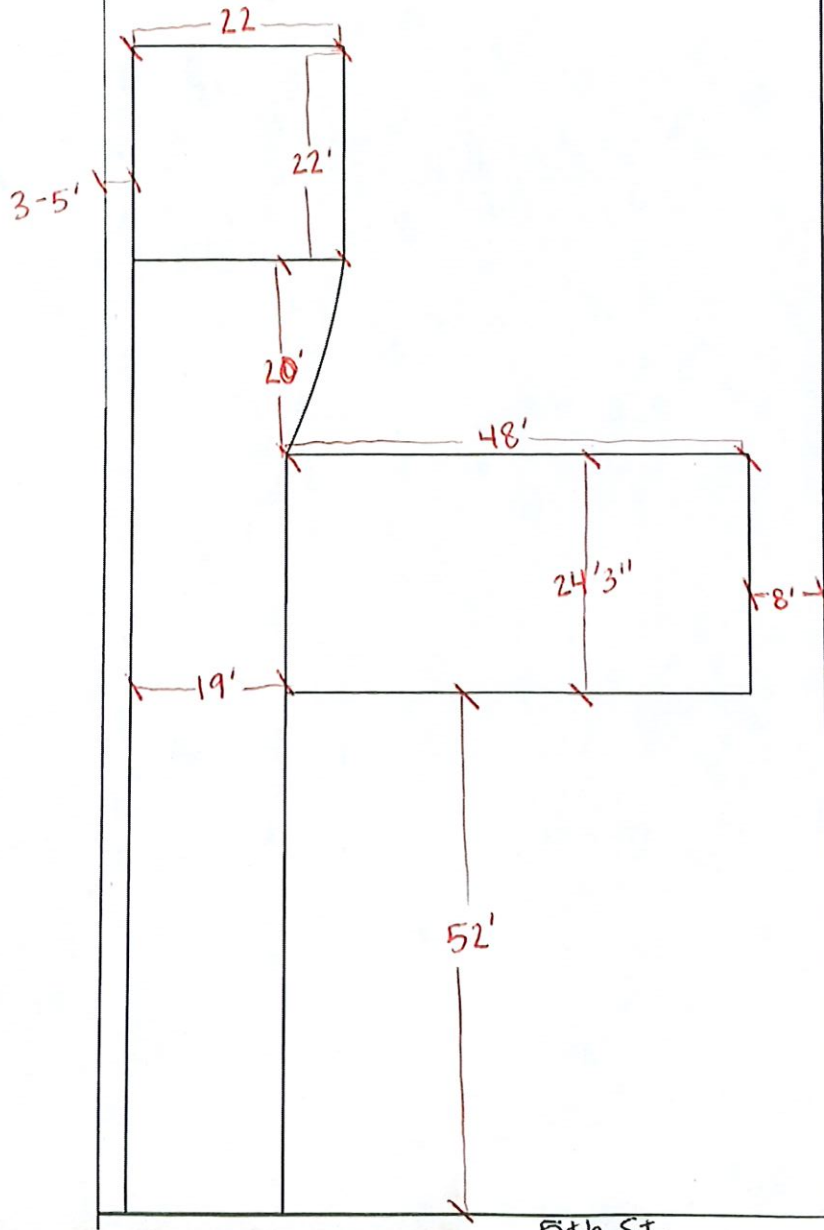
CASE NAME : 1876 5th St – Garage Height

DATE : 7-31-2023

I am asking for a four foot height variance to construct a new garage up to 15 feet in height. A 15 foot tall garage (mean roof height) is in line with other garages in the area, including my next door neighbor's. However, a 15 foot tall garage would require a variance because the primary structure is only 11 feet tall, which is the shortest on the block. A 15 foot tall garage would provide storage for the two small 500 square foot living units and would also allow for the installation of 10 foot garage doors for a future RV or work van. The new garage will follow the sideyard setback code of 5 feet.

Current Site

75'



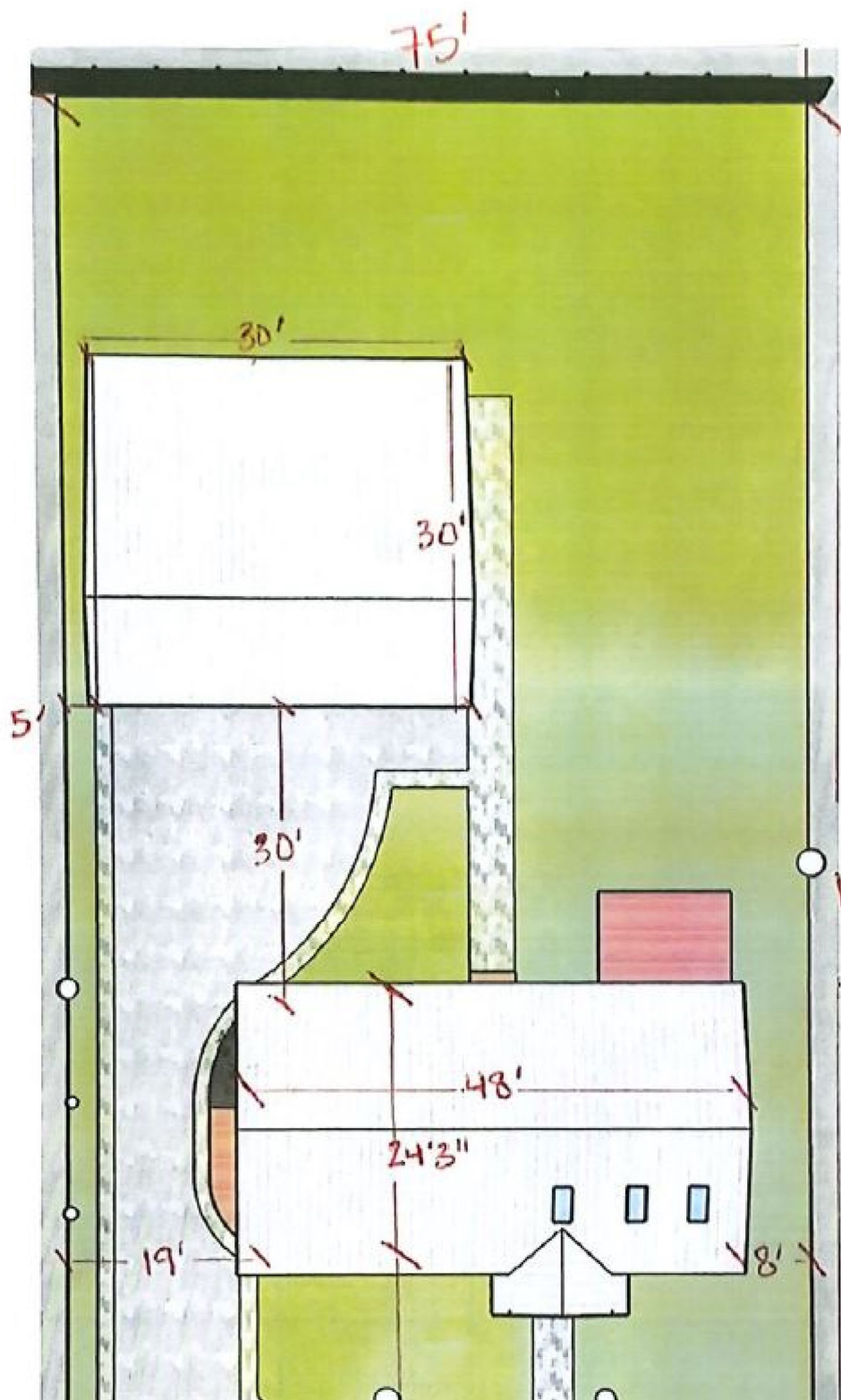
105'



NORTH

SCALE 1"=20

Proposed Site Plan




NORTH

SCALE 1" = 1'

