



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

January 26, 2023 - 7:00 PM
Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Election of Officers
3. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration
4. Public Invited to be Heard

Individuals wishing to participate in Public Invited to be Heard (non-agenda item) are requested to sign up on the form provided in the foyer of the Town Board Chambers. When you are recognized, step to the podium, state your name and address then speak to the Town Board.

Individuals wishing to speak during the Public Invited to be Heard or during Public Hearing proceedings are encouraged to be prepared and individuals will be limited to three (3) minutes. Written comments are welcome and should be given to the Town Clerk prior to the start of the meeting.

B. CONSENT CALENDAR

1. Approval of the October 27, 2022 Board of Adjustment/Appeals Regular Meeting Minutes - K. Cinnamon, Deputy Town Clerk
2. Approval of the December 15, 2022 Board of Adjustment/Appeals Special Meeting Minutes - K. Cinnamon, Deputy Town Clerk

C. BOARD ACTION

1. Public Hearing – Variance from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district – Brett Buchholtz, Buchholtz Engineering LLC (Owner/Applicant); Bob Choate, Coan, Payton & Payne, LLC (Owner's Representative).
 - Quasi-judicial action
 - Staff presentation: Kimberly Lambrecht, Planner II
2. Variance from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district – Brett Buchholtz, Buchholtz Engineering LLC (Owner/Applicant); Bob Choate, Coan, Payton & Payne, LLC (Owner's Representative)
 - Quasi-judicial action
 - Staff presentation: Kimberly Lambrecht, Planner II

3. Public Hearing – Variance for 1275 Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – Adam Meier, (Owner/Applicant); Luke Seeber, Baseline (Owner's Representative)
 - Quasi-judicial
 - Staff Presentation, David Eisenbraun, Senior Planner
4. Variance for 1275 Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – Adam Meier, (Owner/Applicant); Luke Seeber, Baseline (Owner's Representative)
 - Quasi-judicial
 - Staff Presentation, David Eisenbraun, Senior Planner
5. Public Hearing – Variance for 2145 7th Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Residential Mixed Use (RMU-1) zone district – Jerry Helgesen, (Owner/Applicant); Derek Patterson, TST, Inc.(Owner's Representative)
 - Quasi-judicial
 - Staff presentation, David Eisenbraun, Senior Planner
6. Variance for 2145 7th Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Residential Mixed Use (RMU-1) zone district – Jerry Helgesen, (Owner/Applicant); Derek Patterson, TST, Inc.(Owner's Representative)
 - Quasi-judicial
 - Staff presentation, David Eisenbraun, Senior Planner
7. Public Hearing - Variance for the property of 23 Main Street from Municipal Code Section 16-1-70(b) pertaining to the minimum single family residential lot size requirement of 6,000 square feet in the RMU-1 (Residential Mixed Use-One) Zone District - Melina Nolte, Owner/Applicant
 - Quasi-judicial
 - Staff Presentation: Mark Price, Planner I
8. Variance for the property of 23 Main Street from Municipal Code Section 16-1-70(b) pertaining to the minimum single family residential lot size requirement of 6,000 square feet in the RMU-1 (Residential Mixed Use-One) Zone District - Melina Nolte, Owner/Applicant
 - Quasi-judicial action
 - Staff presentation: Mark Price, Planner I

9. Public Hearing - Variance for Development Entrance Sign for the Tacincala/Prairie Song Subdivision - Variance from Municipal Code Section 15-17-60(a) monument-type base, Section 15-17-70(j) pole-mounted signs prohibited, and Section 15-17-110(e) development entrance sign criteria - Pat McMeekin, Prairie Song Development, LLC, applicant; and Wendi Cudmore, Hartford Homes, applicant representative.

- Quasi-judicial action
- Staff presentation: Mark Price, Planner I

10. Variance for Development Entrance Sign for the Tacincala/Prairie Song Subdivision - Variance from Municipal Code Section 15-17-60(a) monument-type base, Section 15-17-70(j) pole-mounted signs prohibited, and Section 15-17-110(e) development entrance sign criteria - Pat McMeekin, Prairie Song Development, LLC, applicant; and Wendi Cudmore, Hartford Homes, applicant representative

- Quasi-judicial action
- Staff presentation: Mark Price, Planner I

11. Public Hearing – Variance for 365 E Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – VIA Real Estate, LLC, (Owner/Applicant); Tez Hawkins, Baseline (Owner's Representative)

- Quasi-judicial
- Staff Presentation, David Eisenbraun, Senior Planner

12. Variance for 365 E Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – VIA Real Estate, LLC, (Owner/Applicant); Tez Hawkins, Baseline (Owner's Representative)

- Quasi-judicial
- Staff Presentation, David Eisenbraun, Senior Planner

D. COMMUNICATIONS

1. Communications from Board of Adjustments/Appeals

2. Communications from Staff

E. ADJOURN

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From:
Re: Approval of the October 27, 2022 Board of Adjustment/Appeals Regular Meeting Minutes - K. Cinnamon, Deputy Town Clerk
Item #: B.1.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:

1. 10.27.22 Draft Board of Adjustment & Appeals Minutes



Board of Adjustment/Appeals Regular Meeting

October 27, 2022 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:00 p.m.

1. Roll Call

Present:

Chairman Horner
Vice-Chair Stacey Shea
Don Threewitt
James Penfold
Jeffery Gelvin

Patrick Miller- Absent
Shawn Wherry- Absent

Also Present:

David Eisenbraun, Senior Planner
Kimberly Lambrecht, Planner II
Karen Frawley, Town Clerk
Kaitlyn Cinnamon, Deputy Town Clerk

2. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration

3. Public Invited to be Heard

Chairman Horner opened the meeting up for public comment, to which there was none.

B. CONSENT CALENDAR

1. Approval of the June 23, 2022 Board of Adjustment/Appeals Regular Meeting Minutes - K. Frawley, Town Clerk

2. Approval of the August 25, 2022 Board of Adjustment/Appeals Regular Meeting Minutes - K. Frawley, Town Clerk

Board of Adjustment/Appeals Board Member Shea moved to approve the consent calendar as presented, Board of Adjustment/Appeals Board Member Threewitt seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Danny Horner, Stacey Shea, James Penfold, Jeffrey Gelvin; Nays - None; Motion Passed.

C. BOARD ACTION

1. Public Hearing – Variance for 2145 7th Street from Municipal Code Section 15-5-10

(Pavement Setback) pertaining to vehicular access requirements – American Eagle Distributing CO, Owner – Jerry Helgeson, Derek Patterson, TST, applicant/representative.

The request is for a variance from Municipal Code Section 15-5-10 pertaining to vehicular access. Specifically, it is seeking relief from "Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way."

Based upon the existing shape of the parcel, the lot would be undevelopable due to the inability to generate a functioning site plan within the restricted area of the usable lot. The lot will be unable to meet parking requirements, drive through stacking queue lengths, or a general layout with functioning traffic movements.

Additionally, this variance is strictly pertaining to the offset distance of a private drive aisle and public right of way within the confines of the private lot. A variance of this offset will not be detrimental to the adjacent private lots. There is a private drive isle that separates this property from the adjacent property to the south. The property to the south is planned for a gas station, and there will still be reasonable screening/buffering between the properties.

Ultimately, due to low speeds of the pertaining drive aisles with berming and screening walls between the aisles, it is believed that the granting of the variance will not impact public health, safety, or welfare by inducing traffic or any other related incidents. There are also no waivers or alternative compliance standards applicable for this situation.

The Variance has been postponed to the December 15, 2022, Board of Adjustment/Appeals Special Meeting.

2. Variance for 2145 7th Street from Municipal Code Section 15-5-10 (Pavement Setback) pertaining to vehicular access requirements – American Eagle Distributing CO, Owner – Jerry Helgeson, Derek Patterson, TST, applicant/representative.

See public hearing item.

The Variance has been postponed to the December 15, 2022, Board of Adjustment/Appeals Special Meeting.

3. Public Hearing – Variance from Municipal Code Table 16-1-140 (b) (HI District Lot Development Standards) pertaining to the rear yard setback in the Heavy Industrial Zone; and Table 15-3-30(b)(8)(C) (Zone Boundary Bufferyard Standards) pertaining to the bufferyard landscape requirements - Universal Forest Products (15 Walnut Street) – Universal Forest Products, Rich Buitenhuis (Owner/Applicant)

Chairman Horner opened the public hearing.

Universal Forest Products (UFP) is requesting a variance from **Municipal Code Table 16-1-140 (b) (HI District Lot Development Standards)** pertaining to the rear yard setback in the Heavy Industrial Zone District, and **Table 15-3-30(b)(8)(C) (Zone Boundary Bufferyard Standards)** pertaining to the bufferyard landscape requirements. These variance requests are:

- To allow for a setback less than the 200-foot rear yard setback requirement of the Heavy Industrial Zone District adjacent to a residential use or zone.
- To eliminate the requirement for bufferyard landscaping on heavy industrial uses adjacent to residential zones or uses

The Universal Forest Products Windsor Site is located to the south and west of the intersection of Walnut Street and State Highway 257, at 15 Walnut Street.

Adjacent Properties:

North: Walnut Street and Great Western Railroad line (HI Zoning), and Lakeview Cemetery (ROL Zoning)

East: SH 257, unincorporated Weld County property with rail lines crossing the property.

South: Great Western Railroad line (HI Zoning), Chimney Park Townhomes (MF Zoning) and auto body business (LI Zoning)

West: Amalgamated Sugar Company (HI Zoning) and Chimney Park (ROL Zoning)

The **Universal Forest Products Windsor** site was established in 1985, specifically located along State Highway 257 and the Great Western Railroad Line, to provide the UFP site with easy access onto SH 257 for truck transport, and a rail spur that continues to be used. The property was annexed to the Town of Windsor in 1996, as part of the Universal Forest Products Annexation. This location has continued to grow, with the addition of several production and storage buildings to the site over the years. The site both treats and stores lumber to be distributed throughout the region.

The initial office building, serving as the Windsor corporate office, was built in 1985, with the second office building added in 2000.

A key component to the Windsor plant operations is the treatment of lumber. Currently, the timber treatment building is outdated, with aging below grade tanks and piping that are inaccessible for repairs. With this configuration, there is no room for expansion internal to the existing building. This component of the overall production building is located approximately 85-95-feet from the south property line (specific building location will be finalized at time of development of construction drawings). This is generally in alignment with the southernmost line of the existing treatment building. Beyond that is the Great Western Railroad which separates the project site from the adjacent Chimney Park Townhomes. This railroad right-of-way is approximately 30-feet wide.

Due to its outdated design, the treatment plant cannot be taken offline to update the facilities. The only option for updating the treatment operation is to construct a new standalone structure near the existing building so that the operation can stay active. This new building will house new chemical storage tanks required for the treatment process.

All appropriate reviews and permits by and from SAFEbuilt and Windsor Severance Fire Rescue will be required before this project comes online.

The adjacent Chimney Park Townhomes were approved in 2018. Construction was completed in 2021. The standalone oversize garage structures located along the north property line were included in an effort to provide a visual and noise buffer from the Burlington Northern Railroad tracks and UFP site, which again, had been operating on their site for over 35 years.

Municipal Code Section 16-1-140 (Heavy Industrial (HI) District Zoning states;

(a) Purpose. The purpose of the HI zone district is to:

- (1) Establish and preserve areas suitable for heavy industrial use, including those that might impact surrounding neighborhoods and businesses.
- (2) Ensure appropriate separation from neighborhoods and businesses which may be negatively impacted by heavy industrial uses.

- (3) Minimize potential conflicts between heavy truck traffic and passenger vehicle, bicycle, and pedestrian traffic by providing convenient access to rail corridors, arterial roadways and state highways.
- (4) Promote economic vitality.

Additionally, the Municipal Code outlines **Lot Development Standards** for that District. This Variance Request specifically addresses the rear yard setback adjacent to a residential use or zone, which is set at 200-feet.

The UFP site was well under way when the residential zoned property was developed. Measures were taken on the Chimney Park site to minimize the impacts of the UFP site and the railroad to the residences. The addition of standalone garages is the primary mitigation method.

Municipal Code Section 15-3-30(b)(8)(c)

- c. Bufferyard Required. Bufferyards shall be provided in the following situations:
 1. Along zone boundaries as listed in **Table 15-3-30(b)(8)(C)** when the zone district boundary line follows the property line of the parcel proposed for development and when the adjacent property is not separated from the parcel proposed for development by an easement, right-of-way, or permanent open space that is at least fifty (50) feet in width, such as a public street, creek, trail, utility easement, or resource protection area.

Due to the nature of the lumber distribution business, the need for a significant site area to store lumber and maneuver trucks through the site is significant. The UFP site uses all available areas for these. Additionally, the offsite railroad line and onsite railroad spur are limiting the ability to create and maintain a landscape bufferyard as directed by the Municipal Code. Again, the site has been operating without a bufferyard for over 35 years. Because of the railroad line, and the construction of residential garages to serve as a buffer, the need for a landscape buffer is negligible. And due to these circumstances, the ability to maintain such a buffer is severely hindered.

Review Criteria

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) *Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property; The proposed new building will be located next to a building that was built many years ago and is already deemed to be within the setback area. The landscape bufferyard required by the Code cannot be reasonably achieved as there is an existing active rail spur in the bufferyard area.*
- (2) *The applicant cannot derive beneficial use of the property without the variance. The existing treating building is within the buffer zone and requires the variance to comply with site development standards. The landscape buffer cannot be achieved with the loss of the active rail spur and storage space.*
- (3) *The purpose and intent behind the regulation would be maintained by granting the variance; The intent of the Code is to separate residential and industrial uses. UFP has operated the property in a consistent and harmonious manner prior to and after the establishment of the residential property.*

(4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area; **The uses in the setback and bufferyard remain the same, with the new treatment building. No new noise or dust producing equipment will be added with the proposed plan.***

(5) *Granting the variance will not be detrimental to public health, safety, or welfare. **The proposed project does not change the operations currently permitted and in place on the site.***

(6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable; **The new building cannot reasonably be built anywhere else on the site, as its purpose is to replace an existing system that has infrastructure already in place.***

(7) *Granting the variance will not create a building or fire code violation or other safety hazard; **No safety hazards are created by this proposal. The application does not seek any accommodations to the building code.***

(8) *The need for the variance is not created by a self-imposed hardship; **existing conditions are driving the request for the variance.***

(9) *A variance shall allow only the least deviation from the standard that will afford relief; **UFP is not seeking to infringe on the buffer zone more than it already does.***

Staff has analyzed and found the following findings of fact, based on:

- *whether special site-specific conditions exist that warrant approval of the variance request*

Staff has determined that the design and location of the proposed treatment building is consistent with the current site development and does not create any additional impacts to surrounding properties that haven't currently existed for many years.

- *whether unnecessary hardship exists*

Staff has determined that granting the variance will assist UFP in seamlessly continuing their operations without a work stoppage for construction of the new facility.

- *the impact on public interest, safety, and welfare*

Staff has determined that granting the variance will assist UFP in continuing their operations in a safe and efficient manner.

- *the impacts to the neighborhood character.*

Staff has determined that the design of the proposed new treatment building will have minimal negative impacts to the neighborhood character, as the design / architecture is consistent with existing industrial buildings on site; has a setback that is consistent with other buildings on the site, and is adequately buffered to the existing residential by fencing and oversized garages on the residential site.

Notifications

The following notifications were made in accordance with the Municipal Code:

- October 11, 2022 - public hearing notice posted on Town of Windsor website
- October 11, 2022 - development sign posted on the subject property.
- October 12, 2022 - public hearing notice sent to surrounding property owners.
- October 14, 2022 - public hearing notice published in the paper.

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation

Discussion ensued between the Commissioners and staff.

Chairman Horner opened the meeting for public questions or comments.

Scott Stall 250 E Chestnut #3, Windsor addressed the Commission regarding whether the new process will add additional noise, emissions or affect property values.

The applicant addressed the Commission regarding the variance is only related to the one structure.

Board of Adjustment/Appeals Board Member Gelvin moved to close the public hearing. Board of Adjustment/Appeals Board Member Shea seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Danny Horner, Stacey Shea, James Penfold, Jeffrey Gelvin; Nays - None; Motion Passed.

4. Variance from Municipal Code Table 16-1-140 (b) (HI District Lot Development Standards) pertaining to the rear yard setback in the Heavy Industrial Zone; and Table 15-3-30(b)(8)(C) (Zone Boundary Bufferyard Standards) pertaining to the bufferyard landscape requirements - Universal Forest Products (15 Walnut Street) – Universal Forest Products, Rich Buitenhuis (Owner/Applicant)

Please refer to previous agenda item for background information.

Board of Adjustment/Appeals Board Member Threewitt moved to approve Variance from Municipal Code Table 16-1-140 (b) (HI District Lot Development Standards), Board of Adjustment/Appeals Board Member Shea seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Danny Horner, Stacey Shea, James Penfold, Jeffrey Gelvin; Nays - None; Motion Passed.

D. COMMUNICATIONS

1. Communications from Board of Adjustments/Appeals
None
2. Communications from Staff

a. Holiday Special Meeting

Special Meeting set for December 15, 2022

The November 24, 2022 and December 29, 2022 Board of Adjustment/Appeals Regular Meetings have been canceled due to holidays.

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:36 p.m.

Kaitlyn Cinnamon, Deputy Town Clerk

DRAFT



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From:
Re: Approval of the December 15, 2022 Board of Adjustment/Appeals Special Meeting Minutes -
K. Cinnamon, Deputy Town Clerk
Item #: B.2.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:

1. 12.15.22 Board of Adjustment & Appeals Special Meeting Draft Minutes1



Board of Adjustment/Appeals Special Meeting

December 15, 2022 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:00 p.m.

1. Roll Call

Present:

Chairman Danny Horner
Vice-Chair Stacey Shea
Secretary James Penfold
Don Threewitt

Absent:

Jeffrey Gelvin
Patrick Miller
Shawn Wherry

Also Present:

David Eisenbraun, Senior Planner
Kimberly Lambrecht, Planner II
Mark Price, Planner I
Carlin Malone, Chief Planner
Kim Emil, Assistant Town Attorney
Kaitlyn Cinnamon, Deputy Town Clerk

2. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration

Agenda Items were reordered, moving Action Items five and six to the top of the Agenda.

A Public Hearing was held on Action Items five and six. Chairman Horner made concerning statements about his health, and the Public Hearing ended.

Technical difficulties impeded the ability of the remote participants to hear what was being said. A vote was held in favor of the Variance.

A five-minute recess was called by Vice-Chair Shea.

Board of Adjustment/Appeals Board Member Threewitt moved to set aside the previously held public hearing, vote, and continue the entire agenda to a date certain of January 26, 2023, Board of Adjustment/Appeals Board Member Shea seconded the motion. Roll call on the vote resulted as follows; Yeas - Don Threewitt, Danny Horner, Stacey Shea, James Penfold; Nays - None; Motion Passed.

3. Public Invited to be Heard

Chairman Horner opened the meeting up for public comment, to which there was none.

B. CONSENT CALENDAR

1. Approval of the October 27, 2022 Board of Adjustment/Appeals Regular Meeting Minutes - K. Cinnamon, Deputy Town Clerk

C. BOARD ACTION

1. Public Hearing – Variance from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district – Brett Buchholtz, Buchholtz Engineering LLC (Owner/Applicant); Bob Choate, Coan, Payton & Payne, LLC (Owner's Representative)
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D. COMMUNICATIONS

1. Communications from Board of Adjustments/Appeals
None
2. Communications from Staff
None

E. ADJOURN

Chairman Horner adjourned the meeting at 7:38 p.m.

Kaitlyn Cinnamon, Deputy Town Clerk



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: Kimberly Lambrecht
Planner II
Re: Public Hearing – Variance from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district – Brett Buchholtz, Buchholtz Engineering LLC (Owner/Applicant); Bob Choate, Coan, Payton & Payne, LLC (Owner's Representative).
Item #: C.1.

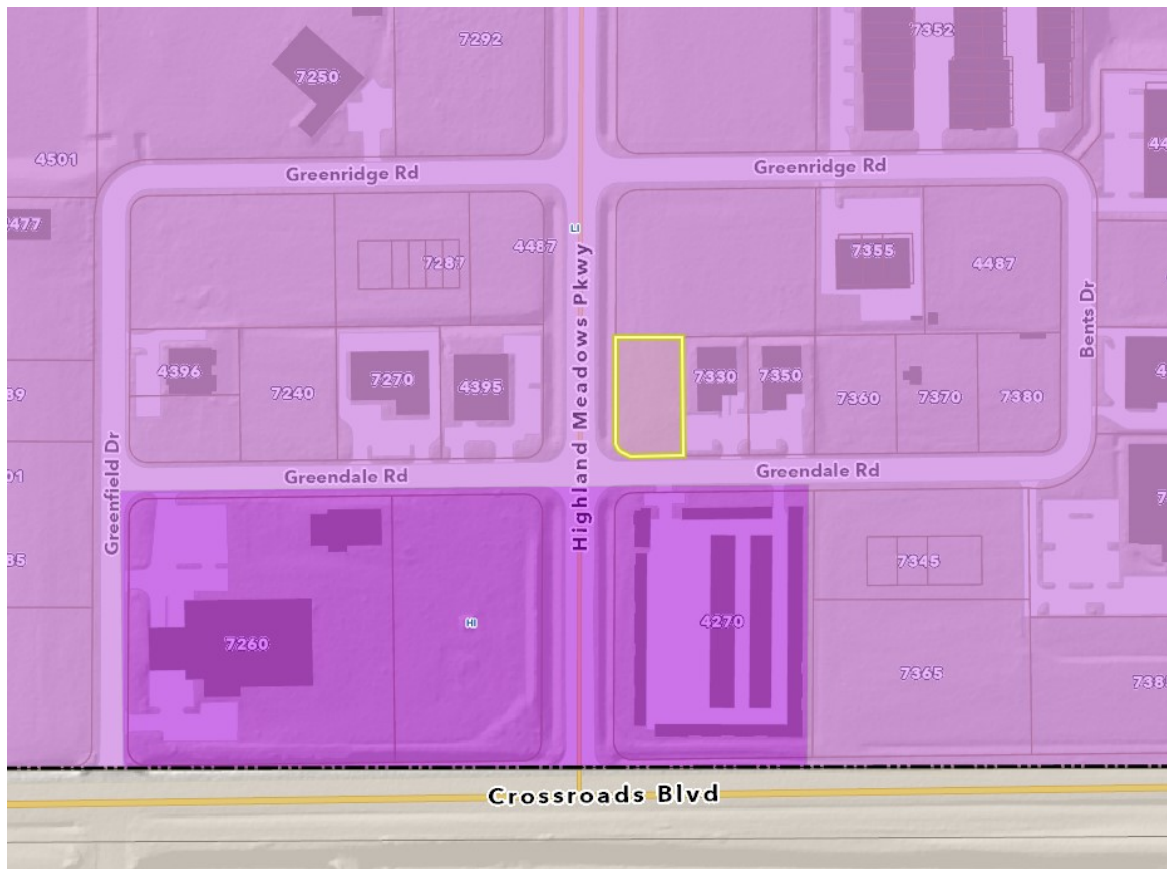
Background / Discussion:

Brett Buckholtz of Buckholtz Engineering LLC is requesting a variance from ***Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district.*** This variance request is to allow for a setback of less than 40-feet from the Highland Meadows Parkway public right-of-way for a proposed parking lot.

The proposed Plasma Processing site is zoned Limited Industrial (LI), and is located at 7300 Greendale Road (Lot 4, Block 5, Highlands Industrial Park Subdivision), at the northeast corner of Highland Meadows Parkway and Greendale Road. Adjacent uses and zoning are as follows:

- North: Centennial Leasing Auto Sales (LI Zoning);
- East: existing Plasma Process Group, Inc. (LI Zoning);
- South: Crossroads Self Storage (HI Zoning);
- West: Highland Meadows Parkway; Pinkees Rod Shop and Mash Lab Brewing (LI Zoning)





Plasma Process Group, Inc. was established in 2003, to support a broad spectrum of optical thin film and semi-conductor manufacturers in keeping their ion beam equipment maintained. Due to substantial growth in their services along with the manufacturing of equipment and packages, the company relocated to their current facility in 2011 which allowed them to not only grow the business, but also their employee base. (Plasma Process currently has 16 employees.) As the business has continued to grow over the last ten years, so have the plans to expand, which included acquisition of the adjacent property to the west in 2017.

The subject property is of a similar size and configuration as the current facilities, and the initial plan was to incorporate a new building similarly configured as the existing and to include additional parking to alleviate current parking congestion along Greendale Road.

In 2021, the Town implemented Land Use Code revisions, which included a provision of an increased parking setback to the public right-of-way. **This was instituted to reduce the amount of front yard parking visible from the public right of way with the goal of having an ‘architecture forward’ appearance along street frontages.**

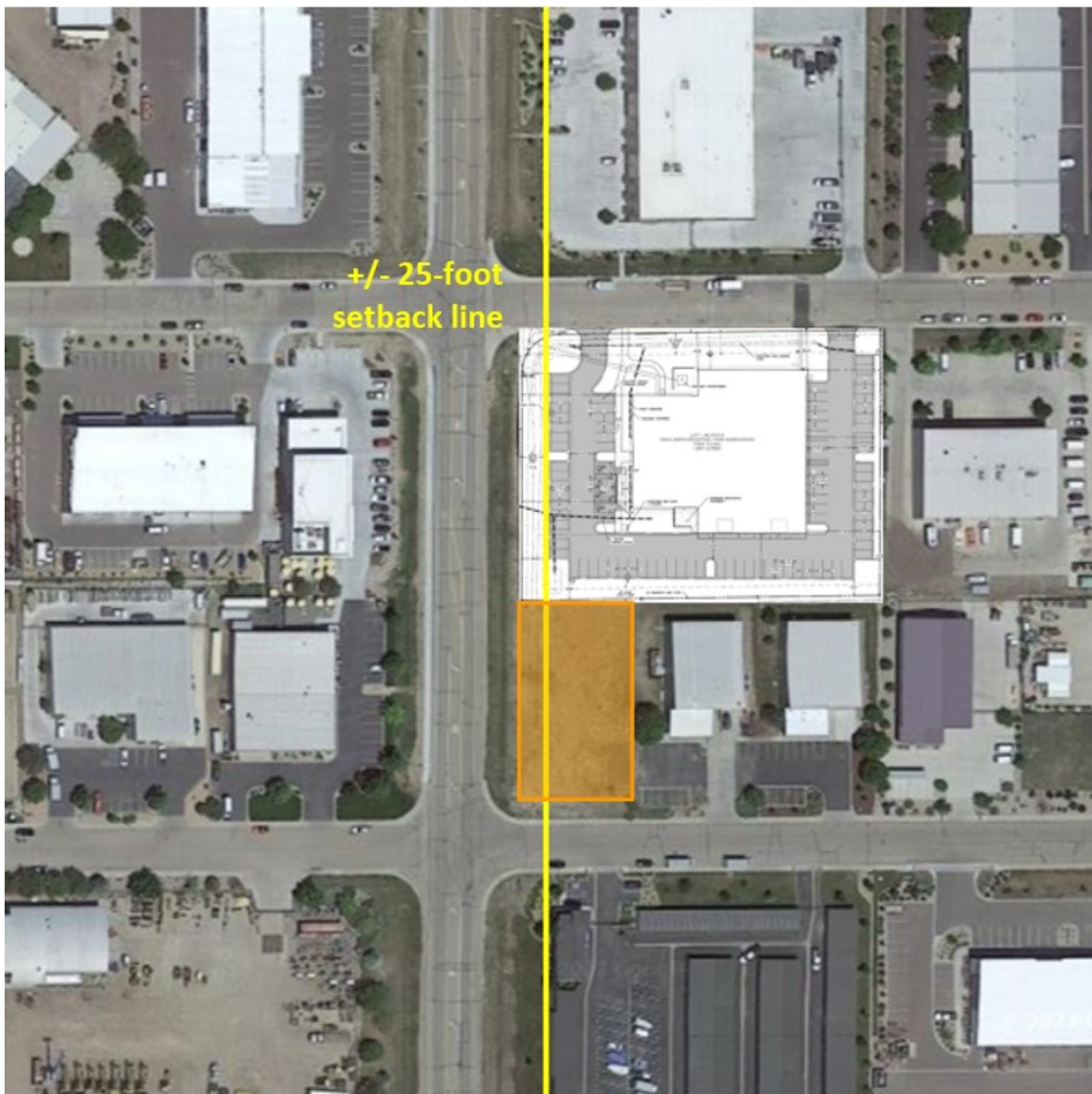
Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) speaks to options for parking at commercial/industrial locations in an effort to de-emphasize the importance placed on automobiles, allow for a more pedestrian friendly opportunity, and bring building architecture to a more prominent site location.

Dispersed Parking Lot	
	Parking Location and Orientation:
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following: 1. No more than a single row of parking may be located between the principal building and right-of-way; and 2. A wall averaging 36" in height which compliments the building architecture and meeting sight distance requirements is provided for at least 50% of the length of the parking lot between the lot and the right-of-way.
A.4	In areas where the wall is not used, higher density landscaping shall be provided. As an alternative to providing a wall, a Type C Bufferyard may be provided.



For most undeveloped lots, the new Code requirement has been a successful provision. However, in some existing developments that were approved prior to this requirement, the previously platted lot sizes, shapes and configurations have presented problems for strict compliance. In an effort to alleviate some of the constraints that might be brought about by this requirement in existing developments, Staff has compromised by looking at the lot development parameters of existing developed adjacent properties and supporting those parameters for adjacent developments, with the goal of **creating continuity along street frontages**.

In this situation, the Advanced Roofing building (at the northern most limit of the industrial park) has a 25-foot parking setback, Centennial Leasing (immediately to the north) has a 26-foot parking setback, and Crossroads Self Storage (to the south) has a 30-foot building setback.



Municipal Code Section 16-1-140 (Limited Industrial (LI) District Zoning states;

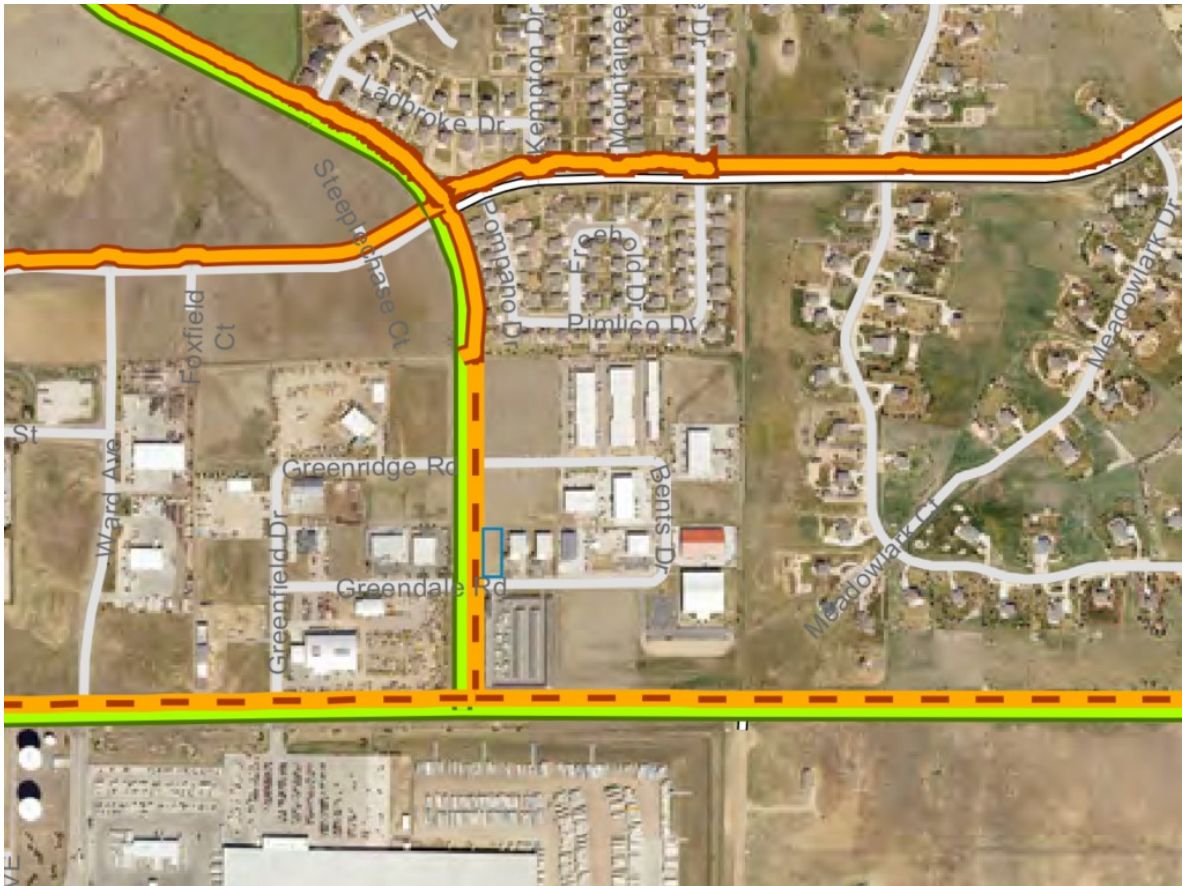
- (a) Purpose. The purpose of the LI zone district is to:
 - (1) Establish and preserve areas for a variety of low to moderate intensity industrial and commercial uses including manufacturing, and warehousing distribution with limited outdoor storage.
 - (2) Minimize potential conflicts between heavy truck traffic and passenger vehicle, bicycle, and pedestrian traffic by providing convenient access to rail corridors, arterial roadways and state highways.
 - (3) Promote economic vitality.

Additionally, the Municipal Code outlines Lot Development Standards for that District – as shown in the table below. This Variance Request is specifically addressing parking lot setbacks, which are different from the building setbacks. Note, however, that the proposal will need to comply with all building setbacks and other lot development standards as well.

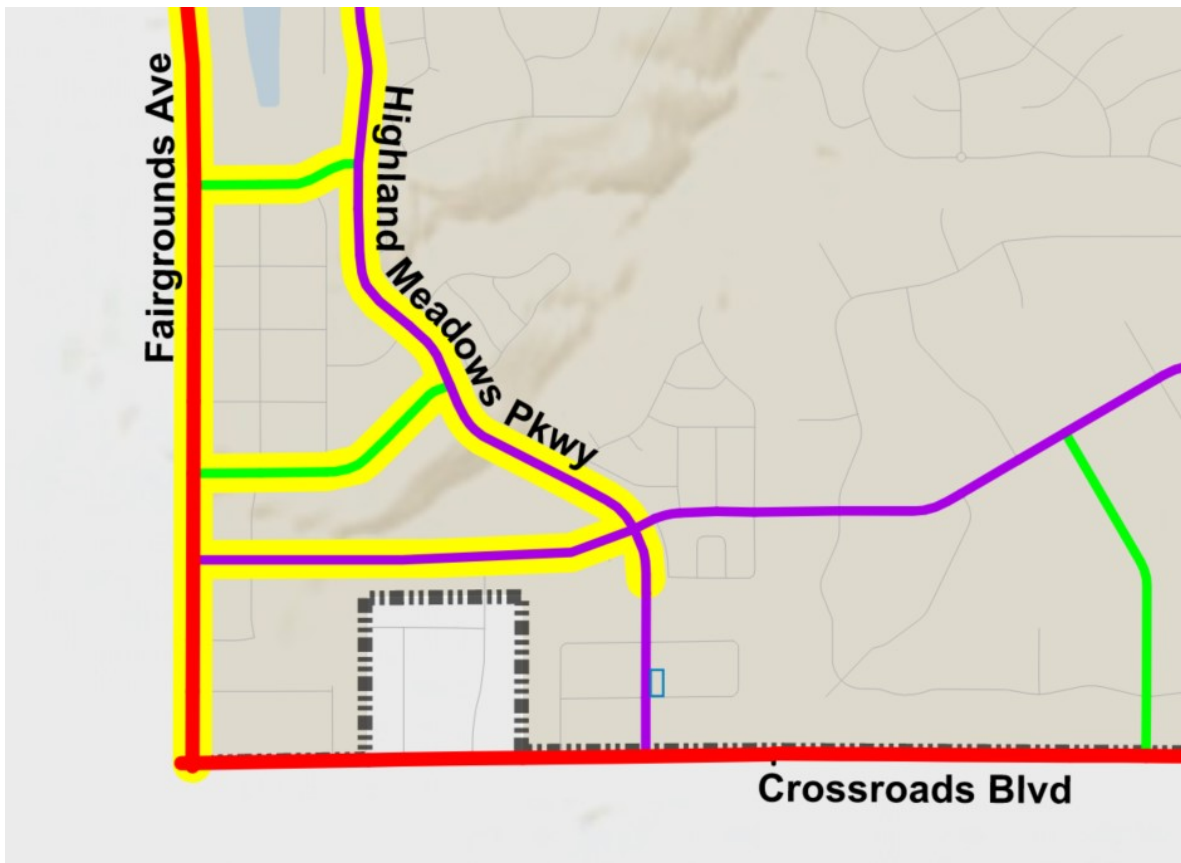
Table 16-1-130(b) : LI District Lot Development Standards	
Vehicular Access Types Permitted	
General Parking Lot or Dispersed Parking Lot General Parking Lot is prohibited within Commercial Corridors	
Lot Standards	
Minimum Lot Area (square feet)	20,000
Minimum Lot Width	100' ¹
Maximum Lot Coverage	n/a
Minimum Setbacks	
Front	30'
Side/Side Adjacent to residential use or zone	20'/ 30'
Rear/Rear Adjacent to residential use or zone	20'/ 30'
Building Height	
Maximum Height	75'
¹ Reduced lot width may be approved with concurrent site plan demonstrating adequate width is provided.	

The adjacent existing developed Plasma Process site has been built with the ultimate goal of expanding to the west parcel and is in a challenging position of needing to address the current lot development standards in a potentially creative way. While Staff understands the challenge that this site brings, the focus remains on ensuring that development continues to occur in a manner consistent with not only the Municipal Code, but the Comprehensive Plan which promotes 'architecture forward' design, the Transportation Plan which has established Highland Meadows Parkway as a Major Collector, and the Open Space and Trails Plan which has established an off-road 10-foot recreation trail along the east side of Highland Meadows Parkway.

All of these plans contribute to the notion of bringing architecture to the street front and creating separation between the trail and the private parking lot.



Master Trails Plan



Transportation Plan

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

(1) *Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists;*

Strict application of the setback requirement would be challenging, as the property was purchased with the intent to mirror the existing building and include employee parking. The revised setbacks found in the current Code were not anticipated at that time. Additionally, because the two properties belong to the same business and function, the two buildings need to stay close together for the success of the business and expansion.

(2) *The applicant cannot derive beneficial use of the property without the variance;*

The narrow width of the subject property causes a hardship with regard to meeting the current Code setback requirements. The building and parking lot layout would not be nearly as usable without approval of the variance.

- (3) *The purpose and intent behind the regulation would be maintained by granting the variance;*
The intent of this section of the Code is to de-emphasize the importance placed on automobiles, allow for a more pedestrian friendly opportunity and bring building architecture to a more prominent site location. By granting an alternate setback of 26-feet, the purpose behind the regulation is maintained.
- (4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area;*
Granting a variance for a 26-foot setback will keep this property's streetscape in alignment with existing developed properties along the east side of Highland Meadows Parkway, and create a unified streetscape.
- (5) *Granting the variance will not be detrimental to public health, safety, or welfare.*
The proposed 26-foot setback variance will not present any health, safety and welfare concerns.
- (6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;*
In an effort to alleviate the constraint that the current Code has posed on this lot, Staff supported a reduction in setback to 26-feet, which will put this property in alignment with existing development along the streetscape. This administrative effort was done in order to minimize procedural processes and assist the applicant in moving forward with the project.
- (7) *Granting the variance will not create a building or fire code violation or other safety hazard;*
No safety hazards are created by this proposal. The application does not seek any accommodations or exceptions to the building code.
- (8) *The need for the variance is not created by a self-imposed hardship;*
Existing conditions, along with Code revisions that came into play after the lot was created are driving the request for the variance.
- (9) *A variance shall allow only the least deviation from the standard that will afford relief;*
A 26-foot setback will expand the development opportunities while still meeting the intent of the Code.

Staff has analyzed and found the following findings of fact, based on:

- *whether special site-specific conditions exist that warrant approval of the variance request*

Staff has determined that a variance for a 26-foot setback will complement the existing streetscape and while meeting the intent of Table 15-5-10(a)

- *whether unnecessary hardship exists*

Staff has determined that a variance for a 26-foot setback is a compromise to an existing site condition that was created through no fault of Plasma Process.

- *the impact on public interest, safety, and welfare*

Staff has determined that a variance for a 26-foot setback has no negative impacts and will assist Plasma Process in expanding their operations in a safe and efficient

- *the impacts to the neighborhood character.*

Staff has determined that a variance for a 26-setback will positively impact the neighborhood character by producing a consistent streetscape for the length of the Limited Industrial zone district along Highland Meadows Parkway.

Notification

November 15, 2022 public hearing notice posted on Town of Windsor website
 November 16, 2022 development sign posted on the subject property.
 November 16, 2022 public hearing notice sent to surrounding property owners.
 November 18, 2022 public hearing notice published in the paper.

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff recommends approval of a variance to reduce the setback for the parking lot along Highland Meadows Parkway from 40-feet to 26-feet, to be in alignment with other properties along the eastern Highland Meadows Parkway street frontage.

After consideration of the information, the BOA may elect to approve the variance as requested – reducing the setback along Highland Meadows Parkway from 40-feet to 5-feet, as requested by the applicant.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback of 26 feet, for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

CC:

David Eisenbraun, Senior Planner
Scott Ballstadt, Director of Planning
Kim Emil, Interim Town Attorney

Attachments:

1. Variance Application - Plasma Process Group
2. Staff Presentation - Plasma Process Group_1-26-2023
3. Applicant Presentation - Plasma Process Group

Variance Application



(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.

Variance requests are considered by the Board of Adjustment, which meets on the fourth Thursday of every month.

Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.

Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address: 7300 Greendale Road

Lot:4 Block:5 Subdivision: Highlands Industrial Park Subd. First Filing

A variance is being requested from the following Municipal Code section(s):

Sec. 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking Lot, Sec. A.1

3

Owner

Name(s): Buchholtz Engineering LLC, Brett Buchholtz

Address: 7300 Greendale Road, Windsor, CO 80550

Phone #: Email: bbuchholtz@plasmaprocessgroup.com

Applicant or Representative:

Name: Bob Choate, Esq., Coan, Payton & Payne, LLC

Address: 103 W. Mountain Ave., Suite 200, Fort Collins, CO 80524

Phone #: (970) 225-6700 Email: bchoate@cp2law.com

4

[Municipal Code Section 14-2-150\(a\)](#) states, in part:

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.

Please see attached statement.

Variance Application

4

2. The applicant cannot derive beneficial use of the property without the variance.

3. The purpose and intent behind the regulation would be maintained by granting the variance.

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.

5. Granting the variance will not be detrimental to public health, safety, or welfare.

6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.

7. Granting the variance will not create a building or fire code violation or other safety hazard.

8. The need for the variance is not created by a self-imposed hardship.

Variance Application

9. A variance shall allow only the least deviation from the standard that will afford relief.

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

Signature:

Bob Choate

Date: October 31, 2022

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: Bob Choate, Esq.

Submitted On: October 31, 2022

(Please email completed application and materials to planningtechs@windsorgov.com)

Application Packet

Land Use Application



1 The Town of Windsor Planning Department reserves the right to reject incomplete submittals, per the application checklist and Municipal Code requirements for all applications. Please submit completed application and materials to planningtechs@windsorgov.com. Staff will review the submittal and advise you of its completeness for processing.

2

Application type:

☐ Annexation	☐ Site Plan - Minor
☐ Master Plan	☐ Site Plan - Major
☐ Rezoning	
☐ Minor Subdivision	
☐ Major Subdivision – Preliminary	
☐ Major Subdivision – Final	

Project Name*: _____

Legal Description*: _____

Address/Location*: _____

Existing Zoning: _____ **Proposed Zoning:** _____

Acres/Square Feet: _____ **Number of Dwelling Units:** _____

3

Owner:

Name(s)*: _____

Company: _____

Address*: _____

Phone #*: _____ Email*: _____

Applicant (Owner or Owner's Representative):

Name*: _____

Company: _____

Address*: _____

Phone #*: _____ Email*: _____

Authorized Representative:

Name: _____

Company: _____

Address: _____

Phone #: _____ Email: _____

4

All correspondence will only be sent to those listed above. It is the sole responsibility of those listed to distribute correspondence to other applicable parties.

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted with or contained within the application are true and correct to the best of my knowledge.

Signature: _____ **Date:** _____

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: _____

*Required fields

Revised 2/5/2021



COAN, PAYTON & PAYNE, LLC

Bob Choate, Esq.
103 W. Mountain Ave., Suite 200
Fort Collins, CO 80524
970-225-6700
bchoate@cp2law.com
www.cp2law.com

October 31, 2022

Re: Application for Variance; 7300 Greendale Road

To the Board of Adjustment:

On behalf of Buchholtz Engineering and Brett Buchholtz, I respectfully request you grant the variance requested in this application. The following information demonstrates that you have the authority to grant the variance, which would allow a successful business to continue to grow in Windsor without rendering the property undevelopable.

Respectfully,

Bob Choate

Summary

The Town enacted a new setback requirement that renders the lot valueless to the owner, Buchholtz Engineering. The Board of Adjustment can and should grant a variance to allow the owner to develop the lot in conformance with the surrounding area.

Background

Over five years ago, Buchholtz Engineering acquired an industrial lot on Greendale Road in the Highlands Industrial Park, just north of Crossroads Blvd. Brett Buchholtz has run a successful business for many years, and the business was expanding even then. The business grew substantially over the last five years, even through the pandemic, and as Brett had planned long ago, the business needs more industrial space. Since 2011, the primary business has been located next door at 7330 Greendale Rd., and Brett purchased the lot at 7300 Greendale in 2017, directly west of and adjacent to his current business. It was an opportunity for which he paid a premium, as this lot was worth more to him than other lots within the Highlands Industrial Park, because it is located directly adjacent to his existing business.

By holding off on development as long as he reasonably could, Brett was able to maximize the success of his business. He has long planned to develop the property in substantial conformance with his existing lot, which likewise matches all of the other lots on Greendale Road.



[7300 Greendale Road, highlighted, is the property subject to the variance request].

However, Brett is now faced with an impossible code regulation. In 2020, the Town of Windsor repealed and reenacted all of its Land Use Code (Chapters 14, 15, 16, and 17 of the Town Code). Buried within those 290 pages was a new requirement that parking lots and drive aisles be setback from road right of way at least 40 feet. The relevant portion of the new code, Table 15-5-10(a) provides:

Dispersed Parking Lot

	Parking Location and Orientation:
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following: 1. No more than a single row of parking may be located between the principal building and right-of-way; and 2. A wall averaging 36" in height which compliments the building architecture and meeting sight distance requirements is provided for at least 50% of the length of the parking lot between the lot and the right-of-way.



Prior to the new change, parking lots and drive aisles were allowed within the setback so long as they weren't greater than six (6) inches in height.

As of January 2021, without realizing that this change was even proposed, let alone that it would devastate his development plans, Brett's property was rendered virtually undevelopable. The lot is one-hundred ten (110) feet wide. Taking forty (40) feet out of the developable area is a regulatory taking of thirty-seven percent (37%) of the lot itself.

Parking is already a substantial problem in this industrial subdivision, so designing the site plan to include adequate parking for employees is absolutely necessary.



[Typical parking along Greendale Road. The subject lot in the foreground, facing southeast].

This is a substantial hardship that prevents Brett from being able to use this lot at all. No person would purchase a lot in accordance with their own development plans, and then agree to give up 37% of it. While a 40-foot setback may be less onerous, and therefore palatable, on larger lots, it creates a substantial hardship that cannot be overcome in this circumstance. Brett wants to develop the property in substantial conformance with A) all of the other properties on Greendale Road, B) as well as the properties directly across Highland Meadows Parkway, and C) existing properties in the Highlands Industrial Park Subdivision. In comparison to these already-developed lots, granting the variance is A) the right action to take, B) will provide a complementary appearance with industrial buildings across Highland Meadows Parkway.

Without the variance, Brett may be forced to sell the subject property, and his current property to the east. In addition, any future owner of this lot will be faced with the same unreasonable code restriction. The business needs more space, and without that, he will likely need to relocate entirely.

Given the type of business the Brett operates, there is no reason he needs to be within the same subdivision, or even within the Town itself.

Therefore, we respectfully request that you grant the requested variance, which is fair and equitable, and well within your authority as the Board of Adjustment. We address each of the required criteria below.

(1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;

The new setback being applied to an undeveloped lot in a mostly-developed industrial subdivision is certain a special circumstance that is applicable to the subject property and not to all of the other lots that have already been developed in the subdivision. Strict application of the setback requirement would make the lot undevelopable for this owner, who purchased the property for the express purpose of constructing a nearly identical building with employee parking adjacent to the lot and building that he already owns (which also happens to be nearly identical to the other lots and buildings adjacent to these lots along Greendale Road and Highland Meadows Parkway). Application of the setback requirement makes this unachievable. Further, because the owner needs to have his two buildings close together, he cannot simply sell the lot and buy another one for his expanded operation. He would be required to sell both lots and relocate his entire business, which is unreasonable.

(2) The applicant cannot derive beneficial use of the property without the variance;

The business must be expanded to meet its existing and future anticipated demand. As stated, if the owner cannot build the structure he intended to build and provide adequate parking for his future employees (or something close to it), he may be forced to relocate his business from his existing location adjacent to the subject property. This is a smaller industrial lot that cannot feasibly be used for any non-industrial purpose. This owner has no use for a building which is a fraction of the size he needs for his business, and therefore cannot derive any beneficial use from this property without the requested variance.

(3) The purpose and intent behind the regulation would be maintained by granting the variance;

Unlike other provisions of Chapter 15 of the Town Code (Development Code), Article V (Site Circulation, Access, and Parking) does not contain any recitation of the purpose and intent to support the regulations. In contrast, Article III (Standards for Landscaping in Developed Areas) contains such provisions (see section 15-3-10). In the absence of an express statement of purpose and intent, the Board of Adjustment is free to make its own determination about how the requested variance would affect the purpose of the code.

Because landscaping and aesthetic provisions are covered elsewhere, the primary purpose of Sec. 15-5-10 (Vehicular access requirements) is to ensure the safety and convenience of the traveling public.

A secondary purpose is to ensure that the Town is not required to purchase structures built within a setback in the event that the Town decides to expand the adjacent roadway.

Considering safety, the variance would actually increase safety in this instance, because it would allow fire trucks, ambulances, and daily delivery vehicles to turn around on the lot without having to back up. There is no feasible opportunity to access directly onto Highland Meadows Parkway, and so the extra room on the lot would necessarily increase safety and convenience for emergency responders, employees, delivery personnel and customers alike.

Considering the possibility that the Town would need to purchase this land in the future, there is no real possibility that this would occur, because (1) the Town already has one-hundred twenty (120) feet of right-of-way, (2) the lots on all sides and along Highland Meadows Parkway are already mostly developed within the new 40 foot setback, which would require the Town to purchase multiple building on those lots, (3) Highland Meadows Parkway is already fully built out to support local traffic, and (4) the Town has already designed a trail system within the existing right-of-way, which does not require any additional property to be purchased from the subject property.

(4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

The variance will allow this property to be developed in conformance with all of the other properties in the vicinity, including those directly adjacent to the property. The property to the south, across Greendale Road, has buildings which are within the new 40 foot setback, and not just parking aisles or parking spots. The property directly across Highland Meadows Parkway has parking up to the property line, as does the property to the north of that.

If the variance is granted, the lot will still be developed to look very similarly to the remaining lots along Greendale Road.

(5) Granting the variance will not be detrimental to public health, safety, or welfare;

There is no indication that granting the variance will be detrimental to the public health, safety, or welfare, and the evidence strongly supports the opposite. The increased traffic circulation associated with the variance will increase safety of all employees, customers, vendors and emergency responders to the property. The property will be developed in substantial conformance with the other developed lots within the Highlands Industrial Park Subdivision. The variance is not related to the provision water, sewer, or other utilities that are typically associated with health matters.

(6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;

Staff administratively agreed to approve a development with a reduced setback of twenty-six (26) feet instead of forty (40) feet. However, we don't know how staff has the authority to approve a reduced setback, and if so, why they cannot reduce it to something more feasible.

The size of the proposed building is nearly identical to its neighbor structures. This size of structure and use would require about 30 parking spaces. Our original design concept offered 38 parking spaces which would help alleviate current parking congestion on Greendale Road. The 26 foot setback discussed by staff does not give proper consideration and planning to the substantial need for adequate off-street employee parking. Nor does it take into account the need for daily deliveries or emergency vehicles.

(7) Granting the variance will not create a building or fire code violation or other safety hazard;

There are no building or fire code violations that would result from granting the variance. These would typically be associated with constructing a structure within the setback, which could create a code violation if the structure is not built with appropriate firewalls, etc. In this instance, the building would be set well back from the property line / right of way. In addition, granting the variance will actually decrease safety hazards due to the increased traffic circulation allowed for emergency vehicles, as described above.

(8) The need for the variance is not created by a self-imposed hardship;

This variance is not created by a self-imposed hardship. The owner purchased the property in 2017 with the intent to construct a building that was substantially similar to the adjacent building, from which the current business is operated. The business has been successful, and through careful planning, the owner was able to delay development of the property until such time as the business needed the full use of the property. During that time, the Town repealed and replaced the entire Land Use Code (Chapters 14, 15, 16, and 17), which included a new setback that makes the owner's long-planned construction impossible.

This is not the typical case where the Board might find that, because the property has not yet been developed, that the hardship is self-imposed. This is because the owner cannot feasibly construct a smaller building on the lot. It would only be a self-imposed hardship if the owner could reasonably construct a smaller building. Under the unique circumstances presented here, in the absence of the Board granting the variance, the owner is left with one choice – sell the property, and likely the adjacent property, and relocate the business entirely.

Notwithstanding the owner's solid business decision to acquire the lot over five years ago, without the variance, he is made to choose between relocating his entire business, or letting his successful business suffer, through absolutely no fault of his own.

(9) A variance shall allow only the least deviation from the standard that will afford relief

While the fairest outcome would be to allow the owner to construct a parking lot to the edge of his property, the owner has tried to design the development to minimize the requested variance. The following three Design Review Concepts (DRC) depict (1) the plan that the property owner had at the time that he purchased the property, (2) the effect that imposition of the setback would have on development of the property, and (3) the property owner's compromise development which depicts a reduced setback.

1) DRC 1 – Initial Expectation. Standard building size, parking for employees and turn around for all traffic including emergency vehicles. Total parking proposed is 38 locations to help alleviate the current parking congestion on Greendale Road. Also includes access for emergency vehicles and daily deliveries.



October 31, 2022

2) DRC 2 Compromise offered by staff using a 26 foot setback. Standard building size. Poor parking and access for all vehicles including emergency. Only 16 parking spaces available which is undersized for the size of the structure.



3) *DRC 3 – Without the Variance (Strict Compliance). Undevelopable corner lot for building and parking. This illustration shows a non-standard building size for a commercial, industrial lot. This illustration shows strict enforcement of the adopted 40-foot setback code; Attempting to maximizing the size of the building while still meeting parking requirements.*



4) DRC 4 – Requested Variance – Reduced building size. Appropriate parking and vehicle access. Comports with surrounding development. Approximately 28 parking spaces proposed and daily access for deliveries and emergency vehicles.





Plasma Process Group, Inc. Variance Request

Request to reduce setback along public right-of-way

Kimberly Lambrecht, Planner II

Board of Adjustment – January 26, 2023

Variance Request

Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) - pertaining to a request for a reduced setback for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district



Plasma Process Group, Inc.

Variance Request

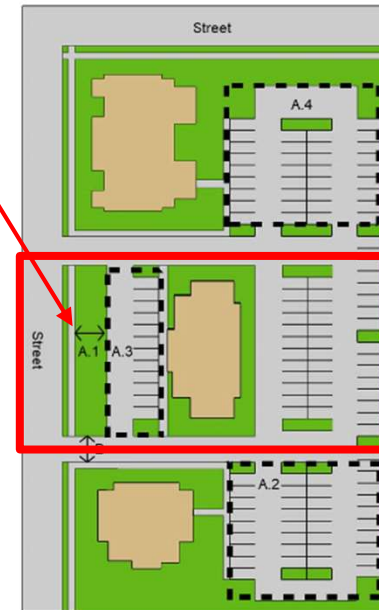
Town of Windsor Board of Adjustment – January 26, 2023

Variance Request

The current Municipal Code outlines **parking setback criteria along public right-of-way for a dispersed parking lot**, which this parking area will be classified as.

This Variance Request is specifically addressing the setback for a proposed parking lot along Highland Meadows Parkway, which is set at 40-feet.

Dispersed Parking Lot	
	Parking Location and Orientation:
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following: 1. No more than a single row of parking may be located between the principal building and right-of-way; and 2. A wall averaging 36" in height which compliments the building architecture and meeting sight distance requirements is provided for at least 50% of the length of the parking lot between the lot and the right-of-way.
A.4	In areas where the wall is not used, higher density landscaping shall be provided. As an alternative to providing a wall, a Type C Bufferyard may be provided.



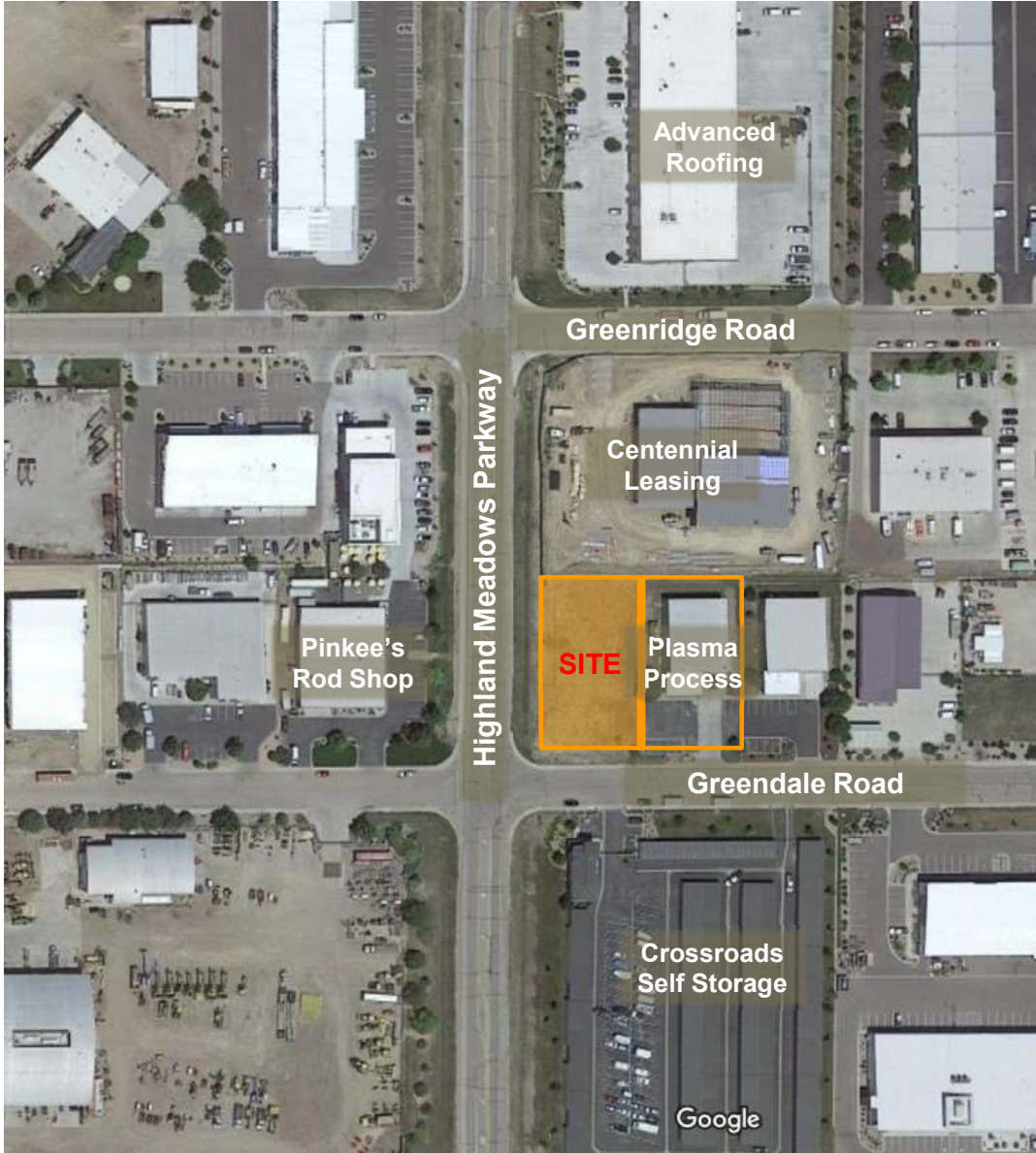
Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

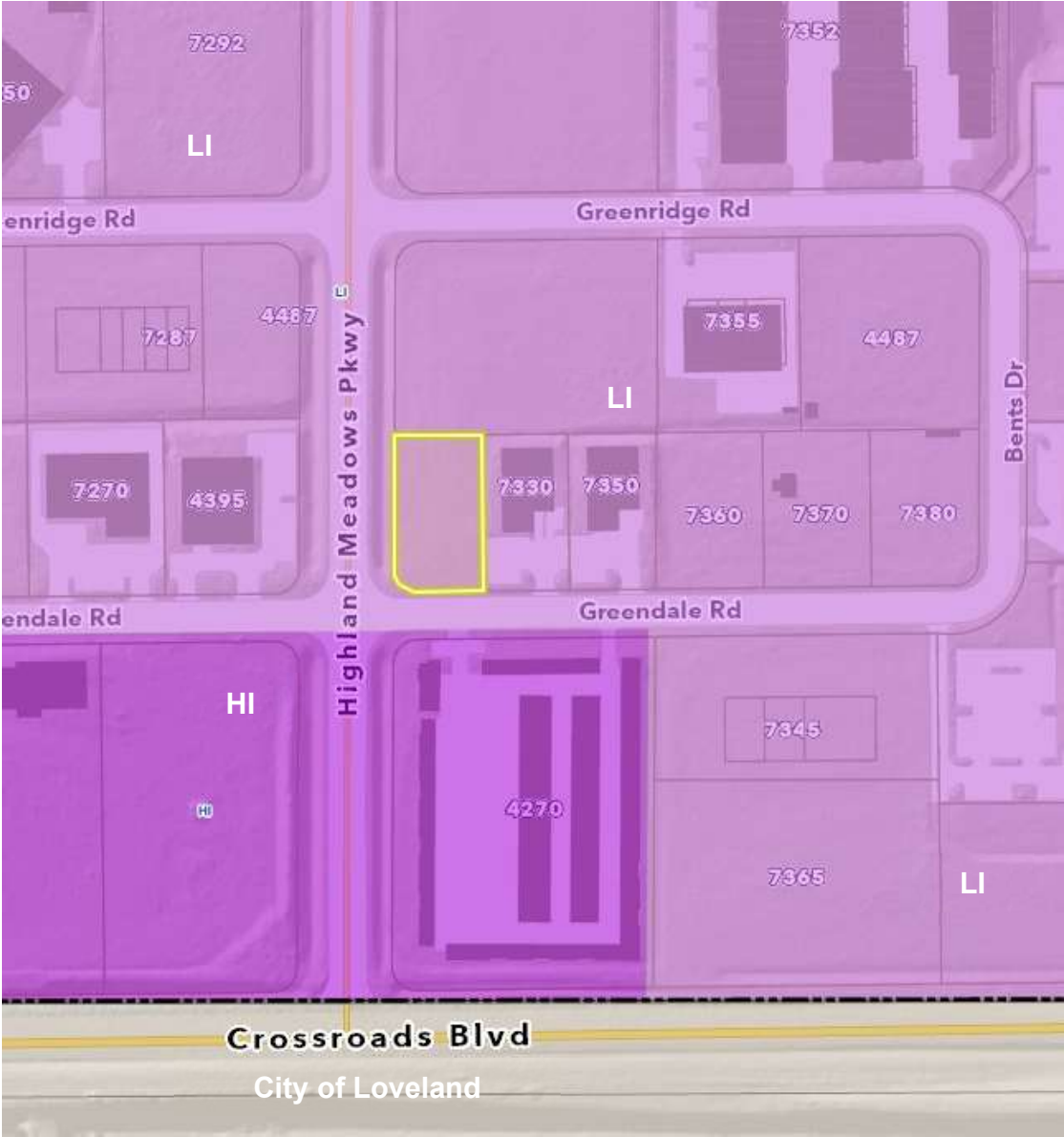


Site Vicinity Map





Site Zoning Map



Background

**2003: Plasma Process Group, Inc.
was established**

**2011: Plasma Process located to
current site**

**2017: Plasma Process purchased
adjacent property**

2022: Expansion Plans



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023



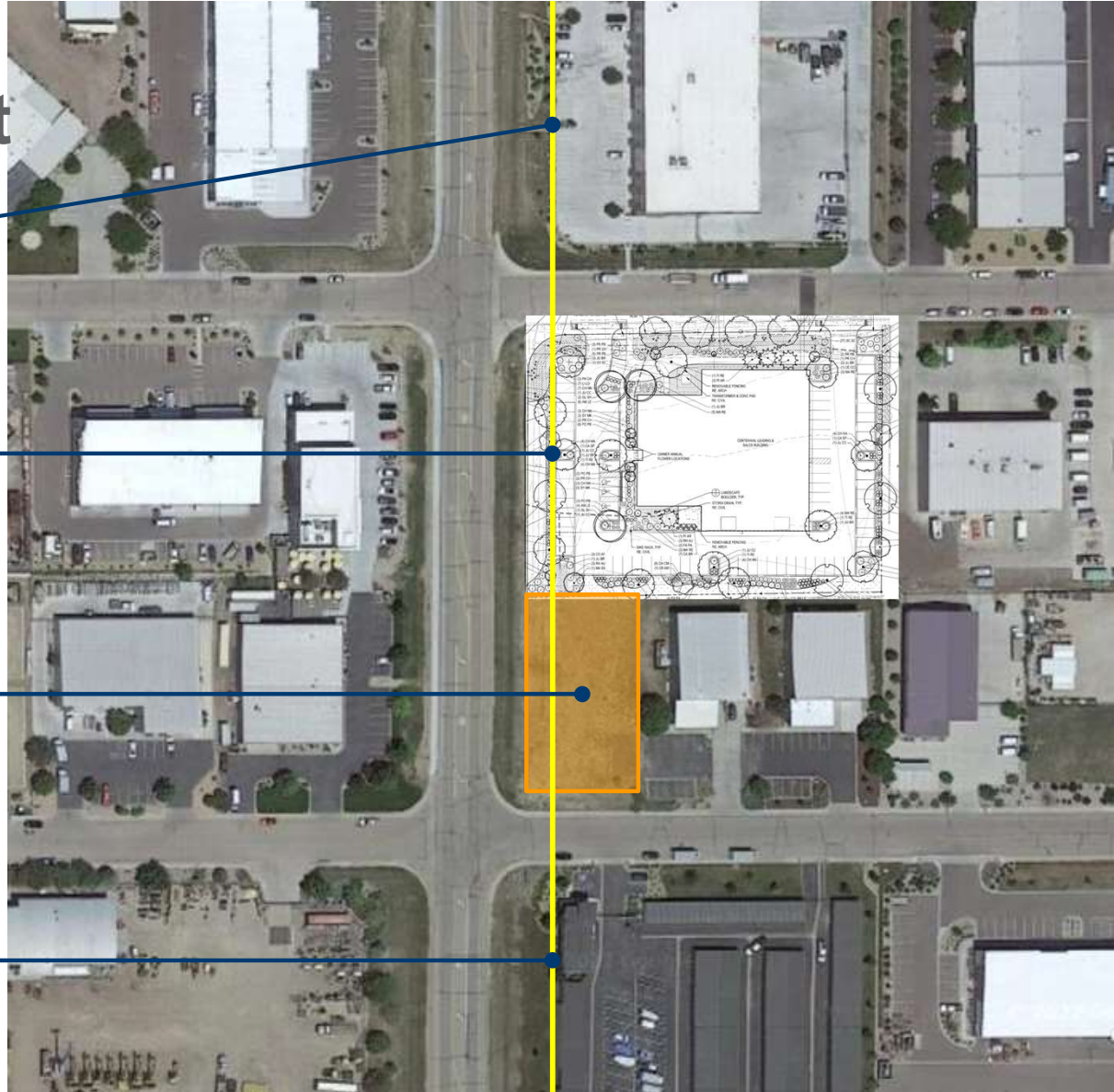
Site Context

Advanced Roofing
25' Parking Setback

Centennial Leasing
26' Parking Setback

Project Site

Crossroads
Self Storage
30' Bldg. Setback





Streetscape Images



From north end of
Advanced Roofing
looking south



From Crossroads
Self Storage
looking north



From north end of
Centennial Leasing



Project Site
looking south



Project Site
looking north

Variance Request

Municipal Code Section 16-1-140 (Limited Industrial (LI) District Zoning states;

- (a) Purpose. The purpose of the LI zone district is to:
- (1) Establish and preserve areas for a variety of low to moderate intensity industrial and commercial uses including manufacturing, and warehousing distribution with limited outdoor storage.
 - (2) Minimize potential conflicts between heavy truck traffic and passenger vehicle, bicycle, and pedestrian traffic by providing convenient access to rail corridors, arterial roadways and state highways.
 - (3) Promote economic vitality.

Table 16-1-130(b): LI District Lot Development Standards

Vehicular Access Types Permitted

General Parking Lot or Dispersed Parking Lot
General Parking Lot is prohibited within Commercial Corridors

Lot Standards

Minimum Lot Area (square feet)	20,000
Minimum Lot Width	100' ¹
Maximum Lot Coverage	n/a
Minimum Setbacks	
Front	30'
Side/Side Adjacent to residential use or zone	20'/ 30'
Rear/Rear Adjacent to residential use or zone	20'/ 30'
Building Height	
Maximum Height	75'

¹ Reduced lot width may be approved with concurrent site plan demonstrating adequate width is provided.



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023



Project Development

Revised Concept

Showing requested 26-foot setback at the parking area.

Note, the plan shows the proposed Town recreation trail that is part of the Open Space and Trails Master Plan





Project Development

Compliance Concept

(provided by the applicant)

Shows the required 40-foot setback along the public right-of-way.

Creates a challenging lot development scenario.

The building can extend to the 20-foot building setback line.





Project Development

Requested Variance Concept

Shows 5-foot setback between property line and parking.

Note proximity to Rec Trail – only 5-feet of separation.

Creates an anomaly along the Highland Meadows Parkway street frontage



Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grand a Major Variance only when it is demonstrated that:

- (1) *Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner...; **Strict application of the setback requirement would be challenging**, as the property was purchased with the intent to mirror the existing building and include employee parking. The revised setbacks found in the current Code were not anticipated at that time. Additionally, because the two properties belong to the same business and function, the two buildings need to stay close together for the success of the business and expansion.*
- (2) *The applicant cannot derive beneficial use of the property without the variance; The narrow width of the subject property causes a **hardship with regard to meeting the current Code setback requirements**. The building and parking lot layout would not be nearly as usable without approval of the variance.*



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (3) *The purpose and intent behind the regulation would be maintained by granting the variance; The intent of this section of the Code is to de-emphasize the importance placed on automobiles, allow for a more pedestrian friendly opportunity and bring building architecture to a more prominent site location. By granting an alternate setback of 26-feet, the purpose behind the regulation is maintained.*
- (4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area; Granting a variance for a 26-foot setback will keep this property's streetscape in alignment with existing developed properties along the east side of Highland Meadows Parkway.*
- (5) *Granting the variance will not be detrimental to public health, safety, or welfare. The proposed 26-foot setback variance will not present any health, safety and welfare concerns.*



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable; In an effort to alleviate the constraint that the current Code has posed on this lot, Staff supported a reduction in setback to 26-feet, which will put this property in alignment with existing development along the streetscape.* This administrative effort was done in order to minimize procedural processes and assist the applicant in moving forward with the project.
- (7) *Granting the variance will not create a building or fire code violation or other safety hazard; No safety hazards are created by this proposal. The application does not seek any exceptions to the building code.*
- (8) *The need for the variance is not created by a self-imposed hardship; existing conditions, along with Code revisions that came into play after the lot was created are driving the request for the variance.*
- (9) *A variance shall allow only the least deviation from the standard that will afford relief; A 26-foot setback will expand the development opportunities while still meeting the intent of the Code.*



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023



Analysis Summary

Staff has analyzed and found the following findings of fact, based on:

- *whether special site-specific conditions exist*
- *whether unnecessary hardship exists*
- *the impact on public interest, safety, and welfare*
- *the impacts to the neighborhood character.*

Staff has determined that a variance for a **26-foot setback**:

- Will **mitigate the impacts of the recent Code revision** and will **compliment the existing streetscape** while meeting the intent of Table 15-5-10(a)
- is a compromise to an **existing site condition** that was created through no fault of Plasma Process.
- has no negative impacts and will assist Plasma Process in expanding their operations in a **safe and efficient** manner.
- will **positively impact the neighborhood character** by producing a consistent streetscape for the length of the Limited Industrial zone district along the east side of Highland Meadows Parkway.

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

- November 15, 2022 - public hearing notice posted on Town of Windsor website
- November 16, 2022 - development sign posted on the subject property.
- November 16, 2022 - public hearing notice sent to surrounding property owners.
- November 18, 2022 - public hearing notice published in the paper.



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Recommendation

Staff recommends approval of a variance to reduce the setback for the parking lot along Highland Meadows Parkway from 40-feet to 26-feet, to be in alignment with other properties along the eastern Highland Meadows Parkway street frontage.

After consideration of the information presented, the BOA may elect to approve the variance as requested by the applicant – reducing the setback along Highland Meadows Parkway from 40-feet to 5-feet.



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Recommendation

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback of 26-feet, for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation



Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023



Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grand a Major Variance only when it is demonstrated that:

1. Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists



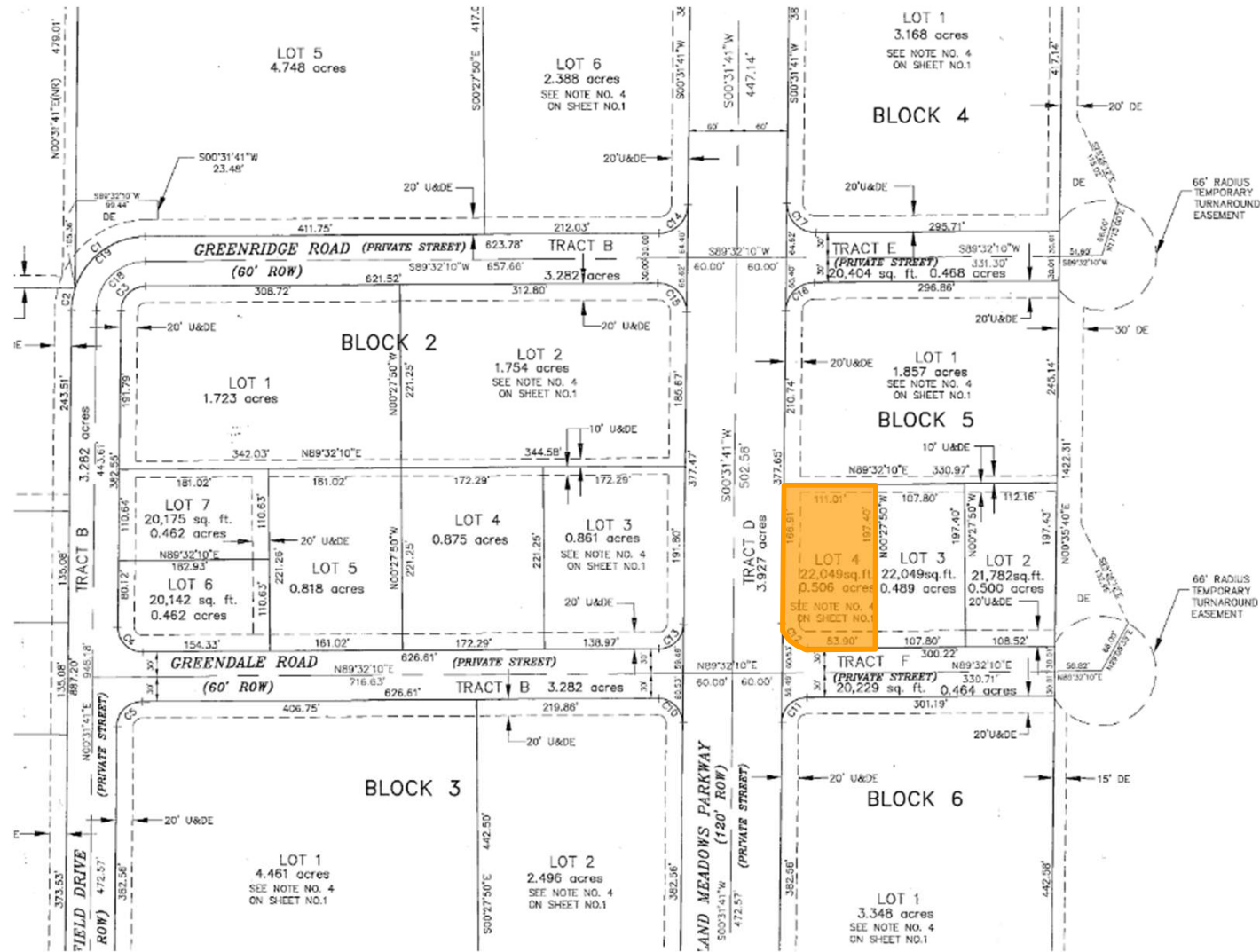
Plasma Process Group, Inc.

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

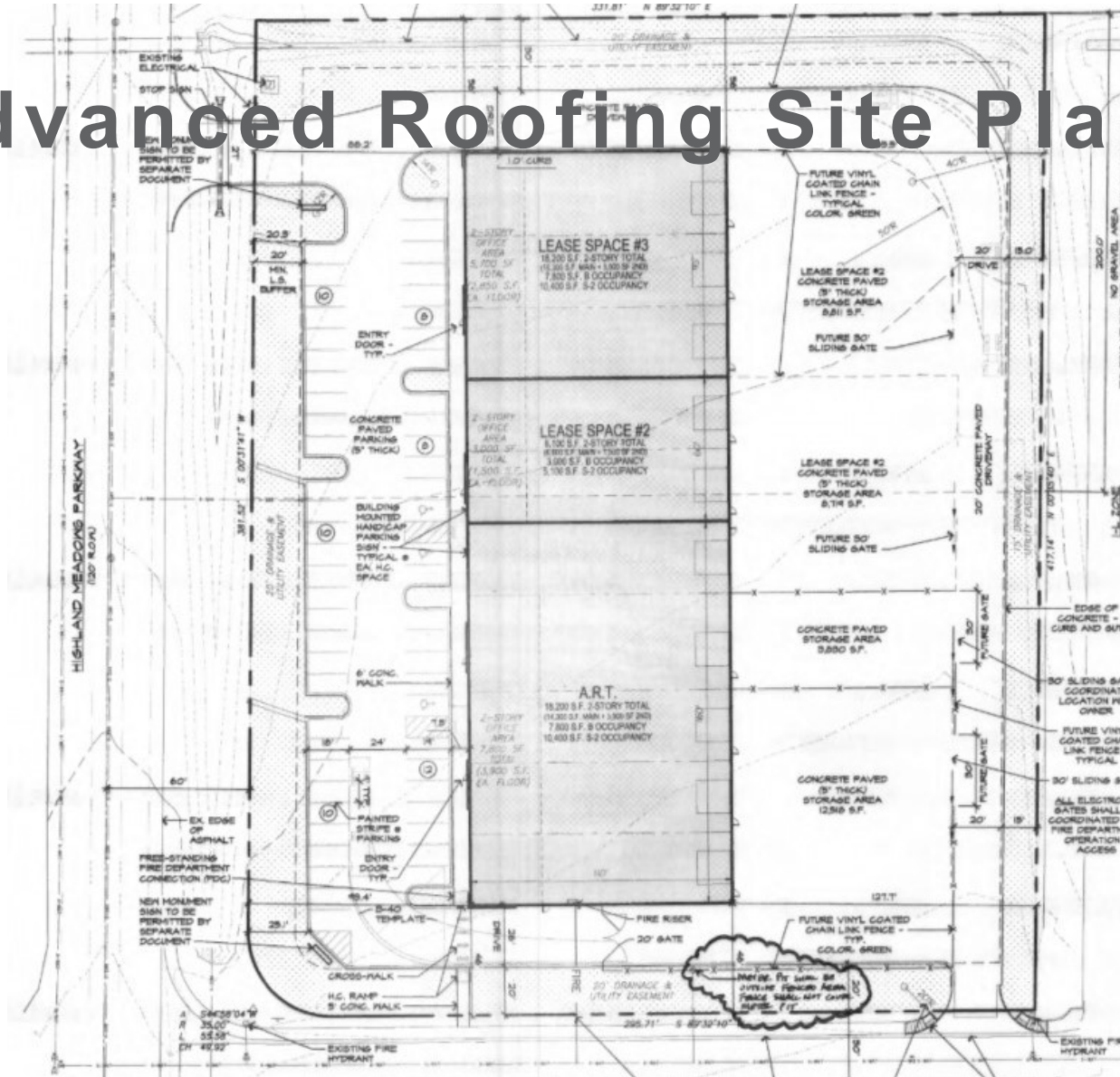


Highlands Industrial Park Subdivision Plat





Advanced Roofing Site Plan



SETBACK VARIANCE REQUEST

7300 GREENDALE ROAD





(1) *Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists;*

Staff Comment: Strict application of the setback requirement would be challenging, as the property was purchased with the intent to mirror the existing building and include employee parking. The revised setbacks found in the current Code were not anticipated at that time. Additionally, because the two properties belong to the same business and function, the two buildings need to stay close together for the success of the business and expansion.

(2) *The applicant cannot derive beneficial use of the property without the variance;*

Staff Comment: The narrow width of the subject property causes a hardship with regard to meeting the current Code setback requirements. The building and parking lot layout would not be nearly as usable without approval of the variance.

- (3) *The purpose and intent behind the regulation would be maintained by granting the variance;*
Staff Comment: The intent of this section of the Code is to de-emphasize the importance placed on automobiles, allow for a more pedestrian friendly opportunity and bring building architecture to a more prominent site location. By granting an alternate setback of 26-feet, the purpose behind the regulation is maintained.



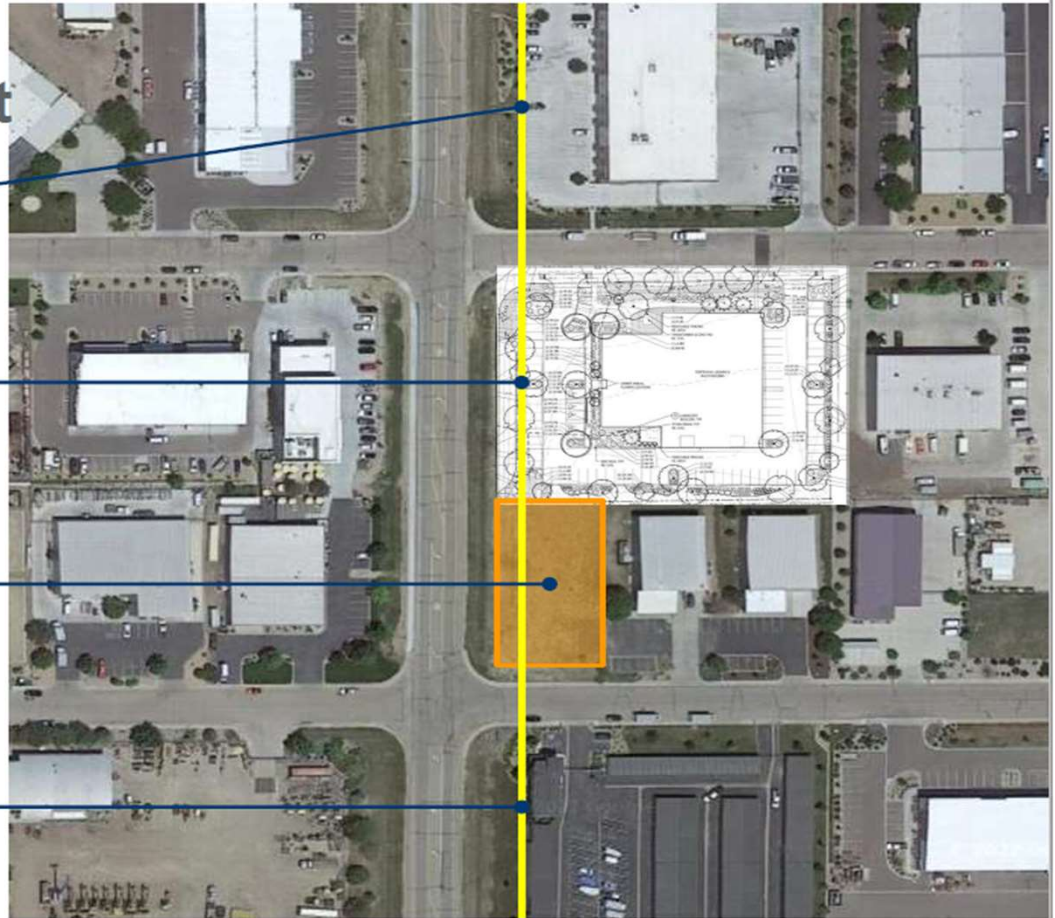
Site Context

Advanced Roofing
25' Parking Setback

Centennial Leasing
26' Parking Setback

Project Site

Crossroads
Self Storage
30' Bldg. Setback



- (4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area;*
Staff Comment: Granting a variance for a 26-foot setback will keep this property's streetscape in alignment with existing developed properties along the east side of Highland Meadows Parkway, and create a unified streetscape.

(5) *Granting the variance will not be detrimental to public health, safety, or welfare.*

Staff Comment: The proposed 26-foot setback variance will not present any health, safety and welfare concerns.

(6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;*

Staff Comment: In an effort to alleviate the constraint that the current Code has posed on this lot, Staff supported a reduction in setback to 26-feet, which will put this property in alignment with existing development along the streetscape. This administrative effort was done in order to minimize procedural processes and assist the applicant in moving forward with the project.

(7) *Granting the variance will not create a building or fire code violation or other safety hazard;*

Staff Comment: No safety hazards are created by this proposal. The application does not seek any accommodations or exceptions to the building code.

(8) *The need for the variance is not created by a self-imposed hardship;*

Staff Comment: Existing conditions, along with Code revisions that came into play after the lot was created are driving the request for the variance.

(9) *A variance shall allow only the least deviation from the standard that will afford relief;*

Staff Comment: A 26-foot setback will expand the development opportunities while still meeting the intent of the Code.

1) DRC 1 – Initial Expectation. Standard building size, parking for employees and turn around for all traffic including emergency vehicles. Total parking proposed is 38 locations to help alleviate the current parking congestion on Greendale Road. Also includes access for emergency vehicles and daily deliveries.



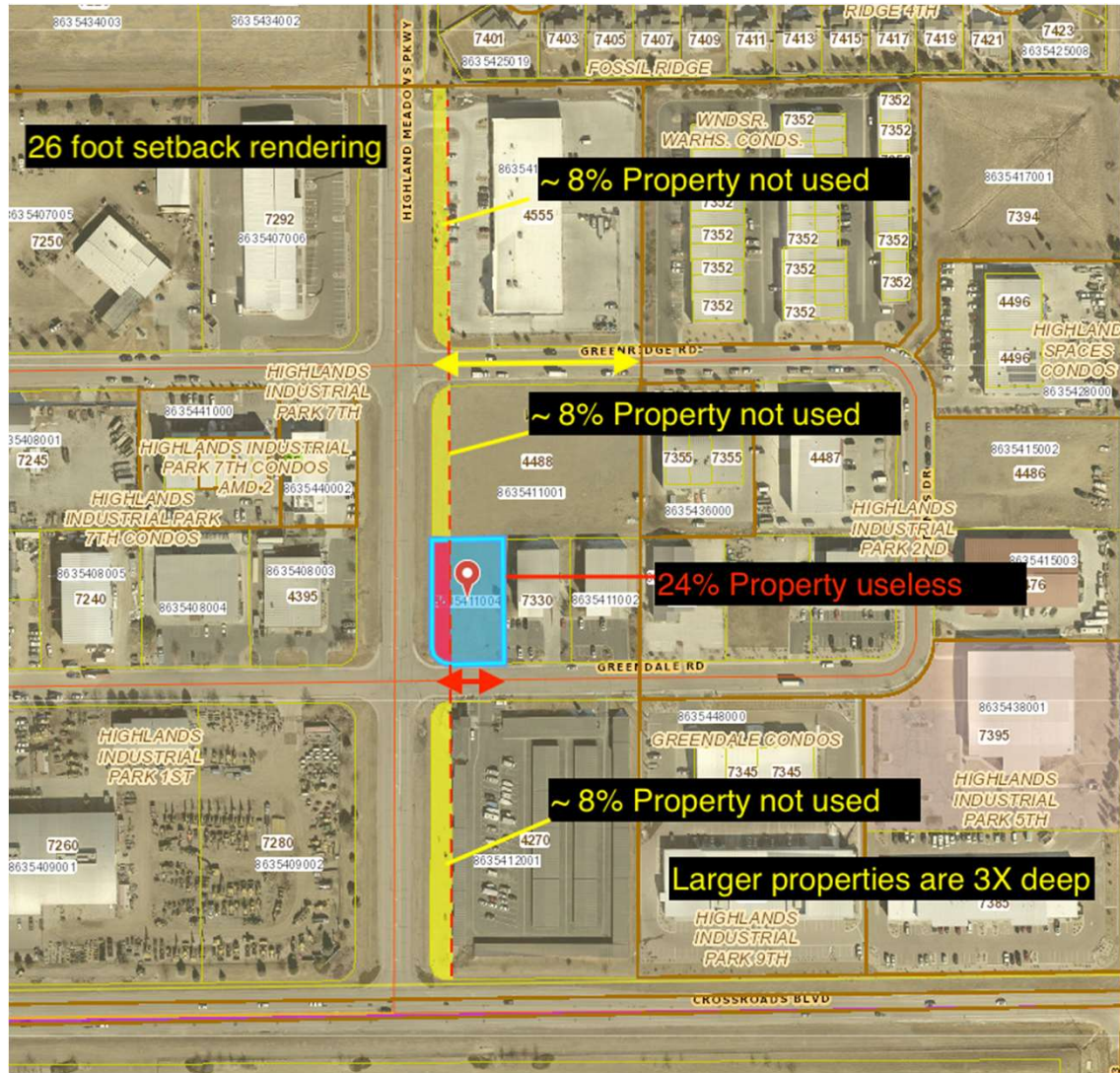
2) DRC 2 Compromise offered by staff using a 26 foot setback. Standard building size. Poor parking and access for all vehicles including emergency. Only 16 parking spaces available which is undersized for the size of the structure.

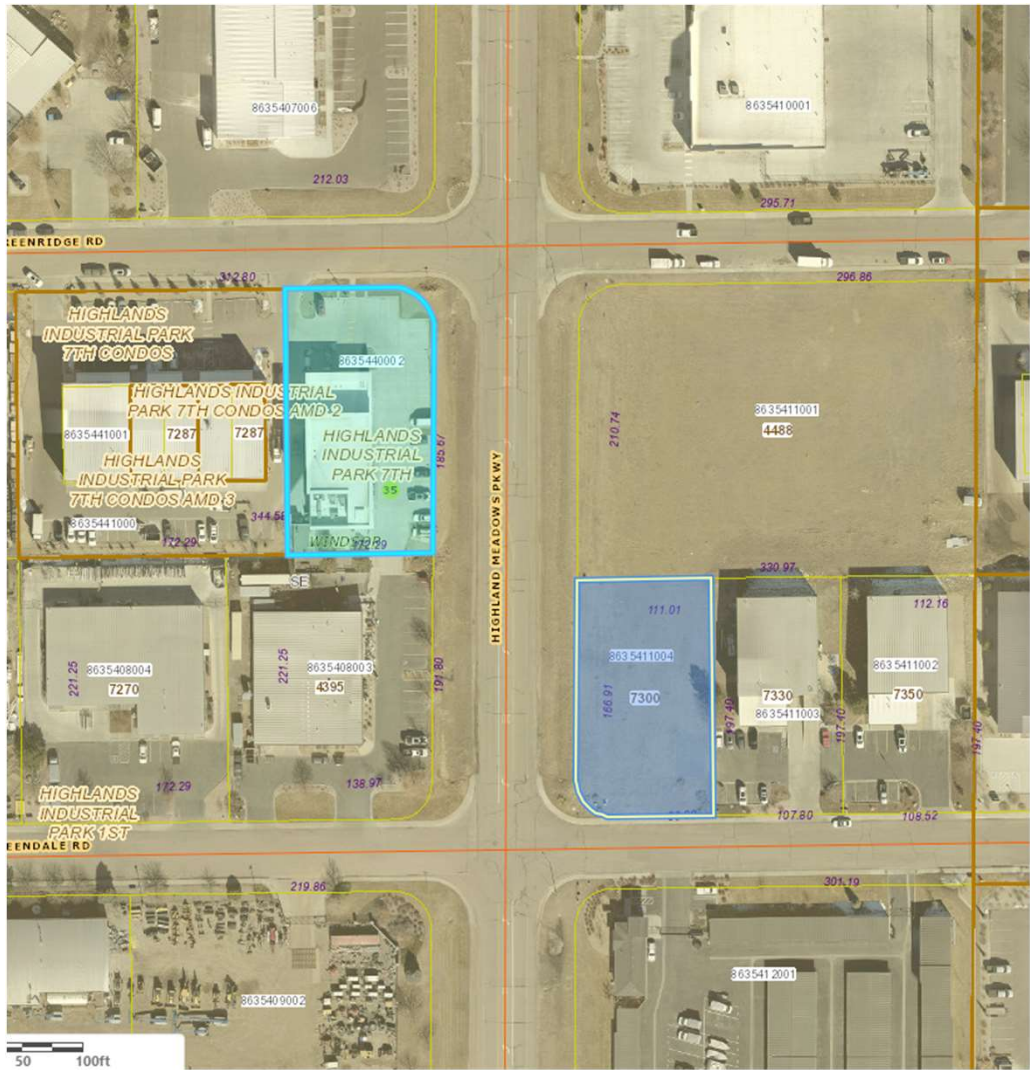


3) DRC 3 – Without the Variance (Strict Compliance). Undevelopable corner lot for building and parking. This illustration shows a non-standard building size for a commercial, industrial lot. This illustration shows strict enforcement of the adopted 40-foot setback code; Attempting to maximizing the size of the building while still meeting parking requirements.



[illegible]











Questions?



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: Kimberly Lambrecht
Planner II
Re: Variance from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district – Brett Buchholtz, Buchholtz Engineering LLC (Owner/Applicant); Bob Choate, Coan, Payton & Payne, LLC (Owner's Representative)
Item #: C.2.

Background / Discussion:

Please refer to the previous item for background / discussion information.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff recommends approval of a variance to reduce the setback for the parking lot along Highland Meadows Parkway from 40-feet to 26-feet, to be in alignment with other properties along the eastern Highland Meadows Parkway street frontage.

After consideration of the information, the BOA may elect to approve the variance as requested – reducing the setback along Highland Meadows Parkway from 40-feet to 5-feet, as requested by the applicant.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback of 26 feet, for parking areas and drive aisles along public right-of-way in the Limited Industrial (LI) zone district; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

CC:

David Eisenbraun, Senior Planner

Scott Ballstadt, Director of Planning
Kim Emil, Interim Town Attorney

Attachments:



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: David Eisenbraun, Senior Planner
Re: Public Hearing – Variance for 1275 Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – Adam Meier, (Owner/Applicant); Luke Seeber, Baseline (Owner's Representative)
Item #: C.3.

Background / Discussion:

The request is for a variance from Municipal Code Section 15-5-10 pertaining to vehicular access. Specifically, it is seeking relief from "Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way."

Dispersed Parking Lot

	Parking Location and Orientation:	
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.	
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.	
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following:	

Based upon the existing shape of the parcel, the lot would be difficult to develop in an efficient manner due to the inability to generate a functioning site plan within the restricted area of the usable lot. The lot will be unable to meet parking requirements, stacking queue lengths, or a general layout with functioning traffic movements.

Additionally, this variance is strictly pertaining to the offset distance of a private parking area, drive aisle and public right of way within the confines of the private lot. A variance of this offset will not be detrimental to the adjacent private lots. There is a private drive isle that separates this property from the adjacent property to the south. The property to the south is planned for a gas station, and there will still be reasonable screening/buffering between the properties.

Ultimately, due to low speeds of the pertaining drive aisles with berming and screening walls between the aisles, it is believed that the granting of the variance will not impact public health, safety, or welfare by inducing traffic or any other related incidents. There are also no waivers or alternative compliance standards applicable for this situation.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

1. Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

A motion to approve the request for a variance from Municipal Code Table 15-5-10 pertaining to vehicular access based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, the applicant obtaining the applicable entitlements and building permits, and the greatest setback from the public ROW is obtained while still rendering the parcel usable.

2. A second, and;

3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

CC:**Attachments:**

1. Application Materials
2. Staff Presentation

Variance Application



(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

- ☒ Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.
- ☒ Variance requests are considered by the Board of Adjustment, which meets on the fourth Thursday of every month.
- ☒ Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.
- ☒ Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address: Property does not currently have an address.

Lot: 1 Block: Subdivision: Windsor Town Center II 2nd Filing

A variance is being requested from the following Municipal Code section(s):
Section 15-5-10: Table 15-5-10(a): Dispersed Parking Lot A.1

3

Owner

Name(s): Adam Meier

Address: 3112 Rockwood Drive, Fort Collins, CO 80525

Phone #: Email: adambmeier@gmail.com

Applicant or Representative:

Name: Luke Seeber

Address: 4007 S Lincoln Ave, Suite 405, Loveland, CO 80537

Phone #: 970-353-7600 Email: Luke.seeber@baselinecorp.com

4

[Municipal Code Section 14-2-150\(a\)](#) states, in part:

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.

All questions answered on separate sheet below.

Variance Application

4

2. The applicant cannot derive beneficial use of the property without the variance.

3. The purpose and intent behind the regulation would be maintained by granting the variance.

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.

5. Granting the variance will not be detrimental to public health, safety, or welfare.

6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.

7. Granting the variance will not create a building or fire code violation or other safety hazard.

8. The need for the variance is not created by a self-imposed hardship.

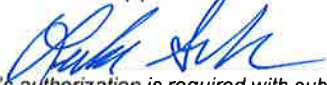
Variance Application

9. A variance shall allow only the least deviation from the standard that will afford relief.

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

Signature:



Date:

11/1/2022

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: Luke Seeber

Submitted On: November 1, 2022

(Please email completed application and materials to planningtechs@windsorgov.com)

Application Packet

Land Use Application



1 The Town of Windsor Planning Department reserves the right to reject incomplete submittals, per the application checklist and Municipal Code requirements for all applications. Please submit completed application and materials to planningtechs@windsorgov.com. Staff will review the submittal and advise you of its completeness for processing.

2

Application type:

☐ Annexation	☐ Site Plan - Minor
☐ Master Plan	☒ Site Plan - Major
☐ Rezoning	
☐ Minor Subdivision	
☐ Major Subdivision – Preliminary	
☐ Major Subdivision – Final	

Project Name*: Breeze Thru Windsor

Legal Description*: Lot 1 Windsor Town Center II Subdivision - 5th Filing / Lot 1, Windsor

Address/Location*: 1261 Main Street / Vacant lot southeast corner of Sagewood Dr and 12th Street

Existing Zoning: GC **Proposed Zoning:** GC (No Change)

Acres/Square Feet: (0.72/31,380) & (0.6/31,380) **Number of Dwelling Units:** No Dwelling Units. 1 Car

3

Owner:

Name(s)*: Two Owners. Information on sheet below

Company: _____

Address*: _____

Phone #*: _____ Email*: _____

Applicant (Owner or Owner's Representative):

Name*: John Agnew

Company: Wenga, LLC

Address*: 6464 South College Avenue, Fort Collins, CO 80525

Phone #: 970-485-0287 Email: silverwash@aol.com

Authorized Representative:

Name: Luke Seeber

Company: Baseline Engineering

Address: 4007 S Lincoln Avenue, Suite 405, Loveland, CO 80537

Phone #: 970-353-7600 Email: luke.seeber@baselinecorp.com

4

All correspondence will only be sent to those listed above. It is the sole responsibility of those listed to distribute correspondence to other applicable parties.

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted with or contained within the application are true and correct to the best of my knowledge.

Signature: [See scanned signature next page](#) **Date:** _____

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: _____

*Required fields

Revised 2/5/2021

Application Packet

Land Use Application



1

The Town of Windsor Planning Department reserves the right to reject incomplete submittals, per the application checklist and Municipal Code requirements for all applications. Please submit completed application and materials to planningtechs@windsorgov.com. Staff will review the submittal and advise you of its completeness for processing.

2

Application type:

☐ Annexation
☐ Master Plan
☐ Rezoning
☐ Minor Subdivision
☐ Major Subdivision – Preliminary
☐ Major Subdivision – Final

☐ Site Plan - Minor
☒ Site Plan - Major

Project Name*: Breeze Thru Windsor

Legal Description*: Lot 1 Windsor Town Center II Subdivision - 5th Filing / Lot 1, Windsor

Address/Location*: 1261 Main Street / Vacant lot southeast corner of Sagewood Dr and 12th Street

Existing Zoning: GC

Proposed Zoning: GC (No Change)

Acres/Square Feet: (0.72/31,380) & (0.6/31,380) **Number of Dwelling Units:** No Dwelling Units. 1 Car

3

Owner:

Name(s)*: Two Owners. Information on sheet below

Company:

Address*:

Phone #*:

Email*:

Applicant (Owner or Owner's Representative):

Name*: John Agnew

Company:

Wenga, LLC

Address*:

6464 South College Avenue, Fort Collins, CO 80525

Phone #*: 970-485-0287

Email*: silverwash@aol.com

Authorized Representative:

Name: Luke Seeber

Company:

Baseline Engineering

Address:

4007 S Lincoln Avenue, Suite 405, Loveland, CO 80537

Phone #: 970-353-7600

Email: luke.seeber@baselinecorp.com

4

All correspondence will only be sent to those listed above. It is the sole responsibility of those listed to distribute correspondence to other applicable parties.

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted with or contained within the application are true and correct to the best of my knowledge.

Signature:

Date:

9-9-22

(Proof of owner's authorization is required with submittal if signed by Applicant)

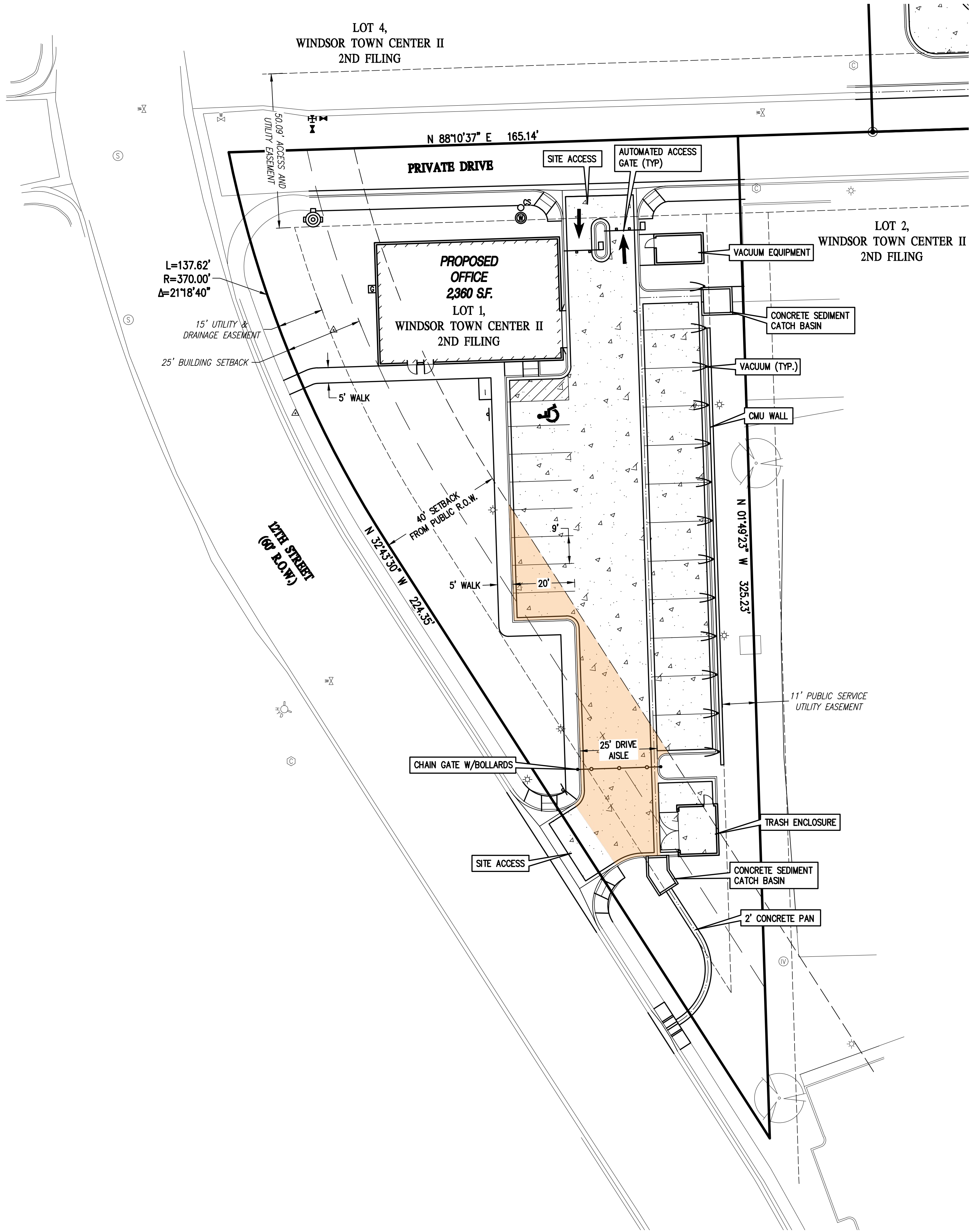
Print Name:

John Agnew

*Required fields

Revised 2/5/2021

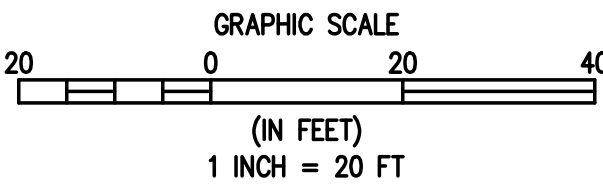
1. Special Circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.
 - The shape of the property creates a special circumstance that would result in an undue hardship with strict application of the code. The triangular shape of the parcel makes it challenging to find meaningful space for parking.
2. The applicant cannot derive beneficial use of the property without the variance.
 - Due to the amount of public right-of-way that abuts this property, any land use would find difficulty having enough space for an adequate number of parking spaces. In addition, since the property is so narrow, a drive aisle that is not within 40 feet of public right-of-way is not feasible.
3. The purpose and intent behind the regulation would be maintained by granting the variance.
 - The purpose and intent behind the regulation would be maintained by granting the variance. The parking lot is pushed as far away from the right-of-way as possible. The 40-foot setback from the right-of-way on a triangular shaped lot makes it challenging to have a drive aisle that would not be affected by this requirement. The 40-foot setback also creates a very constricted site in the southern portions of the property.
4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.
 - Granting the variance will not be detrimental to any adjacent properties or the surrounding area. The variance would be for the portions of the property bordering public right-of-way, which should not have an impact on the neighboring property to the east. Additionally, the encroachment into the setback should not affect the surrounding area.
5. Granting the variance will not be detrimental to public health, safety, or welfare.
 - Granting the variance will not be detrimental to public health, safety, or welfare.
6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards if applicable.
 - There is not a method of alternative compliance or waiver that would alleviate this requirement in the code.
7. Granting the variance will not create a building or fire code violation or other safety hazard.
 - The variance will not create a building or fire code violation. Additionally, as configured, the driveways for the property are pushed as far away from nearby intersections as possible, creating a safer parking lot.
8. The need for a variance is not created by a self-imposed hardship.
 - The need for a variance is not self-imposed. It is likely that any use on this property would face a similar challenge. The peculiar shape of the property makes it difficult to design a parking lot with an adequate number of spaces, while meeting this requirement of the code. Additionally, it is not feasible to have all portions of the drive aisle 40 feet away from the right-of-way on a property of this shape.
9. A variance shall allow only the least deviation from the standard that will afford relief.
 - The parking lot is designed in a way that as much of the drive aisle and parking spaces are outside the 40-foot setback. Only the portions where the property is at its narrowest would require this variance.



LEGEND

EXISTING LINETYPES	PROPOSED LINETYPES	
		PROPERTY BOUNDARY
		EASEMENT
		EDGE OF ASPHALT
		BUILDING SETBACK
		MINOR CONTOUR (1' INTERVAL)
		MAJOR CONTOUR (5' INTERVAL)
		EDGE OF BUILDING
		CURB AND GUTTER (SPILL/CATCH)

EXISTING SYMBOLS	PROPOSED SYMBOLS	
		WATER VALVE
		FIRE HYDRANT
		WATER METER
		DECIDUOUS TREE
		SANITARY MANHOLE
		LIGHT POLE
		STORM DRAIN MANHOLE
		CONCRETE PAVING
		PARKING AND DRIVE AISLES WITHIN 40' OF PUBLIC R.O.W.



DISPERSED PARKING
VARIANCE EXHIBIT

TOWN OF WINDSOR
DRAWING APPROVAL
REVIEW IS FOR GENERAL COMPLIANCE WITH
TOWN STANDARDS. NO RESPONSIBILITY
IS ASSUMED FOR CORRECTNESS OF DESIGN.

DATE _____ BY _____
DEPUTY DIRECTOR OF ENGINEERING



4007 S. LINCOLN AVENUE, SUITE 405 • LOVELAND, COLORADO 80537
P. 970.553.7600 • F. 866.679.4664 • www.baselinesurvey.com

DESIGNED BY: LDS
DRAWN BY: GCT
CHECKED BY: NJN

PREPARED BY: _____
DATE: _____

REVISION	DESCRIPTION

WENGA LLC
BREEZE THRU WINDSOR
1261 MAIN STREET
DISPERSED PARKING VARIANCE EXHIBIT
TOWN OF WINDSOR
WELD COUNTY

PREPARED UNDER THE DIRECT
SUPERVISION OF

FOR REVIEW
NOT FOR
CONSTRUCTION

FOR AND ON BEHALF OF BASELINE CORPORATION	
INITIAL SUBMITTAL	09/09/2022
DRAWING SIZE	24" X 36"
SURVEY FIRM	BASELINE
SURVEY DATE	08/09/2022
JOB NO.	C03580
DRAWING NAME	3580 Variance Exhibit.dwg
SHEET	EX OF EX
	EX

From: [Adam Meier](#)
To: [Will Charles](#)
Subject: Re: Breeze Thru Windosr Variance
Date: Tuesday, November 1, 2022 7:46:36 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Will,

Yes, I authorize you to apply for a variance.

Regards,
Adam Meier

On Mon, Oct 31, 2022 at 4:01 PM Will Charles <will.charles@baselinecorp.com> wrote:

Hi Adam,

For the Breeze-Thru project we will need to apply for a variance for the location of the drive aisle and a few parking spaces. One of the requirements on the checklist is owner authorization. Could you respond to this email providing authorization for us to apply for the variance? Let me know if you have any questions.

Thanks,

WILL CHARLES, AICP | PRINCIPAL PLANNER

Baseline Engineering Corporation | Engineering, Planning, & Surveying

Phone: 281.352.2709 | www.baselinecorp.com | [Social Media](#)

Office: [112 N. Rubey Drive, #210, Golden, CO 80403](#)

Thank you for your ongoing support! We are now in the office, as well as home, continuing to provide the best services for our clients.



1275 Main Street Breeze Through Carwash

Variance Request

Request to reduce setback along public right-of-way

David Eisenbraun, Senior Planner

Board of Adjustment – January 26, 2023

Variance Request

Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) - pertaining to a request for a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district



1275 Main Street

Variance Request

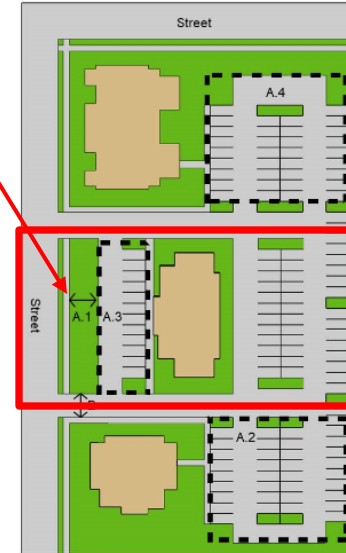
Town of Windsor Board of Adjustment – January 26, 2023

Variance Request

The current Municipal Code outlines **parking setback criteria along public right-of-way for a dispersed parking lot**, which this parking area will be classified as.

This Variance Request is specifically addressing the setback for a proposed parking lot along 12th Street, which is set at 40-feet from the public ROW.

Dispersed Parking Lot	
	Parking Location and Orientation:
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following: 1. No more than a single row of parking may be located between the principal building and right-of-way; and 2. A wall averaging 36" in height which compliments the building architecture and meeting sight distance requirements is provided for at least 50% of the length of the parking lot between the lot and the right-of-way.
A.4	In areas where the wall is not used, higher density landscaping shall be provided. As an alternative to providing a wall, a Type C Bufferyard may be provided.



1275 Main Street Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

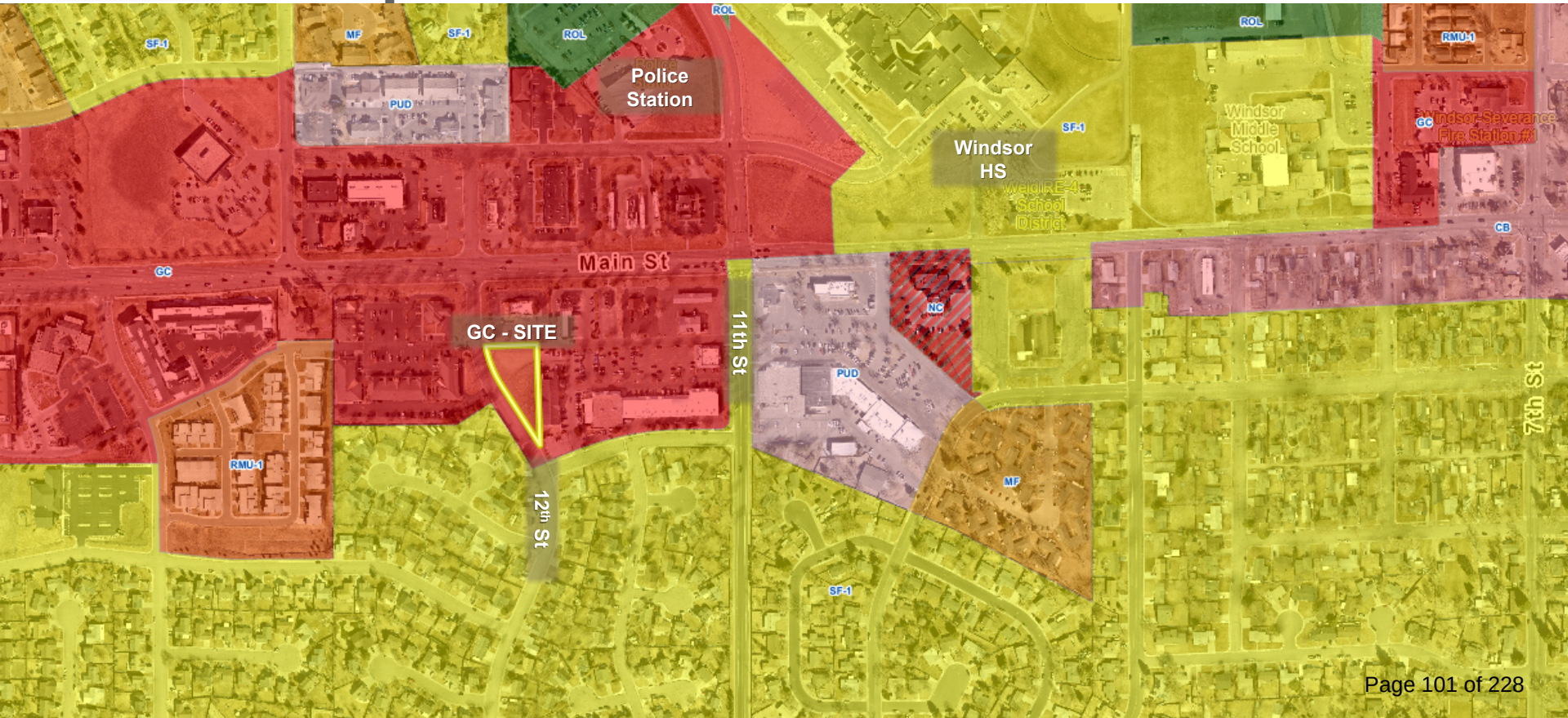


Site Vicinity Map





Site Zoning Map



Background

Pre 2022: Site has always been vacant with a variety of conceptual reviews for a myriad of uses throughout the years.

2022: Expansion plans for Breeze Thru Carwash going on adjacent parcel.

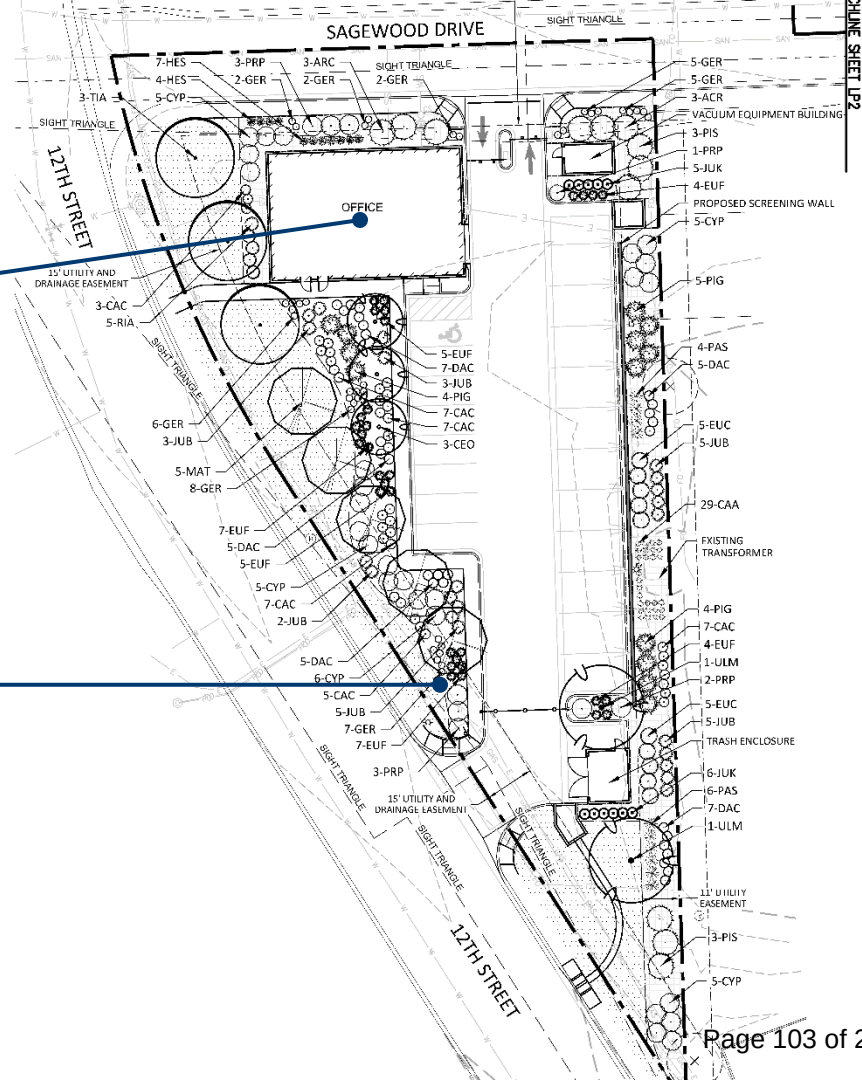


1275 Main Street Variance Request

Town of Windsor Board of Adjustment – January 26, 2023



Landscape —
Buffer along 12th
street

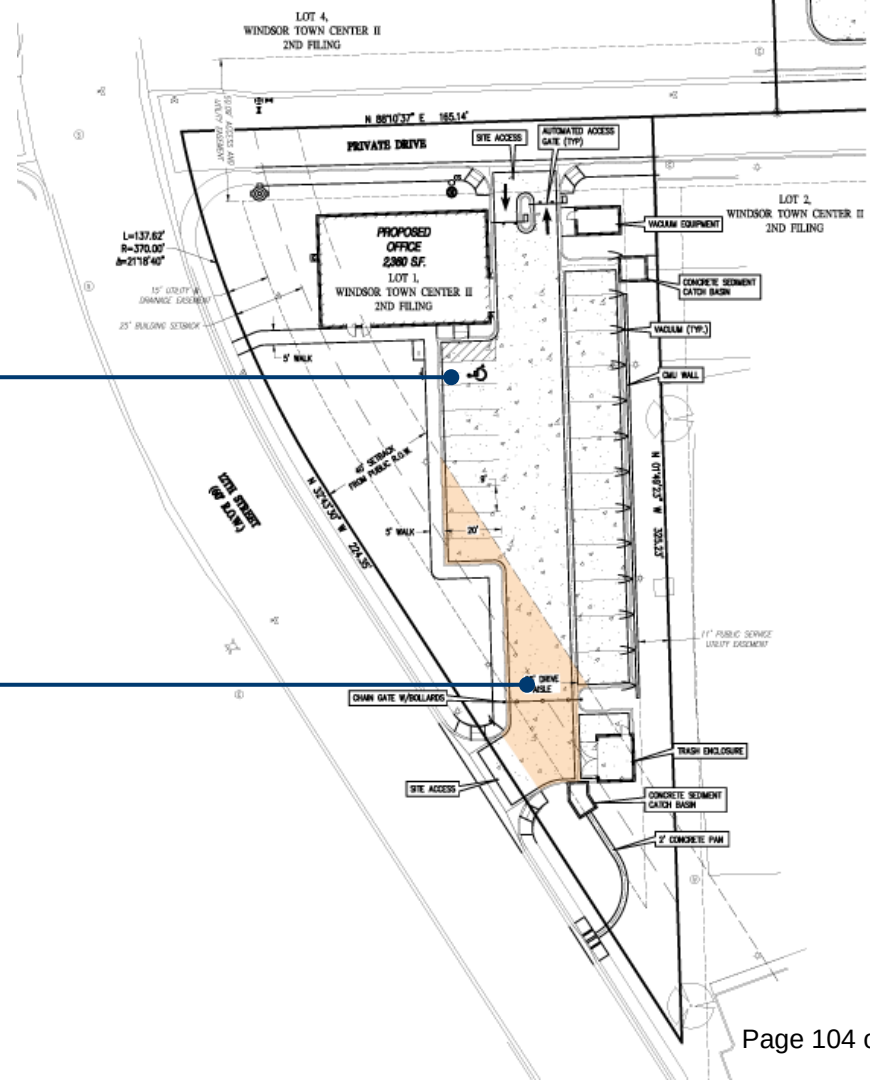




Project Proposal

Breeze Thru
Office Site

Colored Area
Requiring a
variance



Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) *Where special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists; **Relief from the variance will be of no substantial detriment to the public good and will not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, will not alter the essential character of the surrounding neighborhood.***

(2)



1275 Main Street Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (2) *The applicant cannot derive beneficial use of the property without the variance; The irregular shape and width of the subject property causes a hardship with regard to meeting the current Code setback requirements. The building and parking lot layout would not be nearly as usable without approval of the variance.*



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (3) *The purpose and intent behind the regulation would be maintained by granting the variance;* The intent of this section of the Code is to de-emphasize the importance placed on automobiles, allow for a more pedestrian friendly opportunity and bring building architecture to a more prominent site location. By granting the pavement to encroach, the purpose behind the regulation is maintained due to the high level of landscape buffer between uses.
- (4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area;* Granting a variance for will keep this property's streetscape in alignment with existing developed properties along the east side of 12th Street.
- (5) *Granting the variance will not be detrimental to public health, safety, or welfare.* The proposed setback variance will not present any health, safety and welfare concerns.



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable; In an effort to alleviate the constraint that the current Code has posed on this lot, Staff supported an encroachment which will put this property in alignment with existing development along the streetscape. This administrative effort was done in order to minimize procedural processes and assist the applicant in moving forward with the project.*
- (7) *Granting the variance will not create a building or fire code violation or other safety hazard; No safety hazards are created by this proposal. The application does not seek any exceptions to the building code.*
- (8) *The need for the variance is not created by a self-imposed hardship; existing conditions, along with Code revisions that came into play after the lot was created are driving the request for the variance.*
- (9) *A variance shall allow only the least deviation from the standard that will afford relief; A small pavement encroachment will expand the development opportunities while still meeting the intent of the Code.*



1275 Main Street

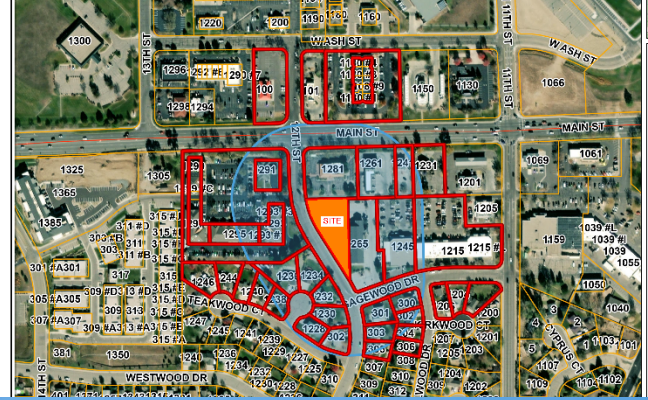
Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

- November 15, 2022 - public hearing notice posted on Town of Windsor website
- November 16, 2022 - development sign posted on the subject property.
- November 16, 2022 - public hearing notice sent to surrounding property owners.
- November 18, 2022 - public hearing notice published in the paper.



1275 Main Street Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Recommendation

Staff recommends approval of a variance to reduce the setback for the parking lot along 12th Street, to be in alignment with other properties along the eastern street frontage.

After consideration of the information presented, the BOA may elect to approve the variance as requested as requested by the applicant – reducing the setback along 12th Street to accommodate the parking and drive aisle areas.



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Recommendation

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback, for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023





MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: David Eisenbraun, Senior Planner
Re: Variance for 1275 Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – Adam Meier, (Owner/Applicant); Luke Seeber, Baseline (Owner's Representative)
Item #: C.4.

Background / Discussion:

Please see public hearing item.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

1. Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

A motion to approve the request for a variance from Municipal Code Table 15-5-10 pertaining to vehicular access based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, the applicant obtaining the applicable entitlements and building permits, and the greatest setback from the public ROW is obtained while still rendering the parcel usable.

2. A second, and;

3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

CC:

Attachments:



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: David Eisenbraun, Senior Planner
Re: Public Hearing – Variance for 2145 7th Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Residential Mixed Use (RMU-1) zone district – Jerry Helgesen, (Owner/Applicant); Derek Patterson, TST, Inc.(Owner's Representative)

Item #: C.5.

Background / Discussion:

The request is for a variance from Municipal Code Section 15-5-10 pertaining to vehicular access. Specifically, it is seeking relief from "Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way."

Dispersed Parking Lot

	Parking Location and Orientation:	
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.	
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.	
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following:	

Based upon the existing shape of the parcel, the lot would be challenging to develop due to the inability to generate a functioning site plan within the restricted area of the usable lot. The lot will be unable to meet parking requirements, drive through stacking queue lengths, or a general layout with functioning traffic movements.

Additionally, this variance is strictly pertaining to the offset distance of a private drive aisle and public right of way within the confines of the private lot. A variance of this offset will not be detrimental to the adjacent private lots. There is a private drive isle that separates this property from the adjacent property to the south. The property to the south is planned for a gas station, and there will still be reasonable screening/buffering between the properties.

Ultimately, due to low speeds of the pertaining drive aisles with berming and screening walls between the aisles, it is believed that the granting of the variance will not impact public health, safety, or welfare by inducing traffic or any other related incidents. There are also no waivers or alternative compliance standards applicable for this situation.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

1. Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

A motion to approve the request for a variance from Municipal Code Table 15-5-10 pertaining to vehicular access based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, the applicant obtaining the applicable entitlements and building permits, and the greatest setback from the public ROW is obtained while still rendering the parcel usable.

2. A second, and;

3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

CC:

Attachments:

1. Application Materials
2. Staff Presentation



Variance Application

(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.

Variance requests are considered by the Board of Adjustment, which meets on the fourth Thursday of every month.

Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.

Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address: 2145 7th St., Windsor Colorado, 80550

Lot: One Block: One Subdivision: South Hill Subdivision Thirteenth Filing

A variance is being requested from the following Municipal Code section(s):

Sec. 15-5-10. - Vehicular Access Requirements

3

Owner Name(s): American Eagle Distributing CO

Address: 3800 Clydesdale Parkway, Loveland, CO 80538

Phone #: (970)-633-1690 Email: jhelgeson@budhouseaed.com

Applicant or Representative:

Name: TST, Inc. Consulting Engineers

Address: 748 Whalers Way, Suite 200 Fort Collins, CO 80525

Phone #: (970)-226-0557 Email: dpatterson@tstinc.com

4

[Municipal Code Section 14-2-150\(a\)](#) states, in part:

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.

Town Criteria requiring drive aisles and parking areas to be setback 40' from public right of way would render the lot unfairly inept for development due to restricted parking and drive aisle location.

Variance Application

4

2. The applicant cannot derive beneficial use of the property without the variance.
The lot would be undevelopable due to the inability to generate a functioning site plan within the restricted area of the usable lot. The lot will be unable to meet parking requirements, drive through stacking queue lengths, or a general layout with functioning traffic movements.
3. The purpose and intent behind the regulation would be maintained by granting the variance.
With the intent of the criteria to provide a safety buffer between vehicle travel paths, it is believed that due to the low speeds of the pertaining drive aisles with berming and screening walls within the buffer, that all traffic movements will maintain the desired factor of safety.
4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.
This variance is strictly pertaining to the offset distance of a private drive aisle and public right of way within the confines of the private lot. A variance of this offset will not be detrimental to the adjacent private lots. There is a private drive isle that separates this property from the adjacent property to the south. The property to the south is planned for a gas station, and there will still be reasonable screening/buffering between the properties.
5. Granting the variance will not be detrimental to public health, safety, or welfare.
Due to low speeds of the pertaining drive aisles with berming and screening walls between the aisles, it is believed that the granting of the variance will not impact public health, safety, or welfare by inducing traffic or any other related incidents.
6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.
There are no waivers or alternative compliance standards applicable for this situation, as confirmed by correspondence with the Town.
7. Granting the variance will not create a building or fire code violation or other safety hazard.
Buildings will still meet all setback requirements if granted the variance. Emergency vehicle access, fire hydrant location, and fire hydrant spacing requirements are not impacted with the granting of a variance.
8. The need for the variance is not created by a self-imposed hardship.
The need for the variance was created with the dedication of the 7th Street and Crossroads roundabout right of way. It is now apparent that the unique location of right of way along the northeast roundabout spur causes an extreme hindrance on available site layouts by restricting necessary parking locations and/or traffic movements.

Variance Application

9. A variance shall allow only the least deviation from the standard that will afford relief.

Without a variance from the right of way setback, multiple other criteria will not be met for the development such as parking requirements, drive through stacking queue lengths, or a general layout with functioning traffic movements. This variance is the path with the most overall adherence to Town code while still maintaining a reasonable level of use for the lot.

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

DocuSigned by:

Signature:

JERRY HELGESON

9/27/2022

Date:

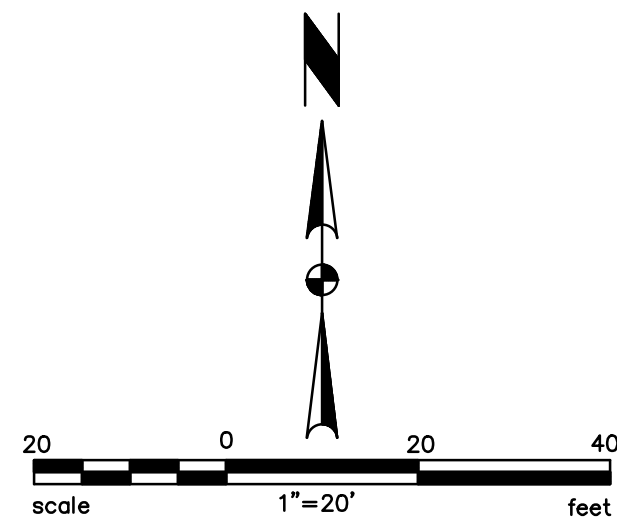
(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name:

Jerry Helgeson

Submitted On:

(Please email completed application and materials to planningtechs@windsorgov.com)



SOUTH HILL SUBDIVISION THIRTEENTH FILING LOT ONE					
ZIGGI'S COFFEE					
ROW OFFSET EXHIBIT					
DRAWN MPG					
CHECKED DAP					
DESIGNED MPG					
FILENAME ROW Offset Exhibit					
TST, INC. CONSULTING ENGINEERS 748 Whalers Way Suite 200 Fort Collins Colorado 80525 Phone: 970.226.0557					
JOB NO.	1076.0004.00				
SCALE	1" = 20'				
DATE	AUGUST 30, 2022				
SHEET	1 of 1				



Variance Request:

2145 7th Street

South Hill Subdivision

13th Filing

Allowance for encroaching into paving setback

Board of Adjustment – December 15, 2022

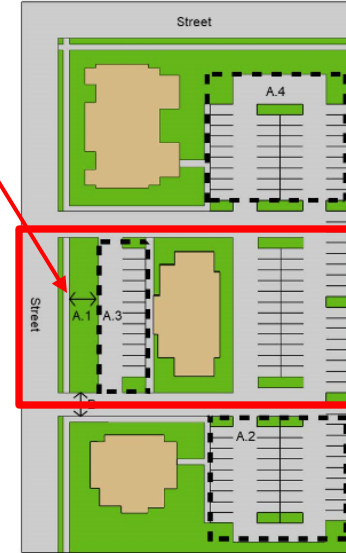


Variance Request

The current Municipal Code outlines **parking setback criteria along public right-of-way for a dispersed parking lot**, which this parking area will be classified as.

This Variance Request is specifically addressing the setback for a proposed parking lot along 7th Street and Crossroads Blvd, which is set at 40-feet from the public ROW.

Dispersed Parking Lot	
	Parking Location and Orientation:
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following: 1. No more than a single row of parking may be located between the principal building and right-of-way; and 2. A wall averaging 36" in height which compliments the building architecture and meeting sight distance requirements is provided for at least 50% of the length of the parking lot between the lot and the right-of-way.
A.4	In areas where the wall is not used, higher density landscaping shall be provided. As an alternative to providing a wall, a Type C Bufferyard may be provided.

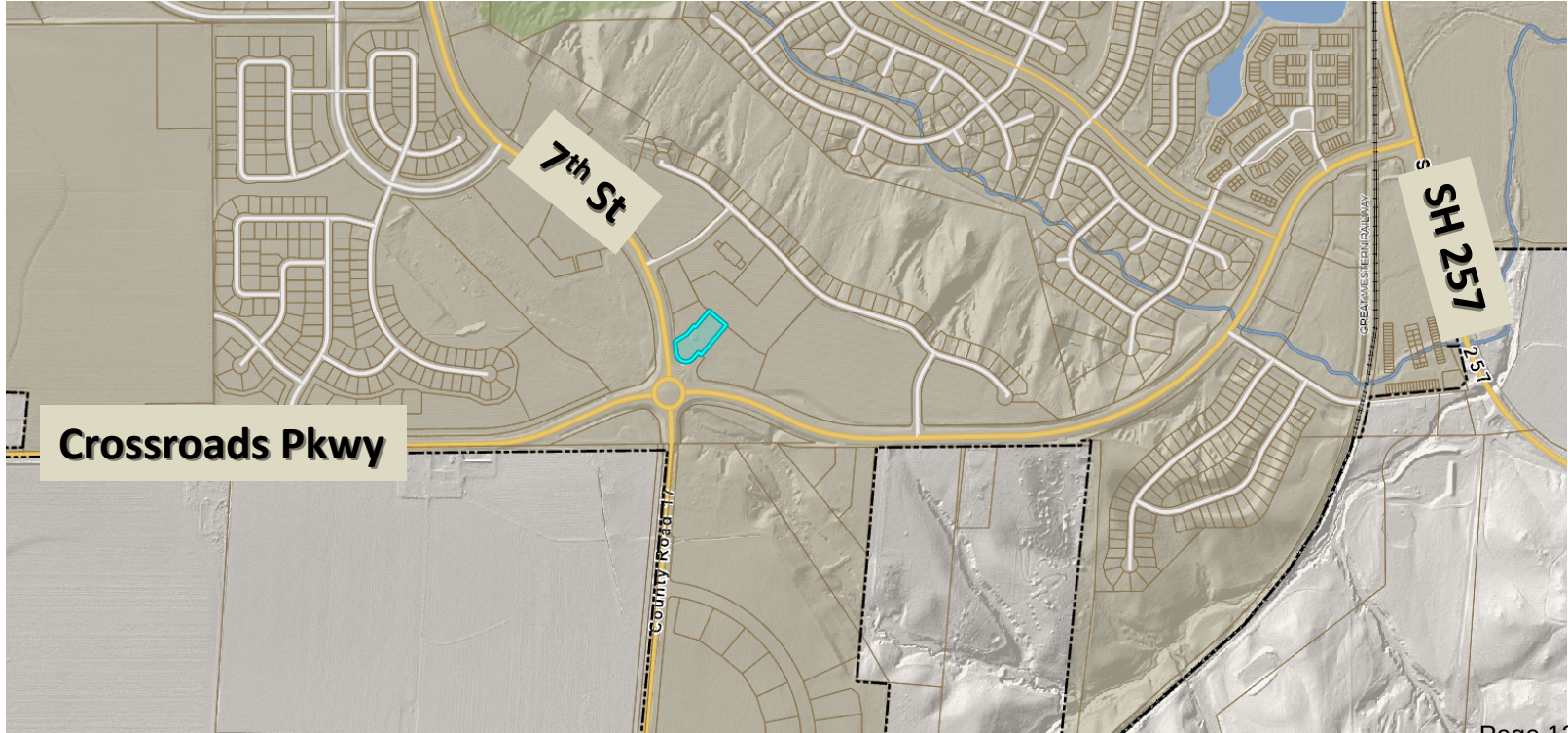


1275 Main Street

Variance Request

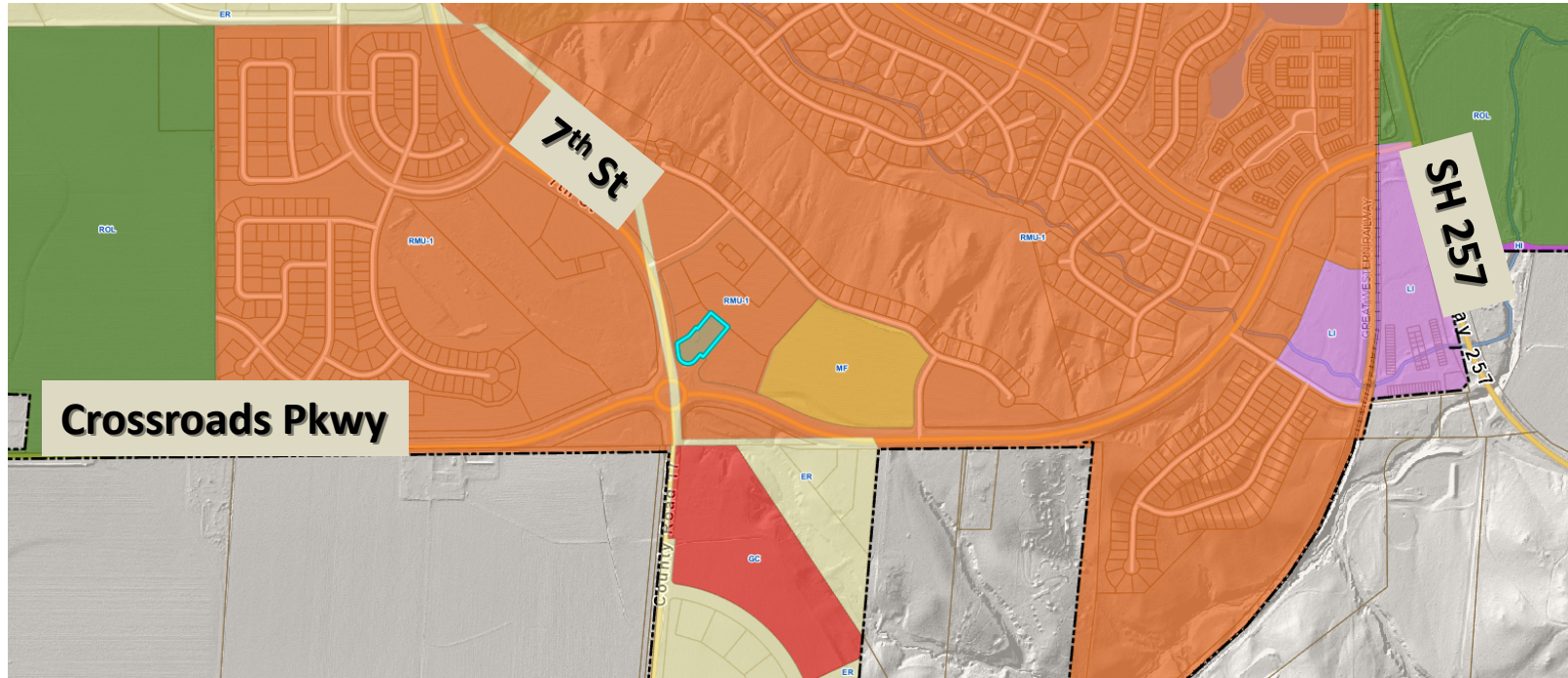
Town of Windsor Board of Adjustment – December 15, 2022

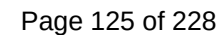
Site Vicinity Map

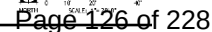




Site Zoning Map

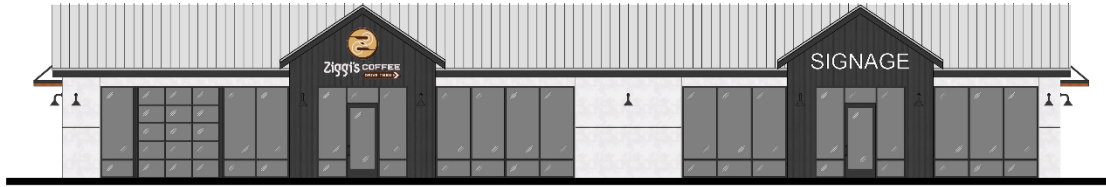




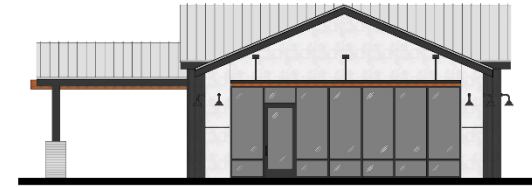




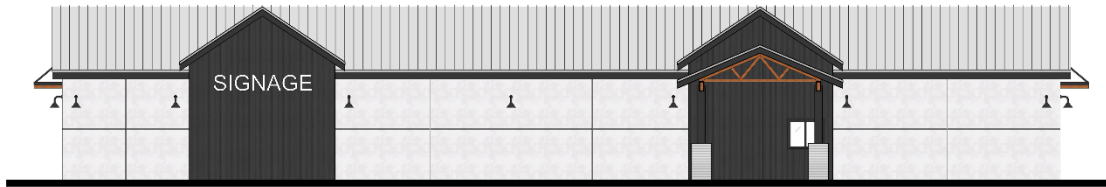
Perspectives



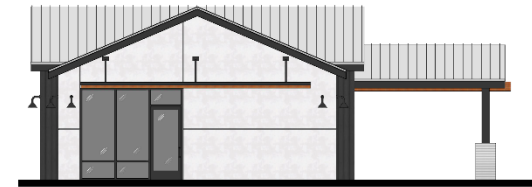
NORTHWEST ELEVATION



NORTHEAST ELEVATION



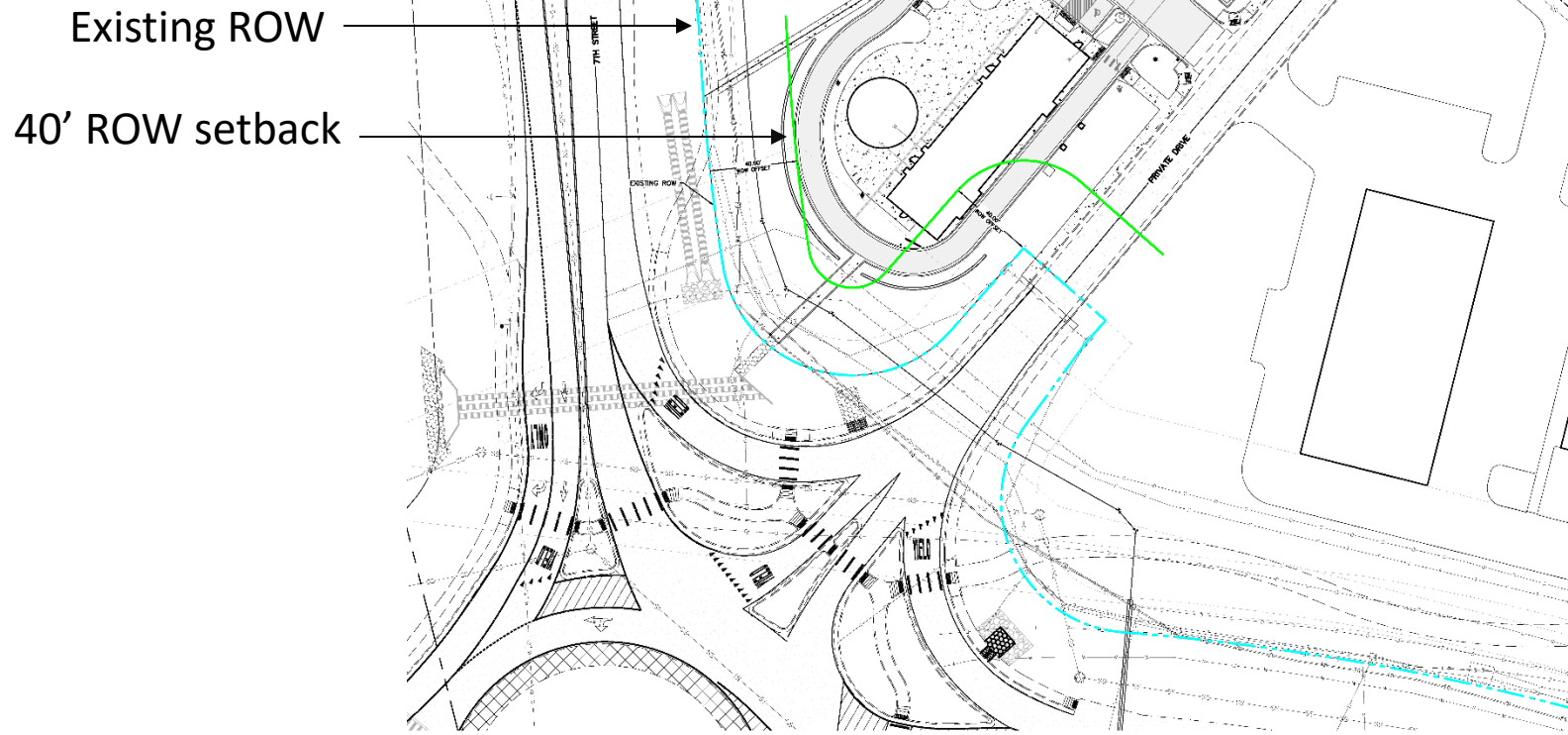
SOUTHEAST ELEVATION



SOUTHWEST ELEVATION



Site Concept Plan



Existing Conditions



Municipal Code Section 14-2-150 (Major Variance) states the following:

Major Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provisions of Chapters 15 and 16 of this Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. A variance, if granted, will constitute a change in the zoning provisions of Chapter 15 or Chapter 16 of this Code as distinct from a conditional use grant which allows for inclusion within the zones established by this Code for certain anticipated uses of a unique nature or character justified by temporary conditions.



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

*(1) Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists; **Relief from the variance will be of no substantial detriment to the public good and will not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, will not alter the essential character of the surrounding neighborhood.***



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

(2) The applicant cannot derive beneficial use of the property without the variance; The lot would be difficult to develop efficiently due to the inability to generate a functioning site plan within the restricted area of the usable lot. The lot will be unable to meet parking requirements, drive through stacking queue lengths, or a general layout with functioning traffic movements.



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

*(3) The purpose and intent behind the regulation would be maintained by granting the variance; **With the intent of the criteria to provide a safety buffer between vehicle travel paths, it is believed that due to the low speeds of the pertaining drive aisles with berming and screening walls within the buffer, that all traffic movements will maintain the desired factor of safety.***



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

*(4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area; **This variance is strictly pertaining to the offset distance of a private drive aisle and public right of way within the confines of the private lot. A variance of this offset will not be detrimental to the adjacent private lots. There is a private drive isle that separates this property from the adjacent property to the south. The property to the south is planned for a gas station, and there will still be reasonable screening/buffering between the properties.***



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (5) *Granting the variance will not be detrimental to public health, safety, or welfare; **Due to low speeds of the pertaining drive aisles with berming and screening walls between the aisles, it is believed that the granting of the variance will not impact public health, safety, or welfare by inducing traffic or any other related incidents.***
- (6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standard; **There are no waivers or alternative compliance standards applicable for this situation.***



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that (cont.):

*(7) Granting the variance will not create a building or fire code violation or other safety hazard; **Buildings will still meet all setback requirements if granted the variance. Emergency vehicle access, fire hydrant location, and fire hydrant spacing requirements are not impacted with the granting of a variance***



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that (cont.):

(8) The need for the variance is not created by a self-imposed hardship; The need for the variance was created with the dedication of the 7th Street and Crossroads roundabout right of way. It is now apparent that the unique location of right of way along the northeast roundabout spur causes an extreme hindrance on available site layouts by restricting necessary parking locations and/or traffic movements



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that (cont.):

*(9) A variance shall allow only the least deviation from the standard that will afford relief; **Without a variance from the right of way setback, multiple other criteria will not be met for the development such as parking requirements, drive through stacking queue lengths, or a general layout with functioning traffic movements. This variance is the path with the most overall adherence to Town code while still maintaining a reasonable level of use for the lot.***



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that (cont.):

*(d) **Conditions on granting variances.** In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void.*



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Analysis

- Would not create negative impacts to public safety and welfare.
- The character of the surrounding neighborhood would not be altered.
- Granting the variance will not create a building or fire code violation or other safety hazard.
- The physical constraints associated with the lot and its configuration were not created by the applicant.
- The variance will allow the least deviation from the standard to afford relief.



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

October 11, 2022 public hearing notice posted on Town of Windsor website.

November 2, 2022 public hearing notice sent to surrounding property owners.

October 11, 2022 development sign posted on the subject property.

October 14, 2022 public hearing notice published in the paper.



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

With the following recommended conditions of approval:

1. The greatest setback from the public ROW is obtained while still rendering the parcel usable.



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022

Variance Request

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the public hearing
- Recommendation



2145 7th Street

Town of Windsor Board of Adjustment – December 15, 2022



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: David Eisenbraun, Senior Planner
Re: Variance for 2145 7th Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the Residential Mixed Use (RMU-1) zone district – Jerry Helgesen, (Owner/Applicant); Derek Patterson, TST, Inc.(Owner's Representative)
Item #: C.6.

Background / Discussion:

Please see public hearing item.

Financial Impact:

Relationship to Strategic Plan:

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

1. Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

A motion to approve the request for a variance from Municipal Code Table 15-5-10 pertaining to vehicular access based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, the applicant obtaining the applicable entitlements and building permits, and the greatest setback from the public ROW is obtained while still rendering the parcel usable.

2. A second, and;

3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Recommendation:

CC:

Attachments:



MEMORANDUM

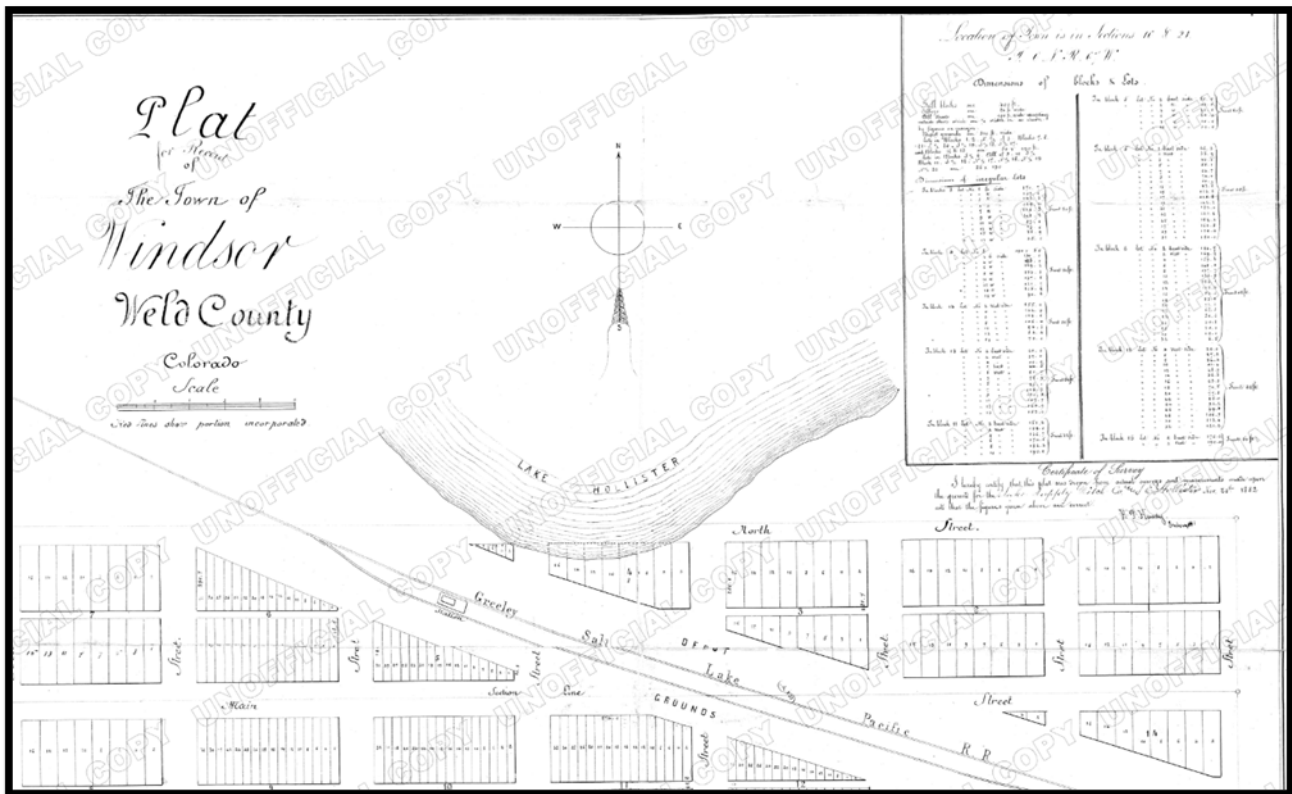
Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: Mark Price, Planner 1
Re: Public Hearing - Variance for the property of 23 Main Street from Municipal Code Section 16-1-70(b) pertaining to the minimum single family residential lot size requirement of 6,000 square feet in the RMU-1 (Residential Mixed Use-One) Zone District - Melina Nolte, Owner/Applicant
Item #: C.7.

Background / Discussion:

The owner of the property of 23 Main Street, Melina Nolte, is requesting a variance from Municipal Code Section 16-1-70(b), RMU-1 District Lot Development Standards, pertaining to the minimum single family dwelling lot size requirement of 6,000 s.f. to accommodate a non-conforming property under this lot size threshold. Additionally, this variance request will allow the property owner to process a minor subdivision to create a legally subdivided lot, as a past property owner transferred a portion of an adjacent lot without processing through the Town's subdivision process. Approval of the variance will allow a buildable lot size, the ability to be legally subdivided and allow for future permitting and occupancy of a single-family residential home. A timeline of events and additional background is included in the presentation.

Municipal Code Section 16-1-70(b) (RMU-1 District Lot Development Standards):
Single Family Dwelling: Minimum Size 6,000 square feet

- The applicant is requesting a reduced lot size to allow a proposed lot of approximately 3,443 s.f.
- The proposed lot size is consistent with the original platted lots of the Town of Windsor Subdivision from 1883.



Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

(1) Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists;

Staff comment: The minimum single-family residential lot size in the RMU-1 zone district is 6,000 sq. ft. Original lot sizes, per 1883 Town of Windsor Subdivision Original Plat, were less than the minimum square footage allowed by Town Codes over the past several decades. Relief from the variance will be of no substantial detriment to the public good and will not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, will not alter the essential character of the surrounding neighborhood.

(2) The applicant cannot derive beneficial use of the property without the variance;

Staff comment: The property cannot be occupied or developed without variance approval.

(3) The purpose and intent behind the regulation would be maintained by granting the variance;

Staff comment: The intent of the Code is to establish a minimum required lot size for single-family residential lots within the RMU-1 Zoning District; however, it impedes legal non-conforming lots established prior to ordinance passing. Approval of the proposed variance would allow the property to be legally subdivided and correct a non-conforming condition.

(4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

Staff Comment: Many lots within the RMU-1 Zoning District specified in the site zoning map have lot sizes less than 6,000 s.f. The proposed lot size is generally consistent with adjacent properties, the block, and the neighborhood. Additionally, the variance would help alleviate a non-conforming condition. Currently, the structure on the property is uninhabitable. Neither the structure, nor the lot, is developable until the variance for the reduced lot size is granted and a minor subdivision is approved.

(5) Granting the variance will not be detrimental to public health, safety, or welfare;

Staff comment: The proposed variance and the future minor subdivision for this lot will not be detrimental to public health, safety, or welfare, and aligns with primary use regulations per zoning district.

(6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;

Staff comment: The approval of a Major Variance is the only applicable process. This lot is undevelopable without approval of the variance and a minor subdivision.

(7) Granting the variance will not create a building or fire code violation or other safety hazard;

Staff comment: The application does not seek any accommodations to the building code. Future development/construction of the lot will incorporate and abide by building code regulations.

(8) The need for the variance is not created by a self-imposed hardship;

Staff comment: The need for the variance was not created by the current property owner. A previous owner created the non-conforming condition, and the property was conveyed to the current owner as an occupiable building (see background). Approval of the variance and a minor subdivision will alleviate this hardship.

(9) A variance shall allow only the least deviation from the standard that will afford relief;

Staff comment: The variance would only allow the least deviation from the minimum lot size requirement for RMU-1 zone district, for a lot that pre-dates current size requirements.

Staff has analyzed:

- whether special site-specific conditions exist that warrant the proposed lot size.

Staff has determined that the proposed lot size is consistent with the surrounding properties, due to the original plat for the Town of Windsor.

- whether unnecessary hardship exists.

The property, in its current state, does not allow for occupancy or any redevelopment/development of the site, due to the unnecessary hardship of the determined lot size requirement for RMU-1.

- the impact on public interest, safety, and welfare.

Staff has determined that the proposed lot will pique public interest, and not impact safety or public welfare. The proposed lot will be consistent with the adjacent lots, block, and neighborhood.

- the impact on the neighborhood character.

Staff has determined that the proposed lot will not impact the adjoining properties nor its adjacent neighbors.

- Additional Variance Applications will be necessary for future development of lot; structure size, open space requirements, etc.

Notification:

- November 14, 2022 - public hearing notice published on the Town of Windsor Website.
- November 14, 2022 - development under review sign posted on the subject property.
- November 16, 2022 - public hearing notice sent to surrounding property owners.
- November 18, 2022 - public hearing notice published in the paper.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Table 16-1-170 (b) Lot Development Standards pertaining to the minimum single family dwelling lot size requirement; and; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining approval of the minor subdivision and the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

CC:

Melina Nolte, Owner and Application
Scott Ballstadt, Director of Planning
Carlin Malone, Chief Planner
Kim Emil, Assistant Town Attorney

Attachments:

1. BOA Variance Application - 23 Main St
2. Staff Presentation - Variance - 23 Main

Variance Application



(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.

Variance requests are considered by the Board of Adjustment, which meets on the fourth Thursday of every month.

Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.

Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address: 23 Main St., Windsor, CO 80550

Lot: 10 Block: 14 Subdivision:

A variance is being requested from the following Municipal Code section(s):

14-2-150(a)

3

Owner

Name(s): Melina Nolte

Address: 23 Main St.

Phone #: 303-246-1987 Email: melinanolte@live.com

Applicant or Representative:

Name: Melina Nolte

Address: 23 Main St.

Phone #: 303-246-1987 Email: melinanolte@live.com

4

[Municipal Code Section 14-2-150\(a\)](#) states, in part:

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.

The lots were platted before the current town code requirement of 10,000 sq. ft. I planned to live here with my children but now cannot.

All artwork is tied up in it.
Town of Windsor - Planning Department
301 Walnut Street | Windsor, Colorado | 80550 | phone 970-674-2415 | fax 970-674-2456 | www.windsorgov.com

Variance Application

4

2. The applicant cannot derive beneficial use of the property without the variance.

I cannot derive any beneficial use of the property without the variance. The railroad did not allow for larger lots when the lots were plotted, no code existed.

3. The purpose and intent behind the regulation would be maintained by granting the variance.

The purpose and intent behind the regulation would be maintained by granting the variance.

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.

I do not believe it to be detrimental to any adjacent properties or the surrounding areas. My neighbors also have smaller lots due to the railroad without causing any issues.

5. Granting the variance will not be detrimental to public health, safety, or welfare.

I do not believe it to be detrimental to any public health, safety or welfare of anyone.

6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.

I have exhausted all other avenues.

7. Granting the variance will not create a building or fire code violation or other safety hazard.

I do not believe it will create a building or fire code in any way.

8. The need for the variance is not created by a self-imposed hardship.

I had absolutely no information when the lot was sold to us that it was not buildable or illegally subdivided. It was sold to me as a single family dwelling with building potential.

Variance Application

9. A variance shall allow only the least deviation from the standard that will afford relief.

The propose variance would only allow the least deviation from the standard lot size that was written into code after the lots were divided and small due to the railroad. It would afford that relief.

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

Signature:

(Proof of owner's authorization is required with submittal if signed by Applicant)

Date: Oct. 17, 2022

Print Name:

Melina Nolte

Submitted On:

Oct. 17, 2022

(Please email completed application and materials to planningtechs@windsorgov.com)

Application Packet

Land Use Application



1

The Town of Windsor Planning Department reserves the right to reject incomplete submittals, per the application checklist and Municipal Code requirements for all applications. Please submit completed application and materials to planningtechs@windsorgov.com. Staff will review the submittal and advise you of its completeness for processing.

2

Application type:

- | | |
|--|--|
| ☐ Annexation | ☐ Site Plan - Minor |
| ☐ Master Plan | ☐ Site Plan - Major |
| ☐ Rezoning | |
| ☒ Minor Subdivision | |
| ☐ Major Subdivision – Preliminary | |
| ☐ Major Subdivision – Final | |

Project Name*: Nolte
 Legal Description*: Lot 10 Block 14
 Address/Location*: 23 Main St., Windsor
 Existing Zoning: SF-1 Proposed Zoning: n/a
 Acres/Square Feet: 12,168 4410 Number of Dwelling Units: 0 1

3

Owner:

Name(s)*: Melina Nolte
 Company:
 Address*: 23 Main St., Windsor, CO 80550
 Phone #: 303-246-1987 Email*: melinanolte@live.com

Applicant (Owner or Owner's Representative):

Name*: Melina Nolte
 Company:
 Address*: 23 Main St.
 Phone #: 303-246-1987 Email*: melinanolte@live.com

Authorized Representative:

Name:
 Company:
 Address:
 Phone #: Email:

4

All correspondence will only be sent to those listed above. It is the sole responsibility of those listed to distribute correspondence to other applicable parties.

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted with or contained within the application are true and correct to the best of my knowledge.

Signature:
 (Proof of owner's authorization is required with submittal if signed by Applicant)

Date: Oct. 17, 2022

Print Name: Melina Nolte

*Required fields

Revised 2/5/2021

Town of Windsor
301 Walnut Street
Windsor, CO 80550
(970) 674-2400
www.windsorgov.com

10/18/2022 at 10:07 AM

CASHIER: mlucero

RECEIPT #: 00973906

CUSTOMER:

Town of Windsor, Planning
301 Walnut Street

Windsor CO 80550

CUSTOMER #: 033121

ITEMS:

PLANNING FEES	309.00
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Total	309.00
-------	--------

PAYMENTS:

CC	309.00
----	--------

Change	0.00
--------	------

TOTAL ENDING BALANCE:	\$0.00
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THANK YOU FOR YOUR PAYMENT!

☺



23 Main Street Variance Request

*Request to allow reduced single-family lot size under 6,000 s.f.
Board of Adjustment – December 15, 2022*

Variance Request

Municipal Code Table 16-1-70 (b) (RMU-1 District Lot Development Standards)

pertaining to the minimum single family dwelling lot size requirement of 6,000 square feet (s.f.) in the RMU-1 Zone District

The applicant is requesting:

- A reduced lot size to allow a proposed lot of approximately 3,443 s.f.
- The proposed lot size is consistent within the original platted lots of the Town of Windsor Subdivision from 1883.



23 Main Street

Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Variance Request

Municipal Code outlines **Lot Development Standards for the Residential Mixed Use One (RMU-1) District:**

-This Variance Request is specifically addressing the Single-Family Dwelling Minimum Lot Size Requirement of 6,000 s.f.

Building Type	Vehicular Access ¹	Lot Standards		Minimum Front
		Min. Size (square feet)	Maximum Lot Coverage	
Single Family Dwelling	Any	6,000	65%	20'
Duplex, Standard or Over-Under	Any	4,500 ²	65%	20'
Townhouse	Any	2,400 ³	80% ⁴	20'
Multifamily Apartment	Any	1,400 ³	80%	20'
Commercial, Mixed Use, or Institutional	Any	20,000	80%	25'
Industrial	Any	20,000	80%	30'

¹ Lots subject to Commercial Corridor standards shall comply with Commercial Corridor Vehicular Access standards
² Per Unit
³ Refers to overall maximum development density on a per unit basis; however, there is no minimum lot size per individual unit
⁴ Refers to overall site; no maximum lot coverage for individual lots or units
⁵ 5' setback required except when interior common wall is used
⁶ 30' required when abutting a residential zoning district or residential use



23 Main Street Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Site Vicinity Map



Site Zoning Map



Background

1883: Plat Recorded (Lot 12 Block 14) 50' x 82.2. Railroad Right of Way Decreased Lot Size for Block 14.

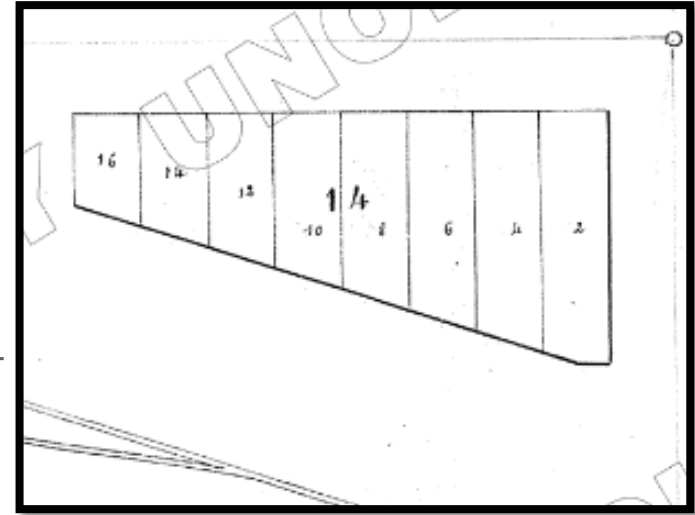
1991: Warranty Deed split property, subdivided illegally.

1996: Letter to owner: CUG, Variance, Minor Subdivision.

1997: Notice of Violation for occupation of building.

2022: Owner conveys via General Warranty Deed to Ms. Nolte without procurement of CUG, Variance, Minor Subdivision, or CDOT access approval.

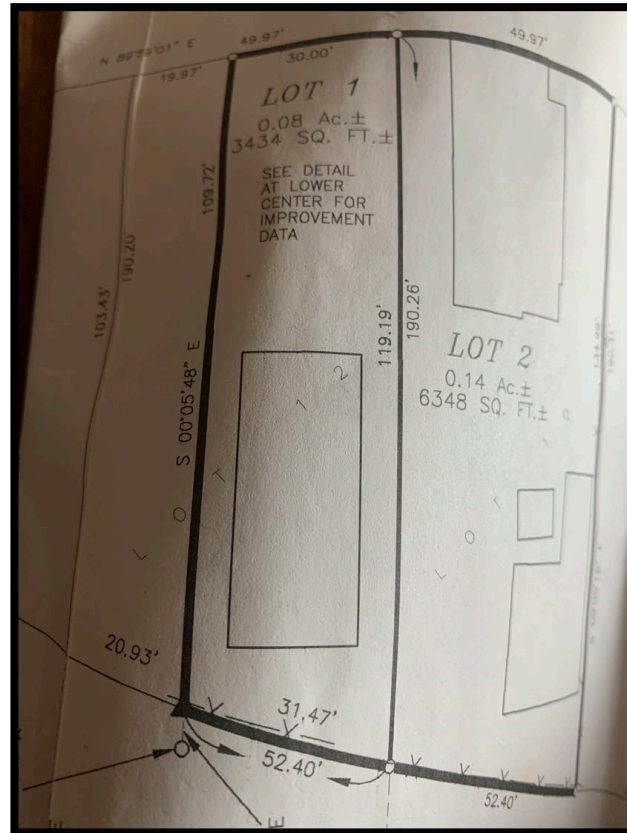
- Lot and structure conveyed as occupiable space.



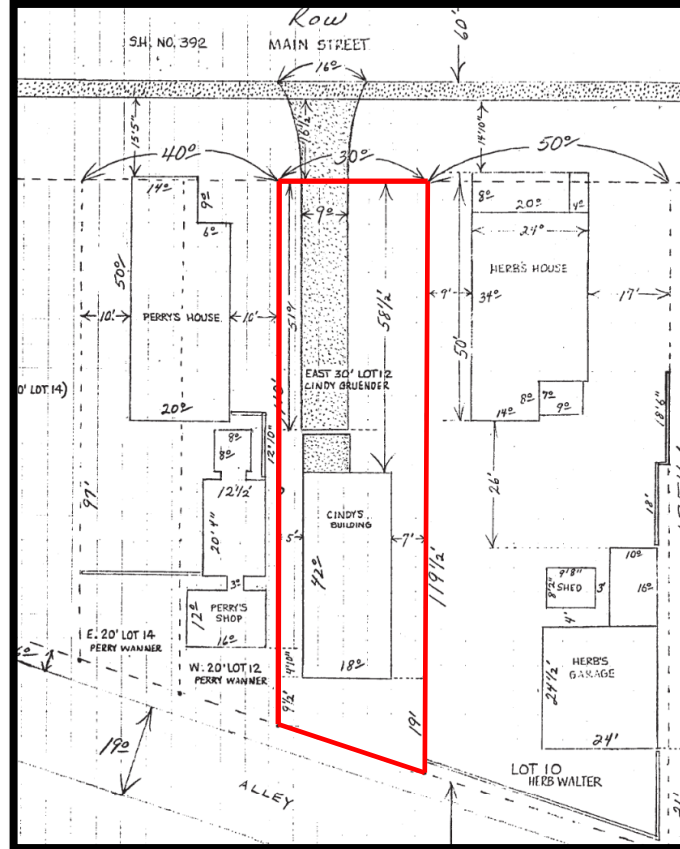
23 Main Street Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Minor Subdivision- 1996: Unofficial Plat



Site Boundary – Plot Plan



Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations...It is the responsibility of the landowner to prove that an undue hardship exists; *The minimum single-family residential lot size in the RMU-1 zone district is 6,000 sq. ft. Original lot sizes, due to the proximity to the Railroad Right of Way per 1883 Town of Windsor Subdivision Original Plat, were less than the minimum square footage allowed by Town Codes over the past several decades.***



23 Main Street Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

(2) The applicant cannot derive beneficial use of the property without the variance;

-The property cannot be occupied or developed without variance approval.

(3) The purpose and intent behind the regulation would be maintained by granting the variance;

-The intent of the Code is to establish a minimum required lot size for single-family residential lots within the RMU-1 Zoning District; however, it impedes legal non-conforming lots established prior to ordinance passing.

(4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

-The proposed lot size is generally consistent with adjacent properties, the block, and the neighborhood. Additionally, the variance would help alleviate a non-conforming condition.

(5) Granting the variance will not be detrimental to public health, safety, or welfare;

-The proposed variance, minor subdivision, etc. will not be detrimental to public health, safety, or welfare, and aligns with primary use regulations per zoning district.



23 Main Street

Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (6) **Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;**
 - The approval of a Major Variance is the only applicable process.*
- (7) **Granting the variance will not create a building or fire code violation or other safety hazard;**
 - The application does not seek any accommodations to the building code. Future development/construction of the lot will incorporate and abide by building code regulations.*
- (8) **The need for the variance is not created by a self-imposed hardship;**
 - The need for the variance was not created by the current property owner.*
- (9) **A variance shall allow only the least deviation from the standard that will afford relief;**
 - The variance would only allow the least deviation from the minimum lot size requirement for RMU-1 zone district, for a lot that pre-dates current size requirements.*



23 Main Street

Variance Request

Town of Windsor Board of Adjustment – December 15, 2022



Analysis Summary

Staff has analyzed

and found the following findings of fact, based on:

- *whether special site-specific conditions exist that warrant the proposed lot size*
- *whether unnecessary hardship exists*
- *the impact on public interest, safety, and welfare*
- *the impacts to the neighborhood character.*

Staff has determined:

- That the proposed lot size is consistent with the surrounding properties, due to the original plat for the Town of Windsor.
- That the property, in its current state, does not allow for occupancy due to the unnecessary hardship of the determined lot size requirement for RMU-1.
- The proposed lot will not impact safety or welfare, and is consistent with the adjacent lots, block, and neighborhood.
- That the property will provide occupiable, space as is allowed per the Municipal Town Code use regulations within the RMU-1 zone district with minimal impacts to neighborhood character.
- Additional variance applications will be necessary for future development; structure size, open space requirements, etc.

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

- November 14, 2022 - public hearing notice published on the Town of Windsor Website.
- November 14, 2022 - development under review sign posted on the subject property.
- November 16, 2022 - public hearing notice sent to surrounding property owners.
- November 18, 2022 - public hearing notice published in the paper.



23 Main Street Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Recommendation

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Table 16-1-170 (b) Lot Development Standards pertaining to the minimum single family dwelling lot size requirement; and; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining approval of the minor subdivision and the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



23 Main Street Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation



23 Main Street

Variance Request

Town of Windsor Board of Adjustment – December 15, 2022





MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: Mark Price, Planner 1
Re: Variance for the property of 23 Main Street from Municipal Code Section 16-1-70(b) pertaining to the minimum single family residential lot size requirement of 6,000 square feet in the RMU-1 (Residential Mixed Use-One) Zone District - Melina Nolte, Owner/Applicant
Item #: C.8.

Background / Discussion:

Please refer to public hearing item.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:



MEMORANDUM

Date: January 26, 2022
To: Board of Adjustment/Appeals Members
From: Mark Price, Planner 1
Re: Public Hearing - Variance for Development Entrance Sign for the Tacincala/Prairie Song Subdivision - Variance from Municipal Code Section 15-17-60(a) monument-type base, Section 15-17-70(j) pole-mounted signs prohibited, and Section 15-17-110(e) development entrance sign criteria - Pat McMeekin, Prairie Song Development, LLC, applicant; and Wendi Cudmore, Hartford Homes, applicant representative.

Item #: C.9.

Background / Discussion:

The applicant, Pat McMeekin, is requesting a variance from Municipal Code Section 15-17-60(a) monument-type base, Section 15-17-70(j) pole-mounted signs prohibited, and Section 15-17-110(e) development entrance sign criteria for a development entrance sign located along and west of State Highway 257, south of Weld County Road 72 and north of the WCR 70 alignment. The development includes approximately 786 acres and is zoned RMU-1, SF-1, and PUD (Planned Unit Development).

Specifically, the variance requests relief from the following three sections of the Municipal Code pertaining to signs:

1. Section 15-17-60(a) pertaining to freestanding, ground-mounted signs: *such signs shall be constructed with a monument-type base consisting of materials that are complementary and compatible with the architectural elements of the project.*
2. Section 15-17-70(j) pertaining to pole-mounted signs: *pole-mounted signs are prohibited.*
3. Section 15-17-110(e) pertaining to development entrance signs: *maximum height shall not exceed 10 feet, and maximum sign area shall not exceed fifty (50) square feet in area for each one hundred (100) feet of street frontage of the development, but in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area.*

Granting a variance from the aforementioned code sections will allow the property owner to construct a unique sign that is not monumented, supported by poles, and is taller and greater in area than what the Municipal Code permits.

Municipal Code Section 15-17-60(a) pertaining to freestanding, ground-mounted signs:

-Freestanding, ground-mounted signs shall be constructed with a monument-type base consisting of materials that are complementary and compatible with the architectural elements of the project. The width and length of such base shall be at least as wide and long as the bottom edge of the sign area.

- The applicant is requesting to forego a monumented base for the purpose of mounting the sign directly to 5 concrete foundations, with six 6" round steel pole supports. The purpose of this approach is to preserve the focus of the artwork surrounding the sign.

Municipal Code Section 15-17-70(j) pertaining to pole-mounted sign:

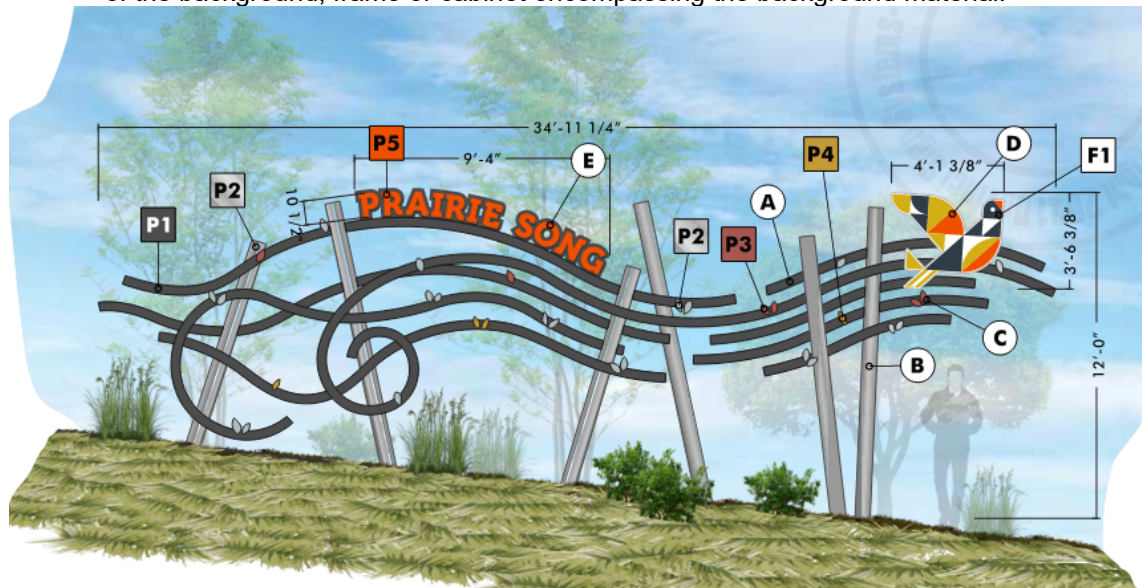
- Pole-mounted signs are prohibited.

- The applicant is requesting to forego a monumented base for the purpose of mounting the sign directly to 5 concrete foundations, with six 6" round steel pole supports. Again, the purpose of this approach is to maintain the focus of the artwork surrounding the sign.

Municipal Code Section 15-17-110(e) pertaining to development entrance signs:

Development entrance signs shall be considered to be any freestanding, wall-mounted sign or sign which is constructed on a monument base intended to identify a large-scale residential subdivision.

- The applicant is requesting a variance for allowed height and area.
- The sign would be 12' at its tallest section, 2' higher than Code allows.
- The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets...in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area.
 1. (34'-11 1/4" x 12') Proposed 419.25 sq ft.
- The sign area shall be calculated as the entire area within a continuous rectangular box drawn with straight lines at perpendicular angles to encompass the entire perimeter of the extreme limits of the background, frame or cabinet encompassing the background material.



Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the

Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists;

Applicant Response: Proposed is a high-quality design element that is raising the bar for the community. Permitting this signage further allows the developer to meet their promises of bringing high-quality, well thought-out, master planned neighborhood to the overall Town of Windsor Community. With Prairie Song being a multiphase, large-scale project, extra detail is required to make it successful, we believe signage is a creative way to provide detail and architectural interest to the community.

Staff comment: The proposed sign, while it does challenge the Municipal Code, is artistically designed with unique facets that are minimalistic but representative of the uniqueness of the subdivision. The Code requirement of a monument base and prohibition of pole-mounted signs is primarily intended to increase quality and reduce sign height and clutter typically found in commercial corridors. The Municipal Code does not adequately address entry features and neighborhood identification for large-scale, master-planned community developments such as Tacinca (Prairie Song), which encompasses approximately 765 acres and will eventually include over 2,300 dwelling units, and a community park and other residential amenities. Additionally, the sign will be located on a major roadway and the proposed scale of the sign is compatible with the context of the location. Strict application of the standards would not allow the scale or design of the neighborhood identification sign proposal. Furthermore, the neighborhood identification sign does not include advertising, which makes it unique in contrast to commercial signage. Relief from the variance will be of no substantial detriment to the public good and will not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, will not alter the essential character of the surrounding neighborhood.

(2) The applicant cannot derive beneficial use of the property without the variance;

Applicant Response: From the beginning of the entitlements process for Prairie Song, Hartford Homes has demonstrated a design for a new master planned community that raises the bar for living in this area. They want to develop a legacy project that future residents will be proud to live in, while simultaneously integrating with the greater Windsor community. All details are being considered from providing attractive, useful amenity and open space areas to a signage program that carries these ideas forward. The applicant can think of no better way to demonstrate this desire than to make the focal point of the community a special element that foretells a bit of what Prairie Song is and will be to the residents, future residents, and guests alike.

Staff Comment: The applicant could derive beneficial use of the property without the proposed sign. However, the design aligns with the overall artistic theme, which is consistent with master-planned communities of this size. The proposal allows reasonable benefit of the property for the purpose of creating a unique community identity and way-finding entry feature that does not have commercial advertising.

(3) The purpose and intent behind the regulation would be maintained by granting the variance;

Applicant Response: As previously noted, we believe we are meeting the purpose and intent of the sign code. This variance request does not seek to permit a low-quality sign but rather allow a creative piece of signage which is without precedent.

Staff Comment: The intent of the Code is to limit excess and obstruction of view, with safety at the forefront. The proposal is consistent with the purpose and intent.

(4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

Applicant Response: We do not believe there will be any detrimental impacts to properties in the surrounding area. The signage's size and location will integrate into the overall design aesthetic for the

community. All lighting, which is typically the most offensive part of a sign's design, is backlit and minimized to only a few key areas of the overall design feature, the community's name and the logo.

Staff Comment: The proposed design exceeds Code limits of area and height. However, the design of the sign aligns with the scale of the master-planned community and location with reference to its proximity to State Highway 257. The proposed sign does not obscure view or create a billboard type obstruction to surrounding property owners to the east. Granting the variance will not be detrimental to adjacent properties or the surrounding area and will provide the neighborhood with unique identification.

(5) Granting the variance will not be detrimental to public health, safety, or welfare;

Applicant Response: This request is not detrimental to public health, safety, or welfare of the Windsor community.

(6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;

Applicant Response: Per discussions with Town of Windsor Staff, the variance request process is the proper method to achieve approval of the signage, as proposed.

Staff Comment: The variance process is the proper method to achieve the approval of the proposed signage. A similar large-scale development (Raindance Subdivision) addressed entry feature/neighborhood identification signage through a PUD (Planned Unit Development) rezoned with signage design. The Tacincala (Prairie Song) PUD does not include design standards for signage.

(7) Granting the variance will not create a building or fire code violation or other safety hazard;

Applicant Response: Granting this variance will not create a building code, fire code, or other safety hazard for the residents of Prairie Song or the residents of Windsor.

(8) The need for the variance is not created by a self-imposed hardship;

Applicant Response: The variance being requested will allow for creative and high-quality enhancements for the Prairie Song community. The development of Prairie Song itself has not created a self-imposed hardship that requires us to seek relief from, rather the desire for unique, high-quality design has driven this request.

Staff Comment: While unique, the variance request is self-imposed based on design. The Code, however, does not accommodate large-scale development/neighborhood identification entry features such as the request.

(9) A variance shall allow only the least deviation from the standard that will afford relief;

Applicant Response: This request will allow only exactly what we are seeking to develop at Prairie Song. Complete construction details have been included with this variance request that detail the full plans for this signage request.

Staff Comment: With consideration to the three (3) code sections for which this sign exceeds or is non-compliant, the least deviation from standard is difficult to determine.

Staff has analyzed:

- whether special site-specific conditions exist that warrant the proposed sign.

-Staff has determined that the proposed sign aligns with the scale of the master-planned community and

provides unique neighborhood identification, consistent with the theme of the Tacincala (Prairie Song) community.

- whether unnecessary hardship exists.

-Staff has determined that the request is consistent with the uniqueness of the master-planned community, and strict application of the Municipal Code would prevent unique large-scale community identification signage such as this.

- the impact on public interest, safety, and welfare.

-Staff has determined that the proposed sign is set back far enough from intersection and is minimally obtrusive.

- the impacts to the neighborhood character.

-Staff has determined that the proposed sign will align with the character of the master-planned community.

Recommendation:

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Section 15-17-60(a), Municipal Code Section 15-17-70(j), and Municipal Code Section 15-17-110(e) pertaining to Freestanding Sign and Development Entrance Sign criteria; and; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining approval of the minor subdivision and the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

Notification:

- November 21, 2022 - public hearing notice published on the Town of Windsor Website.
- November 22, 2022 - development under review sign posted on the subject property.
- November 22, 2022 - public hearing notice sent to surrounding property owners.
- November 25, 2022 - public hearing notice published in the paper.

Attachments:

Application materials
Staff Presentation

cc: Pat McMeekin (Prairie Song Development, LLC), Representative and Applicant
Wendi Cudmore (Hartford Homes), Representative and Applicant
Scott Ballstadt, Director of Planning
Carlin Malone, Chief Planner

Variance Application



(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.

Variance requests are considered by the Board of Adjustment, which meets on the fourth Thursday of every month.

Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.

Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address: _____

Lot: _____ Block: _____ Subdivision: Tacinicala (Prairie Song) Filing One

A variance is being requested from the following Municipal Code section(s):

Signage Code sections 15-17-110(e) (Development entrance signs), 15-17-60(a) (Sign Base reqs), 15-17-70(j) (monument pole)

3

Owner Name(s): Prairie Song Development, LLC (Attn: Pat McMeekin)

Address: 4801 Goodman Road Timnath, CO 80547

Phone #: 970.825.7392 Email: patrick@hartfordco.com

Applicant or Representative:

Name: Wendi Cudmore (Hartford Homes)

Address: 4801 Goodman Road Timnath, CO 80547

Phone #: 970.825.7994 Email: wcudmore@hartfordco.com

4

[Municipal Code Section 14-2-150\(a\)](#) states, in part:

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.

Please see attached narrative.

Variance Application

4

2. The applicant cannot derive beneficial use of the property without the variance.
Please see attached narrative.

3. The purpose and intent behind the regulation would be maintained by granting the variance.
Please see attached narrative.

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.
Please see attached narrative.

5. Granting the variance will not be detrimental to public health, safety, or welfare.
Please see attached narrative.

6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.
Please see attached narrative.

7. Granting the variance will not create a building or fire code violation or other safety hazard.
Please see attached narrative.

8. The need for the variance is not created by a self-imposed hardship.
Please see attached narrative.

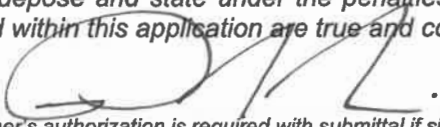
Variance Application

9. A variance shall allow only the least deviation from the standard that will afford relief.
Please see attached narrative.

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

Signature:



Date:

November 15, 2022

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name:

Patrick McMahon

Submitted On:

November 15, 2022

(Please email completed application and materials to planningtechs@windsorgov.com)

November 15, 2022

Ms. Carlin Malone – Chief Planner
Town of Windsor Planning Department
301 Walnut Street
Windsor, CO 80550

Re: Tacincala (aka Prairie Song) – Variance Request: Signage

Dear Ms. Malone,

On behalf of the applicant, Hartford Homes, it is our pleasure to submit this Variance request for relief from specific signage standards related to proposed entry monumentation planned for Filing 1 of the Prairie Song master planned community located in Windsor, Colorado. Included with this request are exhibits depicting details about the signage including: its location, height, length, and other pertinent design information. We understand the proposed sign is not in conformance with some sections of the Town of Windsor Signage Code and this request is specifically seeking relief from the following standards:

- Section 15-17-60(a) sign base requirements; and
- Section 15-17-70(j) which does not permit pole signs; and
- Section 15-17-110(e) development entrance signs.

The following are further specifics regarding the requested variance and the reasoning for said request:

- **Section 15-17-60(a) Design Criteria.**

- a) *Freestanding, ground-mounted signs shall be constructed with a monument-type base consisting of materials that are complementary and compatible with the architectural elements of the project. The height of the monument base of any sign shall not exceed fifty percent (50%) of the overall height of the sign. The width and length of such base shall be at least as wide and long as the bottom edge of the sign area.*

Response: Proposed is a high-quality, creative signage solution that raises the bar for great design in the community. We believe the proposed signage, while not meeting this section verbatim, is consistent with the overall feel of Prairie Song, encouraging elevated design throughout the overall community. We believe the proposed signage meets the spirit of this code section by ensuring attractive, legible, and grounded signage which matches the aesthetics of the development.

Additionally, the entry signage has been designed to highlight the brand and concept of the community. With the prairie aesthetic and plantings being critically important to highlight at the main entrance, a sign that “floats” just above the prairie was important to create. The signage that is proposed will also have a transparency that highlights the grand prairie landscaping and landforms. This results in signage that feels light, whimsical, and airy and part of the prairie breeze, with visual cues that invoke the idea of a musical score. Creating a large and heavy base for the signage will be in conflict to this aesthetic and reduce the impact of the large open space at the entry.

- **Section 15-17-70**

- j) *Pole-mounted signs are prohibited.*

Response: The applicant certainly understands why this standard is in place but believes the design intent and creativity of what this proposed signage is bringing forward was not considered

when this standard was put in place. Typically, this type of standard is in place to prohibit unattractive monopole signage along highways and thoroughfares. While the design presented here may be unprecedented in the Town of Windsor, the applicant strongly believes that the proposed signage is not a true pole-mounted sign as defined and prohibited in the Code. The proposed signage is intended to not only be an entry feature for the Prairie Song community but will add an architecturally interesting feature that further accentuates the high-quality design of the community. Mounting the monument on a series of poles allows for the design to stay within the community aesthetic creating a more transparent monument sign that highlights the prairie beyond.

- **Section 15-17-110(e)** *Development entrance signs shall be considered to be any freestanding, wall-mounted sign or sign which is constructed on a monument base intended to identify a large-scale residential subdivision or a large-scale commercial or industrial corporate campus-type development, not to be confused with shopping center development identification signs for retail or other commercial shopping centers. For the purposes of this Section, large-scale residential subdivisions or developments shall be defined as any subdivision which contains at least fifty (50) lots or contains a land mass of at least twenty-five (25) acres, and large-scale industrial subdivisions or developments shall be defined as any industrial development which contains at least two (2) lots and five (5) acres. Such development entrance signs shall be subject to the following criteria:*
 - 1) *Maximum number of development entrance signs. All large-scale developments shall be allowed to erect development entrance signs at separate entrances to the development. In the event that development entrance signs are proposed for both sides of the street at any one (1) entrance, this "set" of signs shall be considered as one (1) development entrance sign.*
 - 2) *Maximum heights of walls and monument bases. The height of any wall or monument base upon which a development entrance sign is mounted shall not exceed six (6) feet in height.*
 - 3) *Maximum heights of signs, letters, numerals and characters. The height of any development entrance sign shall not exceed ten (10) feet. Additionally, this maximum height shall include the wall or the monument base upon which the sign is mounted and shall also include any logos associated with the development entrance sign. The maximum heights of letters, numerals and characters contained within the sign area of development entrance signs shall not exceed twelve (12) inches in height.*
 - 4) *Maximum sign area. The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets shall not exceed fifty (50) square feet in area for each one hundred (100) feet of street frontage of the development, but in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area. Development entrance signs shall not be permitted along minor collector or local streets.*
 - 5) *Construction materials. All walls or monument bases shall be constructed of masonry or similar materials, and all sign components shall be constructed of steel, aluminum, alucabond or similar materials.*
 - 6) *Setbacks and visibility restrictions. Development entrance signs shall be located in accordance with the sign setback and offset requirements and sight visibility at intersections requirements contained in this Article.*

Response: Relief from the standards in height and size are being requested to account for the scale and size of the Prairie Song Community along with the additional setbacks imposed by CDOT along HWY 257, which has caused the signage to be significantly pushed back off the frontage, so additional size is required to ensure proper visibility.

The lettering and logo are only a small part of this architectural element that technically is entirely considered a sign. The signage provides a welcoming feature and visual interest to residents and passersby, alike. We believe the intent of the code is in place to require signage that is at a residential scale and cohesive with the rest of the Windsor community. The proposed signage provides an engaging,

artistic feature at the entrance of the development at a scale that provides legibility and meets the scale of the development as a whole. The applicant believes that the size of the lettering meets the signage area standards established in the Code.

Additionally, per the Variance request process outlined by the Town of Windsor, please find the following responses to the required Variance review criteria:

1. *Special circumstance existing that strict application of the standards adopted in this development code would result in the undue hardship or practical difficulties for the owner of such property.*
Response: Proposed is a high-quality design element that is raising the bar for the community. Permitting this signage further allows the developer to meet their promises of bringing high-quality, well thought-out, master planned neighborhood to the overall Town of Windsor Community. With Prairie Song being a multi-phase, large-scale project, extra detail is required to make it successful, we believe signage is a creative way to provide detail and architectural interest to the community.
2. *The applicant cannot derive beneficial use of the property without the variance.*
Response: From the beginning of the entitlements process for Prairie Song, Hartford Homes has demonstrated a design for a new master planned community that raises the bar for living in this area. They want to develop a legacy project that future residents will be proud to live in, while simultaneously integrating with the greater Windsor community. All details are being considered from providing attractive, useful amenity and open space areas to a signage program that carries these ideas forward. The applicant can think of no better way to demonstrate this desire than to make the focal point of the community a special element that foretells a bit of what Prairie Song is and will be to the residents, future residents, and guests alike.
3. *The purpose and intent behind the regulation would be maintained by granting the variance.*
Response: As previously noted, we believe we are meeting the purpose and intent of the sign code. This variance request does not seek to permit a low-quality sign but rather allow a creative piece of signage which is without precedent.
4. *Granting the variance will not be detrimental to any adjacent properties or the surrounding area.*
Response: We do not believe there will be any detrimental impacts to properties in the surrounding area. The signage's size and location will integrate into the overall design aesthetic for the community. All lighting, which is typically the most offensive part of a sign's design, is backlit and minimized to only a few key areas of the overall design feature, the community's name and the logo.
5. *Granting the variance will not be detrimental to public health, safety, or welfare.*
Response: This request is not detrimental to public health, safety, or welfare of the Windsor community.
6. *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.*
Response: Per discussions with Town of Windsor Staff, the variance request process is the proper method to achieve approval of the signage, as proposed.
7. *Granting the variance will not create a building or fire code violation or other safety hazard.*
Response: Granting this variance will not create a building code, fire code, or other safety hazard for the residents of Prairie Song or the residents of Windsor.

8. *The need for the variance is not created by a self-imposed hardship.*

Response: The variance being requested will allow for creative and high-quality enhancements for the Prairie Song community. The development of Prairie Song itself has not created a self-imposed hardship that requires us to seek relief from, rather the desire for unique, high-quality design has driven this request.

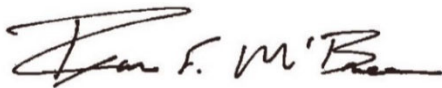
9. *A variance shall allow only the least deviation from the standard that will afford relief.*

Response: This request will allow only exactly what we are seeking to develop at Prairie Song. Complete construction details have been included with this variance request that detail the full plans for this signage request.

As demonstrated through the Master Plan, Rezoning, PUD, Filing One, and Filing Two applications, the new Prairie Song master planned community is working to achieve a high-quality neighborhood that provides a mix of housing types and price points, extensive parks, open space, and amenities that raise the bar for great living in the Town of Windsor. We believe the innovative, creative, and high-quality signage proposed is not a detriment to the great Windsor community, nor is it setting an undesirable precedent, in fact, we believe it is raising the bar for community design within the Town.

We respectfully request your support of this variance. Our team looks forward to working with you and Town staff to continue the planning and development of this community in the Town of Windsor. Please let us know if you have any questions regarding this application or require any additional information.

Sincerely,
Norris Design



Ryan McBreen, Principal



Tacincala (Prairie Song) Subdivision - Sign Variance Request

*Request to allow increased sign height, increased sign area, and
pole mounted without monument base*

Board of Adjustment – December 15, 2022

Variance Request

Municipal Code Section 15-17-60(a) pertaining to freestanding, ground-mounted signs,

Municipal Code Section 15-17-70(j) pertaining to pole-mounted signs,

Municipal Code Section 15-17-110(e) pertaining to development entrance signs:

-The variance request is to allow for a non-monument base, pole mounted sign, that is 2' taller and approximately 219 square feet (s.f.) more than the maximum allowed per Town Code:

- Freestanding Signs require monument base
- Pole mounted signs are prohibited
- Development Entrance signs cannot exceed 10 ft in height and cannot exceed 200 s.f. in total sign area.



Tacincala (Prairie Song) Sign Variance Request

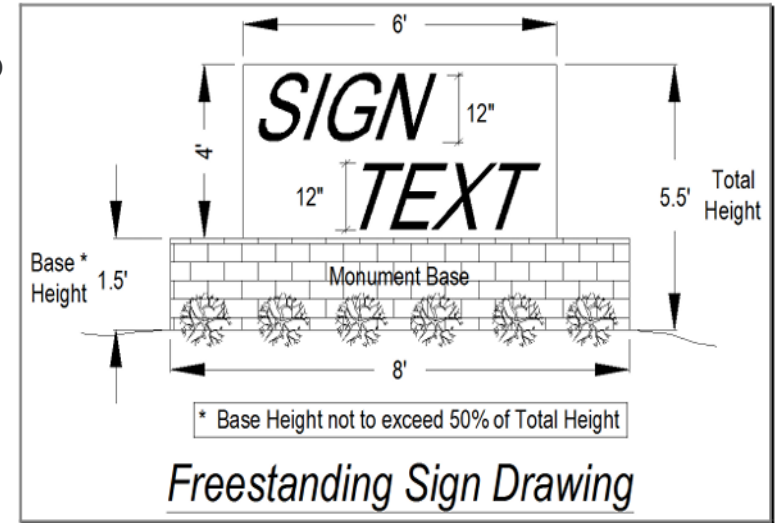
Town of Windsor Board of Adjustment – December 15, 2022

Variance Request

Municipal Code Section 15-17-60(a) pertaining to freestanding, ground-mounted signs:

-Freestanding, ground-mounted signs shall be constructed with a monument-type base consisting of materials that are complementary and compatible with the architectural elements of the project.

- The applicant is requesting to forego a monumented base, instead to mount the sign directly to 5 concrete foundations, with six 6" round steel pole supports.



Tacincala (Prairie Song) Sign Variance Request

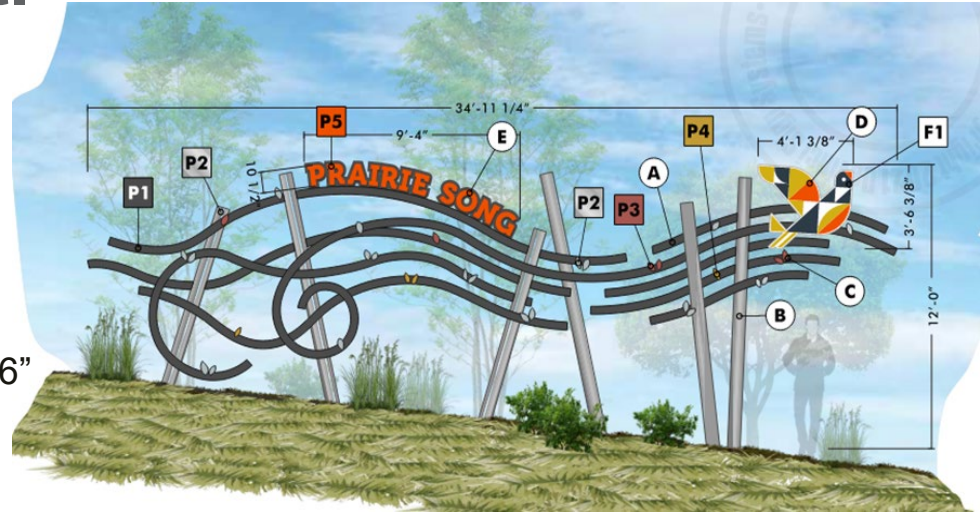
Town of Windsor Board of Adjustment – December 15, 2022

Variance Request cont.

Municipal Code Section 15-17-70(j)
pertaining to pole-mounted signs:

-Pole-mounted signs are prohibited.

- The applicant is requesting to mount the sign directly to 5 concrete foundations, with six (6) 6" round steel pole supports.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Variance Request cont.

Municipal Code Section 15-17-110(e) pertaining to development entrance signs:

- Development entrance signs shall be considered to be any freestanding, wall-mounted sign or sign which is constructed on a monument base intended to identify a large-scale residential subdivision.

- The applicant is requesting a variance for increased allowed height and area.
- The sign would be 12' at its tallest section, 2' higher than Code allows.
- The maximum sign area of development entrance signs which are located adjacent to arterial or major collector streets...in no event shall the total sign area of any development entrance sign exceed two hundred (200) square feet in area.
 - **Proposed would be approximately 419.25 s.f.**



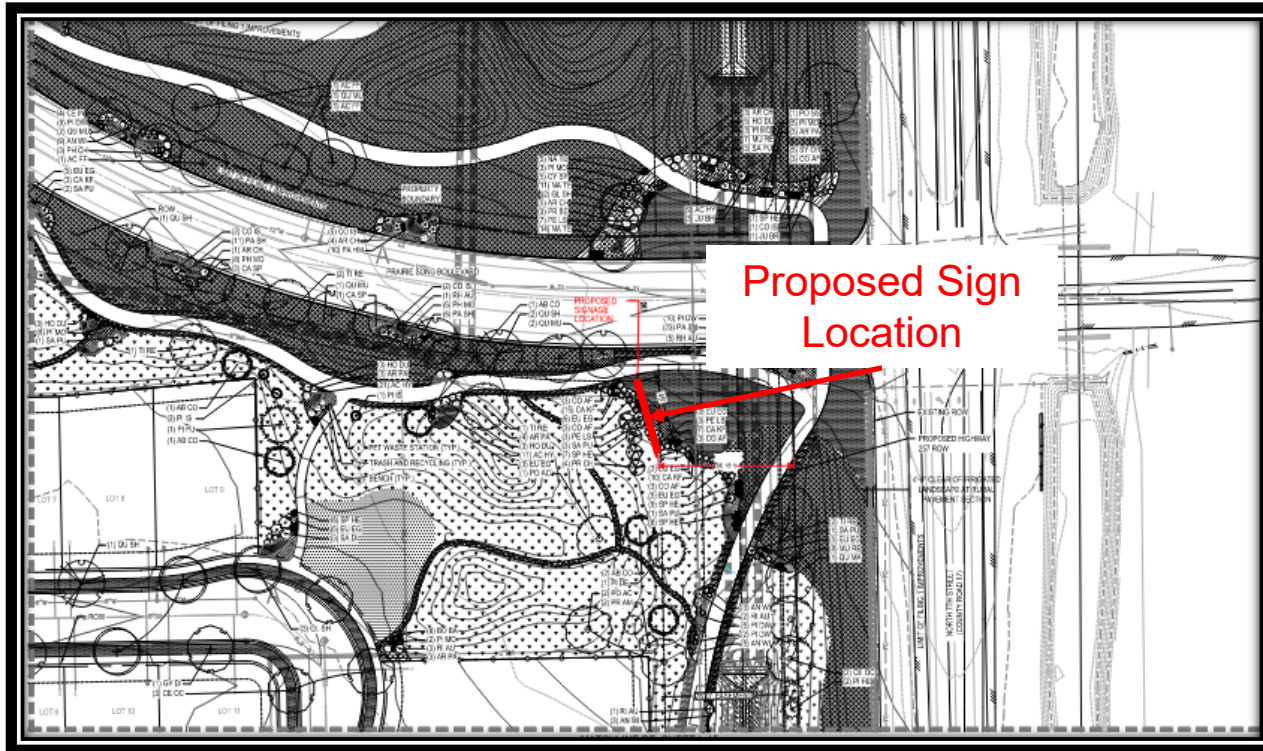
Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Site Vicinity Map



Site Plan Proposed Location



Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) Where, special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations...It is the responsibility of the landowner to prove that an undue hardship exists;**

-Applicant Response: Proposed is a high-quality design element that is raising the bar for the community. We believe signage is a creative way to provide detail and architectural interest to the community.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

(2) The applicant cannot derive beneficial use of the property without the variance;

-Applicant Response: We want to develop a legacy project that future residents will be proud to live in, while simultaneously integrating with the greater Windsor community. All details are being considered from providing attractive, useful amenity and open space areas to a signage program that carries these ideas forward. The applicant can think of no better way to demonstrate this desire than to make the focal point of the community a special element that foretells a bit of what Prairie Song is and will be to the residents, future residents, and guests alike.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (3) The purpose and intent behind the regulation would be maintained by granting the variance;**
-Applicant Response: This variance request does not seek to permit a low-quality sign but rather allow a creative piece of signage which is without precedent.
- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;**
-Applicant Response: We do not believe there will be any detrimental impacts to properties in the surrounding area.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (5) **Granting the variance will not be detrimental to public health, safety, or welfare;**
-Applicant Response: This request is not detrimental to public health, safety, or welfare of the Windsor community.
- (6) **Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;**
-Applicant Response: Per discussions with Town of Windsor Staff, the variance request process is the proper method to achieve approval of the signage, as proposed.
- (7) **Granting the variance will not create a building or fire code violation or other safety hazard;**
-Applicant Response: Granting this variance will not create a building code, fire code, or other safety hazard for the residents of Prairie Song or the residents of Windsor.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

(8) The need for the variance is not created by a self-imposed hardship;

-Applicant Response: The variance being requested will allow for creative and high-quality enhancements for the Prairie Song community. The development of Prairie Song itself has not created a self-imposed hardship that requires us to seek relief from, rather the desire for unique, high-quality design has driven this request.

(9) A variance shall allow only the least deviation from the standard that will afford relief;

-Applicant Response: This request will allow only exactly what we are seeking to develop at Prairie Song. Complete construction details have been included with this variance request that detail the full plans for this signage request.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022



Analysis Summary

Staff has analyzed and found the following findings of fact, based on:

- *whether special site-specific conditions exist*
- *whether unnecessary hardship exists*
- *the impact on public interest, safety, and welfare*
- *the impacts to the neighborhood character.*

Staff has determined:

- That the proposed sign aligns with the scale of the master-planned community and provides unique neighborhood identification, consistent with the theme of the Tacincala (Prairie Song) community.
- That the request is consistent with the uniqueness of the master-planned community, and strict application of the Municipal Code would prevent unique large-scale community identification signage such as this.
- That the proposed sign is set back far enough from intersection and does not obstruct view.
- That the proposed sign will align with the character of the master-planned community.

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

- November 21, 2022 - public hearing notice published on the Town of Windsor Website.
- November 22, 2022 - development under review sign posted on the subject property.
- November 22, 2022 - public hearing notice sent to surrounding property owners.
- November 25, 2022 - public hearing notice published in the paper.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Recommendation

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Section 15-17-60(a), Municipal Code Section 15-17-70(j), and Municipal Code Section 15-17-110(e) pertaining to Freestanding Sign and Development Entrance Sign criteria; and; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicable sign and building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation



Tacincala (Prairie Song) Sign Variance Request

Town of Windsor Board of Adjustment – December 15, 2022





MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: Mark Price, Planner 1
Re: Variance for Development Entrance Sign for the Tacincala/Prairie Song Subdivision - Variance from Municipal Code Section 15-17-60(a) monument-type base, Section 15-17-70(j) pole-mounted signs prohibited, and Section 15-17-110(e) development entrance sign criteria - Pat McMeekin, Prairie Song Development, LLC, applicant; and Wendi Cudmore, Hartford Homes, applicant representative
Item #: C.10.

Background / Discussion:

Please see public hearing materials.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: David Eisenbraun, Senior Planner
Re: Public Hearing – Variance for 365 E Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – VIA Real Estate, LLC, (Owner/Applicant); Tez Hawkins, Baseline (Owner's Representative)

Item #: C.11.

Background / Discussion:

The request is for a variance from Municipal Code Section 15-5-10 pertaining to vehicular access. Specifically, it is seeking relief from "Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way."

Dispersed Parking Lot

	Parking Location and Orientation:	
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.	
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.	
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following:	

Based upon the existing shape of the parcel, the lot would be difficult to develop in an efficient manner due to the inability to generate a functioning site plan within the restricted area of the usable lot. The lot will be unable to meet parking requirements, stacking queue lengths, or a general layout with functioning traffic movements.

Additionally, this variance is strictly pertaining to the offset distance of a private parking area, drive aisle and public right of way within the confines of the private lot. A variance of this offset will not be detrimental to the adjacent private lots. There is a private drive isle that separates this property from the adjacent public right-of-way. There will still be reasonable screening/buffering between the public right-of-way and this drive aisle through the use of landscaping and opaque fencing.

Ultimately, due unique nature of the parcel shape and screening walls between the aisle and street, it is believed that the granting of the variance will not impact public health, safety, or welfare by inducing traffic or any other related incidents. There are also no waivers or alternative compliance standards applicable for this situation.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

1. Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

A motion to approve the request for a variance from Municipal Code Table 15-5-10 pertaining to vehicular access based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, the applicant obtaining the applicable entitlements and building permits, and the greatest setback from the public ROW is obtained while still rendering the parcel usable.

2. A second, and;

3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

CC:**Attachments:**

1. Staff Presentation
2. Application



365 Main Street Champion Xpress Car Wash

Variance Request

Request to reduce setback along public right-of-way

David Eisenbraun, Senior Planner

Board of Adjustment – January 26, 2023

Variance Request

Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) - pertaining to a request for a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district



365 Main Street Variance Request

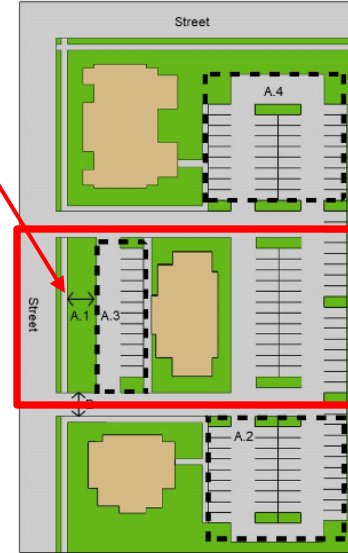
Town of Windsor Board of Adjustment – January 26, 2023

Variance Request

The current Municipal Code outlines **parking setback criteria along public right-of-way for a dispersed parking lot**, which this parking area will be classified as.

This Variance Request is specifically addressing the setback for a proposed drive aisle adjacent to State Highway 257, which is set at 40-feet from the public ROW.

Dispersed Parking Lot	
	Parking Location and Orientation:
A.1	Parking areas and drive aisles shall be setback a minimum of 40' from public right-of-way.
A.2	To the greatest extent practicable, parking shall be located behind the principal building(s) or, in the case of multifamily uses, behind garages designed in accordance with this Code.
A.3	In situations where it is not practicable to locate all parking behind the principal building(s), parking may be allowed to the side or front of the principal building subject to the following: 1. No more than a single row of parking may be located between the principal building and right-of-way; and 2. A wall averaging 36" in height which compliments the building architecture and meeting sight distance requirements is provided for at least 50% of the length of the parking lot between the lot and the right-of-way.
A.4	In areas where the wall is not used, higher density landscaping shall be provided. As an alternative to providing a wall, a Type C Bufferyard may be provided.



365 Main Street Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

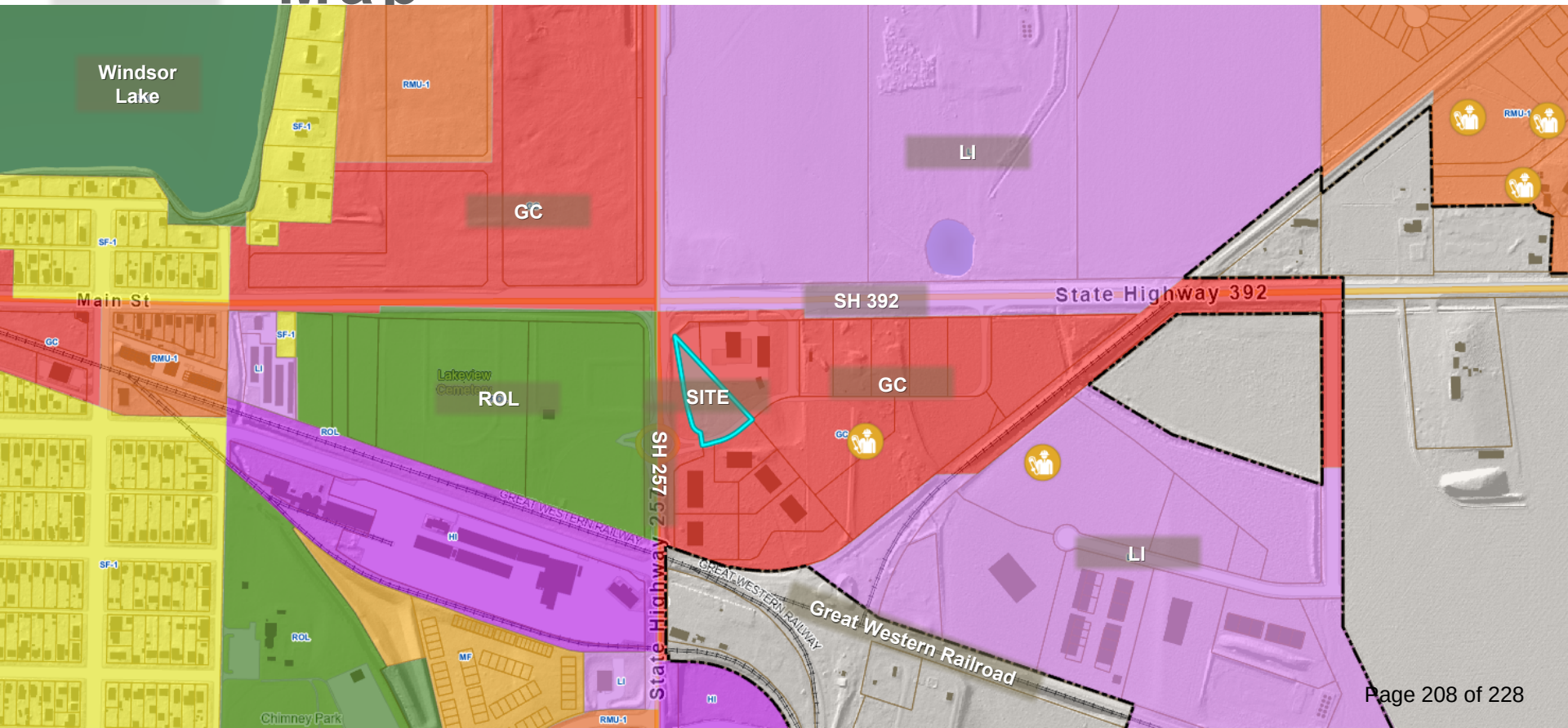


Site Vicinity Map





Site Zoning Map



Background

Pre 2022: Site has always been vacant with a variety of conceptual reviews for a myriad of uses throughout the years.

2022: New Champion Xpress Car Wash site.

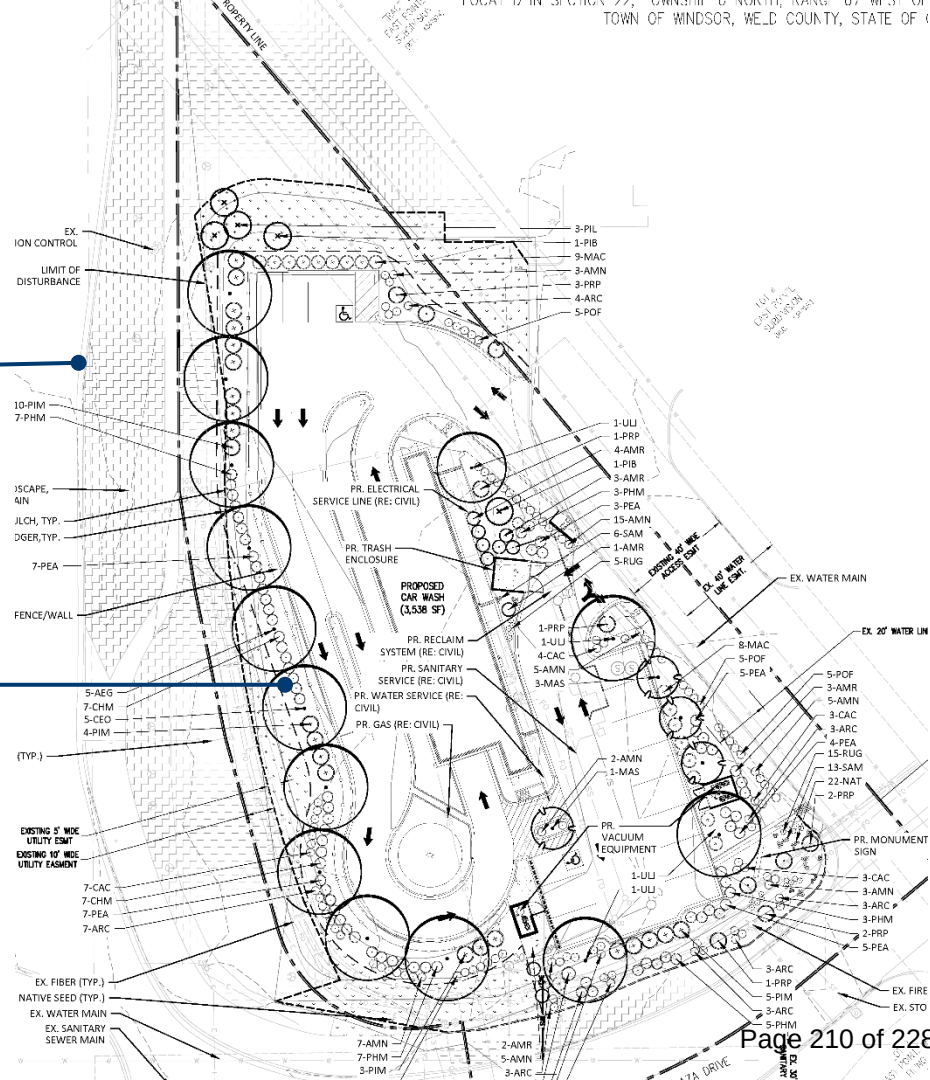


365 Main Street
Variance Request

Town of Windsor Board of Adjustment – January 26, 2023



Landscape —
Buffer and fencing
along State
Highway 257



Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) *Where special circumstances exist, that strict application of the standards adopted in this development code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. For the purposes of this Section, undue hardship and practical difficulties means a situation where the property cannot be reasonably used under the conditions allowed by this Code, and are neither a result of a situation created by the property owner, nor exclusively due to economic or cost considerations. The situation shall result from circumstances unique to the property, such as, exceptional narrowness, shallowness, or shape of a specific piece of property, topographic conditions, existing lot configuration, existing building locations on or adjacent to the property or other extraordinary and exceptional situation or condition of such piece of property that would result in peculiar and exceptional practical difficulties to, or exceptional undue hardship. Relief by variance may be granted if there is no substantial detriment to the public good and if it does not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, shall not alter the essential character of the surrounding neighborhood. Economic considerations alone shall not constitute an undue hardship if a reasonable use for the property exists under the provisions of this Code. It is the responsibility of the landowner to prove that an undue hardship exists; **Relief from the variance will be of no substantial detriment to the public good and will not substantially impair the intent and purpose of the Comprehensive Plan and this Code. The variance, if granted, will not alter the essential character of the surrounding neighborhood.***

(2)



365 Main Street Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria: The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (2) *The applicant cannot derive beneficial use of the property without the variance; The irregular shape and width of the subject property causes a hardship with regard to meeting the current Code setback requirements. The building and parking lot layout would not be nearly as usable without approval of the variance.*



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (3) *The purpose and intent behind the regulation would be maintained by granting the variance;* The intent of this section of the Code is to de-emphasize the importance placed on automobiles, allow for a more pedestrian friendly opportunity and bring building architecture to a more prominent site location. By granting the pavement to encroach, the purpose behind the regulation is maintained due to the high level of landscape buffer between the road and drive aisle.
- (4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area;* Granting a variance for will keep this property's streetscape in alignment with existing developed properties along the east side of SH 257.
- (5) *Granting the variance will not be detrimental to public health, safety, or welfare.* The proposed setback variance will not present any health, safety and welfare concerns.



365 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Analysis (cont.)

Municipal Code Section 14-2-150(c) (Major Variance) Review Criteria:

- (6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable; In an effort to alleviate the constraint that the current Code has posed on this lot, Staff supported an encroachment which will put this property in alignment with existing development along the streetscape. This effort was done in order to minimize procedural processes and assist the applicant in moving forward with the project.*
- (7) *Granting the variance will not create a building or fire code violation or other safety hazard; No safety hazards are created by this proposal. The application does not seek any exceptions to the building code.*
- (8) *The need for the variance is not created by a self-imposed hardship; existing conditions, along with Code revisions that came into play after the lot was created are driving the request for the variance.*
- (9) *A variance shall allow only the least deviation from the standard that will afford relief; A small pavement encroachment will expand the development opportunities while still meeting the intent of the Code.*



365 Main Street

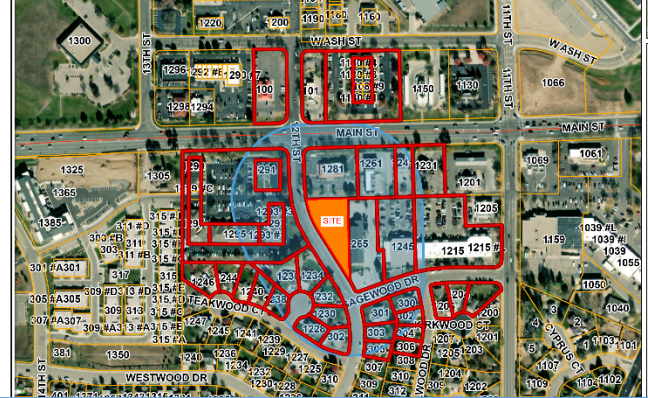
Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Notifications

The following notifications for the public hearing were made in accordance with the Municipal Code:

- November 15, 2022 - public hearing notice posted on Town of Windsor website
- November 16, 2022 - development sign posted on the subject property.
- November 16, 2022 - public hearing notice sent to surrounding property owners.
- November 18, 2022 - public hearing notice published in the paper.



365 Main Street Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Recommendation

Staff recommends approval of a variance to reduce the setback for the parking lot along 12th Street, to be in alignment with other properties along the eastern street frontage.

After consideration of the information presented, the BOA may elect to approve the variance as requested as requested by the applicant – reducing the setback along 12th Street to accommodate the parking and drive aisle areas.



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Recommendation

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Municipal Code Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback, for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district; based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, and the applicant obtaining the applicable building permits.
2. A second, and;
3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023

Record

Staff requests that the following be entered into the record:

- Variance application and supplemental materials
- Staff memorandum and supporting documents
- Testimony received during the public hearing
- Recommendation



1275 Main Street

Variance Request

Town of Windsor Board of Adjustment – January 26, 2023



Variance Application



(Please see the Town of Windsor [Fee Schedule](#) for Application Fees)

1

- ☒ Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the [Town of Windsor Municipal Code](#) for variance requirements and procedures.
- ☒ Variance requests are considered by the Board of Adjustment, which meets on the fourth Thursday of every month.
- ☒ Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.
- ☒ Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address: 365 East Main Street

Lot: 3 Block: 1 Subdivision: East Pointe Subdivision

A variance is being requested from the following Municipal Code section(s):

Sec. 15-5-10. - Vehicular access requirements.

3

Owner

Name(s): VIA Real Estate, LLC

Address: 13105 Dover Ave, Lubbock, TX 79424

Phone #: (806) 368-7843 Email: alan@7bdev.com

Applicant or Representative:

Name: Tez Hawkins

Address: 112 N Rubey Dr, Golden, CO 80403

Phone #: 970-688-2175 Email: tez.hawkins@baselinecorp.com

4

[Municipal Code Section 14-2-150\(a\)](#) states, in part:

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.

[Refer to the attached narrative]

Variance Application

4

2. The applicant cannot derive beneficial use of the property without the variance.
[Refer to the attached narrative]

3. The purpose and intent behind the regulation would be maintained by granting the variance.
[Refer to the attached narrative]

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.
[Refer to the attached narrative]

5. Granting the variance will not be detrimental to public health, safety, or welfare.
[Refer to the attached narrative]

6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.
[Refer to the attached narrative]

7. Granting the variance will not create a building or fire code violation or other safety hazard.
[Refer to the attached narrative]

8. The need for the variance is not created by a self-imposed hardship.
[Refer to the attached narrative]

Variance Application

9. A variance shall allow only the least deviation from the standard that will afford relief.

[Refer to the attached narrative]

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

Signature: Curtis Hawkins Date: 12/9/2022

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name: Curtez (Tez) Hawkins

Submitted On: 12/9/2022

(Please email completed application and materials to planningtechs@windsorgov.com)

December 8, 2022

Town of Windsor
Attn: Community Development
301 Walnut St.
Windsor, CO 80550

Subject: Variance Application 365 E Main Street

Dear Community Development,

Please accept this variance application for the proposed Champion Xpress Car Wash at 365 East Main Street, Parcel Number: 080722221003. Baseline Engineering represents 7B Building and Development and VIA Real Estate in the submittal of this Variance Application. Major site-plan application is subsequent application. The items included in this submittal are listed here:

1. Attachment_Property Owner Authorization
2. Attachment_Site Plan, Landscape, Plan Draft
building renderings.

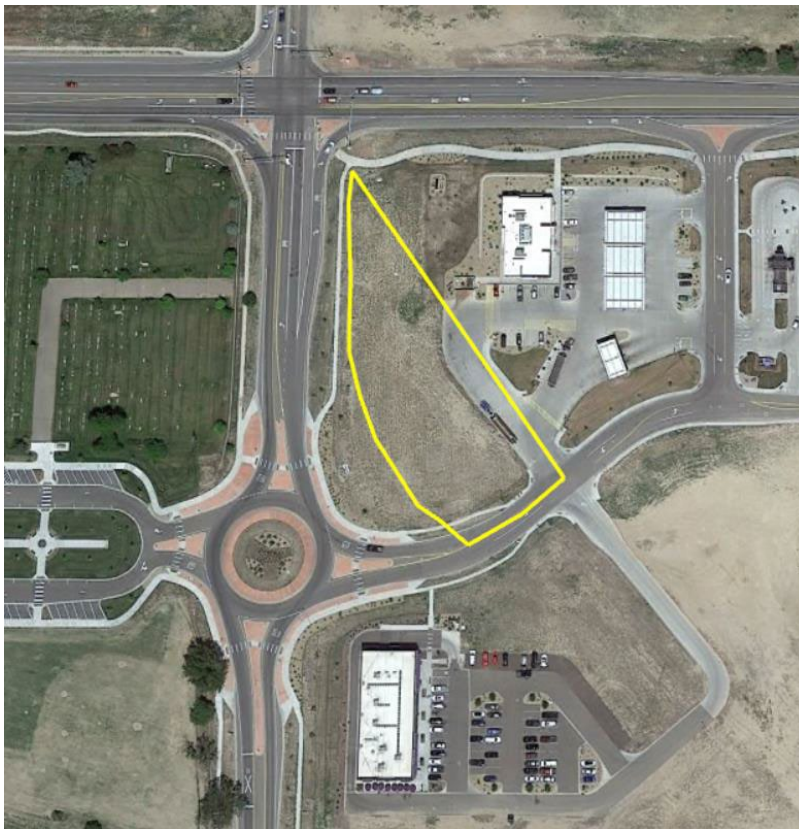


Figure 1. Aerial Image. Google Earth

Proposed Development

Land Use:	Car Wash (Use by Right)
Building Size	3, 538 SF
Building Height	One floor: 20' 4"
Parking	15 Total Parking Stalls
	4 total Employee Stalls: 3 standard stalls; 1 ADA Stall
	11 total Vacuum Stalls: 10 Standard Stalls; 1 ADA Stall
Landscape Area	27,614 SF
Pavement Area	19,565

Variance Request

Champion Xpress requests a variance to the Vehicular access requirements of section 15-5-10 of the Town of Windsor Municipal Code. The specific standard, Table-15-5-10(a): Vehicle Access Standards, states that dispersed parking lots shall have parking areas and drive aisles setback a minimum of 40' from public right-of-way.

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Town of Windsor Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Responses of how the Champion Xpress Car Wash meets the unnecessary hardships are also below to the enumerated are also below.

The variance request applies to the pavement of the drive aisles on the west side of the property. These drive aisles encroach into the payment setback established by section 15-5-10 of the Town of Windsor Municipal Code. The encroachments are measured in Attachment 2 of the application, the site plan.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.
 - a. The narrow shape of the property and its proximity to the public right-of-way (ROW) is the special circumstance. The property is a triangle shape; at its widest point, the width is approximately 150 feet, and it unceasingly narrows to a point on the north end of the property. As a result, the property has approximately 22,300 square feet of area where pavement or buildings can be placed. The aforementioned area considers the pavement setbacks, landscape buffers, building setbacks, public utilities (including the City of Greeley Waterline Easement), private utilities, subdivision right-of-way, and shared access drives.

From a perspective and ratio of developable land area to available land area, the subject property has a less-than-average ratio than the other quick service operations in the subdivision. The Champion Xpress Car Wash can develop approximately 38% of its available land. The coffee shop has 44% of the developable area, and the gas station has about 55% of developable land area. The aforementioned percentages included the area where pavement and structures can be developed.

2. The applicant cannot derive beneficial use of the property without the variance.
 - a. In the General Commercial Zone district, a car wash is a use-by-right, along with other car-centric land uses. For most tunnel car washes and other land uses where cars are the only focus, drive aisles and widths necessary to provide pay stations, parking, fuel stations, or drive-thru windows

are the key to the property's viability and beneficial use. The narrowness of the Champion Xpress property drastically reduces the viability of many car-centric uses in a zone district where they are allowed.

In addition, there are minimal options for drive aisle locations that would not conflict with the adjacent gas station's shared access drive and access points.

3. The purpose and intent behind the regulation would be maintained by granting the variance.
 - a. The proposed variance maintains the intent because:
 - The proposed variance minimizes conflicts between all modes, does not inhibit safe and convenient multi-modal access, and provides connections as well as a proposal that complies with the standard.
 - The proposed variance minimizes the visibility of pavement, parking areas, and garages equally as well as a proposal that complies with the standard. The Proposed plantings and fencing lining the drive aisles of the car wash provide adequate screening of the pavement areas to the extent that visibility from pedestrians and motorists is minimized.
 - The proposed access promotes health, safety, and welfare equally as well as a proposal that complies with the standard for which variance is requested.
4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.
 - a. The variance to the pavement setback is not detrimental to the adjacent property. The adjacent property where variance is requested is the Highway 257 ROW, where no other residential or commercial land uses may feel impacted.
5. Granting the variance will not be detrimental to public health, safety, or welfare.
 - a. The extended pavement area will not conflict with vehicles, pedestrians, cyclists, or other land uses.
6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.
 - a. The variance request does not meet the thresholds of the applicable waivers or administrative procedures.
7. Granting the variance will not create a building or fire code violation or other safety hazard.
 - a. The variance does not apply to a building code, and the variance does not prohibit access for the fire district in the case of an emergency.
8. The need for the variance is not created by a self-imposed hardship.
 - a. The need for the variance is not self-imposed. All setbacks, easements, and code requirements exist; in combination, they create the need for the variance. The variance would likely be needed for most car-centric uses that require long or wide drive aisles, such as fuel stations, drive-in restaurants, or lumber yards.
9. A variance shall allow only the least deviation from the standard that will afford relief.
 - a. The desired proposal would include three drive aisles; however, the current proposal includes two drive aisles which is the minimum to provide beneficial use of the property and afford relief.

Contact Information

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<u>Landscape Architect</u>	<u>Sarah Adamson</u>	<u>Baseline Engineering</u>	sarah.adamson@baselinecorp.com	317.509.1102
<u>Landscape Designer</u>	<u>Kortney Harris</u>	<u>Baseline Engineering</u>	kortney.harris@baselinecorp.com	303.202.5010

Sincerely,

Baseline Engineering on behalf of 7B Building and Development, LLC and VIA Real Estate, LLC



MEMORANDUM

Date: January 26, 2023
To: Board of Adjustment/Appeals Members
From: David Eisenbraun, Senior Planner
Re: Variance for 365 E Main Street, from Section 15-5-10(a), Table 15-5-10(a): Vehicle Access Standards, Dispersed Parking (A.1) of the Municipal Code pertaining to a reduced setback for parking areas and drive aisles along public right-of-way in the General Commercial (GC) zone district – VIA Real Estate, LLC, (Owner/Applicant); Tez Hawkins, Baseline (Owner's Representative)
Item #: C.12.

Background / Discussion:

Please see public hearing item.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

1. Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

A motion to approve the request for a variance from Municipal Code Table 15-5-10 pertaining to vehicular access based upon the aforesaid findings of fact, all Staff and BOA conditions being addressed, the applicant obtaining the applicable entitlements and building permits, and the greatest setback from the public ROW is obtained while still rendering the parcel usable.

2. A second, and;

3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

CC:

Attachments: