

Board Members Present: John Gudger, John Bryson, Nick Sterling, and Robin Baye were present for the P&Z Meeting. Board Member Chris Volzke was absent.

City Staff in Attendance: Megan Nelms, City Planner, Kevin O’Hearn, Building Official and Sarah Osborn, City Clerk

Chairman John Gudger called meeting to order at 5:31pm on November 7, 2024, as a quorum was present.

Chairman Gudger asked if everyone had a chance to read the minutes from the previous meeting on October 3, 2024. Board Member John Bryson made a motion to approve the minutes. Board Member Robin Baye seconded the motion. Chairman Gudger called for a vote to pass the minutes of the October 3, 2024, P&Z meeting. All ayes, motion passed.

Chairman Gudger read the first item on the agenda, a Variance for Hansen Quick Lube. Chairman Gudger asked Megan to provide a staff report. Megan provided the details of the application, Case Number 24.01 VAR, a Deviation request by Benjamin Mills and Pete Maxwell. In summary, the request is for a deviation to the minimum side yard setback for a commercial structure located at 306 SW Wyoming Blvd. The zoning of the subject property is C-1 (General Commercial District), which establishes a minimum side-yard setback of 5 feet. The deviation request is for an additional work bay to be added onto the west side of the existing commercial building, which would encroach on the side yard setback, requiring a deviation of 5 feet.

The Land Development Regulations (LDRs) require all structures to be located outside of the required yard setbacks. Sections 10.50 and 10.55 of the LDRs allow deviations from certain development standards when special circumstances are applicable to the property, including location, shape, size, surroundings, topography or other physical conditions for which the strict application of the standards denies the property owner privileges enjoyed by other property owners in the vicinity in the same zoning district. The deviation must not adversely affect the interest of the public or residents and property owners in the vicinity of the property in question.

Megan explained that deviations are not intended to be granted frequently. The applicant must clearly show that the request is due to very unusual characteristics of the property and that it satisfies the deviation standards. Evaluation of an applicable special circumstance is a matter to be determined from the facts and specifics of each application. Megan read the following criteria to be considered when determining if a project is eligible for a deviation:

- 1. The proposed development is compatible with existing and proposed or expected land uses in the surrounding area.** Yes, an automobile service center is an approved use within the C-1 (General Commercial District) and is generally compatible with other uses in the vicinity.
- 2. The deviation results in the creation of project amenities that would not be available through strict adherence to the Regulations (e.g. additional open space, protection of natural resources, improved pedestrian connectivity, etc.).** No, the granting of a deviation to the setbacks would not result in additional project amenities.

3. Granting the deviation would not adversely affect the interests of the public or the interests of residents and property owners in the vicinity of the subject property. Approving the deviation may affect the adjacent property owner to the west if the building addition extends to the property line. The public interest in enforcing required setbacks relates to building separation and uniform location and providing light and air between buildings. Additionally, uniform setbacks provide the space needed for future utility placement.

4. The deviation is the minimum required or needed for customary enjoyment of the property.

The deviation is not required for customary enjoyment of the property as the structure exists and there are other potential options available to the applicant in which meeting the required standards is feasible (e.g. purchase of the neighboring lot, no expansion, etc.).

Staff Recommendation:

After reviewing the criteria to be considered when evaluating a deviation request, the applicant has not provided clear evidence of special circumstances that would unreasonably prevent him from using his property for a permitted purpose. The building in question is used commercially as Hansen's Qwik Lube. The property is zoned for commercial use.

The applicant has not shown any special circumstances, such as an irregular lot shape or topography, which prevent building in compliance with the LDRs, only that he wants to expand the work bays for additional space.

Staff recommends the Planning & Zoning Commission DENY the variance request as presented by the applicant and put forth in case 24.01VAR, for a variance of five feet from the required 5-foot side yard setback for the construction of an additional work bay setback 0 feet from the west side property line.

Chairman Gudger opened the meeting up for questions or comments from the board.

Board Member Bryson thanked Megan for a well detailed report. He agreed with the report and doesn't see that it is justified to grant the variance in this case. Building all the way to the lot line could infringe the rights of the neighboring property owner and what they could build on their property with another structure so close. There are criteria within the fire code that could affect future construction. For instance, instead of them being able to build up to 5 feet from the property line, they may now be required to maintain a 10-foot separation without proper PIR of protection.

Benjamin Mills, applicant, addressed the board and provided a brief overview of his project. He explained that they have tried to purchase additional land from the neighboring lot owner, through Charles Shoup, and he stated they were unwilling to sell any additional lot space until the primary structure, the former Peterbuilt building sold. They are currently asking \$1.4 million for the property. They also reached out to try and buy the property south of them and the owners were unwilling to sell anything to them.

Board Member Sterling asked how close to the property line were they trying to build. Mr. Mills responded within 1-2 feet. He continued that they would need to build up to that length with a 10' overhead door in order to have a fully functional bay. They have been working with Yelton Structural Engineering to try and install car lifts in any of their bays so they could do front end work and tire work on vehicles. They are trying to grow their business. He detailed the layout of the building and explained

there is a basement and the concrete between the basement and main floor is not thick enough for them to be able to install the lift. So that is why they are trying to add an addition on to the building.

Building Official O'Hearn asked Mr. Mills if they had requested to buy just a few feet of property from the neighbor instead of the whole lot? Mr. Mills responded that they have not requested that. O'Hearn suggested that they offer to pay for a survey and re-plat to purchase just a few feet, and maybe that will be more amenable to them. Mr. Mills said they will certainly reach out, but at this point they are 100% unwilling to work with us.

Chairman Gudger explained his concerns with developing and building within 5 feet of the property line. It requires additional fire protection of any windows or openings. He said it would be really difficult for him to approve this based on the impacts on the neighboring lots. His recommendation would be to continue to try and talk to the neighbors and see if they are willing to sell a sliver of the lot to them.

Board Member Baye stated his concerns would be on the space needed for future utility placement with all the growth and changes over the years there. He would hate to see them put out all the money and eventually have to destroy part of the building due to utilities that would need to go there.

The Board and Mr. Mills worked up different scenarios to where they could add the bay onto the building. Mr. Mills stated he has lived in Casper/Mills for 40 years and that section has never changed, the property owners are not willing to work with anyone. For that section to be developed in his lifetime is probably pretty rare.

Chairman Gudger explained that he personally can't think of any reason to be able to allow this variance because we would be imposing a negative impact on potential adjacent property owners.

Board Member Sterling said he sees it differently. They have been in business for a long time and they need to expand, we do not want them to go find a building in Casper and abandon the Mills location. If someone buys this location in the future, they would need to know they have a 2 foot setback and that would affect the sale. Chairman Gudger said that the neighboring property owner just needs to work with them. Until that happens the property lines are there and will always be there. Board Member Bryson added that if we give him the license to do this, he is harming the neighbor's financial interest which could blow back on us. He asked if Mr. Mills has measured the front of the building at all to see if the bay would fit there. Mr. Mills responded that they haven't measured and frankly they aren't looking to do a full exterior renovation as that would financially not make sense.

Building Official O'Hearn said he knows Bill Devore and said that he may be interested in selling a 3 foot portion if they call him directly.

Mr. Mills asked if they deny the request tonight, and he talks to the neighboring lots and they say no to sell a sliver, would the board look at approving the variance. Megan responded that if it's denied tonight and then the hearing with council is on November 26, he could come to council and say he talked to the neighboring lots, then council would have a discussion regarding the variance. Chairman Gudger said they are just an advisory board. The decision is ultimately up to council to approve or deny the request. Right now he is sort of forced to vote no on this but would encourage Mr. Mills to talk to the property owners and see if they are willing to sell a 3' portion of the property. Mr. Mills said he has not spoken to the owner

himself, they have only spoken to the realtor that listed the property. The Board encouraged Mr. Mills to reach out to the property owner directly.

Chairman Gudger asked if there was any further discussion. He then asked for a motion. Board Member Bryson made a motion to deny the variance request. Board Member Baye seconded. Chairman Gudger called for a vote to deny the deviation request for 306 SW Wyoming Blvd. All ayes, motion carried.

Chairman Gudger stated the second item on the agenda was an application for a Commercial Development Plan from King Enterprises. He asked Megan for a staff report.

Megan provided an overview of the case, number 24.03 DEV. The applicants are King Enterprises/Malik Hegge and they are proposing to construct a 5,000 square foot commercial warehouse facility and associated office building. The site consists of two (2) adjacent parcels, an unplatted parcel and Lot 2, Blk 1, Casper Creek Addition, creating a development area approximately 7.87-acres in size. It was annexed into the City of Mills in 2015. There is an existing structure on the unplatted parcel and various commercial items being stored on the property.

The property is bounded on the west by railroad right of way and city owned property to the south. B & B Subdivision is adjacent to the north. There is no platted, public right-of-way access to the property. Access is obtained via an unimproved access and utility easement, recorded via separate instrument from Dwyer Dr.

The property is zoned I-1 (Light Industrial District) and the proposed use of the property is permitted within this zone district. The use is also consistent with the City's future land use map and general goals and policies of the City of Mills Master Plan. Megan stated the following planning considerations would apply:

Planning Considerations:

1. Access is proposed to be provided via an unimproved access & utility easement (Instrument #893026).
 - a. The access easement is required to be improved to city standards within the easement/ROW to the property line for commercial/industrial development.
 - b. Submit road design plans & discuss installation timeline
2. Public water service is required to serve the property. The development plan depicts a water service line to the proposed structure; however, service lines can only be utilized from a water main to the structure across the property to be served. Service lines cannot cross other legally described lots, even if owned by the same entity. As such, one of the following must be provided:
 - a. Resubdivide all lots owned by Mahegge LLC into one parcel so that the water service line taps from the water main and directly onto the subject property. If the service line from the water main crosses only one lot, it is permitted.
 - b. Construct a water main to the boundary of the parcel and extend a service line to the structure. Obtain DEQ permit to construct for the water main.
3. Submit a drainage study completed by a Wyoming licensed engineer.
 - a. Revise the site plan to show more information on proposed drainage for the site.
 - b. Show all on-site detention, if applicable.

4. Provide additional details and show the driveway access to the parking area and buildings from the access easement.
 - a. All required parking spaces shall be paved.
5. Submit a landscaping plan, or a letter requesting a fee in lieu of landscaping, for consideration by Mills City Council.
6. Show and label all structure dimensions and setbacks from the nearest property line.
 - a. Label each structure's use
7. Provide manufacturer's specifications for all site lighting which depicts shielding for the wall pack lighting which complies with city standards.
8. Obtain all required building permits for:
 - a. All structures
 - b. All site lighting
 - c. All on premise signage.

Staff Recommendation:

Staff recommends the Planning Commission TABLE the King Enterprises Development Plan request until additional information to satisfy all planning considerations can be submitted and reviewed.

Chairman Gudger thanked Megan and asked the Board if there were any questions for staff. Chairman Gudger asked how they would specifically have access to a public drive. Would they have to create a city access easement? He stated that the property looks isolated and doesn't have direct access. Megan responded that there is a public access and utility easement from the end of Dwyer Drive to the property boundary recorded via separate instrument in the land records. Essentially, the easement exists on paper and is not yet constructed. She stated it runs all the way across the southern boundary of 350 and 370 Dwyer Dr. and all the way to 390 Dwyer and is terminated at 390 Dwyer, on the east side. It's the dashed pink line shown on the aerial photo. Chairman Gudger asked how far the closest residential zone would be, Megan responded far away. He also asked if the rail line is active, Megan responded that yes it is still active.

Malik Hegge, applicant, came forward to address the Board. He first asked the board if he could start the construction of the building with the foundation and things. He stated he wants to have some work for his crew throughout the winter. He also asked the Board if he could just do a water service line instead of a main line to the building. He wants to avoid the costs of a main line. He also doesn't see a benefit of putting in a main line.

Mr. Hegge was also questioned whether or not he needed to pave the road to his property. Chairman Gudger asked if Mr. Hegge had construction drawings for a permit to be submitted and reviewed. Mr. Hegge said that Joey Yellen is working on a set of foundation drawings and a set of the main building drawings is the next step. Chairman Gudger asked for a timeline and explained that it puts the city at a disadvantage not being able to review the complete planning documents. Mr. Hegge responded that to have drawings of everything including the work that Megan had recommended, it would be a 60-day process, at a minimum.

Chairman Gudger continued to explain that Mr. Hegge would need the drawings to submit for a building permit. Building Official O'Hearn explained he has not seen any drawings yet, but he can always hold up a Certificate of Occupancy until stuff comes through. Kevin stated that they could deny water service and occupancy of the building until the Board is happy with the concrete/pavement to the building and waterline.

Kevin continued to explain that it isn't the best weather to start a job, but he knows that if Mr. Hegge doesn't keep his guys busy, he will lose them. Chairman Gudger asked Megan if it is possible to work with them on a conditional approval based on these comments. Megan suggested that a foundation only permit may be a possibility, but she would want to consult with Public Works regarding the design drawings for the road and the DEQ permit for the water line.

Chairman Gudger suggested that they could grant a conditional approval with the understanding that all planning conditions would be met and that there is communication ongoing with Inspector O'Hearn. Mr. Hegge agreed and understood the conditions.

Board Member Bryson questioned the water main and acknowledged that Megan stated in her staff report that a water service line could not cross other properties. Megan confirmed and said she discussed this with the City Engineer and if the water line crosses other properties within the utility easement, it needs to have a water main. A service line is a water line for only your property. Board Member Bryson asked if Mr. Hegge agreed with that condition and he stated he did not. He stated that it would cost him probably \$30,000 and doesn't feel it is necessary. Board Member Bryson also told Mr. Hegge that paving the easement would be his responsibility. Mr. Hegge agreed. Board Member Bryson asked Megan if there is a standard site plan checklist procedure. She said yes. Bryson asked Mr. Hegge if we move forward and the site plan cannot be agreed on, what happens. Mr. Hegge said he would be stuck with a hole filled with concrete and he is aware that there is a risk there.

Board Member Bryson asked if the case was tabled, what does that do for the permitting process. Inspector O'Hearn stated that Mr. Hegge has built quite a few things in town, and he has never had a problem with him completing them. He said he wouldn't have a problem with moving forward. Megan clarified and asked if it would be a foundation only permit, following conditional approval from council. It is scheduled for council on November 26th. Board Member Bryson stated that if the Board were to recommend approval with conditions, they would not see it again. Megan confirmed. Kevin stated he had never issued a permit for just a foundation then explained the permit process to the Board. Board Member Bryson confirmed what Kevin explained -- that they would allow him to build the foundation and shell. Kevin stated that the Board holds the trump card and won't give Mr. Hegge a CO until the Board is happy. Inspector O'Hearn stated that if he uses the building without a CO, the city could potentially fine him \$750 a day. Board Member Sterling asked Kevin if he feels confident enough to move forward because Mr. Hegge has built enough buildings to appease everyone. Mr. Hegge brought up the point that now that he will be doing a water main, he will need to contact DEQ for permitting and that is going to take 90 plus days, so it would be beneficial if he could continue with the building process while he gets all the requirements completed.

Megan stated that she wasn't sure about moving forward with conditional approval but offered a suggested motion for the Board. She read the sample motion which was to recommend the application be tabled until December to allow the applicant time to submit the required site plan materials, with the condition that the applicant may apply for a commercial building permit in the interim period with the



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understanding that a CO will not be issued without an approved development plan. Chairman Gudger suggested it be tabled until January or February.

Chairman Gudger asked if there was any further discussion. He then asked for a motion. Board Member Sterling made a motion to table case number 24.03 DEV to an undetermined date to allow the applicant time to submit the required site plan materials, with the condition that the applicant may apply for a commercial building permit in the interim period with the understanding that a CO will not be issued without an approved development plan. Board Member Baye seconded the motion. Chairman Gudger called for a vote. All ayes, motion passed.

Chairman Gudger adjourned the meeting at 7:05.

John Gudger, Vice Chairman

Attest: Sarah Osborn, City Clerk