

**AGENDA**

City of New Prague Planning Commission

Regular Meeting

Wednesday, September 25th, 2024

6:30 P.M.

City of New Prague Council Chambers

City Hall, 118 Central Avenue North, New Prague, Minnesota

*Anyone speaking to the Planning Commission  
shall state their name and address for the record.  
Thank you.*

1. **Call to Order**
2. **Approval of Meeting Minutes**
  - A. **August 28, 2024 Regular Meeting**
3. **OLD BUSINESS**
  - A. **None**
4. **NEW BUSINESS**
  - A. **Comprehensive Plan Public Hearing – MSA**
  - B. **Request for Interim Use Permit #I2-2024 – Exterior Storage at Former Mill Located at 100 2<sup>nd</sup> Ave. SW  
New Prague Mill, LLC – applicant  
(public hearing required)**
  - C. **Request for Conditional Use Permit #C4-2024 – Outdoor Seating at Sugar Rose Bakeshop located at 120 Main St. W.  
Jody Breathwaite – applicant  
(public hearing required)**
  - D. **Request for Variance #V8-2024 – 5’ Tall Fence at 1232 Olivia Street SE  
Mark and Christine Shaw – applicants**
  - E. **Subdivision Ordinance Amendment Requiring Sidewalks on Both Side of All New Streets  
City of New Prague – applicant  
(public hearing required)**
5. **Miscellaneous**
  - A. **Monthly Business Updates**
  - B. **Cannabis Ordinance Amendments Update**
6. **Adjournment**

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, August 28th, 2024**

**1. Call Meeting to Order**

The meeting was called to order at 6:30 p.m. by Chair Dan Meyer with the following members present: Brandon Pike, Shawn Ryan, and Ann Gengel. Absent was Jason Bentson.

City Staff Present: Ken Ondich – Planning / Community Development Director

**2. Approval of Meeting Minutes**

**A. July 24th, 2024 Regular Meeting**

A motion was made by Pike, seconded by Ryan, to approve the July 24<sup>th</sup> regular meeting minutes. Motion carried (4-0).

**3. OLD BUSINESS**

**A. None.**

**4. NEW BUSINESS**

**A. Request for Variance #V5-2024 – Parking Setback and Stall Size**

Planning/Community Development Director Ondich introduced V5-2024. He stated that the applicant was previously approved for Variance #V3-2024 for density and parking per unit variances and that prior to that in 2020 the site was approved for north and south property line setbacks. He stated that the current variance for a 4.5' encroachment and reduction of stall depth from 20' to 18' were needed to fit parking on the site to achieve ADA routes with the grades and shape of the lot. He stated that staff recommended approval of the variance with the findings and conditions listed in the staff report.

Chair Meyer stated that he would be concerned about vehicles sticking out into the drive aisle.

A motion was made by Ryan, seconded by Pike, to open the public hearing (4-0). Public hearing opened at 6:41pm.

A motion was made by Ryan, seconded by Pike, to close the public hearing at 6:42 pm. Motion carried (4-0).

Commissioner Ryan asked if extra landscaping could be required to soften the look of the parking lot from the road. He stated that he believed that additional landscaping would be warranted as this lot would have cars parked all the time versus adjacent commercial lots which are empty during non-business hours.

Planning / Community Development Director Ondich stated that conditions can be added to variance approvals as long as the conditions have an essential nexus to mitigating the effects of the variance being granted. He stated that for comparison purposes, the normal tree spacing for the perimeter of parking lots by a road is a 40' minimum, but that the spacing is reduced to 30' for parking lots not adjacent to a roadway. He said that business parking lots normally want to maintain more visibility which the ordinance provides, but in this case, maintaining visibility is not as important so he suggested the consideration of a condition to require perimeter trees be planted at a minimum of 30' spacing.

Marv Deutsch, landowner and partner with the applicant, stated that earlier in the afternoon prior to the meeting, they had revised the site plan and only needed a 1' variance for the parking lot within the 15' required setback, but that they would still need parking stalls reduced to 18'.

General consensus of the Planning Commission was positive, but that the landscaping spacing should be a minimum of 30' along roadways. They also asked about landscaping on the west side of the building.

Jake Budenski, Ebert Construction, stated that they would at minimum have landscaping with shrubs along the west side.

The Planning Commission asked for clarification regarding other cities allowing reduced parking depth if the area for bumper overhang is provided.

Planning / Community Development Director Ondich stated that under the City of Shakopee's and Lakeville's provisions, they allow for reduced stall depth if either the spaces abut an open grassy area or if a sidewalk is adjacent, that a minimum accessible route can be maintained. In this case, the east parking stalls are adjacent to an open grassy area and not a sidewalk.

A motion was made by Ryan, seconded by Pike to recommend approval of V5-2024 with the following findings:

- A. The requested variance is in harmony with the general purposes and intent of this Ordinance because apartment buildings are a permitted use in the RH High Density Residential Zoning District and off-street parking is a permitted accessory use.
- B. The requested variance is consistent with the comprehensive plan because apartments are a permitted use in the RH High Density Residential Zoning District.
- C. The applicant will use the property in a reasonable manner which would be an apartment building use.

- D. Unique circumstances apply to this property over which the property owners had no control and which do not generally apply to other properties in the vicinity because the lot has an unusual shape and abuts two public roadways and requires a unique building layout to fully utilize the property and provide parking to meet the minimum parking stall requirements while also maintaining accessible routes.
- E. The variance does not alter the essential character of the neighborhood because apartments are a permitted use in the RH High Density Residential Zoning District which contains another multifamily unit one block to the west, and the variance for the parking lot setback is minimal and is far enough away from any intersection to not cause any sight line issues.
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because it would allow the parking spaces on the site to not only meet the minimum number required but provide one additional space over the minimum.

And with the following conditions:

- 1. Perimeter parking lot landscaping trees are required at a spacing of no more than 30' versus the typical ordinance requirement spacing of no more than 40'.
- 2. The City Council approves the applicant must enter into an encroachment agreement for the easement encroachment whereby they agree they are responsible for any removal and replacement of landscaping should work within the utility easement necessitate it.

Motion carried (4-0).

### **B. Request for Variance #V6-2024 – Driveway Setback Variance**

Planning/Community Development Director Ondich introduced V6-2024. He stated that the property was previously approved for Conditional Use Permit #C5-2024 and Variance #V4-2024 that approved for the indoor firing range and that Interim Use Permit #I1-2024 was approved for a religious institution in the same building and that the existing uses share a parking area. He stated that the property owner is seeking a variance to install a one-way driveway to provide ADA parking stalls near the front entrance of the indoor firing range, but that the driveway would be only 21' from the intersection versus the ordinance required 100'. He stated that staff recommends approval of the variance with the findings and one condition listed in the staff report.

Commissioner Pike asked if staff were concerned about the drive aisle running past the front door.

Planning / Community Development Director Ondich stated that it would be very low volume and that the drive aisle is 14' wide whereas vehicles are not that wide, meaning there should be plenty of room.

Rick Kaun, applicant representative, stated that the entrance/exit door will be on the north portion of the building by the drive aisle and will have a canopy over it. He stated that they wanted the ADA stalls by the front door for convenience for the users of the gun shop/range. He stated that the gun range should be breaking ground soon, but they would like to do this improvement regardless.

Chair Meyer asked about the gas lines on the southeast corner of the building.

Mr. Kaun indicated that they would be adding a bollard there, but that the meter actually encroaches on public right of way.

Commissioner Pike asked what the long term plan for the site/building is.

Mr. Kaun indicated that they want to have two or three anchor tenants, one of which is the gun range. They also believe the north end would be great for a restaurant or distillery and the post office has an interest residing in the building as well.

A motion was made by Pike, seconded by Gengel, to open the public hearing (4-0). Public hearing opened at 7:15pm.

Joe Nadeau, 212 2<sup>nd</sup> Street SW, stated that he doesn't have an issue with the gun range or the variance, but noted that he believes Mach Lumber causes congestion on 2<sup>nd</sup> Ave. SW and that traffic at the intersection of 2<sup>nd</sup> Ave. SW and 2<sup>nd</sup> Street SW might need a stop sign.

Planning / Community Development Ondich stated that staff would evaluate the request for a stop sign.

A motion was made by Pike, seconded by Ryan, to close the public hearing at 7:16 pm. Motion carried (4-0).

A motion was made by Pike, seconded by Meyer to recommend approval of V6-2024 with the following findings:

- A. The requested variance is in harmony with the general purposes and intent of this Ordinance because an indoor firing range is a conditional use in the I-1 Light Industrial Zoning District.
- B. The requested variance is consistent with the comprehensive plan because an indoor firing range is a conditional use in the I-1 Light Industrial Zoning District.
- C. The applicant will continue to use the property in a reasonable manner in that the variance is only needed for a one-way driveway access that will reduce traffic conflicts and provide more appropriate handicap parking.
- D. Unique circumstances apply to this property over which the applicant had no control and which do not generally apply to other properties in the same zoning district because the subject building is very close to 2<sup>nd</sup> Ave SW and with the need of two handicap parking

stalls closest to the entrance, there would be no room to have the driveway be further from the intersection.

- E. The variance does not alter the essential character of the neighborhood because there are several building in the area that have reduced setbacks, which causes driveways to be closer to the intersection.
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because it would allow vehicles to enter from both 2<sup>nd</sup> St SW and 2<sup>nd</sup> Ave SW as well as providing handicap stalls that are closer to the building entrance.

And with the following condition:

- 1. The driveway access must meet all the comments made by the City Engineer dated on 8/20/2024.

Motion carried (4-0).

### **C. Request for Variance #V7-2024 – Sign Size Variance**

Planning/Community Development Director Ondich introduced V7-2024. He stated that the site was originally approved for a sign variance for a monument sign at 70 sq. ft.. However the monument sign was never utilized but the building has always had a sign on it's face over the 12 sq. ft. maximum in the RL-90 Single Family Zoning District. He stated that the Community Center Ice Arena recently removed their existing building sign and replaced it with a new 17 sq. ft. sign which exceeds the ordinance requirement for size. It was noted that the sign would only take up less than 1% of the building face versus if the building was located in a commercial district, the building sign would be permitted for up to 15% of the building face. He stated that staff recommends approval of the variance to allow the building sign with the findings listed in the staff report.

A motion was made by Ryan, seconded by Gengel, to recommend approval of V7-2024 with the following findings:

- A. The variance to allow building signage to exceed 12 sq. ft. is in harmony with the general purposes and intent of the Zoning Ordinance because building signage is a permitted addition to a non-residential building in the RL-90 Single Family Residential Zoning District.
- B. The variance to allow building signage to exceed 12 sq. ft. is in harmony with the general purposes and intent of the Comprehensive Plan because building signage is a permitted addition to a non-residential building in the RL-90 Single Family Residential Zoning District as designated by the plan.
- C. The applicant proposes to use the property in a reasonable manner by adding only an additional 17 sq. ft. of building signage, which is slightly above the permitted 12 sq ft building signage requirement.

- D. Unique circumstances apply to this property over which the applicant had no control, and which do not generally apply to other properties nearby because the property is a nonresidential use and the building face is significantly large, therefore the bigger sign would help accommodate the large building size.
- E. The variance does not alter the essential character of the neighborhood because there are adjacent properties that were issued signage variances as permitted non-residential uses in the RL-90 Single Family Residential District such as the Gymnastics Club (V1-2007), New Prague Area Schools (V5-2012), and To The Pointe! Dance Academy (V3-2013).
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because it would be legible for those who are walking or driving by.

Motion carried (4-0).

#### **D. Preliminary and Final Plat of Tracker Addition – 1 Lot on 8.31 Acres**

Planning/Community Development Director Ondich introduced the preliminary and final plat for Tracker Addition. He stated that the property is unplatted and per the zoning ordinance is not eligible for a building permit until it is platted. He stated that the plat consists of 1 lot on 8.31 acres and that Tracker Trucking has operated from the site since 2015 and operates under a conditional use permit approved that same year. He stated that the existing buildings on the site do not meet setbacks to 5<sup>th</sup> Ave. SW but are considered legal non-conforming and that a conservation easement will be required for 25' around each wetland edge as shown on the plat and the edge will be marked by signs at 200' spacing. He stated that development fees include the water area access charge and emergency warning siren area charge. He stated that MnDOT had not yet provided final comments. He stated that staff recommends approval of the preliminary and final plat with the findings and conditions listed in the staff report.

A motion was made by Pike, seconded by Ryan, to open the public hearing (4-0). Public hearing opened at 7:33pm.

No comments were received.

A motion was made by Ryan, seconded by Gengel, to close the public hearing at 7:34 pm. Motion carried (4-0).

A motion was made by Ryan, seconded by Gengel, to recommend approval of the preliminary and final plat of Tracker Addition with the following findings:

1. The preliminary and final plat complies with the purpose and intent of the New Prague Comprehensive Plan and Subdivision Ordinance.
2. The plat conforms to the requirements of the B-3 Highway Commercial Zoning District which it is located.

And with the following conditions:

1. Approval is granted in accordance with the preliminary plat drawing dated 8/15/24 and final plat drawing (undated) on file with the New Prague Planning Department.
2. The applicant must comply with the recommendations of the Public Works Director, Utilities General Manager, and City Engineer.
3. The applicant must comply with the recommendations of MnDOT District 7.
4. Development Fees are required to be collected as follows:
  - a. Emergency Warning Siren Fee - \$1,371.15
  - b. Water Area Access Charge - \$23,384.34
  - c. Park Land Dedication – Determined at the time of future building permit application if employees are being added with a land value to be calculated at that time.
5. The final plat must be recorded within 90 days of the date of the City Council granting approval per Chapter 051 (E) of the Subdivision Ordinance.
6. All requirements of the City Attorney’s Plat Opinion must be complied with prior to executing signatures on the final plat.
7. The City of New Prague accepts the proposed conservation easements and the conservation easements around the wetland areas are required to have signage installed per Zoning Ordinance Section 734, Section 4 (E)(12) which states that the signs shall be installed at 200’ intervals along the wetland easement to define its edge. The signs must be at least 12” x 12” in size at least 4’ above grade.

Motion carried (4-0).

## **5. Miscellaneous**

### **A. Discuss Subdivision Ordinance Amendment Requiring Sidewalks on Both Sides of all New Streets**

Planning Community Development Director Ondich presented a concept report discussing the possibility of requiring a sidewalk on both sides of all new streets in new developments, not for street reconstruction projects.

Discussion of the Planning Commissioners included whether cul-de-sacs and short stub streets need sidewalks on both sides or even sidewalks at all. Generally, the Planning Commission liked the idea of sidewalks and the requirement of sidewalks on at least one

side of each street that is currently in the subdivision ordinance but did not believe the ordinance should blindly require sidewalks on each side of a street no matter what. Concerns were raised about sidewalks installed in new developments ending at older developments. It was noted that the draft mobility map in the new Comprehensive Plan provided specific trails and sidewalks for existing parts of town, but the Planning Commission thought requiring sidewalks no matter what on both sides might be overkill. Ultimately, the Planning Commission recommended staff look into language that states the city may require sidewalks on both sides of new developments, but not blindly require them without further review.

## **B. Monthly Business Update**

Planning Director Ondich introduced the business updates. He explained that one new permit was issued in July, a building permit was applied for the 2 If By Sea Indoor Firing Range and that the Rusty Spoke opened on August 1st.

## **C. Comprehensive Plan / Small Area Plan Update**

Planning Director Ondich explained that staff was reviewing the final draft of the Comprehensive Plan this week and that the next steps would be a final steering committee meeting, followed by a public hearing for the plat at the September 25<sup>th</sup> Planning Commission meeting and final approval by the City Council sometime in October. He also stated that the Small Area Plan will be completed once MSA provides the overall grading plan and that the City Council had approved the City Engineer, SEH, to prepare plans and specs for grading work for the POS area, specifically within the small area plan study area.

## **6. Adjournment**

A motion was made by Ryan, seconded by Gengel, to adjourn the meeting at 7:56 pm. Motion carried (4-0).

Respectfully submitted,

A handwritten signature in black ink that reads "Kenneth D. Ondich". The signature is written in a cursive style with a large initial "K" and "O".

Kenneth D. Ondich  
Planning / Community Development Director



118 Central Avenue North, New Prague, MN 56071  
phone: 952-758-4401 fax: 952-758-1149

---

---

## MEMORANDUM

---

---

**TO:** PLANNING COMMISSION  
**FROM:** KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR  
**SUBJECT:** COMPREHENSIVE PLAN PUBLIC HEARING  
**DATE:** SEPTEMBER 18, 2024

---

The update process for the new Comprehensive Plan began back in December of 2022. Since that time, a Steering Committee was formed to shepherd the process through to completion with a public survey, various meetings, joint workshops (City Council / Planning Commission), a pop-up event at Czech Out New Prague in 2023 and various discussions as EDA, Park Board and Planning Commission meetings. Most recently, the draft plan was sent to area townships, counties and the School District for review and input.

At the meeting, MSA will provide an overview of the process and highlights of the plan prior to the public hearing which is required by state statute.

A copy of the final draft of the plan can be found at [newpragueplan.com](http://newpragueplan.com).

Should you have any questions or concerns, please contact staff before the meeting so we can be prepared to respond to your inquiry. While we are under no time requirement to adopt the new Comprehensive Plan, the intent was to complete the update process at the October 21<sup>st</sup>, 2024 Council meeting.

### **Staff Recommendation**

I recommend that the City Council hear the summary presentation and hold the required public hearing. I also recommend that the Planning Commission forward a recommendation for approval to the City Council regarding the new Comprehensive Plan.



118 Central Avenue North, New Prague, MN 56071  
phone: 952-758-4401 fax: 952-758-1149

---

---

## MEMORANDUM

---

---

**TO:** PLANNING COMMISSION

**FROM:** KEN ONDICH – PLANNING / COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT:** REQUEST FOR CONDITIONAL USE PERMIT #C3-2024 (ALTERNATELY IUP #I2-2024) TO ALLOW FOR EXTERIOR STORAGE OF VEHICLES AND RECREATIONAL EQUIPMENT AT THE FORMER MILL LOCATED 100 2<sup>ND</sup> AVE. SW, AS PROPOSED BY NEW PRAGUE MILL, LLC.

**DATE:** SEPTEMBER 18, 2024

---

### **Background**

The New Prague Flouring Mill was first established in 1896 and was the main economic driver in the City, making New Prague a large manufacturer of farm produce for several years. However, in 2019 Miller Milling closed their business, later selling the property to current owners, New Prague Mill, LLC, who have been working to re-purpose the property for multiple tenant uses including the previously approved indoor firing range (Conditional Use Permit #C5-2023), religious institution (Interim Use Permit #I1-2024), and other warehouse type uses.

The current request is for a Conditional Use Permit to utilize the approximately 28,000 sq. ft. of the covered railroad spur area between the mill building and grain bins for exterior storage of vehicles and recreational equipment for an approximately 3-year time period while the site continues to redevelop.

As part of the most recent land use approval for the site, which was the IUP #I1-2024, the following was noted in the resolution of approval:

*WHEREAS, the Planning Commission included a stipulation as part of their motion for approval that the City let ownership know that once they hit 35% occupancy of the building space that they will need to submit to the city an overall “aesthetic, site and building plan” for the property.*

While this request does not utilize any “building” space and is only utilizing a covered railroad spur area, staff is not requiring an overall “aesthetic, site and building plan” for the property. Despite this, staff does have concerns relating to the appearance of the site which should be addressed as part of this request. Staff also have concerns about the request under the guise of a Conditional Use Permit and instead recommend that it be reviewed as an “Interim Use”.

### **Legal Description**

Parcel 1:

Lots 1, 2, 3, and 4 in Block No. 4, in the Village (now City) of New Prague, Le Sueur County, Minnesota.

Parcel 2:

Lot 4, Block 26, Syndicate Addition to New Prague, Le Sueur County, Minnesota, together with that part of the North half of the Vacated alley lying West of the Southerly extension of the East line of said Lot 4.

Parcel 3:

Block 22 of “Beans Re-Arrangement of Block 22 and 23 Syndicate Addition to New Prague”.

Parcel 4: Block 23 of “Beans Re-Arrangement of Blocks 22 and 23 Syndicate Addition to New Prague”, together with the vacated alley and the North half of vacated “L” street as shown on said Plat.

Parcel 5:

Lots 1 and 2, Block 23-1/2, of “Beans Re-Arrangement of Blocks 22 and 23 Syndicate Addition to New Prague”, together with the South half of vacated “L” Street as shown on said Plat.

Parcel 6:

Commencing with the intersection of the County Road with the line of the right way of the M. & St. L. Ry. Co., on the East side of their track, thence running East 70 feet, thence South 356 feet to a point 75 feet East of the said right of way line, thence west 75 feet to said right of way, thence running North 356 feet to the point of beginning, being in the NW1/4 of NW1/4 of Sec. 3-112-23, Le Sueur County, Minnesota.

Parcel 7:

The tract of land lying and being in the County of Le Sueur and State of Minnesota, described as follows, to wit: Beginning at a point on the North line of Section Three (3), Township One Hundred Twelve (112) North, Range Twenty-three (23) West, said point being distant East, One Hundred Fifty (150) feet, measured along said section line from the original centerline of the Railways main track; thence Southwardly Four Hundred Nine and Five-Tenths (409.5) feet, to a point distant Easterly Sixty-Seven and Ninety-seven Hundredths (67.97) feet, measured at right angles thereto, from said centerline of main track, thence Northwardly, parallel with said centerline of main track, Three Hundred Seven and One-Tenth, (307.1) feet; thence eastwardly at right angles, Three and Six Tenths (3.6) feet; thence Northwardly about One Hundred (100) feet to a point on said Section line distant West Sixty-Nine and Seventy-Three Hundredths (69.73) feet from the point of beginning; thence East, upon and along said Section line Sixty-Nine and Seventy-three Hundredths (69.73) feet to the point of beginning.

Parcel 8:

That part of the NW1/4 NW1/4 of Section 3, Township 112 North, Range 23 West, City of New Prague, Le Sueur County, Minnesota, described as follows: Commencing at the intersection of the centerline of main track of the Union Pacific Railroad Company and the North line of Section 3; thence N. 90 degrees 00 minutes 00 seconds E. (assumed bearing) along the North line of Section 3, a distance of 150.00 feet; thence S. 07 degrees 06 minutes 51 seconds W., 409.64 feet to a point distant 67.97 feet Easterly of and measured at right angles from the centerline of said main track; thence N. 04 degrees 22 minutes 30 seconds W., parallel with the centerline of said main track, 307.10 feet; thence N. 85 degrees 37 minutes 30 seconds E., 3.60 feet; thence N. 00 degrees 28 minutes 52 seconds E., 67.01 feet to the Southerly right of way line of State Highway No. 19 (Main Street); thence N. 90 degrees 00 minutes 00 seconds W., along said right of way line, a distance of 27.32 feet to a point distant 50.00 feet Easterly of and

measured at right angles to the centerline of said main track; thence S. 04 degrees 22 minutes 30 seconds E., parallel with the centerline of said main track, 464.37 feet; thence N. 07 degrees 06 minutes 51 seconds E., 90.22 feet to the point of beginning.

### **Neighborhood Conditions**

North – Central Business District / Main Street and underutilized portions of the former mill building which are also zoned I-1 Light Industrial

South – I-1 Light Industrial Zoned properties and to the southeast are some residential dwellings (RL-70 and RL-84 Single Family Residential Districts) separated by public roads from the subject site

East – Mach Lumber which is zoned I-1 Light Industrial and single family homes (RL-70 and RL-84 Single Family Residential Districts) further east

West – Union Pacific Railroad and beyond that is the B-3 Highway Commercial Zoning District and TH13/21.

Overall, the former mill property is very unique in that it is surrounded by a variety of zoning districts. It is also unique in that it is an industrial property located essentially in the downtown area. As noted previously in staff reports about this property, the draft Comprehensive Plan has this site guided as “Downtown Flex” which is much more in line with the existing central business district zoning found along Main Street than industrial zoning. Exterior storage is not currently allowed in the B-1 Central Business District.

### **Applicant’s Statement**

The applicant (Bill Gibson on behalf of New Prague Mill, LLC) submitted the below e-mail on 9/9/24:

*I am attaching a picture of the mill. The area we are proposing is marked by (X). It is all the area under the covered roof over the tracks. Mostly this is not visible from Main St. This area will be shared by railroad cars. For the first time this weekend, Chart put a few railroad cars on the tracks under the canopy. The total covered area is approximately 28,000 sq ft.*

*We will put screen strips in the chain link fence already in place.*

*We don't currently plan to do any more fencing, but will provide additional security cameras. We might have to change some fencing around as more building renters occupy the property.*

*We want a 3 year plan for this. As things progress on the property, this will go away. This is a temporary short term interim use. A lot will ultimately depend on if we are able to actively use the silos. We are looking at several alternatives on how to best use that space. Because the storage of vehicles is short term and flexible, it will allow us to pursue better long term uses for the property*

*We’ve spent over \$750,000 to add heat, water, sprinkler systems, insulation, demolition and space improvements with not a huge return thus far. These rent dollars are very important for us to continue to upgrade and improve the mill property while maintaining the historic value of the mill. We want this*

to be a legacy for us and the city. We are trying very hard to be good stewards of this valuable property.



(X marks location of proposed storage)

### **Lot Size**

The New Prague Mill property is approximately 253,955 sq ft (5.83 acres) in total. The outdoor storage area proposed under the covered portions of the railroad tracks is approximately 28,000 sq. ft. in size. According to Le Sueur County, the buildings (not including the grain storage) total approximately 70,755 sq. ft.

### **Zoning**

This property is currently zoned I-1 Light Industrial District. The purpose of the district is to provide for industrial uses for activities that, because of their nature, are not well suited for close proximity to residential and business areas of the community. Existing industry that is located close to residential areas is allowed to continue and must meet certain performance criteria when applicable. Industrial areas have good access to highway and railroad lines because of their need to receive and distribute products and goods.

Exterior Storage is specifically listed as a conditional use in this zoning district. That said, the applicant has noted that the use of this property for exterior storage is only a temporary short-term use. While the property is currently zoned I-1 Light Industrial, it is guided in the draft future land use plan as “Downtown Flex” which is a district much more in line with the existing central business zoning district that exists today. As the City works on final adoption of the new future land use plan along with re-writing its zoning ordinance, this property will very likely be rezoned away from I-1 Light Industrial. In light of this, staff would rather this conditional use permit request change to an Interim Use Permit

Request so that the use only lasts for a limited period of time as the site continues to redevelop as noted by the property owner/applicant.

As noted earlier, staff does have concerns about the current appearance of the site which can be addressed in the near time as part of this exterior storage request. First and foremost is the many items stored around the site by Mach Lumber. It was previously noted during a past Conditional Use Permit for the site that Mach Lumber was not permitted to place items around the site as exists today. Staff believes that these items are a visual nuisance and should be moved to the proposed exterior storage area. Additionally, the chain link fence that has been on the site since the mill ceased operations is unsightly and while it was initially used for securing the entire site, it is enclosing areas of the site that do not necessarily need to be secured in staff's opinion.

The Zoning Ordinance does not list specific performance standards for exterior storage, however, the City's Screening performance standards would apply:

707 Screening

1. Commercial, Industrial, or Institutional Uses Abutting Residential Districts

Where any commercial, industrial or institutional uses are adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator. Landscape screening required under this section shall not be allowed within public drainage and utility easements. Screening is not required within any site triangle required under Section 723(6) of this Ordinance. Screening shall consist of a 20 foot wide green belt strip as provided below:

- A. A green belt planting strip shall consist of staggered rows of evergreen trees, deciduous trees, or shrubs each spaced at a maximum of 12.5' and consist of a sufficient density to provide a visual screen and reasonable buffer of at least an 80% opacity year round once trees are mature. This planting strip shall be designed to provide visual screening to a minimum height of eight feet at all times and a minimum tree diameter of 2.5" measured six inches above the ground level. The grade for determining the height shall be the grade elevation of the building or use for which the screening is providing protection. The planting plan and type of plantings shall require the approval of the Zoning Administrator.
- B. A fence may also be installed, but not in lieu of the green belt planting strip. The fence shall be visually appealing and cohesive with the exterior of the principal structure. The fence must be located within the interior of the lot such that the green belt plantings are visible from adjacent property.
- C. For any use allowed via a conditional use permit, additional requirements may be added to the above requirements in order to mitigate the impact on the adjacent residential properties and if adjacent to roads classified as major collectors and higher, such as berms, more opacity or other requirements not listed herein.

2. Industrial Uses Abutting Commercial or Industrial Districts

All industrial properties abutting commercial or industrially zoned districts must follow the provisions below:

- A. A single row of deciduous or evergreen trees is required and must be a minimum height of 8' with a minimum diameter of 2.5" measured six inches above the ground level. Tree spacing shall be 40' around the perimeter of the property abutting commercial or industrial districts. Follow § 717 of the Zoning Ordinance for landscaping requirements for parking lots.
- B. If fencing is erected on the property, the fence must be visually appealing and cohesive with the exterior of the principal structure.

3. Industrial Uses Along Arterial Roadways

- A. If a proposed industrial use abuts a roadway classified as an arterial roadway or higher, the applicant must obtain a conditional use permit to ensure that the property and use is adequately screened from the arterial roadway which may include additional landscaping/screening requirements beyond those found in Section 1 and 2 above as well as include additional requirements related to tree spacing, opacity, fencing, etc.

4. Warranty and Escrow

- A. The City shall collect a cash escrow specifically for the screening requirements before any building permit is issued. The escrow shall be at an amount equal to a minimum of 125% of the estimated screening expenses and shall be refunded to the party who deposited the escrow when all the following are completed and approved by the City:
  - 1. Required screening trees are installed and alive at the end of the 1 year warranty time period.
  - 2. Sites that are completed between October 15<sup>th</sup> and before May 15<sup>th</sup> shall have until July 1<sup>st</sup> to plant the required trees but will only be issued a temporary certificate of occupancy until that time.
  - 3. If the property owner fails to complete the landscaping and screening requirements by the deadline, the City may finish the work with the cash escrow. Any additional fees or expenses accrued in association with the City finishing the work will also be invoiced to the property owner.

As Main Street (TH13/19) is an arterial roadway, it is important to provide screening to the exterior storage area. Staff recommends screening of at least 8' tall be required on the north end of the exterior storage area between the two building walls to screen the area from the view of Main Street. Screening may consist of a fence, vegetation or combination thereof that provides for 80% opacity year-round. As

the site is a gravel lot, vegetation may not work well and because the storage is only temporary, staff suggests 80% opacity using fencing and/or vegetation as long as it's maintained year-round.

**Parking**

N/A.

**Public Works /Utilities / Engineering Comments**

Public Works Director Matt Rynda noted that his only concern would be the gravel section of 2<sup>nd</sup> Street SW holding up to added traffic as they had issues with that section of 2<sup>nd</sup> Street SW when the mill was operational.

In light of this, staff drafted the following condition to address the concern: *The Public Works Director may, at their sole discretion, invoice the property owner for extraneous maintenance to the gravel section of 2<sup>nd</sup> Street SW related to traffic generated by the use.*

Bruce Reimers, Utilities General Manager, did not have any concerns.

City Engineer, Chris Knutson, was note solicited for comments.

**Building Official Comments**

Building Official Scott Sasse was not solicited for comments.

**Police Chief Comments**

Police Chief Tim Applen was solicited for comments, but none were received at the time of writing this staff report.

**Fire Chief Comments**

Fire Chief Steve Rynda was solicited for comments and noted that their only concern would be to maintain some sort of 6' walking lane to get to all doors adjacent to the storage area.

In light of this, staff drafted the following condition to address the concern: *A 6' access aisle must be maintained through the exterior storage area to ensure access to all doors that abut the storage area for fire access.*

**WAC/SAC Fees**

N/A.

**Interim Use Permit Criteria**

The City Council may consider an interim use permit for a use which is not specifically listed in this Ordinance as an interim use within the affected district and may grant a permit provided such interim use, after review by the Planning Commission and the City Council, is found to otherwise meet the criteria for granting an interim use permit within the affected district. The City Council shall make the following findings in order to approve an interim use:

- A. The proposed interim use will utilize property where it is not reasonable to utilize it in a manner provided for the City's Comprehensive Plan and Zoning Ordinance. (The

proposed interim use for a designated exterior storage area will utilize property in a reasonable and temporary manner considering its current I-1 Light Industrial Zoning, but which is guided as “downtown flex” in the 2024 Comprehensive Plan Update and of which exact requirements have not yet been determined.)

- B. The proposed interim use is presently acceptable but, given anticipated development, will not be acceptable in the future. (The proposed religious institution is acceptable in that it is utilizing an office area of a former industrial use, but which will be rezoned, likely to “downtown flex” within the next couple of years which could possibly include the use as either permitted or conditional, at which time this use will no longer need the “interim” label.)
- C. The proposed use will not hinder permanent development of the site. (The proposed designated exterior storage area will not hinder permanent development of the site as it is utilizing an underutilized canopy covered rail spur and is anticipated to become “downtown flex” in the 2024 Comprehensive Plan which will lead to continued redevelopment of the site.)
- D. The proposed use will not adversely impact implementation of the Comprehensive Plan for the area. (The proposed designated exterior storage area will not adversely impact implementation of the Comprehensive Plan as it is anticipated to become “downtown flex” in the 2024 Comprehensive Plan and this use is only considered for up to 3 years.)
- E. The proposed use will not be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare. (The proposed designated exterior storage area will not be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare as it is utilizing an underutilized canopy covered rail spur which will be screened from the view of Main Street.)
- F. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area. (The proposed designated exterior storage area will not create an excessive burden on existing parks, schools, street and other public facilities as it is limited in size and period of use to no more than 3 years.)
- G. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided. (Adequate utilities, access roads, drainage and necessary facilities exist for the proposed designated exterior storage area and a condition is suggested to address maintenance issues with 2<sup>nd</sup> Street SW should they become a concern.)
- H. The date or event that will terminate the use has been identified with certainty. (The proposed designated exterior storage area shall cease to operate at the site on 10/7/2027.)
- I. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future. (The proposed designated exterior storage

area will not impose additional costs on the public if it is necessary for the public to take the property in the future.)

In permitting a new interim use, the City Council may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the City Council considers necessary to protect the best interest of the surrounding area or the community as a whole. Any City Council approval of an interim use shall be subject to the following conditions:

- A. Except as otherwise authorized by this section, an interim use shall conform to this Ordinance as if it were established as a conditional use.
- B. The date or event that will terminate the interim use shall be identified with certainty. The City Council may require the applicant to deposit a cash amount with the City, or provide some other form of security, to ensure compliance.
- C. In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.
- D. Other conditions as the City Council deems reasonable and necessary to protect the public interest and to ensure compliance with the standards of this Ordinance and policies of the Comprehensive Land Use Plan.

### **Staff Recommendation**

Staff recommends approval of the request only as an Interim Use Permit (#I2-2024) to allow for exterior storage of vehicles and recreational equipment in the I-1 Light Industrial Zoning District, at the former mill located 100 2<sup>nd</sup> Ave. SW, as proposed by New Prague Mill, LLC with the following findings:

- A. The proposed interim use for a designated exterior storage area will utilize property in a reasonable and temporary manner considering its current I-1 Light Industrial Zoning, but which is guided as “downtown flex” in the 2024 Comprehensive Plan Update and of which exact requirements have not yet been determined.
- B. The proposed religious institution is acceptable in that it is utilizing an office area of a former industrial use, but which will be rezoned, likely to “downtown flex” within the next couple of years which could possibly include the use as either permitted or conditional, at which time this use will no longer need the “interim” label.
- C. The proposed designated exterior storage area will not hinder permanent development of the site as it is utilizing an underutilized canopy covered rail spur and is anticipated to become “downtown flex” in the 2024 Comprehensive Plan which will lead to continued redevelopment of the site.
- D. The proposed designated exterior storage area will not adversely impact implementation of the Comprehensive Plan as it is anticipated to become “downtown flex” in the 2024 Comprehensive Plan and this use is only considered for up to 3 years.
- E. The proposed designated exterior storage area will not be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare as it is utilizing an

underutilized canopy covered rail spur which will be screened from the view of Main Street.

- F. The proposed designated exterior storage area will not create an excessive burden on existing parks, schools, streets and other public facilities as it is limited in size and period of use to no more than 3 years.
- G. Adequate utilities, access roads, drainage and necessary facilities exist for the proposed designated exterior storage area and a condition is suggested to address maintenance issues with 2<sup>nd</sup> Street SW should they become a concern.
- H. The proposed designated exterior storage area shall cease to operate at the site on 10/7/2027.
- I. The proposed designated exterior storage area will not impose additional costs on the public if it is necessary for the public to take the property in the future.

And with the following conditions:

1. The proposed exterior storage under the canopy shall cease operations within 3 years from the date of approval of this Interim Use Permit which is October 7, 2027.
2. Exterior storage is only allowed underneath the canopy area which is located over the railroad spur in the area depicted on the Site Map Dated 9/16/24 on file with the Planning Department. Other areas of existing exterior storage on the site must be moved to this designated area.
3. Only rail cars are allowed to be parked on the southernmost area of the spur line without a canopy as noted on the Site Map Dated 9/16/24 on file with the Planning Department.
4. The perimeter chain link fence must be moved/removed from areas where the site is actively being used and can only remain in areas not being actively rented.
5. Screening of at least 8' tall is required on the north end of the exterior storage area between the two building walls to screen the area from the view of Main Street. Screening may consist of a fence, vegetation or combination thereof that provides for 80% opacity year-round.
6. The Public Works Director may, at their sole discretion, invoice the property owner for extraneous maintenance to the gravel section of 2<sup>nd</sup> Street SW related to traffic generated by the use.
7. A 6' access aisle must be maintained through the exterior storage area to ensure access to all doors that abut the storage area for fire access.
8. If the exterior storage area is ever completely fenced, the applicant must provide a knox box to hold a key for access by the Police/Fire Department.
9. Dust control measures must be used on the exterior storage area and all access roads to ensure adjacent properties are protected from dust during susceptible conditions.
10. Items stored on the site are limited to be no taller than the height of a motorized RV (approximately 14' tall), with the exception of railcars which are allowed to exceed said height.
11. All recommendations of MnDOT must be complied with prior to utilization of the site for exterior storage.
12. All building and site signs must conform to Section 718 of the Zoning Ordinance which require a permit under a separate permit process.
13. All lighting must conform to Section 704 of the Zoning Ordinance.
14. Except as otherwise authorized by the Zoning Ordinance, this interim use shall conform to this Ordinance as if it were established as a conditional use.

15. In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.
16. The applicant shall reimburse the city for all fees and costs it incurs for processing, reviewing, and acting on the application approved herein, including but necessarily limited to any fees charged by the city's professional consultants in accordance with established rates.
17. The property shall be subject to all requirements of the New Prague City Code and shall otherwise comply with all other applicable federal, state, and local laws, rules, and regulations.

**Attachments**

1. Site Map Aerial – Dated 9/16/24
2. Site Map Zoning – Dated 9/16//24
3. Site Map Aerial – Staff Notes – Dated 9/16/24
4. Pictures – Dated 9/16/24



Aerial View of Proposed Exterior Storage Area







View of Canopy Area from Main St. W. (middle of the photo) – Other stored items in this photo must be moved to storage area under canopy.



Zoomed in view of the Proposed Exterior Storage Area under the Canopy only. The chain link fence should be moved to enclose the storage area and screened to block the view of stored items from Main Street.



Looking at the NE corner of the site from Main Street. (Chain link fence must be moved to only secure areas not being used.)



Looking at the NW corner of the site from Main Street.



Looking at north end of site to the west from 2<sup>nd</sup> Ave. SW.



Looking at site from 2<sup>nd</sup> Ave. SW (these exterior storage items must be removed and fence revised to only enclose storage or other areas not yet being rented/occupied).



Looking east along 2<sup>nd</sup> Street SW ROW from railroad spur.



Looking north along Railroad spur towards south side of canopy storage area.



Looking North towards canopy storage area from 2<sup>nd</sup> Street SW ROW.



118 Central Avenue North, New Prague, MN 56071  
phone: 952-758-4401 fax: 952-758-1149

---

---

## MEMORANDUM

---

---

**TO:** PLANNING COMMISSION  
**FROM:** KYRA CHAPMAN - PLANNER  
**SUBJECT:** REQUEST FOR CONDITIONAL USE PERMIT #C4-2024 TO PROVIDE OUTDOOR SEATING AT THE SUGAR ROSE BAKESHOP LOCATED AT 120 MAIN ST W IN THE B1 - CENTRAL BUSINESS DISTRICT, AS PROPOSED BY JODY BREATHWAITE.  
**DATE:** 9/16/24

---

### **Background / History**

In 2023, Sugar Rose Bakeshop relocated from the strip mall at 801 1<sup>st</sup> St SE to its current location downtown at 120 Main St W in the B1-Central Business District. The main floor of the existing building is occupied by Sugar Rose Bakeshop and the top floor are short term rental dwelling units. Earlier this summer, staff were notified that the business had tables and chairs located in front of the building along the sidewalk of Main St W. According to the Zoning Ordinance, commercial businesses in the B1 District must have a conditional use permit to have outdoor seating/dining areas. The chairs and tables in front of the building have since been removed. However, there is still an outdoor seating area on the side of the property but that is only designated and utilized by the tenants. Conditional use permits are not required for dwelling units. The applicant is requesting to put two tables and four chairs in front of their building on the sidewalk of Main St W.

### **Legal Description**

Lot 5, Block 2, Original Town of New Prague, Le Sueur County, Minnesota.

### **Zoning**

The property is zoned B1 Central Business District. The proposed outdoor seating area for restaurants is listed as a conditional use in the B-1 Central Business District which is why the Conditional Use Permit is required. The B-1 District also does not require off-street parking for any use, does not have minimum lot size requirements and also does not have minimum setbacks for buildings or other accessory uses other than to an alley and railroads.

### **Outdoor Patio Standards**

Zoning Ordinance Section 733 contains performance standards relating to outdoor seating for restaurants in the City as follows:

**733 Outdoor Seating for Restaurants and Drinking Establishments**

1. *Restaurants, drinking establishments, and restaurants, may provide outdoor seating for their patrons with an approved Conditional Use Permit provided that the following requirements are met:*
2. *For all establishments:*
  - A. *The seating shall be located on private property and outside of any recorded easement areas and demonstrated on a site plan.*
  - B. *The seating shall consist of good quality patio or café type furniture that enhances the appearance of the business.*
  - C. *No beverages or food shall be served to persons outside of the designated outdoor seating area.*
  - D. *The seating area, if not slab on grade, shall be subject to applicable setback requirements.*
  - E. *The seating area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material.*
  - F. *The seating shall be located so as not to compromise safety. Seating shall not obstruct the entrance or any required exits or be located on landscaping or parking areas. If located on private sidewalks or walkways, it shall be located so as to leave a minimum of a four foot (4') wide passageway for pedestrians. Applicable building and fire codes for ingress and egress shall be met.*
  - G. *No additional parking is required for 30 outdoor seats or less. Any additional seating over 30 seats shall provide required parking based on one space per three seats.*
  - H. *The outdoor seating area shall be subordinate to the principal use and shall not exceed 40 percent of the square footage of the principal use building space.*
  - I. *Noises on the outdoor seating area shall be subject to City Code Section 92.18(S).*
  - J. *Lighting shall be permitted to the extent that it only illuminates the designed area. Lighting must otherwise meet the standards listed in Section 704 of this Ordinance for Glare.*
  - K. *The business owner or designated person shall inspect the premises on a daily basis including all adjacent streets, sidewalks, alleys, parking areas and sidewalks within 100 feet and remove all litter. Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, etc. must be provided in close proximity to the outdoor seating area.*
  - L. *Additional conditions may be imposed by the City and listed on the approved conditional use permit including but not limited to hours of outdoor seating area use and additional screening or buffering to residential zoned or used areas.*
  - M. *No external music, live or recorded, shall be allowed after 10:00PM. It also shall not be audible from a distance of more than 50' from the edge of the defined patio area at any time.*

The applicant intends to place two small bistro tables and four chairs in front of Sugar Rose Bakeshop. The patio furniture would be placed on the large sidewalk of Main St/TH 19. The patio chairs have a width of 21.7” and the diameter of the tables is 20.5”.

According to the as-builts for the TH19 Reconstruction project in 2020, Sugar Rose Bakeshop’s (formally known as Farmhouse Market) property line extends approximately 1’ 8” north from their building. The width of the sidewalk to the curb in front of the property is roughly 12’ 9” wide. Zoning Ordinance section 733 (2) (A) requires that outdoor seating must remain on private property. Due to the width of the existing 12’ 9” sidewalk, the proposed patio furniture satisfies the 4’ minimum passageway for pedestrians.

The side and rear of the property have existing outdoor seating areas, but these areas are designated for the tenants who reside above the first floor of Sugar Rose Bakeshop. Conditional use permits are not required for housing/dwelling units. Customers of Sugar Rose Bakeshop may only utilize the patio furniture in front of their building.

### **Neighborhood Conditions**

The subject property as well as all adjacent to the east and west are largely zoned B1-Central Business District.

North – B1-Central Business District, and RL84-Single Family Residential District.

South – B1-Central Business District, and RL70-Single Family Residential District.

West – B1-Central Business District, and I1-Light Industrial District

East – B1-Central Business District

Several buildings in the B1-Central Business District were constructed between the 1880s to the 1940s. Most of the buildings in this district are currently used for commercial retail use or as drinking/dining establishments with some having rental dwelling units above. Within the City, there are some businesses that were approved outdoor dining areas through a conditional use permit. For example, there is Outlaw Saloon at 103 Main St W, 1319 Woodfire Tavern at 125 E Main St, Local 105 at 105 Main St E, and Giesenbrau Bier Co. at 1306 1<sup>st</sup> St NE.

### **Parking**

Off-street parking is not required in the B-1 Central Business District. **No additional parking is required if there are 30 outdoor seats or less.** Any additional seating over 30 seats shall provide required parking based on one space per three seats. The applicant is proposing to have 4 outdoor seats; therefore, no off-street parking is required.

### **Public Works Considerations**

Public Works Director Matt Rynda and Utilities General Manger Bruce Reimers did not have any comments on the subject.

### **FEMA Flood Plain**

N/A

### **Police Chief and Fire Chief Comments**

Police Chief Tim Applen and Fire Chief Steve Rynda did not have any comments.

### **Building Official Comments**

Building Official Scott Sasse did not have any comments.

### **County Highway Department Comments**

N/A

### **State Highway Department Comments**

Comments were solicited on 9/9/2024 from Angela Piltaver, Principal Planner with MnDOT:

Based off the plan and aerial imagery, it appears that there should be plenty of space to maintain a clear path for the pedestrian accessible route (PAR) through this area (minimum of 6' width) with the table and chairs occupying roughly 20 inches of space adjacent to the building front that has been identified in the drawing.

### **Conditional Use Permit Findings**

Section 505 of the Zoning Ordinance states that when granting a conditional use permit the City Council shall make the following findings:

- A. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area. (The proposed patio area will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area, as the additional area will only accommodate outdoor seating.)
- B. The use will be sufficiently compatible or separated by distance or screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land. (The proposed outdoor furniture will only be located in the front of the building far away from single family residential homes and which is compatible with adjacent residential apartments and will not cause a depreciation in their value.)
- C. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties. (The proposed patio and site will improve the front appearance of the building and will not adversely affect adjacent residential apartments.)
- D. The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use. (The proposed outdoor dining area is reasonably related to the overall needs of the City and existing land use as the proposed outdoor seating area is specifically listed as a Conditional Use in the B-1 Central Business Zoning District.)
- E. The use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use. (The proposed outdoor seating area is specifically listed as a Conditional Use in the B-1 District and therefore is consistent with the purposes of the zoning ordinance.)
- F. The use is not in conflict with the Comprehensive Plan of the City. (The proposed outdoor seating area is not in conflict with the Comprehensive Plan of the City because it is located in the B-1 District in which patios are listed as a Conditional Use.)

- G. The use will not cause traffic hazard or congestion. (The proposed outdoor patio will not cause traffic hazards or congestion as it provides only 4 seats and no off-street parking is required for any uses in the B-1 district.)
- H. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided. (Adequate utilities, access roads, drainage and necessary facilities have been provided.)

Section 505 of the Zoning Ordinance also states that conditions may be placed upon the approval as are considered necessary to protect the public health, safety and welfare.

### **Staff Recommendation**

Staff recommends approval of Conditional Use Permit #C4-2024 to allow outdoor seating at Sugar Rose Bakeshop located at 120 Main St W in the B1-Central Business District, with the following conditions:

1. Approval is subject to the site plan dated 9/4/24 on file with the New Prague Planning Department which complies with the requirements of Section 733 of the Zoning Ordinance.
2. Plans must continue to follow MnDOT's comments dated 9/9/2024.
3. Outdoor furniture must be removed during winter months when snow removal would be expected to be occurring.

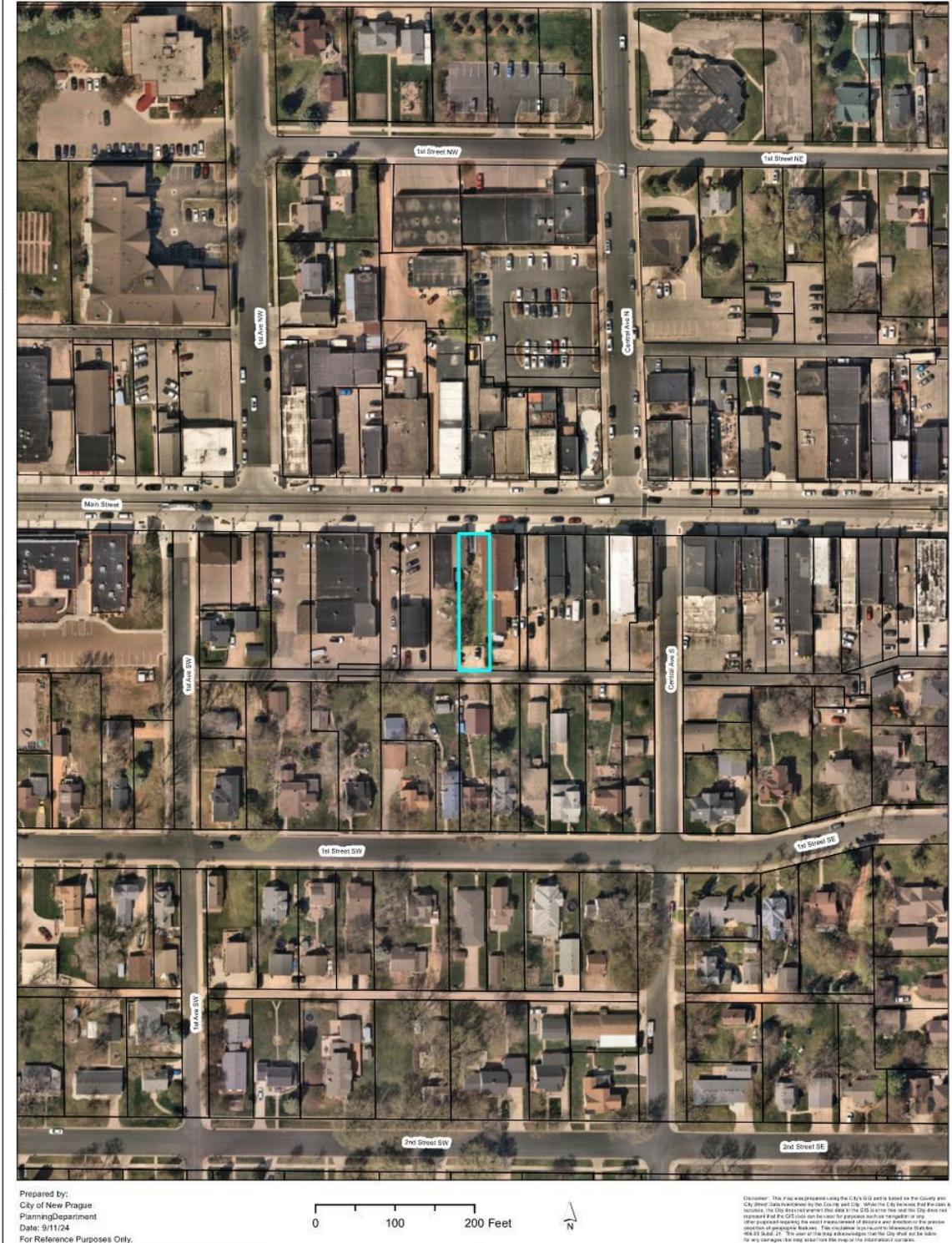
And making the following findings to approve the conditional use permit:

- A. The proposed patio area will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area, as the additional area will only accommodate outdoor seating.
- B. The proposed outdoor furniture will only be located in the front of the building far away from single family residential homes and which is compatible with adjacent residential apartments and will not cause a depreciation in their value.
- C. The proposed patio and site will improve the front appearance of the building and will not adversely affect adjacent residential apartments.
- D. The proposed outdoor dining area is reasonably related to the overall needs of the City and existing land use as the proposed outdoor seating area is specifically listed as a Conditional Use in the B-1 Central Business Zoning District.
- E. The proposed outdoor seating area is specifically listed as a Conditional Use in the B-1 District and therefore is consistent with the purposes of the zoning ordinance.
- F. The proposed outdoor seating area is not in conflict with the Comprehensive Plan of the City because it is located in the B-1 District in which patios are listed as a Conditional Use.
- G. Th proposed outdoor patio will not cause traffic hazards or congestion as it provides only 4 seats and no off-street parking is required for any uses in the B-1 district.
- H. Adequate utilities, access roads, drainage and necessary facilities have been provided.

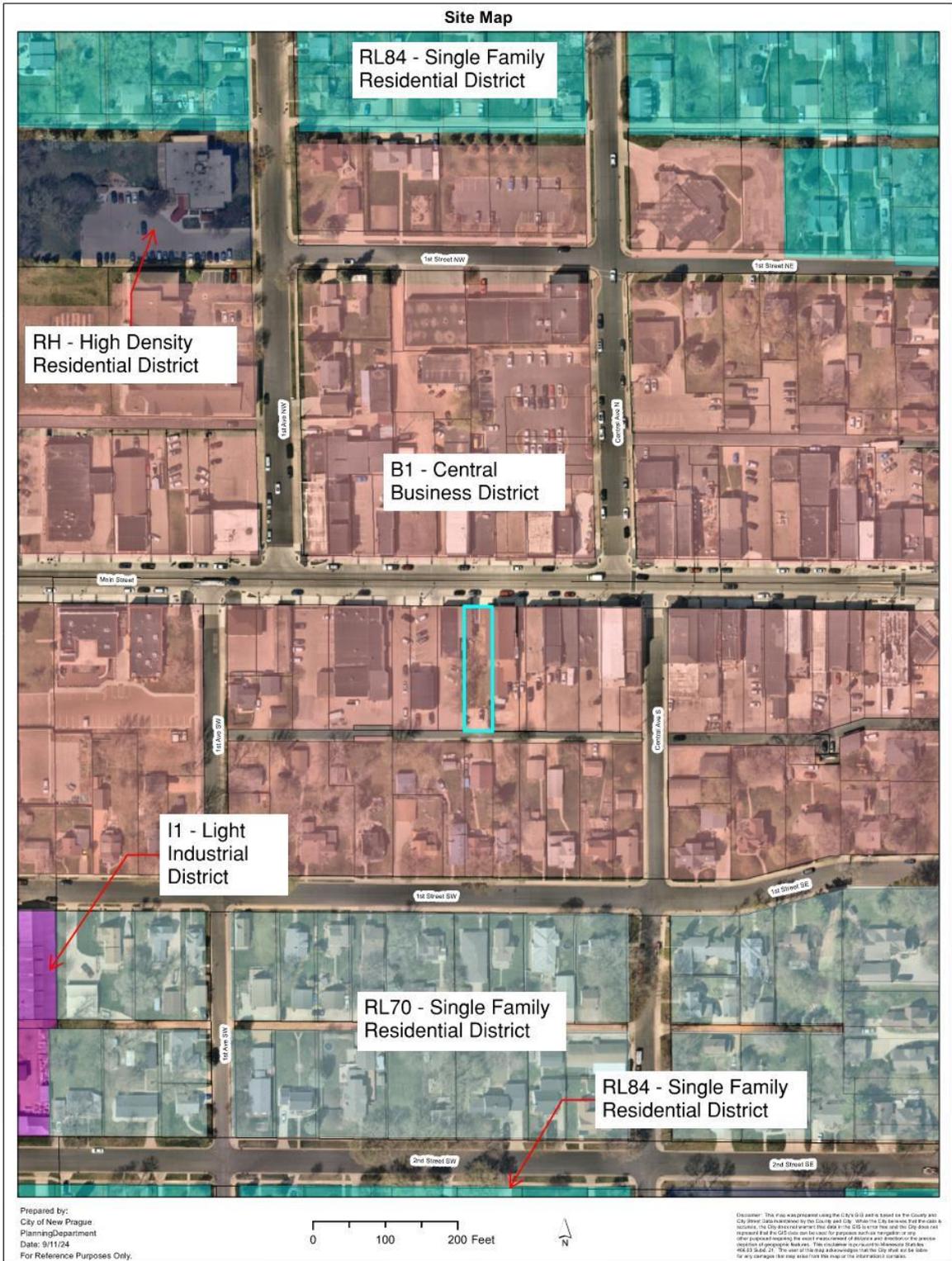
## **Attachments**

1. Aerial Site Map – Dated 9/11/24
2. Aerial Zoning Site Map – Dated 9/11/24
3. Outdoor Seating Site Plan – Dated 9/4/24
4. TH 19 As-Built – 12/22/22
5. Proposed Patio Furniture – Dated 9/9/2024
6. Oblique Air Photo – Dated 4/12/23
7. Google Street View – Aug 2023

### Site Map



### Aerial Site Map



Aerial Zoning Site Map

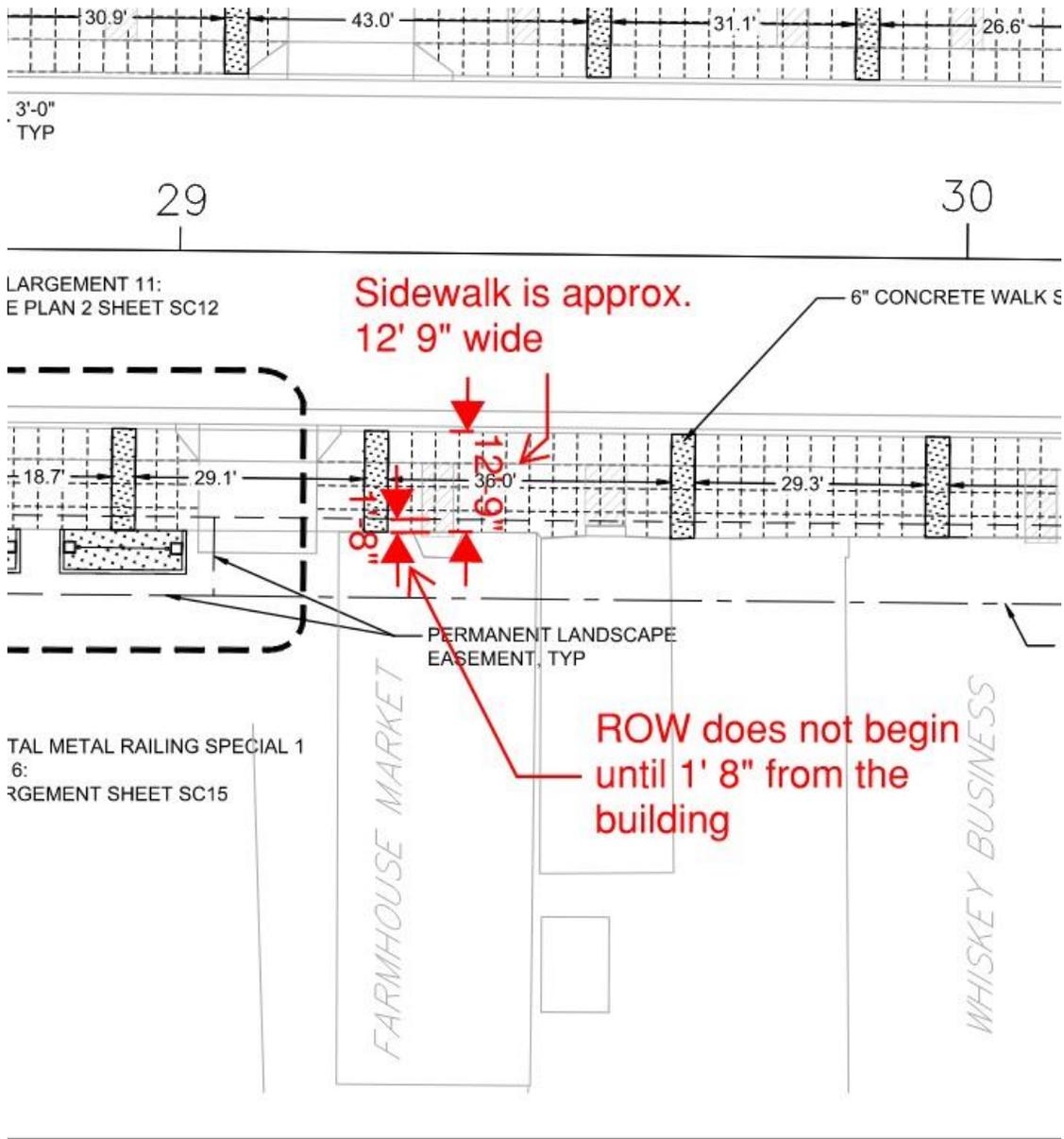


Note: There would be a table identical to the other one on the right side.  
<sub>3 Chairs</sub>

### Outdoor Seating Site Plan



Outdoor Seating Site Plan



TH19 As-builts – Property and ROW Markup

Brand: KROFEM

4.6 ★★★★★ 275

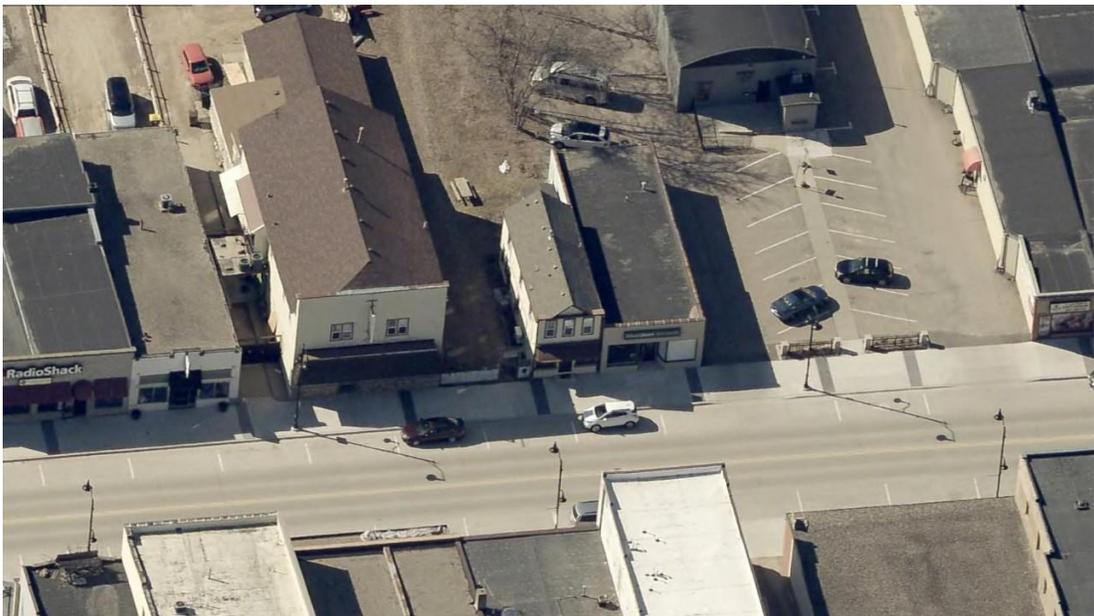
3 Pieces Wicker Patio Bistro Furniture Set, Includes 2 Chairs and Glass Top Table, Ideal for Porch, Outdoor, Backyard, Apartment, Balcony Natural Color

200+ bought in past month

Product size



Proposed Patio Furniture



Oblique Aerial Image



Google Street View – Front Area of Sugar Rose Bakeshop



118 Central Avenue North, New Prague, MN 56071  
phone: 952-758-4401 fax: 952-758-1149

---

---

## MEMORANDUM

---

---

**TO:** PLANNING COMMISSION  
**FROM:** KYRA CHAPMAN – PLANNER  
**SUBJECT:** REQUEST FOR VARIANCE #V8-2024 TO ALLOW A 5’ TALL FENCE AT 1232 OLIVIA STREET SE, AS PROPOSED BY MARK AND CHRISTINE SHAW  
**DATE:** SEPTEMBER 11, 2024

---

### **Background / History**

Applicants, Mark and Christine Shaw applied for a fence height variance for their 5’ tall chain link fence to remain where it is. The existing fence does not meet the Zoning Ordinance requirements for fence height. The Zoning Ordinance does not allow fences to exceed 4’ tall if they are erected in front of the rear corner of the home. The west front/side fence is located near the porch and is exceeding 4’ tall. The Zoning Ordinance also states that fences may not exceed 4’ tall when located less than 30’ from the road right of way. This also applies to the backyard of a home as it’s less than 30’ from the street right way (sidewalk and CSAH 29).

Currently, they have a 5’ tall chain link fence installed on the side and rear of their property. Some neighbor’s fences were constructed prior to the existing fence ordinance or received a fence height variance. For instance, 1214 Olivia St SE (V1-2018) was approved for a 6’ tall wooden privacy fence in the backyard and 1110 Olivia St SE (V2-2018) was approved for a 6’ tall white vinyl fence in the backyard. The applicants are requesting a fence height that is 1’ shorter than some of their neighbors, but 1’ over the ordinance height limit.

### **Legal Description**

Lot 36, Block 4, Tikalsky Acres, according to the plat thereof, Le Sueur County, Minnesota.

### **Zoning**

The subject property is located in the RL90 Single Family Residential Zoning District. The following are the residential fence regulations:

2. Residential Fences.

- A. Fences may be located on any lot line to a height of four (4) feet and a fence up to six (6) feet in height may be erected behind the nearest rear corner of the principal building. The side of the fence considered to be the face (facing as applied to fence posts) shall face abutting property. For corner lots, a six (6) foot fence may only be erected at the 30' building setback line. A fence up to six (6) feet in height may also be erected behind attached garages where the location of the fence is not entirely erected behind the nearest rear corner of the principal building.

The applicants currently have a 5' tall black chain link fence installed from the side of their home to their rear property line. (They are currently maintaining the required 2' setback from the trail.) Section 708 (2) (A) of the Zoning Ordinance Section states that fences may be a maximum height of 6' from the rear corner of the home to the rear property. This property has two front yards due to CSAH 29, therefore, a 5' fence could not be installed until the rear corner of the house and 30' away from the south property line. From the rear corner of the home to the front property line, the fence cannot exceed 4' tall. If the ordinance was followed, the applicant would only be able to install a 5' fence on a portion of their property limiting their usable area in their backyard.

Staff recommend that the front fence near the west side of the property should be adjusted. Currently the west side fence is 5' tall and begins near the front porch. The Zoning Ordinance states that fences that exceed 4' tall may be built at the rear corner of the home. Fences that are a maximum of 4' tall may be built before the rear corner of the home. Staff recommend that the 5' tall fence should be moved so it is behind the rear west corner of the house.

### **Neighborhood Conditions and Nearby Land Uses**

North — Residential homes in the RL90 Single Family Residential District and Settlers Park

South — Outside City limits and County State Aid Highway 29

East — Residential homes in the RL90 Single Family Residential District

West – Residential homes in the RL90 Single Family Residential District

Areas to the north, west, and east are residential homes zoned RL90 Single Family Residential District. South of the property is a city trail, the edge of City limits, and CSAH 29.

All homes on Olivia Street SE with backyards facing CSAH 29 must abide by the same fence regulations. In other words, all those homes may not erect a fence taller than 4' tall unless it is 30' away from their rear property line and behind the rear corner of their homes.

There have been some fence height variances awarded along Olivia St SE. At 1214 Olivia St SE, V1-2018 was approved to allow a 6' tall wooden privacy fence to encompass the backyard. At 1110 Olivia St SE, V2-2018 was approved, allowing a 6' tall white vinyl fence in the backyard.

### **Statement of Practical Difficulties**

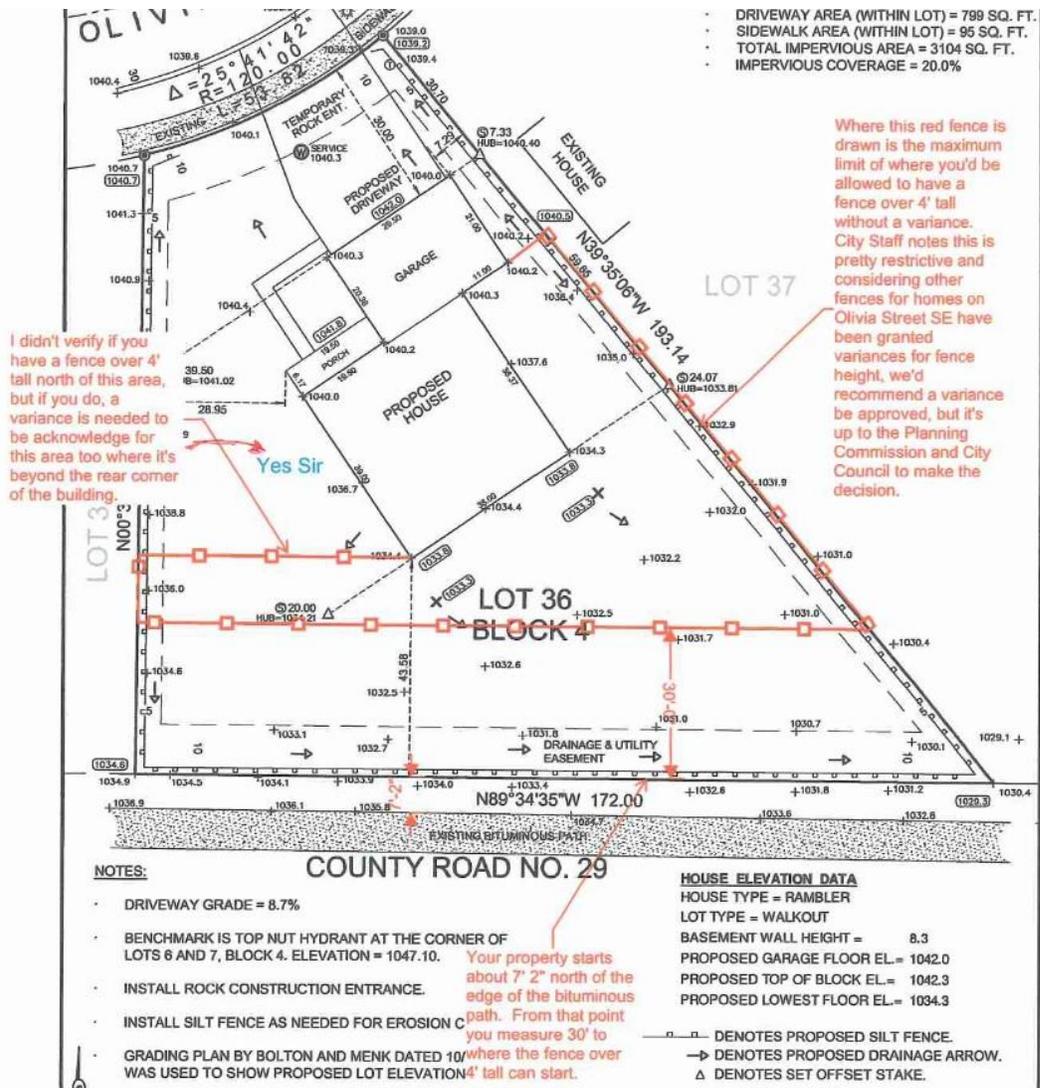
A letter dated on August 26<sup>th</sup>, 2024 by applicants Mark and Christine Shaw, provided the following letter of practical difficulty:

Requesting variance to allow the “as installed” 5' chain link fence to remain in place. Prior to the installation by Northland Fence Company, my wife and I walked the neighborhood; up and down the walk path on 29 as well as up and down Olivia Street. We took note of many of the existing fences. A good number of existing fences are well over 5' and are also placed much, much closer to the walk path on 29 than our installed fence happens to be.

The purpose of the 5' fence is to accommodate our two dogs. A fence lower than 5' defeats the purpose of the fence in the first place. I don't believe it prudent to have a fence any lower than 5'.

Prior to the fence installation, I ensured that all property pins were fully exposed. There is absolutely no question that the fence is installed well within the confines of our property.

I have attached the information received by the City of New Prague. I have also indicated “Yes” to the question posed on the left side of the document.



**Public Works / Utilities / Engineer Comments**

Public Works Director Matt Rynda, Utilities General Manager Bruce Reimers, and City Engineer Chris Knutson with SEH, Inc. were not solicited for comments on the matter.

**Building Official Comments**

Comments from the Building Official were not solicited as the variance is related to fences only.

**Criteria for Granting Variances - Section 507**

The Zoning Ordinance defines a variance as follows: A modification or variation of the provisions of this Ordinance where it is determined that by reason of unique circumstances relating to a specific lot, that strict application of the Ordinance would cause practical difficulties. Practical difficulties is a legal standard set forth in law that cities must apply when considering applications

for variances. To constitute practical difficulties, all three factors of the test must be satisfied, which are reasonableness, uniqueness and essential character. The Zoning Ordinance's criteria addresses these standards.

The Zoning Ordinance identifies criteria for granting variances as noted below. These items must be evaluated by the Planning Commission and City Council when considering variance requests. It is important to note that variances should only be granted in situations of practical difficulties. A variance may be granted only in the event that all of the circumstances below exist. Staff has attempted to evaluate the established criteria for this specific request. Staff's comments are highlighted in yellow below:

- A. The variance is in harmony with the general purposes and intent of this Ordinance. (The variance is in harmony with the general purposes and intent of the Ordinance because the RL-90 Single Family Residential Zoning District allows fences to be constructed as a permitted use.)
- B. The variance is consistent with the comprehensive plan. (The proposed variance is consistent with the comprehensive plan because fences are allowed as a permitted use in the RL-90 Single Family Residential Zoning District.)
- C. The applicant proposes to use the property in a reasonable manner not permitted by this Ordinance, the City Code or the City Subdivision Ordinance. (The applicant proposes to use the property in a reasonable manner by having a 5' tall fence in their side and backyard.)
- D. Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property since enactment of this Ordinance has had no control. The unique circumstances do not result from the actions of the applicant. (Unique circumstances apply to the property in that it is a through lot abutting a road on two sides (front and rear) with the roadway along the rear yard being a County Road.)
- E. The variance does not alter the essential character of the neighborhood. (The variance does not alter the essential character of the neighborhood because there are adjacent properties that have tall fences that were grandfathered in or similarly received fence height variances such as 1214 Olivia St SE (V1-2018) and 1110 Olivia St SE (V2-2018).)
- F. That the variance requested is the minimum variance which would alleviate the practical difficulties. Economic conditions alone do not constitute practical difficulties. (The variance requested is the minimum variance which would alleviate the practical difficulties because it would contain their dogs and prevent the removal of the existing fence.)

- G. The Board of Adjustment may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No variance shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by federal, state or local law. (The 5' tall fence should be moved so it is behind the rear west corner of the house.)

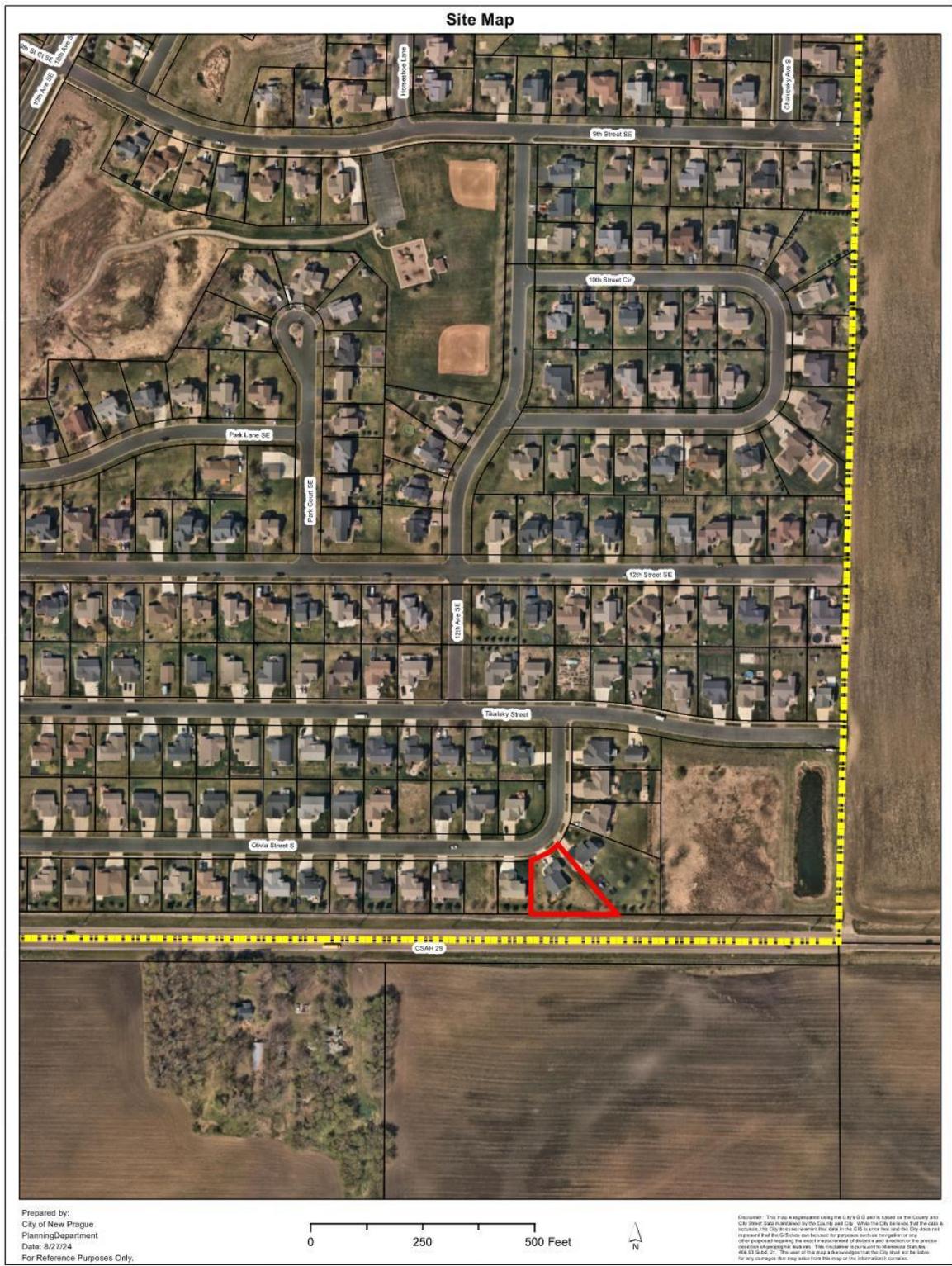
### **Staff Recommendation**

Staff recommends **approval** of Variance #V8-2024 to allow a variance for a 5' tall fence in the side and backyard of 1232 Olivia St SE, as proposed by Mark and Christine Shaw for the following reasons:

- A. The variance is in harmony with the general purposes and intent of the Ordinance because the RL-90 Single Family Residential Zoning District allows fences to be constructed as a permitted use.
- B. The proposed variance is consistent with the comprehensive plan because fences are allowed as a permitted use in the RL-90 Single Family Residential Zoning District.
- C. The applicant proposes to use the property in a reasonable manner by having a 5' tall fence in their side and backyard.
- D. Unique circumstances apply to the property in that it is a through lot abutting a road on two sides (front and rear) with the roadway along the rear yard being a County Road.
- E. The variance does not alter the essential character of the neighborhood because there are adjacent properties that have tall fences that were grandfathered in or similarly received fence height variances such as 1214 Olivia St SE (V1-2018) and 1110 Olivia St SE (V2-2018).
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because it would contain their dogs and prevent the removal of the existing fence.
- G. The 5' tall fence should be moved so it is behind the rear west corner of the house.

## **Attachments**

1. Site Map Aerial – Dated 8/27/24
2. Site Map Aerial Zoning – Dated 8/27/24
3. Survey – Planning Comments – Dated 9/11/24
4. Staff recommendation – Dated 9/11/2024
5. Pictures — 9/11/2024

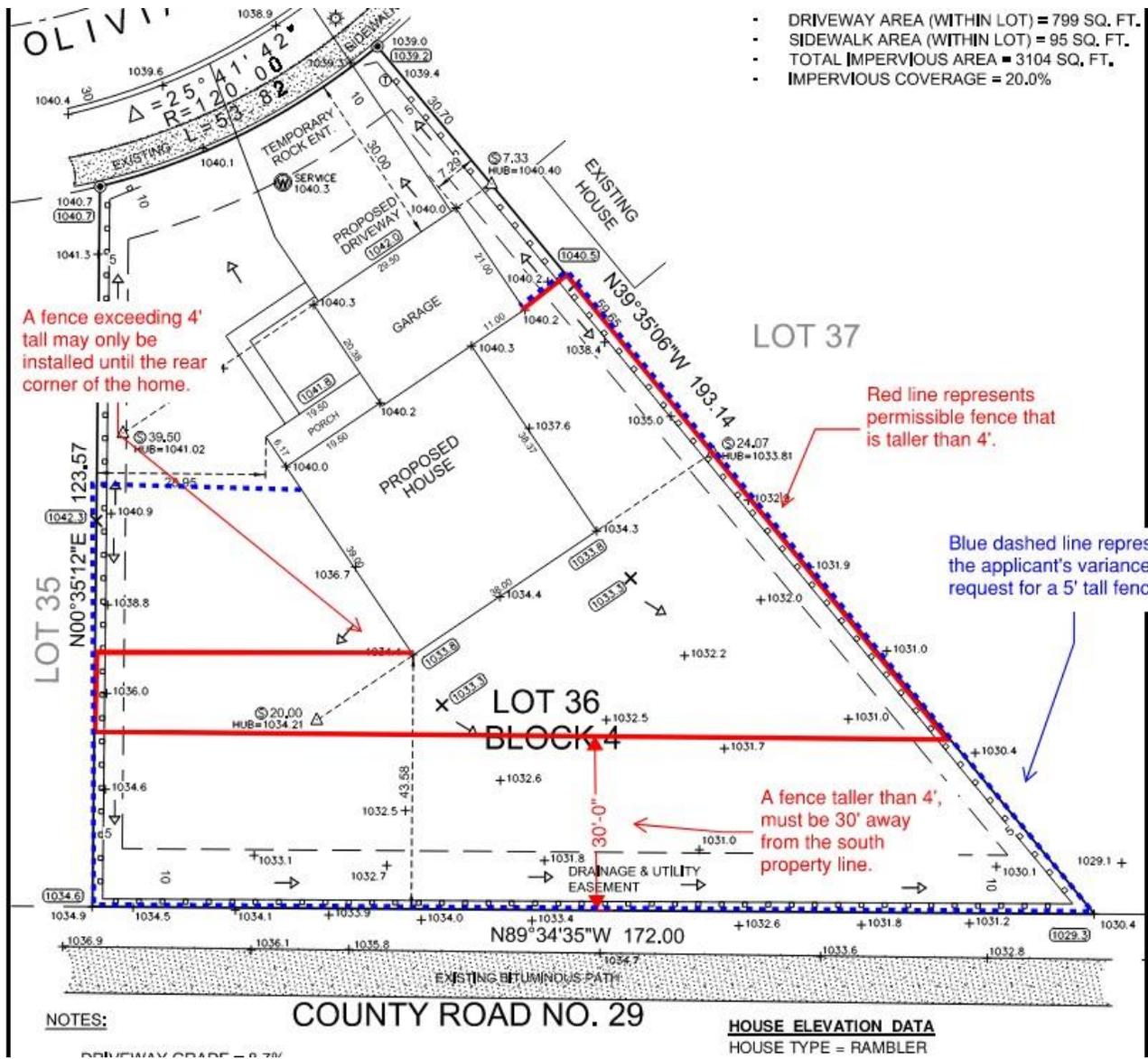


## Aerial Site Map

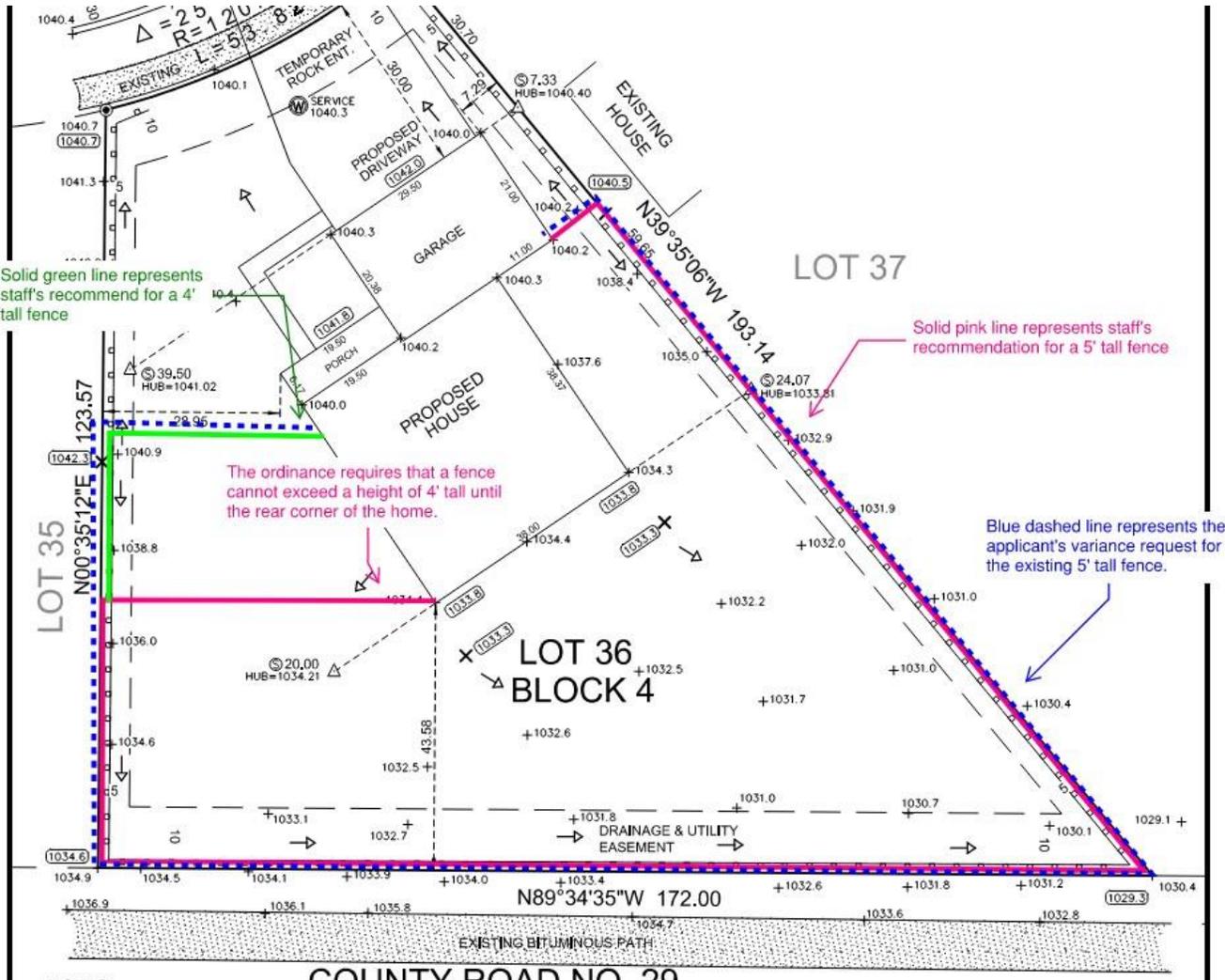
New Prague Community Center Association – Variance #V8-2024  
 September 25, 2024 Planning Commission Meeting  
 Page 8 of 14



Site Map of Zoning Districts



Fence Requirements – Zoning Ordinance vs. Applicant's Request



Staff's Recommendation – Applicant's Request vs. Staff's Suggestion



Existing Fence at 1232 Olivia St SE



Looking South from Olivia St SE – Front Yard of 1232 Olivia St SE



Looking South from Olivia St SE – Front Yard of 1232 Olivia St SE



5 Foot Tall Fence – Looking West Along the Trail Near CSAH 29



5 Foot Tall Fence – Looking North Along the Trail Near CSAH 29



5 Foot Tall Fence – Looking North Along the Trail Near CSAH 29



118 Central Avenue North, New Prague, MN 56071  
phone: 952-758-4401 fax: 952-758-1149

---

---

## MEMORANDUM

---

---

**TO:** PLANNING COMMISSION  
**FROM:** KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR  
**SUBJECT:** PUBLIC HEARING FOR SUBDIVISION ORDINANCE AMENDMENT TO CONSIDER REQUIRING SIDEWALKS ON BOTH SIDES OF ALL NEW STREETS  
**DATE:** SEPTEMBER 16, 2024

---

With the comprehensive plan process nearing completion and with possible residential lot development forthcoming, staff wanted to look at a possible early amendment to the Subdivision Ordinance which would require sidewalks on each side of all new streets within the City. This amendment would predate the full re-write of the Zoning and Subdivision Ordinances, which is intended to start later this year and take approximately one year to complete.

As the Planning Commission has seen in the draft comprehensive plan, the following are goals/strategies that support this:

**Community Development & Amenities - Goal 2: Maintain reliable and quality public services, utilities, and facilities to encourage growth and reinvestment.**

**Strategies:**

- Encourage connectivity among new and existing developments through pedestrian/bicycle facilities and trails.

**Transportation - Goal 1: Create a multimodal transportation network that aligns with anticipated land use/development plans, protects natural resources, and balances motorized and non-motorized needs.**

**Strategies:**

- Utilize Complete Street principles when evaluating highway and road improvement projects.
- Consider requiring and/or incentivizing developers to include non-vehicular transportation facilities in their subdivisions and development plans – particularly trail opportunities.
- Reduce the amount and density of cul-de-sacs in development to improve connectivity among vehicular and non-vehicular transportation facilities.
- Consider incentivizing sidewalk construction and maintenance to ensure a well-connected pedestrian network throughout the community.
- Ensure that City plans for vehicular and non-vehicular transportation align with each other for capital improvement planning and budgeting.

**Transportation - Goal 2: Develop a comprehensive and accessible system of pedestrian spaces that support users of all ages and abilities.**

**Strategies:**

- Identify gaps in ADA-compliant access by engaging the community and analyzing current conditions.
- Identify funding opportunities and partnerships to fix instances of ADA non-compliance throughout the community.
- Utilize Safe Routes to School programs to enhance physical pedestrian crossings and educate students on safe traveling strategies.

The City’s Subdivision Ordinance has not been amended since July of 2011 which means it was not amended since the last iteration of the comprehensive plan.

At the Planning Commission Meeting on August 28<sup>th</sup>, 2024, there was discussion among the Planning Commissioners regarding if cul-de-sacs or short stub roads need sidewalks on both sides, or even at all or if there were other considerations to be considered rather than blindly requiring sidewalks on all sides without exception and to make sure connections are provided from existing developments and to avoid creating dead ends. Staff has researched how other cities handle sidewalks requirements and while some cities do require sidewalks on both sides without exceptions, some do provide certain exceptions for less dense areas (under 3 dwelling units per net acre) or on short cul-de-sacs (less than 300’).

**Existing Subdivision Ordinance Language-**

**Under Section 062 titled “Street Improvements” the following is the language written concerning sidewalks under Subd. F:**

(F) *Minimum street/access standards.*

<b>Street Class</b>	<b>R/W Width (feet)*</b>	<b>Curb Width (feet)*</b>	<b>Grade (Max %)</b>	<b>Sidewalk Width (feet)**</b>	<b>Trail Width ROW/Paved (feet)*</b>
Arterial	100/150	44-68	4	6	20/10
Collector	80/120	36-40	6	5	15/8
Local	60	28-32	7	5	15/8
Cul-de-Sac (Dead End)	60’ radius	45’ radius	7	5	15/8
Alley	25	14-20	7	N/A	N/A

\*The City Council may require larger or smaller than minimum widths upon recommendation of the Planning Commission, City Staff or the City Engineer. A street which intersects or crosses a

railroad shall have a right-of-way of sufficient width to permit construction of a grade-separated crossing.

**\*\*A sidewalk is required on at least one side of all public streets, except as otherwise noted in Section 068 of this chapter.**

**Under Section 068, Subd. C titled “Landscaping and Walkways” the following is the language written concerning sidewalks:**

**(C) Sidewalks/pedestrian ways.** Concrete sidewalks of not less than five feet in width shall be provided on at least one side of each street, except for cul-de-sacs in instances where the sidewalk would not provide a connection to an adjacent trail, park or open space area. Where a proposed subdivision abuts or includes an arterial street, sidewalks of not less than six feet in width shall be provided on both sides of the street, unless a trail is included on one side of the street as designated by the comprehensive plan. In such case, the trail must be located on one side of the street and a sidewalk on the other. All sidewalks and trails must be compliant with the Americans with Disabilities Act.

**Proposed Zoning Ordinance Language-**

Staff recommends the following amendments (~~struck out~~ and **added**) to Section 062 and 068 of the subdivision ordinance:

Amend 062, Subd. F as follows:

(F) *Minimum street/access standards.*

<b>Street Class</b>	<b>R/W Width (feet)*</b>	<b>Curb Width (feet)*</b>	<b>Grade (Max %)</b>	<b>Sidewalk Width (feet)**</b>	<b>Trail Width ROW/Paved (feet)*</b>
Arterial	100/150	44-68	4	6	20/10
Collector	80/120	36-40	6	5	15/8
Local	60	28-32	7	5	15/8
Cul-de-Sac 60’ radius (Dead End)		45’ radius	7	5	15/8
Alley	25	14-20	7	N/A	N/A

\*The City Council may require larger or smaller than minimum widths upon recommendation of the Planning Commission, City Staff or the City Engineer. A street which intersects or crosses a railroad shall have a right-of-way of sufficient width to permit construction of a grade-separated crossing.

\*\*A sidewalk is required on ~~at least one side~~ **both** sides of all public streets, except as otherwise noted in Section 068 of this chapter.

Amend Section 068, Subd. C as follows:

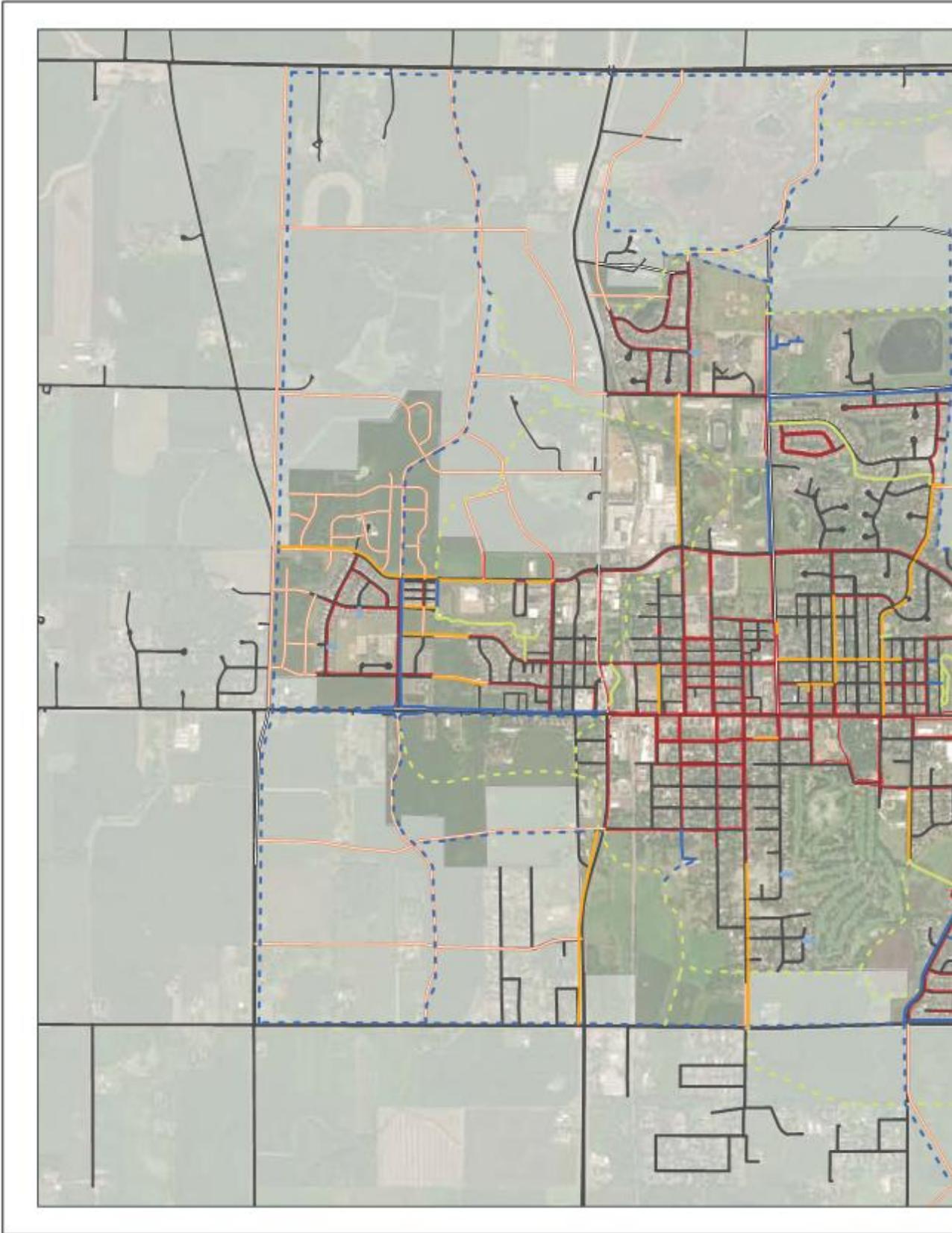
(C) *Sidewalks/pedestrian ways.* Concrete sidewalks of not less than five feet in width shall be provided on ~~at least one~~ **both** sides of each street, except for cul-de-sacs **less than 300 feet in length in a residentially zoned area where a sidewalk on one side will be sufficient.** ~~in instances where the sidewalk would not provide a connection to an adjacent trail, park or open space area.~~ **The City may also consider a sidewalk on only one side of a street where the residential density is less than three (3) dwelling units per net acre in a residentially zoned area. In areas where a sidewalk is only required on one side, consideration for the location of the sidewalk must be made to provide connection to or continuation of existing adjacent sidewalk or trail routes.** Where a proposed subdivision abuts or includes an arterial street, sidewalks of not less than six feet in width shall be provided on both sides of the street, unless a trail is included on one side of the street as designated by the comprehensive plan. In such case, the trail must be located on one side of the street and a sidewalk on the other. All sidewalks and trails must be compliant with the Americans with Disabilities Act.

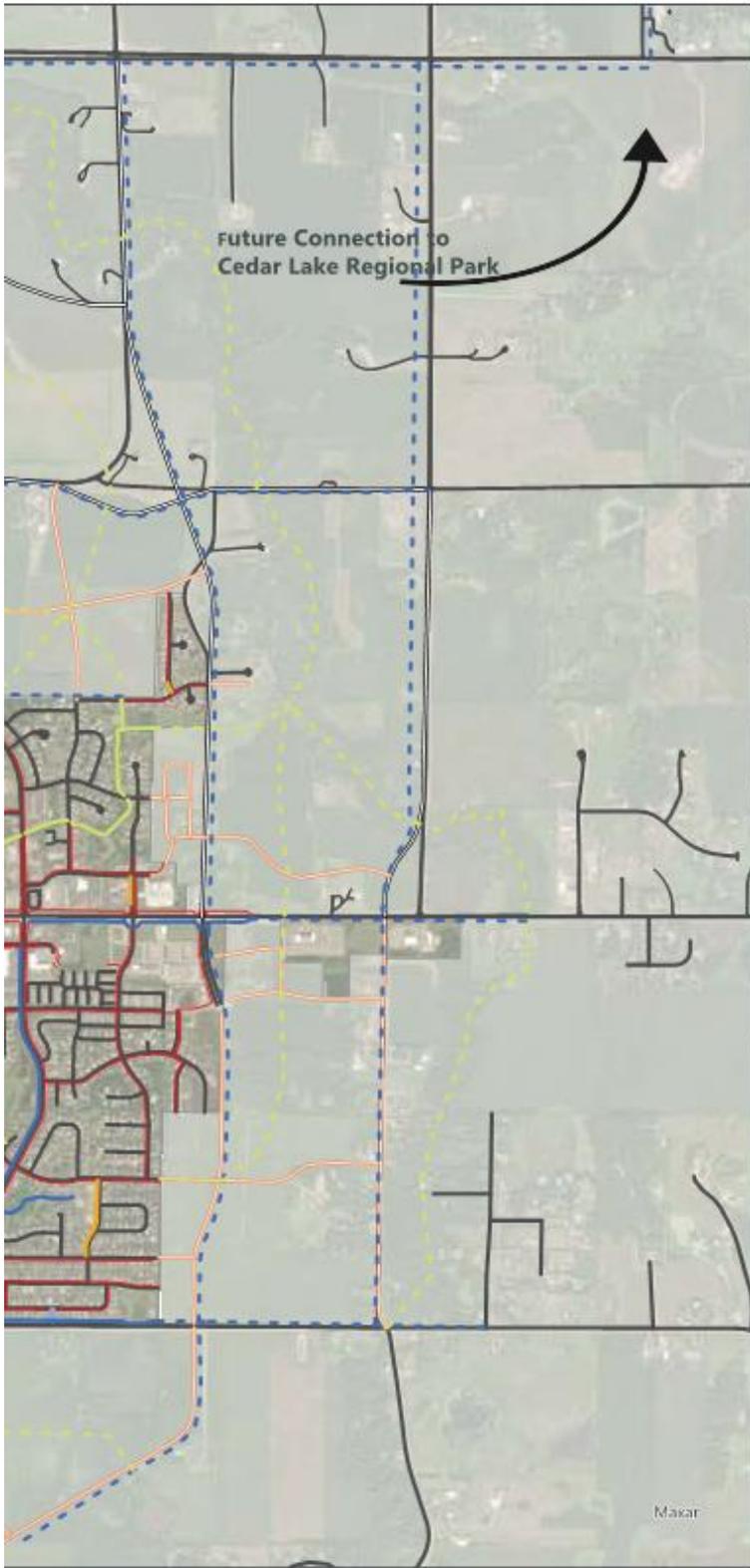
### **Recommendation**

Staff recommends that the Planning Commission hold the required public hearing on September 25th, 2024 to gather public input and to forward a recommendation on the proposed amendment to the City Council for consideration at their meeting on October 21st, 2024.

### **Attachments:**

1. Draft Mobility Map





# MOBILITY MAP

CITY OF NEW PRAGUE  
COMPREHENSIVE PLAN UPDATE

CITY OF NEW PRAGUE  
SCOTT/LE SUEUR COUNTY, MINNESOTA

- Existing Sidewalks
- Existing Trails
- Existing Greenway Trails
- Sidewalk Gaps
- - Potential Trails
- - Potential Greenway Trails
- Trail Connections
- Roadways
- New Corridor
- Route Change
- Existing Roadway
- New Prague City Limits

Data Sources:

Scott County, Le Sueur County, City of New Prague, FEMA  
Data Sources:



## September 2024 EDA Business Updates:

- **0 new home permits** were issued in August (0 single family homes and 0 townhome units). 5 residential home permits have been issued so far in 2024 (5 single family, 0 townhomes, 0 apartment units).
- **Scooters Coffee**, located at 1701 1<sup>st</sup> Street SE, was issued a temporary certificate of occupancy the week of September 2<sup>nd</sup>.
- A plat was approved for **Tracker Addition** located at 500 4<sup>th</sup> Ave. SW. This is a 1 lot commercial plat which is required before an additional new building can be constructed on the site as it is currently unplatted commercial property.
- A final variance was approved for the proposed **54-unit apartment building** on the lot south of Walgreens to allow a variance from the 15' parking setback to public right of way and to allow stall depth less than the normal 20' depth requirement.
- Yellow Tree Development attended the City Council meeting on 9/3/24 to discuss a possible 155-unit market rate apartment building to be located on a 4.86 acre lot near Raven Stream Village elementary school. The City Council directed staff to continue discussions on the possible tax abatement with the School District and Scott County as the City alone could not provide enough tax abatement to allow the project to move forward.