



**ZONING BOARD OF ADJUSTMENTS
AGENDA**

**Tuesday, August 17, 2021 - 4:00 PM
Council Chambers, 2nd Floor, City Hall
209 Pearl Street**

1. CALL TO ORDER

- A. ***ALL ATTENDEES THAT ARE NOT FULLY VACCINATED AGAINST COVID-19 ARE REQUIRED TO WEAR A FACEMASK AND/OR FACESHIELD AT ALL TIMES***

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. ADOPTION OF AGENDA

5. APPROVAL OF MINUTES

6. PROOF OF PUBLICATION/POSTING

7. REVIEW OF MEETING PROCEDURES

8. PUBLIC HEARINGS

A. CASE #CU-19-005(M)

Public hearing on the request of Color Ink Corp. d/b/a Dallas Johnson Greenhouse to modify condition use permit #CU-19-005 in order to establish site specific development standards for an existing greenhouse operation on property legally described being part of the NW1/4 NE1/4 of Section 15-74-44 lying North of the Highway 275, except City right-of-way, along with all of the SW1/4 SE1/4 and the South 10.01 acres of the NW1/4 SE1/4 all in Section 10-74-44, City of Council Bluffs, Pottawattamie County, Iowa. Location: 2802 Twin City Drive, Council Bluffs, IA 51501.

B. CASE #BA-21-003

Public hearing on the request of Randy and Candice Petry for a variance from Section 15.26.040, Nonconforming Structure, of the Council Bluffs Municipal Code (Zoning Ordinance) to the enlargement of a non-conforming second floor front porch on property legally described as Lot 5, Block 7, Jackson's Addition. Location: 622 South 3rd Street, Council Bluffs, IA 51501.

9. OTHER BUSINESS

10. ADJOURNMENT

Any questions or concerns regarding this agenda and/or requests for special accommodations at

this meeting should be directed to the Community Development Department at (712) 890-5350 or email at cgibbons@councilbluffs-ia.gov.

Zoning Board of Adjustment Communication

Department: Community

Development

Case/Project No.: CU-19-005(M)

CASE #CU-19-005(M)

Council Action: 8/17/2021

Submitted by: Haley Weber,

Planner

Description

Public hearing on the request of Color Ink Corp. d/b/a Dallas Johnson Greenhouse to modify condition use permit #CU-19-005 in order to establish site specific development standards for an existing greenhouse operation on property legally described being part of the NW1/4 NE1/4 of Section 15-74-44 lying North of the Highway 275, except City right-of-way, along with all of the SW1/4 SE1/4 and the South 10.01 acres of the NW1/4 SE1/4 all in Section 10-74-44, City of Council Bluffs, Pottawattamie County, Iowa. Location: 2802 Twin City Drive, Council Bluffs, IA 51501.

Background/Discussion

See attachments

Recommendation

ATTACHMENTS:

Description

Type

Upload Date

Staff Report & Attachments

Other

8/11/2021

TO: Zoning Board of Adjustment
FROM: Community Development Department
DATE: August 17, 2021
RE: **CASE #CU-19-005(M)**
REQUEST: A modification to a conditional use permit (Case #CU-19-005) to establish site specific development standards for the existing commercial greenhouse operation

APPLICABLE

CODE SECTIONS: §15.02.020 – Zoning Board of Adjustment
The Zoning Board of shall have the following powers:
b. To make final decisions on applications for conditional uses.

§15.05.030 – Conditional Uses in a A-2/Parks, Estates and Agricultural District
J. Greenhouse, commercial

LEGAL

DESCRIPTION: Part of the NW ¼ NE ¼ of Section 15-74-44 lying North of Highway 275, except City right-of-way, along with all of the SW ¼ SE ¼ and the South 10.01 acres of the NW ¼ SE ¼ all in Section 10-74-44, City of Council Bluffs, Pottawattamie County, Iowa

LOCATION: 2802 Twin City Drive, Council Bluffs, IA 51501

APPLICANT: Color Ink Corp dba Dallas Johnson Greenhouse, 2802 Twin City Drive, Council Bluffs, IA 51501

OWNERS: Johnson Enterprises Ltd., 2802 Twin City Drive, Council Bluffs, IA 51501

REPRESENTED BY: Jason Cook, 28250 Teakwood Road, Neola, IA 51559

BACKGROUND INFORMATION – The Community Development Department has received an application from Color Ink Corp dba Dallas Johnson Greenhouse, represented by Jason Cook, to modify conditional use permit (Case #CU-19-005) to establish site-specific development standards on property legally described above.

On November 19, 2019, the Zoning Board of Adjustment approved the applicant’s request to allow a conditional use permit for a ‘greenhouse, commercial’ at the subject property. As part of that request, the Board established that *“All open-air greenhouses on the subject property shall be considered open-space from a zoning standpoint; however, all open-air greenhouse structures shall comply with all applicable building and fire codes.”* The Notice of Approval for Case

#CU-19-005 is included with this report as Attachment 'A'. However, the above referenced conditional use permit did not establish site-specific development standards outside of defining a method by which to calculate lot coverage.

At this time, the applicant is proposing to modify the existing conditional use permit (Case CU-19-005) to establish site-specific development standards to facilitate future development of the property. The applicant has submitted a building permit for the construction of a 60' x 200' (12,000) square foot storage building along the eastern side of the subject property, as shown in Attachment 'B'. Per the submitted application, the applicant has proposed a minimum 55-foot side yard setback from the eastern property line based on the shortest side yard setback of the existing greenhouse structures on the subject property. No other site development standards were proposed with the application.

CURRENT ZONING AND LAND USE – The subject property is zoned A-2/Parks, Estates and Agricultural District. Adjacent parcels to the north and south, across Veteran's Memorial Highway, are also zoned A-2/Parks, Estates and Agricultural District. Another parcel across Veteran's Memorial Highway to the south is zoned R-3/Low-Density Multifamily Residential District. The adjacent property to the east is zoned I-1/Light Industrial District. The properties to the immediate west are zoned C-2/Commercial District and R-1/Single-Family Residential District. A location/zoning map is included as Attachment 'C.'

On November 9, 2016 the Council Bluffs Zoning Board of Adjustment approved a variance (Case# BA-16-006) on the subject property from Section 15.33.150(01)(a), *Agricultural and Open Space District Signs*, of the Municipal Code (Zoning Ordinance) to exceed the total maximum allowed signage by 35 square feet.

Existing land uses in the general vicinity include an undeveloped agricultural property to the north (owned by the applicant); an undeveloped property to the east; an undeveloped agricultural property and Chapel Ridge apartments across Veteran's Memorial Highway to the south; and a convenience store, commercial storage facility and single-family residential neighborhood across Twin City Drive to the west. The future land use map of the Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as 'Light Industrial.' The subject property has a Recreation/Tourism Overlay.

The following attachments are included with the case staff report:

- Attachment A: Case #CU-19-005 Notice of Approval
- Attachment B: Proposed Storage Building
- Attachment C: Zoning/Location Map

The following photographs show the existing condition of the subject property and surrounding area.

Exhibit A: Aerial view of the subject property



Exhibit B: Existing distance (approx. 80 ft.) between western greenhouses and neighboring Twin City Neighborhood to west



Exhibit C: Existing distance (approx. 45 ft.) between existing greenhouses and southern property line



Exhibit D: Existing distance (approx. 55 ft.) from existing greenhouses and eastern property line



CITY DEPARTMENTS AND UTILITIES – All city departments and local utility providers were notified of the proposed conditional use permit request. The following comments were received:

Council Bluffs Community Development Department:

1. The subject property complies with the minimum lot size, width, and depth requirements for the A-2/Parks, Estates and Agricultural District stated in Section 15.05.050, *Site Development Regulations*, of the Council Bluffs Municipal Code (Zoning Ordinance).
2. When Dallas Johnson Greenhouse was established on the subject property in 1991, a greenhouse was considered a principal use in the A-2 District. On August 26, 1996, the Council Bluffs City Council adopted Ordinance #5285 which amended the principal uses in the A-2 Zoning District, which included removing greenhouses as a principal use. Subsequently, the greenhouse at the subject property became a nonconforming use. On November 13, 2018, the Council Bluffs City Council adopted Ordinance #6372 which added “greenhouses, commercial” as a conditional use in the A-2 Zoning District, which provided the applicant the opportunity to bring their operation into conformance with the

Council Bluffs Municipal Code (Zoning Ordinance) by obtaining a conditional use permit. On November 19, 2019, the applicant's request for a conditional use permit (Case #CU-19-005) for a 'greenhouse, commercial' was approved by the Zoning Board of Adjustment, subject to eleven (11) conditions, listed in the Attachment 'A'.

3. The property has a recreation-tourism overlay. The purpose of the recreation-tourism overlay is to "maintain and enhance the aesthetic quality of areas around the National Historic Trails Center and land based and riverboat gaming facilities. This overlay is intended to mitigate any negative impact associated with these facilities." A 'greenhouse, commercial' use is not listed as a prohibited use within the recreation-tourism overlay and, if developed in compliance with all adopted City requirements, shall not have any negative impact on the National Historic Trails Center or land based and riverboat gaming facilities.
2. The Bluffs Tomorrow: 2030 Comprehensive Plan designates the property as 'Light Industrial.' The plan defines "Light Industrial" as "*areas used for industrial purposes that create minimal impacts on surrounding uses. Activities tend to occur inside structures, with outdoor areas limited to storage or distribution. Where possible, these areas should be developed as a coordinated subdivision with a dedicated roadway.*" The Board determined with the approval of the original conditional use permit request for the subject property (Case #CU-19-005) that the greenhouse use aligned with the 'light industrial' designation of the property as the use is industrial in scale, but agricultural in nature, and therefore will have minimal impact on the surrounding area. The proposed modification to conditional use permit (Case #CU-19-005) does not alter the use of the subject property.
3. On November 19, 2019, the Zoning Board of Adjustment approved the applicant's request to allow a conditional use permit for a 'greenhouse, commercial' at the subject property. As part of that request, the Board established that "*All open-air greenhouses on the subject property shall be considered open-space from a zoning standpoint; however, all open-air greenhouse structures shall comply with all applicable building and fire codes*" in order to bring the site into compliance with the ten (10) percent lot coverage requirement of the A-2 District. Given this determination, the subject property is currently at five (5) percent lot coverage. The proposed 12,000 square foot storage building would result in a total of 5.36 percent lot coverage, which meets the lot coverage requirements of the A-2 District.
4. The subject property is zoned A-2/Parks, Estates, and Agricultural District and has the following site development regulations, per Section 15.05.050, *Site Development Regulations*:

Minimum Setbacks:	Principal Structure	Accessory Structure
Front yard:	50 feet	50 feet
Street side yard:	20 feet	20 feet
Side yard:	10% of lot width of 10 feet whichever is greater	10% of lot width of 10 feet whichever is greater
Rear yard:	20 feet	20 feet
Maximum height:	35 feet	25 feet
Lot coverage:	10% maximum (<i>as defined in Case #CU-19-005</i>)	

The subject property has operated as Dallas Johnson Greenhouse since 1991 and since that time numerous buildings have been constructed on the property, many of which do not meet the A-2 District setback standards listed above.

The applicant has submitted a building permit to construct a 60' x 200' (12,000) square foot storage building along the eastern side of the subject property, as shown in Attachment 'A'. Based on the current A-2 District standards listed above, the proposed building would be required to meet a 130-foot side yard setback. At this time, the applicant is proposing to modify the existing conditional use permit (Case CU-19-005) to establish site-specific development standards to bring the property further into compliance with the City's Zoning Ordinance and to responsibly facilitate the proposed and future development of the subject property. Staff recommends the following site development standards:

Minimum Setbacks for All Structures	
Front yard:	25 feet
Eastern side yard:	15 feet
Western side yard:	80 feet
Rear yard:	15 feet
Maximum height:	35 feet

Note¹: The above-proposed development standards are primarily based on the I-1/Light Industrial District site development regulations. The subject property is 76.01 acres in size and the on-site greenhouse operates at an industrial scale and is adjacent to I-1 zoning to the east and additional industrially zoned areas in the general vicinity. Applying the above listed site development standards would bring the existing structures on the subject property into compliance with the City's Zoning Ordinance while ensuring that future site development is compatible with both the adjacent industrial and residential uses.

Note²: The above-proposed development standards are in addition to all required conditions of approved conditional use permit (CU-19-005) listed in the Notice of Approval, included with this report as Attachment 'A' and described in more detail in the Case #CU-19-005 case file located in the Community Development Department.

5. No exterior lighting is proposed with this request. Any lighting installed at a future date shall comply with the standards stated in Section 15.24.050, *Lighting Controls*.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet were notified of the conditional use permit request. As of the date of this report, no comments were received.

COMMENTS

§15.02.090 Conditional Uses: The development and execution of the Ordinance (Title 15) is based upon the division of the City into districts. Within each district the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are specific uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the

public need for the particular use at the particular location. Such uses may be either public or private, and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

The Zoning Board of Adjustment shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the applicable standards in Section 15.02.090.E (Findings of Fact).

The Zoning Board of Adjustment may impose such conditions and restrictions upon the location, construction, design and use of the property benefitted by a conditional use as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the conditional use. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact. No conditional use shall be approved unless the Zoning Board of Adjustment makes findings of fact based directly on the standards and conditions imposed by this section. The findings of fact are presented below in *italics*:

1. *The proposed conditional use will comply with all applicable regulations of this Ordinance, including lot requirements, bulk regulations, use limitations, and all other standards or conditions contained in the provisions authorizing such use.* Conditional use permit (Case #CU-19-005) was granted on November 19, 2019 by the Zoning Board of Adjustment to allow a ‘greenhouse, commercial’ at the subject property. As a part of that request, the Board established that “*All open-air greenhouses on the subject property shall be considered open-space from a zoning standpoint.*” Given this determination, the subject property is currently at five (percent) lot coverage. The proposed 12,000 square foot storage building would result in a total of 5.36 percent lot coverage.

The subject property has operated as a greenhouse since 1991 and since that time numerous buildings have been constructed on the property, many of which do not meet A-2 District setback standards. The following setbacks shall be applicable to the subject property in order to bring the property further into compliance with the City’s Zoning Ordinance while ensuring that future site development is in harmony with the adjacent residential neighborhood to the west:

Minimum Setbacks for All Structures	
Front yard:	25 feet
Eastern side yard:	15 feet
Western side yard:	80 feet
Rear yard:	15 feet
Maximum height:	35 feet

2. *Adequate utility, drainage, and other necessary facilities or improvements have been or will be provided.* No utility service extensions and/or infrastructure improvements are necessary for the proposed modification to conditional use permit (Case #CU-19-005) to establish site specific development standards.

3. *Adequate access roads or entrance and exit drives will be designed and built to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.* The subject property has access to Twin City Drive to the west. No additional improvements are necessary for the current request.
4. *All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly states that such permits are obtainable for the proposed conditional use on the subject property.* The applicant shall secure all necessary permits and licenses for the proposed 60' x 200' storage building.
5. *All exterior lighting shall be shaded as necessary to direct the light away from neighboring residential properties.* No exterior lighting is proposed with this request. Any lighting installed at a future date shall comply with the standards stated in Section 15.24.050, *Lighting Controls*.
6. *The location and size of the conditional use, the nature and intensity of the activities, to be conducted in connection with it, the size of the site, and the relationship of the site to adjacent roadways shall be considered to assure the use is in harmony with the appropriate and orderly development of the district and the neighborhood in which it is located.* The subject property is zoned A-2/Parks, Estates, and Agricultural District and exceeds the minimum lot size requirements of Section 15.05.050, *Site Development Regulations*, of the Council Bluffs Municipal Code (Zoning Ordinance). Existing land uses in the general vicinity include an undeveloped agricultural property to the north (owned by the applicant); an undeveloped property to the east; an undeveloped agricultural property and Chapel Ridge apartments across Veteran's Memorial Highway to the south; and a convenience store, commercial storage facility and single-family residential neighborhood across Twin City Drive to the west.

The subject property abuts a residential neighborhood to the west. The proposed 'greenhouse, commercial' functions as an appropriate transitional use between the residential neighborhood to the west and the industrial property to east as it is industrial in scale but agricultural in nature. The following site development standards shall be applicable to the subject property in order to bring the property further into compliance with the City's Zoning Ordinance while ensuring that future site development is in harmony with the adjacent residential neighborhood to the west:

Minimum Setbacks for All Structures	
Front yard:	25 feet
Eastern side yard:	15 feet
Western side yard:	80 feet
Rear yard:	15 feet
Maximum height:	35 feet

7. *The location, nature and height of buildings, structures, walls, and fences on the site, and the nature and extent of landscaping and screening on the site shall be designed so that the use will not reasonably hinder or discourage the appropriate development, use, and enjoyment of the adjacent land, buildings and structures.* All proposed and future

structures shall comply with the following site development standards in order to bring the property further into compliance with the City's Zoning Ordinance while ensuring that future site development is in harmony with the adjacent residential neighborhood to the west:

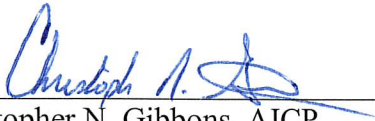
Minimum Setbacks for All Structures	
Front yard:	25 feet
Eastern side yard:	15 feet
Western side yard:	80 feet
Rear yard:	15 feet
Maximum height:	35 feet

8. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.* If developed in full compliance with adopted City requirements, the proposed request is not anticipated to have a negative impact on property values for existing or future land uses in the surrounding area.

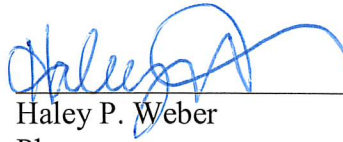
RECOMMENDATION – The Community Development Department recommends approval of the request for a conditional use permit to allow a ‘greenhouse, commercial’ in an A-2/Parks, Estates and Agricultural District on property legally described above, subject to the comments stated above and the following conditions:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.
2. Any future expansion that includes the acquisition of land not included in the current legal description of the subject property shall require review and approval from the Zoning Board of Adjustment, as it would be considered a modification to the conditional use permit.
3. The following site development standards shall be applicable to the subject property, in addition to all required conditions of approved conditional use permit (CU-19-005) listed in the Notice of Approval, included with this report as Attachment ‘A’ and described in more detail in the Case #CU-19-005 case file located in the Community Development Department. The following site development standards shall be applicable to the subject property in order to bring the property further into compliance with the City's Zoning Ordinance while ensuring that future site development is in harmony with the adjacent residential neighborhood to the west:

Minimum Setbacks for All Structures	
Front yard:	25 feet
Eastern side yard:	15 feet
Western side yard:	80 feet
Rear yard:	15 feet
Maximum height:	35 feet



Christopher N. Gibbons, AICP
Planning Manager
Community Development Department



Haley P. Weber
Planner
Community Development Department

Attachment A

NOTICE OF APPROVAL

Case #CU-19-005

Council Bluffs Zoning Board of Adjustment

Date: November 19, 2019

Dallas Johnson Greenhouse
2802 Twin City Drive
Council Bluffs, IA 51501

To Whom It May Concern:

You are hereby officially notified that the Council Bluffs Zoning Board of Adjustment has **approved your request for a conditional use permit to allow 'greenhouse, commercial' in a part of the NW ¼ NE ¼ of Section 15-74-44 lying North of Highway 275, except City right-of-way, along with all of the SW ¼ SE ¼ and the South 10.01 acres of the NW ¼ SE ¼ all in Section 10-74-44, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following conditions:**

1. *The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.*
2. *Any future expansion shall require approval from the Zoning Board of Adjustment, as it would be considered a modification to their conditional use permit.*
3. *The applicant shall install screening in accordance with Section 15.24.040, Fence regulations, along the western property line. If the applicant chooses to install a 'vegetation fence,' said fence shall include 110 tall, evergreen trees planted every twenty (20) feet on center along the western property line. Each tree shall reach a minimum of six (6) feet in height within three (3) years of planting and shall have a minimum mature height of twelve (12) feet. The required screening shall be installed prior to issuance of a Certificate of Occupancy.*
4. *The submitted parking analysis is only applicable to the current operation. The applicant shall install a minimum of 57 additional off-street parking stalls as discussed in the comments above and in accordance with the standards listed in Section 15.23, Off-Street Parking, Loading and Unloading, of the Council Bluffs Municipal Code (Zoning Ordinance). If the applicant does not wish to provide the required amount of off-street parking per the City's Zoning Ordinance, a parking analysis for the proposed greenhouse and warehouse additions may be submitted for consideration.*
5. *All off-street parking areas, drive aisles, and circulation routes shall be hard-surface paved in accordance with the standards listed in Section 15.23, Off-Street Parking, Loading and Unloading, of the Council Bluffs Municipal Code (Zoning Ordinance).*
6. *All open-air greenhouses on the subject property shall be considered open-space from a zoning standpoint; however; all open-air greenhouse structures shall comply with all applicable building and fire codes.*

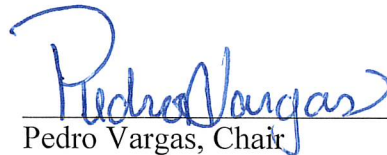
You are hereby advised that anyone who objects to the Board's decision (including the City's Community Development Department, if its representatives recommended against your request) may

appeal such decision by filing with the District Court a Petition for Certiorari within 30 days after the filing of the Board's decision.

You are hereby advised that if such appeal is taken, you may intervene in the appeal to present your position. In the event of an appeal, you should consult an attorney for advice on your legal rights.

You are hereby advised that if you, in reliance upon the Board's approval of your request, proceed with any construction plans and/or expend any money within 30 days of the filing of the Board's decision, you will be doing so **at your own risk**, because if someone appeals the Board's decision in that time and is ultimately successful with the appeal, then it will be as if the Board had never approved your request; you should do nothing in reliance upon the Board's decision until the 30 days has expired.

There may be public or private easements, covenants and/or deed restrictions which may limit the use of this property.



Pedro Vargas, Chair
Council Bluffs Zoning Board of Adjustment

cc: Building Division

Attachment B

DALLAS - JOHNSON
GREENHOUSES INC.
New Storage Building
Council Bluffs, Iowa

SPECIFICATIONS

EXTERIOR MATERIALS:

EXTERIOR STEEL DOORS: 1B GA FACE STEEL, GALVANIZED, INSULATED (R-5) - PAINT

EXT. HM FRAMES: GALVANIZED, 18 GA. FULLY WELDED IN CONFIGURATIONS SHOWN.

OVERHEAD DOORS: INSULATED DOOR, R-6 (MIN) 2' THICK, 2" GA.

SIDING: BY BUILDING MFG

ROOFING: BY BUILDING MFG.

FLOOR SEALANT (3 COATS): V-AQUA-POXY, EPOXY SEALER

EXTERIOR CAULKING AT BUILDING: NON-SAG POLYURETHANE ELASTOMERIC CAULK, PAINTABLE AT SIDING. USE BACKER ROD AS DETAILED AND APPROPRIATE.

EXTERIOR CAULKING AT EXTERIOR CONCRETE: CAULK ALL CONTROL AND EXPANSION JOINTS

FOUNDATION INSULATION: 2" RIGID INSULATION, EXTRUDED POLYSTYRENE.

SPECIALTIES:

FIRE EXTINGUISHERS, PROVIDE MP10, MULTI-PURPOSE DRY

CHEMICAL EXTINGUISHER, 10LBS, UL RATED - 4A-606B C

CABINET: ARCHITECTURAL SERIES, SOLID, SEMI-RECESSED, ALUMINUM

(SPECIFIED AS DIAMOND VOGEL, SUBMIT OTHERS FOR APPROVAL)

PAINT

METAL - SPRAY or ROLLER APPLICATION

PRIMER: VERS-ACRYL 200 ACRYLIC MAINTENANCE PRIMER - MDF 2.0 mils

EACH FINISH COAT: 2 COATS, PERMACRYL EXTERIOR ACRYLIC LATEX

SEMI-GLOSS, MDF 1.5 mils

DRAWING INDEX

COVER	SITE PLAN, SPECS
A1	FLOOR PLAN
A2	EXT. ELEVATIONS, SECTION
SO	STRUCTURAL NOTES
S1	FOUNDATION PLAN

PROJECT DESCRIPTION

DESIGN CODE: 2015 INTERNATIONAL BUILDING CODE, LIFE SAFETY 2009

OCCUPANCY CLASSIFICATION: GROUP S2 - LOW HAZARD STORAGE

TYPE OF CONSTRUCTION: TYPE "V-B"

SPRINKLER: NO

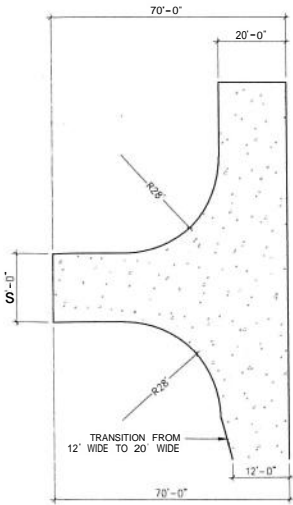
FIRE ALARM SYSTEM: NO

NUMBER OF FLOORS: 1

TOTAL SIZE OF BUILDING: 12,000 sf

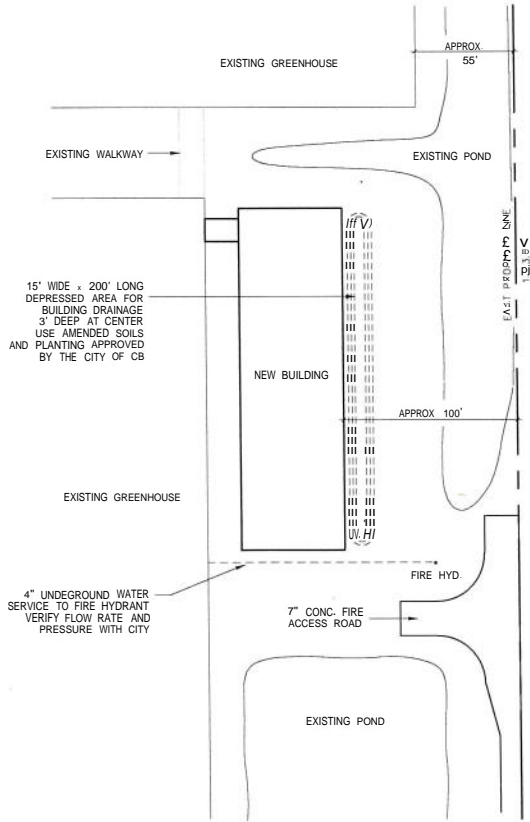


PROJECT LOCATION



(5)

HAMMERHEAD DETAIL
SCALE: 1"=20'-0"



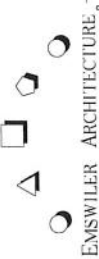
(2)

SITE PLAN
SCALE: 1"=40'-0"

CONSTRUCTION
DOCUMENT
PACKAGE



2729 Kroll Lane, Heritage Hills
Missouri Valley, Iowa 51555
Phone and Fax 402-934-1907



EMSWILER ARCHITECTURE

Dallas - Johnson
Greenhouses Inc.
Storage
Building

2802 Twin City Drive
Council Bluffs, Iowa
June 14, 2021

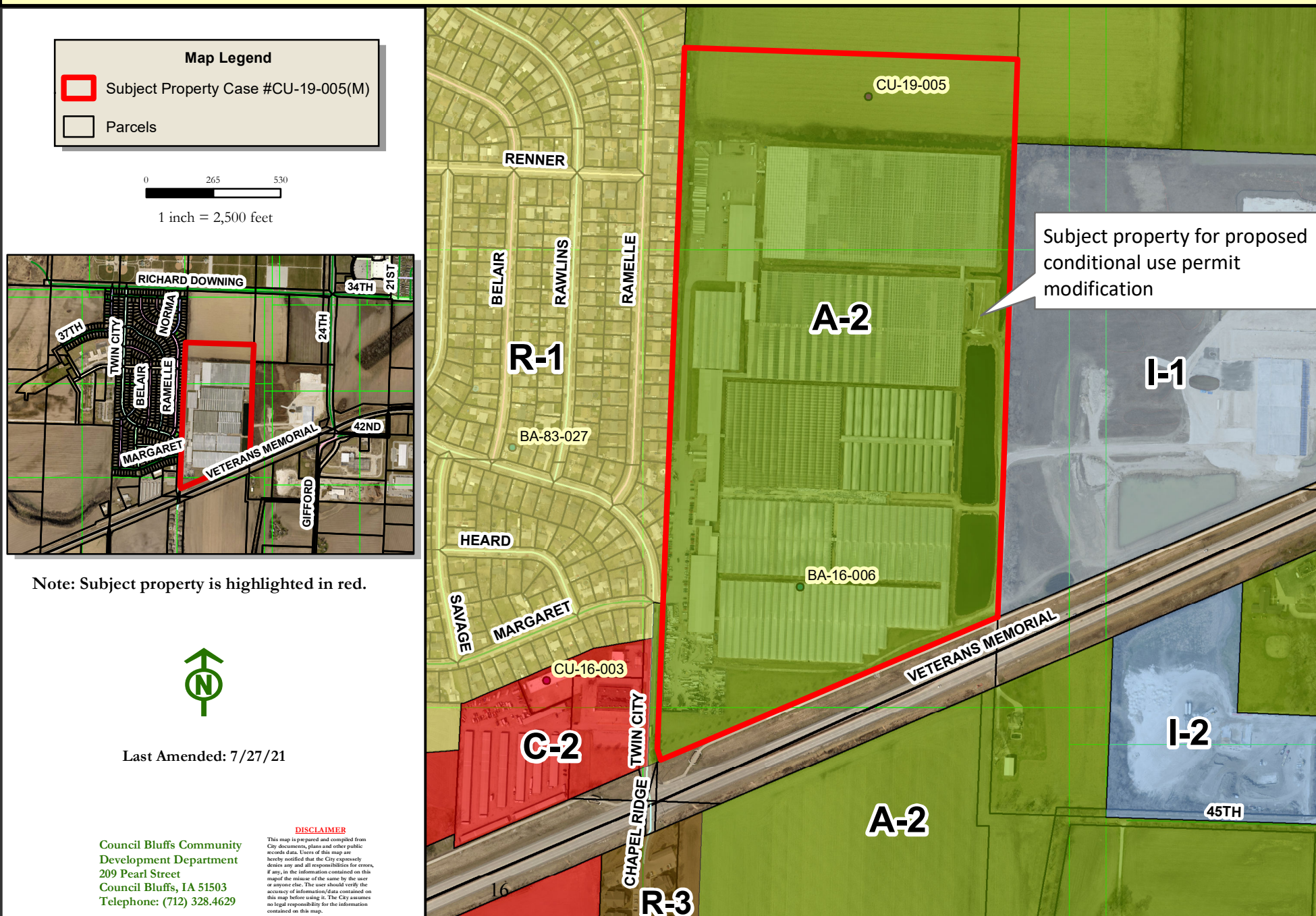
COVER SHEET

COV

CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT

LOCATION/ZONING MAP CASE # CU-19-005 (M)

Attachment C



Zoning Board of Adjustment Communication

Department: Community
Development

Case/Project No.: BA-21-003

CASE #BA-21-003

Council Action: 8/17/2021

Submitted by: Haley Weber,
Planner

Description

Public hearing on the request of Randy and Candice Petry for a variance from Section 15.26.040, Nonconforming Structure, of the Council Bluffs Municipal Code (Zoning Ordinance) to the enlargement of a non-conforming second floor front porch on property legally described as Lot 5, Block 7, Jackson's Addition. Location: 622 South 3rd Street, Council Bluffs, IA 51501.

Background/Discussion

See attachments.

Recommendation

ATTACHMENTS:

Description

Type

Upload Date

Staff Report & Attachments

Other

8/11/2021

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: August 17, 2021

RE: **CASE #BA-21-003**

REQUEST: Public hearing on the request of Randy and Candice Petry for a variance from Section 15.26.040, *Nonconforming structure*, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow the enlargement of a nonconforming second floor porch at property addressed as 622 S. 3rd Street and legally described as Lot 5, Block 7, Jackson's Addition, Council Bluffs, Pottawattamie County, Iowa.

APPLICABLE

CODE SECTION: **Section 15.26.040 Nonconforming structure.**
1.Enlargement of Nonconforming Structure. No nonconforming structure may be enlarged or altered in any way, which increases its nonconformity; however, a nonconforming structure may be altered to decrease its nonconformity.

RELIEF SOUGHT: A variance from Section 15.26.040 of the Municipal Code (Zoning Ordinance) to allow an alteration of a nonconforming second story porch that would increase the structure's degree of nonconformity

LEGAL

DESCRIPTION: Lot 5, Block 7, Jackson's Addition, City of Council Bluffs, Pottawattamie County, Iowa.

LOCATION: 622 S. 3rd Street

APPLICANT/OWNER: Randy and Candice Petry, 622 S. 3rd Street, Council Bluffs, IA 51503

BACKGROUND INFORMATION – The applicants, Randy and Candice Petry, have applied for a variance from Section 15.26.040, *Nonconforming structure*, of the Municipal Code (Zoning Ordinance) to allow an alteration of a nonconforming second story porch that would increase the structure's degree of nonconformity.

The existing second floor porch currently has a zero-foot front yard setback, which does not meet the minimum required 25-foot front yard setback for principal structures in the R-1/Single-Family Residential District. Therefore, the existing second story porch is considered nonconforming. At this time, the applicant is requesting a variance to enclose the walls of the nonconforming second story porch. The following attachments provide detail on the proposed second story porch enclosure:

Attachment A: Project Summary;
Attachment B: Plot Plan;
Attachment C: Existing Porch;
Attachment D: Front Elevation;
Attachment E: Floor Plan, Elevations, Full Rendering;
Attachment F: Location/Zoning Map; and
Attachment G: Site Photos.

CURRENT ZONING AND LAND USE –The subject property is zoned R-1/Single-Family Residential District, as are the adjacent properties to the north, west, and east. The adjacent property to the south is zoned R-3/Low-Density Multifamily Residential.

CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the requested variance. The following comments were received:

Council Bluffs Community Development Department:

1. The subject property is zoned R-1/Single-Family Residential and meets the minimum lot size, width and depth requirements of the R-1 District.
2. Section 15.24.060, *Yard Exceptions and Permitted Intrusions Into Required Yards*, of the Council Bluffs Municipal Code (Zoning Ordinance) states:
 - A. *“The following building features may project into the required front yard no more than six feet and into the required side yards no more than three feet, provided that such projections are no closer than three feet to any side yard line:*
 2. *Porches, as defined in Council Bluffs Municipal Code Section 15.03, platforms and landings which do not extend above the level of the first floor of the building.”*

The above stated provision is not applicable to the subject porch as it is located on the second story and has a zero foot front yard setback.

3. Section 15.26.040(A), *Enlargement of nonconforming structure*, of the Council Bluffs Municipal Code (Zoning Ordinance) states *“no nonconforming structure may be enlarged or altered in any way which increases its nonconformity; however, a nonconforming structure may be altered to decrease its nonconformity.”* The proposed enclosure of the nonconforming second story porch would be considered an alteration that increases the structure’s nonconformity as it would be increasing the square footage of enclosed, livable space of an already nonconforming structure.
4. The subject property is located in the Willow/Bluff/3rd Street Historic District, which is listed on the National Register of Historic Places as a “noncontributing structure.” The National Park’s Service’s National Register of Historic Places (NRHP) is the official list of the Nation’s historic places worthy of preservation. In order to be listed on the NHRP a property or district must meet certain criteria based on the property’s historic significance. The Willow/Bluff/3rd Street District is listed on the National Register, in part, for its architectural significance, among other categories. The registration form for the Willow/Bluff/3rd Street Historic District specifically lists the subject property (622 S. 3rd Street) as a remaining example of a “raised hipped cottage” and notes that “the examples [of raised hipped cottages] in Council Bluffs may have been a solution to the steep terrain of this hillside, with the basement levels banked into the hillslope but still largely exposed on all sides.” The listing further states that “two-story porches on the front façade” are characteristic of this style of home. The subject request to enclose the second-story porch would hinder the structure’s architectural integrity and is a design preference by the applicant.
5. Based on Pottawattamie County Assessor’s photographs, in 1994, the dwelling did not have a second-story porch (see photograph below dated 9/20/1994).



Sometime between 1995 and 2005 a railing was added to create a second-story porch area (see photograph below dated 7/15/2015).



Between 2015 and 2018 the porch was rebuilt (see photograph below dated 01/09/2018).



City records show that the second-story porch was rebuilt (shown in the photograph above) without a permit from the City, which would have included a review by a Planning and Zoning staff member for compliance with the City's Zoning Ordinance. At that time, the applicant would have been informed that the second-story porch was nonconforming and could not be entirely rebuilt without meeting all current city setback standards without an approved variance from the Zoning Board of Adjustment.

Council Bluffs Public Works Department stated that they have no comments regarding the request.

Council Bluffs Fire Department stated that they have no comments regarding the request.

Council Bluffs Parks and Recreation Department stated that they have no comments regarding the request.

Council Bluffs Permits and Inspections Division stated that they have no comments regarding the request.

Council Bluffs WaterWorks stated that they have no comments regarding the request.

MidAmerican Energy stated that they have no conflicts with the request.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the requested variance. As of the date of this report, no comments have been received.

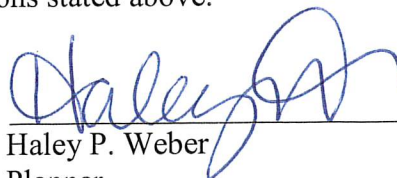
COMMENTS - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when ‘unforeseen applications of this Ordinance...create particular hardships.’ No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant’s right to some relief, but not to the entire relief requested. (§15.02.080 – Variances)

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity. The subject property is typical of those in the general vicinity and surrounding area and exceeds the width, depth, and area requirements for a lot in the R-1/Single-Family Residential District.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The applicant could continue to utilize the subject property as a single-family dwelling if the requested variance is not granted. The request to enclose the walls of the nonconforming second story porch is a design preference and is not necessary for the applicant to make reasonable use of the subject property as a single-family residence.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The dwelling was constructed closer to the front property line than is allowed by current zoning regulations by previous owners of the property. There is no space to allow for any additional intrusions into the front yard setback.*
4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district. Granting the variance will allow the applicant to alter a nonconforming structure in a way that increases its nonconformity, which is a special privilege denied by this ordinance to all other nonconforming structures in the City.*
5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance. The variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this ordinance that create particular hardships. The registration form for the Willow/Bluff/3rd Street Historic District specifically lists the subject property (622 S. 3rd Street) as a remaining example of a “raised hipped cottage” and notes that “the examples [of raised hipped cottages] in Council Bluffs may have been a solution to the steep terrain of this hillside, with the basement levels banked into the hillslope but still largely exposed on all sides.” The listing further states that “two-story porches on the front façade” are characteristic of this style of home. Granting the variance to allow the enclosure of the second story porch would not be consistent with the historic integrity of the neighborhood and is a design preference by the applicant.*

RECOMMENDATION—The Community Development Department recommends **denial** of the requested variance from Section 15.26.040, *Nonconforming structure*, of the Council Bluffs Municipal Code (Zoning Ordinance) for property legally described as Lot 5, Block 7, Jackson’s Addition, Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above.

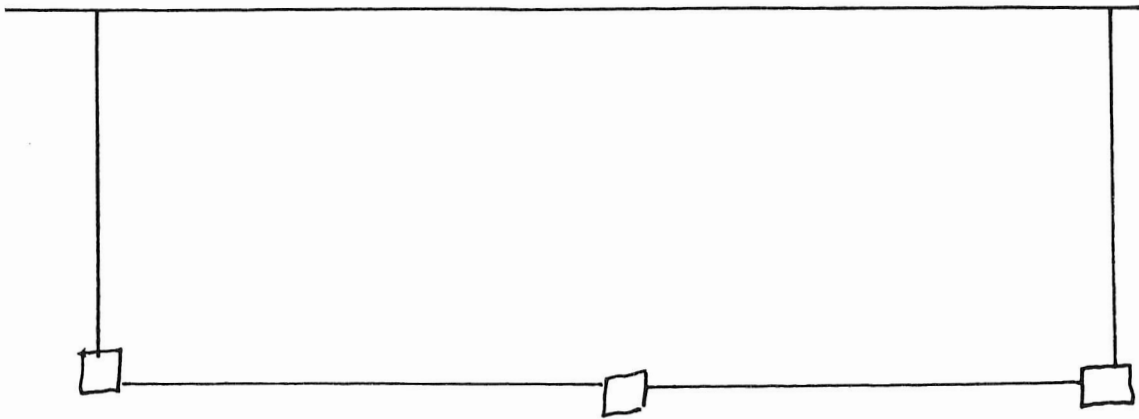


Christopher N. Gibbons, AICP
Planning Manager



Haley P. Weber
Planner

Attachment A



1. Reuse Existing Substructure and Roof:
2. Install Walls Between existing Posts.
3. Will Be Removing Railing
4. 2x10 Joists Spaced 16" O.C.
5. Double 2x12 Beam set in 18"

Randy Petry
622 S. 3rd St

Council Bluffs Ia 51503

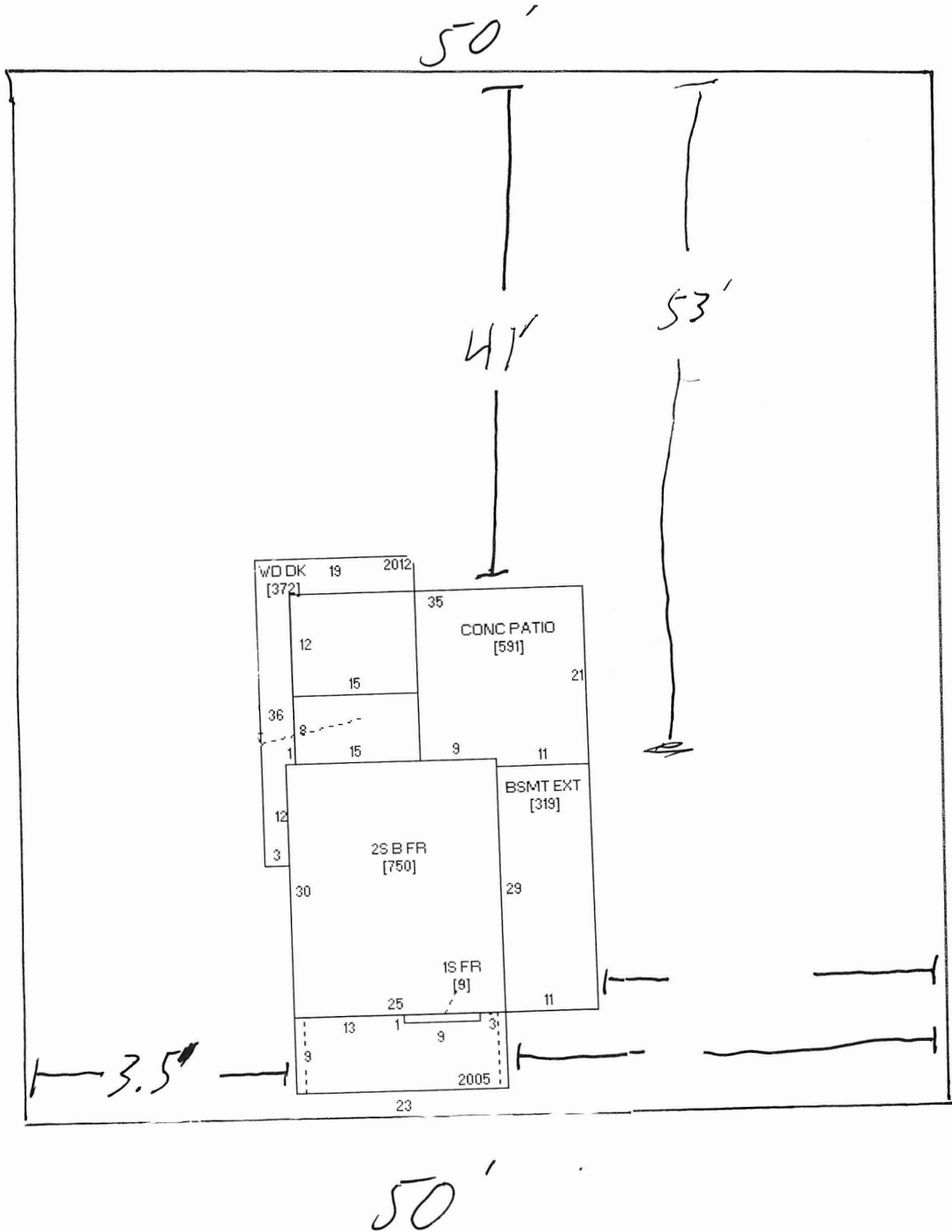
Plot Plan

Attachment B

Omaha Door +
Window

4665 6th

Omaha Ne 68117



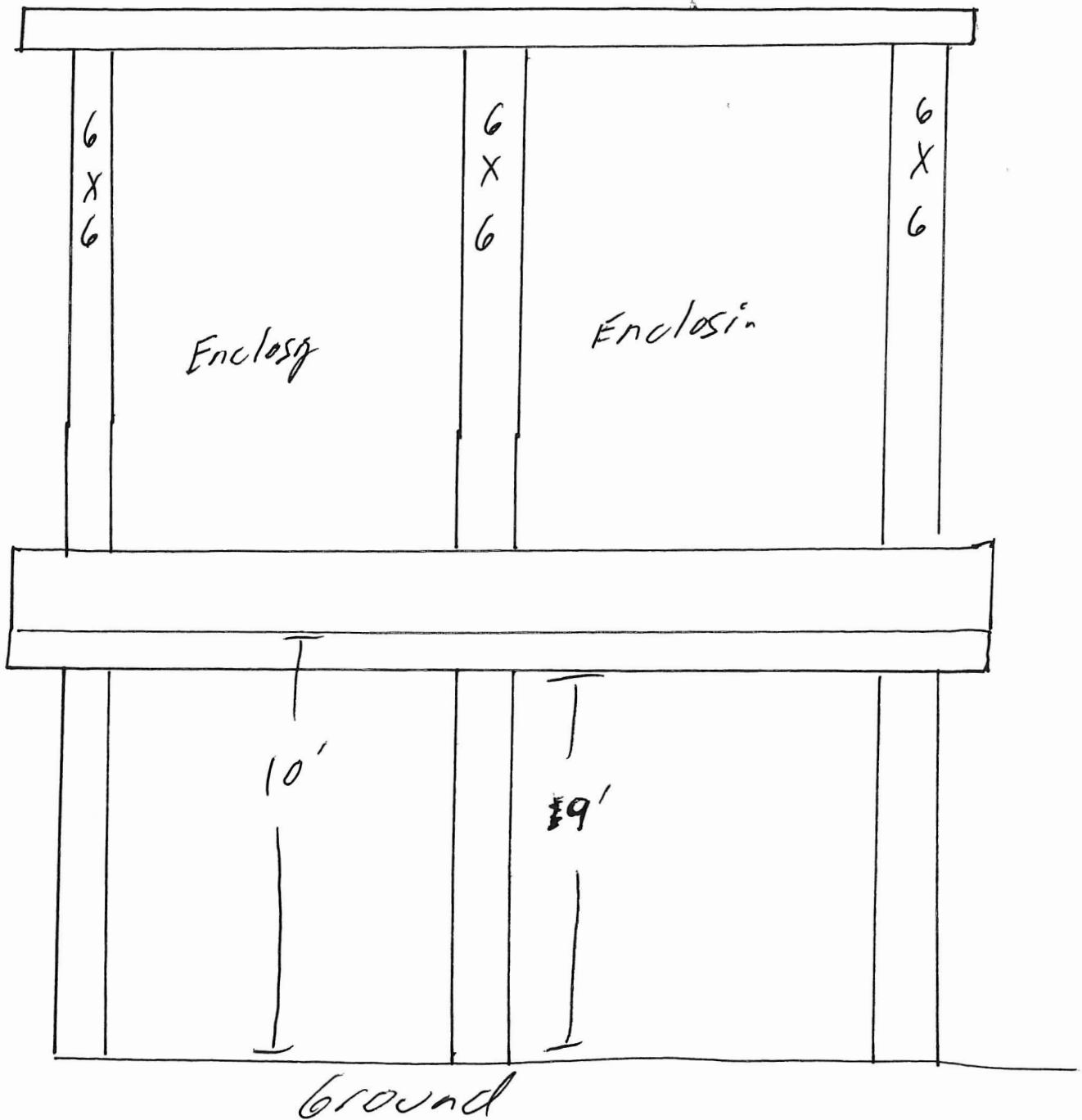


Randy Petty

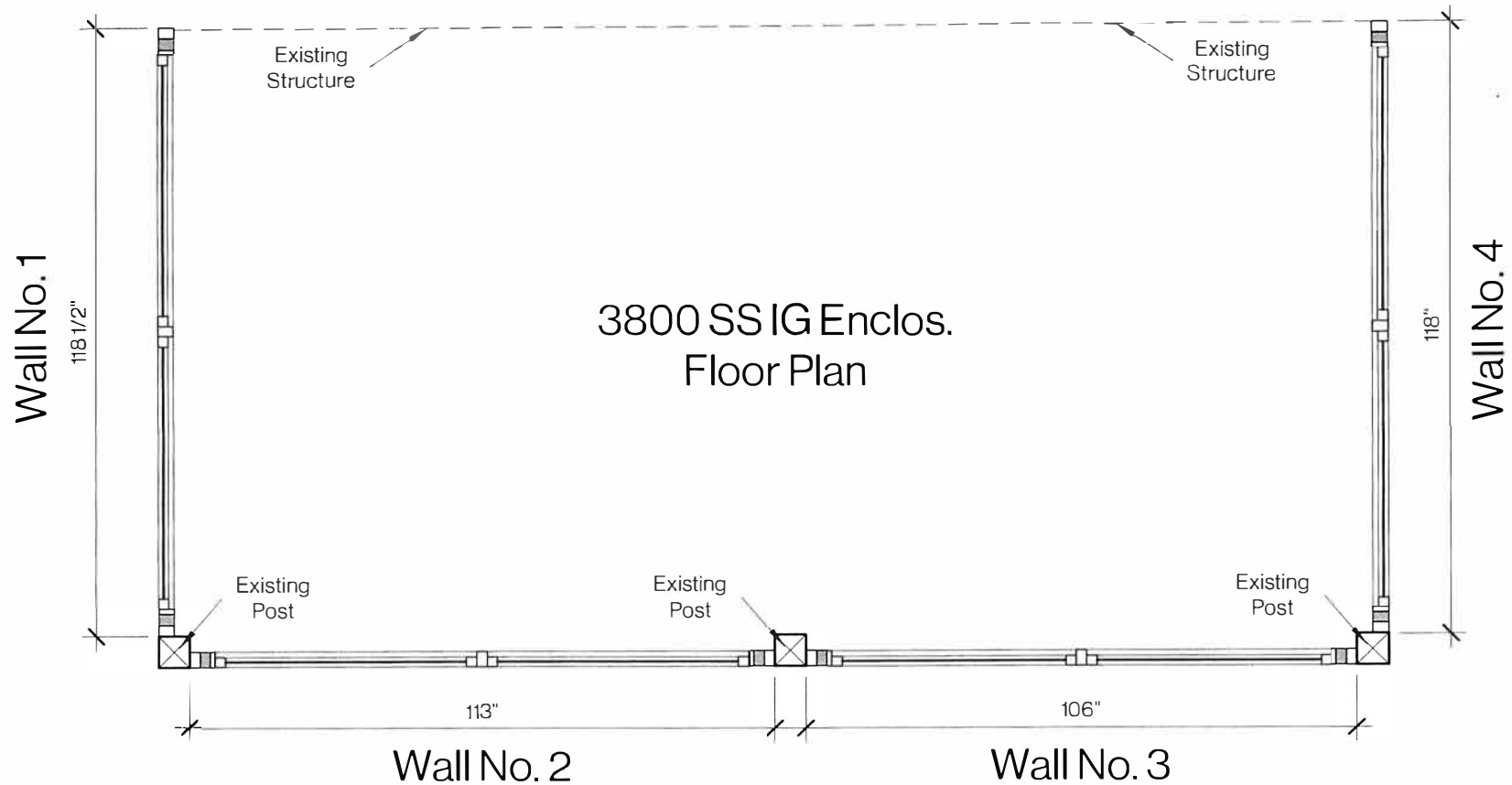
Front Elevation

Circle Door + Window

Attachment D



Attachment E



- Please Review the Project Title Block, Drawings and Dimensions Before Signing Below. -

Window Key: X - Operable Sash / O - Fixed Sash

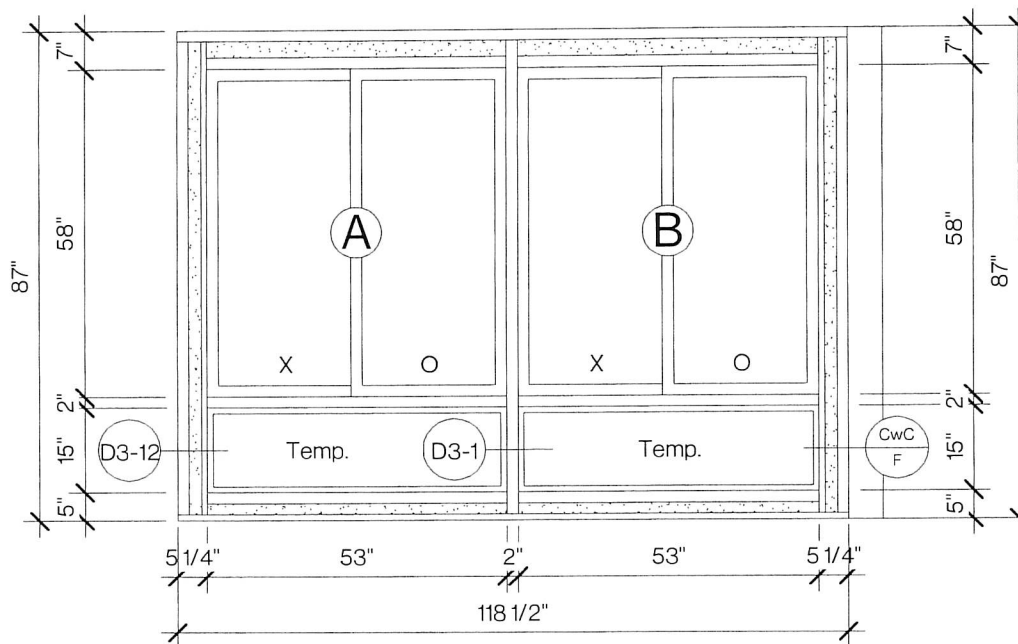
nwi INNOVATIVE SPACES
INNOVATIVE SUNROOMS

**Omaha Door & Window
Petry**

Sheet No. 1 6/18/2021 11:10:04 AM Revision No. 0

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Wall Build Type:	<input checked="" type="checkbox"/> Plus 6" <input type="checkbox"/> Exact	Backstop Key:	<input checked="" type="checkbox"/> T <input type="checkbox"/> Flush	Downspout / Color:	0	N/A
Extrusion Type:	<input type="checkbox"/> 2" <input checked="" type="checkbox"/> 3"	Glazing Type:	LoE 270 Glass	Fan Beam / Bracket:	0	0
Extrusion Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Type:	N/A	Electrical / Cut Out:	No	No
Fill Panel Type:	<input checked="" type="checkbox"/> Vinyl <input type="checkbox"/> Alum.	Door Color:	<input type="checkbox"/> White <input type="checkbox"/> Beige	Hardware / Sp. Order:	Yes	No
Fill Panel Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Hardware:	N/A	Approved:		

*Note: NWI Innovative Products, LLC (NWI) assumes no responsibility for local building code requirements including but not limited to wind and snow loads, tempered glass, foundation, attachment points, etc.



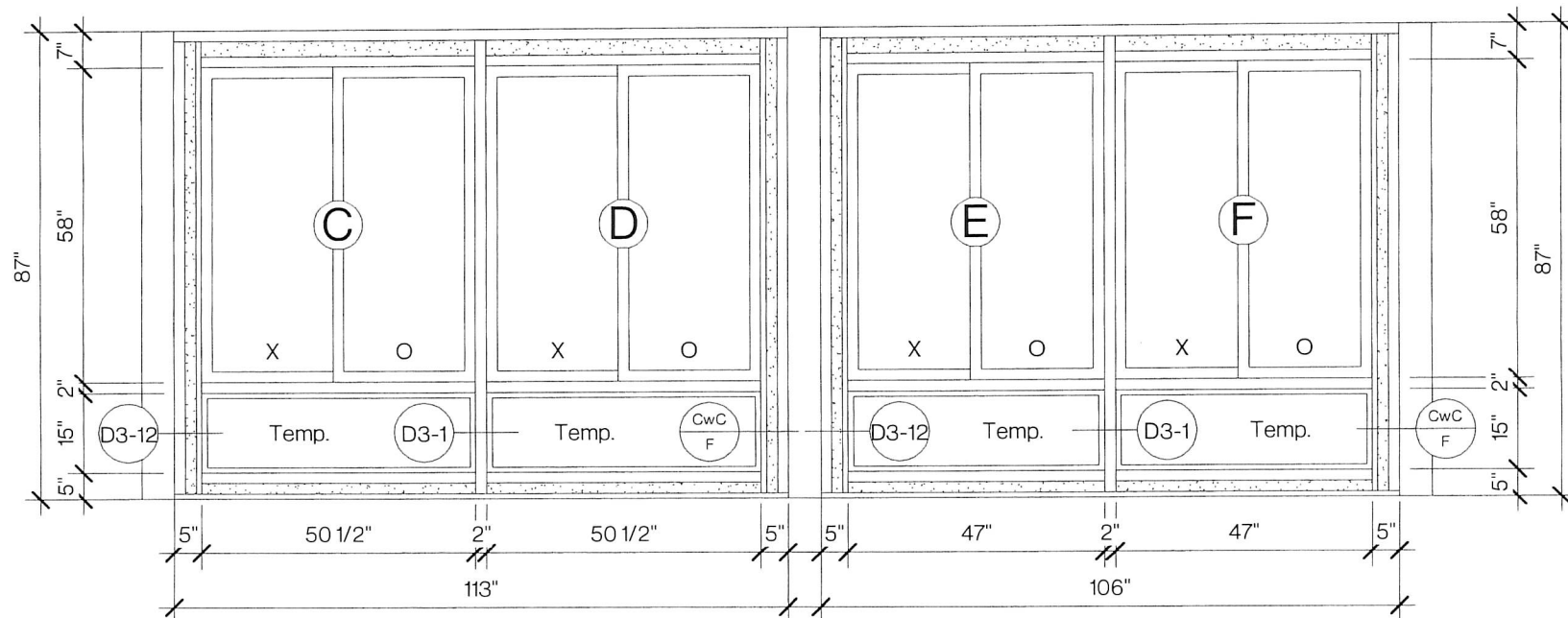
Wall No. 1 - Elevation

- Please Review the Project Title Block, Drawings and Dimensions Before Signing Below. -

Window Key: X - Operable Sash / O - Fixed Sash

nwi INNOVATIVE PRODUCTS INNOVATIVE SPACES SUNROOMS Omaha Door & Window Petry Sheet No. 2 6/18/2021 11:10:05 AM Revision No. 0	Series Type:	3800 SS IG Enclos.	Window Type:	Amerimax Single Slide	Roof Type / Color:	N/A	N/A
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	Wall Build Type:	<input checked="" type="checkbox"/> Plus 6" <input type="checkbox"/> Exact	Backstop Key:	<input checked="" type="checkbox"/> T <input type="checkbox"/> Flush	Downspout / Color:	0	N/A
	Extrusion Type:	<input type="checkbox"/> 2" <input checked="" type="checkbox"/> 3"	Glazing Type:	LoE 270 Glass	Fan Beam / Bracket:	0	0
	Extrusion Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Type:	N/A	Electrical / Cut Out:	No	No
	Fill Panel Type:	<input checked="" type="checkbox"/> Vinyl <input type="checkbox"/> Alum.	Door Color:	<input type="checkbox"/> White <input type="checkbox"/> Beige	Hardware / Sp. Order:	Yes	No
	Fill Panel Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Hardware:	N/A	Approved:		

*Note: NWI Innovative Products, LLC (NWI) assumes no responsibility for local building code requirements including but not limited to wind and snow loads, tempered glass, foundation, attachment points, etc.



Wall No. 2 - Elevation

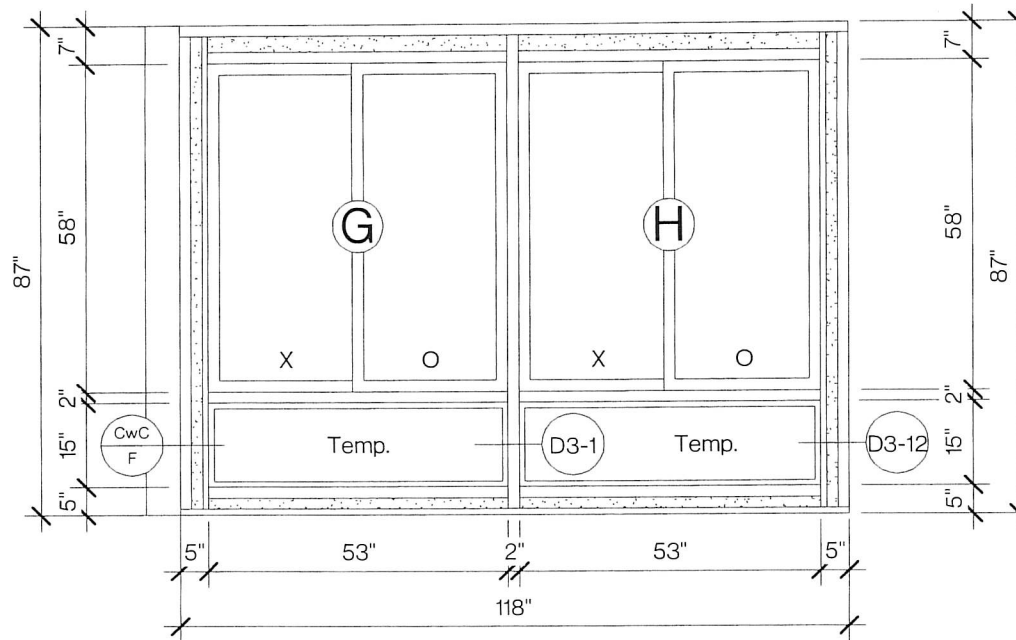
Wall No. 3 - Elevation

- Please Review the Project Title Block, Drawings and Dimensions Before Signing Below. -

Window Key: X - Operable Sash / O - Fixed Sash

nwi INNOVATIVE PRODUCTS INNOVATIVE SPACES SUNROOMS Omaha Door & Window Petry Sheet No. 3 6/18/2021 11:10:05 AM Revision No. 0	Series Type:	3800 SS IG Enclos.	Window Type:	Amerimax Single Slide	Roof Type / Color:	N/A	N/A
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	Wall Build Type:	<input checked="" type="checkbox"/> Plus 6" <input type="checkbox"/> Exact	Backstop Key:	<input checked="" type="checkbox"/> T <input type="checkbox"/> Flush	Downspout / Color:	0	N/A
	Extrusion Type:	<input type="checkbox"/> 2" <input checked="" type="checkbox"/> 3"	Glazing Type:	LoE 270 Glass	Fan Beam / Bracket:	0	0
	Extrusion Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Type:	N/A	Electrical / Cut Out:	No	No
	Fill Panel Type:	<input checked="" type="checkbox"/> Vinyl <input type="checkbox"/> Alum.	Door Color:	<input type="checkbox"/> White <input type="checkbox"/> Beige	Hardware / Sp. Order:	Yes	No
	Fill Panel Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Hardware:	N/A	Approved:		

*Note: NWI Innovative Products, LLC (NWI) assumes no responsibility for local building code requirements including but not limited to wind and snow loads, tempered glass, foundation, attachment points, etc.



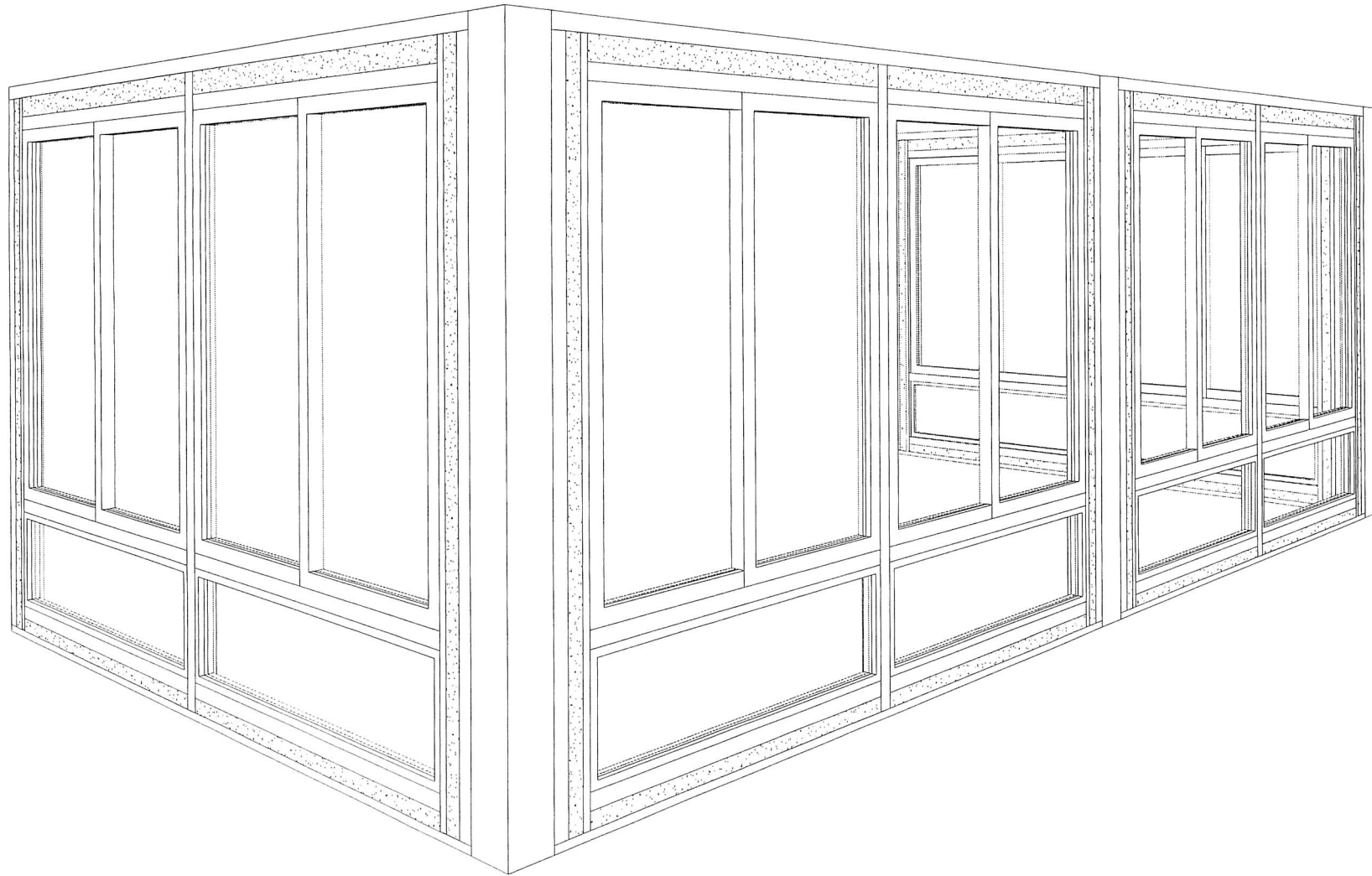
Wall No. 4 - Elevation

- Please Review the Project Title Block, Drawings and Dimensions Before Signing Below. -

Window Key: X - Operable Sash / O - Fixed Sash

nwi INNOVATIVE PRODUCTS INNOVATIVE SPACES SUNROOMS Omaha Door & Window Petry Sheet No. 4 6/18/2021 11:10:05 AM Revision No. 0	Series Type:	3800 SS IG Enclos.	Window Type:	Amerimax Single Slide	Roof Type / Color:	N/A	N/A
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	Extrusion Type:	<input type="checkbox"/> 2" <input checked="" type="checkbox"/> 3"	Glazing Type:	LoE 270 Glass	Fan Beam / Bracket:	0	0
	Extrusion Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Type:	N/A	Electrical / Cut Out:	No	No
	Fill Panel Type:	<input checked="" type="checkbox"/> Vinyl <input type="checkbox"/> Alum.	Door Color:	<input type="checkbox"/> White <input type="checkbox"/> Beige	Hardware / Sp. Order:	Yes	No
	Fill Panel Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Hardware:	N/A	Approved:		

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- Please Review the Project Title Block, Drawings and Dimensions Before Signing Below. -

Window Key: X - Operable Sash / O - Fixed Sash



Sheet No. 5 6/18/2021 11:10:05 AM Revision No. 0

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Wall Build Type:	<input checked="" type="checkbox"/> Plus 6" <input type="checkbox"/> Exact	Backstop Key:	<input checked="" type="checkbox"/> T <input type="checkbox"/> Flush	Downspout / Color:	0	N/A
Extrusion Type:	<input type="checkbox"/> 2" <input checked="" type="checkbox"/> 3"	Glazing Type:	LoE 270 Glass	Fan Beam / Bracket:	0	0
Extrusion Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Type:	N/A	Electrical / Cut Out:	No	No
Fill Panel Type:	<input checked="" type="checkbox"/> Vinyl <input type="checkbox"/> Alum.	Door Color:	<input type="checkbox"/> White <input type="checkbox"/> Beige	Hardware / Sp. Order:	Yes	No
Fill Panel Color:	<input checked="" type="checkbox"/> White <input type="checkbox"/> Beige	Door Hardware:	N/A	Approved:		

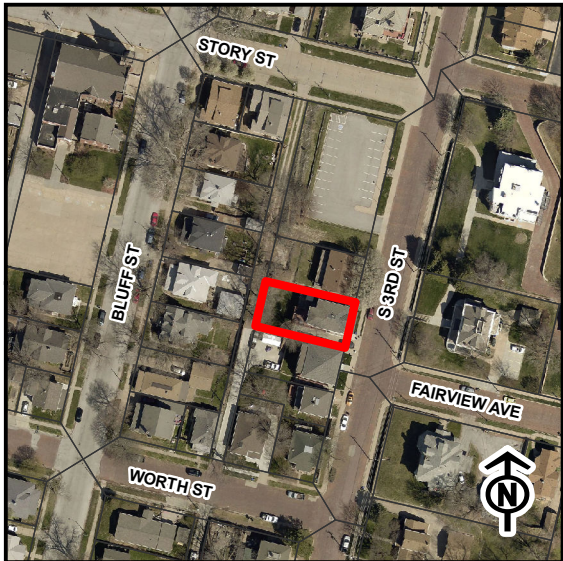
*Note: NWI Innovative Products, LLC (NWI) assumes no responsibility for local building code requirements including but not limited to wind and snow loads, tempered glass, foundation, attachment points, etc.

CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT CASE #BA-21-003 LOCATION/ZONING MAP

Legend

 Subject Property Case #BA-21-003

0 12.5 25
1 Inch = 26 Feet



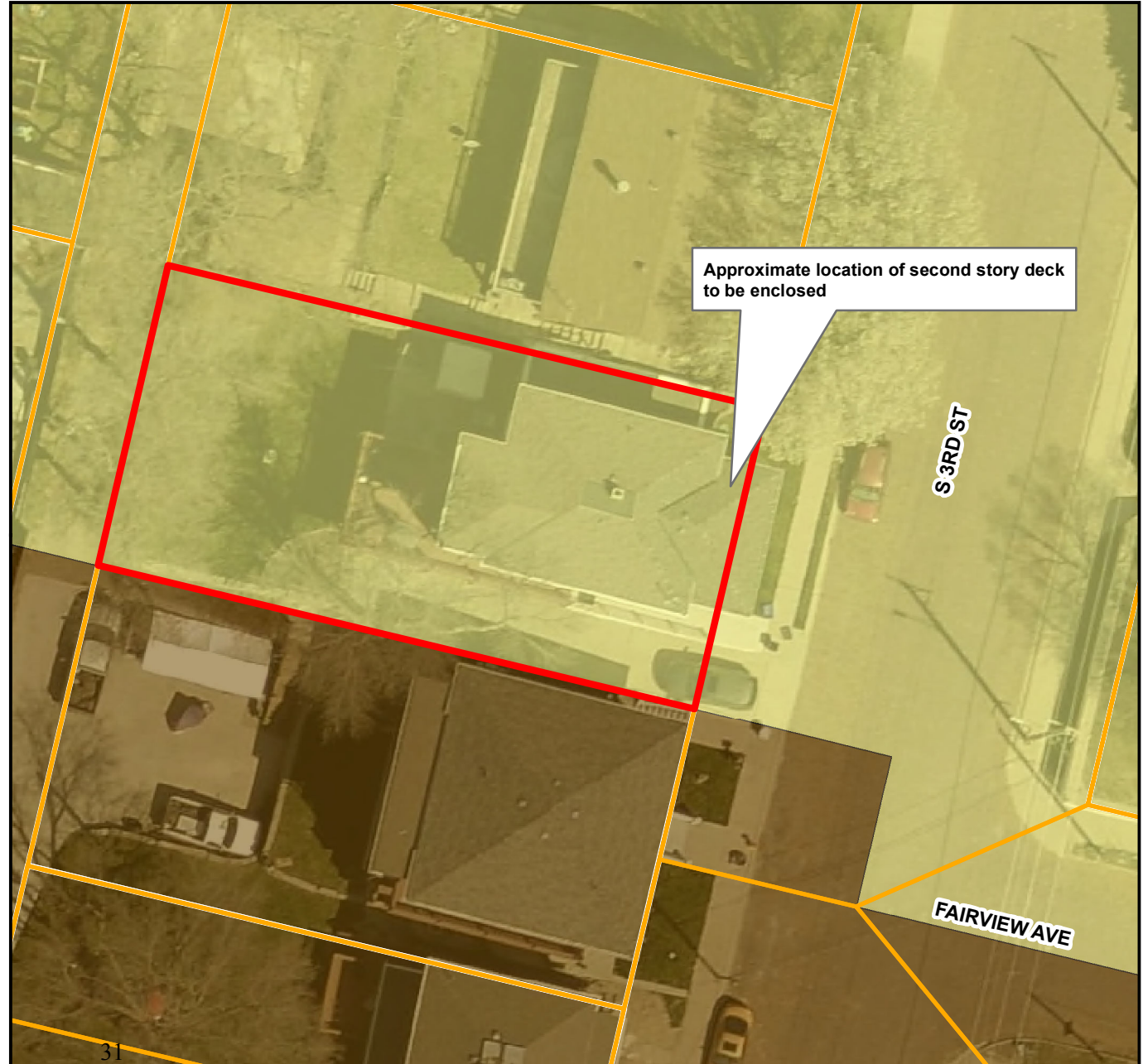
Last Amended: 7/28/2021



Council Bluffs Community
Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 890-5350

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Attachment G

