



**ZONING BOARD OF ADJUSTMENTS
AGENDA**

**Tuesday, July 16, 2024 - 4:00 PM
Council Chambers, 2nd Floor, City Hall
209 Pearl Street**

- 1. CALL TO ORDER**
- 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 #BA-24-004

Public hearing on the request of Ron Hackett, on behalf of Growmark Lubricants, for a nine foot setback variance from Section 15.21.050, Site Development Regulations, I-2/General Industrial District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure to be constructed one-foot from a rear property line on property legally described in the case staff report, located in the Council Bluffs Community Development Department. Location: 2200 South Avenue.

B. CASE #BA-24-005

Public hearing on the request of Jonathan Hallstrom for a 50-foot setback variance from Section 15.08B.050, Site Development Regulations, R-1/Single-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure (swimming pool) to be constructed in front of the existing front setback line of the principal structure on property legally described as Lots 1 through 3 and vacated north/south alley adjoining along with the East 41.5 feet of Lots 10 and 11, all in Block 3, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa. Location: 204 W Orchard Avenue.

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.: BA-24-004

CASE #BA-24-004

Council Action: 7/16/2024

Submitted by: Christopher
Gibbons, AICP, Planning Manager
and Moises Monrroy, Planner

Description

Public hearing on the request of Ron Hackett, on behalf of Growmark Lubricants, for a nine foot setback variance from Section 15.21.050, Site Development Regulations, I-2/General Industrial District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure to be constructed one-foot from a rear property line on property legally described in the case staff report, located in the Council Bluffs Community Development Department. Location: 2200 South Avenue.

Background/Discussion

See attached staff report.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report & Attachments	Other	7/11/2024

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: July 16, 2024

RE: **CASE #BA-24-004**

REQUEST: Public hearing on the request of Ron Hackett, on behalf of Growmark Lubricants, for a nine-foot setback variance from Section 15.21.050, Site Development Regulations, I-2/General Industrial District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure to be constructed one-foot from a rear property line on property legally described in Attachment ‘D’, located in the Council Bluffs Community Development Department.

APPLICABLE CODE SECTION: **Section 15.21.050, Site Development Regulations, I-2/General Industrial District**

RELIEF SOUGHT: A nine-foot setback variance from Section 15.21.050, Site Development Regulations, I-2/General Industrial District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure to be constructed one-foot from a rear property line.

LEGAL DESCRIPTION: See Attachment ‘D’

LOCATION: 2200 South Avenue, Council Bluffs, IA 51503

OWNER: Growmark Inc., PO Box 2500, Bloomington, IL 61702

APPLICANT: Ron Hackett, 3515 Oakridge Road, Omaha, NE 68112

BACKGROUND INFORMATION – The Community Development Department has received a request from Ron Hackett, on behalf of Growmark Lubricants, for a nine-foot setback variance from Section 15.21.050, Site Development Regulations, I-2/General Industrial District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure to be constructed one-foot from a rear property line on property addressed at 2200 South Avenue.

Growmark, Inc. is a wholesale agricultural co-op that distributes several products, including fertilizers, chemicals and seed, throughout the United States and Canada. Their facility in Council Bluffs manufactures and distributes different types of lubricant products. The purpose of this request is to allow the applicant to construct a 26’ × 98’ containment building around an existing fill area and weigh scale on their facility, in accordance with a federal mandate from the U.S. Environmental Protection Agency.

The following attachments have been included for your reference:

- Attachment A: Location/Zoning Map
- Attachment B: Letter of Intent
- Attachment C: Containment Building Plan Set
- Attachment D: Legal Description

CURRENT ZONING AND LAND USE – The subject property is zoned I-2/General Industrial District. Surrounding properties to the north, south, east and west are also zoned I-2 District. Land uses in the vicinity include the Iowa Interstate Railroad railyard and an equipment sales and rental establishment (Midwestern Equipment).

The following photographs show the existing conditions of the area where the proposed containment building will be constructed on the subject property:



Exhibit A: Aerial photograph of the existing fill area/weigh scale on subject property

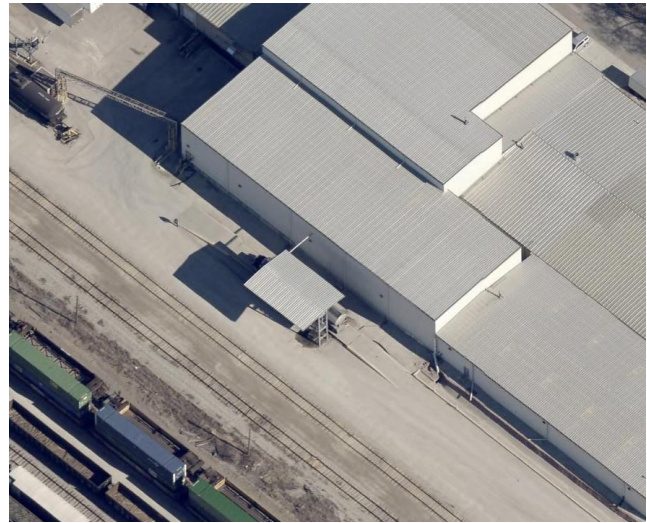


Exhibit B: Pictometry imagery of existing fill area/weigh scale and Growmark plant facility

The following variance has been issued by the Zoning Board of Adjustment on the subject property:

- A. Case #BA-69-004: A front-yard setback variance was granted by the Zoning Board of Adjustment in 1969.

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

- A. The Community Development Department had the following comments:
 1. The subject property is zoned I-2/Parks, Estates, and Agricultural District. The subject property contains 5.27 acres in area, which exceeds the minimum lot area requirement in the I-2 District of 15,000 square feet. However, it is an irregularly shaped, relatively narrow lot located between South Avenue and railroad tracks. Due to the geometrics of the lot, the existing built environment, and the proximity of the railroad tracks, further construction behind the Growmark plant facility will be significantly constrained unless relief from the site development standards in the I-2 District is granted.
 2. As per the applicant's letter of intent, a federal mandate from the U.S. Environmental Protection Agency (EPA) requires that all fill areas be located within an enclosed containment facility. To comply with this mandate, the applicant is proposing to construct a 26' × 98' containment building around an existing fill area and weigh scale located behind the Growmark plant facility on the subject property. Due to the location of the Growmark facility, the fill area, and the weigh scale, the proposed containment building will have to be constructed with a one-foot setback to the rear property line, as opposed to the required 10-foot rear yard setback in the I-2 District. This variance request is intended to allow the construction of the proposed containment building and ensure compliance with the EPA's mandate.

3. The request for a nine-foot variance to allow a one-foot rear yard setback is needed for the construction of the proposed containment building, which is required in order to comply with a federal mandate from the EPA. As such, this variance shall only be applicable to the proposed containment building; any future construction that occurs on the subject property, including any new structures and/or building additions, shall be subject to all site development standards in the I-2 District.
- B. The Council Bluffs Public Works Department stated they had no comments on the request.
 - C. The Council Bluffs Parks and Recreation Department stated they had no comments on the request.
 - D. The Council Bluffs Fire Department stated they had no comments on the request.
 - E. The Council Bluffs Police Department stated they had no comments or objections to the request.
 - F. Council Bluffs Water Works stated they had no comments on the request.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the variance request. No comments have been received as of the date of this report.

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)

- A. *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 size and shape of the subject property is generally typical for the area and its topography is relatively flat. The subject property is zoned I-2/Parks, Estates, and Agricultural District. The subject property contains 5.27 acres in area, which exceeds the minimum lot size requirements in the I-2 District. However, it is an irregularly shaped, relatively narrow lot located between South Avenue and railroad tracks. Due to the geometrics of the lot, the existing built environment, and the proximity of the railroad tracks, further construction behind the plant facility will be significantly constrained unless relief from the site development standards in the I-2 District is granted.*

The proposed containment building will be constructed around an existing fill area and weigh scale located behind the Growmark plant facility on the subject property. Due to the location of the Growmark facility, the fill area, and the weigh scale, the proposed containment building will have to be constructed with a one-foot setback to the rear property line, as opposed to the required 10-foot rear yard setback in the I-2 District. This variance request is intended to allow the construction of the proposed containment building and ensure compliance with the EPA’s mandate. The subject property suffers a singular disadvantage as the containment building must be constructed within a confined area on the subject property in order to comply with a federal mandate from the EPA requiring all fill areas to be located within an enclosed containment facility.

- B. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. If the variance is not granted, the subject property will be in violation of the federal mandate from the EPA requiring all fill areas to be located within an enclosed containment facility.*
- C. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The disadvantage exists due to the geometrics of the lot, the existing built environment, and the*

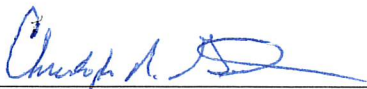
proximity of the railroad tracks, which significantly constrains any construction that occurs behind the Growmark plant facility. In order to comply with the federal mandate from the EPA requiring all fill areas to be located within an enclosed containment facility, the applicant is required to construct the proposed containment building within the confined area behind the Growmark plant facility.

- D. *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 requested variance would not constitute a special privilege, as it would allow the applicant to comply with the federal mandate from the EPA requiring all fill areas to be located within an enclosed containment facility.*
- E. *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. Granting a variance to allow the applicant to construct the proposed containment building would not be contrary to the public interest. Approval of the variance request would also alleviate a hardship on the subject property since it would allow the applicant to construct the proposed containment building within a confined area on the subject property in order to comply with the EPA's mandate, which would otherwise not be possible through the application of this ordinance.*

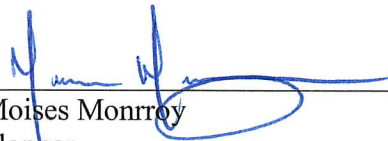
RECOMMENDATION

The Community Development Department recommends approval of a nine-foot setback variance from Section 15.21.050, Site Development Regulations, I-2/General Industrial District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure to be constructed one-foot from a rear property line on property legally described in Attachment 'D', located in the Council Bluffs Community Development Department, based on the reasons stated above and subject to the following condition:

- A. The variance shall only be applicable to the proposed containment building. Any future construction that occurs on the subject property, including any new structures and/or building additions, shall be subject to all site development standards in the I-2 District.



Christopher Gibbons, AICP
Planning Manager



Moises Monroy
Planner

CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT CASE #BA-24-004 LOCATION/ZONING MAP

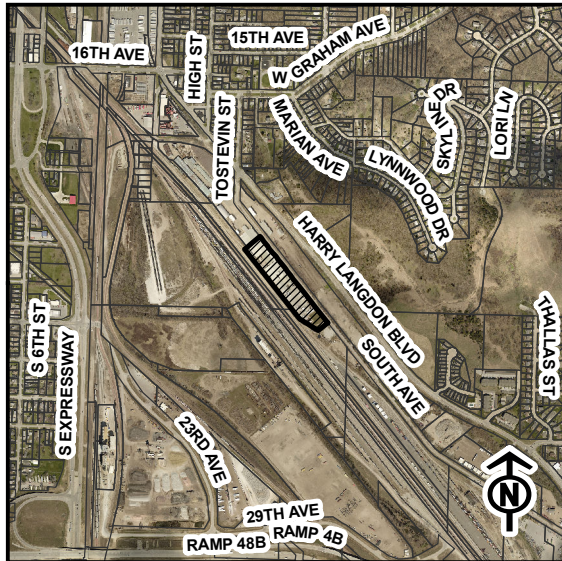
Legend

 Subject Property

0 80 160



1 Inch = 161 Feet

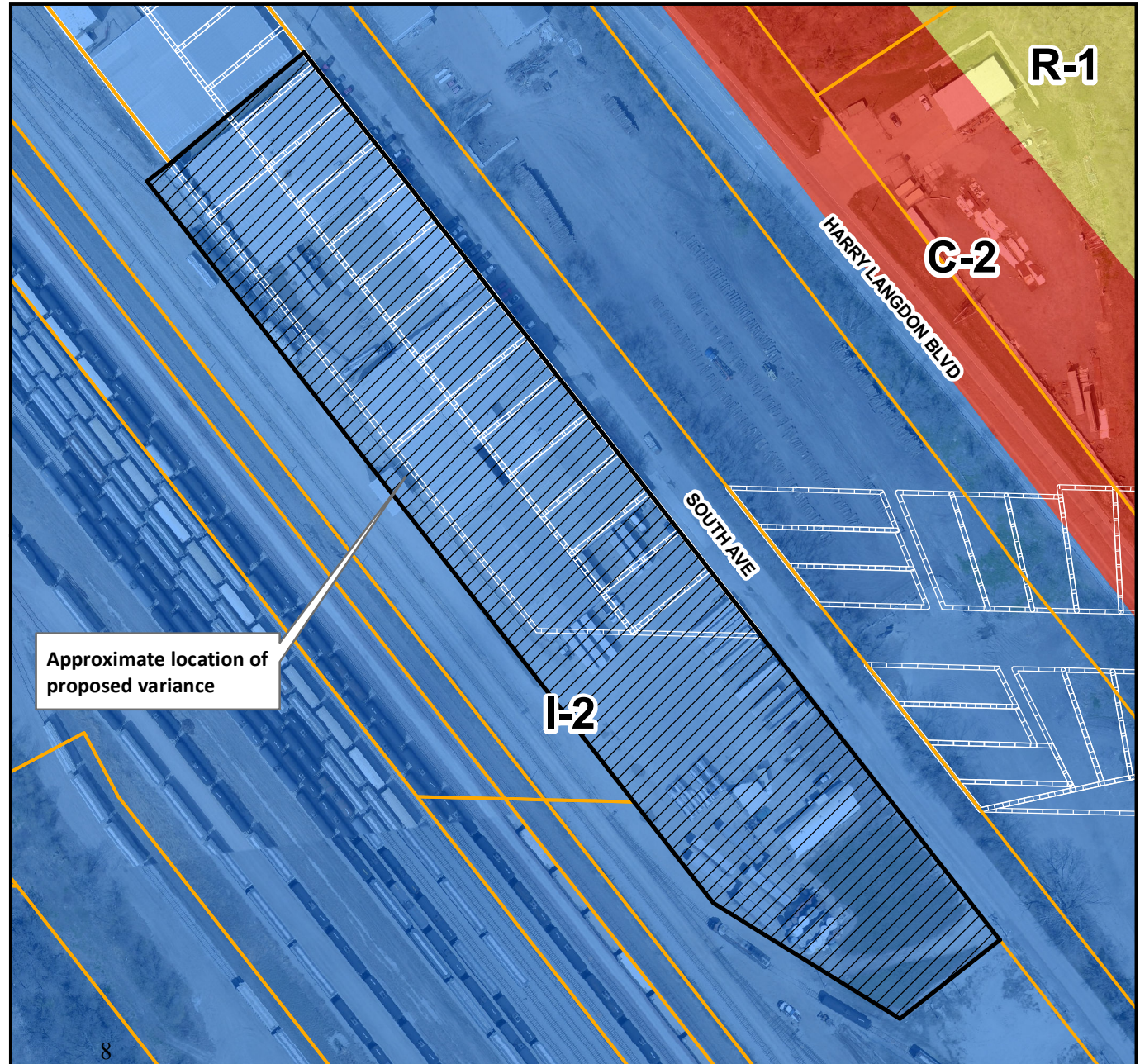


Last Amended: 6/26/2024



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

DISCLAIMER
This map is prepared and compiled from City documents, plans and other public records data. Users of this map are hereby notified that the City expressly disclaims any and all responsibilities for errors, if any, in the information contained on this map or the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.



6/25/2024

Project Purpose Statement

**Subject- Growmark Lubricants-
Containment Building**

Growmark Lubricants has been a long-time industry leading lubricant manufacturer and distributor located here in Council Bluffs at 2200 South Ave. The purpose of this project is to comply with an EPA federal mandate requiring all fill areas to be within a capture and contain facility. Currently the fill area and weigh scale are located together in the property's rear setback zone. We are asking for a variance to allow a new structure to be built in this area. The new structure is completely on the Growmark property. We met with the Iowa Interstate and Railroad authorities located directly to the west. They accepted our proposal and agreed to move forward. All other neighboring properties are unaffected.

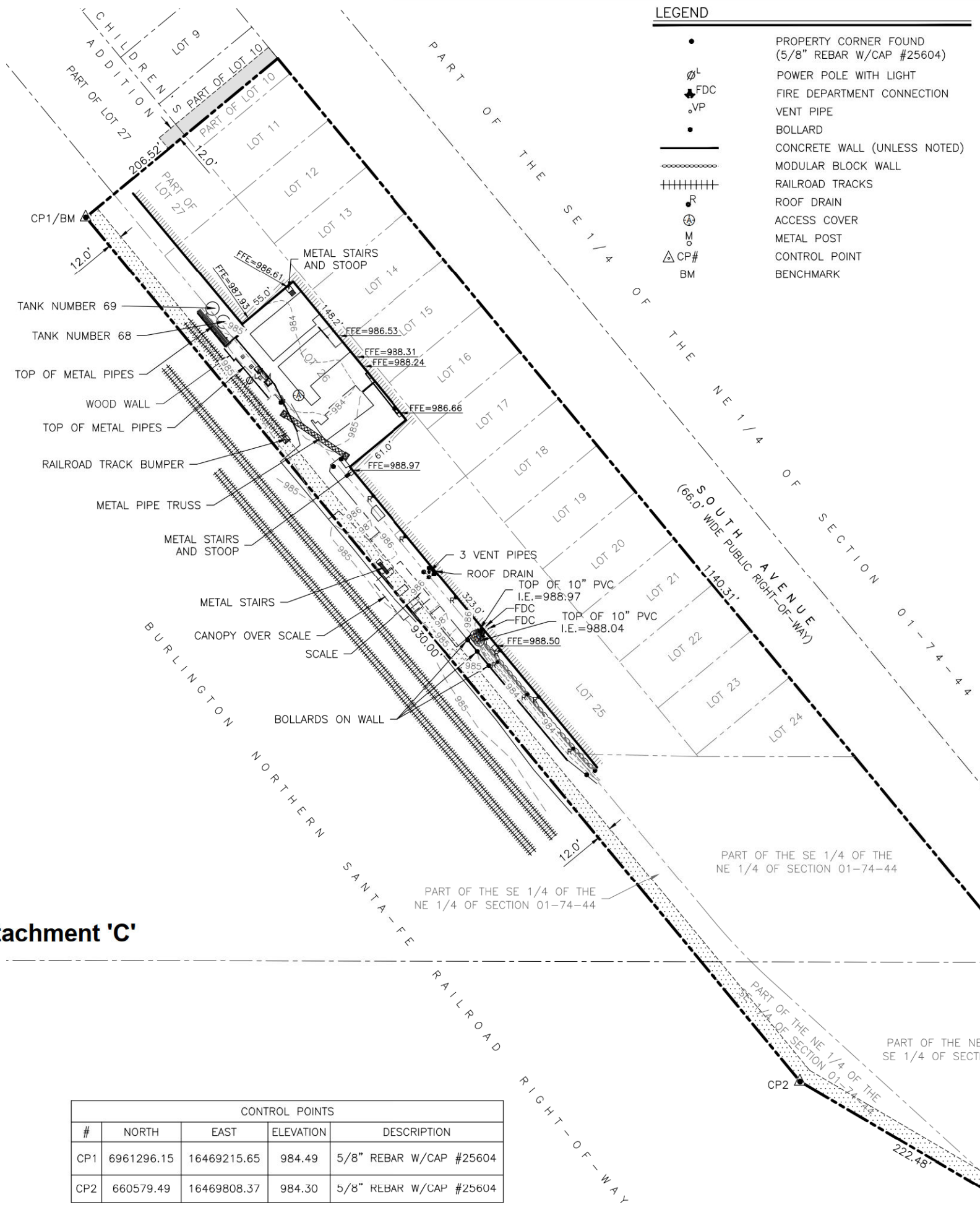
We look forward to working with the City of Council Bluffs and our adjacent neighbors for a successful project.

Below is a list of adjacent land owners with 200' of Growmark Lubricants.

- Johnstone Partners LLC
 - 1914 Tostevin St. Council Bluffs IA 51503 Parcel# 744401207001
- Iowa Interstate and Railroad Ltd.
 - Parcel# 744401503020 (Greg Mtchell 319-298-5424)
- Burlington Northern SantaFe
 - Parcel# 744401501014 (no contact information at this time)

Ron Hackett

Ron Hackett AIA



LEGEND

•	PROPERTY CORNER FOUND (5/8" REBAR W/CAP #25604)
⊙	POWER POLE WITH LIGHT
⬇	FIRE DEPARTMENT CONNECTION
∇	VENT PIPE
•	BOLLARD
—	CONCRETE WALL (UNLESS NOTED)
—	MODULAR BLOCK WALL
	RAILROAD TRACKS
⊕	ROOF DRAIN
⊙	ACCESS COVER
⊙	METAL POST
△	CONTROL POINT
BM	BENCHMARK

LEGAL DESCRIPTION
 PART OF LOTS 11 THROUGH 27, CHILDREN'S ADDITION, A SUBDIVISION IN POTTAWATTAMIE COUNTY, IOWA TOGETHER WITH PART THE NE 1/4 OF THE SE 1/4 AND THE SE 1/4 OF THE NE 1/4 OF SECTION 01, TOWNSHIP 74 NORTH, RANGE 44 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA.

BENCHMARK
 DESCRIPTION: 5/8" REBAR W/CAP #25604 240'± SW OF THE CENTERLINE OF SOUTH AVENUE AND 70'± WNW OF THE SE CORNER OF LOT 27, CHILDREN'S ADDITION.

ELEVATION: 984.49 (NAVD 88)

NOTES

FLOOD_ZONE CLASSIFICATION:
 THE SURVEYED PROPERTY LIES WITHIN A DESIGNATED ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON THE POTTAWATTAMIE COUNTY, IOWA AND INCORPORATED AREAS FLOOD INSURANCE RATE MAP NUMBERS 19155C0576E AND 19155C0577E BOTH DATED FEBRUARY 4, 2005.

CURRENT ZONING CLASSIFICATION:
 THE SURVEYED PROPERTY IS ZONED I-2, (GENERAL INDUSTRIAL DISTRICT) PER THE POTTAWATTAMIE COUNTY, IOWA GIS WEBSITE (<https://gis.pottawattamie-ia.gov/>). THIS ZONING HAS THE FOLLOWING MINIMUM SETBACK REQUIREMENTS:

FRONT YARD.....	15 FEET
STREET SIDE YARD.....	10 FEET
SIDE YARD.....	10 FEET
REAR YARD.....	10 FEET

LOCATION OF UTILITIES:
 THE UTILITY LOCATIONS ON THIS DRAWING WERE DETERMINED BY OBSERVED EVIDENCE AT THE TIME OF SURVEY, RECORDS PROVIDED BY UTILITY COMPANIES AND THOSE MARKED BY UTILITY COMPANY REPRESENTATIVES THAT RESPONDED TO "ONE CALL" TICKET NUMBER 232210094. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY THE SURVEYOR FOR THE FAILURE TO SHOW ANY BURIED SERVICE AND/OR UTILITY LINES EVEN THOUGH THEY MAY EXIST.

EASEMENTS:
 THESE ARE THE EASEMENTS THAT THOMPSON, DREESSEN & DORNER, INC IS AWARE OF. A TITLE CERTIFICATE OR TITLE COMMITMENT WAS NOT PROVIDED, WE RECOMMEND HAVING A TITLE INSURANCE COMPANY SEARCH FOR EASEMENTS THAT MAY AFFECT THE PROPERTY.

- 12.0' WIDE INGRESS/EGRESS EASEMENT AS SHOWN ON THE PLAT OF SURVEY RECORDED FEBRUARY 18, 1997 AS INSTRUMENT NO. 97-30461 OF THE POTTAWATTAMIE COUNTY, IOWA RECORDS.
- 12.0' WIDE INGRESS/EGRESS EASEMENT RECORDED IN BOOK 82 AT PAGE 1424 OF THE POTTAWATTAMIE COUNTY, IOWA RECORDS.

TD2
 engineering & surveying

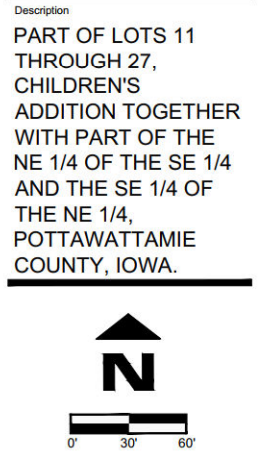
thompson, dreessen & dörner, inc.
 10836 Old Mill Rd
 Omaha, NE 68154
 p.402.330.8860 f.402.330.5866
 td2co.com
 dba: TD2 Engineering & Surveying
 NE CA-0199

Survey Type
TOPOGRAPHIC SURVEY

Client Name
RGH DESIGN

2200 SOUTH AVENUE,
 COUNCIL BLUFFS,
 IOWA

Description
PART OF LOTS 11 THROUGH 27, CHILDREN'S ADDITION TOGETHER WITH PART OF THE NE 1/4 OF THE SE 1/4 AND THE SE 1/4 OF THE NE 1/4, POTTAWATTAMIE COUNTY, IOWA.



Revision Dates

No.	Description	MM-DD-YY
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Job No.: A1434-23-14
 Drawn By: BJH
 Reviewed By: JLC
 Date: SEPTEMBER 22, 2023
 Book: 23-17
 Page: 28

Sheet Number
SHEET 1 OF 1

Attachment 'C'

CONTROL POINTS

#	NORTH	EAST	ELEVATION	DESCRIPTION
CP1	6961296.15	16469215.65	984.49	5/8" REBAR W/CAP #25604
CP2	660579.49	16469808.37	984.30	5/8" REBAR W/CAP #25604



SITE PLAN



rgH Design

3515 Oakridge Rd.
Omaha, NE 68112
402-981-7695

CONSULTANT

Growmark Lubricants

TITLE
2200 South Ave
Council Bluffs, IA

PROJECT
New Containment
Building

PROJECT
Prelim. Documents

STAMP

STAMP

DATE MODIFIED

AGENCY APPROVAL

DRAWN BY	rgH Design
DATE ISSUED	06/24/2024
SCALE	AS NOTED
PROJECT NO.	025-2022

SHEET NO.

A0.00

rgH Design

3515 Oakridge Rd.
Omaha, NE 68112
402-981-7695

CONSULTANT

Growmark Lubricants

TITLE
2200 South Ave
Council Bluffs, IA

New Containment Building

PROJECT

Prelim. Documents

STAMP

STAMP

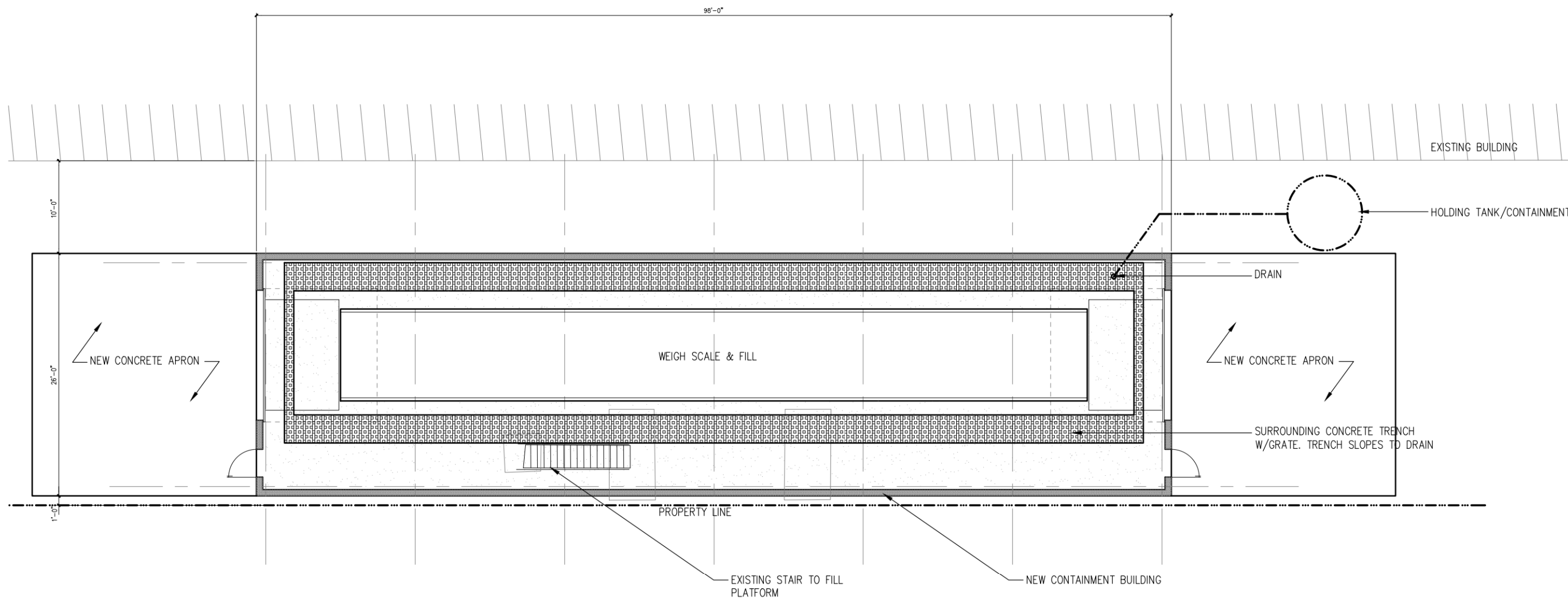
DATE MODIFIED

AGENCY APPROVAL

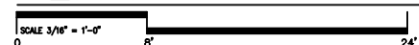
DRAWN BY	rgH Design
DATE ISSUED	06/24/2024
SCALE	AS NOTED
PROJECT NO.	025-2022

SHEET NO.

A1.01



PLAN



rgH Design

3515 Oakridge Rd.
Omaha, NE 68112
402-981-7695

CONSULTANT

Growmark Lubricants

TITLE
2200 South Ave
Council Bluffs, IA

New Containment
Building

PROJECT

Prelim. Documents

STAMP

STAMP

DATE MODIFIED

AGENCY APPROVAL

DRAWN BY	rgH Design
DATE ISSUED	06/24/2024
SCALE	AS NOTED
PROJECT NO.	025-2022

SHEET NO.

A2.01

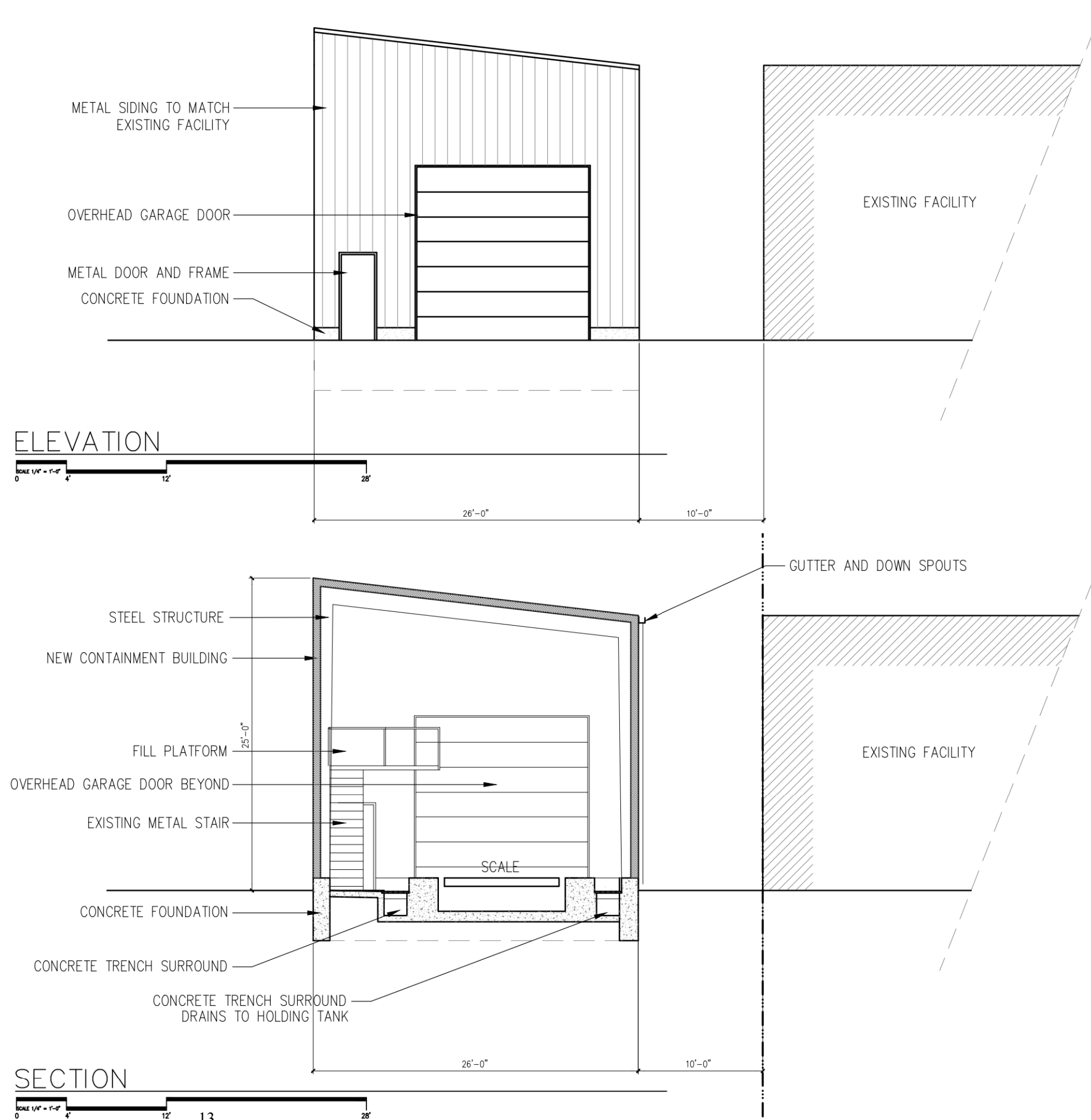




IMAGE 1

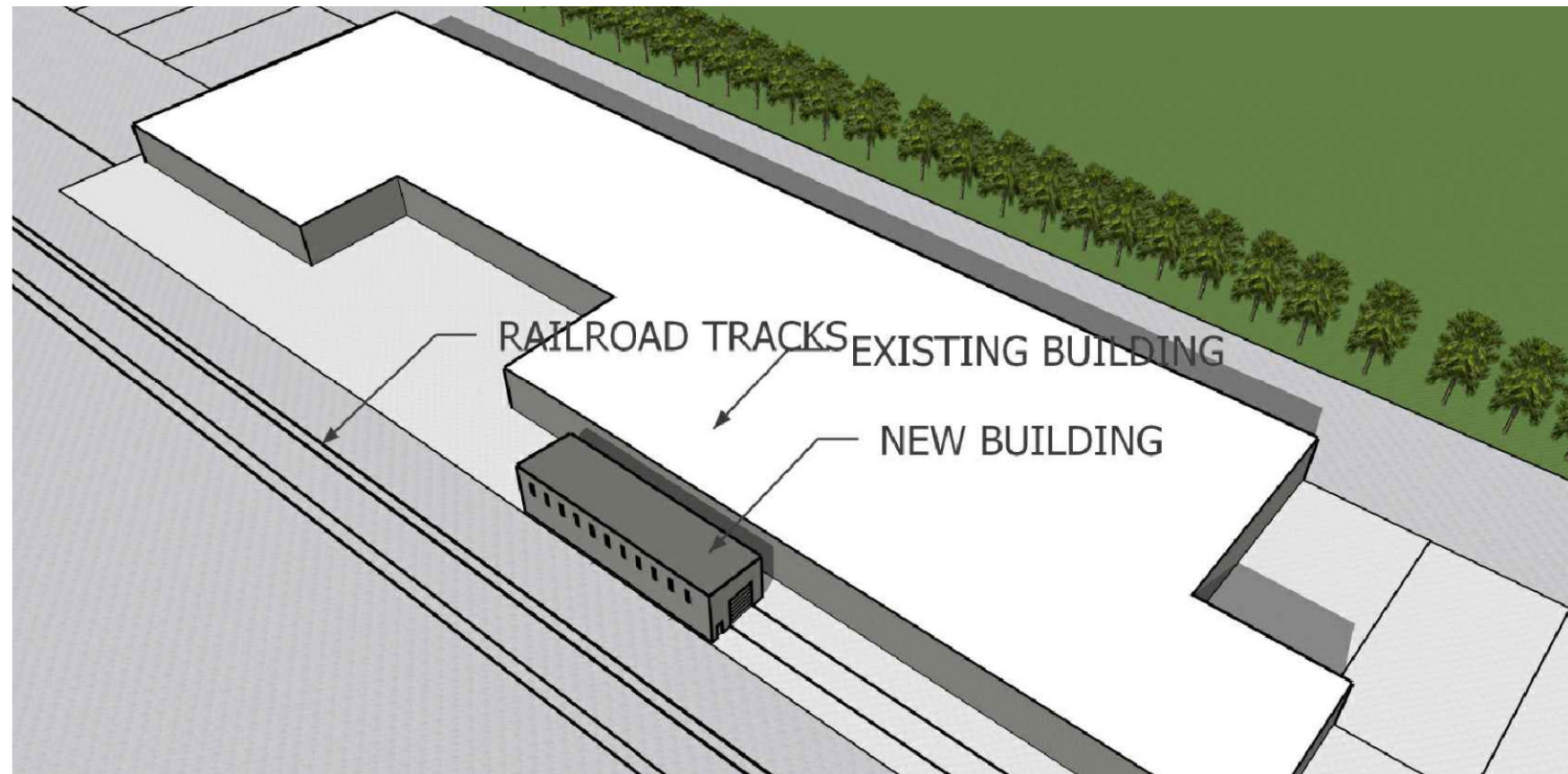


IMAGE 2

rgH Design

3515 Oakridge Rd.
Omaha, NE 68112
402-981-7695

CONSULTANT

Growmark Lubricants

TITLE
2200 South Ave
Council Bluffs, IA

PROJECT
New Containment
Building

Prelim. Documents

STAMP

STAMP

DATE MODIFIED

AGENCY APPROVAL

DRAWN BY	rgH Design
DATE ISSUED	06/24/2024
SCALE	AS NOTED
PROJECT NO.	025-2022

SHEET NO.

A1.01

Attachment 'D'

Legal Description

through

All of Lots 11 ~~and~~ 26, and parts of Lots 10 and 27, all located in Children's Addition to Council Bluffs, Pottawattamie County, Iowa, more fully described as follows:

Commencing at the Southeast corner of Lot 24, of said Children's Addition and the point of beginning; thence N 89° 33' 37" W along the South line of Lots 24 and 25 a distance of 231.10 feet; thence N 39° 49' 00" W along the Southwesterly line of Lots 25, 26 and 27 a distance of 602.24 feet to a point 66.17 feet Northwesterly of the Northwest corner of said Lot 26; thence N 50° 10' 54" E a distance of 176.52 feet to a point on the Southwesterly Right of Way line of South Avenue; thence S 39° 49' 00" E along said Right of Way line a distance of 751.39 feet to the point of beginning.

Note: The Southwesterly Right of Way line of South Avenue is assumed to bear S 39° 49' 00" E for this description.

Together with an easement for ingress and egress over a 12 foot strip of land in Lots 10 and 27 of Children's Addition to the City of Council Bluffs, Iowa, which is more particularly described as follows: Commencing at the Easterly corner of Lot 10 of said Children's Addition; thence N 39° 49" W 16.25 feet to the point of beginning; thence S 50° 11' W 117.41 feet, thence N 40° 40' W 12.0 feet; thence N 50° 11' E 117.62 feet; thence S 39° 49' E 12.0 feet to the point of beginning.

AND

Parcel A: - A parcel of land located in part of the SE ¼ NE ¼ and in part of the NE ¼ SE ¼ of Section 1, Township 74 North, Range 44, in the City of Council Bluffs, Pottawattamie County, Iowa, said parcel being more fully described as follows: Commencing at the Southeast Corner of Lot 24 of Children's Addition; thence S 39° 49' 00" E along the Southwesterly right of way line of South Avenue a distance of 138.92 feet to the point of beginning; thence continuing S 39° 49' 00" E along said right of way line a distance of 250.00 feet; thence S 50° 46' 14" W a distance of 129.97 feet to a point 10.00 feet Northeasterly from the centerline of the Chicago Great Western Interchange Track; thence N 48° 01' 35" W parallel with said centerline a distance of 292.40 feet to the beginning of a curve concave Northeasterly having a central angle of 8° 08' 38" and radius of 502.64 feet; thence Northwesterly along said curve concentric with said centerline an arc length of 71.44 feet with a chord bearing and distance of N 43° 57' 16" W, 71.38 feet to the end of said curve; thence N 39° 52' 57" W parallel with said centerline a distance of 168.34 feet to a point 8.50 feet normal distance Northeasterly of the centerline of the Chicago, Rock Island and Pacific Railroad Company's Industrial Spur track, said point being on a curvilinear boundary; thence along said curvilinear boundary and parallel with said spur track the following course: S 47° 45' 00" E a distance of 24.47 feet; S 47° 36' 22" E a distance of 32.44 feet; S 47° 48' 17" E a distance of 32.44 feet; thence S 47° 59' 47" E parallel with and 8.50 feet normal distance

Northeasterly to said spur track a distance of 193.82 feet; thence N 50° 09' 08" E a distance of 137.20 feet to the point of beginning.

NOTE: the Southeasterly right of way line of South Avenue is assumed to bear S 39° 49' 00" E for this description.

AND

A parcel of land located in part of the SE ¼ NE ¼ and in part of the NE ¼ SE ¼ of Section 1, Township 74 North, Range 44 in the City of Council Bluffs, Pottawattamie County, Iowa, said parcel being more fully described as follows: Commencing at the Southwest Corner of Lot 25, of Children's Addition to the City of Council Bluffs, Iowa, and the Point of Beginning; thence N 39° 49' 00" W along the West line of said Children's Addition a distance of 602.24 feet; thence S 50° 10' 54" W a distance of 30.00 feet; thence S 39° 49' 00" E a distance of 930.00 feet; thence S 59° 52' 57" E a distance of 222.48 feet to a point 10.00 feet Northeasterly from the centerline of the Chicago Great Western Interchange Track; thence N 48° 01' 35" W parallel with said centerline a distance of 292.40 feet to the beginning of a curve concave Northeasterly having a central angle of 8° 08' 38" and a radius of 502.64 feet; thence Northwesterly along said curve concentric with said centerline an arc length of 71.44 feet with a chord bearing and distance of N 43° 57' 16" W, 71.38 feet to the end of said curve; thence N 39° 52' 57" W parallel with said centerline a distance of 168.34 feet to a point 8.50 feet normal distance Northeasterly of the centerline of the Chicago, Rock Island and Pacific Railroad Company's Industrial spur track, said point being on a curvilinear boundary; thence N 41° 40' 37" W along said curvilinear boundary and parallel with said spur track a distance of 8.00 feet; thence N 50° 11' 00" E a distance of 0.95 feet to the Point of Beginning.

AND

Commencing at the Southeast corner of Lot 24, Children's Addition and POINT OF BEGINNING; thence N 89° 33' 37" W along the South line of said Children's Addition a distance of 231.10 feet to the Southwest corner of said Children's Addition; thence S 50° 11' 00" W a distance of 0.95 feet to a point 8.50 feet normal distance Northeasterly of the centerline of the Chicago, Rock Island and Pacific Railroad Company's industrial spur track, said point being the beginning of a curvilinear boundary; thence along said curvilinear boundary and parallel with said spur track the following courses and distances; S 46° 15' 16" E a distance of 32.44 feet, S 47° 36' 22" E a distance of 32.44 feet S 47° 48' 17" E a distance of 32.44 feet; thence S 47° 59' 47" E parallel with and 8.50 feet normal distance Northeasterly to said spur track a distance of 193.82 feet; thence N 50° 09' 08" E a distance of 137.20 feet to a point on the Southwesterly right of way line of South Avenue; thence N 39° 49' 00" W along said Southwesterly right of way line a distance of 138.92 feet to the point of beginning. Said tract contains 0.742 acres, more or less. (Note: The Southwesterly right of way line of South Avenue is assumed to bear N 39° 49' 00" W for this description.)

Zoning Board of Adjustment Communication

Department: Community
Development

Case/Project No.: BA-24-005

CASE #BA-24-005

Council Action: 7/16/2024

Submitted by: Christopher

Gibbons, AICP, Planning Manager

and Eli Flikkema, Planning Intern

Description

Public hearing on the request of Jonathan Hallstrom for a 50-foot setback variance from Section 15.08B.050, Site Development Regulations, R-1/Single-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow an accessory structure (swimming pool) to be constructed in front of the existing front setback line of the principal structure on property legally described as Lots 1 through 3 and vacated north/south alley adjoining along with the East 41.5 feet of Lots 10 and 11, all in Block 3, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa. Location: 204 W Orchard Avenue.

Background/Discussion

See attached staff report.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report & Attachments	Other	7/11/2024

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: July 16, 2024

RE: **CASE #BA-24-005**

REQUEST: Public hearing on the request of Jonathan Hallstrom for a fifty-foot variance from Section 15.08B.050, *R-1/Single-Family Residential District, Site Development Regulations*, to allow an accessory structure to be located closer to the front property line than the principal structure on property legally described as Lots 1 through 3 and vacated north/south alley adjoining along with the East 41.5 feet of Lots 10 and 11, all in Block 3, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa

APPLICABLE

CODE SECTION(S): **Section 15.08B.050 Site Development Regulations for the R-1/Single-Family Residential Zoning District:**

<u>Minimum Setback</u>	<u>Principal Structure</u>	<u>Accessory Structures</u>
<i>Front Yard</i>	<i>25 feet</i>	<i>Greater of 25 feet or existing front setback line of principal structure</i>

RELIEF SOUGHT: A fifty-foot, more or less, front yard setback variance to allow an accessory structure to be located closer to the front property line than the principal structure

LEGAL

DESCRIPTION: Lots 1 through 3 and vacated north/south alley adjoining along with the East 41.5 feet of Lots 10 and 11, all in Block 3, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa

LOCATION: 204 West Orchard Avenue, Council Bluffs, IA 51503

APPLICANT/OWNER: Jonathan Hallstrom, 204 West Orchard Avenue, Council Bluffs, IA 51503

BACKGROUND INFORMATION – The Community Development Department has received a request from Jonathan Hallstrom for a fifty-foot, more or less, variance from Section 15.08B.050, *Site Development Regulations, R-1/Single-Family Residential District*, of the Council Bluffs Zoning Ordinance to allow an accessory structure to be located closer to the front property line than the principal structure. The purpose of this request is to allow a proposed 20’x40’ in-ground swimming pool to be located in front of the single-family dwelling on the subject property, as shown on the submitted site plan (see Attachment ‘A’). As per the applicant’s letter of intent (see Attachment ‘B’), the variance is needed due to the setback of the existing dwelling, topography, and location of the unimproved East Washington Avenue right-of-way.

The following attachments have been included for your reference:

Attachment A: Site Plan

Attachment B: Letter of Intent

Attachment C: Location/Zoning Map

CURRENT ZONING AND LAND USE – The subject property is surrounded by the following zoning districts and existing land uses:

Direction	Existing Zoning Districts	Existing Land Uses
North	R-1/Single-Family Residential District	Undeveloped land and single-family dwellings
South	R-1/Single-Family Residential District	Undeveloped land and single-family dwellings (across West Orchard Avenue)
East	R-1/Single-Family Residential District	Single-family dwellings (across East Washington Avenue)
West	R-1/Single-Family Residential District	Unimproved West Orchard Avenue and Henry Street right-of-way and a single-family dwelling

A location/zoning map is included with this report as Attachment ‘C.’

The following photographs show the existing conditions of the subject property:



Exhibit A: View of the southeast corner of the subject property from West Orchard Avenue



Exhibit B: View of East Washington Avenue from West Orchard Avenue



Exhibit C: View West Orchard Avenue leading to applicant's driveway entrance



Exhibit D: View of the applicant's driveway entrance

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

A. The Community Development Department had the following comments:

1. The subject property is located at the northwest corner of the intersection of West Orchard Avenue and East Washington Avenue and is developed with a single-family detached dwelling. The existing dwelling and associated off-street parking are orientated in such a manner where the off-street parking and building entrance face west towards their rear property line and their “backyard” faces east towards East Washington Avenue. This placement has lead a large area of the rear (western) yard that is paved and used for vehicular parking and storage. From a zoning standpoint, the portion of the property that directly abuts East Washington Avenue is considered the front property line as it has less road frontage (150 feet) than the portion of the property that abuts West Orchard Avenue (166 feet).
2. The subject property is an irregularly shaped corner lot that is zoned R-1/Single-Family Residential District and contains 0.67 acres (29,119 square feet). The minimum lot size for a corner lot in an R-1/Single-Family Residential District is 5,500 square feet, as per Section 15.08B.050, *R-1/Single-Family Residential District, Site Development Regulations*, of the CBMC (Zoning Ordinance). While the subject property is a conforming lot of record that exceeds the minimum lot size requirements for the R-1/Single-Family Residential District, it is encumbered by existing development and topographical constraints that limit additional development on the property, including a 40 foot difference in elevation within the lot, which would require significant grading to develop within standards set by the Ordinance.
3. Per Section 15.08B.050, *R-1/Single-Family Residential District, Site Development Regulations*, of the CBMC (Zoning Ordinance), accessory structures shall have a front yard setback that is the “*greater of 25 feet or existing front setback line of principal structure.*” Based on the most recent Pottawattamie County GIS aerial photography, it appears the existing principal structure is located 50 feet, more or less, from the front property line. Therefore, any accessory structure on the property is required to comply with a 50-foot front yard setback, rather than the minimum required 25-foot setback for the R-1 District. This effectively limits development to the westerly two-thirds of the property, leaving the remainder undevelopable unless relief is granted for setback purposes.
4. The subject property faces an undeveloped section of East Washington Avenue right-of-way that extends north from West Orchard Avenue and terminates at a dead-end. Said section of West Washington Avenue has significant elevation change, ranging from 1054’ to 1084’, which would require extensive grading to develop. There are no current or future plans to extend East Washington Avenue and it will remain unimproved for the foreseeable future.

B. The Council Bluffs Police Department stated they have no comments or objections to the request.

C. The Council Bluffs Fire Department stated they have no comment on the request.

D. The Council Bluffs Public Works Department stated they have no comment on the request.

E. Council Bluffs Water Works stated they have no comment on the request.

F. Lumen stated they have no comment on 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 were received.

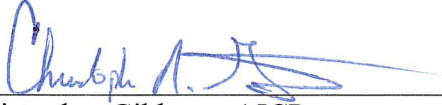
COMMENTS - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when ‘unforeseen applications of this Ordinance...create particular hardships.’ No variance 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 a conforming irregularly shaped corner lot of record encumbered by topographical constraints that would require significant grading to develop. The extant topography limits the applicant’s ability to construct a swimming pool on the property and creates a singular disadvantage for the subject property in comparison to other properties in the vicinity.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The existing single-family dwelling on the subject property is compliant with R-1 District site development standards. The owner may continue to use the property for residential purposes if the variance request is not granted. However, literal enforcement of the Ordinance hinders the applicant’s ability to construct a detached accessory structure.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The existing lot and home were not created by the owners of the property. The placement of the dwelling effectively limits development to the westerly two-thirds of the property, leaving the remainder undevelopable unless relief is granted for setback purposes. Additionally, the extant topography hinders the applicant’s ability to construct accessory structures on the subject property.*
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 of the requested variance does not constitute a special privilege as it is necessary to overcome the topographical and extant development limitations of the subject property that are not faced by other residential properties in the vicinity.*
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. Granting the requested variance to construct the proposed swimming pool will not be contrary to the public interest and will not adversely impact surrounding properties.*

RECOMMENDATION

The Community Development Department recommends **approval** of the requested variance from Section 15.08B.050, *Site Development Regulations, R-1/Single-Family Residential District*, of the Council Bluffs Zoning Ordinance for a fifty-foot (more/less) front yard setback variance to allow an accessory structure

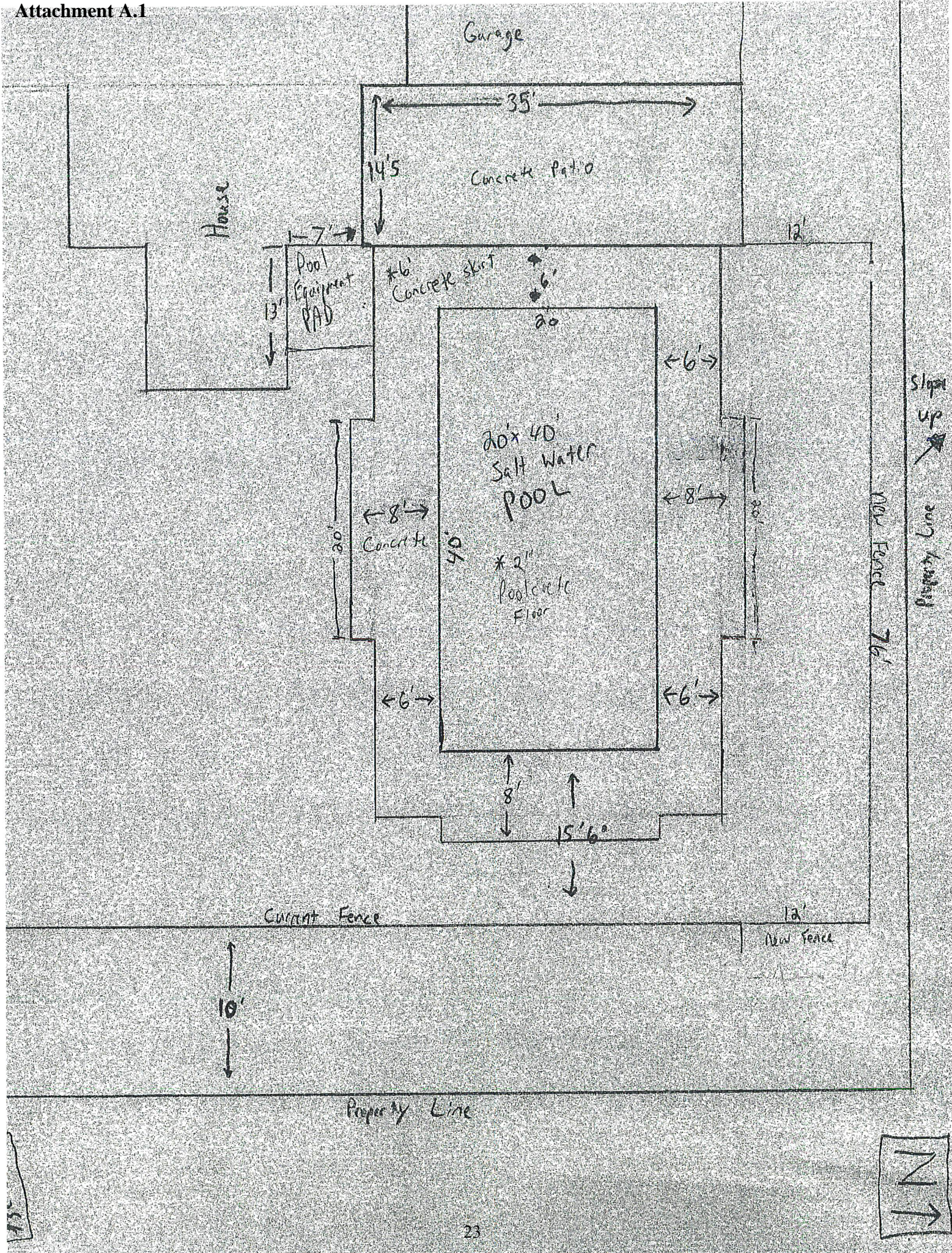
to be located closer to the front property line than the principal structure on property legally described as Lots 1 through 3 and vacated north/south alley adjoining along with the East 41.5 feet of Lots 10 and 11, all in Block 3, Mynster Place, City of Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above.



Christopher Gibbons, AICP
Planning Manager



Eli Flikkema
Planning Intern





3

50

40'

30'

30'

50

2

50'

1

50

Attachment B

Letter of Intent for In-Ground Pool Installation

June 25th,2024

To: Community Development Department-City of Council Bluffs

From: Jonathan Hallstrom

204 West Orchard Avenue

Council Bluffs, Iowa 51503

This letter serves as my formal intent to install an in-ground swimming pool on my property located at 204 West Orchard Avenue. Due to the specific site limitations, the desired pool location would be to the East of the dwelling. It is my understanding that due to the undeveloped road of East Washington Avenue, the location to the East of the dwelling is considered the front of the property and is limited by the City of Council Bluffs Municipal Code 15.08B.050.

I understand that this location may require specific considerations during the planning and permitting process. I am open to discuss these details further and collaborating to ensure a successful pool installation that meets the necessary requirements.

I have attached a simple sketch outlining the proposed pool location on the property for your reference.

Thank you for your time and consideration. I look forward to discussing this project with you further.



Sincerely,

Jonathan Hallstrom

CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT CASE #CU-24-005 LOCATION/ZONING MAP

Attachment C

Legend

-  BA-24-005 Subject Property
-  Parcels

0 60 120



1 Inch = 120 Feet



Last Amended: 6/25/2024



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

DISCLAIMER
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