

Planning Report

Date: November 18, 2024

To: Milaca Planning Commission

From: Phil Carlson, AICP, Phil Gravel, PE; Stantec

Request: Minor Subdivision/Lot Split, Side Setback Variance

Owner: Milaca Park LLC

Applicants: Randy Reiman, Josh Winter

Address: 410 2nd Street NE

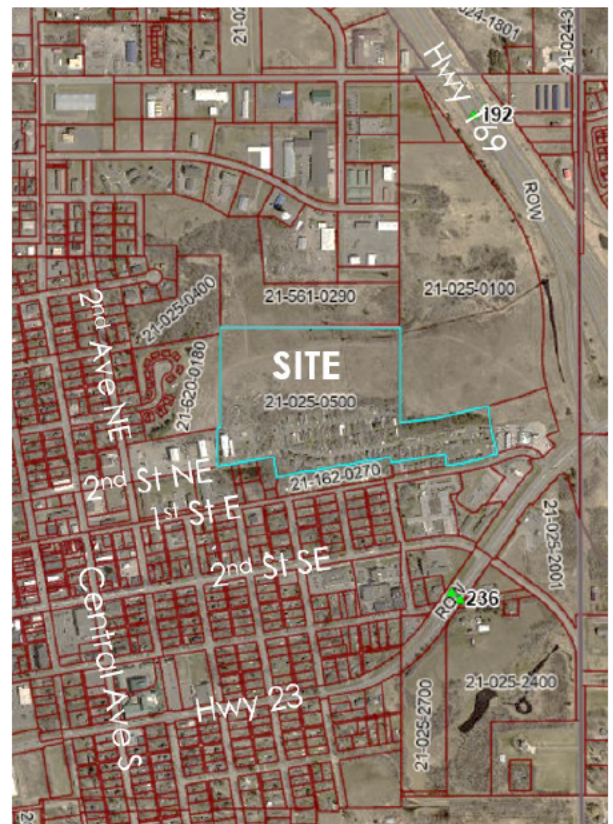
PID: 21-025-0500

Zoning: I-1 Light Industrial District, B-4 Mobile Home, & C-1 Conservation

INTRODUCTION

Milaca Park LLC owns the property that is occupied by the Mobile Manor mobile home park, two industrial buildings, an open storage area, and the large wetland area behind it. Randy Reiman owns the larger industrial building on the west side of the property and wants to separate it from the mobile home park property. The Reiman family previously owned the mobile home park but sold it a few years ago and now they want to separate their industrial building and part of the property from the mobile home park property and buildings. To accomplish this, they are requesting a lot split to divide off a Parcel A on the west side of the property and a Parcel B that will remain as the mobile home park and most of the wetland.

A new lot line will separate the two existing buildings that are now only about 10 feet apart. They cannot meet the required 10-ft setback on each side, so a side setback variance is being requested as well, for side setbacks of 5.1 to 5.2 ft on each side. The subdivision and variance requests are illustrated on the next page.





Re: **Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE**





Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

SUBDIVISION & ZONING ANALYSIS

The Subdivision Code in Chapter 155 of the City Code governs division of property, such as the current request. Excerpts from the code are included at the end of this report. The request will create two lots from one. The code says that the resulting parcels cannot be in violation of Chapter 156, the Zoning Code. In the current request, the resulting parcels would be in violation of the setback provisions in Chapter 156 as described above, so a variance to the side setbacks for the two buildings is also being requested as part of the application.

VARIANCE ANALYSIS

The Milaca Zoning Code, in Sections 156.166 and 156.167, details findings of fact and conditions for granting variances, excerpted at the end of this report. These standards closely follow State statute which has similar conditions for cities in dealing with variances.

Variance Findings

From Section 156.166:

In considering all requests for a variance or appeal, the Board of Adjustments and Appeals shall make a finding of fact as appropriate that the proposed action will not:

- (A) Impair an adequate supply of light and air to adjacent property;
- (B) Unreasonably increase the congestion in the public right-of-way;
- (C) Increase the danger of fire or endanger the public safety;
- (D) Unreasonably diminish or impair established property values within the neighborhood;
- (E) Cause an unreasonable strain upon existing municipal facilities and services;
- (F) Be contrary in any way to the provisions and intent of the city's growth management system/Comprehensive Plan; or
- (G) Have a negative direct and indirect fiscal impact upon the city, county, or school district, unless the proposed use is determined to be in the public interest.

The proposed variance will be essentially invisible – it is only allowing a new property line to be placed between two existing buildings; nothing new is being built with this subdivision and variance request. The variance will not negatively impact any of the above standards.

Variance Conditions

From 156.167:

- (A) (1) The City Council, after receiving recommendations from the Planning Commission, may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located.



Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

The requested setback variance does not change the uses of the properties involved, which are permitted.

(2) A variance may be granted when it is demonstrated that this action will be in keeping with the spirit and intent of this chapter and when the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.

The request to separate buildings onto different parcels is a “reasonable use” of the property. The location of the buildings being 10 feet apart is a pre-existing condition unique to this property not caused by the applicant making it impossible to meet the setback standard in the ordinance. The proposed lot lines will not alter the essential character of the locality – there is no visible change in the buildings or uses.

(B) Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. A non-economic hardship shall exist by reason of one or more of the following:

- (1) Narrowness, shallowness, or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter;
- (2) Exceptional topographic or water conditions of a specific parcel of land or lot; or
- (3) Inadequate access to direct sunlight for solar energy systems.

The economic issue usually means that the applicant could meet the code by spending more money, which is not the case here. *[Note: the term “undue hardship” is from previous State statute before 2011 and has been replaced by the term “practical difficulties” in current statute on variances.]*

(C) A variance may be granted for the above reasons when the strict application of the provisions of this chapter would result in exceptional difficulties in developing the property in a legally permissible manner. The City Council may impose conditions in granting the variance to insure compliance and to protect adjacent properties.

The two buildings in question are existing; there would be “exceptional difficulties” in separating the buildings by 20 feet to meet the setback standard. Separating the buildings onto different lots is legally permissible. The development of the property will remain as it is with this subdivision and variance.



Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

(D) A variance shall not allow any use which is not a permitted principal use, a permitted accessory use, or a permitted use requiring a conditional use permit. The only lawful variance is one which is usually called a “non-use variance,” and the use of the variance procedure does not authorize any kind of unlawful “spot zoning.”

The existing uses are allowed and do not involve spot zoning. The request meets this standard.

Access

The Reiman building currently has access to the rear to the property only via 2nd Street NE and past the mobile home park buildings, illustrated with the yellow arrow and easement on the maps below. There is not enough space on either side of the Reiman building to get to the rear of the property within Parcel A. The certificate of survey for the minor subdivision shows a 30-ft-wide ingress, egress and utility easement connecting Parcel A across Parcel B along 2nd Street NE and the mobile home park driveway to the rear of Parcel A.





Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

RECOMMENDATION

There are two separate requests involved in this application – a minor subdivision and a setback variance. They should be acted on separately with separate motions even though they are linked.

Minor Subdivision

We recommend that the Planning Commission recommend approval of the minor subdivision for Milaca Park LLC as depicted on the Certificate of Survey from Rum River Land Surveyors + Engineers dated 2/12/2024, with the following conditions and findings of fact:

Conditions for Approval

- 1) The applicants will prepare and record an easement between the two parcels in the subdivision allowing access for Parcel A from 2nd Street NE through the Mobile Manor Parcel B to the rear of Parcel A.
- 2) The minor subdivision is approved only if the accompanying side setback variance is also approved.

Findings of Fact for Approval

- 1) Milaca Park LLC owns the property at 410 2nd Street NE identified and described on the Certificate of Survey from Rum River Land Surveyors + Engineers dated 2/12/2024.
- 2) The owner has proposed a minor subdivision depicted on the above noted survey that creates a Parcel A 4.92 acres in size and a Parcel B 31.00 acres in size.
- 3) The proposed subdivision as submitted meets the criteria for approving a minor subdivision in the Milaca City Code, provided the side setback variance is also approved.



Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

Variance

We recommend that the Planning Commission recommend approval of the side setback variance for Randy Reiman and Milaca Park LLC as depicted on the Certificate of Survey from Rum River Land Surveyors + Engineers dated 2/12/2024, with the following findings of fact:

Findings of Fact for Approval

- 1) Milaca Park LLC owns the property at 410 2nd Street NE identified and described on the Certificate of Survey from Rum River Land Surveyors + Engineers dated 2/12/2024.
- 2) Randy Reiman owns the existing building on the west side of that property. Milaca Park LLC owns the existing building immediately east of the Reiman building. The buildings are between 10.2 feet and 10.4 feet apart.
- 3) The area where the above noted buildings is located is zoned I-1 Light Industrial. The required side setback for structures in the I-1 district in the Milaca Zoning Code is 10 feet.
- 4) The applicants have requested a side setback variance to allow a setback of 5.1 to 5.2 feet from each building to the new common side lot line in the proposed minor subdivision.
- 5) The Milaca Zoning Code, in Section 156.166, has findings to be considered in variance requests. The requested variance will not negatively impact any of the findings.
- 6) The Milaca Zoning Code, in Section 156.166, has conditions to be considered in variance requests. The requested variance satisfies these conditions as follows:
 - a. The current uses of the property and buildings involved are permitted under the Milaca Zoning Code.
 - b. The requested minor subdivision is a reasonable use of the property.
 - c. The location of the buildings being 10 feet apart is a pre-existing condition unique to this property not caused by the applicant making it impossible to meet the setback standard in the ordinance.
 - d. The proposed lot lines will not alter the essential character of the locality – there is no visible change in the buildings or uses.
 - e. Economic considerations are not at issue with this variance request.
 - f. The two buildings in question are existing; there would be “exceptional difficulties” in separating the buildings by 20 feet to meet the setback standard.
 - g. Separating the buildings onto separate lots is legally permissible. The development of the property will remain as it is with this subdivision and variance.
 - h. The existing uses are allowed and do not involve spot zoning.
- 7) The requested variance satisfies the findings and the conditions for approving a variance in the Milaca Zoning Code.



Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

PLANNING COMMISSION MOTIONS

Minor Subdivision

If the Planning Commission agrees with our recommendation to approve the minor subdivision, the Commission would consider a motion to recommend approval with the conditions and findings (or as modified) in the Planner's Report dated November 18, 2024.

If the Commission wishes to deny the minor subdivision they would need to prepare findings supporting the denial.

Variance

If the Commission agrees with our recommendation to approve the variance, the Commission would consider a motion to recommend approval with the findings (or as modified) in the Planner's Report dated November 18, 2024.

If the Commission wishes to deny the minor variance they would need to prepare findings supporting the denial.

DEADLINE FOR CITY COUNCIL ACTION

Minor Subdivision

The minor subdivision application was considered complete on September 25, 2024. The deadline for City Council action is January 24, 2025. The deadline for a subdivision is 120 days (not 60 days like zoning applications) per State statute 462.358 Subd. 3b.

Variance

The variance application was considered complete on September 25, 2024. The initial 60-day deadline for City Council action per State statute 15.99 was November 25, 2024, which has been extended an additional 60 days as allowed by State statute because the City needs more time to consider the application.



Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

ZONING CODE EXCERPTS

§ 156.166 FINDING OF FACT.

In considering all requests for a variance or appeal, the Board of Adjustments and Appeals shall make a finding of fact as appropriate that the proposed action will not:

- (A) Impair an adequate supply of light and air to adjacent property;
- (B) Unreasonably increase the congestion in the public right-of-way;
- (C) Increase the danger of fire or endanger the public safety;
- (D) Unreasonably diminish or impair established property values within the neighborhood;
- (E) Cause an unreasonable strain upon existing municipal facilities and services;
- (F) Be contrary in any way to the provisions and intent of the city’s growth management system/Comprehensive Plan; or
- (G) Have a negative direct and indirect fiscal impact upon the city, county, or school district, unless the proposed use is determined to be in the public interest.

§ 156.167 CONDITIONS FOR GRANTING VARIANCES.

(A) (1) The City Council, after receiving recommendations from the Planning Commission, may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person’s land is located.

(2) A variance may be granted when it is demonstrated that this action will be in keeping with the spirit and intent of this chapter and when the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.

(B) Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. A non-economic hardship shall exist by reason of one or more of the following:

- (1) Narrowness, shallowness, or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter;
- (2) Exceptional topographic or water conditions of a specific parcel of land or lot; or
- (3) Inadequate access to direct sunlight for solar energy systems.

(C) A variance may be granted for the above reasons when the strict application of the provisions of this chapter would result in exceptional difficulties in developing the property in a legally permissible manner. The City Council may impose conditions in granting the variance to insure compliance and to protect adjacent properties.

(D) A variance shall not allow any use which is not a permitted principal use, a permitted accessory use, or a permitted use requiring a conditional use permit. The only lawful variance is one which is usually called a “non-use variance,” and the use of the variance procedure does not authorize any kind of unlawful “spot zoning.”



Re: Milaca Park, LLC – Minor Subdivision, Side Setback Variance, 410 2nd Street NE

SUBDIVISION CODE EXCERPTS

§ 155.126 MINOR SUBDIVISIONS.

In the case of a subdivision resulting in three or fewer lots, situated in a neighborhood where conditions are well defined, the City Council may exempt the subdivider from complying with some of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of a recorded plat, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or Chapter 156 of this code, the division may be approved by the City Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

§ 155.127 RESUBDIVISION.

In the case of a request to divide a lot which is a part of a recorded plat, where the division is to permit the adding of a parcel of land to an abutting lot or to create two lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with this regulation or Chapter 156 of this code, the division may be approved by the City Council after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

§ 155.128 LAND DIVISION.

In any case where the division of land into two or more lots or parcels for the purpose of transfer of ownership or building improvement is not specifically provided for in the provisions of these regulations, a description of land division shall be filed with the City Manager-Clerk. No building permit shall be issued for any construction, enlargement, alteration, repair, demolition, or moving of any building or structure on any lot or parcel resulting from the division, until that division has been approved by the City Council. Prior to the consideration of the division by the City Council, they shall require that a certified survey be submitted.



CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

VARIANCE APPLICATION

Application is hereby submitted for Variance (Detailed Description of Variance -attach if necessary)

ADDRESS OF PROPERTY 170 3rd Ave SW Milaca

PROPERTY IDENTIFICATION NUMBER 21-040-0470
040-0480

OWNER NAME Jon Schwartz

OWNER ADDRESS 155 Main St

STREET ADDRESS

Foreston MN 56330

CITYSTATEZIP CODE

TELEPHONE ([REDACTED])

EMAIL ADDRESS jonsdoorservice@gmail.com

APPLICANT NAME Jons Door Service

APPLICANT ADDRESS 170 3rd Ave SW

STREET ADDRESS

Milaca MN 56353

CITYSTATEZIP CODE

TELEPHONE ([REDACTED])

EMAIL ADDRESS jonsdoorservice@gmail.com

THE FOLLOWING INFORMATION IS SUBMITTED IN SUPPORT OF THIS APPLICATION:

- COMPLETED APPLICATION FOR VARIANCE
- FEE OF \$400.00 Receipt #16838
- LEGAL DESCRIPTION OF PROPERTY ATTACHED
- DEPENDING ON THE VARIANCE REQUESTED, THE FOLLOWING MAY BE REQUIRED:
 - 8 COPIES OF SITE PLAN
 - 8 COPIES OF SIGN PLAN
 - 8 COPIES OF ANY OTHER APPROPRIATE PLANS OR DRAWINGS
- A NARRATIVE EXPLAINING THE PURPOSE OF THE REQUEST, THE EXACT NATURE OF THE VARIANCE AND THE JUSTIFICATION OF THE REQUEST (ATTACH SHEET IF NECESSARY)
- OTHER _____

I FULLY UNDERSTAND THAT ALL OF THE ABOVE REQUIRED INFORMATION MUST BE SUBMITTED AT LEAST 15 DAYS PRIOR TO THE PLANNING COMMISSION MEETING TO ENSURE REVIEW BY THE PLANNING COMMISSION ON THAT DATE.

OWNER'S SIGNATURE Jon Selmer

DATE 10-17-2024

COMMENTS/REVISIONS _____

For more information on Variances, go to <https://codelibrary.amlegal.com/codes/milaca/latest/overview> and search for Chapter 156

RECEIVED BY: Douglas Katke 10.18.24

CITY MANAGER SIGNATURE/ZONING ADMINISTRATOR DATE

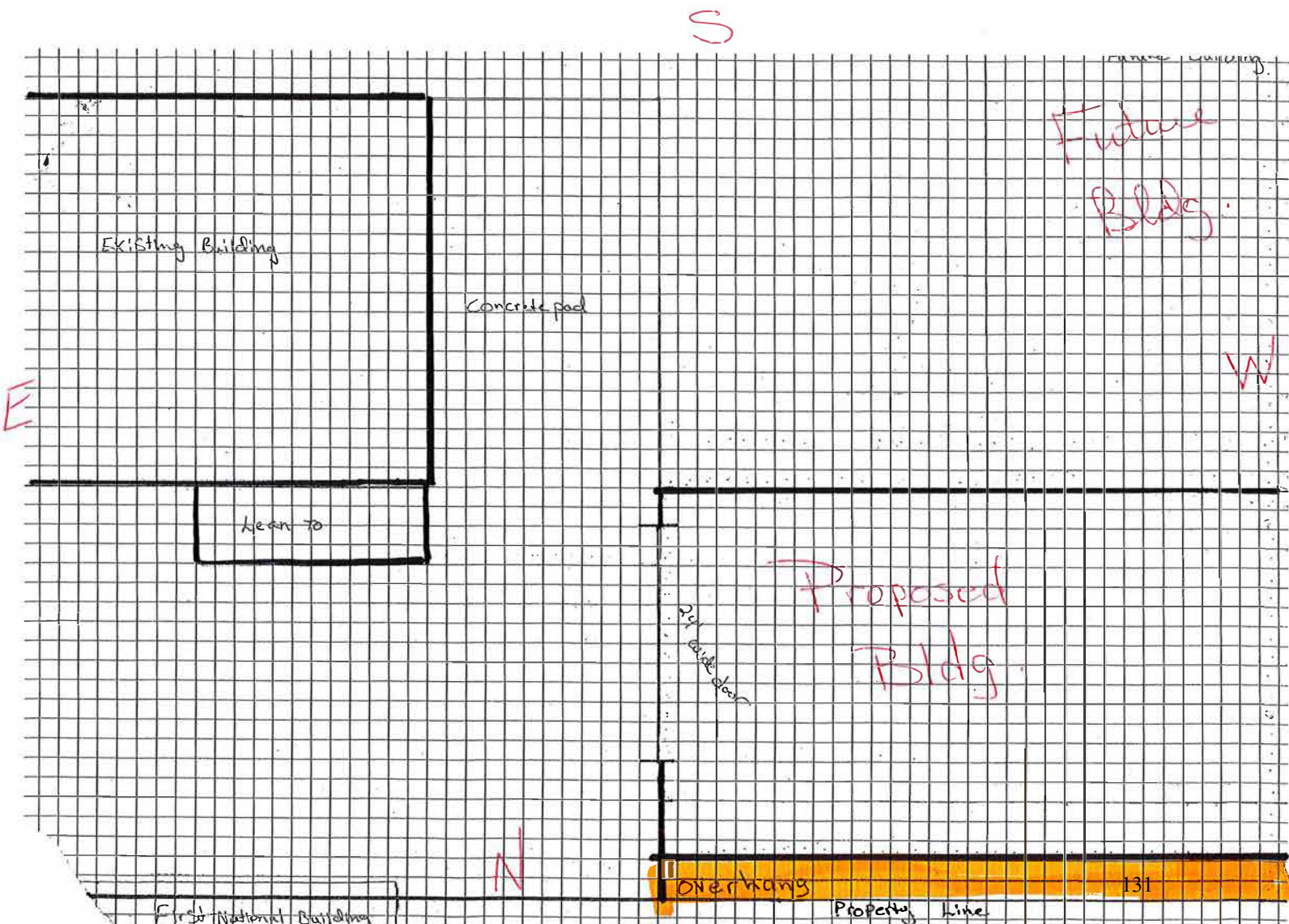
Dear Planning Commision,

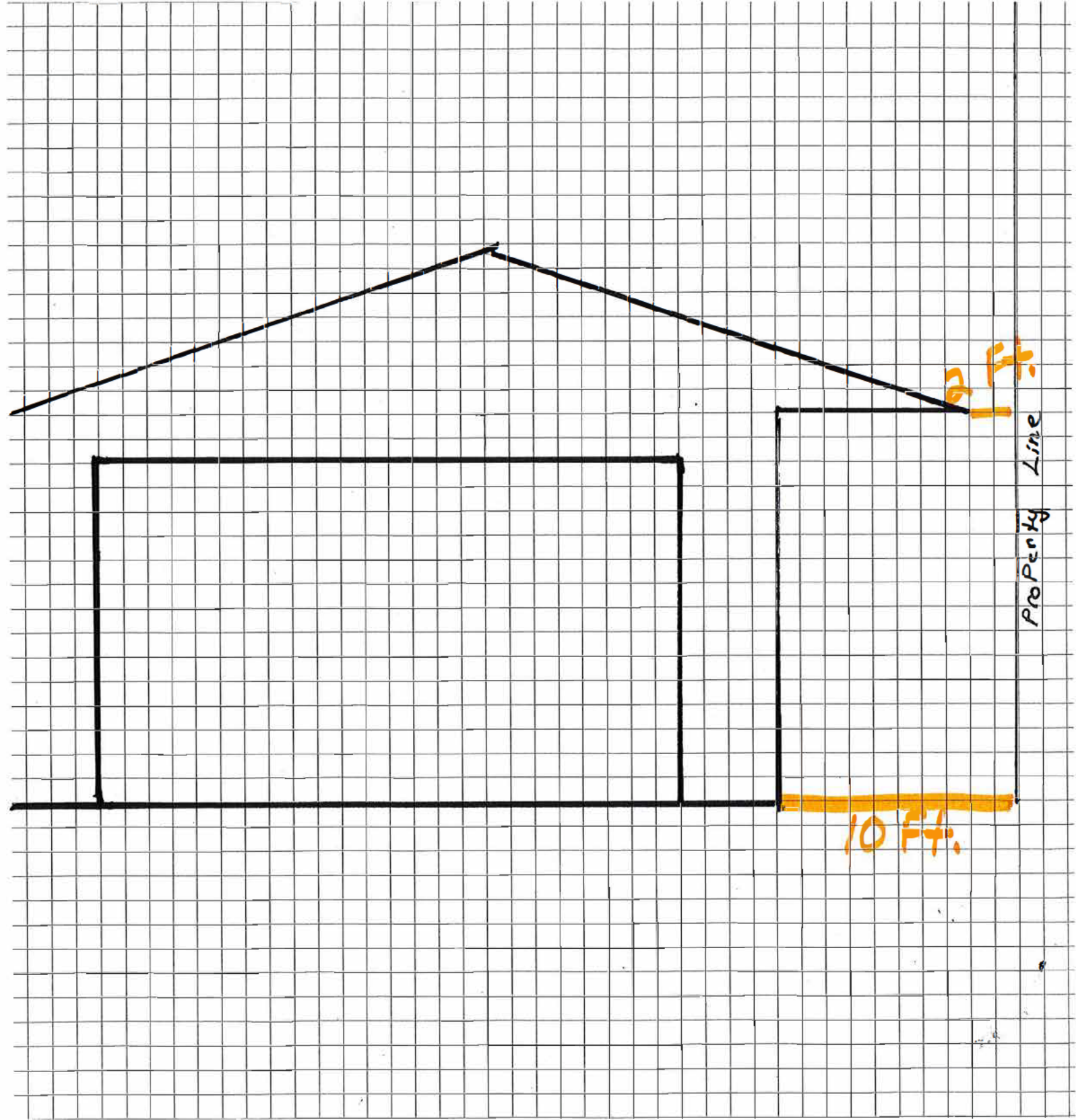
I am Jon with Jons Door Service, at 170 3rd Ave SW Milaca. I'm asking for a building with a 8 foot cantilever roof overhang to be 2 feet away from the property line. The main structure would be 10 feet away from the property line. The reason for this ask is if I move the building south I will not be able to back a semi in or my truck and trailers to get the truck and trailers off the county road for safety concerns with normal road traffic from school and children walking. I feel this is a high safety concern. I am trying to get loading and unloading from the pre-existing building to this new building but I need a overhead door to be able to back the truck into and unload. Thank you for your consideration.

Jons Door Service

2024

Jon Schwartz
170 3rd Ave SW





170 3rd Ave SW
Jan Schwartz

2024

Planning Report

Date: November 18, 2024

To: Milaca Planning Commission

From: Phil Carlson, AICP, Stantec

Request: Variance – Side Setback

Owner: Jon's Door Service, LLC

Applicant: Jon Schwartz

Address: 170 3rd Avenue SW

PIDS: 21-040-0470, 21-040-0480

Zoning: B-2 General Business

INTRODUCTION

Jon Schwartz operates Jon's Door Service at 170 3rd Avenue SW in the B-2 General Business district. There is an existing building and shed on the property. Jon wishes to remove the shed and build a 40' X 104' garage on the north side of the lot, closer than the required setback. He is applying for a variance to build the garage.

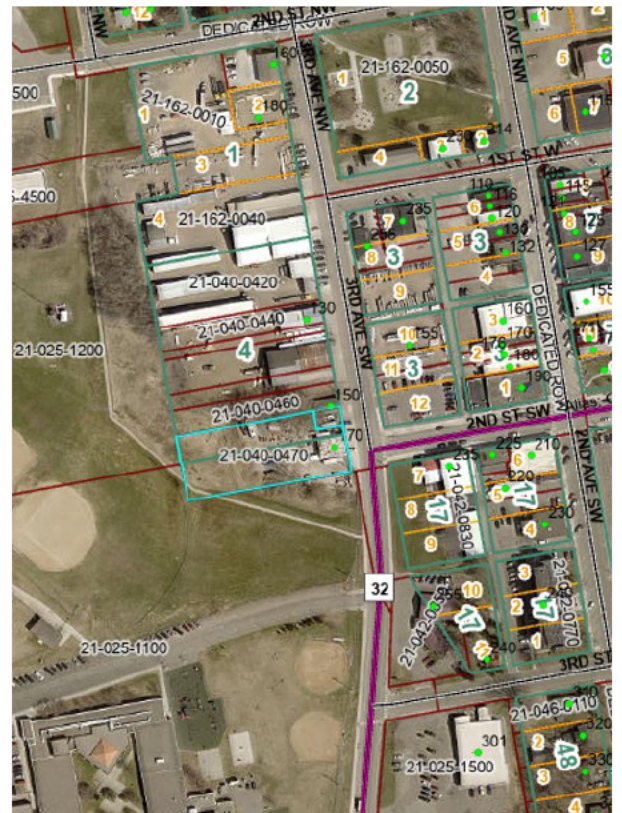
PLANNING & ZONING ISSUES

Setbacks

The B-2 district requires a 10-ft side setback, the north side lot line in this case.

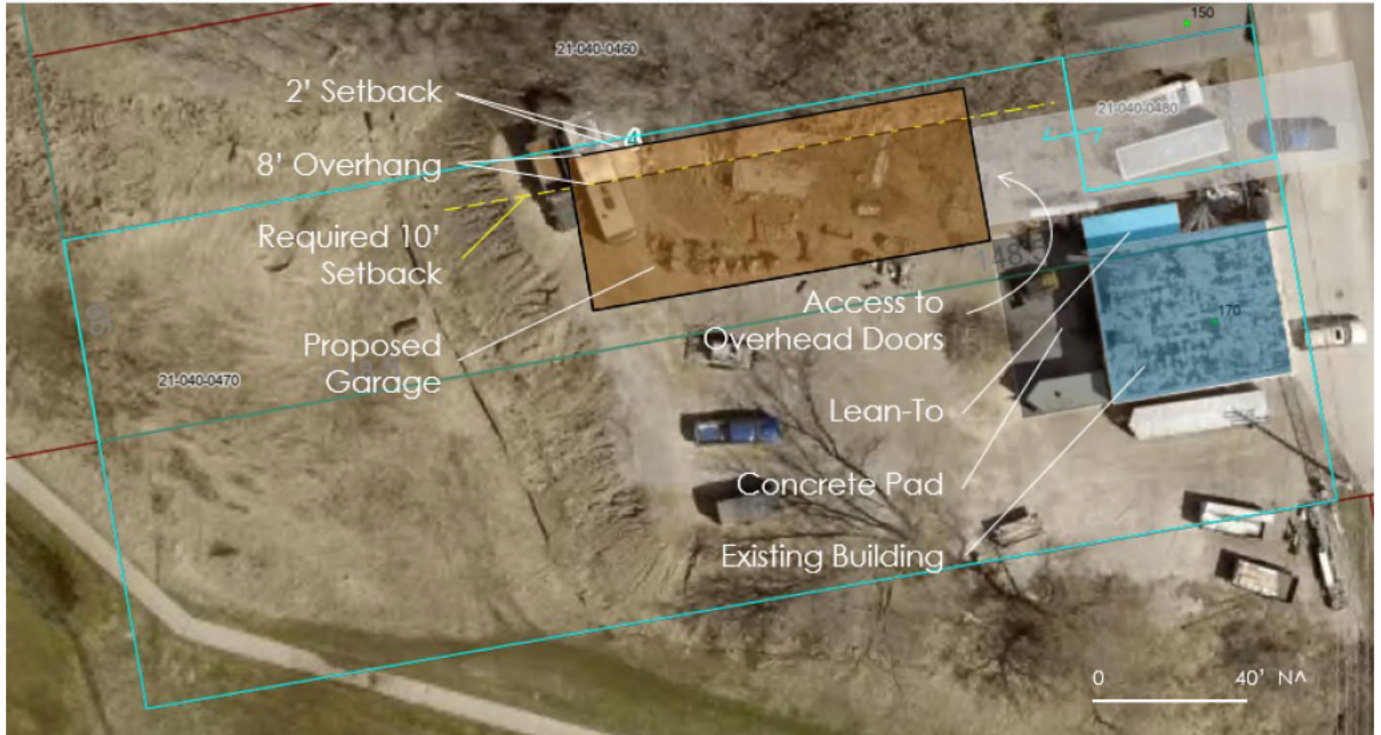
Project

The proposed garage has an overhead door on the east side, facing 3rd Avenue SW. In order to access the garage with a truck the building needs to be close to the north lot line – moving it further south to meet the required setback would make this access difficult or impossible. The proposal is illustrated approximately on the next page.





Re: **Jon's Door Service, Side Setback Variance, 170 3rd Avenue SW**



VARIANCE CRITERIA

The Milaca Zoning Code, in Sections 156.166 and 156.167, details findings of fact and conditions for granting variances, excerpted at the end of this report. These standards closely follow State statute which has similar conditions for cities in dealing with variances.

Variance Findings

From Section 156.166:

In considering all requests for a variance or appeal, the Board of Adjustments and Appeals shall make a finding of fact as appropriate that the proposed action will not:

- (A) Impair an adequate supply of light and air to adjacent property;
- (B) Unreasonably increase the congestion in the public right-of-way;
- (C) Increase the danger of fire or endanger the public safety;
- (D) Unreasonably diminish or impair established property values within the neighborhood;
- (E) Cause an unreasonable strain upon existing municipal facilities and services;
- (F) Be contrary in any way to the provisions and intent of the city's growth management system/Comprehensive Plan; or
- (G) Have a negative direct and indirect fiscal impact upon the city, county, or school district, unless the proposed use is determined to be in the public interest.



Re: Jon's Door Service, Side Setback Variance, 170 3rd Avenue SW

The proposed garage will not negatively impact any of the above standards, except perhaps (C), having to do with fire safety. We recommend that the Building Official and Fire Marshall review the building plans to determine if the roof overhang being only 2 feet from the property line poses an issue.

Variance Conditions

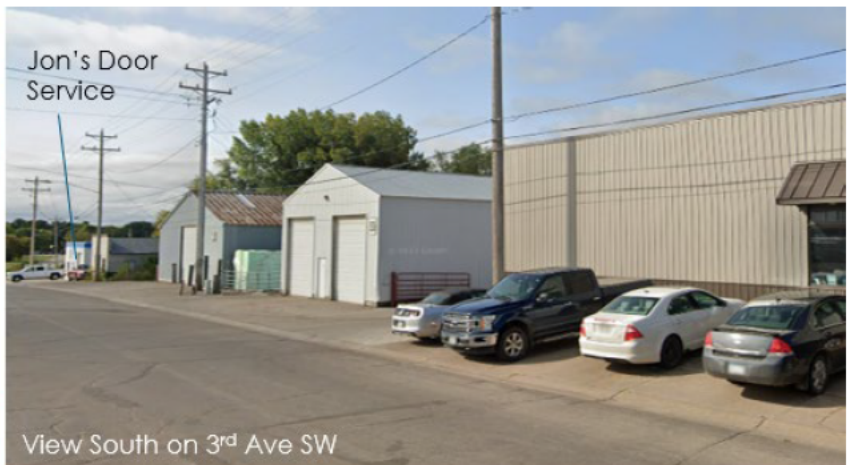
From 156.167:

(A) (1) The City Council, after receiving recommendations from the Planning Commission, may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located.

The proposed garage is a permitted accessory use in the B-2 district.

(2) A variance may be granted when it is demonstrated that this action will be in keeping with the spirit and intent of this chapter and when the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.

The proposed garage is a "reasonable use" of the property. The proposed location on the property, on the north side near the lot line, is necessary in order to provide truck access to the garage, a necessity for this business. This is a condition unique to this property, not caused by the landowner. The garage being located as proposed would not alter the character of that locality, i.e., it would not be out of place in that commercial setting, illustrated below on an aerial photo and street view photo, which includes other commercial garage buildings and structures close to lot lines.





Re: Jon's Door Service, Side Setback Variance, 170 3rd Avenue SW

(B) Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. A non-economic hardship shall exist by reason of one or more of the following:

- (1) Narrowness, shallowness, or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter;
- (2) Exceptional topographic or water conditions of a specific parcel of land or lot; or
- (3) Inadequate access to direct sunlight for solar energy systems.

The economic issue in this condition usually means that the applicant could meet the code by spending more money, which is not the case here. The condition creating the difficulty is a characteristic of the property – the location of the existing building makes it difficult to gain adequate access to a new building further back on the property without being close to the side lot line.

(C) A variance may be granted for the above reasons when the strict application of the provisions of this chapter would result in exceptional difficulties in developing the property in a legally permissible manner. The City Council may impose conditions in granting the variance to insure compliance and to protect adjacent properties.

The applicant has stated in his narrative that it would be difficult to get proper truck access to the new building if it were located further south meeting the setback.

(D) A variance shall not allow any use which is not a permitted principal use, a permitted accessory use, or a permitted use requiring a conditional use permit. The only lawful variance is one which is usually called a “non-use variance,” and the use of the variance procedure does not authorize any kind of unlawful “spot zoning.”

The use is allowed and does not involve spot zoning.



Re: Jon's Door Service, Side Setback Variance, 170 3rd Avenue SW

RECOMMENDATION

We recommend approval of the variance to the side setback for a new garage at Jon's Door Service at 170 3rd Avenue SW, as depicted on the application and materials received 10-18-2024 with the following condition and findings of fact:

Condition of Approval

- 1) The request will be reviewed by the Building Official and Fire Chief before issuing a building permit, to ensure that the building placement does not compromise public safety.

Findings of Fact for Approval

- 1) Jon Schwartz owns the property at 170 3rd Avenue SW in Milaca, operating a business under the name Jon's Door Service.
- 2) The above named property is in the B-2 General Business zoning district. The Milaca Zoning Code requires a 10-foot side setback for structures in the B-2 district.
- 3) The applicant wishes to construct a 32-foot by 104-foot garage on the north side of the property. The garage has an 8-foot roof overhang, making the effective width of the structure 40 feet, extending to within 2 feet of the north side lot line, requiring a variance.
- 4) The requested variance to the side setback was reviewed against the findings in Section 156.166 of the Milaca Zoning Code. The project will not:
 - a. Impair an adequate supply of light and air to adjacent property;
 - b. Unreasonably increase the congestion in the public right-of-way;
 - c. Increase the danger of fire or endanger the public safety;
 - d. Unreasonably diminish or impair established property values within the neighborhood;
 - e. Cause an unreasonable strain upon existing municipal facilities and services;
 - f. Be contrary in any way to the provisions and intent of the city's growth management system/Comprehensive Plan; or
 - g. Have a negative direct and indirect fiscal impact upon the city, county, or school district, unless the proposed use is determined to be in the public interest.
- 5) The requested variance to the side setback was reviewed against the conditions in Section 156.167 of the Milaca Zoning Code:
 - a. The proposed garage is a permitted accessory use in the B-2 zoning district.
 - b. There are unique circumstances with the property not created by the landowner that prevent the property from being used in a reasonable manner, namely,



Re: Jon's Door Service, Side Setback Variance, 170 3rd Avenue SW

gaining reasonable truck access to a garage in the rear of the property would be difficult if the garage were placed at the required 10-foot setback.

- c. The proposed garage will not alter the essential character of the locality, which is a commercial corridor with other similar buildings close to the street and close to adjoining lot lines.
 - d. Economic considerations are not a factor in this variance request.
- 6) The request satisfies the required findings and conditions in Sections 156.166 and 156.167 of the Milaca Zoning Code for granting a variance.

PLANNING COMMISSION MOTIONS

Approval

The Planning Commission recommends approval of the variance as described in the applicant's submitted materials and with the condition and findings of fact in the Planner's report of November 18, 2024.

Denial

If the Planning Commission wishes to recommend denial of the variance request they would need to craft findings that would support denial. This might include a finding that the project does not meet one or more of the findings in Section 156.166 (A) through (G).

60-DAY DEADLINE

The application was received October 18, 2024. The deadline for final action by the City Council per State statute 15.99 is December 18, 2024.



Re: Jon's Door Service, Side Setback Variance, 170 3rd Avenue SW

ZONING CODE EXCERPTS

§ 156.166 FINDING OF FACT.

In considering all requests for a variance or appeal, the Board of Adjustments and Appeals shall make a finding of fact as appropriate that the proposed action will not:

- (A) Impair an adequate supply of light and air to adjacent property;
- (B) Unreasonably increase the congestion in the public right-of-way;
- (C) Increase the danger of fire or endanger the public safety;
- (D) Unreasonably diminish or impair established property values within the neighborhood;
- (E) Cause an unreasonable strain upon existing municipal facilities and services;
- (F) Be contrary in any way to the provisions and intent of the city's growth management system/Comprehensive Plan; or
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§ 156.167 CONDITIONS FOR GRANTING VARIANCES.

(A) (1) The City Council, after receiving recommendations from the Planning Commission, may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located.

(2) A variance may be granted when it is demonstrated that this action will be in keeping with the spirit and intent of this chapter and when the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.

(B) Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. A non-economic hardship shall exist by reason of one or more of the following:

- (1) Narrowness, shallowness, or shape of a specific parcel of property or a lot existing and of record upon the effective date of this chapter;
- (2) Exceptional topographic or water conditions of a specific parcel of land or lot; or
- (3) Inadequate access to direct sunlight for solar energy systems.

(C) A variance may be granted for the above reasons when the strict application of the provisions of this chapter would result in exceptional difficulties in developing the property in a legally permissible manner. The City Council may impose conditions in granting the variance to insure compliance and to protect adjacent properties.

(D) A variance shall not allow any use which is not a permitted principal use, a permitted accessory use, or a permitted use requiring a conditional use permit. The only lawful variance is one which is usually called a "non-use variance," and the use of the variance procedure does not authorize any kind of unlawful "spot zoning."

ORDINANCE NO. 535
AN ORDINANCE TO THE CITY CODE
TITLE IX (GENERAL REGULATIONS) OF THE CITY CODE
ADDING CHAPTER 98 RECREATIONAL VEHICLES, CAMPERS, TRAILERS,
OVER-SIZED VEHICLES-STORAGE

The City Council of the City of Milaca hereby ordains City Code Title IX (General Regulations) Chapter 98 and shall read as follows:

§ 98.01 PURPOSE AND INTENT.

The purpose of this chapter is to regulate the storage and use of recreational vehicles, campers, trailers and over-sized vehicles in Residential and Industrial areas within the City of Milaca.

§ 98.02 DEFINITIONS.

A recreational vehicle, often abbreviated as RV, is a motor vehicle or trailer that includes living quarters designed for accommodation. Types of RVs include motorhomes, campervans, coaches, caravans (also known as travel trailers and campers), fifth-wheel trailers, popup campers, truck campers and toy haulers (they are a Class A and Class C RV with a garage).

CAMPER OR TRAVEL TRAILER typically 13 to 35 ft. and uses tow hitch attached to rear frame of towing vehicle.

CLASS A (INTEGRATED) MOTORHOME typically 26 to 45 ft. and built on heavy-duty truck or bus chassis.

CLASS B (SEMI-INTEGRATED) MOTORHOME typically 17 to 23 ft. and typically vans with elevated rooflines.

CLASS C (ALCOVE) MOTORHOME typically 20 to 30 ft. and built on cutaway pickup or van chassis with bunk over cab area.

FIFTH WHEEL typically 17 to 40 ft and uses fifth-wheel coupling centered above rear axle of towing vehicle.

FOLDING / POP-UP typically 8 to 16 ft. with collapsable sides that are stowed during towing.

TRUCK CAMPER typically an 8 ft. insert or more and carried in bed area of pickup truck.

§98.03 PARKING AND STORAGE OF RECREATIONAL VEHICLES AND OVERSIZED VEHICLES.

(A) *Storage in all Zoning Districts.* The following provision apply to the storage and parking of recreational vehicles in all zoning districts:

(1) Recreational vehicles and equipment shall not be used for living, sleeping or housekeeping while parked or stored. Recreational vehicles shall not be used for storage or other non-residential purposes.

(2) Except on properties which are valid motor vehicle dealers, recreational vehicles shall have a current license and registration.

(3) Recreational vehicles shall be in operable condition. No recreational vehicle shall be parked or stored in a location other than a building unless it is in a condition for the safe and effective performance of its intended function. No recreational vehicle which is in a state of visible external disrepair shall be parked or stored outside of a building.

(B) *Storage in Residential Zoning Districts.* The following provisions will apply to the storage of recreational vehicles in residential districts:

(1) The maximum number of recreational vehicles permitted to be parked or stored outside of a building in a residential district will be two (2). No more than one (1) recreational vehicle may be parked or stored in the front yard. No more than one Class A motorhome may be parked or stored on a residentially zoned property. Class A motorhomes typically resemble a bus, are entirely constructed on a specially designed motorhome chassis, and often include multiple slide-out sections, living space, kitchens, bathrooms and entertainment centers.

(2) No recreational vehicles greater than 45 feet in length shall be permitted on any residential lot in the city. The total lot coverage of all recreational vehicles stored outside may not exceed 10% of the lot area.

(3) Recreational vehicles may be parked or stored on a parcel which contains a permitted principal use in a residential zoning district, subject to the following regulations:

(a) All recreational vehicles shall be parked or stored upon an improved surface within the front yard.

(b) All recreational vehicles stored in the side or rear yard may be on a landscaped surface, including a maintained gravel surface.

(4) All recreational vehicles shall be parked or stored in accordance with the following:

(a) Recreational vehicles may be parked or stored in the front yard, interior side yard,

street side yard, and rear yard provided that a five (5) foot setback is maintained.

(b) Recreational vehicles may not be parked or stored within twenty (20) feet of any street right-of-way corner where it will interfere with traffic or pedestrian visibility across the driveway, alley or street.

(C) *General regulations.*

(1) Ownership and Guest Parking. All recreational vehicles parked or stored shall be owned or leased by an occupant of the premises where parked or stored. Guests of the occupant of the premises may park on a driveway on the premises for a period not exceeding seven (7) days in any 30 consecutive day period. No nuisances, including noise, light, and odor created by such guest parking is permitted.

(2) Repairs. No major mechanical overhaul or repair shall be performed on recreational vehicles unless conducted within a completely enclosed building.

(D) *Prohibited Vehicles in Residential Districts.* The following vehicles and/or equipment shall not be permitted to be stored or parked in any residentially zoned property:

(1) Licensed vehicles with a license decal greater than “D” or in excess of 6,000 pounds as described in Minnesota State Statute §188.013. Examples are cargo (step) vans, busts, boom trucks, dump trucks, tank trucks, construction equipment, truck-tractor semi-trailer combinations and any other such similar equipment vehicles.

(2) Unlicensed commercial vehicles or equipment such as race cars, farm implement backhoes, bobcats, drilling and/or landscaping equipment, and any other such similar equipment/vehicles.

(E) *Oversized Vehicles Allowed in Residential Districts.* The following vehicles and/or equipment may be parked on a residentially zoned property in accordance with the following:

(1) Any licensed vehicle with a license decal greater than “D” or in excess of 6,000 pounds as described in Minnesota State Statute §188.013 being used in conjunction with a legitimate service being provided to the residential property.

(2) Any number of oversized vehicle/equipment are allowed if parked or stored in a complete enclosed building subject and related to a home occupation as defined in this Ordinance.

§98.04 PENALTY.

A violation of this section is a misdemeanor criminal offense, and is punishable by up to 90 days in jail and a fine of up to \$1,000.00. Each day a violation occurs is separate offense.

Passed this _____ day of _____, 2024.

Mayor Dave Dillan

ATTEST:

Tammy Pfaff, City Manager

Deloris Katke

From: Carlson, Phil <Phil.Carlson@stantec.com>
Sent: Monday, September 30, 2024 10:08 AM
To: Deloris Katke
Cc: Tammy Pfaff; Gravel, Phil
Subject: RE: Retail Businesses in our Industrial Park

Deloris,

You are correct that the uses listed for the I-1 district do not include any kind of retail businesses. One way this is handled in many communities is to allow a certain portion of an allowed industrial use – maybe up to 25% of the floor area – in retail uses that serve the public. That way you can have this kind of small operation in an industrial district. This is similar perhaps to the Heggie's pizza sales in their building just north of here, which is clearly a retail sales use.

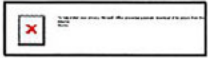
If this is the route you go, the Zoning Code would have to be amended to add that language. Or, as Tammy's letter noted, the business needs to move somewhere else.

Phil Carlson AICP

Associate
Milaca City Planner
He/Him/His

Direct: 612 712-2028
Mobile: 612 202-6474
Phil.Carlson@stantec.com

Stantec
733 Marquette Ave S, Suite 1000
Minneapolis MN 55402



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From: Deloris Katke <dkatke@milacacity.com>
Sent: Thursday, September 26, 2024 8:58 AM
To: Carlson, Phil <Phil.Carlson@stantec.com>
Cc: Tammy Pfaff <TPfaff@milacacity.com>; Gravel, Phil <Phil.Gravel@stantec.com>
Subject: RE: Retail Businesses in our Industrial Park

Just following up to see if you have a response to this question.

Thank you,

Deloris Katke
Assistant City Clerk/Accounts Payable
320-983-3141



CITY OF
MILACA *Minnesota*
255 First Street East, Milaca, MN 56353 (320)983-3141 | (320)983-3142 fax

From: Deloris Katke
Sent: Tuesday, September 24, 2024 8:33 AM

To: Carlson, Phil <Phil.Carlson@stantec.com>
Cc: Gravel, Phil <Phil.Gravel@stantec.com>; Tammy Pfaff <TPfaff@milacacity.com>
Subject: Retail Businesses in our Industrial Park

Good morning Phil. We need your advice/input in regard to what other cities may do in our situation.

We have recently been advised that there are two retail businesses located in the building at 425 10th St NE in our Industrial District. Per our city ordinance, retail businesses are not allowed as this is a manufacturing district. I have attached map and information for your review. NOTE: We have not sent the letter to Langner Properties yet. We are waiting to hear back from you.

Tammy wanted me to send this to you first to see if other cities allow retail in Industrial Districts and if so, are there restrictions on what retail businesses can be located there.

Any insight would be helpful.

Thank you,

Deloris Katke
Assistant City Clerk/Accounts Payable
320-983-3141

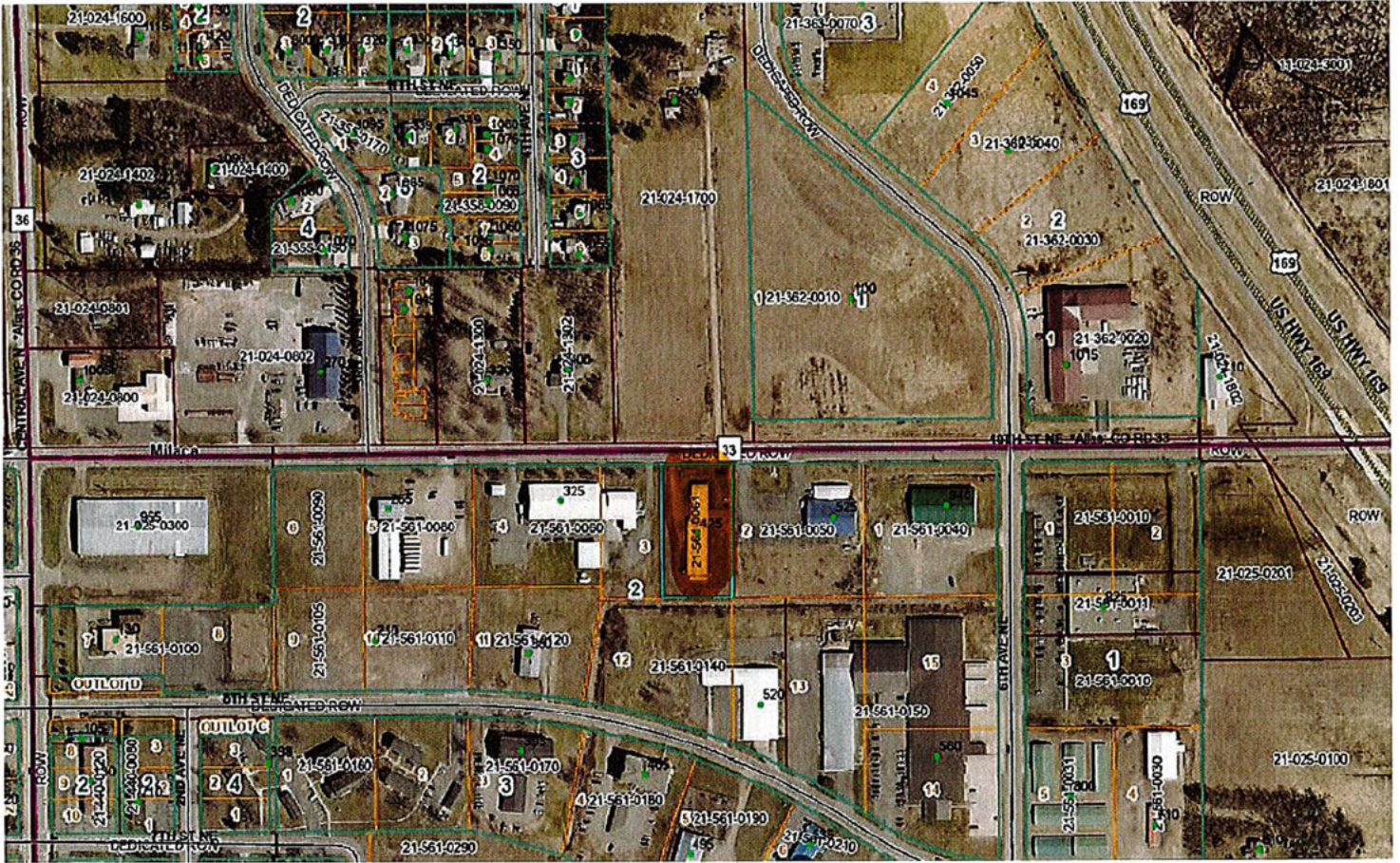


CITY OF
MILACA *Minnesota*
255 First Street East, Milaca, MN 56353 (320)983-3141 | (320)983-3142 fax

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Atención: Este correo electrónico proviene de fuera de Stantec. Por favor, tome precauciones adicionales.



Deloris Katke

From: [REDACTED]
Sent: [REDACTED]
To: [REDACTED]
Subject: 425 10th ST NE



Sacred Moon

August 28 at 12:59 PM · 🌐

We got new signs up! Can't miss us now 🙌

Stop in and see us at 425 10th St NE in Milaca!



👍❤️ 37

1 💬 16 ➡️



Sacred Moon

July 12 · 🌐

It's Friday AND day 3 of our **GRAND OPENING!** Sacred Moon & Minted Twine - Milaca

Be one of the first ten customers this morning and receive a bag full of goodies 🍪

Open today 10am-5pm

Saturday 10am-1pm

Tomorrow we will have snacks 🍪 and refreshments PLUS we will be doing the drawing for our give away basket 🛒

Located at 425 10th St NE in Milaca

Sacred Soul Massage

Minted Twine and More

Mary Beth Niedzielski

Utility Billing



CITY OF
MILACA *Minnesota*

255 First Street East, Milaca, MN 56353

(320)983-3141 | (320)983-3142 fax

Deloris Katke

From: Randy Piasecki <rpiasecki@cityofzimmerman.com>
Sent: Tuesday, October 22, 2024 5:18 PM
To: Deloris Katke
Subject: RE: Zoning Question

We don't have a lot of industrial, you got us beat on that end. Our code does allow retail in conjunction with wholesale, warehousing, and manufacturing businesses. No limitation on the size of the retail operation.

Randy Piasecki
City Administrator
763-856-4666, x. 1024
rpiasecki@cityofzimmerman.com
12980 Fremont Avenue
Zimmerman, MN 55398



From: Deloris Katke <dkatke@milacacity.com>
Sent: Tuesday, October 22, 2024 4:25 PM
To: Randy Piasecki <rpiasecki@cityofzimmerman.com>
Subject: Zoning Question

Just a wondering how the City of Zimmerman handles retail sales in an Industrial District. Currently we do not have an Ordinance in place for this but have recently learned that there is a retail shop in one of our industrial buildings.

We contacted our consultant and he said it is common to have retail in with the industrial building but that only a certain percentage of the square footage could be used by the retail AND the retail shop needs to be associated with the industry within that building.

Could you please share what Zimmerman does?

Thank you,

Deloris Katke
Assistant City Clerk/Accounts Payable
320-983-3141



CITY OF
MILACA *Minnesota*
255 First Street East, Milaca, MN 56353 (320)983-3141 | (320)983-3142 fax

Deloris Katke

Montgomery

From: Joshua Mankowski via LMC - MemberLink <Mail@ConnectedCommunity.org>
Sent: Wednesday, October 16, 2024 3:06 PM
To: Deloris Katke
Subject: RE: Retail Businesses Allowed in Industrial Districts

The following message has been sent to you in response to your discussion message.

[View inbox and reply to the message online](#)

Message From: Joshua Mankowski

Montgomery allows retail in the light industrial district as long as it is secondary to manufacturing (with a maximum of 20% of the floor area of the total building area), open sales lots (auto lots are listed separately), internet sales, or lumberyard. In medium industrial we allow a garden center, wholesale business, retail sales secondary to manufacturing (max 20% of floor area), brewery/winery/distillery (micro or other), and Internet Sales. A lot of what we allow for sale in the industrial, we don't want taking up space in our commercial.

Joshua Mankowski
Planner/Economic Development Specialist
Montgomery
Montgomery MN
(507) 364-8888

Original Message:
Sent: 10-16-2024
From: Deloris Katke
Subject: Retail Businesses Allowed in Industrial Districts

Good afternoon all. We are just reaching out to other cities to see if Retail Sales are allowed in Industrial Districts/Buildings. If retail is allowed, does the retail store have to be associated with the main business in that Industrial building? If so, what square footage/percentage is allowed for the retail sales?

Hope this makes sense. If not, please email me or call me at 320-983-3141 for further clarification.

Thank you in advance for responses.

Deloris Katke

From: Amy Mell <amell@ci.rush-city.mn.us>
Sent: Wednesday, October 16, 2024 3:02 PM
To: Deloris Katke
Subject: Re: Retail Businesses Allowed in Industrial Districts

Hi Deloris – Rush City allows up to 25% to be retail and yes, it does have to be associated with the main business. Thanks!

Amy



Amy Jo Mell
City Administrator
City of Rush City
325 S. Eliot Avenue, PO Box 556
Rush City, MN 55069
320-358-4743
amell@ci.rush-city.mn.us
www.rushcitymn.us

Deloris Katke

Little Canada

From: Heidi Heller via LMC - MemberLink <Mail@ConnectedCommunity.org>
Sent: Wednesday, October 23, 2024 7:12 PM
To: Deloris Katke
Subject: RE: Retail Businesses Allowed in Industrial Districts

The following message has been sent to you in response to your discussion message.

[View inbox and reply to the message online](#)

Message From: Heidi Heller

We do allow retail in industrial districts and do not regulate how much square footage of the building can be retail vs. industrial. I can't think of examples that we had where it was simply a stand-alone store in an industrial district where they didn't need the large industrial building space too. Here are some examples of retail in industrial districts that were in Little Canada:

Slumberland had a huge warehouse/customer pickup center and in the building there was also a clearance center store.

Aquarius Home Services (water conditioning & HVAC) has a location here with a retail store for selling filters, parts or customer walk-ins to buy their services.

There used to be a sporting goods business here that was mostly an online business so they were in 2 office/warehouse buildings but also had a retail space in one of the buildings.

Heidi Heller | City of Little Canada
City Clerk/HR Manager
515 Little Canada Road E., Little Canada, MN 55117
Office: 651-766-4047
heidi.heller@littlecanadamn.org
www.littlecanadamn.org

Original Message:
Sent: 10-16-2024

From: Deloris Katke

Subject: Retail Businesses Allowed in Industrial Districts

Good afternoon all. We are just reaching out to other cities to see if Retail Sales are allowed in Industrial Districts/Buildings. If retail is allowed, does the retail store have to be associated with the main business in that Industrial building? If so, what square footage/percentage is allowed for the retail sales?

Hope this makes sense. If not, please email me or call me at 320-983-3141 for further clarification.

Thank you in advance for responses.

Deloris Katke
Assistant Clerk-Accounts Payable
Milaca
Milaca MN
(320) 983-3141

1115.09 I-1, Light Industrial District.

Subd. 1 Purpose. The I-1 District shall serve as a transition between more industrial uses and residential and other business uses. This district is appropriate for manufacturing, warehousing, and similar industrial uses because of access to warehousing, thoroughfares, the full complement of urban services such as sewer and water, and distance from residential districts. These areas are intended to encourage the development of industrial uses which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants. These industries shall be compatible with each other and with surrounding land uses.

Subd. 2 Special Requirements. All applications for building permits (in the case of new construction or expansion) or certificates of occupancy (in the case of existing facilities) for improvements within the I-1 District shall be subject to submission of complete building plans, including storm water drainage and landscape designs to the Planning & Zoning Commission. The Planning & Zoning Commission shall review and approve the building plans before a building permit and certificate of occupancy may be issued. The landscape design must identify and size all plants and screenings. Within 60 days of submission of such plans and designs, the Planning & Zoning Commission shall recommend approval or denial of such plans and designs to the City Council, which shall make the final determination as to approval or denial.

Subd. 3 Permitted Uses.

- A. Manufacturing and assembly operations
- B. Warehousing and storage
- C. Distribution
- D. Office and research facilities
- E. Lumberyard
- F. Billboard signs
- G. Any park or playground and associated accessory structures owned or operated by a governmental agency
- H. Essential services
- I. Professional and business office and services
- J. Public buildings and facilities
- K. Contractors' offices and yards
- L. Garden center
- M. Railroad

Subd. 4 Permitted Accessory Uses.

- A. Accessory buildings related to the operations of the principal use
- B. Parking lots/off-street parking
- C. Fences

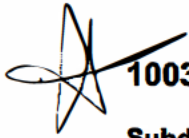
- D. Landscaping and decorative features
- E. Off-street loading
- F. Signage
- G. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for such construction
- H. Retail sales products manufactured on the site shall be allowed as an accessory use with a maximum of 20% of the floor area of the total building area utilized for such. Parking as required for retail uses shall be provided in addition to that required for the principal use. If excessive on-street parking of vehicles occurs the sales shall cease or be reduced to the level that off-street parking can accommodate

Subd. 5 Conditional Uses.

- A. Outdoor storage
- B. Manufacturing, refining or processing of chemicals
- C. Recycling centers
- D. Mini storage/self-storage
- E. Commercial car wash
- F. Any principal structure moved onto a lot
- G. Commercial recreation
- H. Physical recreation or training
- I. Automobile repair – major
- J. Commercial wireless telecommunications service
- K. Open sales or storage lot
- L. Public utility structure intended for human occupation; occupies an area of more than 500 square feet; or exceeds the height of the highest building on an adjoining lot or an average grade to peak height of 17 feet
- M. Commercial towers and antennas
- N. Internet sales as a primary source of sales, provided no less than 80% of the space is utilized for warehousing of products and provided the shipping and vehicular traffic to the site does not conflict with adjacent uses or adversely impact upon the safety of vehicular or pedestrian traffic

Subd. 6 Minimum Lot Requirements and Setbacks.

- A. Minimum lot area: 20,000
- B. Minimum lot width: 100 feet
- C. Minimum lot depth: 100 feet
- D. Minimum front yard setback: 30 feet, except not less than 50 feet from residential districts
- E. Minimum side yard setback: 15 feet; corner lot – 30 feet; except not less than 50 feet from any residential district



1003.10: I-1 LIGHT INDUSTRIAL DISTRICT.

Subd. 1: Purpose.

The Light Industrial District provides space for light manufacturing activities as defined in the Section 1001.04 of this Ordinance and involving a minimum degree of refuse byproducts and air or noise pollution, and requiring a relatively low level of on-premise processing. These activities may include secondary commercial functions which are conducted on site. Heavy manufacturing activities as described in Section 1002.01 of this Chapter are prohibited.

Subd. 2: Permitted Uses.

The following are permitted uses:

- A. Art equipment supplies – manufacturing of.
- B. Automobile repair station.
- C. Bags, boxes and paper containers, manufacturing and storage.
- D. Bakery products.
- E. Blank books, loose leaf binders; fabrication and assembly.
- F. Books and bookbinding.
- G. Bottling establishments and distribution.
- H. Cabinet and woodworking establishments.
- I. Camera and photographic manufacturing.
- J. Clothing manufacturing.
- K. Cold storage plants, commercial printing, publishing, engraving and reproduction firms.
- L. Confectionery and related products, manufacturing and packaging.
- M. Dental instruments and supplies manufacturing, assembly or packaging.
- N. Dry cleaning and dyeing establishments.
- O. Electrical lighting and wiring equipment and components – manufacturing, assembly and testing.
- P. Footwear - manufacture and fabrication.
- Q. Hand and edge tools (except machine tools) - manufacturing and assembly.
- R. Injection molding.
- S. Jewelry manufacturing.
- T. Laboratory instruments and associated equipment, scientific and testing.
- U. Luggage, handbags, and similar items - manufacturing and assembly.
- V. Lumber yards.

W. Mail order facilities.


X. Medical and surgical instruments and supplies manufacturing, assembly or packaging.

Y. *Multiple-tenant buildings, provided:*

1. *Site, building and floor plans shall be submitted to the City, with proposed occupancy or type of businesses identified.*
2. *All buildings comply with setback requirements outlined in Section 1003.09, Subd. 6.*
3. *The internal parking lot, drive aisles and circulation system, and off-street parking shall conform to the requirements of Section 1004.04 (Off-Street Parking and Loading) of this Chapter.*
4. *All tenants are permitted or approved conditional uses within the I-1 District.*
5. *Requirements of the Building Code for multiple-tenants, in one facility, are met. (Amended 07-08)*

Z. Newspaper plants and offices.

AA. Office furniture and supplies manufacturing, assembly or packaging.

 BB. Offices/showroom/retail space as a portion of the principal industrial use provided they do not exceed a combined twenty-five (25) percent of the total square footage of the principal use.

CC. Optical instruments and lenses - manufacturing and assembly.

DD. Pallet (re) manufacturing.

EE. Plastics manufacturing.

FF. Plumbing fixture and equipment - wholesale.

GG. Pottery shop manufacturing, assembly or packaging.

HH. Precision instruments manufacturing, assembly or packaging.

II. Radio and television - assembly and parts fabrication.

JJ. Reconditioning of component products.

KK. Scientific and research instruments and equipment manufacturing and assembly.

LL. Signs and advertising display materials manufacturing, assembly or packaging.

MM. Sport equipment - manufacturing and assembly.

NN. Telephone and telegraph technical apparatus - manufacturing and assembly.

OO. Temperature controls - fabrication and assembly.

PP. Tool and die makers.

QQ. Trade schools.