



BOARD OF ADJUSTMENTS
October 27, 2022
7:00pm

REGULAR MEETING

WILSON LEEPER CENTER – 3800 Wilson Ave.

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to birdca@wellingtoncolorado.gov. The email must be received by 4:00 p.m. Wednesday, October 27, 2022. The comments will be provided to the Board and added as an addendum to the packet. Emailed comments will not be read during the meeting.

The Zoom information below is for online viewing and listening only.

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/83286162088?pwd=NkVlWXM2cG9Pd3NwazkyR29CSUN0dz09>

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Or Telephone:

US: +1 719 359 4580 or +1 720 707 2699 or +1 253 215 8782 or +1 346 248 7799 or +1 669 444 9171

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **ADDITIONS TO OR DELETIONS FROM THE AGENDA**
4. **PUBLIC FORUM**

Public invited to be heard on non-agenda items (time limit of 3 minutes per person)

5. **CONSIDERATION OF MINUTES - Rescheduled from September 22, 2022**

5.A. Meeting Minutes

- Regular meeting minutes of July 28, 2022.

6. **NEW BUSINESS - Rescheduled from September 22, 2022**

- 6.A. **Variance Request – Seeking relief from Section 3.04.0, Table of Dimensional Standards of the Land Use Code to increase the maximum building height from 45-FT to 70-FT, and Section 4.03.21-A, Use Specific Standards of the Land Use Code to reduce the minimum setback distance from a residential zone district from 1,000-FT to 800-FT.**
- 6.B. **Variance Request – Seeking relief from Section 2-14-70(a)(2)b. of the Wellington Municipal Code to allow a reduction of the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District from 500 feet to 233 ft. on Lot 7, Wellington Business Center.**

7. **ANNOUNCEMENTS**
8. **ADJOURNMENT**

Board of Adjustments Meeting

Agenda Item #5A

Meeting Date: October 27, 2022

Submitted By: Patty Lundy, Development Coordinator

Agenda Category: Consideration of Minutes

Subject:

Regular Meeting Minutes of July 28, 2022

Recommend a motion to:

- Approve the regular meeting minutes of July 28, 2022, as presented.
-

Attachments

- July 28, 2022 meeting minutes



**TOWN OF WELLINGTON
BOARD OF ADJUSTMENTS**

REGULAR MEETING MINUTES July 28, 2028

1. CALL TO ORDER

The Board of Adjustments for the Town of Wellington, Colorado, met on July 28, 2022, at the Wilson Leeper Center at 7:00 p.m.

2. ROLL CALL

Members Present: Eric Stahl - Chairman
Stephen Carman
Wyatt Knutson
Kathy Wydallis
Levi Killough

Members Absent: None

Town Staff Present: Cody Bird, Planning Director
Patty Lundy, Development Coordinator

3. ADDITIONS TO OR DELETIONS FROM THE AGENDA

Member Knutson asked to have the new business deleted from agenda. The property isn't currently zoned C-3 so they would be reviewing something that doesn't even apply to the property at this point. Cody Bird, Planning Director said that they also submitted their request for rezoning from Light Industrial to C-3 Mixed Use Commercial. Matt Mullett, property owner said that for this project he knows the zoning needs to be C-3 but that if this doesn't go through then he doesn't plan to change the zoning from Light Industrial.

Member Knutson made a motion to table item 6.A. from tonight's agenda to September 22th meeting. Member Wydallis Seconded.

**Yeas -Wydallis, Knutson
Nays – Stahl, Carman, Killough
Motion failed.**

4. PUBLIC FORUM - None

5. CONSIDERATION OF MINUTES

A. Meeting minutes of February 24, 2022

Member Wydallis moved to approve the regular meeting minutes of February 24, 2022. Member Carman seconded the motion.

**Yeas – Wydallis, Knutson, Stahl, Carman, Killough
Nays – None
Motion carried.**

6. NEW BUSINESS

- A. Variance Request – Seeking relief from Section 2-14-70(a)(2)b. of the Wellington Municipal Code to allow a reduction of the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District from 500 feet to 173 ft. on Lot 7, Wellington Business Center.

No conflicts of interest reported. No ex parte communications reported.

Bird presented the staff report. The applicant is also requesting a zone change from Light Industrial to C-3 Mixed-Use Commercial District which is scheduled to be heard by the Planning Commission. The applications were submitted together for concurrent review.

Steve Wynne with Lacoste, LLC said that Bird explained the variance request well. He believes that the stormwater pond south of the proposed development site should be zoned something other than P - Public.

Public hearing opened at 7:40pm.

Angelique McDaniel asked for the variance to not get approved to lessen the setbacks. This would set a precedent, and this goes against what the voters approved. It was the marijuana proponents who put the setbacks in place and now they are asking to have them removed after the voters agreed.

Corinne Brewer asked for the variance to be denied. There are other businesses that could be there instead. The voters who voted to have this distance restrictions should be considered and not approve an exception. This should go back to the voters if the setbacks are to get changed.

Barb Hultgren supported the previous comments. She stated a small group of citizens should not be deciding on a topic the whole town previously voted on.

Mark Muth supported the variance request. The detention pond is not used for public purposes. The town should show we are open for business. He believes the Board of Adjustments role is to consider the variance and let others decide the politics of the marijuana question. This is a bonus to the community and will also have to be presented to other boards.

Public hearing closed at 7:51pm.

Wynne said he still feels the same that the intention of the Code was not for the detention pond to be considered as a protected land use, but rather the intent of the code was to protect public access areas.

Bird said that he found all the public comments to be factual.

Member Carmen asked if other locations were considered.

Wynne said there were many locations considered. There were no other properties that met the requirements. This was the best possible location. We believe this is the best location for distancing and traffic considerations.

Member Killough asked to clarify if this was the only location, or if was considered the best location. Wynne replied it was the only location.

Member Knutson asked if they had ever seen the proposed trail system that would be part of the pond.

Wynne said they had not.

Bird said there were some conceptual ideas included in the 2015 Parks Master Plan. In 2003 it was planned to have a soccer field at the bottom. Currently the Parks Board is looking to update the Parks Master Plan. This is one of the areas that was going to be looked at.

The Members continued to discuss the findings. The following are the findings:

- Negative – The relief requested is not consistent with the intent stated in the Land Use Code because the existing zoning is LI – Light Industrial and the variance requested applies to a land use that is not allowed in the LI zone district.
- Negative – Strict application of the regulation will not result in an unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing LI – Light Industrial zoning.
- Negative – Strict application of the regulation does not result in an unnecessary hardship and practical difficulties on all reasonable use of the land because the variance request is made based on a specific use and other uses are allowed within the zoning district.
- Negative – The relief requested would negatively impact future use of public land adjacent to the property.
- Positive – The existing stormwater detention facility on the public land adjacent to the property provides reasonable open space and separation to meet the intent of the required setbacks.
- Positive – The public land adjacent to the property will not be changed from a stormwater detention facility and can therefore allow reasonable use of the land compared to other similarly situated land in the area.
- Negative – Granting the variance would be detrimental to the public health, safety and welfare considerations that were created by requiring the setback distances between uses.
- Neutral – The relief requested to reduce the setback could be modified to preserve a greater setback from protected uses by changing the location of the proposed building on the site.
- Negative – The relief requested is inconsistent with other prior variance approvals for setback reductions because the reduction requested in this case is a significantly higher proportion of the overall setback distance (65% reduction requested whereas other common setback reductions are closer to 20%).

Member Carmen moved to deny the request for a variance of the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District based on the negative findings.

Member Knutson seconded the motion.

Yeas – Wydallis, Knutson, Carman

Nays – Stahl, Killough

Motion carried.

7. ANNOUNCEMENTS

Bird reminded everyone that the previous chair had resigned, and this now creates a vacancy. We will be advertising that there is an opening and see if we get any applications. The Board of Trustees makes the appointments for this board. They may choose to have alternates be full seated members, or they may move things around depending on any applications that are received. Officers would be selected once the Board of Trustees decides who will be on this board.

Bird announced there will likely be a meeting in August or September for an application staff is aware may be submitted in the near future.

8. ADJOURNMENT

Chairman Stahl closed the meeting at 9:30pm.

Approved this __ day of _____, 2022

Recording Secretary

Board of Adjustments Meeting

Agenda Item #6.A.

Meeting Date: October 27, 2022

Submitted By: Cody Bird, Planning Director

Agenda Category: New Business

Subject:

Variance Request – Reduce 1,000-FT Setback from Residential Zone District; and increase building heights from 45-FT to 70-FT in the I-Industrial Zone District.

Background:

- **NOTE:** The request for variance described in this staff report was originally scheduled for the Board of Adjustments Regular Meeting of September 22, 2022. The regular meeting had to be canceled due to a lack of quorum and no business could be conducted. This variance request was re-advertised, including publication in the newspaper, new notices mailed to owners within 500 ft. of the property, and signs posted on site. The applicant's request has not changed. The staff report that follows is exactly as it appeared in the September 22, 2022 agenda packet. Written correspondence received by Town staff by the date of publication of the agenda is included in the packet.

From September 22, 2022 Board of Adjustments Agenda Packet:

- The applicant, Connell Resources, is proposing to locate an asphalt mixing plant on a parcel of land situated in the NE ¼ Section 28, Township 9North, Range 68West of the 6th, P.M. Town of Wellington, County of Larimer, State of Colorado (3548 E. County Road 66 – location map attached).
 - The subject property is within the Town limits and is zoned I – Industrial. The property was annexed in 2000 (Ord. No. 28-2000). Meeting minutes from the November 28, 2000 Board of Trustees meeting state the property was intended for development of commercial and light industrial uses and the property was zoned I – Industrial. The property has been zoned I – Industrial since that time and has appeared in multiple updates of the Comprehensive Plan and Future Land Use Map as industrial uses.
 - Within the I – Industrial zone district, "Industrial and Manufacturing, Heavy" is a permitted use. An asphalt mixing plant is included in the definition of "Industrial and Manufacturing, Heavy."
- The applicant is seeking relief from Section 3.04.4, Table of Dimensional Standards and Section 4.03.21-A, Use Specific Standards of the Wellington Municipal Code to allow an increase of the maximum building height (45-FT), and reduce the minimum separation setback from a residential district (1,000-FT).
 - The applicant has submitted their request for consideration of variances for the building height and the minimum setback requirement.
 - When variances are requested from the dimensional standards of the Land Use Code, the Board of Adjustments considers the reasonableness or appropriateness of the request(s) relative to the Findings for Approval identified in the Land Use Code. The Findings for Approval are discussed in more detail in the "Staff Comments" portion of this report.

- The Board of Adjustments is not tasked with considering if the use should be allowed because the use is already an allowed or permitted use within the I – Industrial District.
- Section 3.04.4 Table of Dimensional Standards of the Wellington Municipal Code establishes a maximum 45-FT building/structure height on properties zoned I-Industrial.
- Section 4.03.21-A of the Wellington Municipal Code establishes a required 1,000-FT minimum setback from residential zone districts on properties zoned I-Industrial.
- The applicant has requested a variance to increase the building/structure height to 70-FT. (from 45-FT) for installation of the batch plant silos, equipment common to the asphalt production industry.
- The applicant is also seeking a setback or separation variance to reduce the required 1,000-FT setback to 800-FT from the adjacent residential zone district to the asphalt mixing plant area (see attached site plan exhibit).
- The applicant considers the required 1,000-FT setback a hardship as it would render use of the 1,200-FT wide industrial zoned property impractical for any permitted industrial use.
- The applicant proposes a combination of alternative “buffering” techniques to effectively reduce impacts to the adjacent residential development and to meet the spirit and intent of the regulations.
 - To reduce the separation buffer to the proposed 800-FT, the applicant proposes mitigation strategies including site design and layout, earth berms, perimeter walls/fences & landscape plantings.
 - The applicant proposes locating the highest intensity activities and facilities adjacent to the railroad—as far from the residential development as possible. The applicant also proposes positioning the administrative buildings and related facilities adjacent to the residential property to mitigate the views, dust and noise of the plant facility operations as well as the BNSF rail line.
 - An access road along the western property line with landscaping, berms and opaque fencing and walls are proposed to create an aesthetic buffering between the properties.
- A request for variance is a quasi-judicial proceeding and requires a public hearing. The Board will need to hear and weigh testimony presented at the public hearing.

Staff Comments:

- When considering a request for a variance, the Board of Adjustments evaluates the Findings for Approval identified in the Land Use Code. The findings that are to be considered are listed below, and staff’s opinion of each finding follows (*in italics*).

A. The relief requested is consistent with the Comprehensive Plan and the intent stated in the Land Use Code.

- *Thriving Economy Goal 1- Diversify the Towns Economic Base:*
 - *TE 1.4 Leverage the BNSF railroad spur north of Town to attract key businesses to the area.*
 - *The subject site is adjacent to the railroad and provides opportunities to locate higher intensity land uses with proximity to the BNSF rail line and supports a variety of business uses.*

- *Thriving Economy Goal 4- Develop a supportive business environment that aids in creating a thriving local economy.*
 - *TE 4.1 Balance residential with commercial land uses to promote local job opportunities and needed services for residents.*
- *Development of the property for industrial uses is consistent with the recommendations of the Future Land Use Map included in the Comprehensive Plan.*
- *The Town's Land Use Code establishes a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone.*
- *The Comprehensive Plan encourages economic growth that promotes diversity of employment and service opportunities in the town.*
- *Zoned as I-Industrial, this is the only parcel in the Town's current zoning inventory that would be sufficient for heavy industrial land uses, including asphalt plants.*
- *The Land Use Code has established procedures for requesting variances to the codes to allow modifications to the requirements when determined appropriate.*

B. Strict application of the regulation will result in an unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing zoning, as opposed to convenience or benefit of the Applicant or a specific application.

- *The property is zoned and entitled for Industrial uses. The definition of "Industrial and Manufacturing, Heavy: includes asphalt mixing plants as a permitted use.*
- *Strict interpretation of Use Specific Standards Section 4.03.21-A for Heavy Industrial and Manufacturing uses, the 1,000-FT separation from residential zone districts would severely limit heavy industrial activities on this site.*
 - *The property width east-to-west is 1,200-FT, therefore, the 1,000-FT separation setback allows only the eastern-most 200-FT of the property useable for intended uses within the district.*
 - *Eighty percent (80%) of the property of the property would be unusable for industrial uses allowed as a use by-right within the I – Industrial District.*
- *Both the Industrial zoning for the property, as well as the residential zoning of the adjacent property were established prior to the 1,000-FT separation setback criteria.*
 - *The 1,000-FT separation setback criteria was added with the most recent adoption of the Land Use Code (March 22, 2022) as a means to provide a buffer between higher intensity land uses and residential subdivisions. The already approved and existing zoning districts have an existing separation distance of zero feet (0-FT).*
- *There is no other property in the Town of Wellington that is zoned I – Industrial District.*

- *The 45-FT height limitation is a standard that accommodates most buildings and structures within the industrial district. The height limitation is intended to ensure buildings are generally compatible for form and massing, but does not accommodate all structures for permitted uses that are reasonably expected to locate with the I – Industrial District..*
- *Strict application of the 45-FT height limit for the I – Industrial District does not accommodate equipment and buildings or structures common to heavy industrial or manufacturing facilities such as batch plants and mineral processing facilities.*
- *Strict application of the code would be considered a hardship because asphalt mixing plants and other industrial uses would not be able to operate without silos and equipment unique to those operations.*
- *The variance process allows consideration of a height request for only the buildings and structures affected by the height limitation while keeping the 45-FT height limitation on all other buildings and structures on the property.*

C. The need for the variance is due to specific and unique physical conditions on the site that do not exist on similarly situated land in the area.

- *The unplatted parcel is situated between the BNSF rail line along its' eastern boundary and the Sundance at Daubert Farm subdivision is located to the west. The property is approximately 35 acres in size.*
- *The site dimensions are approximately 1,200-FT wide east to west, and 1,400-FT long north to south.*
- *Based upon the property configuration, the 1,000-FT separation requirement would render eighty percent (80%) of the site unusable for heavy industrial or manufacturing uses.*
- *The subject site is the only Industrial zoned property in the Town that allows for a heavy industrial land use of this nature. There are no other comparable properties currently within the Town.*
- *The zone district 45-FT height limitation does not take into account the large equipment common to heavy industrial or manufacturing operations.*
- *There is significant elevation change along the east property line resulting in the Industrial property having a considerable visual buffer between properties to the east.*

D. The manner in which the strict application of the regulation deprives the applicant of reasonable use of the land compared to other similarly situated land in the area.

- *There are no other suitable I-Industrial zoned properties in Wellington at this time.*
- *Strict application of the separation regulation would deprive the applicant of reasonable use of the land for industrial purposes because the 1,000-FT separation requirement from a residential zoned property encumbers 80% of the property.*
- *Strict application of the height limitation would deprive the applicant of reasonable use of the land because industrial uses with unique structures and equipment needed to operate would not be possible to locate on the property.*

- *The maximum 45-FT building/structure height is a baseline standard for most permitted by right industrial uses however in those instances where a use by right such as an asphalt or concrete batch plant exceeds this standard, a height variance can be granted on a case-by-case basis.*
- *The applicant is proposing alternatives such as limiting the most intense uses to the easternmost portion of the property to maximize available separation and is also proposing to install alternative measures (berms, landscaping, screening, etc...) to satisfy the intent of the separation requirement.*
- *The applicant has expressed that reducing the 1,000-FT separation to 800-FT and increasing building/structure heights to 70-FT would meet the applicant's needs to use of the site for permitted uses.*

E. The circumstances warranting the variance are not the result of actions by the applicant or could not be reasonably avoided by actions of the applicant.

- *The constraints on the property are not conditions created by an action or actions of the applicant.*
- *The applicant has demonstrated good faith in pursuing a variance to achieve the desired building location and building/structure configuration, and therefore, it can be determined that the circumstance was not the result of an action by the applicant.*
- *Approvals for the I – Industrial zoning and the R-2 Medium-density Residential were both established prior to the 1,000-FT separation requirement. The approval for the Sundance at Daubert Farm subdivision was approved in 2006 and did not provide for a separation setback from the I – Industrial zoned property.*
- *Since the Sundance at Daubert Farm subdivision has been approved without any separation from the Industrial zoned property, the Industrial zoned property is now trying to achieve the intent of the separation requirements through thoughtful site design and offering alternative mitigation measures.*

F. Granting the variance does not adversely affect the public health, safety and welfare, and in fairness to the applicant, substantial justice is done.

- *The town has typically identified properties near or adjacent to the railroad and I-25 as commercial or industrial zone districts. The subject site adjacent to and abutting the BNSF railroad is zoned I-Industrial and is designated for heavy industrial land uses.*
- *The proposed land use is a permitted use in the Industrial zone district, and the Town has regulations and standards identified in the Site Plan Review procedures to mitigate potential impacts.*
- *The granting of the requested variances and/or equal alternatives is not expected to adversely affect the public health, safety and welfare of the immediate neighbors or residents of the Town.*
 - *The proposed asphalt mixing plant is permitted as a use by right and is expected to be located within the I – Industrial District.*
 - *All applicable standards for traffic impacts, air quality (State requirements), site design, and use limitations will be evaluated as part of a site plan review.*

- *Landscape berms, buffering techniques and site layout are all proposed to mitigate potential impacts of the site and are offered to justify the reduction to the setback distance and to increase the building height.*
- *The proposed asphalt plant is a permitted use within the industrial zone district and the requested height and setback variances would not be inconsistent with the proposed land use.*

G. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; and

- *The height variance request to 70-FT is proposed for the batch plant silos, equipment vital to the plant operations. All other structures and buildings are proposed to comply with the 45-FT zone district height limitations.*
- *The separation setback reduction is requested to allow administrative offices and less impactful operations nearer to the existing residential subdivision. The highest intensity uses will be located along the eastern-most area of the site furthest from the residential zone district.*
- *The applicant has proposed the reduction of the separation setback and the increase in building height to be the minimum necessary to allow the operation of the proposed asphalt mixing plant. These minimum reduction and increases may be made conditions of approval.*

H. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

- *The variances requested are the minimum needed for the asphalt plant to adequately function on the site.*
- *The proposed heavy industrial land use is consistent with the Town's intent and vision for the areas adjacent to the railroad.*
- *The Comprehensive Plan encourages establishing a diversity of businesses and employment opportunities in the town.*
- *The Town of Wellington Land Use Code variance procedure (Section 2.22), anticipates and provides flexibility for unique and specific situations.*
- *Planning staff recognizes that exceptions are needed to the strict application of the land use code provisions and supports variance requests on a case-by-case basis.*

- Based upon the preceding findings, staff recommends approval of the variances requested with conditions. Conditions which may be considered are identified in the "Recommendations" section.

Recommendation:

- In considering a variance, the Board of Adjustments has the authority to grant the variance, grant the variance with conditions, or deny the variance.
- If a variance is approved, the Board may want to consider requiring the below conditions of approval:
 - The separation setback (west property line only) is reduced to 800-FT.
 - The maximum structure height is limited to 70-FT for the silos and equipment only.
 - Site development shall proceed in substantial compliance with the site layout exhibit attached herein and incorporated by reference.
 - The site plan shall provide significant buffering and screening along the western and northern property lines to mitigate potential impacts to the future residences and public rights-of-way.

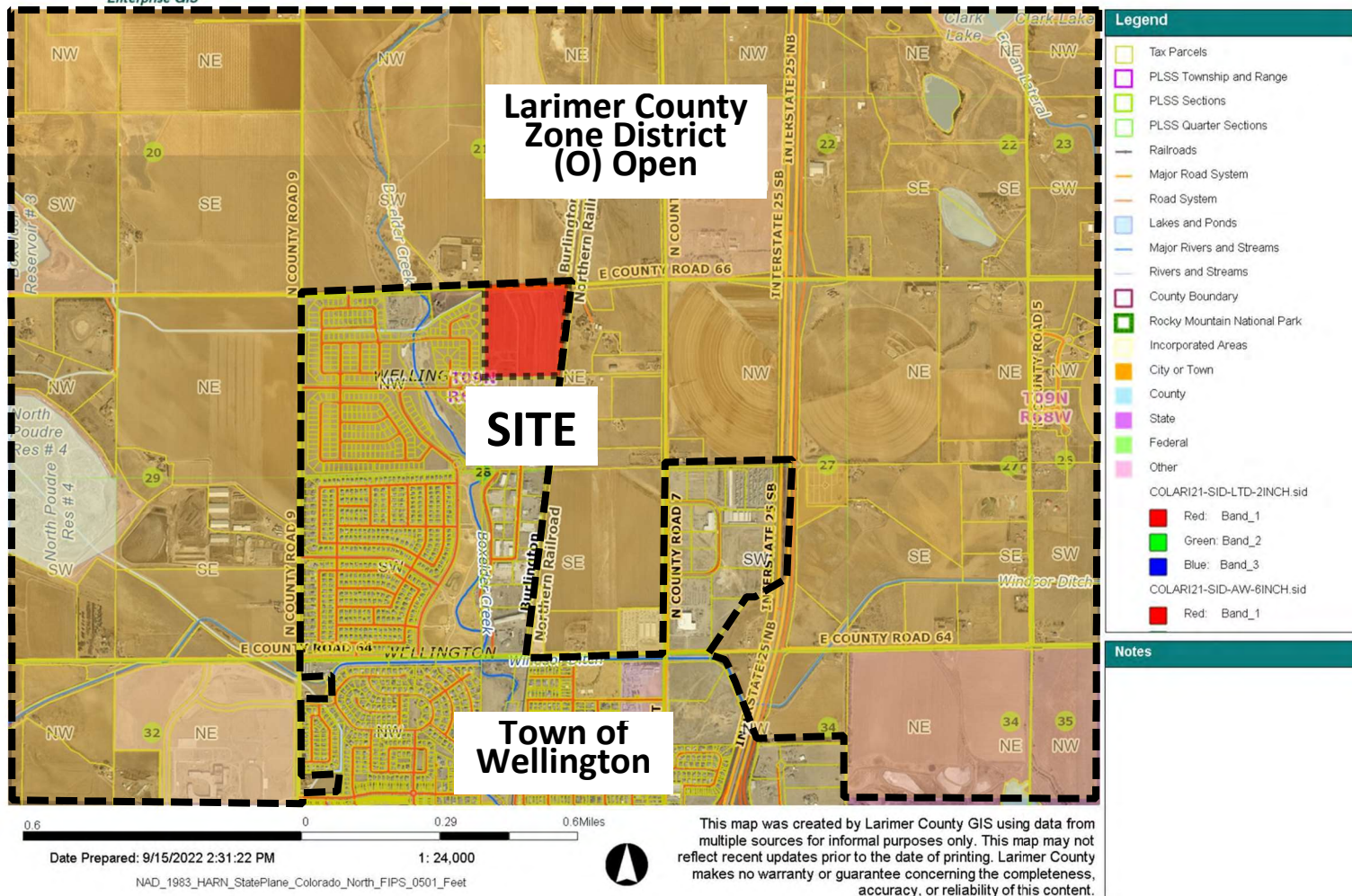
- o Application for and approval of Site Plan Review by the Planning Commission in accordance with applicable Land Use Codes and Town standards.
 - o Application for and approval of building permits with the Town of Wellington.
 - o Satisfaction of all applicable State of Colorado permits for asphalt plant operations and air quality standards.
- Below are possible motion options for the Board of Adjustments to consider. The Board may consider the height and separation variance requests together, or separately. Staff will also be available to assist in crafting alternative motions if desired by the Board.
 1. Move to grant a variance to vary Section 4.03.21-A, Use Specific Standards to reduce the minimum separation setback requirement of the I-Industrial zoning district on a parcel of land situated in the NE ¼ Section 28, Township 9North, Range 68West of the 6th, P.M. Town of Wellington, County of Larimer, State of Colorado (3548 E. County Road 66) from 1,000-FT to 800-FT, subject to conditions, including (condition 1) , (condition 2) , [...] and (condition #) and based on the Findings of Approval.
 2. Move to grant a variance to vary Section 3.04.4 Table of Dimensional Standards, on a parcel of land situated in the NE ¼ Section 28, Township 9North, Range 68West of the 6th, P.M. Town of Wellington, County of Larimer, State of Colorado (3548 E. County Road 66) to increase the maximum building/structure height to 70-FT from 45-FT, subject to conditions, including (condition 1) , (condition 2) , [...] and (condition #) and based on the Findings of Approval.
 3. Move to grant a variance to vary Section 4.03.21-A, Use Specific Standards to reduce the minimum separation setback requirement of the I-Industrial zoning district and to vary Section 3.04.4 Table of Dimensional Standards to increase the maximum building height, with no conditions.
 4. Move to deny the request for a variance of the minimum separation setback requirement and the maximum building height requirement of the I – Industrial District.
 5. Move to continue consideration of the variance requests to a regular/special meeting of the Board of Adjustments to be held _____ (month) _____ (day), 2022 at _____ (time) at the Wilson Leeper Center, 3800 Wilson Ave., Wellington, Colorado.

Attachments

- Location Map
- Zoning Map
- Applicant Narrative
- Site Layout Exhibit
- Supporting Site Exhibits



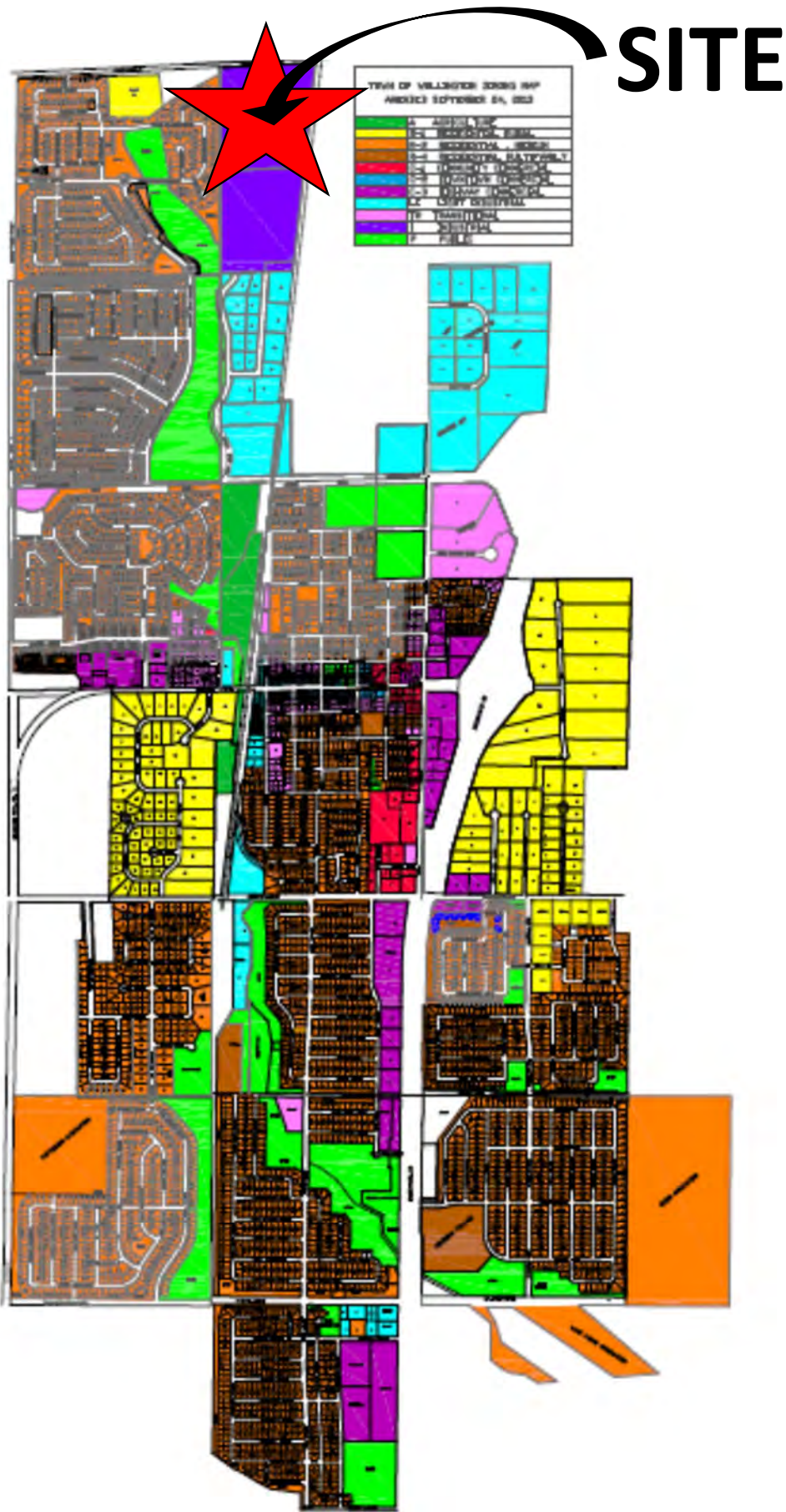
LARIMER COUNTY VICINITY & ZONING MAP:



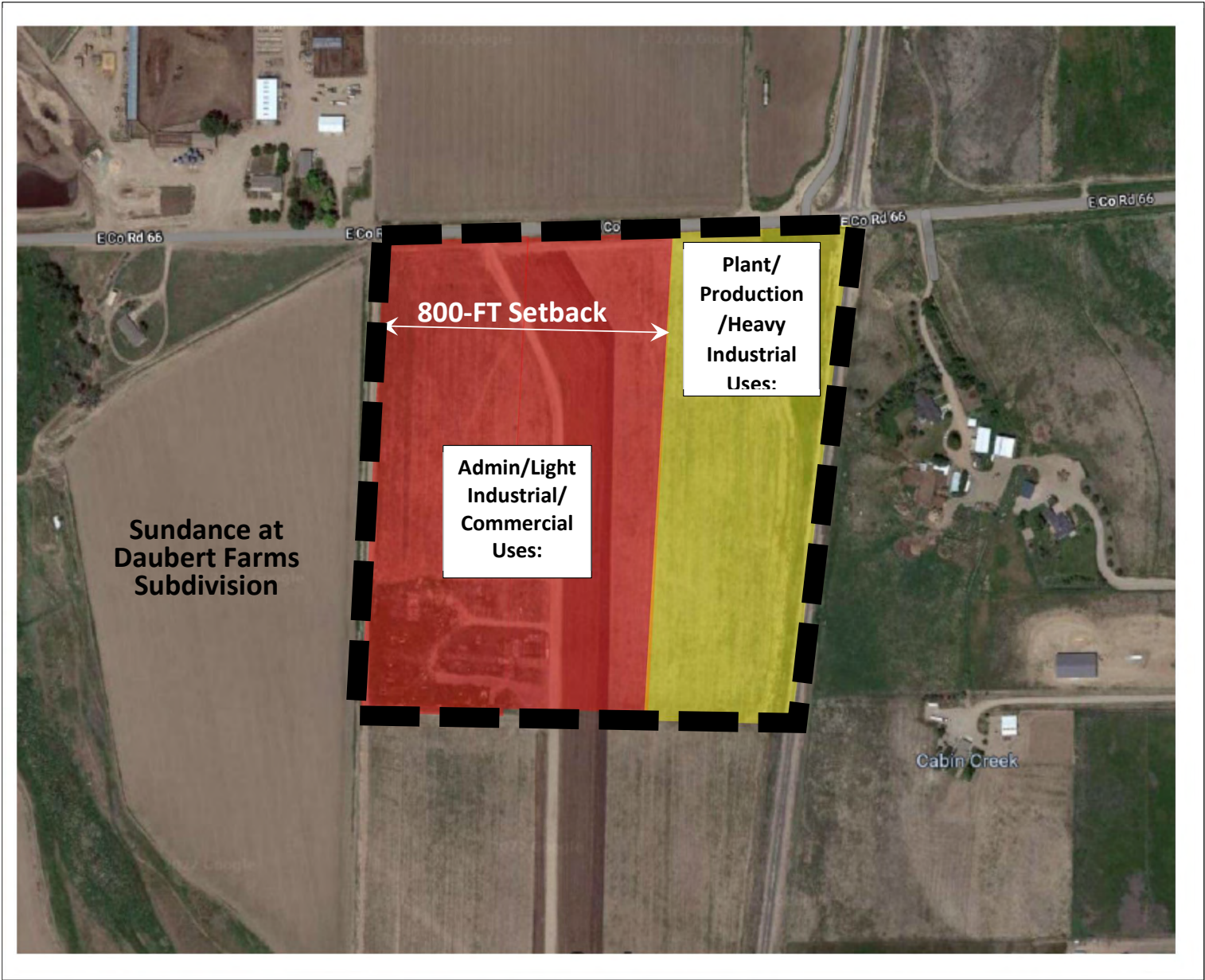
SITE AERIAL MAP:



TOWN of WELLINGTON ZONING MAP:



SITE LAND USE MAP:



September 7, 2022

Town of Wellington
8129 Third Street
Wellington, CO 80549

RE: Connell Batch Plant Variance Requests

Dear Board of Adjustments:

The intent of this letter is to describe the variance requests for the proposed Connell batch plant located at 3548 E. County Road 66, and follows multiple meetings with Town staff over the last three months. The Applicant (Connell Resources) is working to submit a site plan application for the property and hopes to move it's asphalt batch plant to Wellington. The property presents an exciting opportunity for Connell Resources to move to a blossoming Town while continuing to serve the communities along the Front Range. In order to submit a site plan application, two variances to the Town of Wellington Land Use Code must be approved.

Variance Request 01: Zoning Separation

The first variance request concerns Land Use Code 4.03.21, Industrial and Manufacturing, Heavy, which states:

- A. An Industrial and Manufacturing, Heavy use shall be located at least one thousand (1,000) feet from any residential district or use.*

The Applicant is requesting a variance to this portion of the land use code based on a hardship created by the adjacent property. The proposed usage of the property is classified as heavy industrial per Article 9 of the Town of Wellington Land Use Code (Exhibit E). The property is currently zoned as industrial and has been zoned to accommodate heavy industrial use since 2004. However, the adjacent property to the west (Sundance at Daubert Farm) was purchased and rezoned to residential in 2019 (Exhibit A). A literal interpretation of this buffer requirement would deprive the Applicant of the use of the majority of the property and rights commonly enjoyed by other properties in the same zoning district under the terms of the land use code.

The Applicant understands the intent of separating residential and industrial areas and has proposed a site plan that addresses the concern as best as possible. Exhibit B (attached) shows the proposed site plan and the measures the Applicant has taken to increase the separation between residential and industrial areas. These efforts include:

- Locating the heaviest industrial uses on the northeast portion of the site.
- Utilizing landscaping and berms for visual buffer.
- Installing an access roadway for separation along the western edge of the property.
- Locating administrative and storage buildings along the western edge of the property.

Although the entire property will remain zoned as industrial, the majority of the heavy industrial activity will be concentrated in the northeast portion of the site. This provides an 800-foot offset from the heavy industrial activity and the eastern-most proposed residential structure on the Daubert property. Additionally, the Applicant has proposed visual buffering through the use of landscape berms to protect the residential viewshed. A 10-foot-tall berm with landscaping will separate the site from the western and northern property boundaries. This will provide visual buffering and will prevent the industrial activities from butting up directly to the residential backyards. Exhibit C shows an image of the existing batch plant, which is located on the east frontage road of I-25, just south of the Harmony exit. The proposed landscape berm will resemble the berm at the existing Connell property.

Variance Request 02: Maximum Building Height

The second variance request concerns Land Use Code 3.04.4, Table of Dimensional Standards for Light Industrial, Industrial and Public Zone Districts, which states:

Building and Structure Standards			
	LI	I	P
Maximum Building Height	45 ft.	45 ft.	45 ft.

The maximum building height for Industrial districts is 45-feet.

The Applicant would like to request a variance to this portion of the land use code. The proposed batch plant silos measure 70-feet tall, which exceeds the maximum structure height. Once again, the Applicant understands the desires to protect the viewshed of neighboring communities and has proposed the usage of visual screening to help mitigate the impacts to the viewshed. Additionally, the existing terrain on the site and the proposed placement of the plant silo minimizes the visual interference. Most of site is flat, except for the eastern portion, which is situated on a large hill that borders the railroad. The proposed batch plant will be positioned against the base of this hill, which provides a 25-foot-tall visual background. The batch plant silos will only occupy a 750 square-foot area on the 35-acre site. The Applicant is open to creative mitigation for the silo, as well. The silo will be painted with a natural color scheme that blends in with the native landscape surrounding the area. The Applicant will also remove the logo on the side of the silo to further allow it to blend into the environment. Therefore, the variance, if granted, will not violate the spirit and intent of the code.

We appreciate the opportunity to work with you on this project. Connell Resources is excited by the prospect of moving to the Town of Wellington and hopes to grow its relationship with the surrounding community. Connell has proudly served Northern Colorado since 1946 and has built much of the essential infrastructure in the area that we all rely on. Connell will continue to do so for many years to come and would like to make its new home in Wellington.

Please do not hesitate to contact me with any questions by email at dan.egger@ditescoservices.com or by phone at (719) 964-0973. John Warren, President, at Connell Resources is also available to discuss the project at (970) 223-3151.

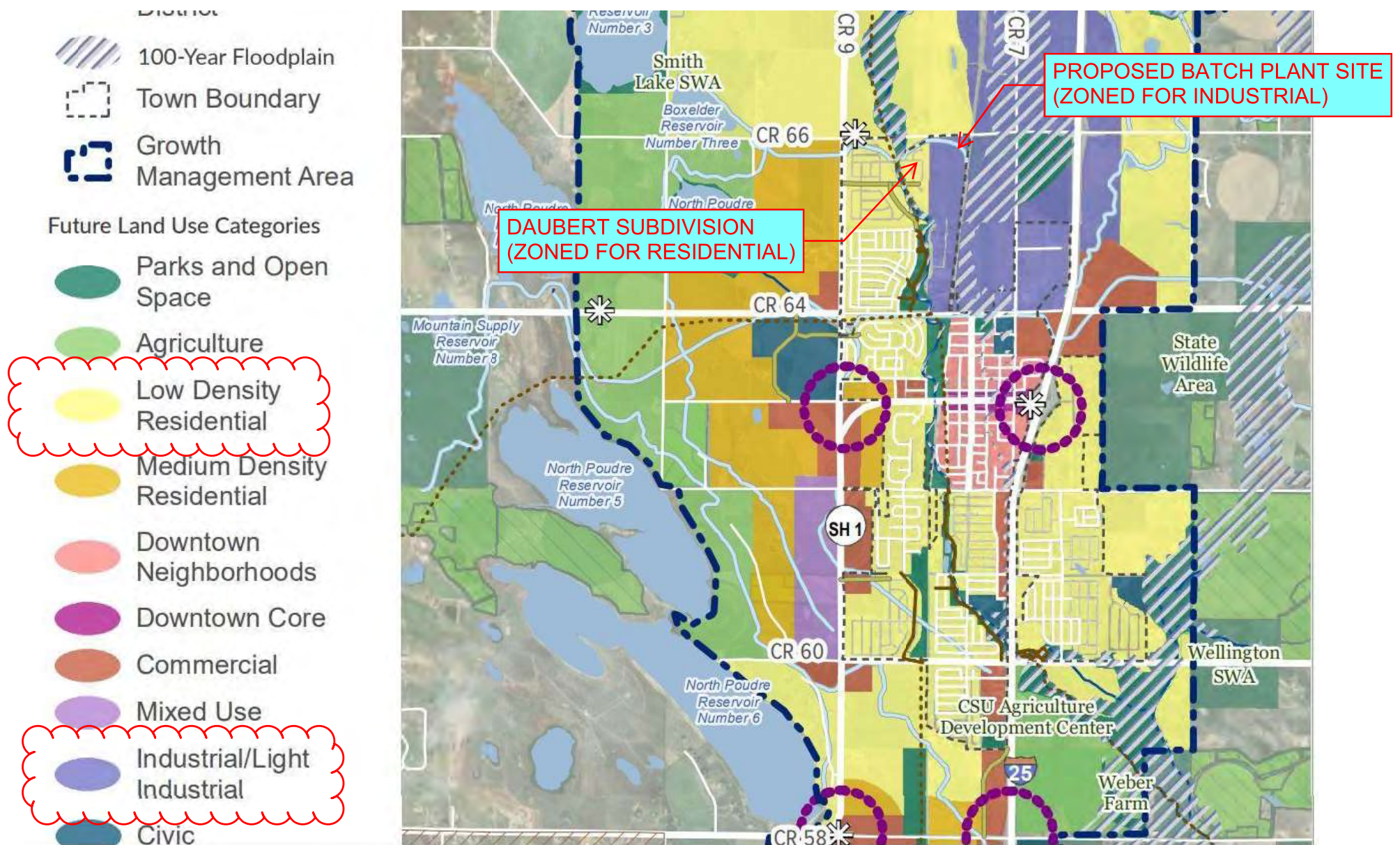
Sincerely,



Dan Egger
Ditesco

Cc: John Warren – Connell Resources
Jill Burrell – Ditesco

EXHIBIT A



This map is an excerpt from the Town of Wellington Comprehensive Plan (August 2, 2021). The approved plan shows the proposed industrial property adjacent to the residential property to the west.

EXHIBIT B

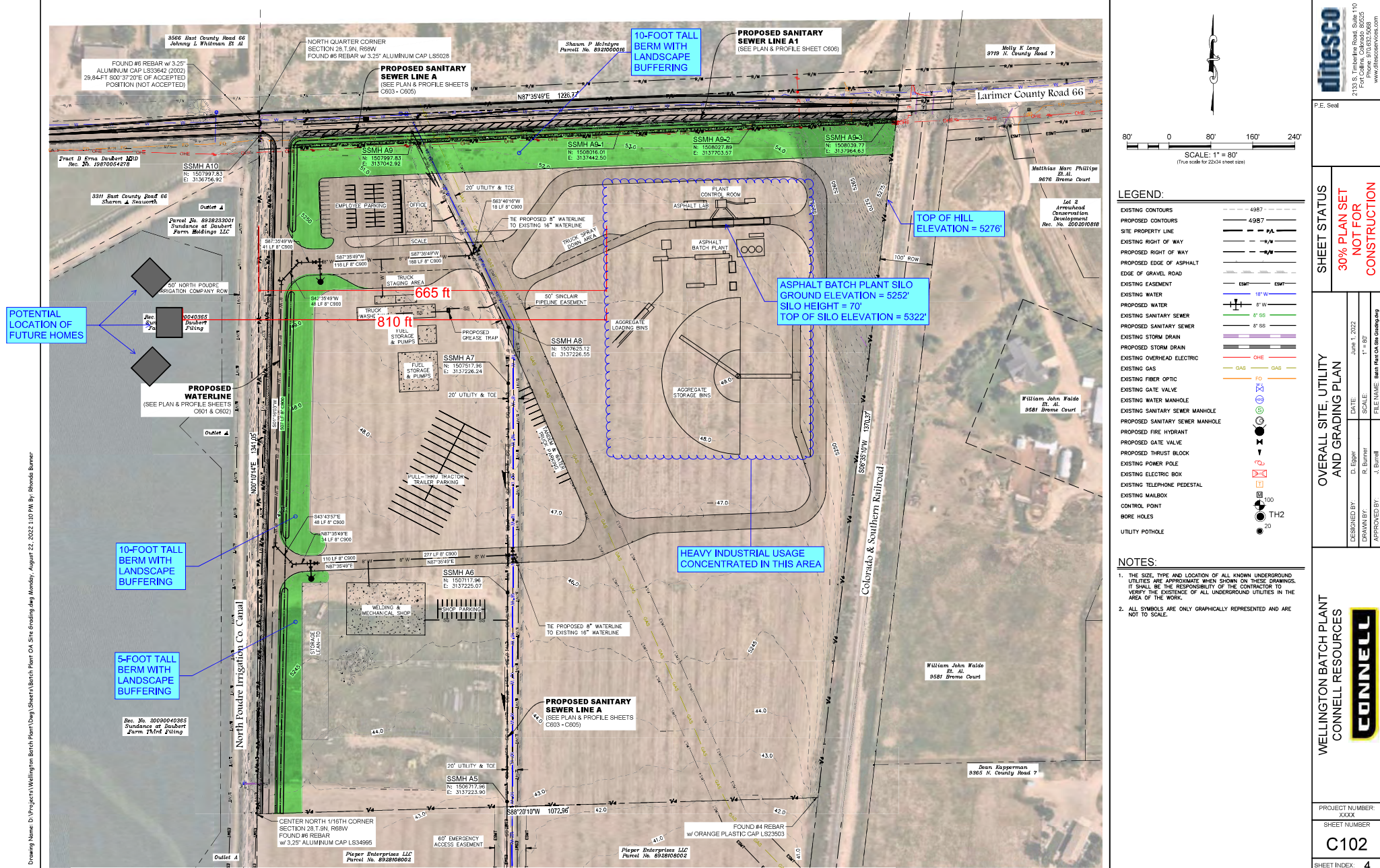


EXHIBIT C



This photo shows the street view of the existing batch plant silos and the visual screening provided by the landscape berm and trees. Note: the grain silos to the north of the batch plant will not be included at the proposed location.

/

Industrial and Manufacturing, Heavy Manufacturing of paper, chemicals, plastics, rubber, cosmetics, drugs, nonmetallic mineral products (such as concrete and concrete products, glass), primary metals, acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, electrical equipment, appliances, batteries, and machinery. This group also includes **asphalt mixing plants**, concrete mixing plants, smelting, animal slaughtering, oil refining, and magazine contained explosives facilities.

Industrial and Manufacturing, Light Manufacturing of products, from extracted, raw, recycled or secondary materials, including bulk storage and handling of those products and materials, or crushing, treating, washing, and/or processing of materials. This includes similar establishments, and businesses of a similar and no more objectionable character. It also includes incidental finishing and storage. Goods or products manufactured or processed on-site may be sold at retail or wholesale on or off the premises. This does not include any activity listed under Industrial and Manufacturing, Heavy. Examples of general manufacturing include the manufacture or production of the following goods or products: apparel (including clothing, shoes, dressmaking); boats and transportation equipment; brooms; caskets; communication or computation equipment; dairy products; die-cut paperboard and cardboard; drugs, medicines, pharmaceutical; electrical equipment or machinery; farm machinery; fasteners and buttons; feed and grain; food/baking (including coffee roasting, creameries, ice cream, ice, frozen food, confectionery, and beverage); fruit and vegetable processing, canning and storage; gaskets; glass products made of purchased glass; household appliances; industrial controls; leather and allied products; lithographic and printing processes (including printing plants as defined below); mattresses; medical equipment and supplies; medicines; mill work and similar woodwork; mobile homes; musical instruments; novelties; office supplies; optical goods; photographic equipment; prefabricated and modular housing and components; printing and print supplies (including printing plants); 3-D printing, radio and TV receiving sets; sanitary paper products; scientific and precision instruments; service industry machines; signs; textiles (including dyeing, laundry bags, canvas products, dry goods, hosiery, millinery); tobacco products; toys, sporting and athletic goods; and watches and clocks. A "printing plant" means a facility devoted to printing or bookbinding, including related large-scale storage and transshipment.

Inflatable device means a temporary sign type where air inflates an object using a portable blower motor that provides a constant flow of air into the device. The device consists of flexible fabric, and rests on the ground or a structure equipped with the blower.

Infrastructure means those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.



To: Wellington Town Board of Adjustments

From: Lisa K. Clay
CEO & General Counsel

Re: Connell Batch Plant Variance Request

Date of Review: September 22, 2022

Date: September 21, 2022

I write to you regarding the Connell Batch Plant Variance Request. As a long term employee of Advance Tank, a family member of the original owners, and in house legal counsel since 1991, I wanted to provide some history of the ownership and zoning of the property in question.

Advance Tank (ATC) purchased the property that fronts County Road 64 (Washington Street) back in 1984, when it was still a dirt road. We built our initial two-story office and shop with an Industrial Development Revenue Bond on the front ten acres. In 1999 ATC bought just under 38 acres due north of our facility. ATC wanted room to expand and to start developing space for other industrial businesses. At that time, ATC started working with the Town of Wellington to annex and plat the acreage as the Box Elder Business Park. As one of the few industrial companies in Wellington we wanted to make sure there was property for expansion, but also start a buffer from potential residential zoning. Wellington Point had just been zoned and we had concern that if we did not develop a buffer, we would be an 'ugly' business somewhere down the road to potential homeowners. The annexation and zoning to industrial use happened quickly. It included the property that ATC purchased in 2001 which is approximately 65 acres due north of the previous purchase taking our land ownership to County Road 66.

This land is fully bordered on the East by the railroad and for the front 40+ acres by Box Elder Creek. The back 60 acres was bordered by agricultural land when we purchased it. At the time of our purchase and annexation, we felt this was a great area for the business park because it had some built in buffers. The Town did too. Unfortunately, in 2019 the Town zoned residential the property to the west of our northern property. And in March of this year adopted the Land Use Code with a 1000 foot set back. Both combined, severely hamper the industrial land use zoning.

ATC is a long term, family owned, business in Wellington. Since coming in 1984 we have grown our footprint by triple, hired Wellington residents with primary jobs, and have worked to support the other local businesses when we can. The industrial zoning of the property to County Road 66 has helped bring other businesses to our community to help with the tax base and primary job numbers for Wellington. Connell Resources is a long standing, locally owned, successful business within Northern Colorado.

Connell's facility just South of Costco on I25 is well maintained and landscaped. Connell supports local business and is a generous contributor to the community. I respectfully ask that this tract of land be allowed to stay industrial, and that Connell be granted the variances they seek. They will be a great addition to the Wellington community.

Thank you for your time and attention to this matter.

September 22, 2022

Cody Bird, AICP
Town of Wellington
birdca@wellingtoncolorado.gov

Mr. Bird,

With respect to the variance request for the property located at 3548 E CR 66 in Wellington, I have a few comments.

The variance in question is for relief of the 45 foot height restriction and the 1000 foot setback from a residential district. Setting aside the type of business, my thought is that these requirements were created for the protection of the property value of the residents in the area – especially the 1000 foot setback.

While I have no experience in commercial buildings, I'm guessing that 45 feet would be similar to a four story home. Are there any homes that allowed to be that tall in the area? If not, why aren't they allowed and why wouldn't the same reasoning be applied to the commercial building.

I'm not including comments on the type of business as that does not seem relevant to the request for comment in the letter – just the variance request. I would like to interject that we are still dealing with very lopsided water billing structure (per Tuesday night's Round Table presentation) and that makes me hyper alert to any businesses that may have high water usage as the residential customers have been subsidizing that for years.

I would request that the person who is wanting to build his business in that location either change his building plans or find a property that will match the requirements. If specific building requirements were put in place to protect the property value, health and/or well-being of the residents in an area, then I see no reason to approve a variance request which could then end up potentially causing harm. Residents deal with CCRs every day that seem much more ambivalent (color of paint, weeds in yard, etc.) than a height variance where the building could be seen from miles away (if over 45 feet) in addition to any negative effects of not having the proper setback. The damage to property values of houses next to a house painted the "wrong brown" would be insignificant vs the potential damage done by a hulking asphalt plant like in the photo below (I do not know what the final plant would look like, just an example).



Thank you for your time,
Dawn Peacock

Board of Adjustments Meeting

Agenda Item #6.B.

Meeting Date: October 27, 2022 Submitted
By: Cody Bird, Planning Director Agenda
Category: New Business

Subject:

Variance Request – Seeking relief from Section 2-14-70(a)(2)b. of the Wellington Municipal Code to allow a reduction of the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District from 500 feet to 233 feet.

Background:

- **NOTE:** The request for variance described in this staff report was originally scheduled for the Board of Adjustments Regular Meeting of September 22, 2022. The regular meeting had to be canceled due to a lack of quorum and no business could be conducted. This variance request was re-advertised, including publication in the newspaper, new notices mailed to owners within 500 ft. of the property, and signs posted on site. The applicant's request has not changed. The staff report that follows is exactly as it appeared in the September 22, 2022 agenda packet. Written correspondence received by Town staff by the date of publication of the agenda is included in the packet.

From September 22, 2022 Board of Adjustments Agenda Packet:

- Applicant, Lacoste, LLC, submitted a request for a variance seeking relief from section 2-14-70(a)(2)b of the Wellington Municipal Code to allow a reduction of the minimum setback required for licensing requirements for a retail or medical marijuana store.
- The applicant is proposing to locate a retail or medical marijuana establishment on Lot 7, Wellington Business Center (location map attached).
- A similar request was submitted for consideration at the July 28, 2022 Board of Adjustments meeting.
 1. The request for variance was considered by the Board of Adjustments and a motion to deny the request passed 3-2. The request was denied based on the negative findings.
- The current variance request is substantially different from the prior request for the following reasons:
 1. The Planning Commission recommended, and the Board of Trustees approved the property to be rezoned to C-3 Mixed Use Commercial zoning (August 1, 2022 and August 23, 2022, respectively).
 2. The zoning is now C-3 Mixed Use Commercial and the uses proposed for this variance application are permitted uses within the C-3 District.
 3. The applicant has provided updated materials, including an updated narrative, updated site plans, updated unit location, and modified the request to reduce the distance of the setback reduction to 233 ft. instead of the prior 173 ft.

- The Board of Adjustments may find that many of the Findings for Approval considered during the prior request are the same or similar. Staff comments within this report are updated to reflect the new information provided for the current request, however, many of the comments will remain the same if the conditions are not affected by the updates for the current request.
- The applicant is a contract purchaser of one unit of a multiple-tenant building. The attached site plan shows the proposed building footprint with the unit proposed for the marijuana establishment shown in red.
- An ordinance initiated by citizen referendum was referred to the voters on the November 2021 ballot regarding marijuana establishments. The ordinance was passed by the voters and included in the Wellington Municipal Code at Chapter 2, Article 14.
 1. Section 2-14-70 relates to restrictions for applications for marijuana store licenses.
 2. Subsection 2-14-70(a)(2) states that the “Local [Marijuana] Licensing Authority shall not receive or act upon an application for the issuance of a Local [Marijuana] License pursuant to Chapter 2, Article 14” unless certain conditions are satisfied.
 3. The ordinance approved by the voters includes Subsection 2-14-70(a)(2) which amended the Town’s zoning ordinances as follows:
 - Retail and Medical Marijuana Store Licenses shall only be permitted in the C-3 zoning district. In addition, the following setbacks will apply:
 - a. Retail or Medical Marijuana Store Licenses shall not be permitted to be located within two thousand (2,000) feet of any parcel containing a school; and
 - b. A Retail or Medical Marijuana Store License shall not be permitted to be located within five hundred (500) feet of parcels zoned P (Public District) or any parcel containing another retail or medical marijuana store license; and
 - c. Retail or Medical Marijuana Store Licenses shall not be permitted to be located within two hundred (200) feet of parcels zoned R-1 (Residential District), R-2 (Residential District), and/or R-4 (Residential District).
- The applicant is requesting a variance to reduce the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District to 233 feet to apply for a marijuana establishment license.
- A variance provides relief from the strict application of a standard to a specific site that would create an unnecessary hardship or practical difficulties on all reasonable use of the property.
- Variances may be sought for relief from dimensional and numerical standards of the Land Use Code. Variances may not be sought to vary the allowed use on a property.
- Variance requests have findings for approval outlined in the Land Use Code, and are identified in the staff comments section below.
- A request for variance is a quasi-judicial proceeding and requires a public hearing. The Board will need to hear and consider testimony presented at the public hearing.

Staff Comments:

When considering a request for a variance, the Board of Adjustments must review findings for approval as identified in the Town's land use code. The findings that are to be considered are listed below, and staff's opinion of each factor follows (*in italics*).

A. The relief requested is consistent with the Comprehensive Plan and the intent stated in the Land Use Code.

- *Lot 7, Wellington Business Center is identified as "Commercial" on the Future Land Use Map component of the Comprehensive Plan.*
 - *The "Commercial" designation is identified as being located in concentrated areas and along I-25 and SH 1. Areas are intended to include a variety of businesses that provide employment opportunities and support the retail and service needs of the community.*
 - *Potential uses identified in the "Commercial" areas include various retail and services ranging from shopping areas, to gyms, hospitality, lodging, entertainment, medical and social services.*
- *The proposed variance request to reduce the setback of a retail or medical marijuana store from a parcel zoned P – Public could potentially allow a retail business to locate along I-25. The use proposed is consistent with the future land uses identified for areas along I-25.*
- *There are not any specific goals or strategies in the Comprehensive Plan directly related to the variance request. "Thriving Economy" Goal 4 – Develop a Supportive Business Environment that Aids in Creating a Thriving Local Economy includes strategy TE 4.1 that indirectly relates to promoting commercial land uses and promoting local job opportunities and needed services for residents.*
- *The Land Use Code identifies retail and medical marijuana stores as a permitted use in the C-3 Mixed Use Commercial District. The C-3 Mixed Use Commercial District zoning was approved for this site August 23, 2022.*
- *In accordance with the ordinance referred to the voters on the November 2021 ballot regarding marijuana establishments, Chapter 2, Article 14 includes specific provisions for creating separation and setbacks between a retail or medical marijuana store and certain protected land uses.*
 - *The intent of the separation and setbacks is to prevent marijuana stores from locating within certain distances of properties that are frequented by school-aged children (schools, parks, childcare facilities), public-owned property, (parks, library, senior center, other municipal buildings) and residences (residential zone districts).*
 - *The applicant suggests that the property adjacent to Lot 7, Wellington Business Center (Tract F, Columbine Estates) may not be consistent with other types of municipally-owned properties and therefore, the variance could be supported.*
 - *Tract F is an approximately 12.5-acre parcel that is owned by the Town. The parcel is zoned P – Public. It contains a stormwater detention facility that serves private properties and public roadways*

within the area. The stormwater detention facility is unlikely to be redeveloped for commercial or residential uses.

- *Public access to Tract F is currently limited. Public trail or sidewalk access along Tract F is a future consideration that will need to be evaluated with future development proposals.*

B. *Strict application of the regulation will result in an unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing zoning, as opposed to convenience or benefit of the applicant or a specific application.*

- *Strict interpretation of the code does not allow a retail or medical marijuana store to be located within defined setback buffers of protected land uses.*
- *Strict application of the 2,000 foot setback from a parcel containing a school (Rice Elementary) and the 500 foot setback from a parcel zoned P – Public District would prevent all portions of Lot 7, Wellington Business Center from having a location that would allow a retail or medical marijuana license.*
- *Strict application of the setback distances does not prevent all uses allowed within the C-3 – Mixed Use Commercial zoning district.*

C. *The need for the variance is due to specific and unique physical conditions on the site that do not exist on similarly situated land in the area.*

- *Lot 7, Wellington Business Center is a large lot (approximately 6.9 acres), originally platted for commercial uses.*
- *The property is currently vacant, and has access to public utilities and services. The lot has been rough graded at the time the subdivision development was started. The topography is flat with adequate drainage for a vacant lot. Adequate access to public roads is available to the site with some improvements anticipated.*
- *The proximity to the parcel zoned P – Public (Tract F, Columbine Estates, immediately south of the property) is an approximately 12.5-acre stormwater detention facility with limited public access. Limited access and limited possibility of redevelopment of the stormwater detention facility creates a large open space.*
- *The proximity to the large open space with limited public access may be considered unique to this area that other commercially zoned properties in town do not have adjacent.*

D. *The manner in which strict application of the regulation deprives the applicant of reasonable use of the land compared to other similarly situated land in the area.*

- *Strict application of the regulation does not deprive all uses of the land for the existing zoning or the requested zoning.*
- *For retail or medical marijuana stores that may be located within the area:*
 - *All commercial zoned properties in the area are impacted by one or more of the setback distances required at Chapter 2, Article 14.*
 - *The 2,000-foot setback from a parcel containing a school (Rice Elementary), impacts all commercial properties surrounding Lot 7, Wellington Business Center.*
 - *The unique parcel shape of the Rice Elementary School property has a large portion of the property that is open space and drainage that extends south to near the pedestrian underpass crossing I-25. The*

southernmost portion of the school parcel is approximately 850 feet from the fenced playground area.

- o Lot 7, Wellington Business Center is the only commercial property in the area that could meet the 2,000-foot setback from the Rice Elementary School parcel (the northern portion of the property is impacted by the school setback).*
- o Lot 7, Wellington Business Center is the only commercial property in the area that is also impacted by the 500-foot setback from a parcel zoned P – Public (the southern portion of the property is impacted by the P – Public parcel setback).*

- E. The circumstances warranting the variance are not the result of actions by the applicant, or could not be reasonably avoided by actions of the applicant.
- The constraints on the property for retail or medical marijuana stores to meet the required setbacks are not conditions created by an action or actions of the applicant.*
 - The location, size and configuration of parcels zoned P – Public and containing a school are unique to the area and were not created by an action or actions of the applicant.*
 - The setback requirements from parcels zoned P – Public and containing schools were adopted by ordinance approved by Wellington voters in 2021. The regulations creating the setback requirements are new regulations not in place at the time Lot 7, Wellington Business Center was originally contemplated for commercial development.*
 - The circumstances under which the variance to reduce the setback from a parcel zoned P – Public could not be reasonably avoided for the proposed use of a retail or medical marijuana store on Lot 7, Wellington Business Center. There is not another code path to bring the property into compliance with the setbacks for the requested use.*
- F. Granting the variance will not harm the public health, safety and welfare or the purposes and intent of the regulations.
- Granting the requested variance does not guarantee or require other applicable approvals for a retail or medical marijuana store.*
 - If the requested variance is approved by the Board of Adjustments and a license issued by the Marijuana License Authorities, it could be possible to locate a retail or medical marijuana store on Lot 7, Wellington Business Center.*
 - If a retail or medical marijuana store is located on Lot 7, Wellington Business Center, the proposed location would satisfy the minimum setback requirement from a parcel containing a school (Rice Elementary).*
 - The public health, safety and welfare would be preserved by meeting applicable setbacks from schools, residences, public facilities and other marijuana stores.*
 - The purpose and intent of the regulations is to create separation between marijuana stores and protected uses. Tract F, Columbine Estates is zoned*

P – Public but does not contain any public facilities that would be expected to attract residents, visitors or the public.

- *Granting of the variance could be determined that the purpose and intent of the code is not harmed.*

G. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties.

- *The variance requested is to reduce the required setback of 500 feet to 233 feet.*
- *The site plan showing the setback from the parcel containing a school (Rice Elementary) is shown to be 2,023 feet.*
 - *The minimum required setback is 2,000 feet.*
 - *The site plan showing building footprints indicates that storefronts are proposed to be 30 feet wide. The applicant has changed the proposed unit for the retail or medical marijuana store to the north to increase the setback from a parcel zoned P – Public to 233 feet.*

H. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., the Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

- *The Comprehensive Plan does not have recommendations or elements directly related to this unique request.*
- *There are not currently any specific area plans or corridor plans for the commercial areas surrounding Lot 7, Wellington Business Center.*
- *The 2015 Parks and Trails Master Plan identifies Tract F, Columbine Estates as an undeveloped open space. There no current plans to make changes to Tract F. An update of the Parks and Trails Master Plan is contemplated to be undertaken in fiscal years 2022-2023.*
- *There are no other similar prior approvals relating to this specific request involving reducing setbacks for a retail or medical marijuana store license.*
- *The Marijuana Licensing Authority has sole discretion on the issuance of a license under the terms of Chapter 2, Article 14.*

Recommendation:

- In considering a variance, the Board of Adjustments has the authority to grant the variance, grant the variance with conditions, or deny the variance.
- If a variance is approved, the approval should be contingent upon all of the following:
 1. Planning Commission approval of a site plan;
 2. Town approval of a building permit for construction;
 3. Marijuana Licensing Authority approval of a retail or medical marijuana store license.
- If any of the above conditions are not satisfied, approval of a variance, if any, shall become void and of no force and effect.
- A variance, if approved, does not guarantee approval by any other applicable Board, Commission or approval Authority of the Town.
- A variance, if approved by the Board of Adjustments, does not require any other Board, Commission or approval Authority of the Town to approve subsequent or related applications.

- Below are possible motion options for the Board of Adjustments to consider. Staff will also be available to assist in crafting alternative motions if desired by the Board.
 1. Move to grant a variance to vary the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District to reduce the setback distance for Lot 7, Wellington Business Center to 233 feet, subject to conditions, including (condition 1) , (condition 2) , [...] and (condition #) .
 2. Move to grant a variance to vary the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District to reduce the setback distance for Lot 7, Wellington Business Center to 233 feet, with no conditions.
 3. Move to deny the request for a variance of the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District.
 4. Move to continue consideration of the variance request to a regular/special meeting of the Board of Adjustments to be held _____ (month) _____ (day), 2022 at _____ (time) at the Wilson Leeper Center, 3800 Wilson Ave., Wellington, Colorado.

Attachments

- Location Map
- Updated Applicant Narrative
- Updated Site Plan with Buffer Setbacks
- Exhibit Illustrating 2,000 ft. School Setback
- Updated Site Plan with Building Footprint and Dimensions

LOCATION MAP
Lot 7, Wellington Business Center



APPLICANT NARRATIVE

Applicant is seeking a variance for the setback distance required for a retail marijuana establishment from the detention pond tract F which is zoned P. The marijuana industry representatives that initially lobbied to add this to the ballot in Wellington had a specific location in mind when they set the zoning and setback requirements and we were in no way involved in that process. Lacoste has contracted to purchase three separate properties that have all failed to meet the necessary requirements. We also researched multiple other properties in our yearlong due diligence process with no success. Lot 7 Wellington is by far the best and most viable location for a dispensary. This new, ground up development located on the I-25 corridor is on the southernmost edge of the town of Wellington. A commercial development of this magnitude will benefit all existing businesses.

The applicant feels that the variance requested would still allow the intent of the code to be satisfied. The potential location of the dispensary is now zoned C-3 (Commercial Highway) as opposed to LI (Light Industrial) which was previously a concern of the Board of Adjustments. The planning commission voted unanimously to approve this change of zoning without any public opposition. The Board of Trustees also approved the zoning change with a unanimous vote of 7-0 without public opposition. The board also noted that this development and its uses aligned with the Comprehensive Plan of the town of Wellington.

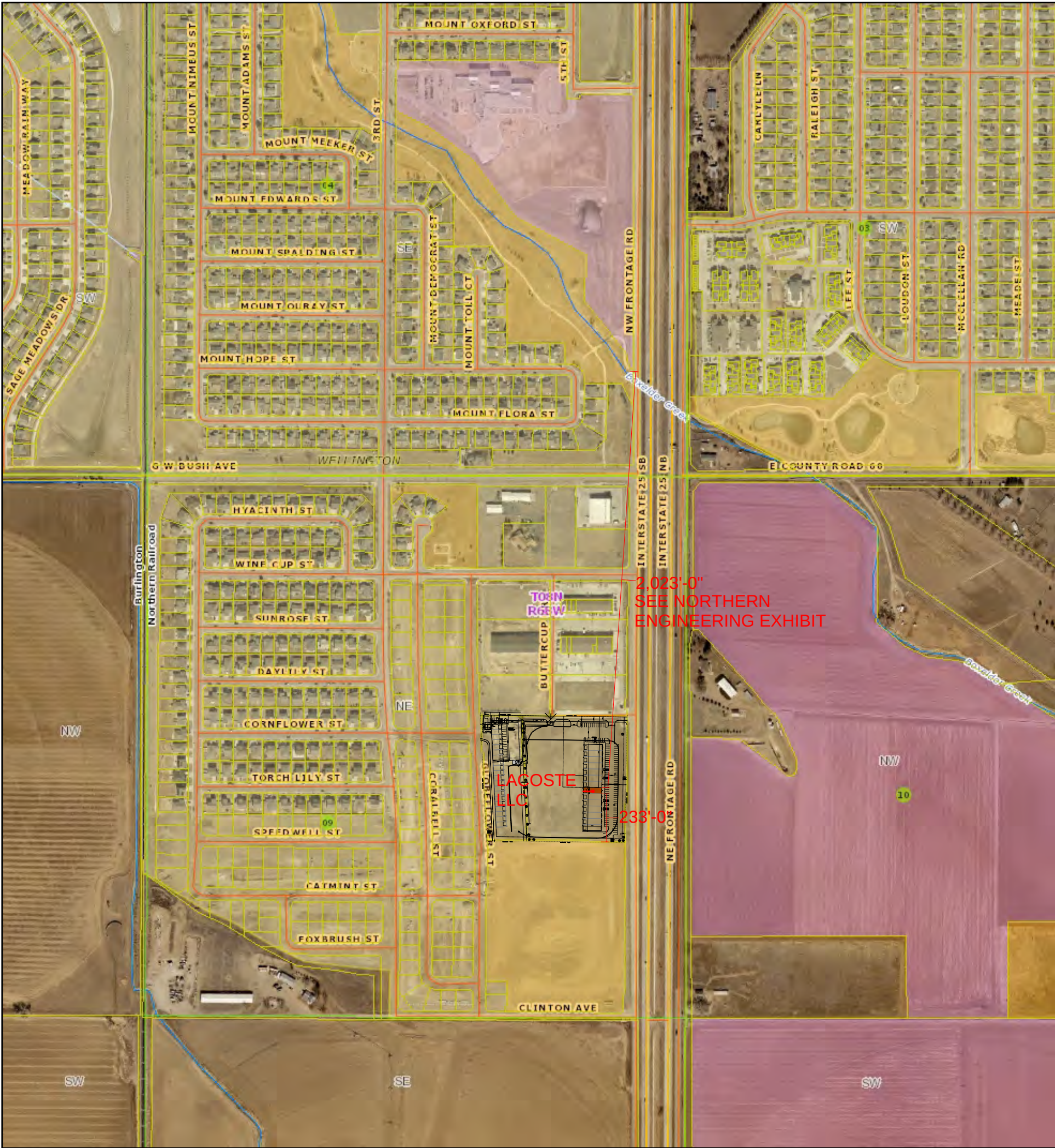
The applicant's purchase contract with the developer will allow the construction of the mixed-use shopping center to move forward as soon as possible. Without Lacoste as an early anchor purchaser, the timeline for the entire development is unsure.

The potential location of the retail establishment on lot 7 is limited by the requirement of a 2,000-foot setback from the school property to the North and the 500-foot setback from the detention pond that is tract F to the South. We have heard the concerns of the Board of Adjustments that the variance reduction request could be reduced by moving the unit as far North as possible. We hired the Northern Engineering to see if we could increase the distance further from our original set back distance of 173 feet. They were able to confirm that we can get 233 feet which the board can see in the updated site plan in the packet.

As per the land use code the Board of Adjustments can approve the variance as is or with a set of conditions. The applicant would like the board to consider some of the following conditions. The signage location or direction, security measures, store front window visibility, etc. We will welcome any and all suggestions to make the town more comfortable with this business.

Keeping in mind that the school's fenced area is actually closer to 2,700' away from the proposed business and with the previously mentioned buffer created by the detention facility to the South, this location would seem to far surpass any requirements or concerns for setbacks and public safety. Along with the ideal traffic pattern of this retail area, this would to be the best location for a dispensary in the town of Wellington.

Thanks for your time and consideration.



1 AERIAL VIEW
SP-1 APPROX SCALE 1" = 500'



SP1

VICINITY
MAP

LACOSTE LLC
3997 WATER LILY DRIVE
WELLINGTON, CO 80549

No.	Description	Date
1	MOVE SPACE NORTH	9/8/2022

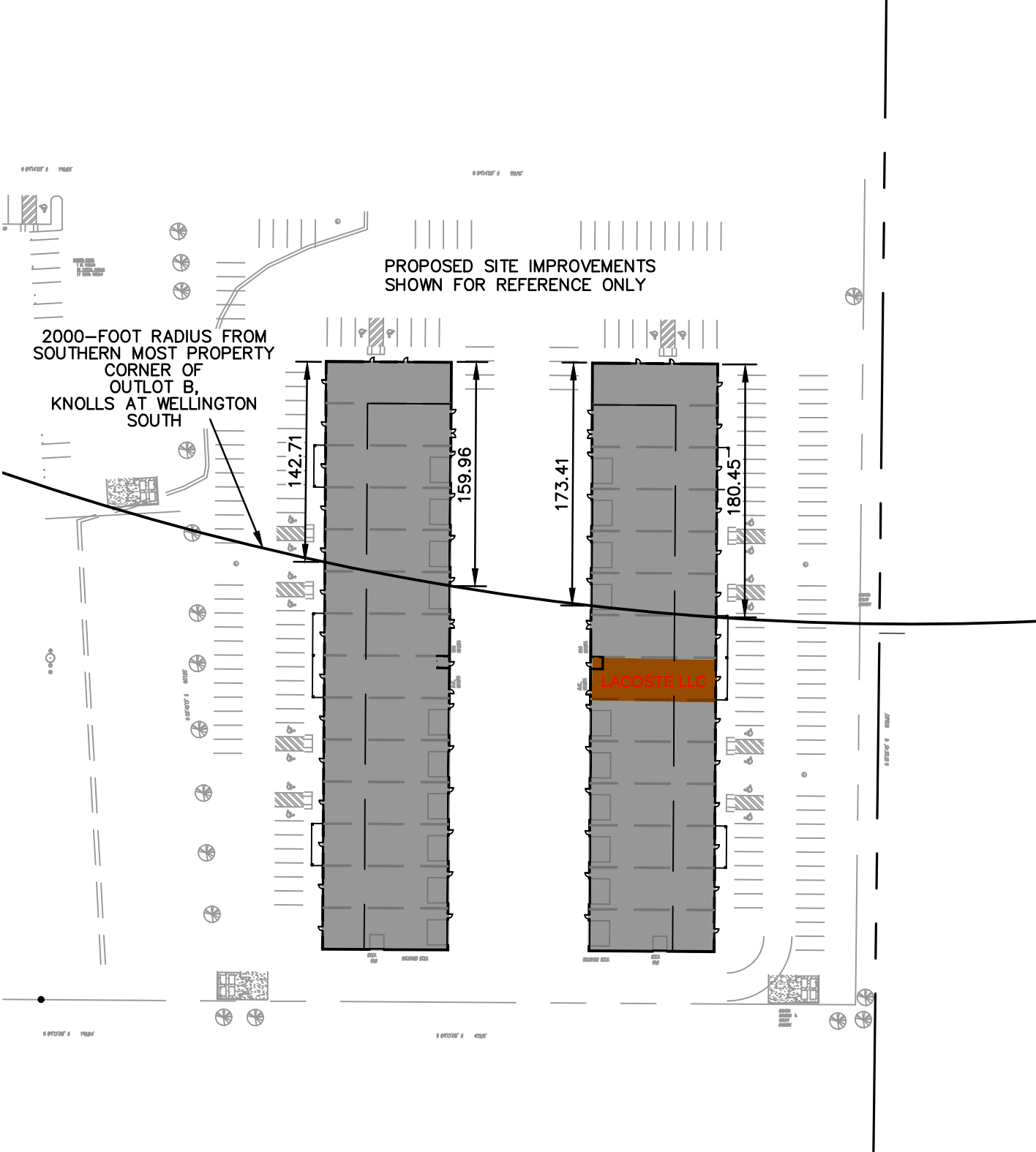
Project # :TBD
Date: 7/20/22
Drawn by: JM
Checked by:

1520 E. MULBERRY ST., SUITE 200
FORT COLLINS, CO 80524
PHONE: 970.224.5200
FAX: 970.224.2062
WWW.THUNDERPUP.COM

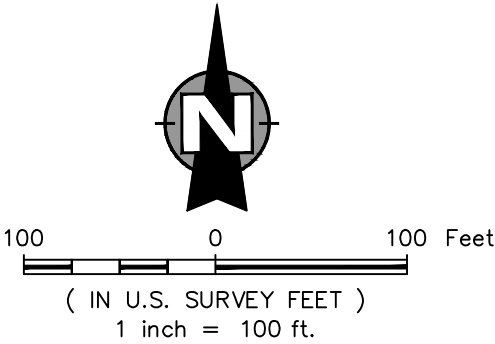
thunderpup
CONSTRUCTION, INC.
Serving Fort Collins Since 1979

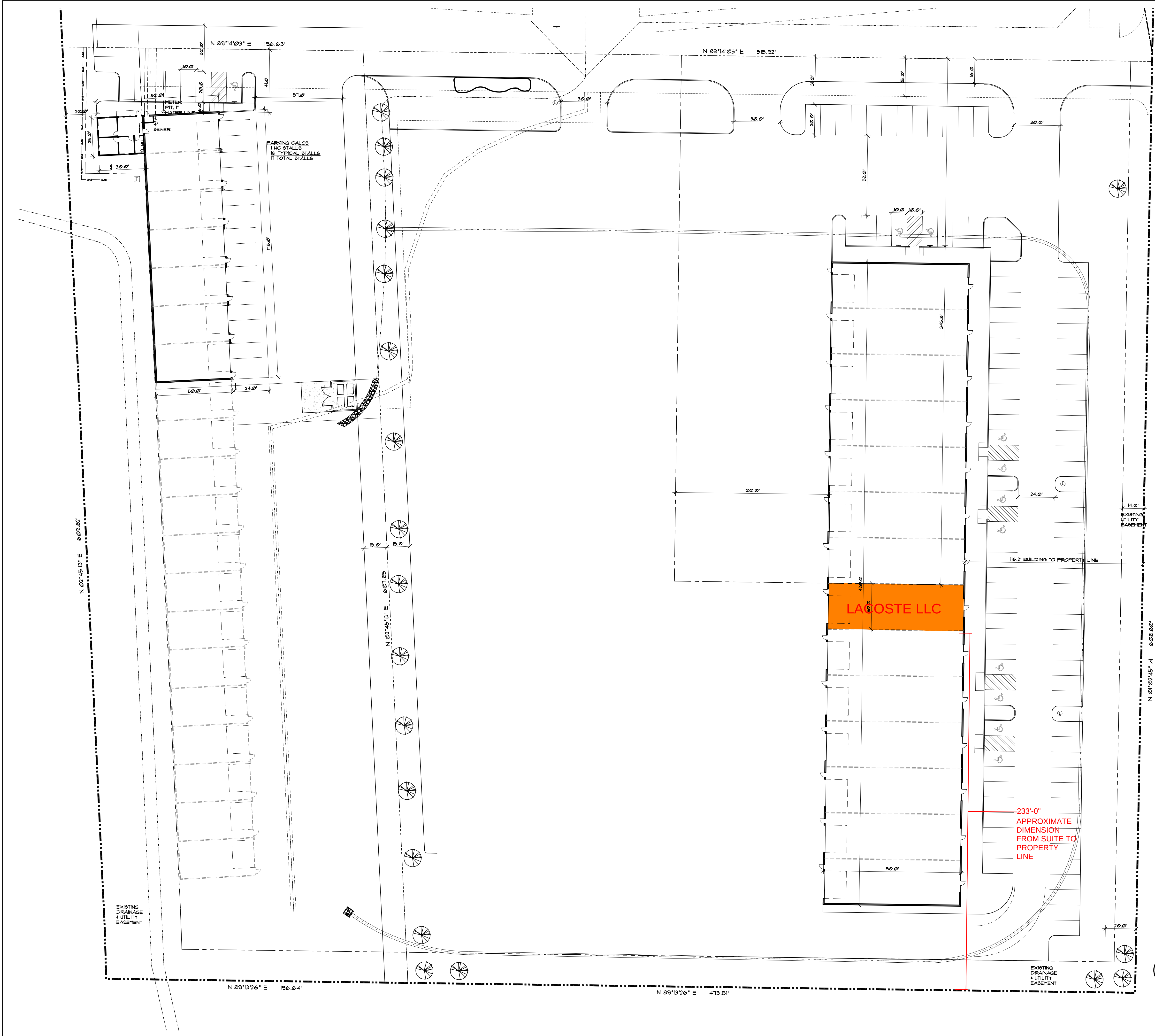
EXHIBIT

LOT 7, WELLINGTON BUSINESS CENTER, BEING A PORTION OF THE SOUTHEAST 1/4
OF SECTION 9,
TOWNSHIP 8 NORTH, RANGE 68 WEST OF THE 6th P.M., TOWN OF WELLINGTON,
COUNTY OF LARIMER, STATE OF COLORADO



NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.



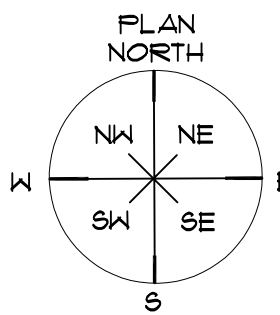
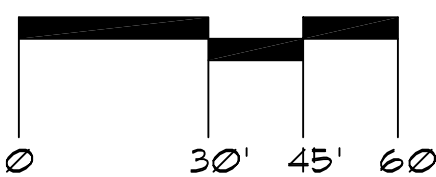
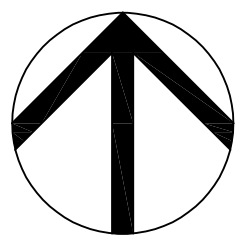


SITE NOTES

1. ALL SURFACE WATER SHALL DRAIN AWAY FROM THE STRUCTURE AS REQUIRED BY LOCAL STANDARDS TO AN APPROVED RECEPTOR OR EQ.
2. CONTRACTOR TO VERIFY HORIZONTAL PLACEMENT AND FINISH FLOOR ELEVATIONS WITH OWNER AND ARCHITECT PRIOR TO EXCAVATIONS.
3. CONTRACTOR TO VERIFY ALL FIELD CONDITIONS, EASEMENTS, PROPERTY LINES, ETC. PRIOR TO STARTING WORK. SHOULD ANY DISCREPANCIES, OMISSIONS, OR ERRORS OCCUR, NOTIFY THE ARCHITECT IMMEDIATELY.
4. WHERE DRAINS OCCUR THE DRAIN SHALL BE RUN TO DAYLIGHT WITH A SLOPE OF AT LEAST 1/4" PLF. AS AN ALTERNATIVE, THE DRAIN MAY BE RUN TO A SUMP. THEN PUMPED AWAY FROM THE FOUNDATION.
5. SITE PLAN DRAWING IS BASED UPON NORTHERN ENGINEERING AND DATED 10/21/2015
6. ALL MATERIALS TO BE DISPOSED OF OFF-SITE ARE TO BE DISPOSED OF IN A LAWFUL LANDFILL AND IN ACCORDANCE WITH GOVERNMENT REQUIREMENTS.
7. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING UTILITIES PRIOR TO BEGINNING CONSTRUCTION.
8. ALL PROPOSED PAVING & IMPROVEMENTS SHALL MEET AND MATCH EXISTING PAVING.

LEGAL DISCRIPTION

SEE COVER SHEET A1.0



1 SITE PLAN
1" = 30'-0"

NOTICE OF COOPERATION: Release of these plans contemplates full cooperation among the owner, contractor, and the architect. Design and construction are complete. Although the architect and his consultants have performed their services with due care and all licenses, permits, and clearances pertaining to construction is the architect's responsibility. The architect shall not be responsible for any consequences arising out of such changes. This set is null & void should it be omitted from this set.

Kenney Lee
architecture group, inc.

REVISIONS

New Building for:

FRS ENTERPRISES
LOTS 7 & 8

WELLINGTON

date 05-21-2021

drawn KML/BZD

checked KML

job no.

SITE PLAN

sheet

A2.0B

COLORADO

(970) 663-0548



Comment for Board of Adjustments tonight

Angelique Mcdaniel <amcdanie12@aol.com>

Thu 9/22/2022 2:18 PM

To: Cody Bird <birdca@wellingtoncolorado.gov>

Cody,

I'm unable to attend the meeting tonight, but would like this email passed onto the Board of Adjustments reference Item #2 on the agenda. Thank you.

Good evening,

I would have liked to have attended the Board of Adjustments meeting in person, but due to prior commitments I am sending this email.

I understand parties wanting to open a marijuana dispensary off of 6th Street are requesting the Board to change the zoning of a neighboring parcel as current zoning and set back laws would prohibit such a business in that area. Marijuana proponents wrote the verbiage for the law they wanted passed to allow sales in Wellington and it was that verbiage, with those specifications, that the voters voted on. Since then the proponents of marijuana sales have found they don't like the rules they themselves proposed and have been trying to get different Town Boards to change what the voters voted on. It's not right to ask all the voters for approval on one set of rules, but when the marijuana proponents don't want to abide by those rules they skirt the voters asking only a small group of Board members to do their bidding. If marijuana proponents want the rules changed, they need to go back to the voters and ask permission!

By allowing this rezoning of a single parcel in Wellington to accommodate one business any board would be showing special treatment to that business and setting a precedent going down a slippery slope.

Last, the parcel they are asking to rezone belongs to the people of Wellington. Regardless of it's current use, restricting any future use that the town currently has as an option by changing zoning is taking away rights of the collective town citizens in order to expand the rights of one private business.

Please do not allow this change in zoning.

Angelique McDaniel