



Horace Planning & Zoning Commission Meeting Agenda

Tuesday, May 28, 2024 – 6:00 pm

Fire Hall Event Center – 413 Main Street, Horace, North Dakota

1. Declare Quorum
2. Regular Agenda
3. Approve the May 14, 2024, Planning & Zoning Commission Meeting Minutes
4. 6912 81st Ave S Variance | Jace Hellman, Community Development Director
 - a. Variance
 - i. Public Hearing
 - ii. Discussion & Action
5. 7510 66th St S Rezone | Jace Hellman, Community Development Director
 - a. Rezone
 - i. Public Hearing
 - ii. Discussion and Action
6. Maple Lakes Estates Setbacks (Dabbert Custom Homes) | Jace Hellman, Community Development Director
 - a. Variance
 - i. Public Hearing
 - ii. Discussion and Action
7. Adjournment



HORACE PLANNING and ZONING COMMISSION MEETING MINUTES

May 14, 2024, | 6:00 p.m.

Horace Fire Hall Event Center | 413 Main Street, Horace ND 58047

Present: Planning and Zoning Commissioners - Doug Wendel, Ron Erickson, Chad Chalmers and Mike Zietz (ET Rep); Community Development Director, Jace Hellman

Absent: Planning and Zoning Commissioners – Amy Beaton and Julie Hochhalter

Commissioner Wendel called the meeting to order at 6:05 p.m.

Agenda Item 1: Declare Quorum

Agenda Item 2: Regular Agenda

Commissioner Erickson moved to approve the regular agenda. Seconded by Commissioner Zietz. All in favor, none opposed. Motion carried 4-0.

Agenda Item 3: Approve the April 23, 2024, Planning and Zoning Commission Meeting Minutes

Commissioner Chalmers moved to approve the meeting minutes from April 23, 2024. Seconded by Commissioner Erickson. All in favor, none opposed. Motion carried 4-0.

Agenda Item 4: 1035 5th St E – Design Review | Jace Hellman, Community Development Director

Mr. Hellman provided a quick overview of the proposed design review proposal. Mr. Hellman explained the applicant is proposing to construct an 8220 square foot building to house the operations of Red River Drywall. While the proposed roof line of the buildings exceeds 100 feet in length, the applicant has provided a varied roof line and architectural components to the building, such as the chimney that may satisfy the requirement of the roof line break up. The Planning and Zoning Commission will need to confirm that this satisfies the ordinance. Materials proposed include vertical metal siding, metal wainscot and a brick veneer covering the proposed chimney. The proposed color pallet of the proposed buildings consists of white siding, a copper roof with dark accents for the downspouts, doors and windows. Around the yard, white vinyl has been proposed as a fencing material. Staff would note that the materials and design proposed appear to be consistent with Horace City Code and surrounding properties.

Commissioner Erickson moved to approve the design review for 1035 5th St E with the condition that fencing be extended to the end of the parking stall in proposed location on the site plan. Seconded by Commissioner Chalmers. All in favor, none opposed. Motion carried 4-0.

Agenda Item 5: 6045 100th Ave S – Design Review Modification | Jace Hellman, Community Development Director

Mr. Hellman noted that the design review for 6045 100th Ave S was previously approved in the fall of 2021. Mr. Hellman went on to explain that the building has been constructed but some of the design materials and features of the building were modified in the construction process. Mr. Hellman stated that the changes warranted updated approvals from the planning and zoning commission. Some of the design changes included the addition of a door, the reduction of cupolas from three to two and the addition of wood grained siding.



Commissioner Chalmers moved to approve the design review modification for 6045 100th Ave S. Seconded by Commissioner Zietz. All in favor, none opposed. Motion carried 4-0.

Agenda Item 6: Maple Lake Estates Setbacks | Jace Hellman, Community Development Director

Mr. Hellman explained with the adoption of the City's new Land Use Ordinance, the City Council included a section within the nonconforming lot section essentially grandfathering the setbacks for any platted property that was zoned R-6 or in the entitlement process requesting R-6 as a zoning district. The properties in question were zoned R-4 and therefore not included in the grandfathered clause. Subsequently with the adoption of the ordinance, the properties in question were zoned SR-3. The SR-3 zoning district requires a minimum front yard setback of 25 ft, a rear yard setback of 40 ft and side yard setbacks of 10 ft (25 ft street side yard). Additionally, the SR-3 zone has building coverage maximum of 30%. The applicant is requesting that the dimensional standards and building coverage standards be modified to mirror the R-4 zoning district standards as defined in the 2003 Land Use Ordinance in order to maintain consistency with lots already built on within the Maple Lake Estates. For reference, the R-4 zoning district carried a maximum lot coverage of 50%, a front yard setback of 30 ft, a rear yard setback of 30 ft and a side yard setback of 8 ft (18 ft street side yard).

Public hearing opened at 6:23 PM

The applicant, Niels Thomsen, was present and provided a brief overview of the lots remaining within Maple Lake Estates. Mr. Thomsen noted with the new setback, some of their larger home footprints no longer fit.

Public hearing closed at 6:43

Commissioner Erickson moved to recommend approval of the variance request to City Council. Seconded by Commissioner Zietz. All in favor, none opposed. Motion carried 4-0

Agenda Item 6: Adjournment at 645 p.m.



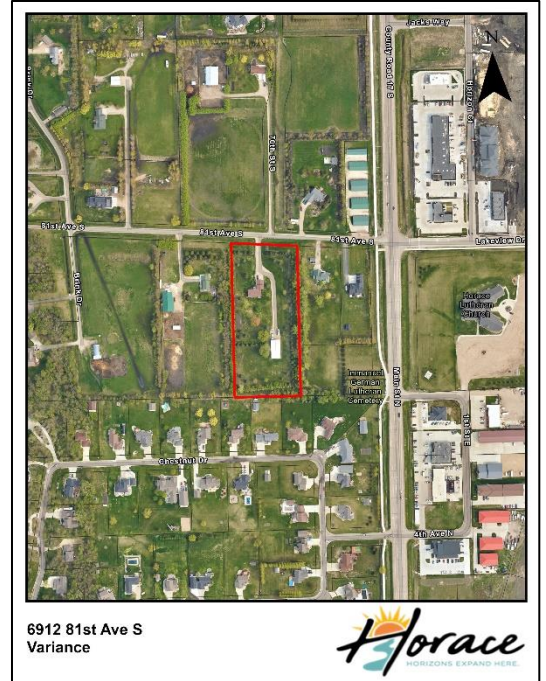
**CITY OF HORACE
PLANNING AND ZONING COMMISSION
STAFF REPORT**

Application No: CD-2024-17

6912 81st Ave Variance

Contents

1. Exhibit List
2. Process and Noticing
3. Applicants Request
4. General Project Facts
5. Staff Analysis
6. Proposed Commission’s Recommendation



**I
APPLICATION EXHIBITS**

The exhibits of the above referenced application consist of the following:

1.1 Exhibits:

<i>DESCRIPTION OF EVIDENCE</i>	<i>Withdrawn</i>	<i>Refused</i>	<i>Admitted</i>
Staff Report			X
Variance Application			X
Supplemental Variance Information			X
Building Plan			X

II PROCESS AND NOTICING

2.1 In accordance with Horace City Code 4-7.1 and 4-8.8, Variances are designated as public hearings, with the Planning and Zoning Commission as a recommending body and City Council as the decision-making body. This application was given proper public notice and followed the requirements set forth in Horace City Code 4-7.1.

2.1.1 Notifications

2.1.1.1 Radius Notice:	May 10, 2024
2.1.1.2 Fargo Forum (1 st run)	May 15, 2024
2.1.1.3 Fargo Forum (2 nd run)	May 22, 2024

III APPLICANT REQUEST

3.1 The applicant has filed a variance application seeking relief from the maximum total accessory building size detailed in Table 4-5.1.A.6 within Horace City Code.

IV GENERAL PROJECT FACTS

4.1 Applicant Information:

Property Owner(s):	Vicki McIntyre
Owner Contact:	vmcintyr@far.midco.net
Representative:	N/A
Representative Contact:	N/A

4.2 Site History:

The property is platted as lot 3, block 3 within Brinks 3rd Subdivision. To staff's knowledge, no additional land use actions have occurred on the subject property.

4.3 Surrounding Land Uses:

North	SR-1	Suburban Residential 1
South	SR-3	Suburban Residential 3
East	SR-1	Suburban Residential 1
	CIV	Civic
West	SR-1	Suburban Residential 1

4.4 Parcel Sizes, Current Zoning and Parcel Number(s):

Parcel Number	Address	Parcel Size	Zoning
15026700120000	6912 81 st Ave S	4.48 acres	SR-1

4.5 Existing Structures, Vegetation and Natural Features

The property is a platted residential lot within the Brinks 3rd Addition. Vegetation on site is consistent with that of a single-family home. Apart from the home, an additional 3200 square foot accessory structure currently exists on the property.

V STAFF ANALYSIS

5.1 Horace City Code 4-5.1.A.6 defines the maximum total accessory building size for lots between 4.1 acres and 5 acres as 5,500 square feet. Currently the applicant has an approximately 3,200 square foot shop building on site. The applicant has recently submitted a building permit for an additional accessory building on site. This building measures 40 x 60, which would bring the total square footage of accessory buildings to 5600 square feet, which exceeds the total square footage allowance for accessory structure. The applicant is seeking relief from the maximum total accessory building size detailed in Table 4-5.1.A.6 within Horace City Code.

Within their application the applicant states that the additional 100 square feet is necessary to keep the structure a standard size. The applicant has noted that per Foltz Building, the building has to be built in standard foot increments, which would require them to remove more than 100 square feet. Additionally, the applicant states that the proposed building would not be out of character for the area where several large outbuildings exist.

Staff agrees the parcel is large enough at 4.48 acres to accommodate larger accessory structure. However, in order for a variance to be approved, ultimately, the City Council must find that all of the following are present:

- Special conditions and circumstances exist which are peculiar to the premises, and which are not applicable to other premises in the same zoning district.
- Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- Special conditions and circumstances have not resulted from actions of the applicant.
- Granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.

Additionally, staff would note that typically, preference and costs are not factors that should be considered when reviewing a variance application. Following staff's review of the application, the surrounding area and the subject site, staff is unable to identify any of the standards required for variance approval.

This report pertains to the applicant's request to increase the total square footage for accessory structures. However, staff would note that the applicant has made known the intent of the structure is to operate a commercial business within the SR-1 zoning district. While the SR-1 zoning district allows for home occupations, the proposed use of the structure does not comply with the home occupation regulations within the City of Horace. Per Horace City Code, Home Occupations are permitted, subject to the following:

- The home occupation is carried on in a dwelling unit by residents of the dwelling unit.
- The use is clearly secondary to the use of the building as a residence.
- Activities are consistent with typical activities in the surrounding neighborhood and do not create excessive noise, traffic, or conflict with adjoining uses.
- Home occupation shall not occupy more than twenty-five percent (25%) of the total dwelling unit.
- Outdoor storage, display, and sales are not permitted. Such occupation shall not require internal or external alterations or involve construction not customary in a dwelling unit.
- Home occupations shall not generate traffic greater than that typically expected in a residential neighborhood.

Staff recognizes that this information should not be included the Planning and Zoning Commission, or the City Councils decision, but staff would like to point out that the proposed use of this building, if approved, as a commercial business is not permitted under Horace City Code.

VI
PROPOSED PLANNING AND ZONING COMMISSION RECOMMENDATION

- 6.1** *Note: This motion is for the recommendation of approval, conditional approval or denial of the Variance Application to the City Council. However, if the Planning and Zoning Commission wishes to approve or deny specific parts of this request as detailed in the report, those changes must be specified.*

City Staff hereby recommends that the Planning and Zoning Commission recommend denial of the variance application for 6912 81st Ave S.



Variance Application

PO Box 99 | 215 Park Dr. E | Horace, ND 58047
(701) 492-2972 | www.CityofHorace.Com

Applicant Information

Name: Vicki McIntyre / Cole McIntyre Address: 6912 81st Ave S., Horace, ND 58047
Primary Phone: 701-866-2067 Email: vmcintyr@far.midco.net

Owner Information

Name: Vicki McIntyre Address: 6912 81st Ave S., Horace, ND 58047
Primary Phone: 701-866-2067 Email: vmcintyr@far.midco.net

Representative Information (Developer, Surveyor, Engineer, Etc.)

Name: _____ Address: _____
Primary Phone: _____ Email: _____

Property Information

Property Address: 6912 81st Ave S., Horace, ND 58047
Parcel No(s): 15-0267-00120-000
Legal Description: Lot3 Block 3 Brinks 3rd Sub
Acres: 4.48 acres
Current Zoning District(s): S-R Suburban Residential

Variance Information

Type of Variance Requested (For more information Please see Horace City Code 4-6.13 & 4-8.8)
Subdivision Variance: Individual Variance:
What Section of Horace City Code are you requesting a variance from? Section 4-5.1.A Table 4-5.1.A.6

Please provide the specific reason for the variance request:
Maximum total accessory building size is 5,500 square feet on my size property (4.48 acres).
My proposed building (Foltz built garage 40/60) is 2400 sf putting me at a total of 5600 sf of accessory buildings.
I am asking for a variance for the additional 100 sf. This would allow me the square feet I need and keep the structure a standard size.

Variance Application Checklist

- Completed and Signed Variance Application
- For Individual Variances: Provide a narrative explain how the following standards are present:
 - Special conditions and circumstances exist which are peculiar to the premise, and which are not applicable to other premises in the same zoning district.

- Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- Special conditions and circumstances have not resulted from actions of the applicant.
- Granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.
- For Subdivision Variances: Provide a narrative explaining how the following standards are present:
 - A literal enforcement of any provision would result in great practical difficulties, unnecessary hardship, or injustice.
 - The difficulties, hardship, or injustice is based on conditions unique to the property (e.g., unique physical conditions, etc.) which were not created by the subdivider.
 - Granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining property.
 - Granting of the variance will not be contrary to the public interest or the general purposes of this code.
 - The variance will not place the subdivision in nonconformance with any adopted zoning standards or the Comprehensive Plan.
- Proof of whether the practical difference or undue hardship is unique to the applicant's property.
- A map showing the existing land uses and zoning district classification of the area.

Signature

Applicant Signature: Vicki McIntyre Date: 4-24-24

Representative Signature: _____ Date: _____

Acknowledgement: By signing above you are acknowledging that the above information is true and complete to the best of your knowledge, and that all required items included in this application have been provided.

****Office Use Only****

Application No: _____
 Project Name: _____
 Date Received: _____
 Date Fee Paid: _____

Variance Fee Schedule

Variance Application Fee - \$325.00

Note: All application fees are non-refundable and are due at time of application submittal. Checks should be made payable to the City of Horace.

Please deliver a copy of the completed application to Horace City Hall, 215 Park Drive E, Horace, ND 58047, or send via email to JHellman@CityofHorace.com.

We are proposing to build a 40 x 60-foot Foltz building that is complementary in design and color to the house and existing structure on the property which is 4.48 acres. My acreage is zoned SR-1 Suburban Residential 1 and per the table 4-5.1.A.6 the maximum total accessory building size is 5,500 square feet. This new proposed building would put me at 100 square feet above this at 5,600 square feet.

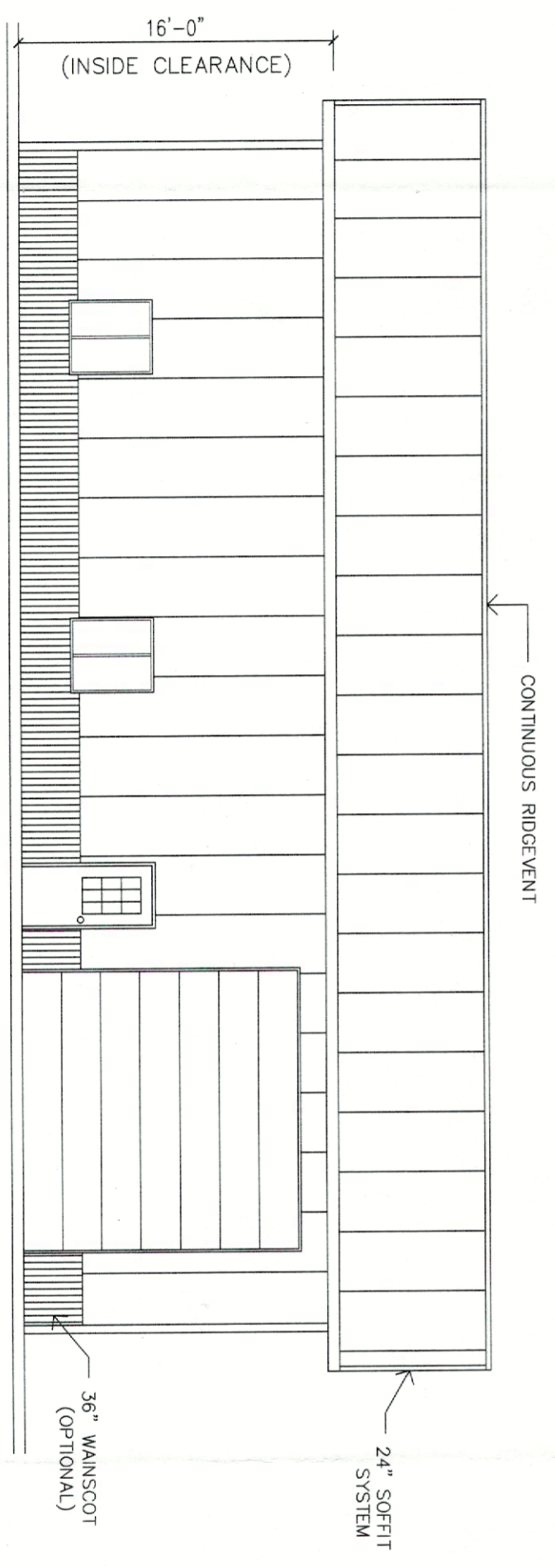
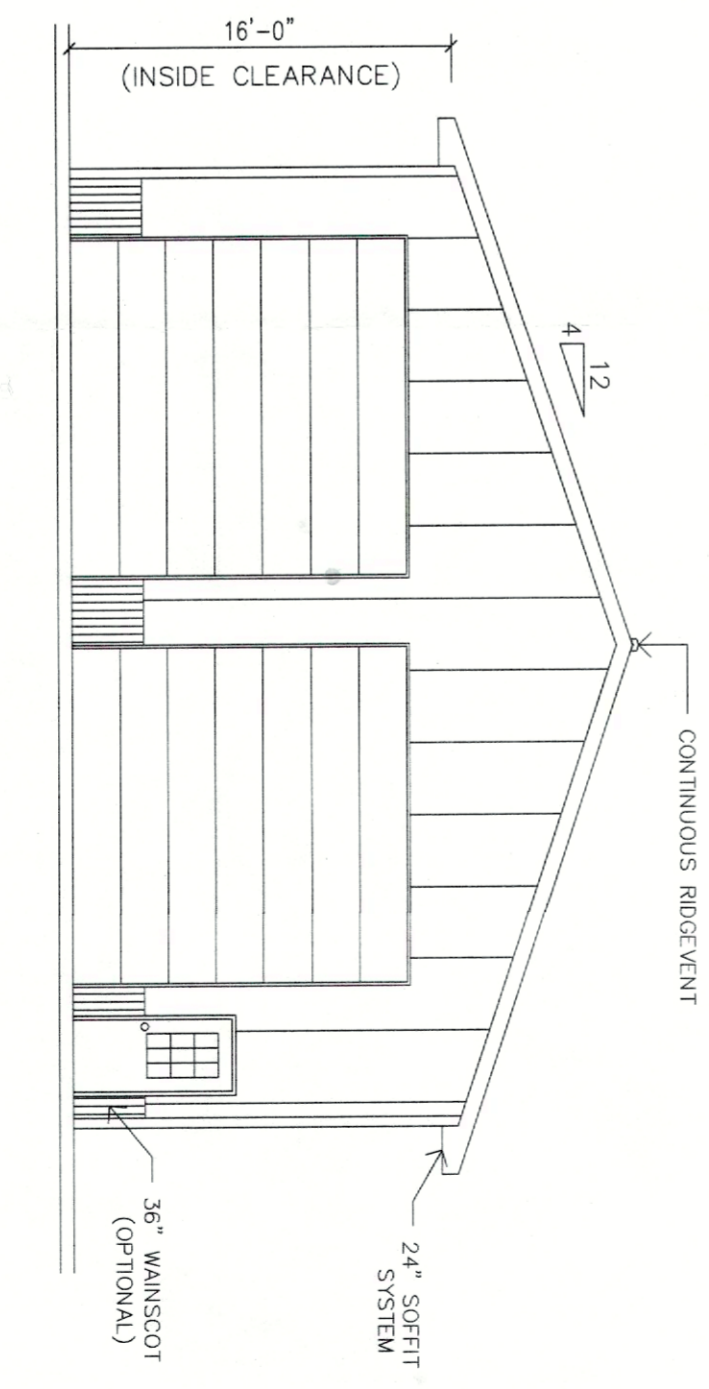
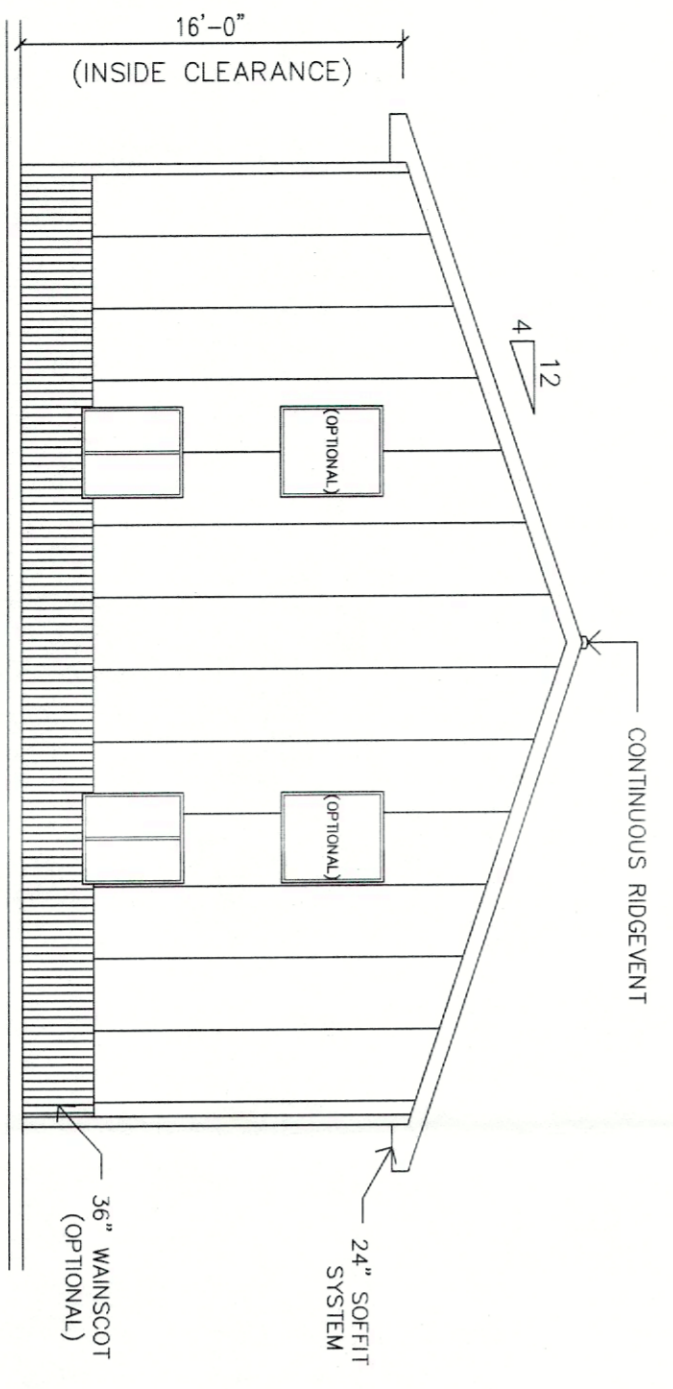
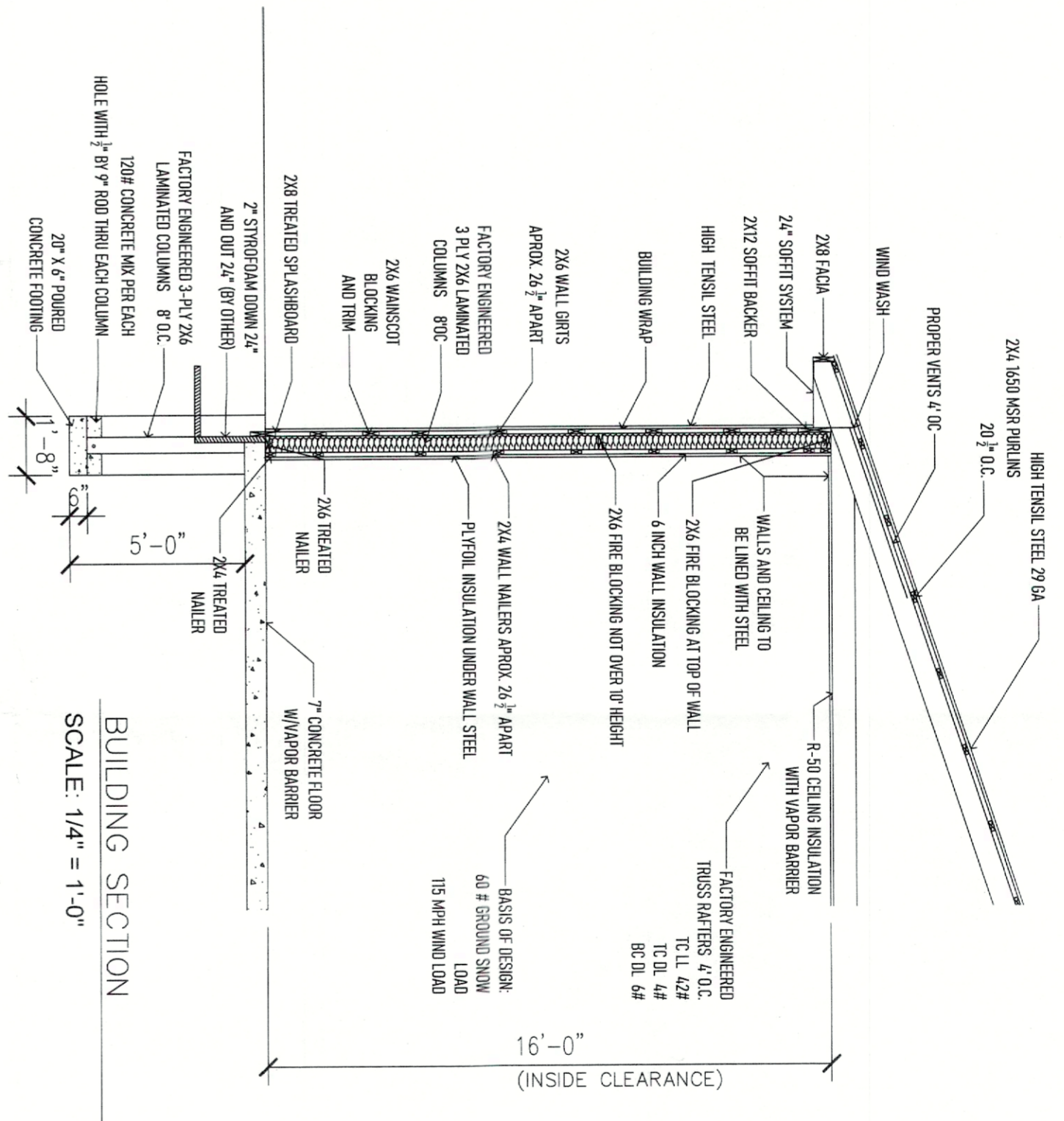
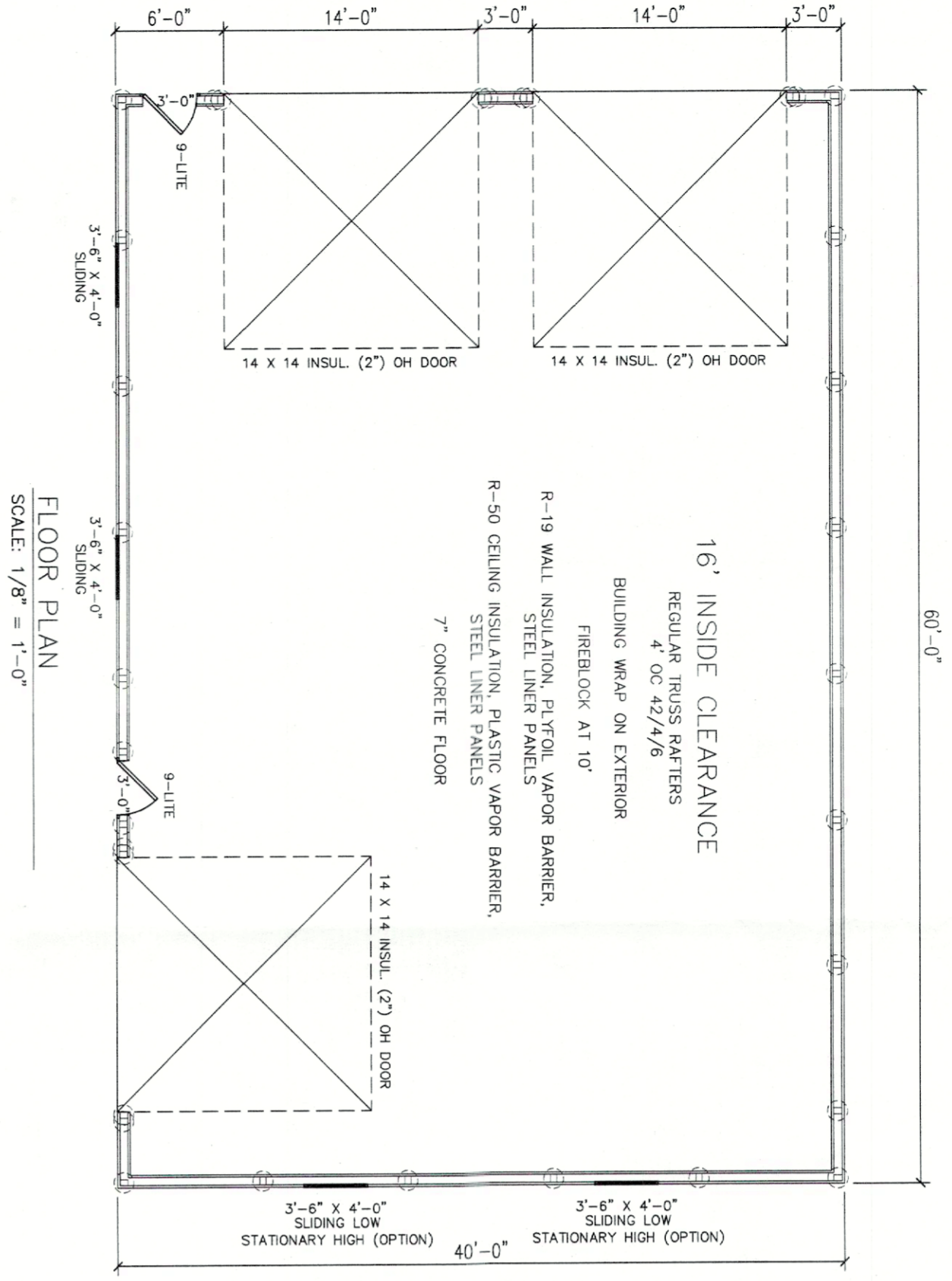
The removal of 100 square feet would be equivalent to a building 40 x 57.5 feet; removing 2.5 feet from the length is not possible to do as the building has to be built in standard foot increments per Foltz so this would require me to remove more than 100 square feet, however we need the full 40 x 60 feet to fit large vehicles in the building for our business Alpine Breeze Septic Service.

This proposed building is not out of character for the Brinks 3rd subdivision, which was originally plotted with roughly 5-to-14-acre sites; large outbuildings of a farm nature are the norm. Many of our neighbors in these acreages have one or more accessory structures as well as corrals and horses. An extra 100 square feet of building will not change the look of the neighborhood or be out of character for the neighborhood.

Please consider our variance of an extra 100 sq foot of accessory building.

Thank you,

Vicki McIntyre and Cole McIntyre



SIDE ELEVATION (VERIFY DIRECTION)
SCALE: 1/8" = 1'-0"

END ELEVATION (VERIFY DIRECTION)
SCALE: 1/8" = 1'-0"

END ELEVATION (VERIFY DIRECTION)
SCALE: 1/8" = 1'-0"

COLE & VICKI MCINTYRE
HORACE, ND

FOLTZ BUILDINGS, INC
DETROIT LAKES, MN

SCALE: 1/8" = 1'-0"
DATE: 4/18/2024

DRAWN BY: LB
SALESMAN: MKC T

DRAWING NUMBER
1 OF 1



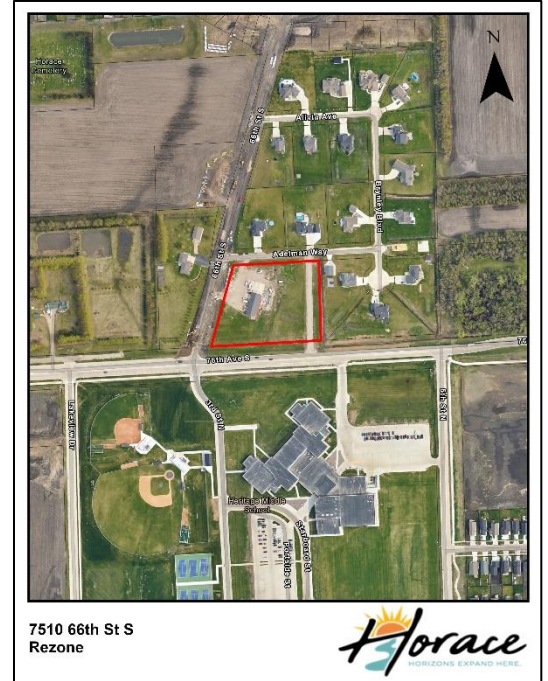
**CITY OF HORACE
PLANNING AND ZONING COMMISSION
STAFF REPORT**

Application No: CD-2024-11

7510 66th St S Rezone

Contents

1. Exhibit List
2. Process and Noticing
3. Applicants Request
4. General Project Facts
5. Staff Analysis
6. Proposed Commission’s Recommendation



**I
APPLICATION EXHIBITS**

The exhibits of the above referenced application consist of the following:

1.1 Exhibits:

<i>DESCRIPTION OF EVIDENCE</i>	<i>Withdrawn</i>	<i>Refused</i>	<i>Admitted</i>
Staff Report			X
Rezone Application			X

**II
PROCESS AND NOTICING**

2.1 In accordance with Horace City Code 4-8.5.D, Amendment Procedures, including rezones, are designated as public hearings, with the Planning and Zoning Commission as a recommending body and City Council as the decision-making body. This application was given proper public notice and followed the requirements set forth in Horace City Code 4-8.5.D.

2.1.1 Notifications

- 2.1.1.1** Radius Notice: May 10, 2024
- 2.1.1.2** Fargo Forum (1st run) May 15, 2024
- 2.1.1.3** Fargo Forum (2nd run) May 22, 2024

**III
APPLICANT REQUEST**

3.1 The applicant has filed an application to rezone the property from its current zoning district classification of AG (Agriculture) to C (Commercial).

**IV
GENERAL PROJECT FACTS**

4.1 Applicant Information:

Property Owner(s):	TA Investments LLC
Owner Contact:	Primemanagement701@gmail.com
Representative:	Josh Teigen
Representative Contact:	teigencompanies@gmail.com

4.2 Site History:

This property in question is currently within Horace City Limits and appears to be a remnant parcel of the previously platted Adelman Addition. parcels in question are remnant parcels of previously platted additions of Southdale Farms. Right-of-Way was acquired from these parcels for the construction of 66th St S. A building permit was issued in 2006 to construct the current shop building for storage purposes, as storage was permitted within the AG district. City Staff at the time not a special condition on the permit, that change of use of the property would require a conditional use permit. The current staff is of the understanding that the property has changed uses several times, and no conditional use permit has been filed. If the proposed use is outside of the realm of agricultural, a zone change would be required to operate. In April of 2024, a new business began operations within the existing structure on site, which sparked the request to rezone the property. No further land use actions have occurred on the proposed properties.

4.3 Surrounding Land Uses:

North	SR-2	Suburban Residential 2
South	CIV	Civic
East	SR-2	Suburban Residential 2
West	17/76	17/76

4.4 Parcel Sizes, Current Zoning and Parcel Number(s):

Approx. Size	Current Zoning	Parcel Numbers
3.49 ac	AG	15020010002060

4.5 Services:

- 4.5.1 Sanitary Sewer** – Private Septic
- 4.5.2 Storm Water** – Open Ditch (Gravity Lines in 76th Ave S)
- 4.5.3 Water** – Cass Rural Water Users District
- 4.5.4 Fire Protection** – Southern Valley Fire & Rescue
- 4.5.5 Police Protection** – Cass County Sheriff

4.6 Existing Structures, Vegetation and Natural Features

The site contains a 40 x 96 shop building, septic tank, and gravel parking. To the staff’s knowledge, no additional structures or vegetation exist on site.

4.7 Environmental Issues

No environmental Issues have been identified through staff’s review.

4.8 Comprehensive Plan and Future Land Use Map

The Horace Comprehensive Plan identifies the site as Community Focus. With the adoption of the new Land Use Ordinance, a small amendment to the Comprehensive Plan will need to be made in order to sync the compatibility table listed on page 26 to include the updated zoning districts. With that said, the current table identifies C-2 and C-3 as compatible zoning districts. The applicants request of Commercial, per the new Land Use Ordinance is the most direct correlating district, and therefore should be viewed as compatible with the underlying Future Land Use Map designation.

The overall development enables the following Horace 2045 Comprehensive Plan Policies:

Plan Policy	Policy Description
CC-2.1	“Are not in conflict with adjacent uses, public facilities and infrastructure systems”
GM-2.3	“Encourage the rehabilitation or, if rehabilitation is not feasible, the redevelopment of aging properties in the older portions of the city.”
CC-2.3	“Connect to adjacent residential developments, mixed use centers, economic areas, public facilities, natural resources and other community facilities.”
GM-2.1	“Encourage development to locate contiguous to existing urban development”

However, the proposed rezone may fail to address the following Horace 2045 Comprehensive Plan policies:

Plan Policy	Policy Description
CC-2.1	“Are not in conflict with adjacent uses, public facilities and infrastructure systems”
CC-4.4	“Protect residential neighborhoods from encroachment and detrimental impacts from other more intensive land uses and continue to enforce existing regulations that provide buffering from more intensive uses.”

VI STAFF ANALYSIS

- 6.1** The applicant is proposing to rezone an approximately 3.49-acre parcel from its current district classification of AG (Agriculture) to C (Commercial) utilizing the zoning districts defined in the new Land Use Ordinance, which was approved by the City Council on April 1, 2024, effective April 10, 2024.

Section 4-8.5(E) (Criteria for Amendment to the Official Zoning Map (Rezoning)), established criteria for the Planning and Zoning Commission and City Council to consider when making a determination on rezone applications. Below is the criteria and staff's analysis of each criteria item as it relates to the proposed rezone application:

- 1) Consistency with the goals, policies, and future land use map of the Comprehensive Plan. If conditions have changed since the Comprehensive Plan was adopted, recent development trends in the area.
 - **Staff Analysis:** Overall, the proposed rezone is consistent with goals, policies and future land use map of the Comprehensive Plan. The subject site is designated as "Community Focus". The Comprehensive Plan does not include the newly updated districts in the compatibility table; however Community Focus identifies C-2 and C-3 and compatible districts. The newly established Commercial District is the most directly correlating district and therefore should be viewed as compatible with the underlying Future Land Use Map Designation.

While the Rezone meets several policies and goals within the comprehensive plan, without additional provisions, this request may impact plan policies CC-2.1 and CC-4.4 as noted in section 4.8 of this report.

- 2) Compatibility of the site's physical, geological, hydrological, and other environmental features with the host of uses currently permitted in the proposed zoning district.
 - **Staff Analysis:** To Staff's knowledge, physical, geological, hydrological and other environmental features appear to be compatible with uses currently permitted in the proposed zoning district.
- 3) Evidence from the applicant that the applicant cannot receive a reasonable return on investment through developing the property with the uses permitted under the current zoning.
 - **Staff Analysis:** The applicant has not disclosed the purchase price of the property in question. No evidence has been provided by the applicant; however, it can be argued that the financial value of developable commercial property is much greater than property zoned AG. Land uses available to commercial property far exceed that of AG property as well.
- 4) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
 - **Staff Analysis:** Property to the west of the subject property has a long-term designation of Community Focus, and under the new land use ordinance is zoned 17/76, which is a commercial in nature district with mixed uses allowed. The potential issue concerns the existing subdivision, which covers the east and north boundaries of the property. The existing subdivision is currently zoned SR-2 (Suburban Residential 2) which carries a minimum lot size of 13,500 square feet. Per Table 4-5.3.A.11.E requires a Major buffer between Commercial Districts and properties zones SR-2. The Major buffer consists of two (2) continuous rows of evergreens, measuring at least eight (8) feet in height at the time of plants, evenly staggered and a rolling landscape berm averaging three (3) feet in height. Additionally, Table 4-5.3.B.1.B notes that a decorative wall ranging from six (6) to eight (8) feet in height may be required.

Now, 4-5.3.A.3 within Horace City Code pertains to the existing sites, and it states that “When an existing site is undergoing improvement, a change in use or expansion, the objective of these standards (landscaping and natural features) shall be to gradually bring the site into compliance with the minimum standards of this section in proportion to the extent of the expansion or improvement. Staff is of the understanding that a dance studio and a company referred to as Midwest Bounce are currently occupying the building. With the proposed rezone, no additional expansions of the building are proposed at this time. In thinking about proportional compliance, the footprint of the building is not changing at this time. Staff could argue that the intensity of use has changed with the building’s current occupants, which would necessitate for some site improvement to be included as a condition of approval for the rezone.

At this point in time, Staff would recommend the installation of a major buffer per 4-5.3.A.11.E. Staff would note that although the current occupancy of the building appears to be not be of detrimental impact to the surrounding uses, the changing of zoning entitles the property owner to the uses permitted within the land use table for the Commercial Zoning District. Staff would also note that further development of the property will require additional land use applications and approvals by the City and may require further site improvements to be in compliance with City Ordinance.

- 5) The capacity of utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the City.
 - **Staff Analysis:** Utilities and services currently available to site are sufficient to accommodate the current use of the building on site. Further expansion of the building, or development of the property will require a connection to City Sewer. Additional infrastructure improvements may be required as determined by City Staff and the City Engineer.
- 6) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
 - **Staff Analysis:** The proposed property is adjacent to a newly constructed segment of 66th St S. The Collector roadway should be able to accommodate the current uses of the property as well as future uses.
- 7) The apparent demand for the types of uses permitted in the requested zoning district relative to the amount of land in the City currently zoned and available to accommodate the demand.
 - **Staff Analysis:** Out of the approximate 9,200 acres that make up Horace City Limits, 0.67% or 61.78 acres are currently zoned for Commercial. As the City continues to grow at a rapid pace, the demand for commercial properties to provide goods and services to residents will continue. Additional growth from Cities in Southwest corner of the metro will add additional pressure to add commercial areas within the City.
- 8) The boundaries of the requested zoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the Schedule of Regulations.
 - **Staff Analysis:** The property is large enough to meet the lot dimensional standards for the proposed zoning district. Future site development will need to be cognizant of the increase in site improvement requirements now required in Horace City Code.

- 9) The requested rezoning is to the most appropriate district.
- **Staff Analysis:** Based on the Future Land Use Map, the Current Use of the building, and its proximity to other Commercial uses and more intensive uses, Staff believes this is the most appropriate district.
- 10) If the request is for a specific use, is rezoning the land more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use?
- **Staff Analysis:** The purpose of this rezone is to bring a property in terms of use, back into compliance. Staff believes AG district should be left to AG uses and Commercial Uses oriented around Agriculture. Staff would not recommend amending the list of permitted or special land uses within the current district.
- 11) The requested rezoning will not create an isolated and unplanned spot zone.
- **Staff Analysis:** The Future Land Use Map considers Commercial a viable zone for Community Focus Areas. While no additional commercial parcels are directly adjacent, the parcel sits on the corner of an arterial and collector roadway. Furthermore, commercial development exists 660 feet to the west of the property question.
- 12) The request has not previously been submitted within the past one (1) year, unless conditions have changed, or new information has been provided.
- **Staff Analysis:** No request for rezone has been submitted within the past one (1) year.
- 13) Other factors as appropriate.
- **Staff Analysis:** No other factors have been considered at this time.

VII

PROPOSED PLANNING AND ZONING COMMISSION RECOMMENDATION

- 6.1** *Note: This motion is for the recommendation of approval, conditional approval or denial of the Rezone Application to the City Council. However, if the Planning and Zoning Commission wishes to approve or deny specific parts of this request as detailed in the report, those changes must be specified.*

City Staff hereby recommends that the Planning and Zoning Commission recommend conditional approval of the Rezone application for 7510 66th St S subject to the following conditions of approval:

- 6.1.1** A major buffer shall be installed in accordance with Horace City Code along the north and east property lines of the subject property. A timeline shall be specified by the City Council.
- 6.1.2** Further development of the subject site, or expansion of the existing building will require additional site improvements including, but not limited to, foundation plantings, a parking lot buffer, further buffering such as a decorative wall, parking lot improvements, etc.
- 6.1.3** Further development of the subject site, or expansion of the existing building will require connection to City Sewer and/or infrastructure improvements, as determined by the City Engineer.
- 6.1.4** The property owner shall file for a certificate of zoning compliance for the current occupants of the building prior to the 2nd reading of the rezone ordinance.

6.1.5 If the conditions of this rezone are not met, the zoning district classification of this property shall be reverted to AG (Agriculture).



COMMUNITY DEVELOPMENT DEPARTMENT
215 PARK DRIVE EAST
HORACE, NORTH DAKOTA 58047
PHONE: 701.492-2972
E-MAIL: bvoigt@cityofhorace.com
www.cityofhorace.com

APPLICATION DATE

(mo/day/year) 3/19/24

ZONE CHANGE APPLICATION

1 PROPERTY OWNER INFORMATION

NAME (PRINTED): TA Investments LLC
ADDRESS: Po Box 104, Horace ND 58047
PRIMARY PHONE: 701-412-7151
ALTERNATIVE PHONE: 701-552-1712
EMAIL: Primemanagement701@gmail.com

2 REPRESENTATIVE INFORMATION (DEVELOPER, SURVEYOR, ENGINEER)

NAME (PRINTED): Josh Feigen
ADDRESS: 229 Chestnut Dr, Horace ND 58047
PRIMARY PHONE: 701-412-7151
ALTERNATIVE PHONE: 208-201-8115
EMAIL: feigencompanies@gmail.com


3 PROPERTY DETAILS

LEGAL DESCRIPTION: Parcel # 15-0200-10002-060
ADDRESS: 7510 66th St, Horace ND 58047
CURRENT ZONING: Agricultural
PROPOSED ZONING: Commercial

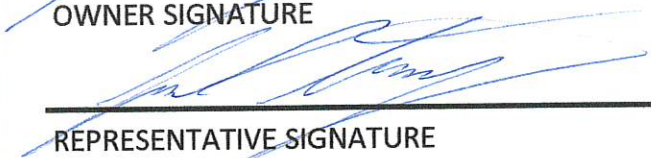
4 BRIEF NARRATIVE DESCRIPTION OF REASON(S) FOR APPLICATION

This property has been used for commercial applications for years and the city asked previous owners to consider rezoning as commercial. There is a tenant renting the building from us that wants to operate a business out of the space that would require commercial zoning.

8 SIGNATURE


OWNER SIGNATURE

2/28/24
DATE


REPRESENTATIVE SIGNATURE

2/28/24
DATE

ZONING CHANGE FEE SCHEDULE

ZONING CHANGE FEE—\$325.00

DATE FEE PAID:

NOTE: A NONREFUNDABLE FILING FEE MUST BE ACCOMPANIED WITH THE APPLICATION AT TIME OF SUBMITTAL MADE PAYABLE TO THE CITY OF HORACE.

ACKNOWLEDGEMENT: WE HEREBY ACKNOWLEDGE THAT THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF OUR KNOWLEDGE AND THAT THE PRIMARY CONTACT NAMED ABOVE WILL BE CONTACTED IF ANY QUESTIONS ARISE AND WHEN THE PLAT HAS BEEN APPROVED AND APPROPRIATE COPIES ARE READY FOR RECORDING.



**CITY OF HORACE
PLANNING AND ZONING COMMISSION
STAFF REPORT**

Application No: CD-2024-18

Maple Lake Estates Setbacks Variance (Dabbert Custom Homes)

Contents

1. Exhibit List
2. Process and Noticing
3. Applicants Request
4. General Project Facts
5. Staff Analysis
6. Proposed Commission’s Recommendation



**I
APPLICATION EXHIBITS**

The exhibits of the above referenced application consist of the following:

1.1 Exhibits:

<i>DESCRIPTION OF EVIDENCE</i>	<i>Withdrawn</i>	<i>Refused</i>	<i>Admitted</i>
Staff Report			X
Variance Application			X
Variance Lot List			X

**II
PROCESS AND NOTICING**

2.1 In accordance with Horace City Code 4-7.1 and 4-8.8, Variances are designated as public hearings, with the Planning and Zoning Commission as a recommending body and City Council as the decision-making body. This application was given proper public notice and followed the requirements set forth in Horace City Code 4-7.1.

2.1.1 Notifications

- 2.1.1.1** Radius Notice: May 10, 2024
- 2.1.1.2** Fargo Forum (1st run) May 15, 2024
- 2.1.1.3** Fargo Forum (2nd run) May 22, 2024

**III
APPLICANT REQUEST**

3.1 The applicant has filed a variance application seeking relief from the setback requirements and lot coverage requirements for the SR-3 Zoning District for the remaining lots within Maple Lakes Estates that are owned by Dabbert Custom Homes.

**IV
GENERAL PROJECT FACTS**

4.1 Applicant Information:

Property Owner(s):	Don Dabbert Jr
Owner Contact:	don@dabberthomes.com
Representative:	William Ortmeier
Representative Contact:	William@dabberthomes.com

4.2 Site History:

The properties in question were platted as a part of the Maple Lake Estates Subdivision in 2020. Along with the plat application, the property was rezoned from A (Agricultural) to R-4 (Intermediate Density Residential). Several building permits have been pulled, with several of the lots occupied by new residents.

4.3 Surrounding Land Uses:

North	CIV	Civic
South	AG	Agriculture
East	SR-3 SR-1	Suburban Residential 3 Suburban Residential 1
West	AG	Agriculture

4.4 Parcel Sizes, Current Zoning and Parcel Number(s):

Parcel Number	Address	Block	Lot	Zoning
15111000530010	10366 Burgundy Dr	2	35	SR-3
15111000520010	10358 Burgundy Dr	2	34	SR-3
15111000510000	10350 Burgundy Dr	2	33	SR-3
15111000500000	10342 Burgundy Dr	2	32	SR-3
15111001110000	10210 73rd St S	6	14	SR-3
15111001100000	10218 73rd St S	6	13	SR-3
15111001090000	10226 73rd St S	6	12	SR-3
15111001080000	10234 73rd St S	6	11	SR-3
15111001070000	10242 73rd St S	6	10	SR-3
15111001060000	10250 73rd St S	6	9	SR-3

15111001050000	10258 73rd St S	6	8	SR-3
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4.5 Existing Structures, Vegetation and Natural Features

The properties listed in section 4.4 of this report are fully platted properties with water and sewer connections available. The properties are currently vacant, build ready lots.

**V
STAFF ANALYSIS**

5.1 With the adoption of the City’s new Land Use Ordinance, the City Council included a section within the nonconforming lot section essentially grand fathering the setbacks for any platted property that was zoned R-6 or in the entitlement process requesting R-6 as a zoning district. The properties in question were zoned R-4 and therefore not included in the grandfathered clause. Subsequently with the adoption of the ordinance, the properties in question were zoned SR-3. The SR-3 zoning district requires a minimum front yard setback of 25 ft, a rear yard setback of 40 ft and side yard setbacks of 10 ft (25 ft street side yard). Additionally, the SR-3 zone has building coverage maximum of 30%. The applicant is requesting that the dimensional standards and building coverage standards be modified with the R-4 zoning district standards as defined in the 2003 Land Use Ordinance in order to maintain consistency with lots already built on within the Maple Lake Estates. For reference, the R-4 zoning district carried a maximum lot coverage of 50%, a front yard setback of 30 ft, a rear yard setback of 30 ft and a side yard setback of 8 ft (18 ft street side yard).

Staff can recognize that this development has been in the home construction process since 2020, and the dimensional standards of the new land use ordinance may limit the planned footprint of homes within the development.

Staff would note that the lot widths throughout Maple Lake Estates meet or exceed the minimum lot width required in the SR-3 zoning district, however there are several lots that fail to meet the 10,800 square foot minimum for lot size, which may pose a practical difficulty in meeting the newly applied lot coverage standards.

This request is identical to Case Number CD-2024-13, which was a request for lots owned by Thomsen Homes within Maple Lake Estates.

**VI
PROPOSED PLANNING AND ZONING COMMISSION RECOMMENDATION**

6.1 *Note: This motion is for the recommendation of approval, conditional approval or denial of the Variance Application to the City Council. However, if the Planning and Zoning Commission wishes to approve or deny specific parts of this request as detailed in the report, those changes must be specified.*

City Staff hereby recommends that the Planning and Zoning Commission recommend approval of the variance application for the lots listed in section 4.4 of this report within the Maple Lake Estates Addition.



Variance Application

PO Box 99 | 215 Park Dr. E | Horace, ND 58047
(701) 492-2972 | www.CityofHorace.Com

Applicant Information

Name: William Ortmeier Address: 5522 36th St S, Fargo, ND 58104
Primary Phone: 701-205-4979 Email: william@dabberthomes.com

Owner Information

Name: Don Dabbert Jr. Address: 5522 36th St S, Fargo, ND 58104
Primary Phone: 701-205-4979 Email: don@dabberthomes.com

Representative Information (Developer, Surveyor, Engineer, Etc.)

Name: _____ Address: _____
Primary Phone: _____ Email: _____

Property Information

Property Address: Maple Lakes Estates Block 2 Lots 32-35; Block 6 Lots 8-14
Parcel No(s): _____
Legal Description: _____
Acres: _____
Current Zoning District(s): R-3

Variance Information

Type of Variance Requested (For more information Please see Horace City Code 4-6.13 & 4-8.8)
Subdivision Variance: Individual Variance:

What Section of Horace City Code are you requesting a variance from? _____

Please provide the specific reason for the variance request:
The change in setbacks as of April 2024 creates lot dimensions outside of common residential building standards for the industry. Hardship is seen through imposed impractical building widths for the market in consideration of lot price resulting in considerable design expenses and buyer disinterest in the subdivision.
(i.e. Block 2 Lot 35 street side setback moved from 18' to 25' and interior side setback moved from 8' to 10' imposing a maximum building width of 39')

Variance Application Checklist

- Completed and Signed Variance Application
- For Individual Variances: Provide a narrative explain how the following standards are present:
 - Special conditions and circumstances exist which are peculiar to the premise, and which are not applicable to other premises in the same zoning district.

- Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- Special conditions and circumstances have not resulted from actions of the applicant.
- Granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.
- For Subdivision Variances: Provide a narrative explaining how the following standards are present:
 - A literal enforcement of any provision would result in great practical difficulties, unnecessary hardship, or injustice.
 - The difficulties, hardship, or injustice is based on conditions unique to the property (e.g., unique physical conditions, etc.) which were not created by the subdivider.
 - Granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining property.
 - Granting of the variance will not be contrary to the public interest or the general purposes of this code.
 - The variance will not place the subdivision in nonconformance with any adopted zoning standards or the Comprehensive Plan.
- Proof of whether the practical difference or undue hardship is unique to the applicant's property.
- A map showing the existing land uses and zoning district classification of the area.

Signature

Applicant Signature: William Ortmeier Date: 5.1.2024

Representative Signature: _____ Date: _____

Acknowledgement: By signing above you are acknowledging that the above information is true and complete to the best of your knowledge, and that all required items included in this application have been provided.

****Office Use Only****

Application No: _____
 Project Name: _____
 Date Received: _____
 Date Fee Paid: _____

Variance Fee Schedule

Variance Application Fee - \$325.00

Note: All application fees are non-refundable and are due at time of application submittal. Checks should be made payable to the City of Horace.

Please deliver a copy of the completed application to Horace City Hall, 215 Park Drive E, Horace, ND 58047, or send via email to JHellman@CityofHorace.com.

Maple Lake Estates

Address	City	State	Block	Lot
10366 Burgundy Dr	Horace	ND		35
10358 Burgundy Dr	Horace	ND		34
10350 Burgundy Dr	Horace	ND		33
10342 Burgundy Dr	Horace	ND		32
10210 73rd St S	Horace	ND		14
10218 73rd St S	Horace	ND		13
10226 73rd St S	Horace	ND		12
10234 73rd St S	Horace	ND		11
10242 73rd St S	Horace	ND		10
10250 73rd St S	Horace	ND		9
10258 73rd St S	Horace	ND		8