

Grimes Board of Adjustment Agenda

Grimes Community Complex
410 SE Main Street, Room 202
Grimes, Iowa 50111
Phone | 515.986.4050
www.grimesiowa.gov

Mission Statement

The mission of Grimes City Government is to provide excellent/exceptional city services and facilities in a financially responsible and community-friendly manner through a high performing city team that result in adding value to resident's lives.

Board Members | Matthew Moran, Charles Strutt,
Joshua Stott, Trevor Brown

**Grimes Board of Adjustment Meeting
February 21, 2024 @ 5:30 PM
In Person at Grimes Community Center, 410 SE Main Street, Room 202**

GENERAL AGENDA ITEMS

1. Roll Call
2. Approval of Agenda
3. Approval of Minutes from Previous Meeting

PUBLIC AGENDA ITEMS

1. Vote for Chair and Vice Chair of the Board
2. Request for Variance to Allow Aggregate Surface for Outdoor Storage and Heavy Equipment at 3905 SE Capitol Circle and associated parcels
3. Request for Variance to Reduce Screening Requirements for Outdoor Storage and Heavy Equipment at 3905 SE Capitol Circle and associated parcels

ADJOURNMENT

**BOARD OF ADJUSTMENT MINUTES
May 18, 2022**

DEVELOPMENT SERVICES
101 NE Harvey St.
Grimes, Iowa 50111
P: (515)986-4050
F: (515)986-4480
www.grimesiowa.gov

LETSCH CALLED THE MEETING TO ORDER AT 5:30 P.M.

BOARD MEMBERS PRESENT: LETSCH, MORAN, STRUTT, BROWN

BOARD MEMBERS ABSENT: NA

STAFF PRESENT: MARTIN, MANNEL, GREVING

I. APPROVAL OF THE AGENDA

MOVED BY STRUTT, SECONDED BY MORAN – AYE: UNANIMOUS

II. APPROVAL OF MINUTES

MOVED BY BROWN, SECONDED BY STRUTT – 3 AYES, BROWN ABSTAINED

III. PUBLIC AGENDA ITEMS

Public Hearing Appeal #3-22 request to reduce the 30-foot front setback by 3 feet – 3000 SE Keystone Drive.

Staff member Mannel provided a staff report to the Board of Adjustment. Currently, the front of the home has a concrete stoop with an awning one foot back from the setback, and the owner would like to add a patio porch with a pergola next to it. The addition would encroach two feet into the front setback.

The contractor for the project stated the owner would like to improve her space to provide better functionality.

The Board discussed the request and asked questions of the applicant and staff.

Board Action Ref: #3-22

MOVED BY MORAN TO TABLE REQUEST TO REDUCE THE 30-FOOT FRONT SETBACK BY 3 FEET – 3000 SE KEYSTONE DRIVE, SECONDED BY BROWN
AYE: UNANIMOUS

Public Hearing Appeal #4-22 request to allow aggregate surface for outdoor storage and heavy equipment – 1200 SE 25th Street.

Staff member Martin provided a staff report to the Board of Adjustment. The lot is currently vacant and zoned M-1A. Due to the zoning of the parcel, aggregate surfacing is not allowed. Only one case similar to this has been presented to the Board and approved, and it was only for a temporary time.

The applicant explained that the concrete would break and require repairs fairly often if they used concrete and that they believed the aggregate surfacing would fit in with the surrounding neighborhood.

The Board discussed the request and asked questions of the applicant and staff. The Board discussed other alternatives that the applicant could pursue.

Board Action Ref: #4-22

MOVED BY MORAN TO APPROVE REQUEST TO ALLOW AGGREGATE SURFACE FOR OUTDOOR STORAGE AND HEAVY EQUIPMENT – 1200 SE 25TH STREET, SECONDED BY BROWN
NAY: UNANIMOUS

IV. ADJOURNMENT

Meeting adjourned at 6:39 PM

Signature

DATE

February 21, 2024

APPLICANT

Zach DeCarlo
DeCarlo Properties, LLC

LOCATION

3905 SE Capitol Circle

REQUESTED ACTION

Variance request to allow aggregate surface for outdoor storage and heavy equipment.

Variance request to reduce outdoor storage screening.

ZONING

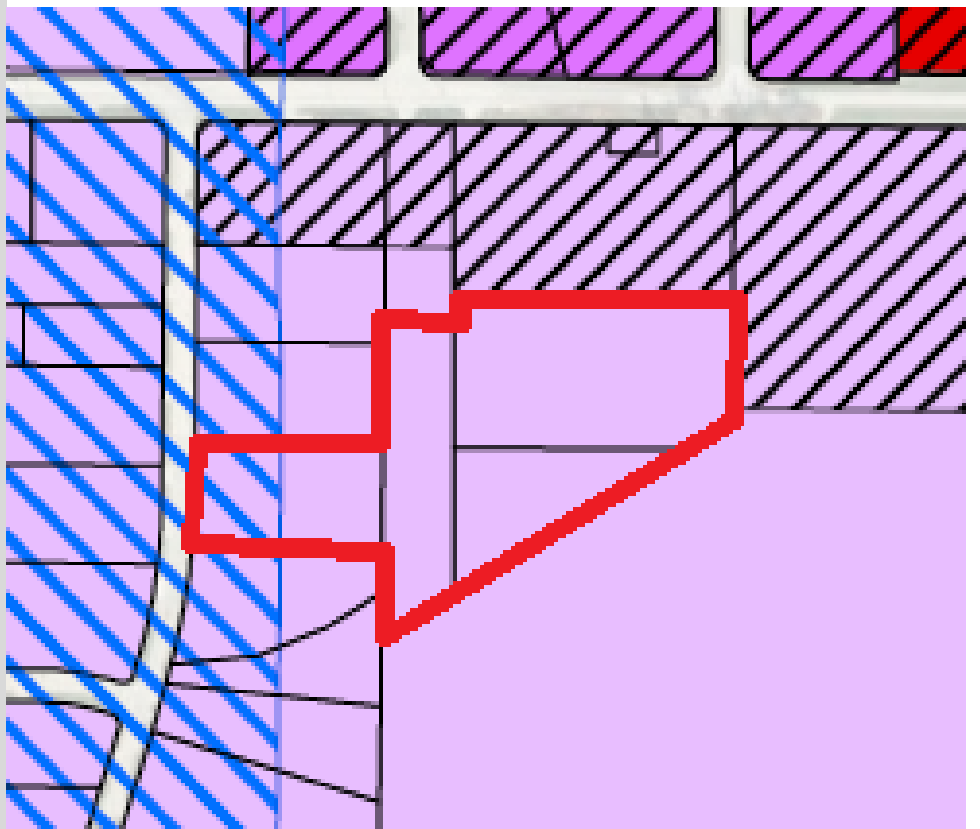
M-1A

PLANNER

Evann Martin
emartin@grimesiowa.gov
(515)986-4050



Location Map



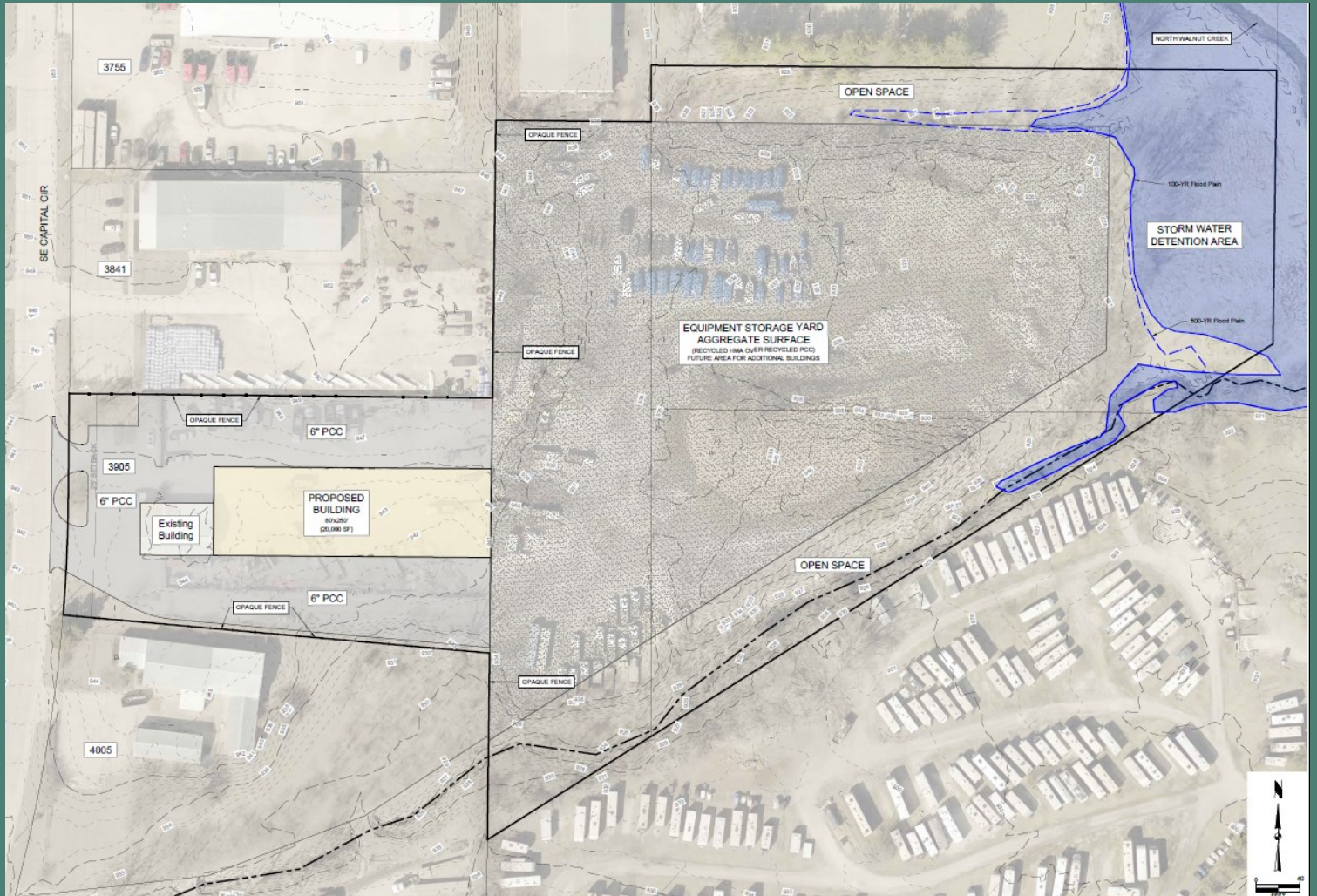
Zoning Map

Background

LAND USES & ZONING

Location	Existing Land Use	Land Use Plan Designation	Current Zoning
Subject Site	Industrial	Light Industrial	M-1A
North	Industrial/Church	Light Industrial/Civic	M-1A
South	Industrial	Light Industrial	M-1A
East	Cutty's	Business Park	M-1A
West	Industrial	Light Industrial	M-1A

The applicant is preparing to begin the site plan review process for the site located at 3905 SE Capitol Circle to construct a building addition for Q3, a construction contractor. The proposed site plan would include an approximately 20,000 square foot warehouse addition with an outdoor storage area on the east side of the site as shown on the concept plan provided with the application.



Background—Aggregate Surfacing

The applicant is requesting a variance to allow the outdoor storage portion of the site to be aggregate surface rather than asphalt or concrete paving as required by the Grimes Zoning Ordinance. The area is approximately 4.8 acres and would be located on the east side of the site behind the building. The applicant is proposing to operate heavy equipment in the aggregate surface area. As defined in the zoning ordinance, heavy equipment is 10,000 pounds or more and would cause undue stress to concrete or asphaltic surfaces resulting in premature failure of such surfaces.

The zoning ordinance requires all parking and circulation areas to be hard surface asphalt or concrete to provide dustless surfaces within the City. There are provisions in the zoning ordinance that allow non-paved surfaces for certain zoning districts, for heavy equipment only, and limits the size of non-paved areas as referenced in the code section below.

12-15-4 9.A. "...a parking space does not have to be hard surfaced if it will be used for the storage of heavy equipment within M-2 and M-3 zoning districts, and in that case, it may be surfaced with recycled asphalt or other like material to provide a dustless surface area. All driveways or access areas leading to the storage area must be hard surfaced with an asphaltic surface or portland cement. The alternate parking surface shall be limited to 15% of the site but in no case more than one (1) acre in size and cannot be located within an overlay district. All heavy equipment storage shall be screened with landscaping and fencing."

In 2020, the Ordinance was updated to reflect the above language. Prior to the update, aggregate surfacing was permitted in all Zoning Districts, provided it was used for heavy equipment as noted above. The intent with the modification to the Ordinance, was that uses commonly permitted in the M-1A zoning district do not meet the requirements for the aggregate surfacing. Additionally, a majority of the M-1A zoning is located in overlay corridors within the City, which already have hard surfacing and outdoor storage restrictions. In this case, it is a bit unique that the proposed business meets the M-1A standards, but also operates heavy machinery.

Regardless of the intent outlined above, the request for the aggregate surface would require two variances to be granted.

- Zoning District - A variance would be required to allow the aggregate surface within the M-1A zoning district. The ordinance only allows non-paved surface in M-2 and M-3 zoning districts.
- Area - A variance would be required to allow 4.8 acres of aggregate surface. The ordinance only allows 15% of the site but not more than 1 acre of aggregate surface. The current proposal would take up 50% of the site and is more than 1 acre in size.

Previous Case History – Aggregate Surfacing

In 2022, the Board reviewed a variance request to allow aggregate surface for outdoor storage and heavy equipment on property located at 1200 SE 25th Street. The applicant, Seedorf Masonry and Architectural Wall Systems, desired to have aggregate surfacing for their outdoor storage yard. The applicant was concerned that their equipment would tear up the concrete and require constant maintenance. The applicant also felt that the aggregate surfacing would be consistent with other neighboring properties that had non-paved surfacing. A variance was required because the property was zoned M-1A where paved surfacing is required. In addition, the requested aggregate storage area exceeded the size threshold established in the zoning ordinance for non-paved surfacing.

The Board did not support the argument that the aggregate surfacing would match the character of the surrounding area because any existing non-paved surfaces were established prior to the existing zoning ordinance. In addition, the Board felt there was not enough reasoning to support the aggregate surfacing and that thicker pavement should be provided to support the equipment on site. The variance request was unanimously denied.

In 2019, the Board a variance request to allow gravel surfacing on a temporary basis. The applicant received two new, large contracts that required the acquisition of several straight trucks and trailers. The applicant proposed a temporary granular surfaced parking area until the business could evaluate the business growth and prepare plans for a permanent paved parking lot. The Board granted the variance to allow the gravel surface for 18 months.

Analysis—Aggregate Surfacing

ANALYSIS

Based upon the approved ordinance, the Board of Adjustment may grant a Variance provided the Board can make a finding on the following factors:

1. A showing of good and sufficient cause; and
2. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant; and
3. A determination that the hardship is not self-imposed; and
4. A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
5. A determination that the granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

Notice of the variance request was mailed to surrounding property owners within a 250-foot radius.

Based on a detailed analysis of the application, staff has the following comments to offer concerning this variance request:

GOOD AND SUFFICIENT CAUSE

In lieu of hard-surfaced asphaltic or concrete paving, the applicant is requesting a variance to provide recycled HMA millings over a recycled concrete base for outdoor storage and heavy equipment over approximately 4.8 acres. In the applicant's firsthand experience in the construction and demolition industry, they believe that hard surfacing does not withstand equipment usage and causes pavement to fail. The applicant believes HMA millings will provide a dustless surface as desired by the ordinance.

SUBSTANTIAL HARDSHIP

The applicant believes that a literal enforcement of the ordinance would result in a substantial hardship because it would not be feasible to provide pavement in the long term when the maneuvering of the equipment would cause damage to pavement or asphaltic surfaces. In addition, the applicant is trying to accommodate the expansion of the current tenant. The tenant desires to consolidate their three locations to this site. If appropriate accommodation cannot be made, the tenant may relocate.

SELF-IMPOSED HARDSHIP

The applicant does not believe the hardship is self-imposed, because the ordinance requires pavement for all types of operations without consideration of the use of the site which places undue burden when the uses does not align with the ordinance intent to provide all-weather, dust-free surfacing.

PUBLIC INTEREST

The applicant does not believe that granting the variance will be contrary to the public interest or neighborhood integrity because the proposed use is necessary to support the growth and development in Grimes and the location in Grimes increases local access to the proposed services.

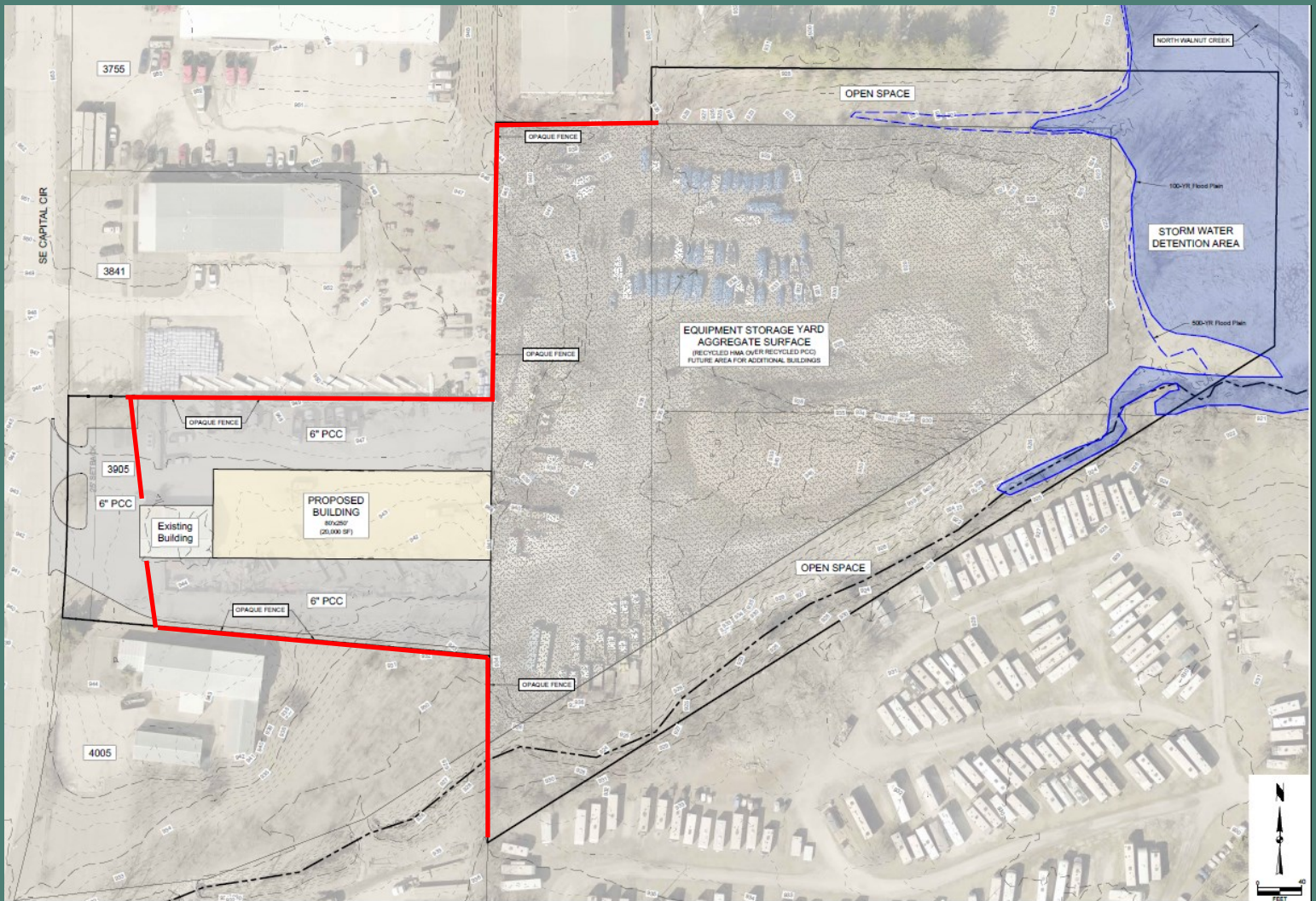
Currently, the site contains multiple uses from different users, including Q3's operations, boat storage for Brightwell's Boathouse, and material storage for DeCarlo Demolition. The proposed expansion of the current tenant would allow all four parcels to be under unified use as a construction company.

Staff always asks the Board to consider that a precedent may be established if the variance is granted. There are several other properties throughout Grimes that are zoned M-1A where outdoor storage and operation of heavy equipment could be permitted. Granting a variance could allow other properties within Grimes to pursue Board of Adjustment action to provide non-paved surface areas.

Background—Outdoor Storage Screening

The applicant is also requesting a variance to reduce the amount of opaque screening provided around the outdoor storage area. As required by the Grimes Zoning Ordinance, all outdoor storage areas are required to be screened with opaque fencing/walls or berms and to be of sufficient height to completely obscure the outdoor storage from view of public right-of-way or adjacent properties. The applicant is requesting not to provide opaque screening along the north, south, and east side of the property as shown in the attached concept plan.

The request to omit opaque screening would require a variance to be granted.



Proposed opaque screening shown in red.

Analysis—Outdoor Storage Screening

ANALYSIS

Based upon the approved ordinance, the Board of Adjustment may grant a Variance provided the Board can make a finding on the following factors:

1. A showing of good and sufficient cause; and
2. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant; and
3. A determination that the hardship is not self-imposed; and
4. A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
5. A determination that the granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

Based on a detailed analysis of the application, staff has the following comments to offer concerning this variance request:

GOOD AND SUFFICIENT CAUSE

The rear portion of the property is not visible from either SE Capitol Circle or SE 37th Street. It is blocked by existing buildings, existing opaque fencing, or vegetation. The applicant feels it is excessive to require an opaque screen fence on the property where the fence would not be visible from the street.

Neighboring property to the north has outdoor storage. Vegetative screening is provided on the church property to the north. To the south there is a drainage way creating a natural screen buffer against Cutty's RV and trailer storage yard and pond. The drainage ditch conveys stormwater from the properties to the east to North Walnut Creek. To the east of the site, there is a floodplain and North Walnut Creek with vegetative buffer. It is the applicant's belief that placement of an opaque screen around the north, east, and south side of the site would obstruct the natural flow of storm water in the drainage basin.

SUBSTANTIAL HARDSHIP

The applicant strongly believes that placing the opaque screen either by means of a fence or berm will negatively impact the natural and historical flow of storm water through the site. Placing these screening at or near the property lines would re-route stormwater outside of its historical flow path and would adversely affect the neighboring properties.

Analysis—Outdoor Storage Screening

ANALYSIS

Based upon the approved ordinance, the Board of Adjustment may grant a Variance provided the Board can make a finding on the following factors:

1. A showing of good and sufficient cause; and
2. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant; and
3. A determination that the hardship is not self-imposed; and
4. A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
5. A determination that the granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

Based on a detailed analysis of the application, staff has the following comments to offer concerning this variance request:

SELF-IMPOSED HARDSHIP

The applicant feels that providing screening on the property would benefit their site rather than the neighboring properties. For instance, Cutty's RV and trailer storage yard provides storage of trailers in the back of their property adjacent to the applicant's property without a defined opaque screen. Other adjacent properties operate with comparable uses, so providing screening is burdensome when there are not views into this area off of the public rights-of-way.

PUBLIC INTEREST

The applicant does not believe that granting the variance will be contrary to the public interest or neighborhood integrity because the adjacent surrounding properties operate in a similar nature with outdoor storage occurring in their side yards and rear yards. The applicant believes it is not beneficial for two adjacent properties to screen their adjacent outdoor storage areas from each other. The applicant's rear properties are currently not visible from the adjacent public roadways, so it seems inequitable to require an area to be screened that already is not visible to the general public.

The proposal to expand the tenant's operation and proposed improvements across the entire site would greatly enhance the property, including grading, removal of existing debris, and leveled surface area to accommodate the tenant's equipment storage needs.

Staff always asks the Board to consider that a precedent may be established if the variance is granted. There are several other properties throughout Grimes where outdoor storage is permitted. Granting a variance could allow other properties within Grimes to pursue Board of Adjustment action to omit required screening of outdoor storage areas.

Conclusion

ALTERNATIVES TO REQUEST

Aggregate surfacing

1. Provide paved concrete or asphalt surface for the outdoor storage and heavy equipment area.

1. Reduce the aggregate area to 1 acre (This would still require a variance to allow aggregate surface the in M-1A zoning district).

Screening

1. Provide opaque fence/wall or berm around the perimeter or the site with an opening at the bottom to allow water to flow through the fence/wall or openings through-out a berm to release stormwater from the site.

1. Place outdoor storage in strategic locations and distances to hide the outdoor storage from the neighboring properties without disturbing drainage paths. Analysis can be conducted through the site plan process to determine placement of the outdoor storage areas using ground elevations, heights of storage and equipment, and viewpoints from neighboring properties. This option may shrink the area that can be used for outdoor storage but could eliminate the need for additional screening improvements onsite.

SUMMARY

The applicant is requesting a variance to aggregate surface for outdoor storage and heavy equipment and a variance to reduce the screening requirements for outdoor storage.

Staff would suggest that if a variance is granted, the following conditions be imposed:

Aggregate Surfacing

1. Reduce the aggregate surface area to 1 acre as required by the zoning ordinance.

Screening

1. Require site analysis to be conducted through the site plan process to determine placement of the outdoor storage areas using ground elevations, heights of storage and equipment, and viewpoints from neighboring properties.



CITY OF GRIMES

DEVELOPMENT SERVICES

410 SE Main Street, Suite 102 , Grimes, Iowa 50111

P: 515.986.4050 | F: 515.986.4480

BOARD OF ADJUSTMENT **APPLICATION FOR** **VARIANCE REQUEST**

Applications are due the first of the month at
12:00 p.m. to be added to the next BOA agenda.

You are required to attend your hearing—by agent or
in person. Please read application thoroughly. The
City has the right to refuse an incomplete application.

INSTRUCTIONS FOR REQUIRED INFORMATION

NO REQUEST FOR VARIANCE CAN BE ACCEPTED FOR FILING UNLESS ALL OF THE REQUIRED INFORMATION IS PRESENTED

1. GENERAL INFORMATION. The Grimes Board of Adjustment (BOA) is empowered by Iowa law and by Ordinance to hear requests for variance(s) and to make decisions on said requests pertaining to the Zoning Ordinance, Chapter 165.37 and for certain exceptions to the district regulations. The BOA is a five-member quasi-judicial body with authority to grant variances in exceptional cases and is limited to such cases that are consistent with the general purpose and spirit of the zoning regulations. The BOA has no authority to allow a variance that would have the effect of establishing a non-conforming use of land or to change district boundaries except as outlined in the Zoning Ordinance.

2. MEETING DATES. The Board of Adjustment meets at 5:30 p.m. on the third Wednesday of each month. Submittal of all the information does not in any way guarantee that the application will be placed on the next available BOA agenda. All BOA meetings are open to the public and are held in the Council Chambers of City Hall, 101 NE Harvey Street, Grimes, Iowa.

3. FILING DEADLINE: The deadline to file an application for variance with the BOA is 12:00 p.m. the first day of the month of the board meeting. All materials must be filed in the Development Services Department office at 410 SE Maine Street Suite 102, Grimes, Iowa.

NOTE: Be sure that you have all required materials at that time. Failure to do so may result in your request for variance being delayed to the next regularly scheduled meeting.

4. FILING FEE: A filing fee is required at the time the materials are filed with the Development Services Department office. The fee covers administrative expenses and legal notification of surrounding property owners within 250 feet of the property in question. No request for variance is to be considered filed until this fee is received. The fee is \$150.00 to request a variance and payment must be submitted with the application. The fee shall be paid at the Development Services Department office, 410 SE Main Street Suite 102. Make all checks payable to the City of Grimes. The fee is nonrefundable.

5. SITE PLAN: The applicant must submit a site plan that clearly shows the variance being requested. The site plan should be drawn to scale, and should be a reproducible, black line drawing or free hand drawing on a sheet of paper no larger than 24" x 36" *{Use of an actual property survey is suggested but not required}*. The applicant may submit the same site plan that was submitted for a building permit. The site plan shall include the following information:

- a) Property lines and dimensions

- b) Location and size of all existing and proposed structures (buildings, driveways, parking lots, sidewalks, fences, etc.)
- c) Required setback and buffer location(s)
- d) Any other pertinent information necessary to fully understand the need for a variance (e.g. significant change in topography, location and size of mature trees, etc.)

NOTE: If the request for variance is for a sign, the request must be accompanied by both a fully dimensioned, to-scale elevation drawing of the sign, as well as a fully dimensioned to-scale site plan showing the exact location of the sign whether it is a free standing or a building sign.

6. SUPPORTING INFORMATION FORM: The Board of Adjustment may grant a variance provided that "unnecessary hardship" exists; that the variance is not contrary to the public interest; and that the spirit of the Zoning Ordinance is upheld. The Supporting Information form addresses these issues and asks for responses to each of the "tests" in order to grant a variance. The Supporting Information form must be completely filled out in order to process the application for a variance.

7. ADDITIONAL INFORMATION: If you have questions about this form, or should you require additional information regarding the variance process, please contact the Development Services Department at (515)986-4050.

APPLICATION FOR VARIANCE

All required information must be presented before acceptance of application.

The applicant must complete all sections in bold for review to begin.

Please type or print:

1. **Date:** February 2, 2024

Applicant Name: Zach DeCarlo

Address: 260 NE 44th Avenue, Des Moines, Iowa 50313
(Street) (City) (State) (Zip)

Telephone Number: 515-953-8380
(Home) (Work)

E-Mail Address: zdecarlo@decarlodemolition.com

2. **Location of Property**

Street Address: 3905 SE Capitol Circle and associated parcels

Legal Description: See attached

Zoning Classification: M-1A: Commercial and Limited Light Industrial District

This request for variance cannot be processed until all required materials are submitted. In addition to this application, the following information is required for submission. On a separate sheet of paper please type or print the following:

3. **Response to the attached supporting information form**

4. **Site plan drawn to scale**

This plan shall be no larger than 24" x 36" and easily reproducible.

5. **Application fee**

An application is not considered filed until filing fee is paid.

The Board of Adjustment may grant a variance provided the BOA can make a finding of unnecessary hardship and can determine that the variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

The Board of Adjustment may grant a variance provided the BOA can make a finding of unnecessary hardship and can determine that the variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

This request for variance will not be granted unless sufficient facts are presented in this application and at the BOA hearing to support a positive finding by the BOA. In support of this request, a Supporting Information form shall be completed by the applicant(s).

Approval of this request for variance by the Board of Adjustment in no way absolves the applicant from subsequently obtaining the necessary development approvals, such as site plan, building permits, etc. from the City of Grimes or any other applicable agency.

I (We) certify that I (We) have been denied a Building/Zoning permit and I (We) have submitted all the required information to request for a variance and that such information is factual.

Signed by: _____ **on date:** _____
(Owner)

Or: _____ **on date:** _____
(Owners Agent)

SUPPORTING INFORMATION FORM

The Board of Adjustment is authorized to grant a variance provided all the following requirements are satisfied. Use a separate sheet of paper if desired, and address each issue below:

- I. A finding showing of good and sufficient cause. **The applicant must show that there is a reason for applying.**

PLEASE SEE ATTACHED APPLICATION RESPONSE SHEETS

- II. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant. **The applicant must show that there is a hardship (utilities, parking, etc.).**

- III. The hardship is not self-imposed. **The applicant must show that the proposed hardship is being caused by the strict interpretation of the Zoning Ordinance and not self-imposed by the applicant.**

- IV. The variance will not be contrary to the public interest or neighborhood integrity. **The applicant must present information to indicate that the variance will not result in injury or endangerment to other property or persons nor will it devalue nearby property.**

- V. The granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance. **The applicant must list other options that have been considered in lieu of granting a variance.**

City of Grimes Board of Adjustment Variance Application

Supplemental Responses for Requirement for Hard Surfacing for Equipment Storage Yards

Zach DeCarlo of DeCarlo Properties, LLC, as Applicant, is representing the properties at 3905 SE Capitol Circle and the three associated parcels described in the attached property description and located in an industrial land use area designated as M-1A: Commercial and Limited Light Industrial District. It is the desire of the property owner to invest in and improve his property so that the current tenant can expand their operations on the property by consolidating their business from three additional locations to the City of Grimes. The current tenant is Q3 Contracting, Inc. and from their web site is self-described as “a full-service construction provider operating in natural gas distribution & high-pressure construction, gas distribution design, HDD, hard & soft surface restoration, traffic control,” and other specialty services utilizing horizontal boring equipment, back hoes, loaders, as well as miscellaneous track equipment and associated material.

It is the desire of DeCarlo Properties, LLC to improve their site by creating a durable surface for the equipment to load and unload and be stored for periods of time between projects within the equipment storage yard. With Zach DeCarlo being in the construction and demolition business his entire life with his father and grandfather, he has a detailed knowledge of standard construction operations. His application to the Board of Adjustment is for a variance of of Grimes Code of Ordinances Chapter 12-15-4. Off -Street Parking and Circulation Regulations require that all surfaces of a site be paved, even surfaces that are not able to withstand the extremes that track equipment would place upon it.

RESPONSE #1: *A finding showing of good and sufficient cause.*

The applicant proposes to provide a durable surface of recycled HMA millings over a recycled concrete base as an all -weather surface area in lieu of the typical PCC or Asphalt paved surfacing.

The growth of Grimes and the Des Moines metro area has solidified a demand for construction companies that utilize tracked equipment and have large pieces of supporting equipment, (trench boxes, racks of piping, temporary culverts etc.). None of the metro communities allow tracked equipment to unload onto and operate on their public street due to the inevitable damage that will occur. It is not equitable to require a property owner to provide a paved surface for unloading and storing equipment that will become damaged as well.

A lifetime in the construction and demolition industry has provided Zach DeCarlo with the firsthand experience of his family’s construction equipment and storage yards and how rigid surfacing pavement is not able to withstand the intense destructive operating force of track equipment. Loading, unloading and moving track equipment around the equipment storage yard places an undo extreme force on a rigid pavement, often stressing the rigid pavement to a point of complete failure resulting in a rubble surface and complete breakdown of the intended purpose of the pavement.

As stated in the ordinance, one intent of hard surfacing is to promote a dust free surface. A surface of recycled HMA millings will provide a dust free surface.

RESPONSE #2: A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant.

Literal enforcement would require the rear portion of the site to be paved where the tracked equipment would be offloaded and parked. Due to the nature of the construction equipment, this is not long term feasible, as the paving would become damaged. The current tenant has been operating effectively at this location for several years. Because of the tenant's desire to expand the Grimes operations by consolidating three additional remote locations, it is the responsibility of DeCarlo Properties to accommodate this Grimes expansion into a compatible site for the increased magnitude of the tenant's operations or risk relocation of the tenant outside of the Grimes jurisdiction to another location.

RESPONSE #3: The hardship is not self-imposed.

The requirement to provide hard surfacing with every and all types of operations without consideration of the use of the site, places an undue burden when that use does not align with the base purpose of the ordinance to provide all weather - dust free surfacing. Reviewing multiple sites, McAninch construction yard in Des Moines, Elder Corporation construction yard in Pleasant Hill, along with multiple other locations, aerial photographs identify that where track equipment operates, hard surfacing is exposed to extreme structural failure. But where the appropriate base and surface, like is proposed here with gravel base and recycled HMA millings for the surfacing, the integrity of the storage yard surface is maintained.

RESPONSE #4: The variance will not be contrary to the public interest or neighborhood integrity.

The growth and development success of Grimes and the metro as a whole necessitates having businesses that operate and store heavy equipment in order to develop the new community sites as well as maintain the current infrastructure for its citizens. These businesses need to have a place within the community to exist. If a City does not allow these types of heavy equipment businesses to exist within the community, it somewhat puts its citizens and developers at a disadvantage by not having local access to these types of business services.

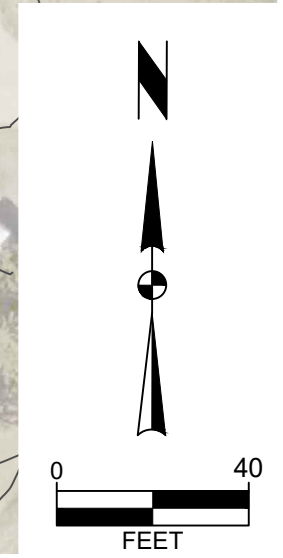
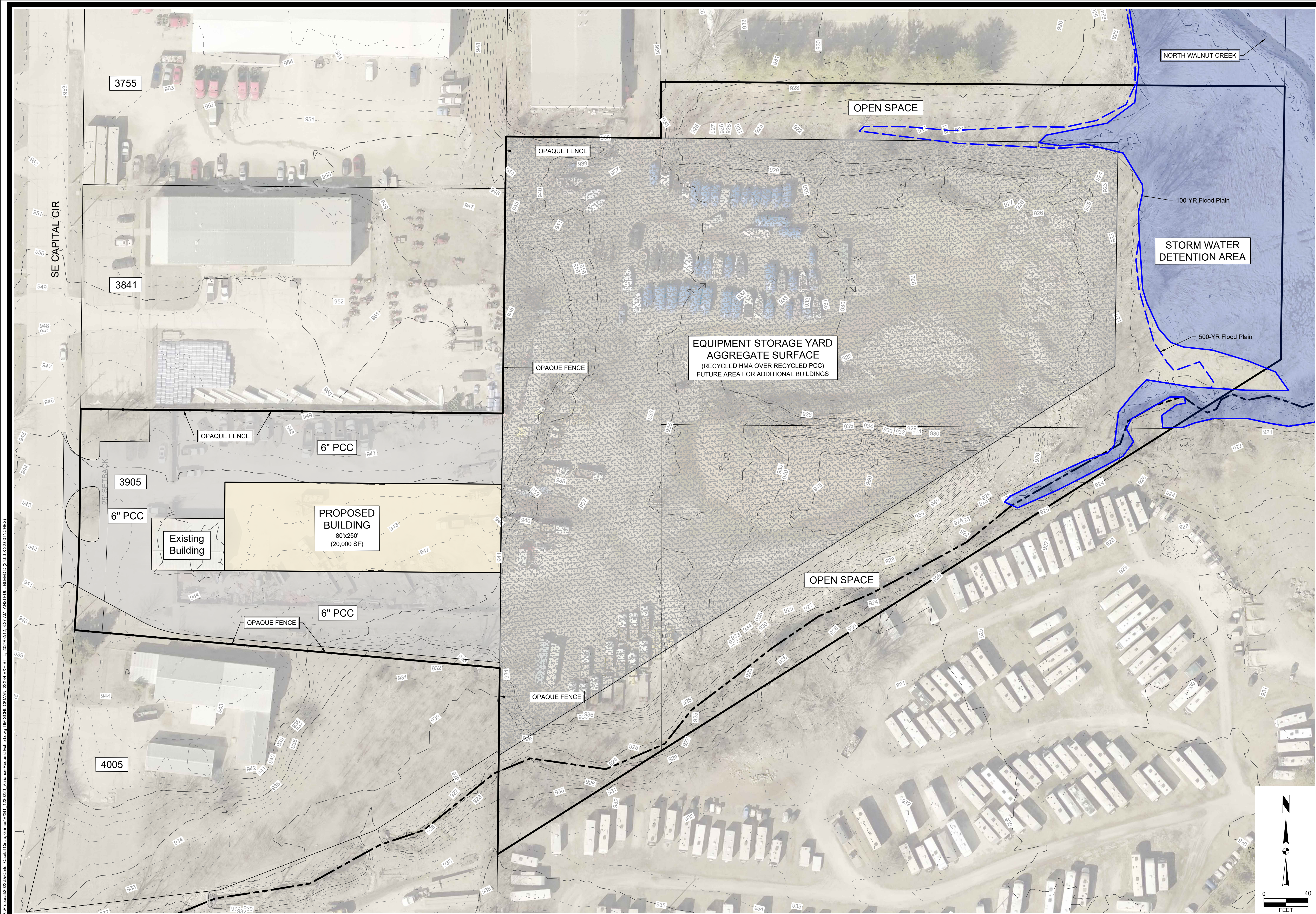
The property located at 3905 SE Capital Circle and the 3 associated parcels is currently utilized by the Tenant wanting to expand. The site has undergone variations of construction activities over the years and is not currently operating as a congruent operation. The site is currently developed into multiple small areas consisting of the current Tenant, boat storage, material storage, but is not under a unified use. With the proposed expansion for the Tenant, all four parcels will be improved and operated as a consolidated use as a construction company.

RESPONSE #5: The granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

DeCarlo Properties has reviewed other options to provide a dust free hard surface other than the obvious Portland Cement Concrete (PCC). The other option explored for surfacing the equipment storage yard is HMA Asphalt. But the Asphalt surfacing, besides structurally failing to a greater degree than the PPC pavement, will also show surface delamination from the tracks. This condition, to a lesser degree, is what is seen for lane demarcation along high-speed urban highways to warn drivers when driving out of their lane. This potential could result, as well as structural failure, as a safety concern with employees walking and moving through the site.

It is DeCarlo Properties declaration that for this type of construction operation with a variety of track equipment that a cross-section of limestone rock base with reclaimed asphalt millings surface would address concerns of a dust free surface for the City while providing practicality with longevity required by the Tenant. The amount of area to receive the HMA millings is limited to only the rear of the property, where the larger tracked equipment will be stored.

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MARK	REVISION	DATE	BY
ENGR	Checked By: BKC		
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FILE	T-R-S: TTN-RRW-SS		

Project No: 123.0220.01
Sheet C100

3905 SE CAPITAL CIRCLE **DECARLO PROPERTIES, LLC**
BOARD OF ADJUSTMENT - VARIANCE REQUEST EXHIBIT **GRIMES, IOWA**
SNYDER & ASSOCIATES, INC. | 2727 S.W. SNYDER BLVD
ANKENY, IOWA 50023
515-964-2020 | www.snyder-associates.com

SNYDER & ASSOCIATES
Project No: 123.0220.01
Sheet C100

DATE

February 21, 2024

APPLICANT

Zach DeCarlo

DeCarlo Properties, LLC

LOCATION

3905 SE Capitol Circle

REQUESTED ACTION

Variance request to allow aggregate surface for outdoor storage and heavy equipment.

Variance request to reduce outdoor storage screening.

ZONING

M-1A

PLANNER

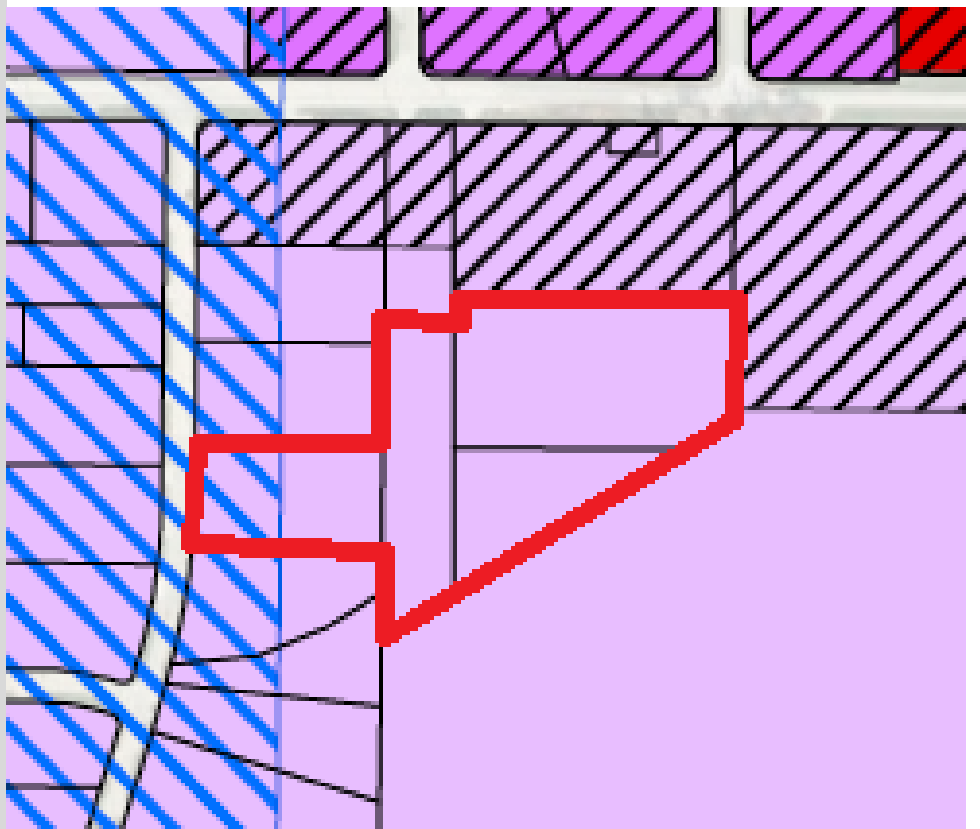
Evann Martin

emartin@grimesiowa.gov

(515)986-4050



Location Map



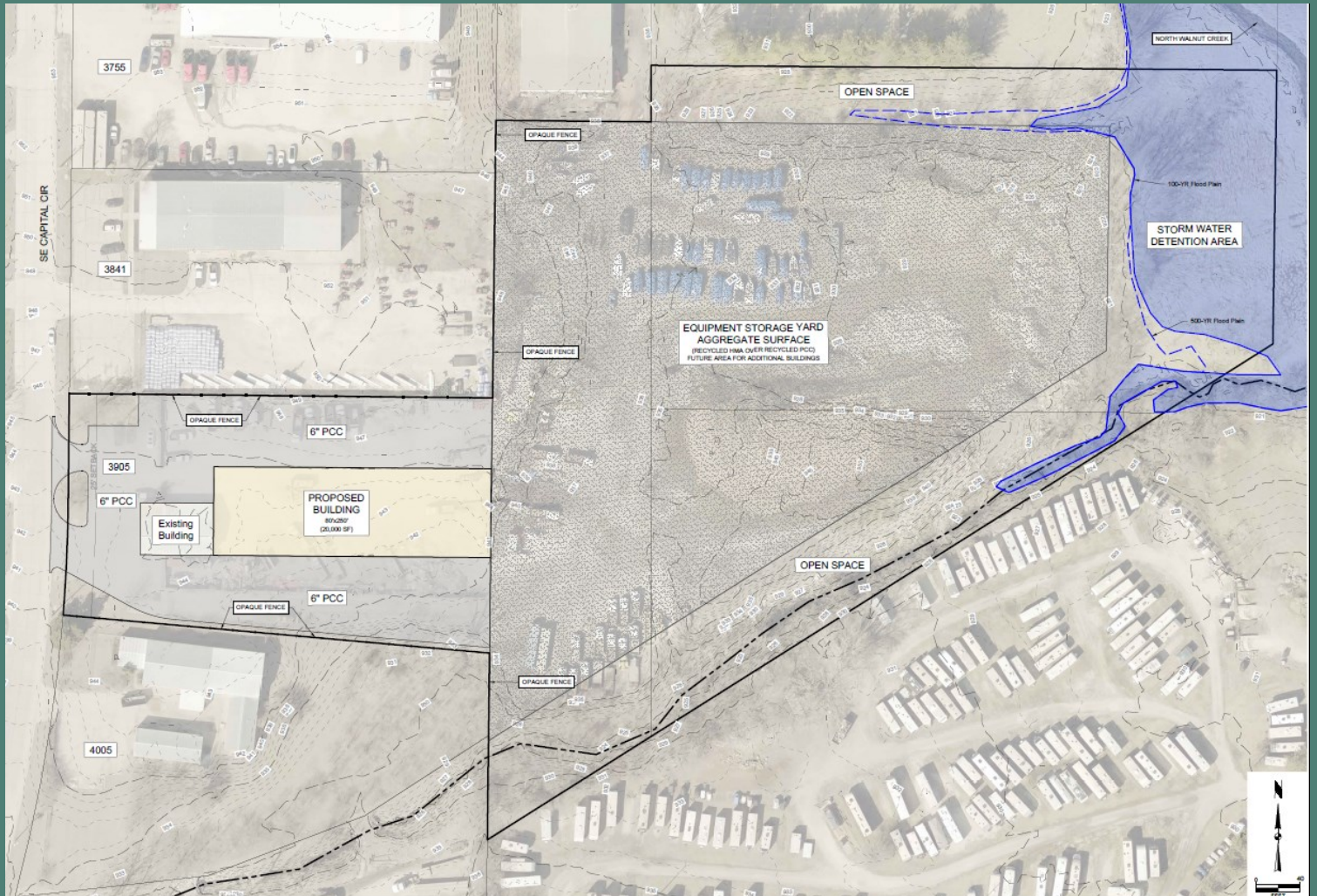
Zoning Map

Background

LAND USES & ZONING

Location	Existing Land Use	Land Use Plan Designation	Current Zoning
Subject Site	Industrial	Light Industrial	M-1A
North	Industrial/Church	Light Industrial/Civic	M-1A
South	Industrial	Light Industrial	M-1A
East	Cutty's	Business Park	M-1A
West	Industrial	Light Industrial	M-1A

The applicant is preparing to begin the site plan review process for the site located at 3905 SE Capitol Circle to construct a building addition for Q3, a construction contractor. The proposed site plan would include an approximately 20,000 square foot warehouse addition with an outdoor storage area on the east side of the site as shown on the concept plan provided with the application.



Background—Aggregate Surfacing

The applicant is requesting a variance to allow the outdoor storage portion of the site to be aggregate surface rather than asphalt or concrete paving as required by the Grimes Zoning Ordinance. The area is approximately 4.8 acres and would be located on the east side of the site behind the building. The applicant is proposing to operate heavy equipment in the aggregate surface area. As defined in the zoning ordinance, heavy equipment is 10,000 pounds or more and would cause undue stress to concrete or asphaltic surfaces resulting in premature failure of such surfaces.

The zoning ordinance requires all parking and circulation areas to be hard surface asphalt or concrete to provide dustless surfaces within the City. There are provisions in the zoning ordinance that allow non-paved surfaces for certain zoning districts, for heavy equipment only, and limits the size of non-paved areas as referenced in the code section below.

12-15-4 9.A. "...a parking space does not have to be hard surfaced if it will be used for the storage of heavy equipment within M-2 and M-3 zoning districts, and in that case, it may be surfaced with recycled asphalt or other like material to provide a dustless surface area. All driveways or access areas leading to the storage area must be hard surfaced with an asphaltic surface or portland cement. The alternate parking surface shall be limited to 15% of the site but in no case more than one (1) acre in size and cannot be located within an overlay district. All heavy equipment storage shall be screened with landscaping and fencing."

In 2020, the Ordinance was updated to reflect the above language. Prior to the update, aggregate surfacing was permitted in all Zoning Districts, provided it was used for heavy equipment as noted above. The intent with the modification to the Ordinance, was that uses commonly permitted in the M-1A zoning district do not meet the requirements for the aggregate surfacing. Additionally, a majority of the M-1A zoning is located in overlay corridors within the City, which already have hard surfacing and outdoor storage restrictions. In this case, it is a bit unique that the proposed business meets the M-1A standards, but also operates heavy machinery.

Regardless of the intent outlined above, the request for the aggregate surface would require two variances to be granted.

- Zoning District - A variance would be required to allow the aggregate surface within the M-1A zoning district. The ordinance only allows non-paved surface in M-2 and M-3 zoning districts.
- Area - A variance would be required to allow 4.8 acres of aggregate surface. The ordinance only allows 15% of the site but not more than 1 acre of aggregate surface. The current proposal would take up 50% of the site and is more than 1 acre in size.

Previous Case History – Aggregate Surfacing

In 2022, the Board reviewed a variance request to allow aggregate surface for outdoor storage and heavy equipment on property located at 1200 SE 25th Street. The applicant, Seedorf Masonry and Architectural Wall Systems, desired to have aggregate surfacing for their outdoor storage yard. The applicant was concerned that their equipment would tear up the concrete and require constant maintenance. The applicant also felt that the aggregate surfacing would be consistent with other neighboring properties that had non-paved surfacing. A variance was required because the property was zoned M-1A where paved surfacing is required. In addition, the requested aggregate storage area exceeded the size threshold established in the zoning ordinance for non-paved surfacing.

The Board did not support the argument that the aggregate surfacing would match the character of the surrounding area because any existing non-paved surfaces were established prior to the existing zoning ordinance. In addition, the Board felt there was not enough reasoning to support the aggregate surfacing and that thicker pavement should be provided to support the equipment on site. The variance request was unanimously denied.

In 2019, the Board a variance request to allow gravel surfacing on a temporary basis. The applicant received two new, large contracts that required the acquisition of several straight trucks and trailers. The applicant proposed a temporary granular surfaced parking area until the business could evaluate the business growth and prepare plans for a permanent paved parking lot. The Board granted the variance to allow the gravel surface for 18 months.

Analysis—Aggregate Surfacing

ANALYSIS

Based upon the approved ordinance, the Board of Adjustment may grant a Variance provided the Board can make a finding on the following factors:

1. A showing of good and sufficient cause; and
2. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant; and
3. A determination that the hardship is not self-imposed; and
4. A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
5. A determination that the granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

Notice of the variance request was mailed to surrounding property owners within a 250-foot radius.

Based on a detailed analysis of the application, staff has the following comments to offer concerning this variance request:

GOOD AND SUFFICIENT CAUSE

In lieu of hard-surfaced asphaltic or concrete paving, the applicant is requesting a variance to provide recycled HMA millings over a recycled concrete base for outdoor storage and heavy equipment over approximately 4.8 acres. In the applicant's firsthand experience in the construction and demolition industry, they believe that hard surfacing does not withstand equipment usage and causes pavement to fail. The applicant believes HMA millings will provide a dustless surface as desired by the ordinance.

SUBSTANTIAL HARDSHIP

The applicant believes that a literal enforcement of the ordinance would result in a substantial hardship because it would not be feasible to provide pavement in the long term when the maneuvering of the equipment would cause damage to pavement or asphaltic surfaces. In addition, the applicant is trying to accommodate the expansion of the current tenant. The tenant desires to consolidate their three locations to this site. If appropriate accommodation cannot be made, the tenant may relocate.

SELF-IMPOSED HARDSHIP

The applicant does not believe the hardship is self-imposed, because the ordinance requires pavement for all types of operations without consideration of the use of the site which places undue burden when the uses does not align with the ordinance intent to provide all-weather, dust-free surfacing.

PUBLIC INTEREST

The applicant does not believe that granting the variance will be contrary to the public interest or neighborhood integrity because the proposed use is necessary to support the growth and development in Grimes and the location in Grimes increases local access to the proposed services.

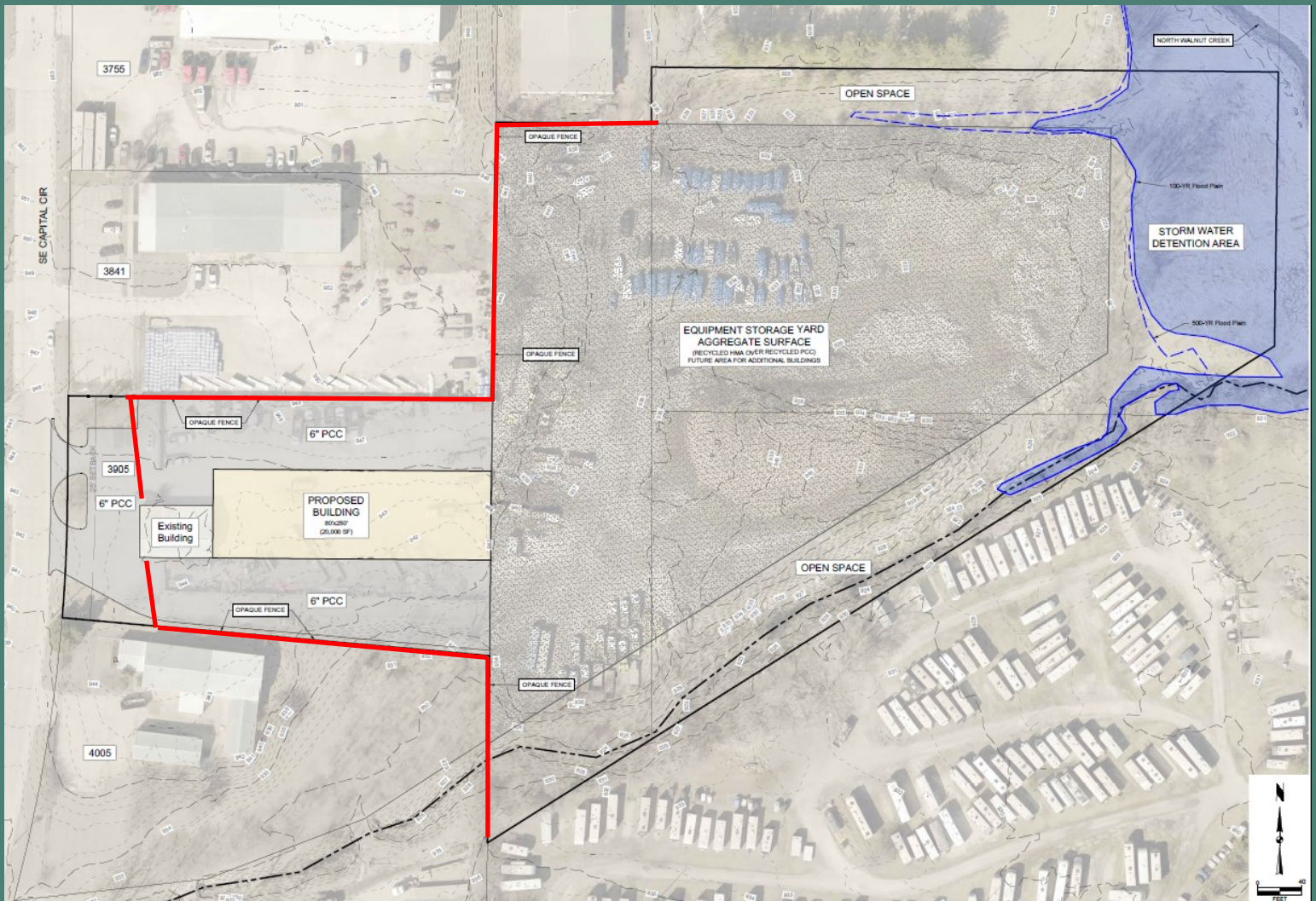
Currently, the site contains multiple uses from different users, including Q3's operations, boat storage for Brightwell's Boathouse, and material storage for DeCarlo Demolition. The proposed expansion of the current tenant would allow all four parcels to be under unified use as a construction company.

Staff always asks the Board to consider that a precedent may be established if the variance is granted. There are several other properties throughout Grimes that are zoned M-1A where outdoor storage and operation of heavy equipment could be permitted. Granting a variance could allow other properties within Grimes to pursue Board of Adjustment action to provide non-paved surface areas.

Background—Outdoor Storage Screening

The applicant is also requesting a variance to reduce the amount of opaque screening provided around the outdoor storage area. As required by the Grimes Zoning Ordinance, all outdoor storage areas are required to be screened with opaque fencing/walls or berms and to be of sufficient height to completely obscure the outdoor storage from view of public right-of-way or adjacent properties. The applicant is requesting not to provide opaque screening along the north, south, and east side of the property as shown in the attached concept plan.

The request to omit opaque screening would require a variance to be granted.



Proposed opaque screening shown in red.

Analysis—Outdoor Storage Screening

ANALYSIS

Based upon the approved ordinance, the Board of Adjustment may grant a Variance provided the Board can make a finding on the following factors:

1. A showing of good and sufficient cause; and
2. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant; and
3. A determination that the hardship is not self-imposed; and
4. A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
5. A determination that the granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

Based on a detailed analysis of the application, staff has the following comments to offer concerning this variance request:

GOOD AND SUFFICIENT CAUSE

The rear portion of the property is not visible from either SE Capitol Circle or SE 37th Street. It is blocked by existing buildings, existing opaque fencing, or vegetation. The applicant feels it is excessive to require an opaque screen fence on the property where the fence would not be visible from the street.

Neighboring property to the north has outdoor storage. Vegetative screening is provided on the church property to the north. To the south there is a drainage way creating a natural screen buffer against Cutty's RV and trailer storage yard and pond. The drainage ditch conveys stormwater from the properties to the east to North Walnut Creek. To the east of the site, there is a floodplain and North Walnut Creek with vegetative buffer. It is the applicant's belief that placement of an opaque screen around the north, east, and south side of the site would obstruct the natural flow of storm water in the drainage basin.

SUBSTANTIAL HARDSHIP

The applicant strongly believes that placing the opaque screen either by means of a fence or berm will negatively impact the natural and historical flow of storm water through the site. Placing these screening at or near the property lines would re-route stormwater outside of its historical flow path and would adversely affect the neighboring properties.

Analysis—Outdoor Storage Screening

ANALYSIS

Based upon the approved ordinance, the Board of Adjustment may grant a Variance provided the Board can make a finding on the following factors:

1. A showing of good and sufficient cause; and
2. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant; and
3. A determination that the hardship is not self-imposed; and
4. A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
5. A determination that the granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

Based on a detailed analysis of the application, staff has the following comments to offer concerning this variance request:

SELF-IMPOSED HARDSHIP

The applicant feels that providing screening on the property would benefit their site rather than the neighboring properties. For instance, Cutty's RV and trailer storage yard provides storage of trailers in the back of their property adjacent to the applicant's property without a defined opaque screen. Other adjacent properties operate with comparable uses, so providing screening is burdensome when there are not views into this area off of the public rights-of-way.

PUBLIC INTEREST

The applicant does not believe that granting the variance will be contrary to the public interest or neighborhood integrity because the adjacent surrounding properties operate in a similar nature with outdoor storage occurring in their side yards and rear yards. The applicant believes it is not beneficial for two adjacent properties to screen their adjacent outdoor storage areas from each other. The applicant's rear properties are currently not visible from the adjacent public roadways, so it seems inequitable to require an area to be screened that already is not visible to the general public.

The proposal to expand the tenant's operation and proposed improvements across the entire site would greatly enhance the property, including grading, removal of existing debris, and leveled surface area to accommodate the tenant's equipment storage needs.

Staff always asks the Board to consider that a precedent may be established if the variance is granted. There are several other properties throughout Grimes where outdoor storage is permitted. Granting a variance could allow other properties within Grimes to pursue Board of Adjustment action to omit required screening of outdoor storage areas.

Conclusion

ALTERNATIVES TO REQUEST

Aggregate surfacing

1. Provide paved concrete or asphalt surface for the outdoor storage and heavy equipment area.

1. Reduce the aggregate area to 1 acre (This would still require a variance to allow aggregate surface the in M-1A zoning district).

Screening

1. Provide opaque fence/wall or berm around the perimeter or the site with an opening at the bottom to allow water to flow through the fence/wall or openings through-out a berm to release stormwater from the site.

1. Place outdoor storage in strategic locations and distances to hide the outdoor storage from the neighboring properties without disturbing drainage paths. Analysis can be conducted through the site plan process to determine placement of the outdoor storage areas using ground elevations, heights of storage and equipment, and viewpoints from neighboring properties. This option may shrink the area that can be used for outdoor storage but could eliminate the need for additional screening improvements onsite.

SUMMARY

The applicant is requesting a variance to aggregate surface for outdoor storage and heavy equipment and a variance to reduce the screening requirements for outdoor storage.

Staff would suggest that if a variance is granted, the following conditions be imposed:

Aggregate Surfacing

1. Reduce the aggregate surface area to 1 acre as required by the zoning ordinance.

Screening

1. Require site analysis to be conducted through the site plan process to determine placement of the outdoor storage areas using ground elevations, heights of storage and equipment, and viewpoints from neighboring properties.



CITY OF GRIMES

DEVELOPMENT SERVICES

410 SE Main Street, Suite 102 , Grimes, Iowa 50111

P: 515.986.4050 | F: 515.986.4480

BOARD OF ADJUSTMENT **APPLICATION FOR** **VARIANCE REQUEST**

Applications are due the first of the month at
12:00 p.m. to be added to the next BOA agenda.

You are required to attend your hearing—by agent or
in person. Please read application thoroughly. The
City has the right to refuse an incomplete application.

INSTRUCTIONS FOR REQUIRED INFORMATION

NO REQUEST FOR VARIANCE CAN BE ACCEPTED FOR FILING UNLESS ALL OF THE REQUIRED INFORMATION IS PRESENTED

1. GENERAL INFORMATION. The Grimes Board of Adjustment (BOA) is empowered by Iowa law and by Ordinance to hear requests for variance(s) and to make decisions on said requests pertaining to the Zoning Ordinance, Chapter 165.37 and for certain exceptions to the district regulations. The BOA is a five-member quasi-judicial body with authority to grant variances in exceptional cases and is limited to such cases that are consistent with the general purpose and spirit of the zoning regulations. The BOA has no authority to allow a variance that would have the effect of establishing a non-conforming use of land or to change district boundaries except as outlined in the Zoning Ordinance.

2. MEETING DATES. The Board of Adjustment meets at 5:30 p.m. on the third Wednesday of each month. Submittal of all the information does not in any way guarantee that the application will be placed on the next available BOA agenda. All BOA meetings are open to the public and are held in the Council Chambers of City Hall, 101 NE Harvey Street, Grimes, Iowa.

3. FILING DEADLINE: The deadline to file an application for variance with the BOA is 12:00 p.m. the first day of the month of the board meeting. All materials must be filed in the Development Services Department office at 410 SE Maine Street Suite 102, Grimes, Iowa.

NOTE: Be sure that you have all required materials at that time. Failure to do so may result in your request for variance being delayed to the next regularly scheduled meeting.

4. FILING FEE: A filing fee is required at the time the materials are filed with the Development Services Department office. The fee covers administrative expenses and legal notification of surrounding property owners within 250 feet of the property in question. No request for variance is to be considered filed until this fee is received. The fee is \$150.00 to request a variance and payment must be submitted with the application. The fee shall be paid at the Development Services Department office, 410 SE Main Street Suite 102. Make all checks payable to the City of Grimes. The fee is nonrefundable.

5. SITE PLAN: The applicant must submit a site plan that clearly shows the variance being requested. The site plan should be drawn to scale, and should be a reproducible, black line drawing or free hand drawing on a sheet of paper no larger than 24" x 36" *{Use of an actual property survey is suggested but not required}*. The applicant may submit the same site plan that was submitted for a building permit. The site plan shall include the following information:

- a) Property lines and dimensions

- b) Location and size of all existing and proposed structures (buildings, driveways, parking lots, sidewalks, fences, etc.)
- c) Required setback and buffer location(s)
- d) Any other pertinent information necessary to fully understand the need for a variance (e.g. significant change in topography, location and size of mature trees, etc.)

NOTE: If the request for variance is for a sign, the request must be accompanied by both a fully dimensioned, to-scale elevation drawing of the sign, as well as a fully dimensioned to-scale site plan showing the exact location of the sign whether it is a free standing or a building sign.

6. SUPPORTING INFORMATION FORM: The Board of Adjustment may grant a variance provided that "unnecessary hardship" exists; that the variance is not contrary to the public interest; and that the spirit of the Zoning Ordinance is upheld. The Supporting Information form addresses these issues and asks for responses to each of the "tests" in order to grant a variance. The Supporting Information form must be completely filled out in order to process the application for a variance.

7. ADDITIONAL INFORMATION: If you have questions about this form, or should you require additional information regarding the variance process, please contact the Development Services Department at (515)986-4050.

APPLICATION FOR VARIANCE

All required information must be presented before acceptance of application.

The applicant must complete all sections in bold for review to begin.

Please type or print:

1. **Date:** February 2, 2024

Applicant Name: Zach DeCarlo

Address: 260 NE 44th Avenue, Des Moines, Iowa 50313
(Street) (City) (State) (Zip)

Telephone Number: 515-953-8380
(Home) (Work)

E-Mail Address: zdecarlo@decarlodemolition.com

2. **Location of Property**

Street Address: 3905 SE Capitol Circle and associated parcels

Legal Description: See attached

Zoning Classification: M-1A: Commercial and Limited Light Industrial District

This request for variance cannot be processed until all required materials are submitted. In addition to this application, the following information is required for submission. On a separate sheet of paper please type or print the following:

3. **Response to the attached supporting information form**

4. **Site plan drawn to scale**

This plan shall be no larger than 24" x 36" and easily reproducible.

5. **Application fee**

An application is not considered filed until filing fee is paid.

The Board of Adjustment may grant a variance provided the BOA can make a finding of unnecessary hardship and can determine that the variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

The Board of Adjustment may grant a variance provided the BOA can make a finding of unnecessary hardship and can determine that the variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

This request for variance will not be granted unless sufficient facts are presented in this application and at the BOA hearing to support a positive finding by the BOA. In support of this request, a Supporting Information form shall be completed by the applicant(s).

Approval of this request for variance by the Board of Adjustment in no way absolves the applicant from subsequently obtaining the necessary development approvals, such as site plan, building permits, etc. from the City of Grimes or any other applicable agency.

I (We) certify that I (We) have been denied a Building/Zoning permit and I (We) have submitted all the required information to request for a variance and that such information is factual.

Signed by: _____ **on date:** _____
(Owner)

Or: _____ **on date:** _____
(Owners Agent)

SUPPORTING INFORMATION FORM

The Board of Adjustment is authorized to grant a variance provided all the following requirements are satisfied. Use a separate sheet of paper if desired, and address each issue below:

- I. A finding showing of good and sufficient cause. **The applicant must show that there is a reason for applying.**

PLEASE SEE ATTACHED APPLICATION RESPONSE SHEETS

- II. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant. **The applicant must show that there is a hardship (utilities, parking, etc.).**

- III. The hardship is not self-imposed. **The applicant must show that the proposed hardship is being caused by the strict interpretation of the Zoning Ordinance and not self-imposed by the applicant.**

- IV. The variance will not be contrary to the public interest or neighborhood integrity. **The applicant must present information to indicate that the variance will not result in injury or endangerment to other property or persons nor will it devalue nearby property.**

- V. The granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance. **The applicant must list other options that have been considered in lieu of granting a variance.**

City of Grimes Board of Adjustment Variance Application

Supplemental Responses for Requirement for Opaque Screening

Zach DeCarlo of DeCarlo Properties, LLC, as Applicant, is representing the properties at 3905 SE Capitol Circle and the three associated parcels described in the attached property description and located in an industrial land use area designated as M-1A: Commercial and Limited Light Industrial District. It is the desire of the property owner to invest and improve his property so that the current tenant can expand their operations on the property by consolidating their business from three additional locations to the City of Grimes. The current tenant is Q3 Contracting, Inc. and from their web site is self-described as “a full-service construction provider operating in natural gas distribution & high-pressure construction, gas distribution design, HDD, hard & soft surface restoration, traffic control,” and other specialty services utilizing horizontal boring equipment, back hoes, loaders, as well as miscellaneous track equipment and associated material.

It is the desire of DeCarlo Properties, LLC to improve their site for the tenant’s equipment to be stored for periods of time between projects within an equipment storage yard. We were informed that an opaque screen would be required between the equipment storage yard and the adjacent industrial uses and public rights-of-way. This application to the Board of Adjustment is for a variance of the City of Grimes Code of Ordinances Chapter 12-5-15 Outdoor Areas and Activities requiring construction of an opaque screen, fence or berm, adjacent to the surrounding industrial uses. The Applicant is requesting a variance for the rear portion of the property requiring placement of an opaque screen to obscure visibility to all adjoining properties and public view.

RESPONSE #1: A finding showing of good and sufficient cause.

The DeCarlo properties are made up of 4 separate parcels, the parcel at 3905 SE Capitol Circle is occupied by a single building that houses the current tenant. The remaining three applicant parcels in the light industrial area have been historically utilized for a variety of purposes associated with light industrial land use. The rear portion of the property seeking exception does not have public street frontage and is situated behind surrounding properties and obtains access through the lot at 3905 SE Capitol Circle. The rear parcels are located 380 feet from the SE Capitol Circle ROW and are blocked from public view by existing opaque fencing and extensive existing tree lines. The rear parcels are located 350 feet from SE 37th St. and are blocked from public view and by extensive existing tree lines.

Currently, this rear portion of the property is not visible from either street frontage, as it is blocked by either existing buildings, existing opaque fencing, or extensive tree canopy. It seems excessive to require an opaque screening fence to be installed on the property where the fence would only be visible from the inside of the property.

The neighboring properties adjacent to the existing building along SE Capitol Circle include light industrial business with equipment storage in the rear and sideyards of the properties. The neighboring properties adjacent to the equipment storage yard include a boat business and a church to the north with substantial existing vegetative screening. To the south there is a substantial drainage course along the south property line creating a natural screening buffer against Cutty’s RV and trailer storage yard and Cutty’s pond. This drainage ditch conveys

drainage from the from adjacent properties to the east to North Walnut Creek. To the east side is floodplain and North Walnut Creek with abundant woodland cover.

It is the Applicant's belief that placement of an opaque screen around the north, east, and south side of the 3 parcels would be an encumbrance to the natural drainage flow in this area and would create an obstruction to the natural flow of storm water in this drainage basin.

RESPONSE #2: *A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant.*

As introduced with Response #1 the Application strongly believes that placing the opaque screen either by means of a fence or berm will negatively impact the natural and historical flow of storm water through these 3 properties. The number one issues most jurisdictions experience with new or re-development is the management and conveyance of storm water. The attached exhibit clearly illustrates that by placing these obstructions at or near the property lines of the 3 parcels, storm water would be re-routed outside of its historical flow patch and would adversely affect the neighboring properties.

RESPONSE #3: *The hardship is not self-imposed.*

The current zoning designation of these parcels is M-1A: Commercial and Limited Light Industrial District. An opaque screening of the neighboring industrial use seems to provide screening in favor of the DeCarlo properties. For instance, Cutty's RV and trailer storage yard provides storage of trailers in the back of their property adjacent to the applicant's property without a defined opaque screen other than on a dirt/mud surface with a little rock mixed in and grass. With the adjacent properties operating with comparable uses, opaque screening of the DeCarlo properties when it is improved for the tenant expansion with grading and proposed surfacing, is burdensome when there are not views into this area off of the public rights-of-way.

RESPONSE #4: *The variance will not be contrary to the public interest or neighborhood integrity.*

The adjacent surrounding properties operate in a similar nature with outdoor storage occurring in their side yards and rear yards. It is not beneficial for two adjacent properties to screen their adjacent outdoor stage areas from each other. The applicant's rear properties are currently not visible from the adjacent public roadways, so it seems inequitable to require an area to be screened that already is not visible to the general public.

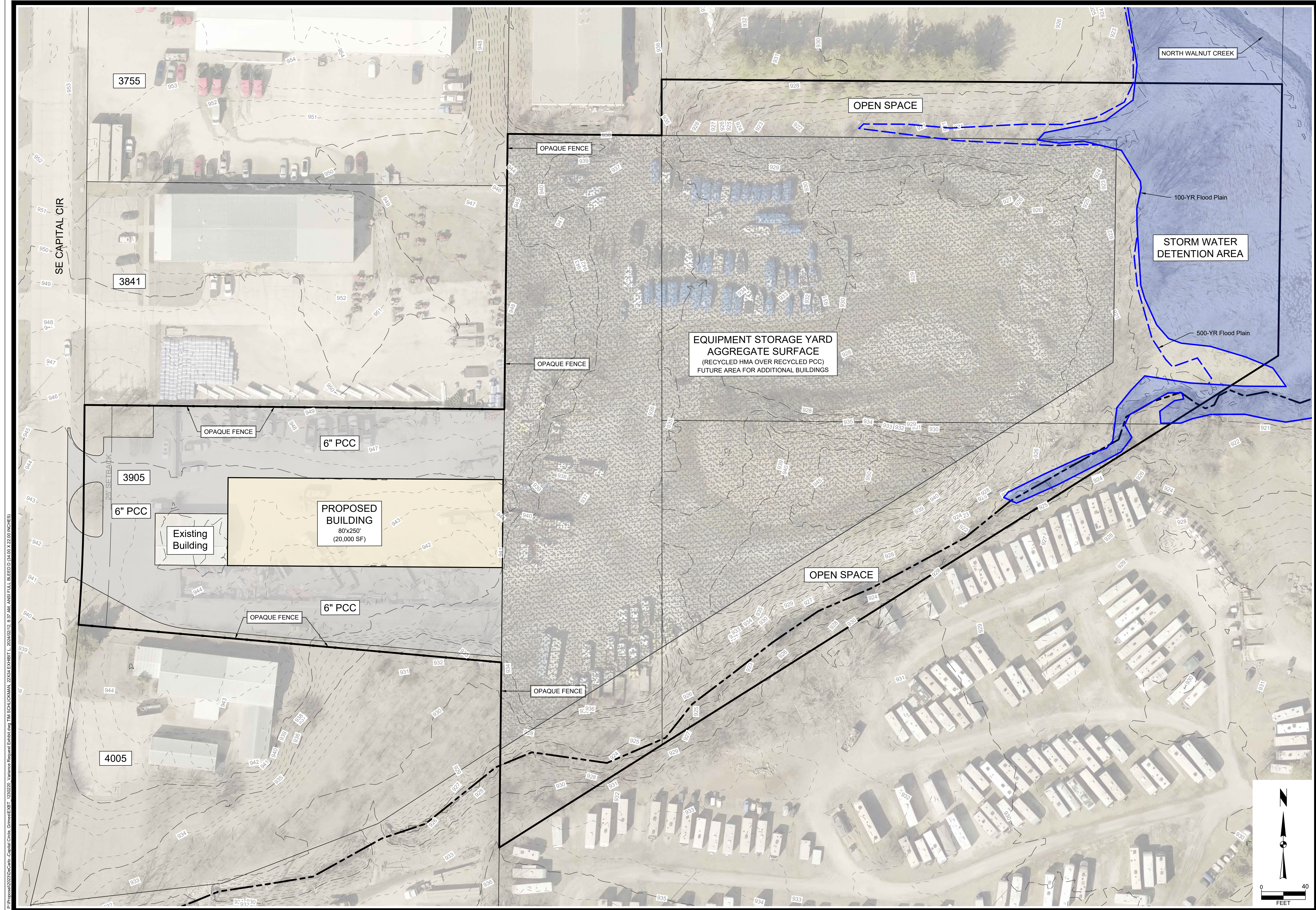
The proposed improvement for the expansion and bringing together the existing tenant's 3 other locations would greatly enhance the property by meeting the expansion needs of the tenant. This would include grading and removal of debris that is currently located on these properties. The expansion would be creating a usable equipment storage yard that is leveled and surfaced to accommodate the requirements of the tenant's equipment storage needs.

RESPONSE #5: *The granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.*

The Applicant will be providing an opaque screen along the side and rear (where drainage doesn't prohibit) of the adjacent occupied businesses fronting the street, 3755, 3841, and 4005 SE Capitol Circle. A vegetative screen was reviewed in locations where storm water flow would not prohibit plantings. Because of the drainage courses along the north and south, and east along

the North Walnut Creek floodplain, the distance that is created by these features sets the equipment storage yard back from the neighboring properties a substantial distance. With this distance that is required for storm water conveyance it was felt that tree plantings along these property lines would provide an inadequate impact.

It is the belief of the Applicant that the existing buildings, opaque screening fencing in place and existing perimeter site vegetation provides a condition where the required opaque screening is not necessary to mitigate public view.



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Technician: TLS	Date: 02/12/2024	T-R-S: TTN-RRW-SS	

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2380 – 37th Looking South at Church



2300 – 37th Looking South at Brightwell's Boathouse



Along SE Capitol Looking East at 3841



Along SE Capitol Circle Looking East at 3905