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CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031
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To: Board of Zoning Appeals

From: Peter Bode, Planner & Zoning Official

Subject: **Agenda – Regular Meeting**
Tuesday, May 2, 2023 at 4:30 p.m.
City Council Chambers, City Hall, 100 Downtown Plaza

- 1) Approval of Agenda
- 2) Election of Chair
- 3) Approval of Minutes – November 1, 2022

New Business

- 4) Public Hearing – 1329 E 8th St – Variance for Minimum Lot Size

Old Business

None

- 5) Adjournment

MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting

November 1, 2022

City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Susan Krueger, Jay Maynard, Adam Smith, Council Liaison Bruce Peters

Members absent: Mike Klujeske, Council Liaison Wayne Hasek

Staff present: City Administrator Cathy Reynolds, Planner & Zoning Official Peter Bode

Chair Krueger called the meeting to order at 4:30 p.m.

Approval of Agenda: Motion by Smith and second by Maynard to approve the agenda as presented. Motion carried.

Approval of Minutes: Motion by Maynard and second by Jacobson to approve the October 4, 2022 meeting minutes as presented. Motion carried.

Public Hearing – Variance Request for Derek Missling at 2437 Albion Ave: Chair Krueger opened the public hearing. Bode introduced a request by Derek Missling for a variance to allow a 9-foot in lieu of 8-foot deck length requirement at 2437 Albion Avenue. Bode stated that staff's findings support denial of the request because the proposal did not meet practical difficulties tests.

There were no public comments. Motion by Maynard and second by Smith to close the public hearing. Motion carried.

Members discussed the request.

Motion by Maynard and second by Smith to approve the request for a variance to allow a 9-foot in lieu of 8-foot deck length requirement as requested because the existing sidewalk is situated to line up with the proposed dimensions and would improve safety. Motion carried.

Public Hearing – Variance Request for Keith Kearney at 420 Lake Aires Rd: Chair Krueger opened the public hearing. Bode introduced a variance request by Keith Kearney to allow a 30-foot in lieu of 50-foot OHWL setback for a boathouse at 420 Lake Aires Road. Bode stated that staff's findings support approval of the variance request.

There were no public comments. Motion by Maynard and second by Jacobson to close the public hearing. Motion carried.

Members discussed the request.

Motion by Maynard and second by Smith to approve the variance request for a 30-foot in lieu of 50-foot OHWL setback for a boathouse as requested because the land becomes steeper as it extends further from OHWL. Chair Krueger called for a roll call vote. Jacobson, Maynard, and Smith voted aye. Krueger voted nay. Motion carried.

Adjournment: There were no further agenda items. Motion by Smith and second by Maynard to adjourn. Motion carried and the meeting adjourned at 5:17 p.m.

*Respectfully submitted,
Peter Bode*

GENERAL INFORMATION

Applicant: Barbara Phelps (Gypsy Road Holdings)
Property Owner: Gypsy Road Holdings
Purpose: To allow a 2.45 acre instead of 2.5 acre minimum lot size requirement
Address: 1329 E 8th St
Parcel Number: 23.105.0020
Zoning: I-2 Heavy Industrial
Surrounding Land Use: Industrial
Application Date: April 11, 2023
Review Date: May 2, 2023

BACKGROUND

This I-2 Heavy Industrial lot is adjacent to the railroad on the eastern end of the city. East 8th Street services the parcel to the south. Gypsy Road Holdings proposes to build industrial storage condominiums on the site, meaning that each unit would be sold to individual parties under the governance of an overall property agreement much like residential condominiums. City Code requires industrial Planned Unit Developments like this to have a minimum overall lot size of 2.5 acres. The applicant requests a 2.45 acre minimum requirement.

If a variance were to be granted allowing a 2.45 acre minimum lot size requirement, the applicant would then be able to proceed with site design and application for a Planned Unit Development (PUD) permit through the Planning Commission.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of this area to be industrial as proposed. The parcel is zoned I-2 Heavy Industrial due to its adjacency with the railroad and situation within the community's eastern industrial park. Industrial PUDs are allowable within the I-2 Heavy Industrial district.

Article V of the Zoning Code regulates special developments including industrial PUDs like the one proposed. City Code Section 26-279(6)(b) states:

“Within a commercial or industrial district a planned unit development shall not be applied to a parcel of land containing less than two and one-half (2½) acres.”

This provision exists to ensure that large Planned Unit Developments do not crowd smaller parcels where more traditional or less intensive permitted uses could occur. PUDs typically involve a large amount of land by the nature of their site layout and many owners.

REVIEW OF VARIANCE STANDARDS

City Code Section 26-101 guides the Board of Zoning Appeals in how to review variance requests:

No variance shall be granted to allow a use not permissible under the terms of this chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the board may prescribe appropriate conditions in conformity with this chapter. When such conditions are made part of the terms under which the variance is granted, violation of the conditions is a violation of this chapter. A variance shall not be granted by the board of appeals and adjustments, or by the city council on appeal, unless it conforms to the following standards.

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.**

Staff find that special circumstances exist which are peculiar to the land and buildings involved. The lot on which the PUD is proposed to be applied is 2.45 acres, or 98% the size required by Article V. It is surrounded by other industrial uses, some more impactful. The proposed buildings on the site would be similar in scale to other storage buildings nearby. Although the applicant proposes a PUD to accommodate selling units instead of leasing them, the site will function similar to how other permitted uses would on the land.

- (2) Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.**

PUDs to support industrial storage condominiums are a new type of development for Fairmont. While they have become common in other cities in Minnesota similar to Fairmont's size, no nearby uses have utilized the special development regulations contained in Article V in the same way. However, the layout and use of the site as storage units is consistent with the character of the locality.

- (3) Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.**

Staff believe granting the variance would not set a problematic precedence for future requests because the surrounding area, subject parcel, site design, and use are consistent with typical industrial developments in Fairmont. Staff believe the petitioner proposes to use the property reasonably given storage units are generally permitted by the Zoning Code.

- (4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

Staff find that granting the request will not impair supplies of air or light to adjacent property, or otherwise impact the public welfare or property values. If the variance were to be granted, further site design would need to be reviewed and approved by the Planning Commission to ensure it is beneficial to the community.

RECOMMENDATION

Staff recommend that the Board of Zoning Appeals consider the legal standards set forth by **Minnesota Statute 462.357(6)** when considering variance applications. This includes a three-factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?**
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner, that creates the circumstance?**
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?**

Upon review of the statutory and code requirements related to practical difficulties, staff find that the petitioner proposes to use the land in a reasonable manner, that the characteristics of the land and buildings are unique, and that the proposal would be consistent with the surrounding area.

Considering applicable statute and code, staff's findings support granting the variance request for a 2.45 acre instead of 2.5 acre minimum lot size requirement for application of an industrial PUD.

Respectfully submitted,

Peter Bode

Planner & Zoning Official

**Attachments: Satellite photo of area
Application for variance**



232480160

232480210

230390127

230390120

239970010

233420010

230390160

230380025

233420020

231050020

231050030

231050040

232480020

230380020

0320

230390150

0300

232480010

239970020

CITY OF FAIRMONT
Planning & Zoning
Application Form

NOTE TO APPLICANT: This is a comprehensive application form. Only those items related to your specific type of development are to be completed. All items applicable must be included prior to acceptance of the application.

Name of Applicant: Gypsy Road Holding Address: 2105 Knollwood Dr. Phone#: [REDACTED]

Street Address of Proposal: East 8th Street

Legal Description of Property: Lot 2, Block 1, Fairmont Development First Addition

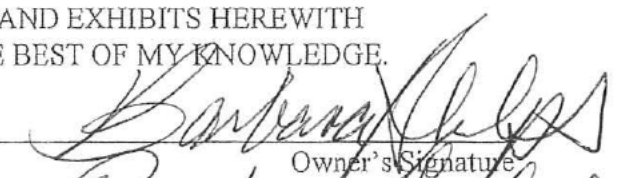
Existing Use of Property: Undeveloped bare land

Proposed Use of Property: Storage Units

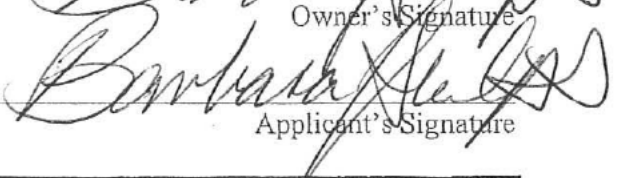
Type of Application	Fee	Submission Requirements (Attached)
<input type="checkbox"/> Appeal/Code Amendment	\$150.00	7
<input type="checkbox"/> Administrative Appeal	50.00	8
<input type="checkbox"/> Conditional Use Permit	150.00	4, 6(d-g)
<input type="checkbox"/> Home Occupation Permit	30.00	9
<input type="checkbox"/> Minor Plat	90.00	2(a), 5 (a-b)
<input type="checkbox"/> Planned Unit Development	150.00	1, 4, 6(d-g)
<input type="checkbox"/> Preliminary Plat	150.00	5 (b), 6
<input type="checkbox"/> Rezoning	150.00	1
<input checked="" type="checkbox"/> Variance	90.00	2,3

I HEREBY CERTIFY THAT THE INFORMATION AND EXHIBITS HERewith SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Barbara Phelps (Gypsy Road Holding)
 Owner's Name(Printed)


 Owner's Signature

Barbara Phelps
 Applicant's Name (Printed)


 Applicant's Signature

City Staff Use Only

DATE FILED: _____

DATE FEE PAID: _____

MEETING DATE: _____

NOTICES SENT (DATE): _____

NOTIFICATION OF EXTENSION (LETTER SENT): _____

Gypsy Road Holding

Variance Application Support Document

With this variance request, Gypsy Road Holding is requesting that they be allowed to develop a CIC PUD on the parcel in question even though the property falls just short of the minimum lot size required.

Item #2: See attached registered survey and legal description with proposed structures shown.

Item #3

- i) The proposal by the property owner for this 2.45 acre site located on East 8th Street is to construct storage units for lease or sale to individuals. The targeted market is individuals wishing to purchase or rent to provide storage needs. There is a high likelihood that these units will be utilized by individuals who wish to store collector or luxury vehicles, recreational vehicles, and boats and do not have adequate storage areas at their residence. This will lead to opportunities to remove these items from yards and properties within the city.

The proposed project would provide storage facilities in structures that are similar to other structures already providing storage units located on East 8th Street. Therefore, this use is consistent with other development in the area and would be an asset to the community. The demand on the infrastructure in place in the area would be low impact as users of the property would not be operating commercial vehicles, but would be utilizing personal vehicles for access to the site.

- ii.) The project is consistent with Fairmont's 2040 Comprehensive plan in the following areas.

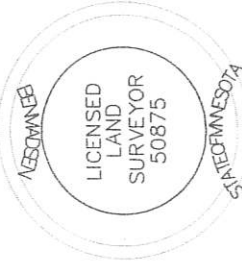
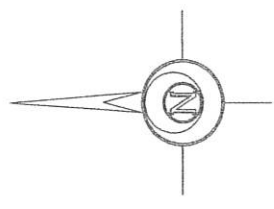
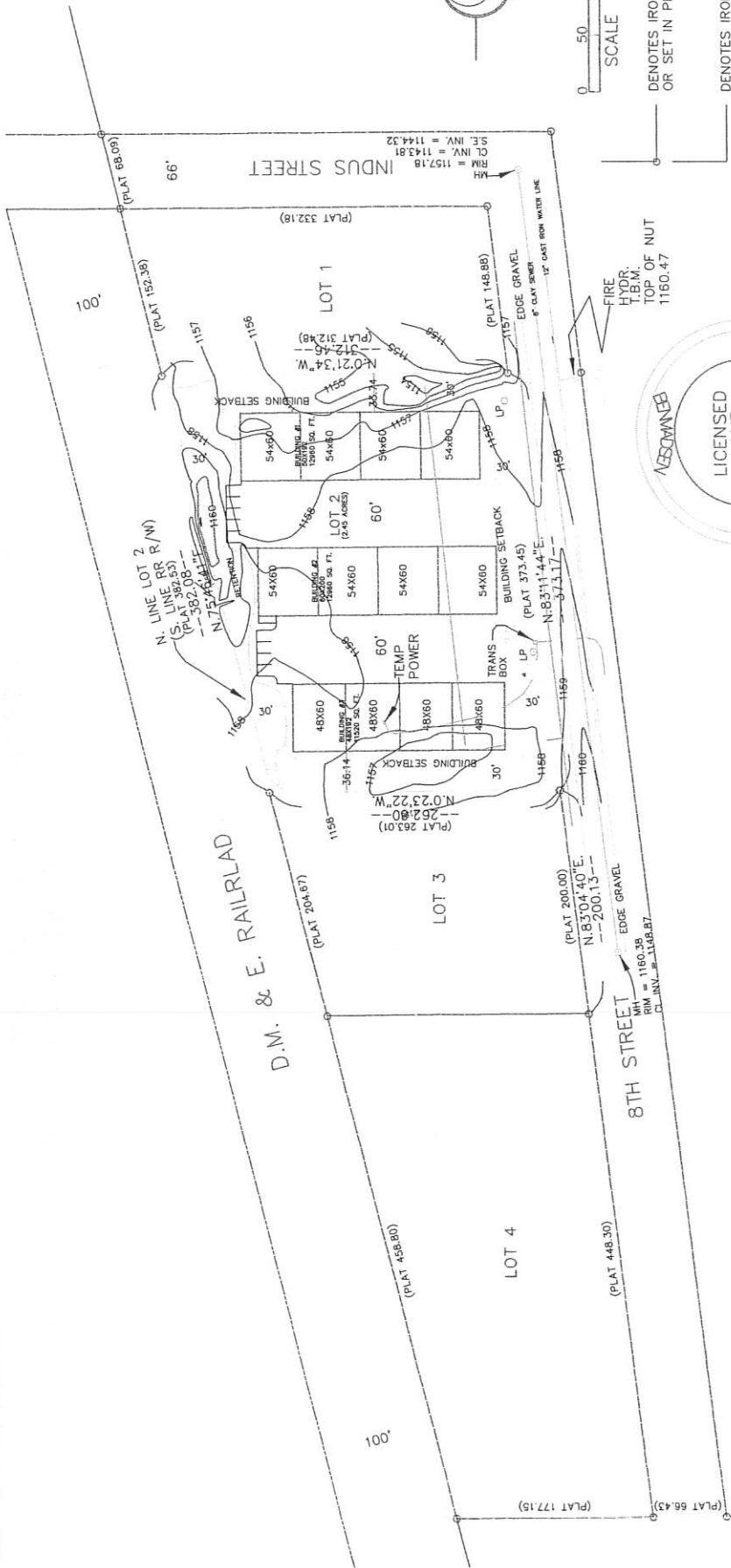
LU-3: The project develops land that is contiguous and used for similar purpose.

ED-1: The project will expand Fairmont's economic base through additional property taxes.

ED-3: The project seeks to provide a needed facility for residents in and around the City of Fairmont. These units will keep revenue in Fairmont as residents using this service will no longer need to travel to Okoboji, New Ulm, or Mankato for their storage needs.

- iii.) This property would meet the "practical difficulties" for development due to its existing size being surrounded by railroad right of way, public street right of way, and other privately owned properties. This "land-locked" position makes acquiring the additional property required very difficult. As it currently exists, the property falls just outside of the size limitations for a CIC PUD in accordance with Fairmont City Code Sec. 26-279 (6) (b). The City code requires a minimum of 2.5 acres to allow a planned unit development in an industrial district. This property is located in an I-2 zoning district. A variance is requested due to the subject property being 2.45 acres vs. 2.5 acres in size.

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TOPOGRAPHIC DATA GATHERED OCTOBER 2021

RANDY PHELPS
TEL: (507) 235-3780
DRAWING NUMBER 1

ADSEN
LAND SURVEYING INC.

318 EAST BLUE EARTH AVENUE
FAIRMONT, MINNESOTA 56031

FILE NO.

LP = LIGHT POLE (PRIVATE)

LEGAL DESCRIPTION

Lot 2, Block 1, Fairmont Development First Addition to the City of Fairmont, Martin County, Minnesota.

I HEREBY CERTIFY THAT THIS PLAN, SURVEY, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

BEN MAUSEN
DATE: 03-20-2023 LICENSE NO. 50875

DRAWN BY: K.V.
CHECKED BY: B.M.
SURVEYED BY: K.V.

BEARINGS ARE ORIENTED TO THE MARTIN COUNTY COORDINATE SYSTEM, NAD83 1996 ADJUSTMENT

DENOTES IRON MONUMENTS SET & MARKED WITH REG. NO. 50875 UNLESS OTHERWISE SHOWN.

DENOTES IRON MONUMENTS FOUND OR SET IN PREVIOUS SURVEYS.

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