

Planning and Zoning Board Agenda

November 9, 2021

Room 102 – 7:00 P.M.

Call to Order

Roll Call

Chairman Announcement: The Public Hearing for 301 W. Oakton, Case 21-45-TA-CU, is canceled. The petitioner submitted a withdrawal statement in writing before the creation of the agenda but after the publication of legal notice. Those in attendance regarding this matter should be aware this hearing will not take place.

Approval of Minutes: October 26, 2021

Public Comment: For matters that are not on the Agenda

Old Business: None

New Business:

1. Address: 290 N. Eighth Avenue

Case Number: 21-031-V (Public Hearing)

The petitioner is requesting a Standard Variation from Section 12-7-2(J) of the Des Plaines Zoning Ordinance, as amended, to install an addition to a single-family detached home that would be set back less than 25 feet from the rear property line, and the approval of any other such variations, waivers, and zoning relief as may be necessary.

PIN: 09-18-400-006-0000

Petitioner: C. Rocco Castellano, 30 N. Vincennes Circle, Racine, WI 53402

Owner: Joan Van Zandt, 266 N. 8th Avenue, Des Plaines, IL 60016

2. Address: 1504 Miner Street

Case Number: 21-048-CU (Public Hearing)

The petitioner is requesting a Conditional Use from Section 12-7-3(K) of the Des Plaines Zoning Ordinance, as amended, to allow a cannabis dispensary in the C-5 zoning district, as well as a variation from the Building Design Review standards of Section 12-3-11 related to window transparency, and the approval of any other such variations, waivers, and zoning relief as may be necessary.

PIN: 09-17-415-025-0000
Petitioner: 280E, LLC, 1126 Main Street, Evanston, IL 60640
Owner: Metropolitan Square Plaza, LLC, 6348 N. Milwaukee Avenue, PMB
125, Chicago, IL 60645

Next Agenda – December 14, 2021; the November 23, 2021, meeting will be canceled.

City of Des Plaines, in compliance with the Americans With Disabilities Act, requests that persons with disabilities, who require certain accommodations to allow them to observe and/or participate in the meeting(s) or have questions about the meeting(s) or facilities, contact the ADA Coordinator at 847-391-5486 to allow the City to make reasonable accommodations for these persons. The public hearing may be continued to a further date, time and place without publication of a further published notice such as this notice.

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DES PLAINES PLANNING AND ZONING BOARD MEETING

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MINUTES

The Des Plaines Planning and Zoning Board held its regularly scheduled meeting on Tuesday, October 26, 2021, at 7:00 p.m. in Room 102 of the Des Plaines Civic Center.

Chairman Szabo called the meeting to order at 7:00 p.m. and read this evening's cases. Roll call was established.

PRESENT: Catalano, Hofherr, Saletnik, Szabo, Veremis

ABSENT: Fowler, Weaver

ALSO PRESENT: John T. Carlisle, AICP, Director/Community & Economic Development
Jonathan Stytz, Planner/Community & Economic Development
Nancy Peterson/Recording Secretary

A quorum was present.

PUBLIC COMMENT

There was no public comment.

APPROVAL OF MINUTES

A motion was made by Board Member Hofherr, seconded by Board Member Veremis, to approve the minutes of September 28, 2021, as presented.

AYES: Hofherr, Veremis, Catalano, Szabo, Saletnik

NAYES: None

ABSTAIN: None

*****MOTION CARRIED *****

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OLD BUSINESS

None

NEW BUSINESS

1. Address: 543 S. Fifth Avenue

**Case Number: 21-043-V
Public Hearing**

The petitioner is requesting a Standard Variation from Section 12-7-2(J) of the Des Plaines Zoning Ordinance, as amended, to install a front porch addition that will extend more than 5 feet and 50 square feet into the required front yard and be setback less than 25 feet from the front property line, and the approval of any other such variations, waivers, and zoning relief as may be necessary.

PIN: 09-18-404-004-0000
Petitioner: Anna Szybowska, 543 S. Fifth Avenue, Des Plaines, IL 60016
Owner: Anna Szybowska, 543 S. Fifth Avenue, Des Plaines, IL 60016

Chairman Szabo swore in Anna Szybowska, Petitioner for the property located at 543 S. Fifth Avenue, Des Plaines. Ms. Szybowska stated that her house was laid out before there were zoning laws. She wants to replace the stairs and landing.

Chairman Szabo asked if the Board had any questions.

Member Hofherr asked why there were two sets of stairs and that the grass area will be limited in front. The Petitioner stated that the front stairs would be used by delivery and signal the front entrance of the house and the side stairs would be used for her family and guests; the grass area meets the code requirements.

Chairman Szabo asked that the Staff Report be entered into record. Planner Stytz provided a summary of the following report:

Issue: The petitioner is requesting a Standard Variation to install a front porch addition that will extend more than 5 feet and 50 square feet into the required front yard and be set back less than 25 feet from the front property line, as required by Sections 12-7-1 and 12-7-2 of the Zoning Ordinance.

Address: 543 S. Fifth Avenue
Owner: Anna Szybowska, 543 Fifth Avenue, Des Plaines, IL 60016
Petitioner: Anna Szybowska, 543 Fifth Avenue, Des Plaines, IL 60016

Case Number: 21-043-V
PIN: 09-18-404-004-0000

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Ward: #3, Alderman Sean Oskerka

Existing Zoning: R-1, Single Family Residential District

Existing Land Use: Single Family Residence

Surrounding Zoning: North: R-1, Single Family Residential District
South: R-1, Single Family Residential District
East: R-1, Single-Family Residential District
West: R-1, Single Family Residential District

Surrounding Land Use: North: Single Family Residence
South: Single Family Residence
East: Single Family Residence
West: Single Family Residence

Street Classification: Fifth Avenue is classified as a local street.

Comprehensive Plan: The Comprehensive Plan illustrates the site as single-family residential.

Project Description: The petitioner, Anna Szybowska, is requesting a Standard Variation to install a front-porch addition on a single-family detached house on the east side of South Fifth Avenue. The existing house is a nonconforming structure that does not meet the minimum 25-foot front yard setback for principal structures in the R-1 zoning district. The lot is also nonconforming at 6,191 square feet in area and 46.55 feet wide. The home is currently about 7 feet from the front (west) lot line, with an existing enclosed front room encroaching about 105 square feet. Unlike most single-family properties, the front lot line is not near the sidewalk or curb but instead quite far back from the curb (there is no sidewalk on the east side of the street in this block of Fifth Avenue). The Existing Condition Photo (Attachment 6) shows the current access to the residence.

The petitioner is requesting to build a new front porch with a set of stairs and landing on the north and west sides of the porch as well as a front sidewalk leading from the porch to the curb as illustrated on the Site Plan (Attachment 4). The open porch and landing will project 3.5 feet from the existing building front building wall. By building closer to the front lot line, the nonconformity is extended, which is not allowed by Section 12-5-6 of the Zoning Ordinance because it increases the degree of the nonconformity. Further, Section 12.7.1 limits the amount a front porch may extend into the required front yard: 5 feet and 50 square feet. As proposed, the porch would be 21.25 feet into the required yard. However, a variation that reduces the required front yard from 25 feet to

3.75 feet would solve both issues and permit the project. Reducing a required yard by more than 30 percent falls within the purview of the PZB and a standard variation per Section 12-3-6. Aside from the addition of open porch, stairs, landing, and new front sidewalk, the proposal does not include any other changes to the existing single-family residence (i.e., height, size, location, exterior building materials, etc.).

Alignment with the Comprehensive Plan

The proposed project, including the proposed site improvements, addresses various goals and objectives of the 2019 Comprehensive Plan including the following aspects:

- **Future Land Use Plan:**
 - The property is marked for single-family residential land use. The Future Land Use Plan strives to create a well-balanced development area with a healthy mixture of residential uses. The petitioner strives to make functional and aesthetic improvements to the existing property in an effort to utilize existing space in the building while still maintaining the character of the single-family residence.
 - The request provides functional and appearance altering improvements to the front of the existing residence to similar to surrounding residential properties along Fifth Avenue to provide safer access to the front of the residence.

While the aforementioned aspects represent a small portion of the goals and strategies of the Comprehensive Plan, there is a large emphasis on encouraging reinvestment in residential properties in order to enhance the residential corridors throughout Des Plaines and to increase the quality of life for residents.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6(H) of the Zoning Ordinance. Staff has the following comments based on the standards.

- 1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.**

Comment: The physical constraints of the property's current configuration, including the location of buildings, prevent the petitioner from realistically complying with the Zoning Ordinance. The existing single-family residence was constructed less than 25 feet from the front property line. Requiring the petitioner to relocate the existing residence to allow for a compliant front porch could create a financial and physical hardship for the petitioner. Please see the responses to standards from the Petitioner.

- 2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar**

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to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

Comment: The existing house being seven feet from the front lot line is unique. The existing residence location and configuration limit the optimal locations for a proposed porch, making it difficult for the petitioner to comply with all applicable zoning regulations. Please see the responses to standards from the Petitioner.

- 3. Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.**

Comment: The size and shape of the property have not changed due to any action of the petitioner. The unique physical constraints of the property are unavoidable due to the fact that the property is land-locked. Please see the responses to standards from the Petitioner.

- 4. Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.**

Comment: Carrying out of the strict letter of the Zoning Ordinance would not allow the petitioner to adequately and intuitively provide adequate access to the residence. In addition, surrounding residences are also located closer to the front property line and many have front porches not in compliance with this regulation. Please see the responses to standards from the Petitioner.

- 5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.**

Comment: The approval of this variation would not provide the petitioner with any special privilege or additional right, as these exact circumstances occurring on a different property would warrant similar consideration. The proposal would allow the petitioner to make improvements to an existing property by improving the existing access of the residence with a new porch area and walkway. Please see the responses to standards from the Petitioner.

- 6. Title And Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.**

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Comment: The approval of this variation would contribute to a harmonious neighborhood by accommodating a proposed investment in a single-family residence that upon completion will be in context with the surrounding area. Reinvestment in and retention of the illustrated single-family neighborhoods is supported by the Comprehensive Plan. Please see the responses to standards from the Petitioner.

- 7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.**

Comment: It would be impractical for the applicant to design the open porch and landing in a way that maintained the 25-foot minimum front yard. The location of the existing residence is nonconforming with the current front yard, so reducing the front yard to allow for the proposed project is the most reasonable way to encourage and support the planned reinvestment in the property. Please see the responses to standards from the Petitioner.

- 8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.**

Comment: The approval of this variation would be the minimum measure of relief for the petitioner to overcome the existing physical hardship on the property and make improvements to the existing residence. Please see the responses to standards from the Petitioner.

PZB Procedure and Recommended Conditions: Under Section 12-3-6(F) of the Zoning Ordinance (Standard Variations), the PZB has the authority to approve, approve subject to conditions, or deny the request: A variation allowing a 3.5-foot front yard setback from front (west) lot line to accommodate the proposed open porch and landing for an existing single-family residence at 543 S. Fifth Avenue. The decision should be based on review of the information presented by the applicant and the standards and conditions met by Section 12-3-6(H) (Findings of Fact for Variations) as outlined in the Zoning Ordinance.

If the PZB supports approving the request, staff recommends the following conditions.

1. No easements are affected or drainage concerns are created with the construction of the new porch and walkway.
2. All debris shall be removed from the property.
3. That all appropriate building permit documents and fire-rated separation details are submitted as necessary depending on the use classification of the proposed space. All permit documents shall be sealed and signed by a design professional licensed in the State of Illinois and must comply with all City of Des Plaines building codes.

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Acting Chairman Saletnik asked if there were any questions or comments from the audience.

Ms. Laura Rinard, 564 S. Fifth Avenue, asked if sidewalks would ever be placed on this street. Director Carlisle stated that the City has a five year Capital Improvement Plan, but he is not sure if sidewalks for this street are included at this point.

A motion was made by Board Member Catalano, seconded by Board Member Saletnik, to approve a Standard Variation from Section 12-7-2(J) of the Des Plaines Zoning Ordinance, as amended, to install a front porch addition that will extend more than 5 feet and 50 square feet into the required front yard and be setback less than 25 feet from the front property line, and the approval of any other such variations, waivers, and zoning relief as may be necessary at 543 S. Fifth Avenue, with the conditions stated in the staff report.

AYES: Catalano, Saletnik, Hofherr, Veremis, Szabo

NAYES: None

ABSTAIN: None

*****MOTION CARRIED UNANIMOUSLY*****

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2. Address: 580 S. Wolf Road

Case Number: 21-0444-CU-V
Public Hearing

The petitioner is requesting the following items: (i) a Conditional Use from Section 12-7-3(K) of the Des Plaines Zoning Ordinance, as amended, to allow a livery service in the M-2 zoning district; (ii) Major Variations from Section 12-10-8(A) to provide relief from the interior parking lot landscaping requirements; (iii) a Major Variation from Section 12-10-8(B) to provide relief from the perimeter parking lot landscaping requirements; (iv) a Major Variation from Section 12-10-10 to provide relief from the foundation landscaping requirements; (v) a Major Variation from Section 12-10-9 to provide relief from the landscape buffer requirements; and (vi) the approval of any other such variations, waivers, and zoning relief as may be necessary.

PIN: 09-18-400-006-0000
Petitioner: Transport Properties, LLC, 980 N. Michigan Avenue, Suite 1280,
Chicago, IL 60611
Owner: Chicago Title Land Trust Company, 1701 Golf Road, Suite 1-102,
Rolling Meadows, IL 60008

Chairman Szabo swore in David Meek, Becker & Gurian, Attorney for the Petitioner; Chris Iddings, First Student; Tim McCahill, Transport Properties, LLC; Katherine Talty, Talty Landscape Architects; Luay Aboona, KLOA; Randi Willie, Lafarge Fox River Decorative Stone; and Yulyia Kravesov, Meyer Material.

Mr. Meek provided an overview of the Petitioner's request. The owner, Transport Properties, LLC, has secured a tenant for the property, First Student. Petitioner wishes to remove all structures on site with the exception of the existing main building for office space and fill the remainder of the lot with buses.

Mr. Iddings provided an overview of First Student operations, which operates school buses for various School Districts. Approximately 150 school buses will be on site and 15-20 buses leave in a 15 minute window during their peak hours with minimal idling.

Chairman Szabo asked if the Board had any questions.

Member Veremis asked if First Student took into account the train traffic in the area. Mr. Meek stated that they did consider the trains and that there are six trains per day on Wolf.

Chairman Szabo asked if the buses were diesel; what do they do in extreme cold weather. Mr. Iddings stated that the buses are started throughout the night in cold weather; due to Covid, schools call days off earlier and students are able to work from home.

Ms. Talty reviewed the landscaping plans for the site.

Mr. Meek reviewed the traffic study and traffic impacts. Buses are located 200 feet from the nearest homes and the majority of homes are significantly more.

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Member Saletnik stated that the traffic study is the most important item in this request; trains can have 100 cars; tracks can be blocked for 10 minutes or more. Mr. Aboona stated that Wolf Road peaks from 7:30AM-8:30AM and the buses are driven during off-peak hours.

Member Saletnik stated that this will have a major traffic impact in the area; he questions the traffic report and believes that 890 trucks entering and departing the concrete plant number is a gross exaggeration; he's concerned about school bell times; these are key points in whether the Conditional Use should be approved.

Member Catalano asked for verification on the Capacity Analysis Results. Mr. Aboona explained the peak hour traffic and their direction.

Chairman Szabo asked if there were any questions or comments from the audience.

Ms. Cheryl Pratt, 681 Kenilworth, Des Plaines, stated that she is a 29 year resident; there's graffiti everywhere on the site currently; this area is not safe for kids; there will be a noise problem. Mr. Meek stated that the Conditional Use will clean up the property and the area will be fenced to control noise.

Ms. Linda Garner, 661 Kenilworth, Des Plaines, stated that the Petitioner is not following the landscaping rules; back-up noise from buses is unbearable; diesel fumes are not safe; this will affect their property values; concerned about the hours of operation. Ms. Talty reviewed the heights of trees, which are fast growing and will reach heights of 50 feet to block noise and views of the property. Mr. McCahill stated that as the owner, they are going above and beyond to make the neighbors happy.

Member Saletnik again reiterated his doubts regarding the Traffic Study; bell times should be provided to the City Council before they approve; he again questions the Study's statement that the concrete plant had 600 daily concrete mixer trucks (300 in and 300 out).

Mr. Randi Willie, 1300 S. IL Route 31, Elgin, stated that he formally worked for Meyer Material; the traffic count probably included more than trucks and included cars of employees.

Ms. Kravesov applauds Transport Properties, LLC use of the property and what they are trying to do; this is a good option for the community; they have looked for a buyer for years.

Chairman Szabo asked that the Staff Report be entered into the record. Planner Stytz provided a summary of the following report:

Issue: The petitioner is requesting the following items: (i) a Conditional Use as required by Section 12-7-3(K) of the Zoning Ordinance to allow a livery service in the M-2 zoning district; (ii) Major Variations from Section 12-10-8(A) to provide relief from the interior parking lot landscaping requirements; (iii) a Major Variation from Section 12-10-8(B) to provide relief from the perimeter parking lot landscaping requirements; (iv) a Major Variation from Section 12-10-10 to provide relief from the foundation

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landscaping requirements; and (v) a Major Variation from Section 12-10-9 to provide relief from the landscape buffer requirements

Address: 580 S. Wolf Road
Petitioner: Transport Properties, LLC, 980 N. Michigan Avenue, Suite 1280, Chicago, IL 60611
Owner: Chicago Title Land Trust Company, as Trustee of the Chicago Land Trust Company Trust #53278

Case Number: 21-044-CU-V
Real Estate Index #: 09-18-400-006-0000

Ward: #4, Alderman Artur Zadrozny

Existing Zoning: M-2, General Manufacturing District

Existing Land Use: Vacant; was last Meyer Material former concrete batch plant

Surrounding Zoning: North: M-2, General Manufacturing District
South: R-1, Single Family Residential District
East: R-1, Single Family Residential District / M-2, General Manufacturing
West: R-1, Single Family Residential District

Surrounding Land Use: North: ComEd (Utilities) / Industrial Building
South: Single Family Residences (Residential)
East: Industrial Building / Single Family Residences (Residential)
West: Railroad; Single Family Residences (Residential)

Street Classification: Wolf Road is classified as a minor arterial.

Comprehensive Plan: The Comprehensive Plan illustrates this site as industrial.

Issue: The petitioner is requesting variations (major and minor) from the Zoning Ordinance to allow a parking pad and to reduce the minimum side yard at 2071 Pine Street.

Project Description: The petitioner, Transport Properties, LLC, has requested a Conditional Use for a Livery Service Use and several variations for landscaping and screening at 580 S. Wolf Road. The 8.5-acre subject property is situated

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in between two separate railroads to its west and south, and is within the M-2 General Manufacturing district, where a Livery Service is a conditional use. The Plat of Survey (Attachment 4) shows a main building on the northeast side of the lot and multiple other structures throughout the remainder of the site, most notably a concrete production tower ("batch plant"). These are surrounded by paved, semi-paved, and gravel areas. Access to the subject property is available off Wolf Road only. At one time, there was a southern access road utilized off Thacker Street. However, this access point would be closed off and not be utilized for this use.

The petitioner wishes to remove all structures on site with the exception of the existing main building: a one-story warehouse building with the two-story attached office space located on the northeast corner of the site and fill the remainder of the lot with 16 passenger vehicle and 236 bus parking spaces as noted in the Site Plan Exhibit (Attachment 5). The petitioner wishes to utilize the existing 24,690-square-foot, one-story warehouse portion of the building for bus maintenance and storage, and use the two-story office portion (6,430-square foot first level and 2,433-square foot second level) of the building for all office activities. The proposal does not include changes to the exterior of the building, as the petitioner is interested in utilizing the existing doors, windows, building materials, and finishes as indicated in the Building Plans (Attachment 6). The petitioner's proposal also includes site improvements such as the addition of a new paved and striped parking area, landscaping along the perimeter of the parking lot area, new interior parking lot landscape beds, new turf areas, a 5,000-gallon fuel tank, and proposed screening with an eight-foot-tall fence around the entire site as shown on the Site Plan Exhibit (Attachment 5). Staff has added a condition that the dumpster shall be stored inside the building except during trash pickup days.

The proposed floor plan includes a 5,570-square-foot first-floor office area, 2,212-square-foot second floor office area, an 8,407-square-foot service bay area, and a 15,568-square-foot bus equipment and storage area, totaling 27,123 square feet. Note that the floor area calculation excludes bathrooms, mechanical rooms, hallways, stairwells, and storage areas up to ten percent of the entire combined floor area. The Livery Service use follows the off-street parking regulations for offices to accommodate employee, guest, and livery service related vehicle

parking. Pursuant to Section 12-9-7 of the Zoning Ordinance, one parking space is required for every 250 square feet of gross floor area. A total of 109 off-street parking spaces are required, including five handicap accessible parking spaces. The Site Plan Exhibit (Attachment 5) provides 16 personal vehicle spaces, including one handicap parking space, and 236 bus parking spaces totaling 252 total spaces. However, the site plan does not designate all five required accessible parking spaces. Staff has added a condition that the petitioner's site plan submitted at the time of building permitting contain all required accessible parking with the required striping and dimensions.

The initial tenant for the livery service, First Student, anticipates having approximately 150 school buses parked on the subject property with an additional 10-15 buses typically in service for maintenance or repair. Roughly 20-25 office, dispatch, and maintenance employees will be on the subject property during a.m. and p.m. shifts. For the a.m. shift, maintenance employees arrive starting at 5 a.m., and shift bus drivers will arrive starting at 6:15 a.m. for 6:30 a.m. departures. Bus service during the morning shift will be staggered starting at 6 a.m. and ending around 9:30 a.m. The shift cross-over is between 11 and 12 a.m. For the p.m. shift, bus service shift will be staggered starting at 1 p.m. with buses returning by 5:30 p.m. Afternoon shift workers will leave at 5:30 p.m. A majority of the bus operations will occur during the regular school year from mid-August through early June. However, roughly 20-25 buses will be utilized during the summer months for the summer school season. See the Project Narrative (Attachment 1) for more details.

The petitioner submitted a traffic study by KLOA, Inc. to assess the anticipated impact of the new livery service on the subject property and surrounding infrastructure. The traffic study concludes that the anticipated traffic volumes of this use would be primarily generated outside of peak hours of adjacent roadway traffic on Wolf road and would generate less overall traffic than the previous concrete batch plant did. There were no concerns that the existing access system is sufficient to handle the proposed livery service. However, it was noted that "additional evaluation" should occur regarding the at-grade railroad crossing on Wolf Road, just south of the entrance to the subject property (in other words, there is some concern about bus queueing and backup around the tracks). It was suggested that bus routing and/or departure time could be adjusted to limit the number of buses utilizing the railroad

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crossing on Wolf Road—meaning that buses could be routed mostly to the north (left) when leaving the property and would return from the same direction, generally avoiding the tracks. Consider, however, that this would add to traffic that would likely come to the Golf-Wolf intersection approximately a half-mile to the north.

Whether buses are required to come to a complete stop each and every time they cross the tracks is a question the petitioner should be prepared to address. The PZB should evaluate during the public hearing and may consider an additional condition that a routing plan should be added to the submittal prior to consideration of the City Council.

Regarding sound impacts, consider the proposed user (First Student) will consist of many school vehicles that have an audible backing sound/beep. The petitioner writes in the Project Narrative that upon returning to the facility each night, vehicles would be backed in, causing the concentration of the sound to occur in mid-to-late afternoons instead of early in the morning. In addition, like all vehicles, there is sound from engine start-up. Transport Properties would discourage First Student from idling, except when required for vehicle maintenance. See Attachment 1 for more details.

Major Variations

Project Description: ____

The petitioner is also requesting several variations with the conditional use request regarding landscape requirements. The original request included a variation to reduce the required number of off-street parking spaces on the subject property from 31 to sixteen. However, as stated above and noted in the Livery Service definition in Section 12-13-3 of the Zoning Ordinance, the livery service use shall follow the parking regulation for offices to accommodate employee, guest, *and livery service related* vehicle parking. This allows the proposed bus parking spaces to be factored into the total off-street parking space calculation, negating the need for a variation. However, it is important to note that the Site Plan Exhibit (Attachment 5) will still need to be revised to provide the five required mobility impaired parking spaces pursuant to Section 12-9-8(A) of the Zoning Ordinance.

The petitioner has also requested several variations pertaining to landscape requirements as summarized in the table below. Due to the nature of the use, the requested variations for relief from interior parking

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lot landscaping requirements—specifically quantity of trees and location of landscape areas—could be warranted based on design, as the request does intend to provide a substantial amount of landscaping throughout the site where there is currently none. Conversely, perimeter parking lot landscaping, landscape buffering, and foundation landscaping are paramount to bringing the existing property closer to conformance with the Zoning Ordinance and are arguably achievable given the layout of the subject property, the existing building, and the property’s close proximity to single-family development on three of its four sides. Discussion of the variation standards are addressed by the petitioner in the Responses to Standards (Attachment 2).

Request	Requirement	Proposal
Interior Parking Lot Landscaping – Quantity of Trees	161	125
Interior Parking Lot Landscaping – Location of Landscaped Areas	Located every 30 parking spaces and at the end of all parking rows.	Landscape area after 34 spaces and no areas at the end of two parking rows.
Perimeter Parking Lot Landscaping – # of Trees	7	4
Foundation Landscaping	Min. 3’ wide landscape bed covering 25% of building’s foundation	Existing Foundation Landscaping Without Additions
Landscape Buffers (i.e., screening)	8’ Solid wood, vinyl, or masonry fence along 100% of yard length	6’ solid wood fence along Wolf Road and 6’ chain link for rest of site.

Conditional Use Findings: Conditional Use requests are subject to the standards set forth in Section 12-3-4(E) of the Zoning Ordinance. The petitioner provided responses to standards, which the PZB should read and evaluate, deciding whether or not to adopt as findings. Holistically, staff views this potential use as one that is not free from neighbor impacts, particularly around traffic and sound. However, the impacts may be more preferable than a concrete-production user (e.g. smell, sound) or a large vacant site (e.g. fly dumping, property maintenance, eyesore/aesthetics, drag on property values). If approved, this project would return a vacant site to productive use. Stormwater management requirements would necessitate the installation of on-site detention (currently planned to be installed underground), which would improve drainage. The site is constrained from redevelopment with, for example, a modern industrial user

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because the overhead power lines limit building height (floor-to-ceiling), which is a crucial consideration in industrial site selection.

1. **The proposed Conditional Use is in fact a Conditional Use established within the specific Zoning district involved:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

2. **The proposed Conditional Use is in accordance with the objectives of the City's Comprehensive Plan:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

3. **The proposed Conditional Use is designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

4. **The proposed Conditional Use is not hazardous or disturbing to existing neighboring uses:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

5. **The proposed Conditional Use is to be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or, agencies responsible for establishing the Conditional Use shall provide adequately any such services:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

6. **The proposed Conditional Use does not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic well-being of the entire community:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

7. **The proposed Conditional Use does not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

8. **The proposed Conditional Use provides vehicular access to the property designed so that it does not create an interference with traffic on surrounding public thoroughfares:**

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

9. **The proposed Conditional Use does not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance:**

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Comment: Please see the petitioner's responses to Standards for Conditional Uses.

10. The proposed Conditional Use complies with all additional regulations in the Zoning Ordinance specific to the Conditional Use requested:

Comment: Please see the petitioner's responses to Standards for Conditional Uses.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6(H) of the Zoning Ordinance. The petitioner provided responses to standards, which the PZB should read and evaluate, deciding whether or not to adopt as findings.

- 1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.**

Comment: Please see the responses to standards from the Petitioner.

- 2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.**

Comment: Please see the responses to standards from the Petitioner.

- 3. Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.**

Comment: Please see the responses to standards from the Petitioner.

- 4. Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.**

Comment: Please see the responses to standards from the Petitioner.

- 5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.**

Case 21-043-V
Case 21-044-CU-V
Case 21-038-TA

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Comment: Please see the responses to standards from the Petitioner.

- 6. Title And Plan Purposes:** The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.

Comment: Please see the responses to standards from the Petitioner.

- 7. No Other Remedy:** There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

Comment: Please see the responses to standards from the Petitioner.

- 8. Minimum Required:** The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

Comment: Please see the responses to standards from the Petitioner.

PZB Procedure and Recommended Conditions: Under Section 12-3-4(D) (Procedure for Review and Decision for Conditional Uses) and Section 12-3-6(G) (Standards for Review for Major Variations) of the Zoning Ordinance, the PZB has the authority to *recommend* that the City Council approve, approve subject to conditions, or deny the above-mentioned conditional use and variations for a Livery Service Use at 580 S. Wolf Road. City Council has final authority on the proposal.

Consideration of the request should be based on a review of the information presented by the applicant and the findings made above, as specified in Section 12-3-4(E) (Standards for Conditional Uses) and Section 12-3-6(H) (Standards for Variations) of the Zoning Ordinance. If the PZB recommends and City Council ultimately approves the request, staff recommends the following conditions.

Conditions of Approval:

1. That a public sidewalk is installed across the subject property's frontage along Wolf Road to the applicable specifications of the Des Plaines Municipal Code and additional governmental agency regulations as necessary.
2. The dumpster shall be stored inside the building except during trash pickup days. If a future trash enclosure is pursued, a building permit with plans for the dumpster enclosure in compliance with Section 12-10-11 of the Zoning Ordinance shall be submitted to staff.
3. The Site Plan shall be revised to contain all required accessible parking spaces with the required striping and dimensions and resubmitted at the time of building permitting.
4. A Photometric Plan in compliance with Section 12-12-10 of the Zoning Ordinance shall be submitted to staff at time of building permit.

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5. The use shall be monitored regularly for compliance with the Environmental Performance Standards in Chapter 12 of the Zoning Ordinance, particularly regarding sound/noise. Sufficient documentation regarding the proposed fuel tank shall be submitted with the application for a building permit to suffice for a Fire and life safety approval, pursuant to Sections 12-12-3 and 12-12-4.

Acting Chairman Saletnik asked if there were any questions or comments from the audience. There were no comments.

A motion was made by Board Member Hofherr, seconded by Board Member Catalano, to recommend approval of 580 S. Wolf Road requesting a Conditional Use from Section 12-7-3(K) of the Des Plaines Zoning Ordinance, as amended, to allow a livery service in the M-2 zoning district. Member Catalano added the following two conditions, each of which is stated in the conclusions of the traffic report submitted by the applicant. These were added to the five conditions recommended by staff:

6. Evaluate the travel paths of the school buses to determine if there are any opportunities to reroute them and minimize the number of buses that will travel to/from the south on Wolf Road and cross the railroad tracks; and
7. Monitor the operations of the facility annually after opening. This would include keeping track of bus departure times and routes of travel throughout the morning period. This should be utilized to determine if any adjustment to the routing and times of departure will be necessary.

AYES: Hofherr, Catalano, Veremis, Saletnik

NAYES: Saletnik

ABSTAIN: None

*****MOTION CARRIED *****

A motion was made by Board Member Hofherr, seconded by Board Member Catalano, to recommend approval of 580 S. Wolf Road requesting the following items: Major Variations from Section 12-10-8(A) to provide relief from the interior parking lot landscaping requirements; a Major Variation from Section 12-10-8(B) to provide relief from the perimeter parking lot landscaping requirements; a Major Variation from Section 12-10-9 to provide relief from the landscape buffer requirements; and a Major Variation from Section 12-10-10 to provide relief from the foundation landscaping requirements.

AYES: Hofherr, Catalano, Veremis, Saletnik

NAYES: Saletnik

ABSTAIN: None

*****MOTION CARRIED *****

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Chairman Szabo called for a 5-minute recess at 9:25 p.m. The Board reconvened at 9:31 p.m.

3. Address: Citywide Text Amendment

Case Number: 21-038-TX

Public Hearing (Continued from September 14, 2021)

The City of Des Plaines requests consideration of text amendments to the Des Plaines Zoning Ordinance to add limitations to the eligibility for collective parking under Section 12-9-3 and any other amendments as may be necessary.

PIN: Citywide
Petitioner: City of Des Plaines, 1420 Miner Street, Des Plaines, IL 60016
Owner: City of Des Plaines, 1420 Miner Street, Des Plaines, IL 60016

Director Carlisle summarized the Board's feedback on the initial proposal, provided and presented additional research. Revised amendments were presented.

Acting Chairman Saletnik asked if the Board had any questions.

The Board discussed briefly and agreed with the feedback.

Chairman Szabo asked if there were any questions or comments from the audience. There were no comments.

A motion was made by Board Member Saletnik, seconded by Board Member Catalano, for approval of text amendments to the Des Plaines Zoning Ordinance to add limitations to the eligibility for collective parking under Section 12-9-3 and any other amendments as may be necessary.

AYES: Saletnik, Catalano, Szabo, Veremis, Saletnik

NAYES: None

ABSTAIN: None

*****MOTION CARRIED UNANIMOUSLY*****

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ADJOURNMENT

The next scheduled Planning & Zoning Board meeting is Tuesday, November 9, 2021.

Chairman Szabo adjourned the meeting by voice vote at 9:38 p.m.

Sincerely,

Nancy Peterson, Recording Secretary

cc: City Officials, Aldermen, Zoning Board of Appeals, Petitioners



COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT

1420 Miner Street
Des Plaines, IL 60016
P: 847.391.5380
desplaines.org

MEMORANDUM

Date: November 1, 2021

To: Planning and Zoning Board (PZB)

From: Jonathan Stytz, Planner JS

Cc: John T. Carlisle, AICP, Director of Community and Economic Development JC

Subject: Consideration of a Standard Variation to reduce the required rear yard for a proposed one-story addition on a single-family detached home at 290 N. Eighth Avenue, Case #21-031-V (7th Ward)

Issue: The petitioner is requesting a Standard Variation to install a one-story room addition that will be set back less than 25 feet from the rear property line, as required by Section 12-7-2 of the Zoning Ordinance.

Address: 290 N. Eighth Avenue

Petitioner: C. Rocco Castellano, 30 N. Vincennes Circle, North Bay, WI 53402

Owner: Joan Van Zandt, 266 N. Eighth Avenue, Des Plaines, IL 60016

Case Number: 21-031-V

PIN: 09-07-407-029-0000

Ward: #7, Alderman Patsy Smith

Existing Zoning: R-1, Single Family Residential District

Existing Land Use: Single Family Residence

Surrounding Zoning: North: R-1, Single Family Residential District
South: R-1, Single Family Residential District
East: R-1, Single-Family Residential District
West: R-1, Single Family Residential District

Surrounding Land Use: North: Single Family Residence
South: Single Family Residence
East: Chippewa Park & Pool

West: Single Family Residence

Street Classification: Eighth Avenue is classified as a local street.

Comprehensive Plan: The Comprehensive Plan illustrates the site as single-family residential.

Project Description: The petitioner, C. Rocco Castellano, on behalf of owner Joan Van Zandt, is requesting a Standard Variation to install a one-story room addition on an existing single-story single-family detached house. The new enlarged house would encroach 7.5 feet into the required minimum rear yard and be set back 17.3 feet from the rear property line, where a minimum setback of 24.8 feet (just less than 25 feet) is required. This requested relief would amount to a 30.24 percent reduction in the rear yard, which cannot be granted through a minor variation by the zoning administrator and must instead be a standard variation by the PZB.

The subject property consists of two lots totaling 8,623 square feet and is currently improved with a one-story, 1,184-square-foot residence, a 120-square foot breezeway connecting the house with a 264-square foot single-car attached garage, an uncovered patio, private walks, and a concrete driveway, as shown in the Plat of Survey (Attachment 3). At its closest points, the existing house is set back 24.40 feet from the east (front) property line, 31.58 feet from the west (rear) property line, 25.40 feet from the south (interior side) property line, and approximately 12.09 feet from the north (corner side) property line. See the Existing Conditions Photos (Attachment 7) for more information on the current conditions of the subject property.

The petitioner is requesting to demolish the existing breezeway and attached garage to construct a new 24 feet long by 32 feet wide attached garage with a new 14.17 feet long by 24' feet wide breezeway totaling 1,108 square feet in area as illustrated on the Site Plan (Attachment 4). The resulting area for the entire residence would be 2,292 square feet with the addition, which is still in line with the maximum 35 percent building coverage requirement for the R-1 district. The enlarged breezeway will include a new bedroom, bathroom, and expanded kitchen area, and the enlarged attached garage will include a mud room and space for up to three vehicles/storage as illustrated in the Floor Plan (Attachment 5). The proposed room addition will be designed to match the exterior building materials, height, and overall appearance of the existing residence for all elevations as illustrated in the Elevations (Attachment 6).

The proposed one-story room addition results in an addition to the principal structure that is greater than a 15 percent change of gross floor area and appearance altering renovations to the front and corner facades of the principal structure. This degree of changes requires the project to comply with the Building Design Review standards in Section 12-3-11 of the Zoning Ordinance. Under these standards, all detached, one-story single family residences must be constructed with 100 percent face brick, natural stone, or anchored or adhered masonry veneer on all exterior elevations. The proposal includes the installation of face brick matching the existing residence for a majority of the proposed elevations, but do indicate that a portion of the new attached garage addition will be improved with siding as illustrated in the Elevations (Attachment 6).

While the proposed face brick and siding match with the existing residence, the proposed siding is not a permitted ground-story material pursuant to this code section. Staff has added a condition that 100 percent of the ground-story elevations are improved with face brick in conformance with Section 12-3-11 of the Zoning Ordinance. Aside from the room addition, there are no proposed changes to the remainder of the residence.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6(H) of the Zoning Ordinance. Staff has the following comments based on the standards. The PZB may use staff comments, the petitioner's response, or state their own comments as rationale for their decision.

- 1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.**

Comment: Staff does not see a hardship or practical difficulty preventing the petitioner from complying with the minimum rear yard setback, as there are opportunities to construct the room addition without a variation. First, the code requires a rear yard setback of 25 feet or 20 percent of lot depth, whichever is less. In the case of the subject property, the lot depth of 123.98 feet yields a minimum rear yard setback of 24.8 feet (123.98 square feet x 20 percent), which is additional space that may not be available to surrounding properties with different lot depths. Additionally, the subject property has plenty of available space to the south for the proposed addition that would fit inside the buildable area due to the space provided by the portion of Lot 2 that is south of the residence as indicated on the Plat of Survey. Contrary to the Petitioner's written statement, the interior lot line indicated on the Plat of Survey indicates a portion of another lot, which is under common ownership and included with the subject property, providing additional lot area that many corner lots, like the corner lot across the street at 310 Eighth Avenue, do not have available. The interior side yard to the south of the residence, which requires a minimum 5-foot setback from the south property line, presents an appropriate area for part, if not all, of the proposed addition that could accommodate the space requested by the applicant. The residence is set back 30.2 feet from the property line at its southeast corner and 25.4 feet from its closest point to the south (interior side) property line leaving a minimum of 20.4 feet for the addition to be located. It is important to note that the existing yard designations, including Eighth Avenue as the front yard, the west property line as the rear yard, Stone Street as the corner-side yard, and the south property line as the interior side yard, provide sufficient space for the proposed addition. This is because having Stone Street as the front yard would make the existing residence non-conforming with the minimum front yard setback and still not provide much space for the proposed addition on the west side of the property. See the Petitioner's responses to Standards for Variations.

- 2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.**

Comment: There is not an obvious, unique physical condition on the subject property than differs from any other property along this street as there are several other corner lots in the immediate area and throughout Des Plaines that have similar shapes and yard designations to the subject property but are subordinate in size, such as 196 Eighth Avenue, 210 Eighth Avenue, and 195 Wolf Road. The subject property, while being a corner lot, is a fairly typical shape and size that allows for more

development opportunities within the letter of the code where other properties may be more constricted by their attributes, such as 310 Eighth Avenue across the street from the subject, which is over 2,500 square feet less in area, limiting the development of that lot. The request appears to be more of a personal preference of the property owner instead of a definable physical condition. Nonetheless, see the Petitioner's responses to Standards for Variations.

3. **Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.**

Comment: While the subject property's location, size, and development may not be a result of any action or inaction of the property owner, the subject property was purchased with the understanding of these attributes and conditions. In addition, there is already an accommodation for two off-street parking spaces as required by code – granted, they are not both within a garage – and sufficient room within the buildable area to provide an additional covered garage space without a variation. As such, these physical conditions of the subject property would not warrant the approval of a variation for the proposed room addition for additional storage and garage space as other corner lots in Des Plaines deal with similar circumstances. See the Petitioner's responses to Standards for Variations.

4. **Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.**

Comment: Staff finds that carrying out the strict letter of this code to require the room addition to be set back 24.8 feet from the rear property line would not deprive the existing property owner of substantial rights enjoyed by other owners of similarly zoned lots since this regulation is enforced for all residentially-zoned properties regardless of size, location, and composition of the property. Since this corner lot enjoys additional area that is not afforded to all corner lots in Des Plaines, there is more than ample room to accommodate a two-car attached garage in the buildable area within the letter of the code. All room additions are held to the same standards under Section 12-7-2(J) of the Zoning Ordinance, so enforcing the minimum rear yard setback would not deprive the property owner from any substantial rights enjoyed by other single family residential properties. See the Petitioner's responses to Standards for Variations.

5. **Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.**

Comment: Granting of this variation for density would, in fact, provide a special privilege for the property owner not available to other single family residential properties as it would give the petitioner preferential treatment over owners of other single family residences. Many other corner lots in Des Plaines of various sizes and shapes have designed room additions to accommodate a two-car attached garage within the letter of the code. As there are a variety of different design options and positions for the room addition on this site, granting a variation for this design, when plenty of other viable options are available, would provide the property owner with preferential treatment. Also, it could create a precedent for more set back reduction requests for single family residential properties that do not meet the standards for variations and may not have the available space or justifiable need for additions. See the Petitioner's responses to Standards for Variations.

6. **Title And Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and**

the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.

Comment: On one hand, the project would allow re-investment into a single-family home, which the Zoning Ordinance and Comprehensive Plan want to encourage. Further, single-story ranch homes are a good product for many households. The key issue in staff's minds, however, is does the Ordinance for this lot offer a reasonable option for designing a ranch home without needing relief from the code? We believe so. Additionally, zoning requires a minimum of two off-street parking spaces, which are already accommodated on site and could still be provided within an attached garage inside the buildable area without a variation. The southern portion of the property provides the necessary space for the room addition while meeting or exceeding minimum setback requirements depending on design. See the Petitioner's responses to Standards for Variations.

7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

Comment: First and foremost, shifting the proposed two-car attached garage to the east and widening the proposed breezeway would achieve the request of providing the two covered parking spaces and still allow for the addition of the bedroom, bathroom, and expanded kitchen areas. As noted earlier, there is more than 20 feet of space available to the south of the residence to shift a portion of or all of the proposed addition and accommodate the proposed improvements. A 720-square-foot garage can easily accommodate multiple vehicles, equipment storage, and work area depending on its design, so the proposed 768-square-foot garage could be reduced in width or depth to free up space on the west side of the property, meet the rear yard setback, and still accommodate the storage space sought. Additionally, zoning allows up to two accessory structures for each property up to 150 square feet in size. Thus, up to two, 150-square-foot sheds could be added on the property in the rear yard as accessory structures to accommodate additional storage as needed totaling 300 square feet in addition to the new garage space. Another alternative option includes a second-story addition, which could provide even more space than what is proposed here while still complying with all regulations. In essence, there are many other available and viable options aside from the variation to remedy the petitioner's posed concerns. Please see the Petitioner's responses to Standards for Variations.

8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

Comment: The request for the setback reduction is not the minimum measure of relief to address the petitioner's concerns but rather the redesign of the proposed room addition to better utilize the available property and to meet the required codes. As there are multiple other viable alternatives to the variation, the minimum measure of relief standard has not been met in staff's view. See the Petitioner's responses to Standards for Variations.

PZB Procedure and Recommended Conditions: Under Section 12-3-6(F) of the Zoning Ordinance (Standard Variations), the PZB has the authority to approve, approve subject to conditions, or deny the request: A variation allowing a 17.3-foot rear yard setback from the west lot line to accommodate the proposed room addition for an existing single-family residence at 290 N. Eighth Avenue. The decision should be based on review of the information presented by the applicant and the standards and conditions met by Section 12-3-6(H) (Findings of Fact for Variations) as outlined in the Zoning Ordinance. If the PZB approves the request, staff recommends the following conditions.

Conditions of Approval:

1. No easements are affected or drainage concerns are created with the construction of the room addition.

2. The exterior building materials for the entire room addition shall consist of 100% face brick, natural stone, and/or adhered or anchored masonry veneer in conformance with Section 12-3-11 of the Zoning Ordinance.
3. The driveway is adjusted to fully service the new garage entrance in compliance with all applicable City of Des Plaines codes at the same time as the construction of the room addition.
4. All debris shall be removed from the property.
5. That all appropriate building permit documents and details are submitted as necessary for the single family residence. All permit documents shall be sealed and signed by a design professional licensed in the State of Illinois and must comply with all City of Des Plaines building codes.

Attachments:

- Attachment 1: Petitioner's Responses to Standards for Variation
- Attachment 2: Location Map
- Attachment 3: Plat of Survey
- Attachment 4: Site Plan
- Attachment 5: Floor Plan
- Attachment 6: Elevations
- Attachment 7: Existing Condition Photos
- Attachment 8: Site & Context Photos



rocco
castellano

design
studio

30 North Vincennes Circle
North Bay, Wisconsin 53402
Phone 312.925.0907
rocco.castellano@castellano.design

City of Des Plaines
Community and Economic Development
1420 Miner Street
Des Plaines, IL 60016

Re: 290 N. 8th Ave.
Responses to Standards for Variations

To whom it may concern,

I, on behalf of Rocco Castellano Design Studio and my clients Joan and Howard Van Zandt, am pleased to provide our application for minor zoning variation.

Per the instructions in the variations guide, we intend on illustrating why consideration for a minor variance would be within precedent and in the interest to the community. The application has requested us to respond to the 8 following conditions for consideration of this variance request:

1. **Hardship:** No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.

*The property at 290 N 8th Ave. is a corner lot affronting the streets 8th Ave. (to the east) and Stone St. (to the north). The front door and front façade of the home affront Stone Street (north façade); however, due to the apparent intent of the city planning, the front yard setback is, consequently, established along the east frontage on 8th Ave. in order to maintain a uniform setback along the length of the frontage along 8th Ave. Consequently, the corner side yard (north yard), side yard (south yard) and rear yard (west yard) are typologically incongruent with normative and empirical definitions of front, side, and rear yard definitions. This may not be unmanageable if the side yard (south yard) were permitted to allow the (5') five-foot side yard setback the rest of the neighborhood is permitted to use; however, the property at 290 N. 8th Ave. is bound to maintain an additional (25') setback along the southern extent of the property since the plat identifies a building line restricting expansion south. This restriction is in addition to the west yard or "as defined" rear yard (25') twenty-five-foot setback. Consequently, the property has no side yard but what equals (2) rear yards 1) to the west 2) to the south. We believe this illustrates that this is a serve application of the zoning code and constitutes a **Hardship** for consideration for a variance.*

2. **Unique Physical Condition:** The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

July 22, 2021



*The property at 290 N. 8th Ave. is physically typical when compared to other homes in the neighborhood; however, the building structure & associated lot limits have a **Unique Physical Condition** in its limiting use to a single car garage configuration. While a single car garage is not unique to the neighborhood, the lots inability to add a second car garage is unique and a **Hardship**.*

3. **Not Self-Created:** The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.

*To the best of our knowledge, the structure's **Unique Physical Condition**, in that it is bound to a single car garage configuration, and was original to both the home and the property without revision and existed at the time of enactment and is **Not Self-Created**.*

4. **Denied Substantial Rights:** The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

*Based on an empirical survey, it is apparent that home values improve with the inclusion of a second car garage. It is also apparent that accessory structures have been added to the neighborhood over time in order to include the addition of a second car garage by accessory structures or building additions. In current interpretation of the property's limits, this property's inability to add the second car garage is an example of how this property is **Denied Substantial Rights** otherwise afforded by rest of the neighborhood as allowed by the current zoning ordinance.*

5. **Not Merely Special Privilege:** The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.

*It can be advocated that modern home ownership improves with the addition of a second option for covered parking; consequently, the value of a home is related to and associated with the number or cover parking units available on a property. Confining this property to a single car program limits the resale value of the home especially since the home directly opposite from the property has been allowed to encroach into the rear yard setback for the purposes of adding the second car garage and by the magnitude identical to our variance request; therefore, our request would **Not Merely be a Special Privilege** but one following precedent. Preventing the authorization of this variance could be viewed as punitive considering this precedent.*

6. **Title And Plan Purposes:** The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general



rocco
castellano

design
studio

30 North Vincennes Circle
North Bay, Wisconsin 53402
Phone 312.925.0907
rocco.castellano@roccocastellano.design

purpose and intent of the comprehensive plan.

*It is difficult to imagine a modern home built today without the amenity of a (2) two car garage. It is not only unlikely to plan single family developments with single car covered storage but common and conventional to expect modern suburban city planning to include two-car-garage configurations into modern suburban planning as a primary organizing element. It is this rationale that may explain why a variance (presumably) was approved for the home on the opposite side of Stone Street referenced above. Accordingly, an approved variance would appear to endorse the **Title and Plan Purposes** of the City of Des Plaines.*

7. **No Other Remedy:** There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

*We have studied various options and configurations in order to add a second car garage to the existing lot and home configuration. While these options were expansive and other scenarios allowed for an additional covered parking space it had a negative impact to the program of the living space and was prohibitive from a space planning consideration. Cost was not even a consideration in this assessment. The limited available space alone excluded any other option from consideration; therefore, there is **No Other Remedy** than the one presently proposed without a sacrifice to other programmatic elements.*

8. **Minimum Required:** The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

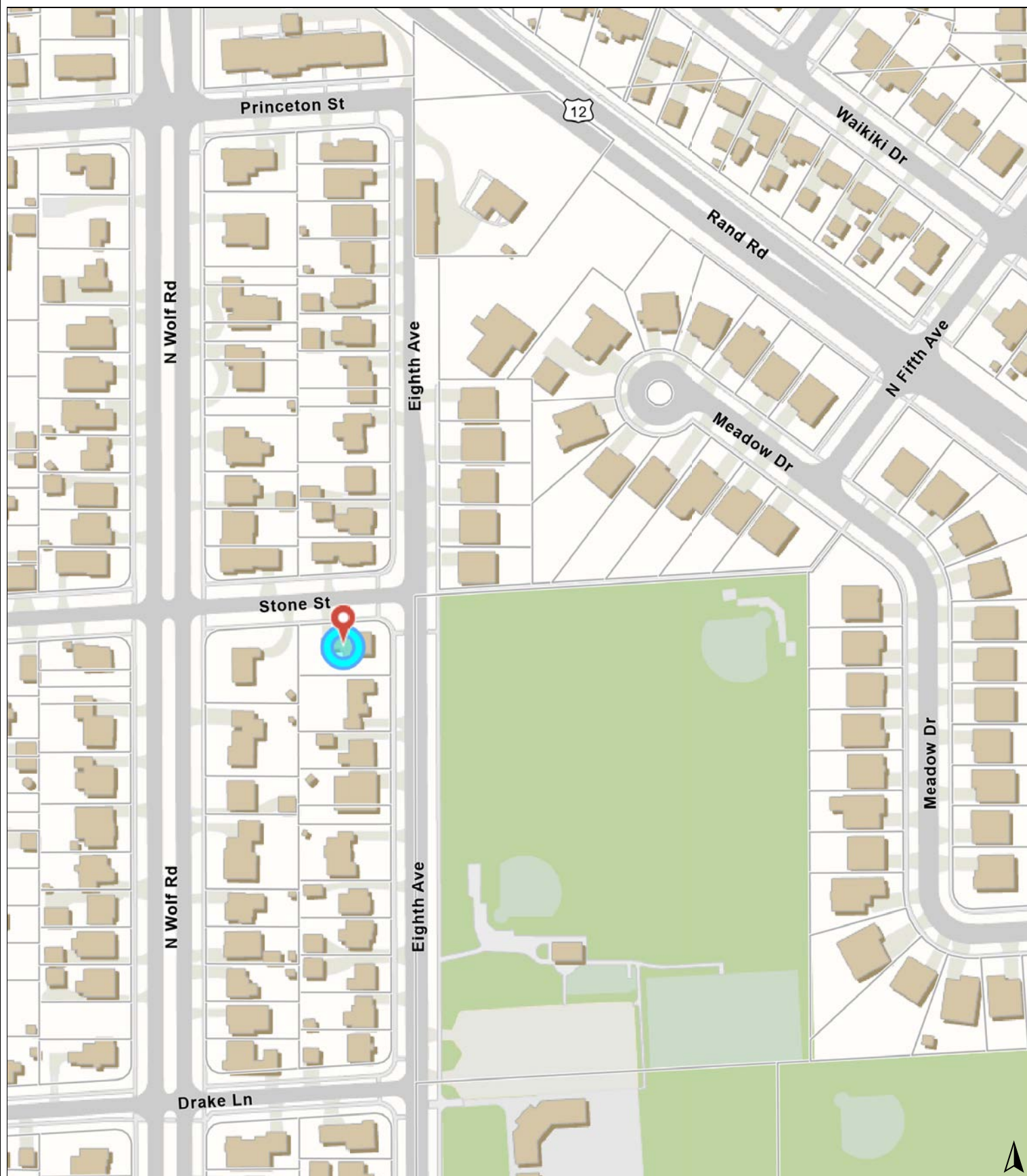
The requested variance impacts the existing setback to a minor degree and is limited to (5'-4") five feet of setback length. Instead of a (25') twenty-five-foot rear yard setback, we are proposing a (19'-8") nineteen-foot eight-inch setback. This requested amount accounts for the **Minimum Required** garage width in order to add a second car garage with modern space planning conventions.

Thank you for your consideration of our request of a minor variance and we hope we have illustrated how this approval would be in the interest to the City of Des Plaines, the property and the neighborhood. Please contact me if you have any questions or concerns.

Sincerely,

C. Rocco Castellano
Principal

July 22, 2021

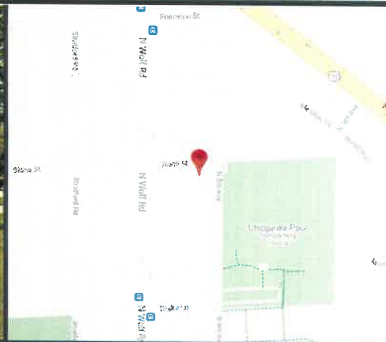


0 250 500
ft

Print Date: 11/3/2021

Notes

Disclaimer: The GIS Consortium and MGP Inc. are not liable for any use, misuse, modification or disclosure of any map provided under applicable law. This map is for general information purposes only. Although the information is believed to be generally accurate, errors may exist and the user should independently confirm for accuracy. The map does not constitute a regulatory determination and is not a base for engineering design. A Registered Land Surveyor should be consulted to determine precise location boundaries on the ground.



PROPERTY ADDRESS: 290 N 8TH AVENUE, DES PLAINES, ILLINOIS 60016

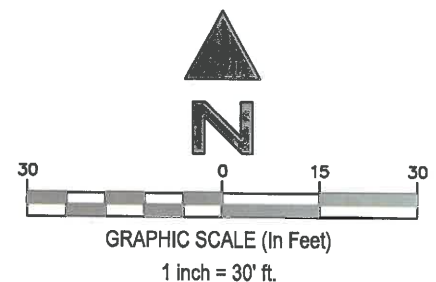
SURVEY NUMBER: 2104.8164

TOTAL AREA OF PROPERTY SURVEYED 8623 SQ.FT.±

POINTS OF INTEREST:

① 1. RESIDENCE OVER BUILDING LINE

C-1
R= 20.00' (C)
L= 32.88' (C)
 $\Delta = 94^{\circ}10'55''$ (C)
CH= N $47^{\circ}15'11''$ W, 29.30' (C)



STATE OF ILLINOIS } ss
COUNTY OF LASALLE }

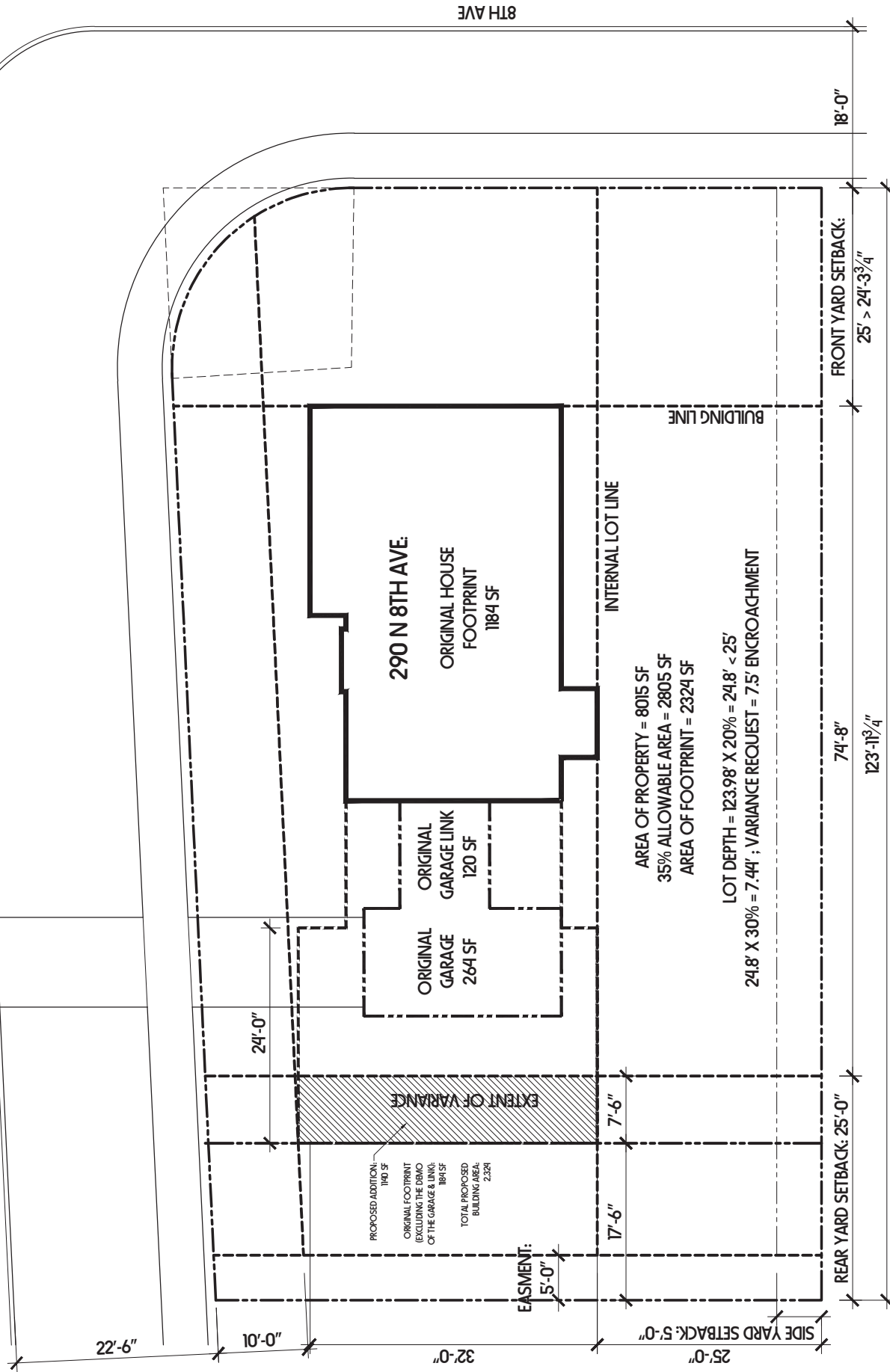
THIS IS TO CERTIFY THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. GIVEN UNDER MY HAND AND SEAL THIS DATE HEREON.

Attachment 3

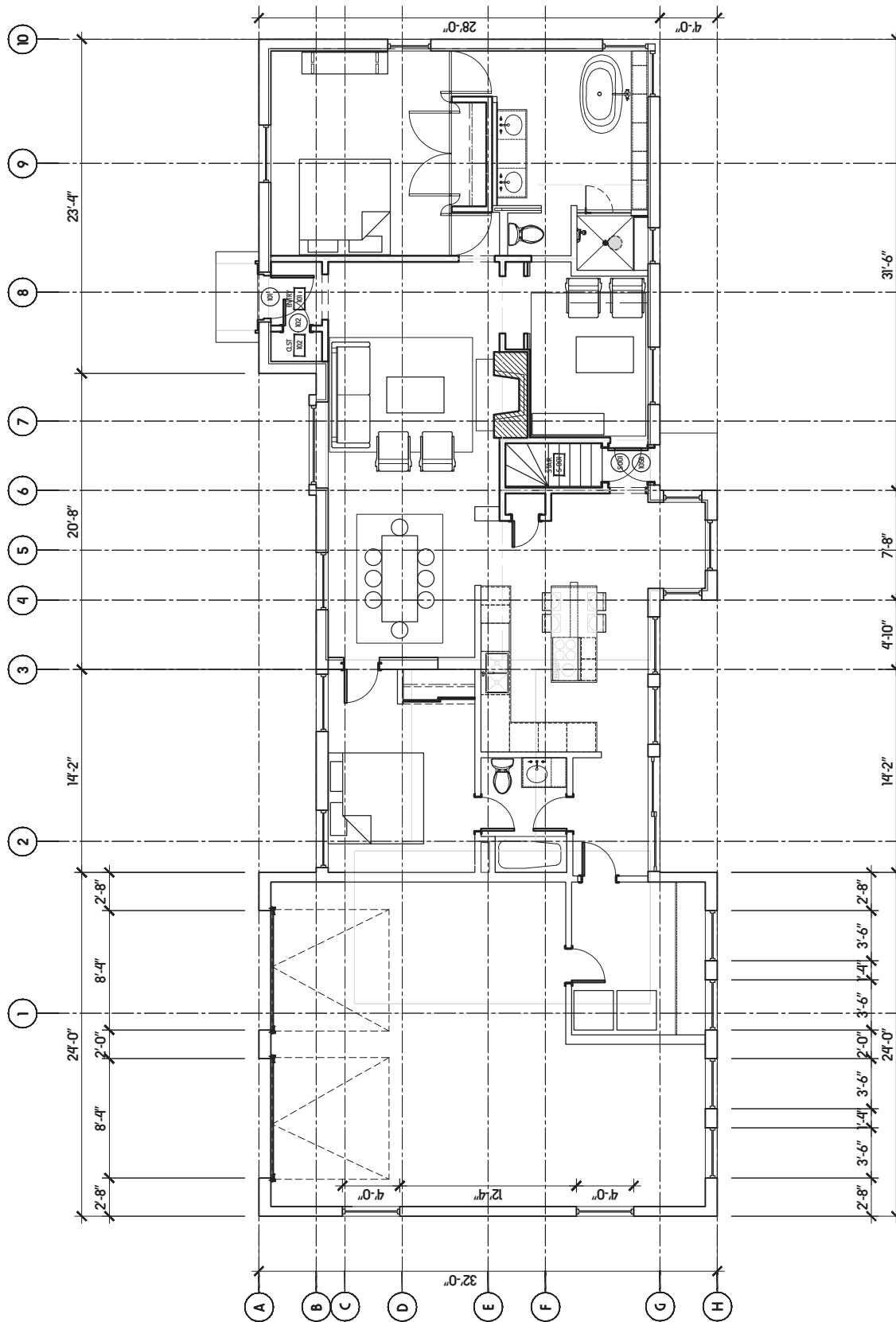


POINTS OF INTEREST:
1. RESIDENCE OVER BUILDING LINE

STONE ST.



VAN ZANDT RESIDENCE : 290 N. 8TH AVE.
PROPOSED SITE PLAN FOR STANDARD VARIATION
SCALE : 1/16" = 1'-0"



VAN ZANDT RESIDENCE : 290 N. 8TH AVE.
 PROPOSED FLOOR PLAN FOR STANDARD VARIATION
 SCALE : 3/32" = 1'-0"

rocco.castellano@castellano.design

rocco
castellano

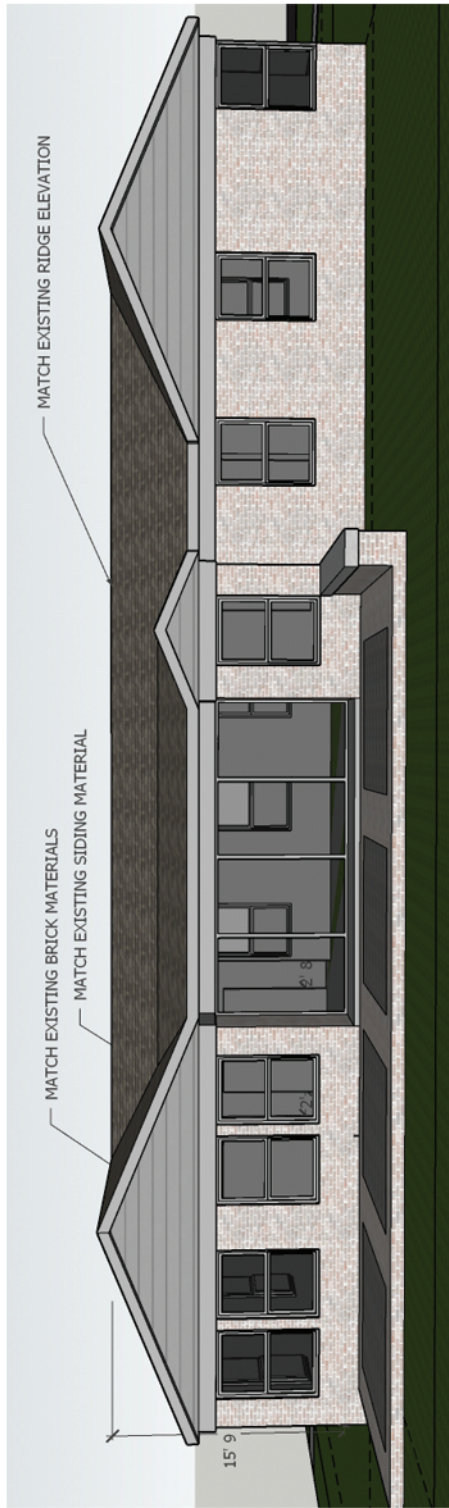
design
studio

10/7/21

20 N. WINDING CREEK, NORTH AVE. W. 5300 - 2025/0000

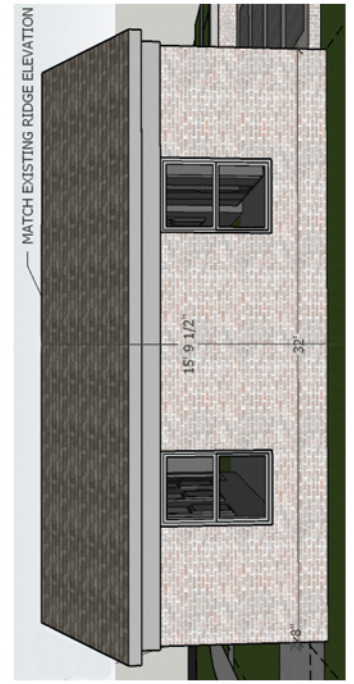


N. EXTERIOR ELEVATION - ALONG STONE STREET



S. EXTERIOR ELEVATION

NO CHANGES AT E. EXTERIOR ELEVATION



W. EXTERIOR ELEVATION

VAN ZANDT RESIDENCE : 290 N. 8TH AVE.
PROPOSED EXTERIOR ELEVATIONS FOR STANDARD VARIATION
SCALE : NTS



EXISTING PHOTO - STONE STREET



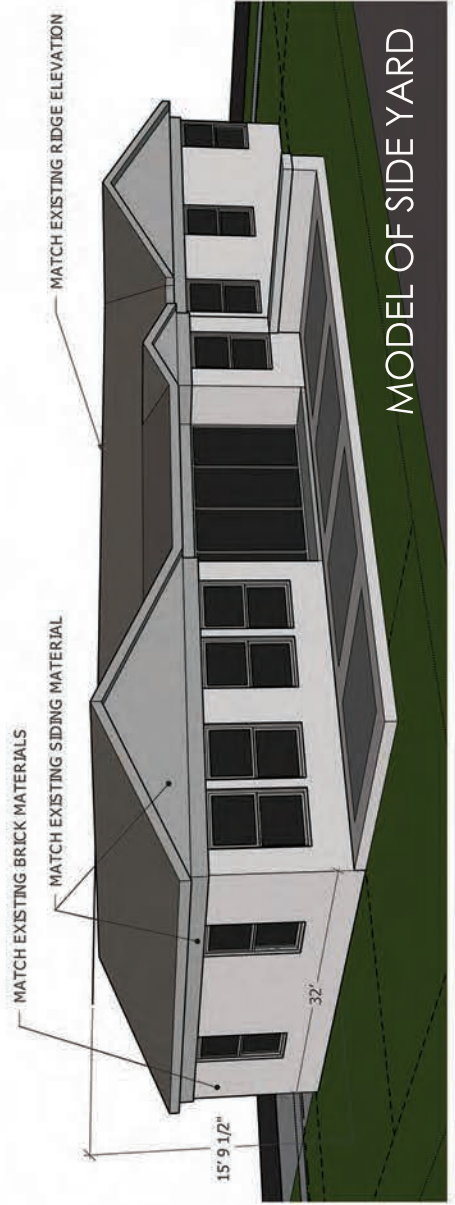
FULL VIEW ALONG - STONE STREET



EXISTING PHOTO - SIDE YARD



MODEL COMPARISON PERSPECTIVE - STONE STREET



MODEL OF SIDE YARD



290 N. Eighth Ave – Public Notice



290 N. Eighth Ave – Looking South at Corner Side Yard



290 N. Eighth Ave – Looking South at Existing Garage & Breezeway



290 N. Eighth Ave – Looking West at Interior Side Yard



COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT

1420 Miner Street
Des Plaines, IL 60016
P: 847.391.5380
desplaines.org

MEMORANDUM

Date: November 2, 2021

To: Planning and Zoning Board (PZB)

From: John T. Carlisle, AICP, Director of Community and Economic Development *JTC*

Subject: Consideration of Conditional Use and Variation for an Adult Use (Recreational) Retail Cannabis Dispensary at 1504 Miner Street, Case 21-048-CU-V (1st Ward)

Issue: The petitioner is requesting a conditional use under Section 12-7-3(K) of the Zoning Ordinance to allow an adult use (recreational) retail cannabis dispensary in the C-5 zoning district. The petitioner is also requesting variations from the window transparency rules of Section 12-3-11 (Building Design Review).

Address: 1504 Miner Street

Petitioner: 280E, LLC (dba Dispensary33, owned by Zachary Zises, et al)

Owner: Metropolitan Square Plaza, LLC

Case Number: 21-048-CU-V

Real Estate Index #: 09-17-415-025-0000

Ward: #1, Alderman Mark Lysakowski

Existing Zoning: C-5, Central Business District

Existing Land Use: Vacant; former Leona's restaurant

Surrounding Zoning: Northeast: C-5, Central Business District
Northwest: C-5, Central Business District
Southeast: C-5, Central Business District
Southwest: C-5, Central Business District

Surrounding Land Use: Northeast: Mixed-use residential/commercial building (Metropolitan Square)
Northwest: Restaurant (Sugar Bowl) and Metropolitan Square parking garage
Southeast: Martial arts academy (educational studio), various retail and service
Southwest: Public transportation station: Metra commuter rail and Pace bus

- Street Information:** Miner Street is classified as an arterial, and Metropolitan Way is a local street. The segment of Miner Street is under Illinois Department of Transportation (IDOT) jurisdiction and has an average traffic count of approximately 16,000 vehicles per day.
- Comprehensive Plan:** The Comprehensive Plan illustrates this site as “higher density urban mix with residential.”
- Background and Project:** The petitioner is 280E, LLC, and would operate under the brand Dispensary33 (D33 Mgmt, LLC), which is owned by Bryan, Kristie, and Zachary Zises, as well as Paul Lee. They are proposing leasing 1504 Miner Street, a single-story brick building at the corner of Miner and Metropolitan Way, for an adult-use (recreational, non-medical) retail cannabis dispensary. The space has been vacant since late 2017, when the former Leona’s restaurant closed. Legal retail sales of adult-use cannabis products began in Illinois on January 1, 2020, enacted by the state Cannabis Regulation and Tax Act of 2019. Dispensary33 was one of the first adult-use retailers to be open in Illinois at their location in the Andersonville neighborhood of Chicago. They have since opened a second location in the West Loop neighborhood of Chicago and are pursuing a location in Wicker Park concurrent to their application in Des Plaines.

The City of Des Plaines amended its Zoning Ordinance twice related to cannabis business establishments (an umbrella term that encompasses retail dispensaries and cannabis supply-chain businesses). The first amendments were in late 2019, and the second were in August 2021. Prior to August 2021, cannabis dispensaries were not possible in the C-5 Central Business District/downtown Des Plaines, but Ordinance Z-42-21 established them as a conditional use. All cannabis businesses establishments in Des Plaines are prohibited from locating within 500 feet of a pre-existing school, place of worship, or commercially zoned child care center. The subject property is more than 500 feet from the zoning lot lines of these types of uses. The nearest all are south of the railroad tracks: First United Methodist Church at 668 Graceland, St. Mary Catholic School and Parish at 801 Center Street and 794 Pearson Street, and the Central School building and playground/ballfields at 1526 E. Thacker Street (measuring from the north frontage on Prairie Avenue). All are approximately 900 feet from the subject property.

All cannabis business establishments are also subject to the Use Standards of Section 12-8-13 of the Zoning Ordinance. These address requirements and limitations related to signage, lighting, hours of operation (limited to 10 a.m. through 8 p.m.), prohibition of on-site consumption and delivery to consumers, seismic and sonic detectors, consent to odor inspection, and full compliance with state regulations, which may change from time to time.

As the petitioner states in their project narrative, Green & Foster, LLC, is one of the partners in the endeavor. This entity was notified that it was a state conditional license lottery winner¹ in summer 2021. Green & Foster is a “social

¹ All adult-use retail cannabis dispensaries must be licensed by the State of Illinois, which controls the overall number and distribution across the state of issued licenses. The Department of Financial and Professional Regulation (IDFPR) issues conditional licenses through a lottery system. Once entities have finalized a location and fulfilled all state operational and

equity²” candidate. The state gives priority to social equity candidates in lotteries for conditional licenses.

Retail cannabis is not only a growing sector of brick-and-mortar retail but also a source of a unique potential local revenue. The City can collect a three percent³ Municipal Cannabis Retailers’ Occupation Tax on the gross retail sales of all adult-use cannabis. Further, the City is entitled to one percent home-rule retail sales tax, which leads to approximately four percent in total tax revenue on gross sales. In their project narrative, the petitioner projects by late 2022 the average sales for a dispensary in Illinois will be \$500,000 per month, or \$6 million per year. Sales volume varies based on location, size of store, and other factors. Research from various cannabis business sources reveals a range of national average annual sales between \$974⁴-\$1,773⁵ per square foot. Using the petitioner’s estimate, the City could collect an estimated \$200,000-250,000 per year in combined cannabis and home-rule retail sales taxes from this single business. Des Plaines does not currently have a cannabis dispensary.

The subject property is 5,428 square feet. The site and floor plans indicate a total proposed building area of 4,180 square feet. It appears the dispensary proposes to remove the rear cooler (approximately 300 square feet) to better accommodate parking spaces adjacent to the alley. There is downstairs storage area planned to complement the upstairs sales, employee, and storage areas.

The parking requirement for cannabis dispensaries in Section 12-9-7 of the Zoning Ordinance has three different ratios based on components of the floor plan: one space for every 200 square feet of gross floor area with public access plus one space for every 250 square feet of gross floor area dedicated to office uses, plus one space for every 1,500 square feet of gross floor area dedicated to ancillary uses. As with all uses, the definition of “floor area” in Section 12-13-3 allows certain spaces such as restrooms, mechanical rooms, hallways, and up to 10 percent of storage areas to be excluded. Further, because the subject property is in the C-5 district, Section 12-7-3.H.6. allows the first 2,500 square feet to be exempt. Given the order of the floor plan components in the parking requirement – first public access, then office, then ancillary – the unexcluded space falls under “ancillary use” and is subject to a ratio of one space per 1,500 square feet. Therefore, the minimum parking requirement is two off-street spaces.

The petitioner is proposing three off-street spaces, all in the rear, which would comply. One of the spaces is reserved as an accessible space. In addition to the required off-street parking, there is immediately adjacent angle parking on the east side of Metropolitan Way, just west of the building. These 10 spaces, one

inspection requirements, the dispensary is given a full license to operate.

² Social Equity Applicant Criteria (2021). Illinois Department of Commerce and Economic Opportunity. Accessed 30 October 2021 at <https://www2.illinois.gov/dceo/CannabisEquity/Pages/SocialEquityApplicantCriteria.aspx>.

³ The state collects the tax on behalf of the municipality and then remits it back. The state retains a small amount as an administrative fee.

⁴ McVey, E. (2021). “Chart of the Week: Cannabis Retailers Excel in Key Revenue Metric.” MJBizDaily. Accessed at <https://mjbizdaily.com/chart-of-the-week-cannabis-retailers-excel-in-key-revenue-metric/>.

⁵ Evans, M (2019, January 10). “This is how much the average dispensary makes a month.” CannaSOS. Accessed at <https://cannasos.com/news/business/this-is-how-much-the-average-dispensary-makes-a-month>.

of which is an accessible space, are limited to 90 minutes and are likely to be helpful in accommodating the use, although other businesses in the area also rely on these spaces. Regardless, an overall parking shortage is not anticipated, especially with the Metropolitan Square garage and additional on-street parking within a short walk of the subject property. Finally, the petitioner reasonably projects that given their location some customers will arrive via public transportation.

The petitioner will reserve one parking space for deliveries. The delivery plan in the project narrative specifies the frequency of daily deliveries (likely two to three times per day) in Ford Transit Connect or Sprinter vans. The state requires that deliveries be conducted by a licensed transporter and that a security guard be present.

The project narrative and the renderings of existing Dispensary33 locations indicate that façade alterations will be necessary on the Miner side. These alterations make the project subject to the Building Design Review requirements of Section 12-3-11. Specifically Sub-section D.1.a.1. requires “highly transparent, nonreflectance windows.” The petitioner cites a state requirement that dispensaries must maintain a window tint, which would make the storefront windows only partially instead of highly transparent. See the Project Narrative for an example from the Dispensary33 West Loop store. Therefore, the petitioner is seeking a variation from this requirement.

Alignment with the Comprehensive Plan

The following is a discussion of how the use aligns with the various goals and objectives of the 2019 Comprehensive Plan:

- **Future Land Use Plan:**
 - This property is illustrated as higher density urban mix with residential. This category was used throughout downtown Des Plaines to signal support for adding residential units wherever a proposal was made to do so. While the petitioner’s proposal retains the building as single-use commercial, in broad terms, a retail cannabis dispensary is compatible with an “urban mix,” as envisioned for downtown.
- **Downtown Des Plaines:**
 - Returning the vacant space to active use, with the attendant façade improvements, will improve the streetscape, as called for in this chapter.
 - The chapter calls for creating “a restaurant cluster on Miner Street next to the Des Plaines Theatre.” On one hand, by approving this conditional use, the City would be allowing a former restaurant space to convert a non-restaurant space. On the other hand, it may not be practical for every space in the blocks adjacent to the theatre to be a restaurant. The additional foot traffic from a successful retail business such as a cannabis dispensary may, like additional theatre show-goers, support the existing restaurants and attract others to the strip.

Conditional Use Findings: Conditional Use requests are subject to the standards set forth in Section 12-3-4(E) of the Zoning Ordinance. In reviewing these standards, the PZB may use following comments, or may state their own, as rationale (findings of fact) for recommended approval or denial of the conditional use:

- 1. The proposed Conditional Use is in fact a Conditional Use established within the specific Zoning district involved:**

Comment: As of August 2021, cannabis dispensary is now a conditional use in the C-5 district.

- 2. The proposed Conditional Use is in accordance with the objectives of the City's Comprehensive Plan:**

Comment: While not perfectly aligned, allowing the cannabis dispensary in the proposed location may support and complement the type of development (high-density urban mix) and uses (restaurant) desired broadly for the area.

- 3. The proposed Conditional Use is designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity:**

Comment: Through their lighting, refuse, and security plan, as well as their "no loitering" policy and online pick-up program, the petitioner's business is likely to mitigate the types of concerns neighbors may have about a nearby cannabis dispensary.

- 4. The proposed Conditional Use is not hazardous or disturbing to existing neighboring uses:**

Comment: The dispensary seems to have designed a use that will not lead to outdoor queueing and loitering. On-site consumption is not permitted, and the many other Use Standards of Section 12-8-13 of the Zoning Ordinance should be effective at minimizing neighbor impacts.

- 5. The proposed Conditional Use is to be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or, agencies responsible for establishing the Conditional Use shall provide adequately any such services:**

Comment: The use would not be enlarging the space through a large construction project; it is a simple commercial move-in. Public infrastructure is largely unaffected, and the existing parking in the vicinity is likely to be an adequate complement to the on-site parking spaces, which will meet the parking minimum requirement. Finally, the Des Plaines Police Department was offered the opportunity to comment and does not feel the use in this location would present a service demand on the department. Police did comment that the dispensary should, however often is necessary, maintain a list of its security personnel and share it with the department for the purposes of tracking personnel who are likely to be armed, which the security for the dispensary are likely to be. This comment is captured in recommended conditions.

- 6. The proposed Conditional Use does not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic well-being of the entire community:**

Comment: On the contrary, the use is likely to be an economic benefit for the community, creating new revenue while not requiring additional resources to provide services.

- 7. The proposed Conditional Use does not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors:**

Comment: The proposed dispensary use is likely to comply with the Use Standards of Section 12-8-13 of the Zoning Ordinance, and these standards are designed to address all of the possible concerns listed in this standard.

8. **The proposed Conditional Use provides vehicular access to the property designed so that it does not create an interference with traffic on surrounding public thoroughfares:**

Comment: The subject property is quite accessible, and both roadways and adjacent off and on-street parking have capacity to serve the proposed use as necessary.

9. **The proposed Conditional Use does not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance:**

Comment: The use would restore a fairly attractive single-story building that is currently in minor disrepair because of its vacancy.

10. **The proposed Conditional Use complies with all additional regulations in the Zoning Ordinance specific to the Conditional Use requested:**

Comment: As stated earlier, the dispensary must comply with the Use Standards of Section 12-8-13.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6(H) of the Zoning Ordinance. In reviewing these standards, the PZB may use following comments, or may state their own, as rationale (findings of fact) for recommended approval or denial of the variation:

1. **Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.**

Comment: State regulations dictate the dispensary may not use the type of highly transparent window required by the rules.

2. **Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.**

Comment: The subject property is along what is perhaps the most visible and important pedestrian-oriented corridor in Des Plaines: Miner Street, close to the theatre.

3. **Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.**

Comment: The petitioner did not create the state regulation that they are subject to.

4. **Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.**

Comment: The Building Design Review rules and state cannabis dispensary requirements are inherently in conflict. Strict adherence to the Building Design Review rules would make the location of any dispensary very difficult.

- 5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.**

Comment: Other uses that are bound by requirements to tint their windows could approach the City with the same request and it would be reasonable.

- 6. Title and Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.**

Comment: Approval of this variation would lead to one storefront along the Miner Street corridor that has a non-traditional storefront window set. However, most storefronts will still be the highly transparent type that is desirable for the corridor. By requiring a variation in this case, the City is ensuring that the type of windows proposed by the petitioner are the exception not the rule.

- 7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.**

Comment: To operate the petitioner will need to comply with state regulations and provide a degree of tint to the windows. They cannot avoid the state regulation.

- 8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.**

Comment: The petitioner is proposing partial transparency, so the windows used will have at least some (not all) of the desired effect and character of storefront windows in the Miner Street corridor.

PZB Procedure and Recommended Conditions: Under Section 12-3-4(D) (Procedure for Review and Decision for Conditional Uses) of the Zoning Ordinance, the PZB has the authority to recommend that the City Council approve, approve subject to conditions, or deny the above-mentioned conditional use and variation for a cannabis dispensary at 1504 Miner Street. City Council has final authority on the proposal. Consideration of the request should be based on a review of the information presented by the applicant and the standards above, as specified in Section 12-3-4(E) (Standards for Conditional Uses) of the Zoning Ordinance. If the PZB recommends and City Council ultimately approves the request, staff recommends the following conditions:

1. The petitioner shall submit to the Des Plaines Police Department, however often is necessary, an updated list of security personnel with verification of all necessary firearms training.
2. Dispensary windows shall be the type the petitioner used as an example in their application submittal. Detailed specifications on transparency shall be included with the building permit application.

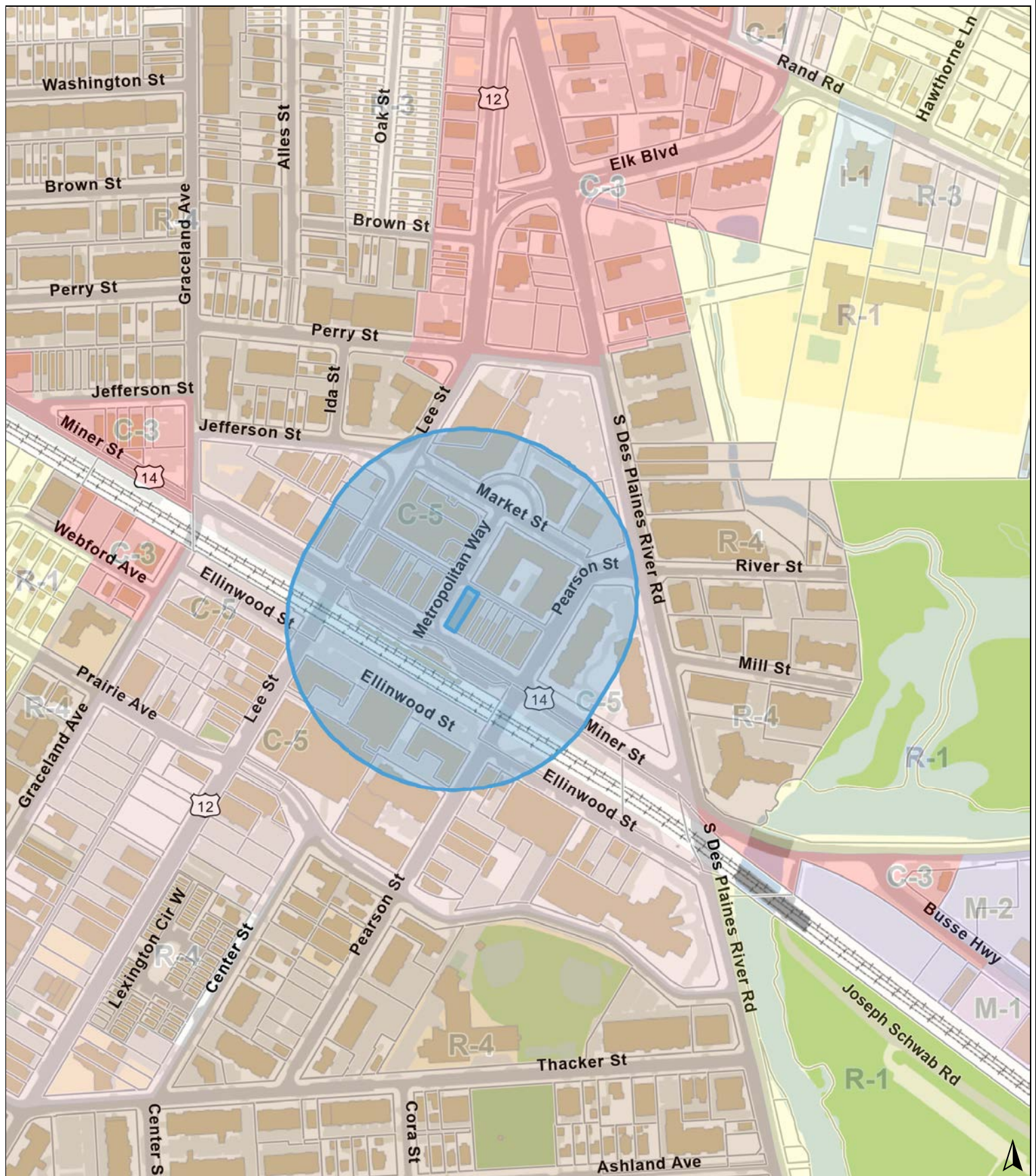
Attachments:

Attachment 1: Location map with zoning and 500-foot buffer

Attachment 2: Staff photos

Attachment 3: Plat of survey

Attachment 4: Project narrative, operational plans, responses to standards, Dispensary33 West Loop photos, proposed front building elevation, site and floor plans



0 500 1000
ft

Print Date: 10/30/2021

Notes

Disclaimer: The GIS Consortium and MGP Inc. are not liable for any use, misuse, modification or disclosure of any map provided under applicable law. This map is for general information purposes only. Although the information is believed to be generally accurate, errors may exist and the user should independently confirm for accuracy. The map does not constitute a regulatory determination and is not a base for engineering design. A Registered Land Surveyor should be consulted to determine precise location boundaries on the ground.

Staff Photos



Looking north from the Metra Station



Corner of Metropolitan Way, Miner Street



Rear; proposed new parking area



Rear parking and existing refuse area

CHICAGOLAND SURVEY COMPANY INC.

PROFESSIONAL DESIGN FIRM LICENSE NO: 184-005262 EXPIRES 04/30/2015

6501 W. 65TH STREET CHICAGO, ILLINOIS 60638 (773) 271-9447

CHICAGOLANDSURVEY@SBCGLOBAL.NET

ALTA/ACSM LAND TITLE SURVEY

OF

LOT 62, (EXCEPT THE SOUTHEASTERLY 32.1 FEET MEASURED ALONG THE NORTHEASTERLY LINE OF MINER STREET), AND PART OF LOT 63, (EXCEPT THE NORTHERLY 8 FEET OF SAID LOTS TAKEN FOR ALLEY), WHICH LIES SOUTHEASTERLY OF A LINE, DRAWN FROM A POINT IN THE SOUTHWESTERLY LINE OF SAID LOT 63, WHICH IS 20.21 FEET NORTHWESTERLY FROM THE SOUTHWESTERLY CORNER, TO A POINT IN THE SOUTHWESTERLY LINE OF THE ALLEY, WHICH IS 20.3 FEET NORTHWESTERLY FROM THE SOUTHEASTERLY LINE OF THE SAID LOT. (MEASURED ALONG THE WESTERLY LINE OF THE SAID ALLEY), IN ORIGINAL TOWN OF RAND, IN THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

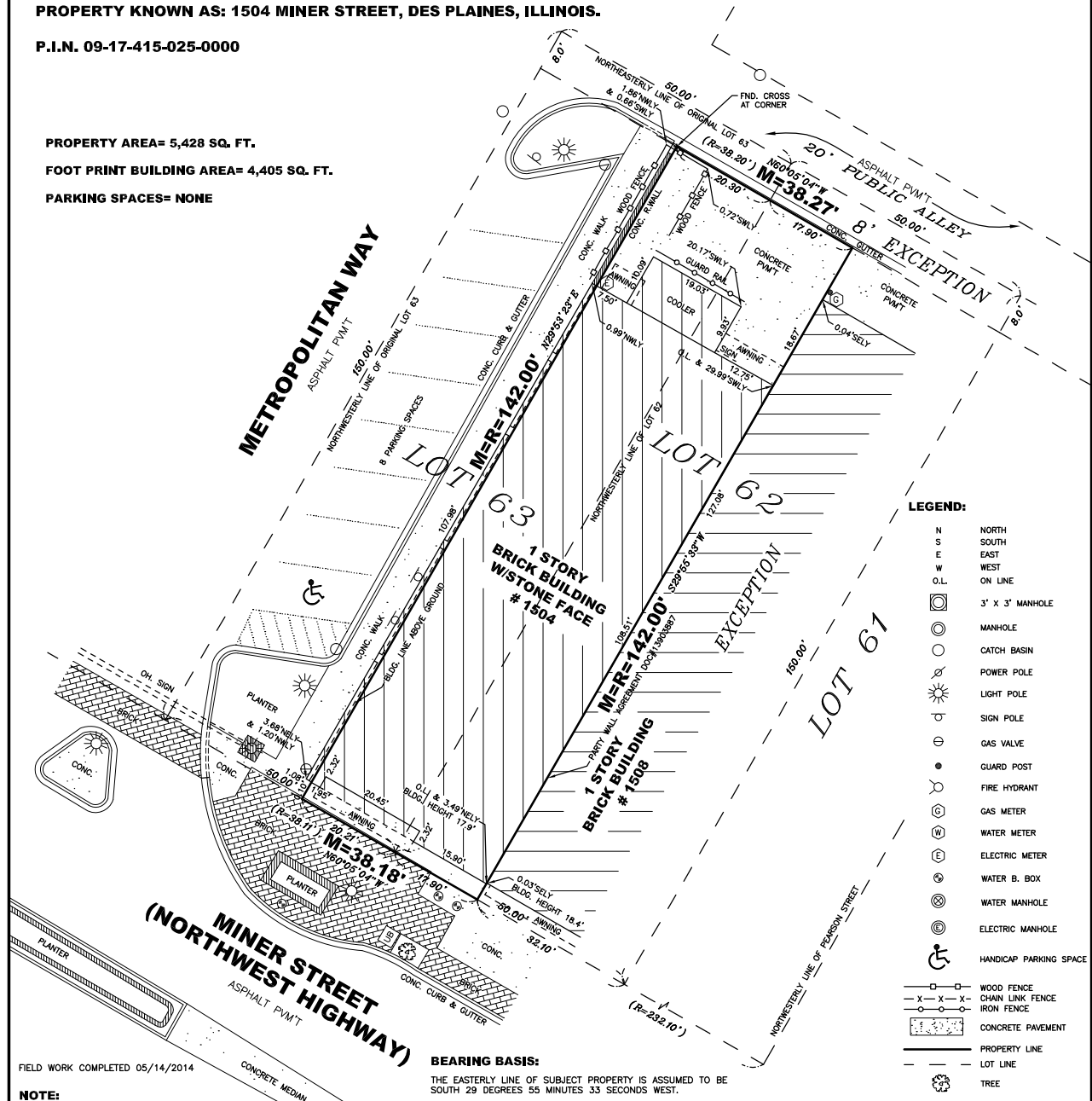
PROPERTY KNOWN AS: 1504 MINER STREET, DES PLAINES, ILLINOIS.

P.I.N. 09-17-415-025-0000

PROPERTY AREA= 5,428 SQ. FT.

FOOT PRINT BUILDING AREA= 4,405 SQ. FT.

PARKING SPACES= NONE



FIELD WORK COMPLETED 05/14/2014

NOTE:

FOR BUILDING LINE AND OTHER RESTRICTIONS NOT SHOWN ON THE SURVEY PLAT, REFER TO YOUR ABSTRACT, DEED, AND LOCAL BUILDING REGULATIONS.

UTILITY DATA, OTHER THAN PHYSICAL EVIDENCE VISIBLE ON THE GROUND, IS SHOWN AS PROVIDED BY THE PRIVATE AND PUBLIC SOURCES AND SHOULD BE ASSUMED TO BE APPROXIMATE.

NOTE:

THERE IS NO EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS, RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS, SITE USE AS SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

FLOOD NOTE:

THE SUBJECT PROPERTY IS LOCATED IN ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS ESTABLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, COMMUNITY PANEL 17031, C 0217 J, EFFECTIVE DATE: AUGUST 19, 2008.

ZONING:

C-5: COMMERCIAL DISTRICT
CENTRAL BUSINESS DISTRICT

FOR BULK RESTRICTION REFER TO:
COMMUNITY DEVELOPMENT
CITY OF DES PLAINES
1420 MINER STREET
DES PLAINES, ILLINOIS 60016
TEL. (847) 391-5306

LICENSE EXPIRES
11/30/2014

NOTE:

IN MATTERS OF RECORD, WE HAVE RELIED UPON CHICAGO TITLE INSURANCE COMPANY ALTA OWNERS FORM, POLICY NUMBER: 40013251, EFFECTIVE DATE: APRIL 22, 2014.

THE UNDERSIGNED HEREBY CERTIFIES, AS OF MAY 27, 2014, TO:

CHICAGO TITLE INSURANCE COMPANY
IMAGINE PIZZA, LLC
TOIA BUILDING LIMITED PARTNERSHIP PIZZA

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2,3,4,6(a),7(a),7(b),7(c),8,9,10,11(a),13,14,16,17,18,19,20 OF TABLE A THEREOF.

DATED THIS 27 TH DAY OF MAY 2014.

BY: *Roger P. Jacob*
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3384



ORDERED BY: LESLIE JONES
FILE NO.: 111-77

Project Narrative

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Description Of Interested Parties

There are three distinct entities involved in this transaction.

1. **280E, LLC** is the master tenant of the property. 280E, LLC is owned by Bryan Zises, Kristie Zises, Zachary Zises and Paul Lee, who represent a majority ownership and all Class A shareholders in Gentle Ventures, LLC d/b/a Dispensary33.
2. **D33 Mgmt, LLC** has agreed to operate the dispensary on a day-to-day basis. D33 Mgmt is also owned by Paul Lee, Zachary Zises, Bryan Zises and Kristie Zises, and performs operations and management for dispensaries around the Chicago area.
3. **Green & Foster, LLC** has agreed to be the sub-tenant and the licensee. G&F has been granted the right to receive a conditional license from the State to operate an adult use dispensary although, currently, the granting of this conditional license is prevented by a temporary restraining order by court order.

Our Business

280E, LLC is a recently formed business whose function is to serve as the master tenant for dispensaries managed by D33 Mgmt. This master/sub-tenant structure is common in the cannabis space and mostly serves to navigate the unique status of cannabis as state-legal and federally illegal.

Green & Foster are a newly formed entity that applied in Illinois' round of Social Equity adult use dispensaries and have been fortunate enough to win three conditional licenses. G&F has two equity members: Loretta Foster and Paul Lee.

Loretta Foster is a 16-year veteran in the US Navy who served as a dental administrator, a role she similarly filled in civilian life after leaving the armed forces in 2001.

Paul Lee is a founding partner at Dispensary33, where he has also acted as its General Manager since it began operations in December 2015.

G&F is partnering with Dispensary33's operators to manage the dispensary on a day-to-day basis. D33 will be responsible for branding, design, compliance and all other regulatory and operational matters. This is why the information to follow discusses the facility from the vantage of D33.

VALUES

D33 was the first dispensary to open in the Chicago. There are two primary reasons:

1. We have always been acutely aware of the importance of working with our communities to earn their support. All of D33's owners are homeowners who live close

to the dispensary – we know the difference between a business that adds value to a community other businesses and its residents and one that does not. Not only did we work with Andersonville’s assemblage of stakeholders to gain their initial support for our use, but we have continued to be responsive to their concerns as we converted from medical only to also include adult use sales.

2. We have been similarly responsive at the City level as well, and only go where we are wanted. We only considered Des Plaines after the conditional use ordinance passed and the City seems to want a dispensary downtown. The location is high profile for the City and we take our responsibility to work within the needs and interests of the community very seriously.

REPUTATION

We have a different reputation among different groups:

1. The Residential Community. In Andersonville, where we operate within a robust residential district, our reputation is of a business that works to lighten the load of our business on its residents. We have an unlisted number that our Alderman can use to call us any time he needs us to respond to a community concern. We regularly participate in our governing block club meetings to keep them updated and to hear concerns. This was critical at the beginning of adult use sales when we were, quite frankly, overwhelmed, but in a few weeks we learned how to minimize lines and our impact. We now operate far more efficiently and have not faced any community concerns in well over a year.
2. The Business Community. Our newest location in Chicago’s West Loop neighborhood is in the heart of a robust restaurant district. We have partnered with many of them to cross-promote through our email lists and staff promotions. Our busiest hours in the West Loop are between in the evenings because that is when the scene there is hopping, and we offer a cool place for people to shop and learn while waiting for their tables or just being tourists.
3. Consumers. We divide consumers into two broad camps – connoisseurs and noobs – and we work to provide each of them with the best experience possible. Critical to the experience we provide is our website, where our menu shows detailed photos that we take ourselves of everything on offer and offers detailed descriptions for each product. On the basis of the website information alone, a lot of return customers will have already pre-ordered before entering, at which point our job becomes getting them in and out as efficiently as possible. This can be as quick as 150 seconds for those not interested in lingering.

For those looking to receive more attention, to have their questions answered, and to learn as much as they can, we take great pride in the experiential spaces that we design for just this purpose. We are almost certainly the only dispensary in Illinois that displays all of the product it sells, because we think it's important for people to be able to see what they are buying. All products also have detailed placards next to them that help consumers educate themselves as they look around and read. While most other dispensaries in Illinois create a pharmacy-like experience, we prefer the Apple store model instead.

As an entity that is unaffiliated with any cultivators or processors, we are free to select the best products in the marketplace, rather than just serve the business model of a larger enterprise. For consumers, this means we always carry a wide selection of products that change depending on the performance of the crops of the growers. As craft growers and craft processors come into the marketplace we are in a great position to discover and highlight the ones producing the highest quality and most innovative products.

OPERATIONS

Over the six years we've been operating we've constantly refined our operations to become more efficient and effective. We were exceedingly good at meeting the needs of our medical customer base and then, on January 1, 2020 when adult use sales began, we got kind of bad at it for a time, while we learned how to handle the massively increased customer volume. Then on March 14th of last year we had to learn an entirely new set of operational tricks for protecting our staff and customers.

The D33 store on Clark St. is 2,100sf in total. The retail area is 800sf. Yet the store will regularly see more than 1,000 customers on a busy 12-hour day, and the line that day will never extend beyond the edge of our own building. The lessons we've learned there are the lessons we will bring to Des Plaines to ensure that our impact on the community is only a positive one. These include:

1. A robust pre-order system. Most return customers will pre-order before arriving and spend very little time in the store, allowing our staff to be much more high-touch with those who want a more educative experience.
2. ATM's on site. We are an exclusively cash business but do not wish for people to carry money just to purchase at our store. Transaction fees are kept low, \$1.50, to encourage their use.
3. Segregated Responsibilities. Our registers and dispensing counters are segregated. This spreads out where customers and staff are over the space and allows retail staff to dedicated themselves to helping customers purchase, and inventory management to

remain exclusively focused on product dispensing, resulting in greater operational efficiency and lower error rates.

BUSINESS EXPECTATIONS

Estimating our daily volume of customers involves looking into several crystal balls. We know how many licenses have been awarded but we do not know where those licensees will open. How many others will open in Des Plaines? Within a 5 mile radius? As a result, our projections assume that state-wide sales will continue to increase marginally year over year and that we will perform in line with the average dispensary. By this time next year, we can assume that adult use sales across the state will about \$150M per month and, with this round of licenses stood up, there will be a total of 295 adult use dispensaries, doing on average \$500k/month. Ticket averages are about \$100, so that's 5000 customers per month, or about 170/ day, which equates to probably 100/day during the week and 220-250 on weekends.

HOURS OF OPERATION

We intend to operate for the fullest number of hours allowed: 10a to 8p every day of the week. However, we may shorten hours based on demand.

STAFFING

Between five and nine staff will be at the facility during all operating hours:

- 1 security guard
- 1 store lead
- 1 front-desk agent
- At least 1 retail staff (likely 2-4)
- At least 1 inventory agent

APPEARANCE

See **Appendix A** for a selection of photos from our adult use location in Chicago's West Loop neighborhood. We are particularly proud of the attractive frontage, the uncompromising commitment to both an aesthetically pleasing, consumer friendly, and secure environment we have created.

LIGHTING PLAN

The lighting plan will be robust and will ensure that surveillance systems will be able to achieve facial recognition in all interior spaces and exterior frontage and parking areas. At the same time, the exterior plan will ensure compliance with 12-9- 6G in providing at least one foot-

candle of illumination at all points in the back parking area, while shielding adjacent neighboring property lines to ensure none receives more than 2 foot candles of illumination, in accordance with 12-12-10. Light will be affixed to the building, more than 3 feet from any property line and well below 30 feet in height from established grade.

SECURITY PLAN

The security system is broken out into two arrays: surveillance and anti-intrusion. The surveillance system is composed of a network of cameras that will continuously surveil 100% of the interior and exterior of the facility, except where legally prohibited (bathroom and changing areas). Camera type varies on purpose – exterior cameras are optimized for weather-proofing, tamper-proofing and nighttime conditions; interior camera focal lengths are optimized to either capture a wide area, if its function is to monitor the goings-on of an entire room, or a narrow point, to monitor the staff as they fulfill products on an order-by-order basis or as they operate a POS or currency counting machine.

The anti-intrusion system is a multi-layered lattice of protection that allows us to monitor and control the movement of employees and non-employees, to be able to immediately alert authorities in the instance of a threat, and to detect and prevent any unwanted intrusions into the facility as a whole and high value targets within the facility in particular. This system includes:

1. **Access Control Doors**: All doors within the facility will be locked at all times. Staff will have access control cards that are programmed to allow them to unlock only those doors consistent with their responsibilities, and only at times when they would need to do so. So, retail staff cannot unlock the door to Vault and will not be able to unlock the door to the employee entrance beyond those times they would be expected to be on-site.
2. **Panic Buttons**: Employee stations (front desk, POS) will be equipped with panic buttons that, once activated, trigger an immediate alert to local authorities.
3. **Motion Sensors**: Every room in the facility will be equipped with motion sensors.
4. **Seismic / Sonar Sensors**: Per City code, all roofs and walls will be monitored with these sensors.
5. **Glass Break Sensors**: All glass on the exterior of the building will be monitored with glass break sensors.
6. **Multi-Zone Alarm System**: The Vault will be on a separate alarm zone, allowing it to remain armed independent from the rest of the facility. Within the vault will be a currency safe bolted into the floor, access to which will be restricted solely to necessary

staff, and the IT Closet, holding the servers that run the security system and store the surveillance data.

7. **Smoke and Fire Alarm**: Each area of the dispensary will be equipped with a photo-electronic smoke and heat detector with a built-in wireless transmitter that conducts alarms and tampering, maintenance needs, and low battery signals

Additional security controls:

1. **Security Guard**: a licensed security guard, employed by a third-party Licensed Security Contractor, will be on-site during all operating hours.
2. **Auxiliary Power**: The access control, video surveillance, smoke/fire, and alarm systems will have a two-part auxiliary power system; battery and backup generator. SmartPro 120V Line Interactive Uninterruptable Power Supply (UPS) in the IT/ Secure Records Room will supply immediate uninterruptible power service in the event of momentary power outage for a minimum of 4 hours to all security systems. For any outage lasting more than 4 hours, the dispensary will utilize a backup, non-grid tied power generator, to provide uninterrupted power to the facility in the event of an extended power loss.
3. **Facility Design**: Security needs are front of mind with several aspects of our floor plans (see **Appendix B** for our vision for Miner Street):
 - a. **Barriers Between Areas**. The dispensary is divided into distinct areas, all separated by controlled access doors and natural physical barriers.

The public may only enter through the Front Door into the Lobby, which is the only **Public Access** area of the facility. The Front Desk Agent controls the request-to-access door from the Lobby to the **Limited Access** Retail Room and will only unlock this door for approved Purchasers after presenting valid identification.

A controlled access door will separate the Sales Floor from the **Restricted Access** area behind the Dispensing Counter. From this area, a second controlled access door must be opened in order to reach the picking room and the rest of the facility where product and currency are stored.

- b. **Dedicated Entrances/Egresses**. All individuals will have specific, dedicated entrances and egresses that they must use to access the facility, allowing us to precisely monitor and track each person's location while on the premises.

The **Front Door** will be unlocked during operating hours and will be the only door Purchasers and Non-Delivery Service Professionals may enter through. From the Retail Room, Purchasers may only exit through the secure **Exit Mantrap**. Separating the entrance and exit in this way gives us greater control over the number of customers in the facility and prevents any logjams in the lobby.

The **Employee/Delivery Vestibule** will be the only entrance/exit for staff and product deliveries.

- c. **Two Door Requirement.** Every point of entrance and egress will be protected by a two-door mantrap. For Purchasers, the front door is followed by the door to the Retail Room upon entrance. To exit, they must leave through the two-door Exit Mantrap – these two doors have a Right-to-Exit Detector that prevents both doors from being open at the same time, preventing any unauthorized entrance into the facility from the dedicated exit.
4. **Strict Anti-Loitering Policy.** We will enforce a strict No Loitering policy. All persons who are not authorized Purchasers and have not demonstrated a reasonable need to visit may not loiter either in the Lobby or on the exterior premises. The Security Agent will regularly check the exterior and advise those attempting to remain on the premises without any need to do so that local law enforcement will be called to remove the offending party if they do not cease loitering. If such persons fail to respond to requests to vacate the premises, then law enforcement will be summoned to remove them.

ODOR MITIGATION PLAN

An HVAC system will run throughout the facility. All air intakes will be equipped with carbon filters. The vault will be separated into a separate HVAC zone with the ability to add additional odor mitigation filters if needed. The Director of Community and Economic Development will be granted supervised access to all areas of the facility to evaluate and require amendment to our odor mitigation strategies.

DELIVERY PLAN

We will maintain a parking space in the rear of the building specifically for deliveries.

- Delivery vehicles are either Ford Transit Connects or Sprinter Vans – both vehicles can easily be accommodated in one of these spots.
- Deliveries are always pre-scheduled and spaced out so that each delivery can be accepted and processed before another is scheduled.
- Our preference is to have more frequent deliveries with less volume, so two to three deliveries per day is not uncommon.
- Delivery contents will be carried through the dedicated mantrap in the rear of the building. With the Right-to-Exit switch preventing both doors from being open at the same time, security risk is kept to a bare minimum.
- A security guard will be present.
- Per State regulations, during the time that product is undergoing intake, a delivery agent from the manufacturer will remain with the vehicle at all times. Depending on the size of the delivery, this process can take between 5 and 25 minutes.

REFUSE PLAN

In keeping with State regulations, all product waste must be destroyed before being left outside for pick-up. Destruction occurs at the same time every week, to coincide with weekly trash pickup so that destroyed product is outside for the shortest possible amount of time. Below is a copy of our approved product destruction and disposal plan:

- Any finished cannabis, extractions, infusions, or other harvested plant material that does not meet standards for health, quality and viability, or which for regulatory reasons have been deemed requiring destruction, must be segregated in a quarantined area and then destroyed.
- All product must be rendered unusable and unrecognizable before being placed outside for waste management pick-up. The following guidelines are in place to ensure this threshold is met for each product category:
 - Flower and Concentrates. Grind all flower and concentrates together in a blender until rendered a fine powder. Pour into waste bin and cover with cat litter, in an amount in far excess of 50% by volume.
 - Topical Patches. Remove the backing from the patch to expose the medicated side of the patch. Suffuse the patch in cat litter until all areas of the patch of covered. Dispose of the patches into the waste bin and cover with cat litter, in an amount in far excess of 50% by volume.
 - Cartridges. Smash cartridge tanks by blunt force, using a mallet or other such device, and then empty the remains into the trash bin and cover with cat litter, in an amount in far excess of 50% by volume.
 - Edibles. Heat edibles in a microwave oven and pour the resulting liquid into the trash bin and cover with cat litter, in an amount in far excess of 50% by volume.
 - Creams and Other Topicals. Smash products by blunt force, using a mallet or other such device, and then empty the remains into the trash bin and cover with cat litter, in an amount in far excess of 50% by volume.
- Disposal shall only occur in the restricted access area, at the same time every week, as pre-approved by IDFPR, and shall be performed in full view of the video surveillance.

OTHER REGULATORY REQUIREMENTS

In most ways that impact the community the requirements imposed by the State have been addressed in our floor plan and our security plan detailed above, or, as with operating hours, are addressed by the City's zoning ordinance. However, there are a few additional requirements that we will be meeting:

1. **Tinted Windows**. All public-facing windows must be tinted and have anti-shatter film applied.
2. **Signage**. The lobby and retail rooms will have required signs posted.

STANDARDS FOR CONDITIONAL USES

1. The proposed conditional use is in fact a conditional use established within the specific zoning district involved:

We have confirmed with the City that the building is appropriately zoned within the specific zoning district of the building. The building is zoned C-5 and, per the City's zoning ordinance, this is an approved zoning designation for the use.

Uses	C-1	C-2	C-3	C-4	C-5	C-6	C-7
Accessory uses and structures	P	P	P	P	P	P	
Accessory off site parking lots			C				
Alternative tobacco establishments			C ¹⁸	C ¹⁸			
Animal clinic	C		P	C	C		
Animal hospital			P				
Artisanal retail establishments			P ¹⁴	P ¹⁴	P ¹⁴		
Assisted living facility			C		C ³		
Auto body repair			C				
Auto filling station			P ⁴	P ⁴			
Auto service repair			C				
Bed and breakfast	C						
Body art establishments			C ²³				
Brewpub		P ⁶	P	P	P	P	P ⁶
Cannabis dispensaries			P ¹⁹	P ¹⁹	C ¹⁹		

2. The proposed conditional use is in accordance with the objectives of the city's comprehensive plan and this title;

The Vision Statement for Des Plaines' Comprehensive Plan for Downtown seeks to create "a vibrant destination with a variety of restaurant, entertainment, retail, and housing options."

We will be occupying a building that has failed to attract a tenant for over three years, and bringing a retail use that will attract affluent customers from around the surrounding area. We will be a natural attraction to, and highly symbiotic with, the theater-going crowd. Our commitment to aesthetics and attention to detail will beautify the area and strongly contribute to the Downtown as a vibrant destination.

The Plan also states the following: "8.7. Assess the C-5 zoning district to bring a variety of new uses to the vacant spaces including "experience retail uses". Our use is at the vanguard of what is new and will be an experiential space that is likely exactly what was envisioned in this section of the Plan.

3. The proposed conditional use is designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity;

We are professional operators with as much experience as anyone in the State. We currently operate in areas that are a mix of residential and commercial, and have done so in harmony with our neighbors since our founding in 2015. Every choice we make concerning the building's exterior will be to align it with the area, and the interior design will be highly attractive.

4. The proposed conditional use is not hazardous or disturbing to existing neighboring uses;

We will have a security guard on site during all operating hours. Our security system will monitor all exteriors and interiors of the facility at all times. Federal law notwithstanding, everything we do is consistent with a successful retail operation that is neither hazardous or disturbing, and will be a large net benefit to the existing neighboring uses.

5. The proposed conditional use is to be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or the persons or agencies responsible for the establishment of the proposed conditional use shall provide adequately any such services;

Current essential public facilities adequately serve our use. We have access to four parking spaces, whereas our use only requires one. This ensures that deliveries will not impede streets and that driving customers will have adequate parking at the building. We do not produce appreciable garbage that would stress refuse disposal, nor do we place unusual demands on water and sewer or schools.

6. The proposed conditional use does not create excessive additional requirements at public expense for public facilities and services and not be detrimental to the economic welfare of the community;

We have adequate parking and security, and nothing we do otherwise puts stress on public facilities. Because of the local taxes we generate and the destination customers we attract, we will only be a benefit to the economic welfare of the community.

7. The proposed conditional use does not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

During higher traffic times we expect the vast majority of customers to come by Metra – there are plenty of other dispensaries in the area accessible by major thoroughfares that will be easier for most customers to reach. Our use does not create noise above any other retail environment, we will not allow smoking or vaping on or around the premises, we will have an odor mitigation system that will be continually checked by the City, per the ordinance, and window tinting will prevent any glare.

8. The proposed conditional use provides vehicular access to the property designed that does not create an interference with traffic on surrounding public thoroughfares;

Per our Site Plan, there are parking spaces in the back of the building to ensure non-interference with traffic for deliveries and most, if not all, vehicular traffic flow.

9. The proposed conditional use does not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance;

No part of our plan entails impacting the natural, scenic, or historic features of Downtown Des Moines in any way. We will be maintaining the current façade and only adding a tasteful sign that is less than 50 square feet, per the ordinance.

10. The proposed conditional use complies with all additional regulations in this title specific to the conditional use requested

Our proposal complies with, and our operations will comply with, all regulations in the ordinance concerning adult use dispensing organizations. We have operated in compliance with all State and Chicago regulations since 2015 and have always maintained open lines of communications with State and City regulators, as well as with local resident and business groups, to ensure that we are doing everything in our power to fulfill our commitments on a statutory, regulatory and communal basis.

STATE NOTIFICATION

The State has not issued direct communications to winning applicants concerning their conditional licenses and likely will not until the court-ordered temporary restraining order is lifted, thus allowing the licenses to be officially awarded. See **Appendix C** for emails sent to all applicants and lottery results posted on the IDFPR cannabis page (<https://www.idfpr.com/profs/adultusecan.asp>).

Green & Foster, LLC was awarded the right to a total of 3 conditional licenses in BLS Regions #5 (which includes Des Plaines): selection #14 in the Social Equity Justice Involved Lottery; and selections #10 and #32 in the Tied Applicant Lottery.

Appendix A

Exterior. Tinted film (although not this one in particular) on the windows is State-required. The color of this tint, and the neon shield behind it, changes depending on the viewing angle. We can control the opacity/transparency with an additional layer of white film on the interior.



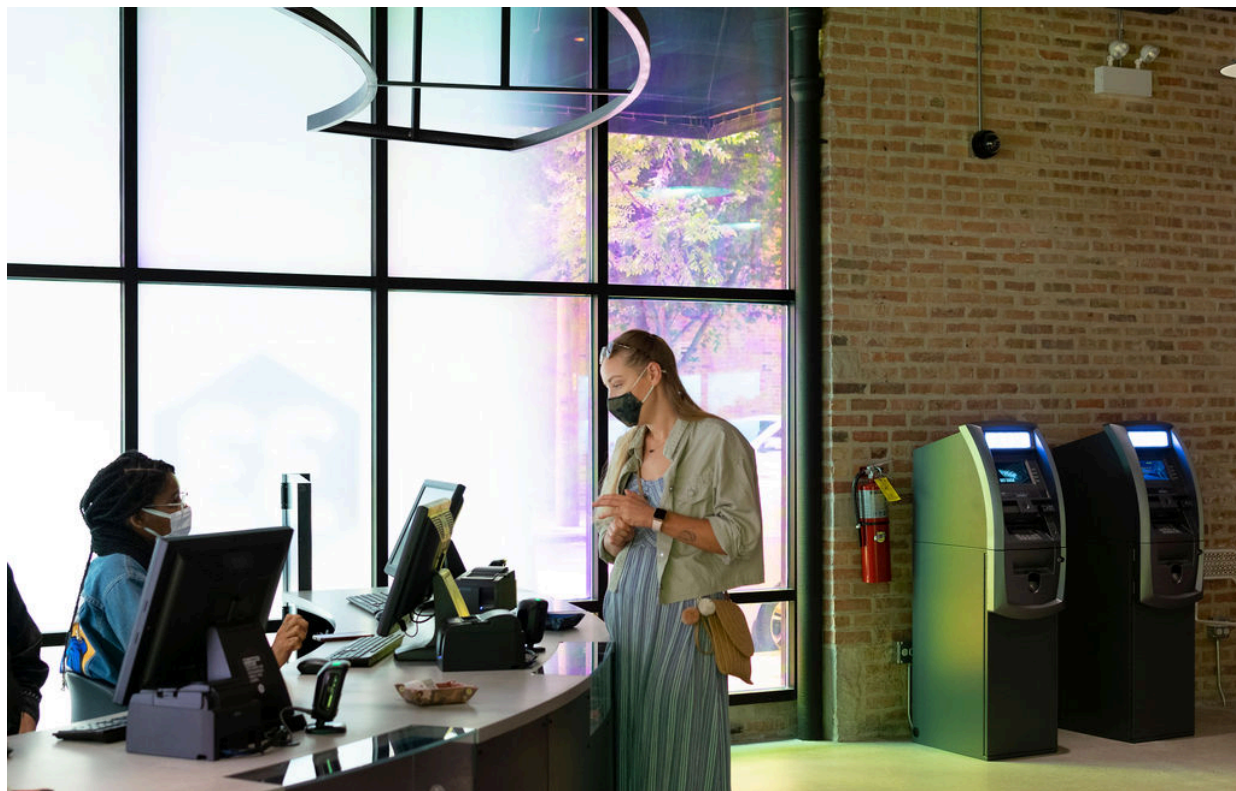
Check-In Area. Bar and counter were pre-existing. The overhanging metalwork creates a structure to hang compliant signage (letters must be 2" high, so we decided to embrace the requirement as an architectural element).



Retail Room. The view from POS counter, looking at the check-in area through the metal door, and the reverse angle.

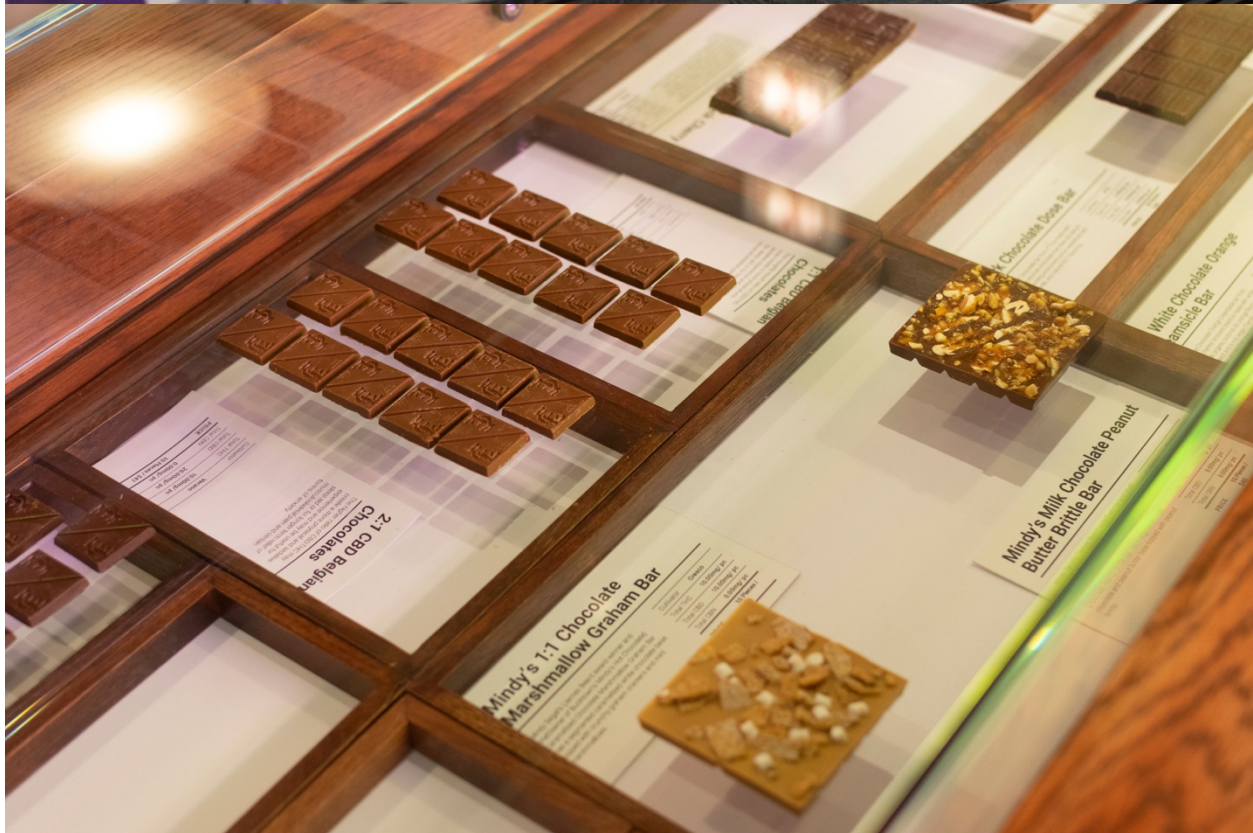
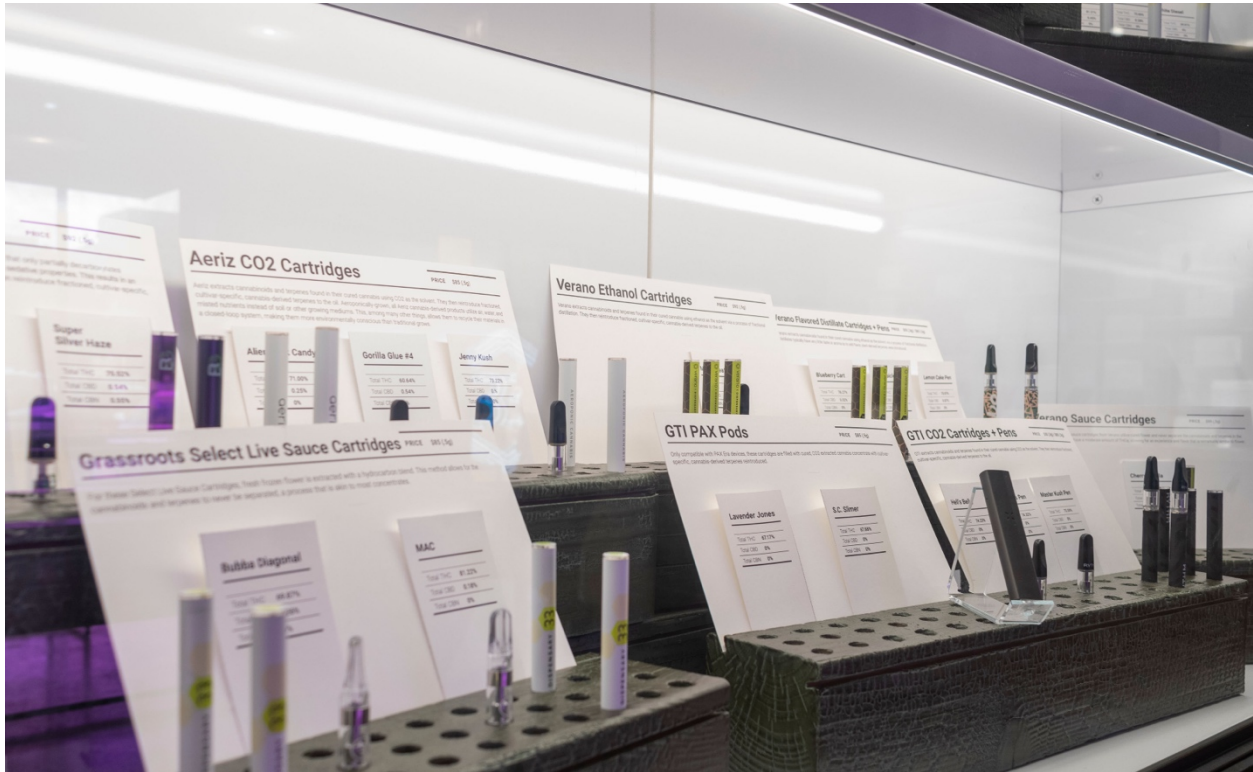


Retail Room. The sales counter is in one corner of the room. The dispensing counter (with more compliance signage) is in the other.

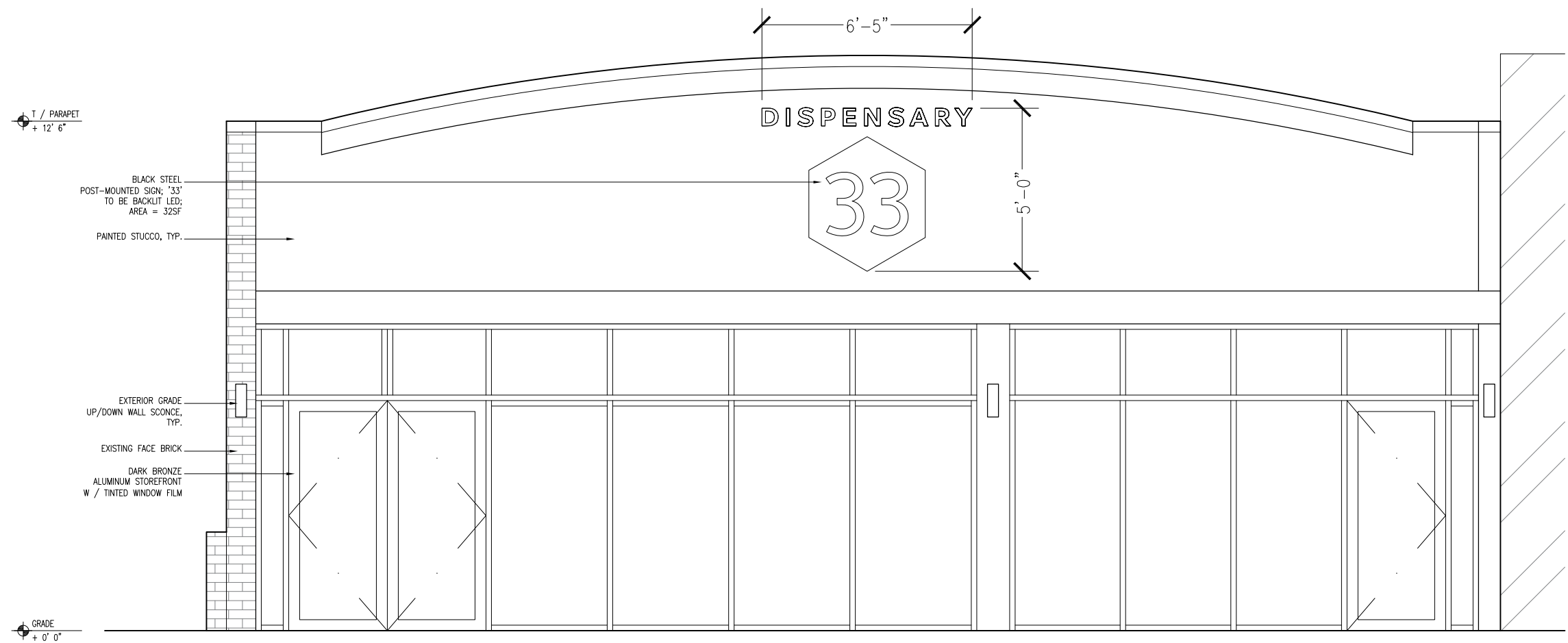




Retail Room. The metal wall has glass cut-outs where concentrates, cartridges are displayed, behind glass that is inaccessible to customers. Edibles are displayed in cases on the retail floor, but the products are dummies. Each product has a product description included (these descriptions can also be found on the product menu of our website).



Appendix B



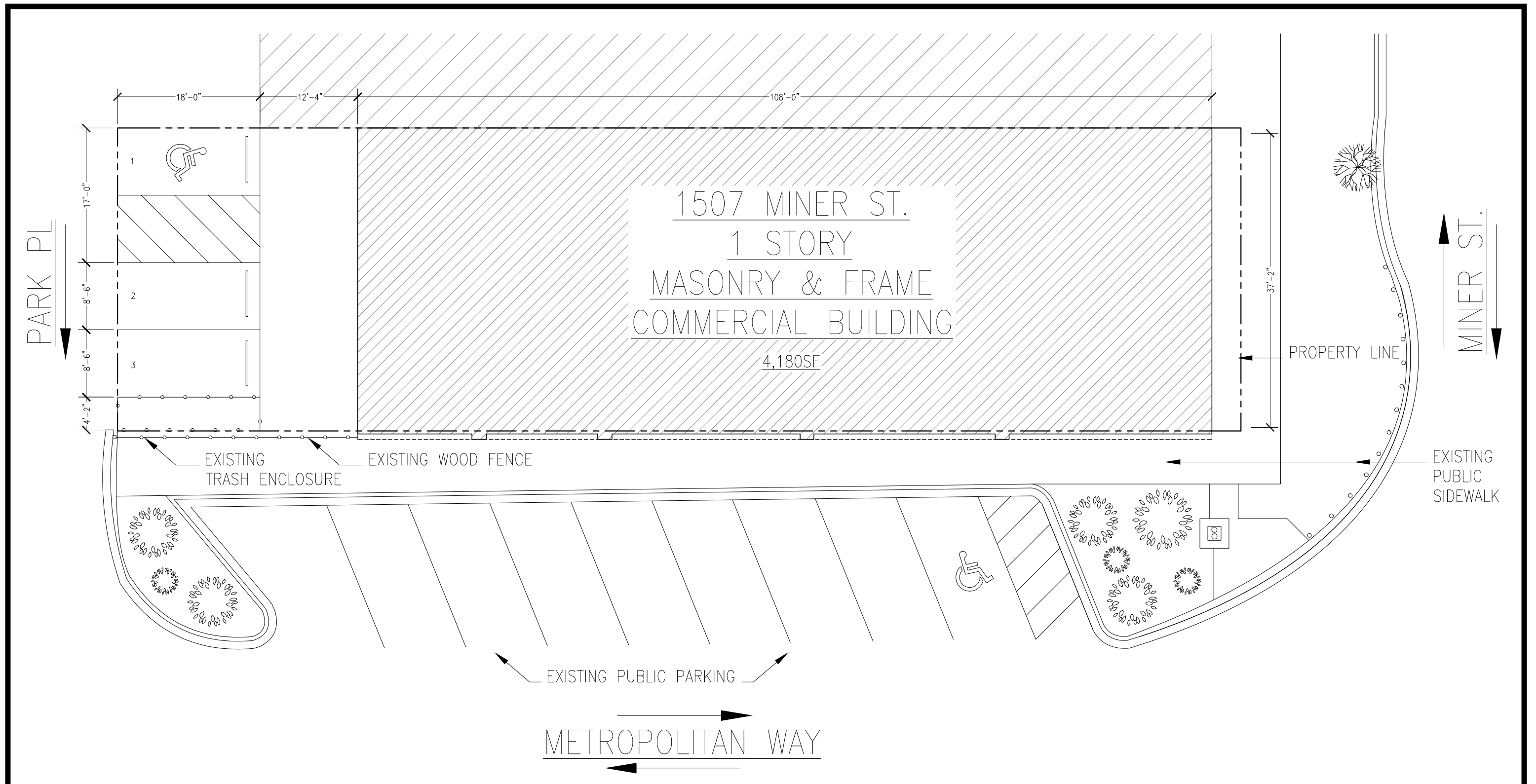
steep
steep architecture studio

dispensary 33
1504 miner st.
des plaines, il
60016

issue :
issue for zoning

date :
09/24/2021

elevation
scale : 1/4" = 1'-0"



<p>steep steep architecture studio</p>	<p>dispensary 33 1504 miner st. des plaines, il 60016</p>	<p>issue : issue for zoning</p> <p>date : 09/24/2021</p>	<p>site plan scale : 1/16" = 1'-0"</p> <p>N</p>
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access :

public access

restricted accesslimited access

square footage :

waiting room :360sf

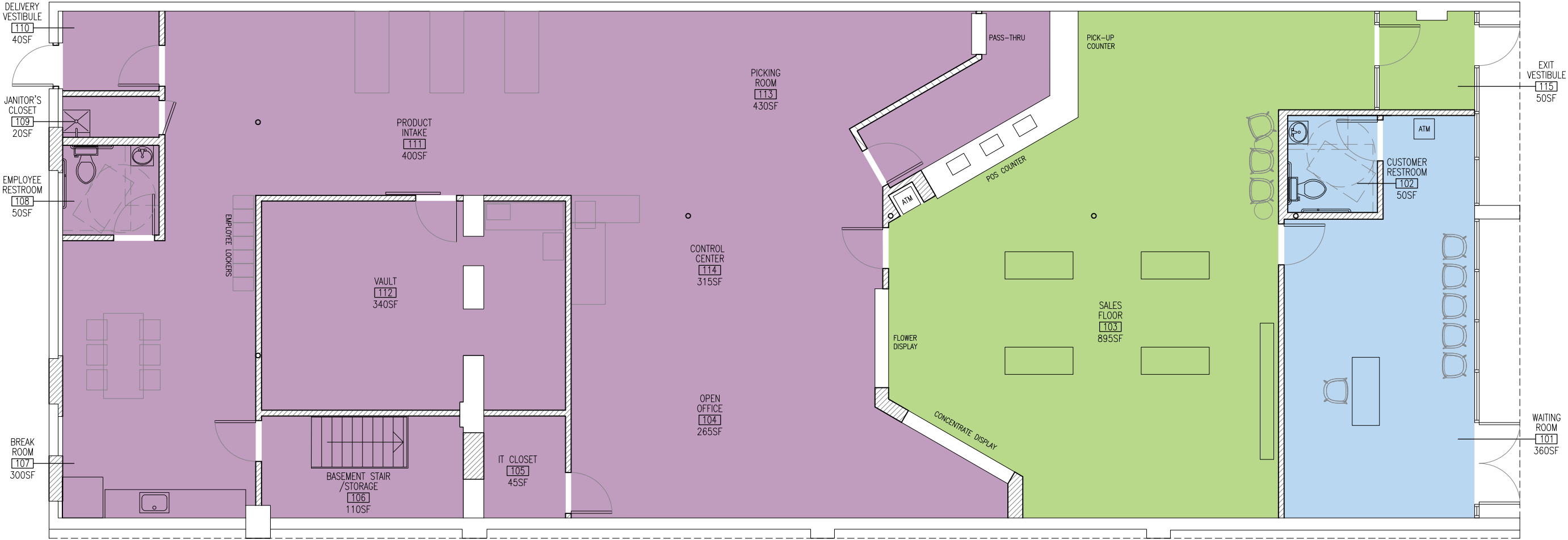
sales floor :895sf

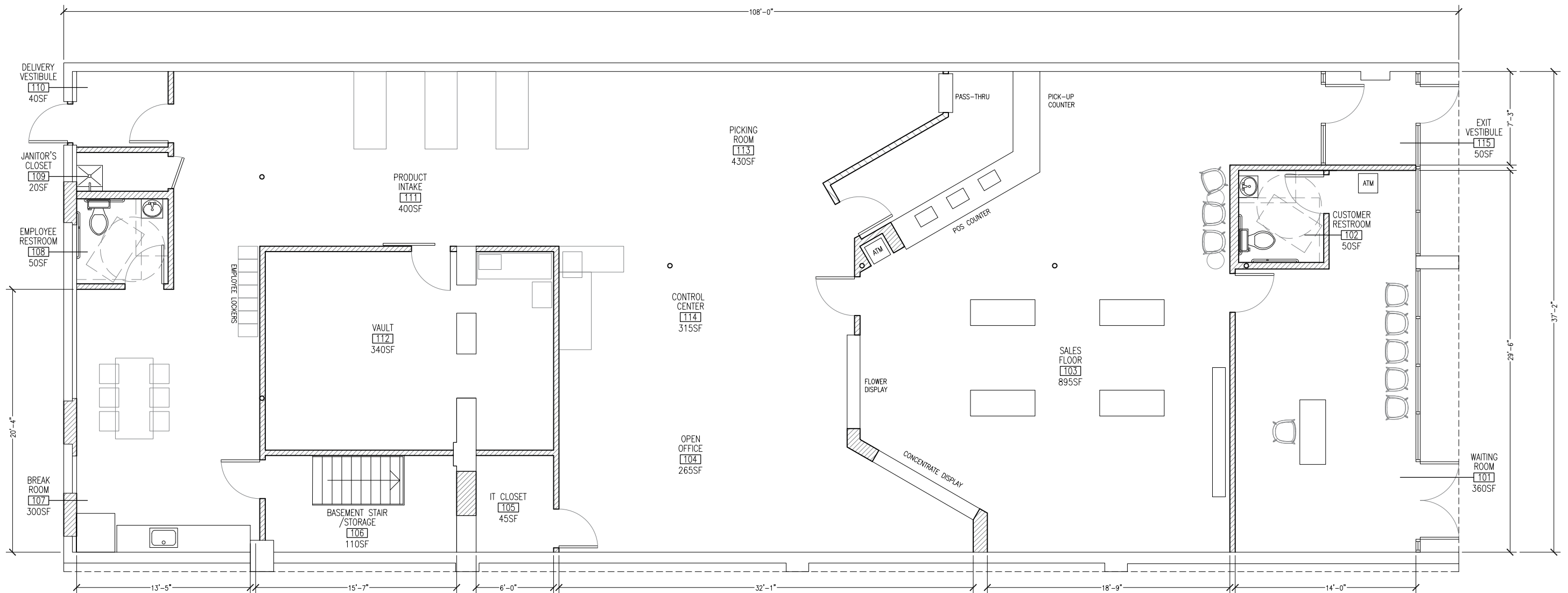
restricted access : 2,315sf

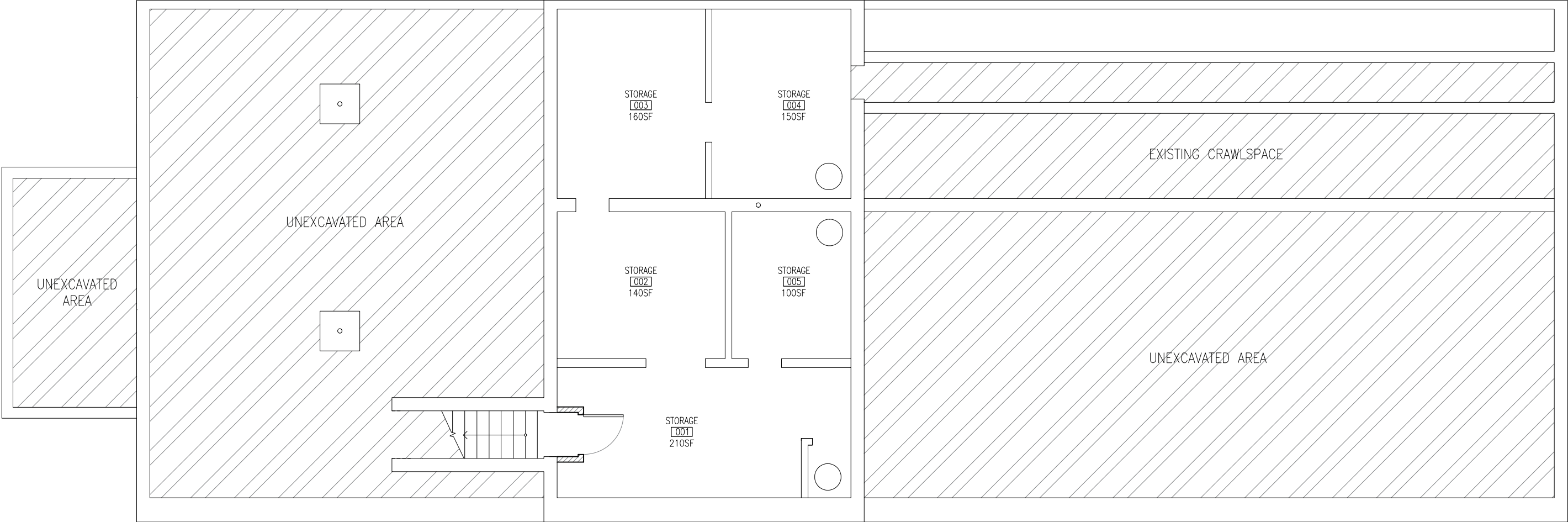
occupancy :

waiting room :6 people

sales floor :15 people







Tied Applicant Lottery Results

From: **FPR.DispensaryScoring** | FPR.DispensaryScoring@Illinois.gov

Thursday, Aug 19,
3:50 PM

To: **FPR.DispensaryScoring** | FPR.DispensaryScoring@Illinois.gov, 'us-advidfpr@kpmg.com' | us-advidfpr@kpmg.com

Dear Applicants,

The Department has concluded the Tied Applicant Lottery identifying those applicants that are eligible to receive a Conditional License. A complete list of those applicants selected in the Lottery can be found [here](#).

The announced conditional licenses to be awarded may be subject to change as a result of court orders or administrative review.

Applicants selected in the Lottery are eligible to receive a Conditional License, provided that they comply with the remaining administrative steps, including compliance with Section 1291.95 of the [Emergency Rules](#) issued pursuant the Act and any ownership limitations set forth in the Act.

Applicants selected in the lottery have five business days to abandon a Conditional License if they would otherwise exceed the ownership limitations set in Sections 15-35(b)(5), 15-35.10(b)(5), or 15-36(c) of the Act. (Original Act [here](#); amendments made by Public Act 102-0098 [here](#).) This means that applicants have until 11:59 PM CT on August 26, 2021 to submit the Abandonment Form (if necessary) to FPR.CannabisAdministration@illinois.gov.

For more information on the abandonment period and whether you must submit an Abandonment Form, please review the Department of Financial and Professional Regulation's ("Department") [FAQs](#) and [Abandonment Form](#). The Department will not be responding to individual questions regarding whether an applicant must submit an Abandonment Form.

Applicants who were eligible to participate in the Lottery but were not selected may still be eligible to receive a license if the selected applicants are not ultimately awarded a Conditional License. In the event a selected applicant is not awarded a Conditional License, the Department will inform the next applicant drawn from the Lottery that they are eligible to receive a Conditional License.

The Department thanks every applicant for participating in the conditional license application process.

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IDFPR

Illinois Department of Financial and Professional Regulation

Division of Professional Regulation

www.idfpr.com

JB PRITZKER
Governor

MARIO TRETO, JR.
Acting Secretary

CECILIA ABUNDIS
Acting Director

UPDATED: August 23, 2021

Results of Lottery for Social Equity Justice Involved Lottery for Conditional Licenses Per BLS Region

The Social Equity Justice Involved Lottery, with 17 BLS Region drawings, was conducted on August 5, 2021 for 55 Conditional Adult Use Dispensing Organization Licenses ("Conditional License"). Below are the results of the drawings for each BLS region identifying the order in which each qualifying Social Equity Justice Involved Applicant was drawn. This order determines the order in which the Department of Financial and Professional Regulation ("Department") will award the available Conditional Licenses in each BLS region. Unique Lottery Numbers are those found in our [updated list of participants](#) from August 4, 2021.

An asterisk (*) next to an "Order Drawn" number means the applicant abandoned that opportunity for a Conditional License and the Department is distributing that license to the next Qualifying Social Equity Justice Involved Applicant drawn by lot pursuant to 410 ILCS 705/15-35.10(b)(7)-(9). The next applicant(s) drawn by lot in the August 5, 2021 Social Equity Justice Involved Lottery have been identified and added at the end of the specific BLS region's list.

Applicants who have the opportunity to be awarded a Conditional License in the Social Equity Justice Involved Applicant Lottery are subject to strict limitations on the number of total licenses, as mandated by Public Act 102-98. An applicant's failure to report to the Department that it has exceeded the statutory license limitations will result in the Department's refusal to issue any of the Conditional Licenses resulting from the Social Equity Justice Involved Lottery.

Below are the Department's certified results of the Social Equity Justice Involved Lottery for each drawing by BLS Region. Each list identifies the applicants who have an opportunity to receive a Conditional License from that drawing. In order to receive a Conditional License, each applicant must satisfy the statutorily mandated abandonment periods and tax-compliance checks.

Those applicants who have been selected for a conditional license are subject to the statutory requirements of the principal officer and license limitations and tax compliance checks, available [here](#). If an applicant is required to abandon a license because it exceeds the license limitations, the applicant shall have five business days, from the day the results of the Social Equity Justice Involved Lottery are posted to the Department's website, to abandon, and the next drawn applicant will be notified of their opportunity to be awarded a conditional license. Additionally, if an applicant cannot prove its tax compliance within 60 days of winning a conditional license in accordance with 68 IAC 1291.95, the Department will deny issuance of the Conditional License(s) and the next drawn applicant will be notified of their eligibility to be awarded a conditional license. Therefore, the result lists below may change pending the abandonment of an applicant's conditional license and/or an applicant's failure to prove tax

compliance. This means additional applicants, whose draw order followed the abandoning applicant's order, may become an awarded applicant.

The announced conditional licenses to be awarded may be subject to change as a result of court orders or administrative review.

Term	Meaning
Unique Lottery Number	The Unique Lottery Number is randomly assigned to a Unique Applicant Number. The Unique Lottery Number will be used to identify the results of the lottery drawing.
Unique Application Number	A Unique Application Number was assigned to all applications.
Applicant Name	The Applicant Name reflects the entity's name as submitted on the original application.
Order Drawn	This reflects the order in which the Unique Lottery Numbers were drawn by the Illinois State Lottery.

BLS Region #1 (Bloomington) 1 Conditional License Available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	29	3945430	ILLINOIS HEALTH & WELLNESS, LLC

BLS Region #2 (Cape Girardeau) 1 Conditional License Available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	40	3946378	TRU ESSENCE GROUP, LLC

BLS Region #3 (Carbondale-Marion) 1 Conditional License available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	27	3956441	IL-LUSTRIOUS VETERANS' UNIT II LLC

BLS Region #4 (Champaign-Urbana) 1 Conditional License available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	70	3947067	SEQUITY VENTURES, LLC

BLS Region #5 (Chicago-Naperville-Elgin) 36 Conditional Licenses Available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	1159	3952564	MINT VENTURES LLC
2	1086	3953473	LATINO VETERANS HEALTH AND REVIVAL LLC
3	1556	3949402	THE HOMECOMING GROUP, LLC
4	1219	3953734	NLJ PARTNERS LLC
5	1656	3952950	VILL-OPS, INC (DBA VIOLA)
6	1634	3950018	VELTISTE ILLINOIS LLC
7	983	3952765	ISLAND THYME, LLC.
8	1188	3953218	MORGAN AND HOPE, LLC; DBA 64 & HOPE
9	471	3951011	FAMILY ROOTS, LLC
*10	345	3950925	DEALERSHIP, LLC
11	1387	3948423	SB IL LLC D/B/A STARBUDS
12	861	3952426	HEARTLAND LEAF, LLC
*13	625	3952431	GREEN & BREADLEY, LLC
14	677	3952145	GREEN & FOSTER, LLC
15	934	3951252	ILLINOIS CANNABIS COMPANY, LLC
16	1290	3948137	PLANET 13 ILLINOIS, LLC
17	1349	3966035	RENU LLC
18	208	3950767	CANNA VENTURES, LLC
19	1224	3951742	NMG IL 4, LLC
20	1603	3948387	TRIUMPH 7 INVESTMENTS, LLC
21	404	3952948	ELLANA, LLC
22	610	3951363	GREEN & BRANSFORD, LLC
23	1241	3953334	OCEAN CAPITAL IL, INC. D/B/A DR. MOODS CANNABIS COMPANY
24	468	3953776	EUPHORIA, LLC
25	475	3951011	FAMILY ROOTS, LLC
26	632	3952431	GREEN & BREADLEY, LLC

Important Cannabis Lottery Information

From: **FPR.DispensaryScoring** | FPR.DispensaryScoring@Illinois.gov

Friday, Sep 3, 1:20
PM

To: **FPR.DispensaryScoring** | FPR.DispensaryScoring@Illinois.gov, '**us-advidfpr@kpmg.com**' | us-advidfpr@kpmg.com

Dear Applicants,

Today, the Department of Financial and Professional Regulation (“the Department”) posted the list of results from the Qualifying Applicant Lottery (conducted on July 29, 2021), the Social Equity Justice Involved Lottery (conducted on August 5, 2021), and the Tied Applicant Lottery (conducted on August 19, 2021) as the Department’s [final administrative decision](#) regarding applications for Conditional Adult Use Dispensing Organization Licenses (“Conditional Licenses”) under Sections 15-25 through 15.35.10 of the Cannabis Regulation and Tax Act (“Act”).

The Department also posted the Official Drawing Records from the Illinois State Lottery for all three lotteries (the [Qualifying Applicant Lottery](#), the [Social Equity Justice Involved Lottery](#), and the [Tied Applicant Lottery](#)), which includes the complete list of results of the order each participant was drawn, including those participants not eligible to receive a Conditional License. The applicants that are eligible to receive a Conditional License from the lotteries can be found in the Final Administrative Decision. The Conditional Licenses to be awarded by the Department following these lotteries may be subject to change as a result of compliance issues pursuant to section 15-30(g) of the Act, court orders, or administrative review.

In addition, the Department has determined that lotteries for certain BLS regions in connection with the Qualifying Applicant Lottery did not include the correct number of qualified entries based on the application fees that applicants paid. When the Department posted the list of participants for the Qualifying Applicant Lottery, some participants erroneously received an extra entry, while some others did not receive an entry they paid for and identified on their application. No extra entry that was erroneously included in the Qualifying Applicant Lottery received a winning lottery slot.

The Department is committed to ensuring a fair process by which all applicants that were properly qualified to participate in a lottery but were erroneously excluded from that lottery receive a fair opportunity to obtain a Conditional License. Accordingly, the Department intends to conduct supplemental corrective lotteries that will address the application entries that were erroneously excluded from a lottery. More information about this process can be found on the Department’s website, available [here](#).

The Department has notified the applicants who had an entry that was erroneously excluded from the Qualifying Applicant Lottery in a separate email. The Department thanks you for your participation in this process.



IDFPR

Illinois Department of Financial and Professional Regulation

Division of Professional Regulation

www.idfpr.com

JB PRITZKER
Governor

MARIO TRETO, JR.
Acting Secretary

CECILIA ABUNDIS
Acting Director

Results of Tied Applicant Lottery for Conditional Licenses Per BLS Region

The Tied Applicant Lottery, with 17 BLS Region drawings, was conducted on August 19, 2021 for 75 Conditional Adult Use Dispensing Organization Licenses ("Conditional License"). Below are the results of the drawings for each BLS region identifying the order in which each Tied Applicant was drawn. This order determines the order in which the Department of Financial and Professional Regulation ("Department") will award the available Conditional Licenses in each BLS region.

Applicants who have the opportunity to be awarded a Conditional License in the Tied Applicant Lottery are subject to strict limitations on the number of total licenses, as mandated by Public Act 102-98. An applicant's failure to report to the Department that it has exceeded the statutory license limitations will result in the Department's refusal to issue any of the Conditional Licenses resulting from Tied Applicant Lottery.

Below are the Department's certified results of the Tied Applicant Lottery for each drawing by BLS Region. Each list identifies the applicants who have an opportunity to receive a Conditional License from that drawing. In order to receive a Conditional License, each applicant must satisfy the statutorily mandated abandonment periods and tax-compliance checks.

Those applicants who have been selected for a conditional license are subject to the statutory requirements of the principal officer and license limitations and tax compliance checks, available [here](#). If an applicant is required to abandon a license because it exceeds the license limitations, the applicant shall have five business days, from the day the results of the Tied Applicant Lottery are posted to the Department's website, to abandon, and the next drawn applicant will be notified of their opportunity to be awarded a conditional license. Additionally, if an applicant cannot prove its tax compliance within 60 days of winning a conditional license in accordance with 68 IAC 1291.95, the Department will deny issuance of the Conditional License(s) and the next drawn applicant will be notified of their eligibility to be awarded a conditional license. Therefore, the result lists below may change pending the abandonment of an applicant's conditional license and/or an applicant's failure to prove tax compliance. This means additional applicants, whose draw order followed the abandoning applicant's order, may become an awarded applicant.

The announced conditional licenses to be awarded may be subject to change as a result of court orders or administrative review.

Term	Meaning
Unique Lottery Number	The Unique Lottery Number is randomly assigned to a Unique Applicant Number. The Unique Lottery Number will be used to identify the results of the lottery drawing.

Unique Application Number	A Unique Application Number was assigned to all applications.
Applicant Name	The Applicant Name reflects the entity's name as submitted on the original application.
Order Drawn	This reflects the order in which the Unique Lottery Numbers were drawn by the Illinois State Lottery.

BLS Region #1 (Bloomington) 1 Conditional License Available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	20	3945565	PROJECT EQUITY ILLINOIS, INC.

BLS Region #2 (Cape Girardeau) 1 Conditional License Available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	3	3963613	BLOUNTS&MOORE

BLS Region #3 (Carbondale-Marion) 1 Conditional License available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	19	3956504	TOFINO SHORELINE PARTNERS LLC

BLS Region #4 (Champaign-Urbana) 1 Conditional License available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	13	3947041	FORTUNATE SON PARTNERS LLC

BLS Region #5 (Chicago-Naperville-Elgin) 47 Conditional Licenses Available

Order Drawn	Unique Lottery Number	Unique Application Number	Applicant Name
1	82	3963113	BOTAVI WELLNESS LLC
2	703	3953534	SO BAKED TOO LLC
3	285	3953494	G P GREEN HOUSE LLC
4	463	3951611	GREEN & WILLIAMS, LLC
5	581	3953433	ILLINOIS HEALTH & WELLNESS, LLC

6	214	3947835	EEL - ILLINOIS LLC
7	658	3947917	MINT IL, LLC
8	6	3951397	AMERICANNA DREAM LLC
9	547	3947977	GRI HOLDINGS, LLC
10	390	3952145	GREEN & FOSTER, LLC
11	783	3950911	TOFINO SHORELINE PARTNERS LLC
12	35	3962777	BLOUNTS&MOORE
13	882	3949801	WORLD OF WEED
14	875	3949801	WORLD OF WEED
15	610	3950528	KANA GROVE NORTH LLC
16	376	3950381	GREEN & CAMPBELL LLC
17	714	3948861	SUITE GREENS, LLC
18	616	3963034	KAP-JG LLC
19	516	3947522	GREEN THERAPY LLC
20	165	3950459	CESAM, LLC
21	770	3953395	THE HERBAL CARE CENTER
22	546	3947977	GRI HOLDINGS, LLC
23	877	3949801	WORLD OF WEED
24	776	3951084	THF ILLINOIS, LLC DBA: GREENLIGHT
25	234	3962625	EMERALD COAST, LLC
26	80	3963113	BOTAVI WELLNESS LLC
27	338	3951363	GREEN & BRANSFORD, LLC
28	339	3951363	GREEN & BRANSFORD, LLC
29	834	3948580	WAH GROUP, LLC D/B/A LEAFING LIFE
30	322	3951363	GREEN & BRANSFORD, LLC
31	606	3952765	ISLAND THYME, LLC
32	394	3952145	GREEN & FOSTER, LLC
33	313	3950908	GREEN & ALAMO, LLC
34	821	3952950	VILL-OPS, INC (DBA VIOLA)
35	614	3963034	KAP-JG LLC
36	632	3953497	KWB ONE LLC
37	345	3952431	GREEN & BREADLEY, LLC
38	410	3951950	GREEN & KINNICK, LLC