

CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
TUESDAY OCTOBER 26, 2021
CITY HALL COUNCIL CHAMBERS @ 12:00 NOON

1. Call meeting to order
2. Roll Call, excused members
3. Pledge of Allegiance
4. Approval of Agenda for the October 26, 2021 meeting
5. Approval of Minutes from the October 12, 2021 regular meeting
6. New Business:
 - A. Request for a 6-month extension to remove a temporary storage structure at 3202 Big Horn Avenue.
 - B. Off-site parking agreement for 2401 G Avenue.
 - C. Public hearing to reduce the rear setback at 3420 Twin Creek Trail Avenue from 15 feet to 10 feet in order to authorize an existing 12-foot by 19-foot porch.
 - D. Review a request to reduce the rear setback at 3420 Twin Creek Trail Avenue from 15 feet to 10 feet in order to authorize an existing 12-foot by 19-foot porch.
 - E. Public hearing to reduce the rear setback at 3414 Twin Creek Trail Avenue from 15 feet to 8 feet in order to authorize an existing 12-foot by 20-foot porch.
 - F. Review a request to reduce the rear setback at 3414 Twin Creek Trail Avenue from 15 feet to 8 feet in order to authorize an existing 12-foot by 20-foot porch.
 - G. Site plan review for two storage buildings, located east of Demaris street, about 1,100 feet north of West Yellowstone Avenue.
7. P & Z Board Matters (announcements, comments, etc.)
8. Council Update
9. Staff Items
10. Adjourn

The public is invited to attend all Planning, Zoning and Adjustment Board meetings. If you need special accommodations to participate in the meeting, please call the City office at (307) 527-7511 at least 24 hours in advance of the meeting.

City of Cody
Planning, Zoning, and Adjustment
Board Meeting October 12, 2021

A meeting of the City of Cody Planning, Zoning and Adjustment Board was held in the City Hall Council Chambers on Tuesday, October 12, 2021 at 12:01 pm.

Present: Richard Jones; Carson Rowley; Cayde O'Brien; Sandi Fisher; Karinthia Herweyer; City Attorney Scott Kolpitcke; City Planner Todd Stowell; Council Liaison Andy Quick; Administrative Coordinator Bernie Butler.

Absent: Rodney Laib, Scott Richard

Richard Jones called the meeting to order at 12:01 pm, followed by the pledge of allegiance.

Carson Rowley made a motion, seconded by Sandi Fisher, to approve the agenda the October 12, 2021 meeting. Vote on the motion was unanimous, motion passed.

Cayde O'Brien made a motion, seconded by Sandi Fisher, to approve the minutes from the September 28, 2021 meeting. Vote on the motion was unanimous, motion passed.

Todd Stowell reviewed the site plan for Pollen Landscapes, to develop a retail nursery and garden center at 601 Stone Street. The site plan includes a 30' wide x 104' long retail building / greenhouse, with the front 32 feet of the building used for retail sales and the rest of the building for a greenhouse. There will be a 30' x 32' perennial greenhouse, and a 14' x 26' lean-to greenhouse off the south side of the retail building. The rest of the property would be for an outdoor nursery and parking.

Applicant Kendra Morris answered questions from the Board about the color of the building and the fence height.

Cayde O'Brien made a motion, seconded by Carson Rowley, to approve the site plan for Pollen Landscapes at 601 Stone Street, with recommendations 1-7 in the staff report. Vote on the motion was unanimous, motion passed.

Staff reviewed the final plat of the 4-lot Bromley Minor Subdivision, for the property at 1719 29th Street. The property is 0.64 acres. It is in a residential R-3 zoning district.

The subdivision ordinance requirements were reviewed with the preliminary plat approval. A variance to the alley requirement was granted and the preliminary plat was approved with conditions. Todd Stowell gave the status of each condition. The developer is still working out the details of the irrigation distribution plan. Cody Canal and the McMillan Irrigation Company will need to approve the plan. This will need to be completed before it goes to the City Council for the final plat approval.

Carson Rowley made a motion, seconded by Sandi Fisher, to recommend to City Council the approval of the Bromley Minor Subdivision with findings 1-3, and conditions 1-5 in the staff report. Vote on the motion was unanimous, motion passed.

Todd Stowell reminded Board members that would like to renew their seat on the Board, to return the renewal form sent to them.

Sandi Fisher made a motion, seconded by Cayde O'Brien, to adjourn the meeting. Vote on the motion was unanimous, motion passed. Meeting was adjourned at 12:35 pm.

Bernie Butler

Bernie Butler, Administrative Coordinator

CITY OF CODY PLANNING, ZONING AND ADJUSTMENT BOARD STAFF REPORT

MEETING DATE:	OCTOBER 26, 2021	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	REQUEST FOR A 6-MONTH EXTENSION TO REMOVE A TEMPORARY STORAGE STRUCTURE AT 3202 BIG HORN AVE. ORIGINAL FILE NO. SPR 2019-17	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

DESCRIPTION:

The 4,800 square foot storage structure (tent) at 3202 Big Horn Avenue was originally authorized on October 22, 2019 for a period of six months from occupancy, as requested by Psalm Cody Commercial, LLC. The storage tent was installed and occupied in March of 2020. On August 25, 2020, the Planning and Zoning Board considered and approved an extension to continue to utilize the tent until September 15, 2021, followed by a 60-day time period to remove the tent. The current deadline for removal of the tent is November 15, 2021.



Although staff had conversations with Psalm Cody Commercial representatives as recently as last month about future development of the site, the property has since been listed for sale and is already under contract.



An attorney representing the unnamed purchaser has submitted a request for an additional six months to remove the temporary tent. Her letter is attached and clearly outlines the reasoning. Due to the circumstances, a six-month extension does not seem an excessive amount of time to staff.

It is also noted that implementation of the landscaping plan for the property would also be appropriately delayed. Provided a more permanent plan for the property is implemented within the next year or so, staff is okay with the delay. It does not make sense to install landscaping that would need to be removed or relocated based on a more permanent development plan. However, if no plans are forthcoming, installation of landscaping is still required.

ATTACHMENTS:

Letter requesting extension.

ALTERNATIVES:

Approve or deny the request for a six-month extension.

RECOMMENDATION:

It is recommended that the Planning and Zoning Board approve an extension for the temporary tent to remain on the property until May 15, 2022.

It is also recommended that the Planning and Zoning Board allow implementation of the landscaping plan to be further delayed until September 2022, or further if a site plan for more permanent and aesthetically compatible structures is submitted for Board review before September 1, 2022.



3429 Cottonwood Avenue – Cody, WY 82414 – 307-578-8216

October 14, 2021

City of Cody, Planning & Zoning
ATTN: Todd Stowell, Community Development Director/City Planner
1338 Rumsey Avenue
Cody, WY 82414
VIA EMAIL: todds@cityofcody.com

**RE: 3202 Big Horn Avenue, 4,800 square foot temporary storage structure –
Request for Extension for Removal**

Dear Mr. Stowell,

My client is currently under contract with Psalm Cody Commercial, LLC to purchase the property located at 3202 Big Horn Avenue, Cody, WY. Closing may or may not occur prior to November 15, 2021. It is my understanding the current deadline to remove the 4,800 square foot temporary storage structure and/or tent is November 15, 2021. In review of the board minutes and Staff Report from the August 25, 2020, Planning, Zoning, and Adjustment Board Meeting an additional six (6) month extension was granted to Psalm Cody Commercial, LLC. My client is respectfully requesting an additional six (6) month extension to remove said structure. This request is being made for the following reasons:

1. Closing may or may not occur prior to the November 15, 2021 deadline to remove the structure. In the event closing does occur prior to November 15, 2021 it would put my client in a difficult position to get the structure removed in such a short period of time.
2. Based upon information and belief, it may be necessary for the company that installed the structure to travel to Cody, WY to remove the structure. The company is not locally based, and this will take time and coordination.
3. My client is in the process of developing a plan for the property post-closing. It is the intent of my client to develop this property with more permanent and aesthetically compatible structures; however, such planning will take time.

A six-month extension from November 15, 2021 would provide the necessary time for my client to remove the structure and/or to put together a development plan for this property and address the removal of the structure. Under the current circumstances with the pending sale of the property to my client, I am hopeful the City of Cody Planning and Zoning will approve this request. If I can be of further assistance or provide any other information, please do not hesitate to reach out to me by phone or email.

I appreciate your time and attention to this matter and look forward to hearing from you and Planning and Zoning.

Best Regards,



Sarah N. Miles,
Attorney for JCA Companies
sarah@jcacompanies.com

CITY OF CODY PLANNING, ZONING AND ADJUSTMENT BOARD STAFF REPORT

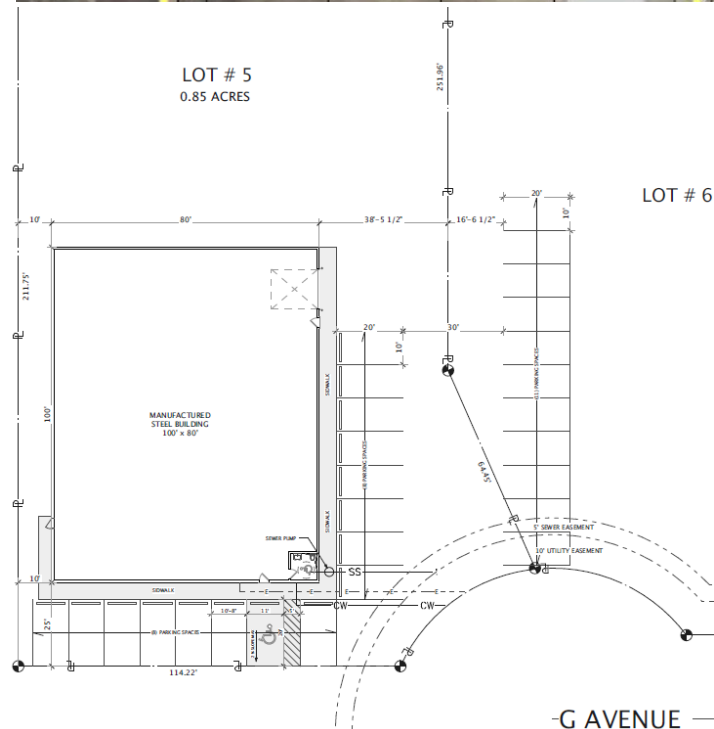
MEETING DATE:	OCTOBER 26, 2021	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	OFF SITE PARKING AGREEMENT FOR 2401 G AVENUE.	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

PROJECT DESCRIPTION:

On May 12, 2020, the Planning and Zoning Board approved a site plan application for an 8,000 square foot metal building at 2401 G Avenue. A condition of that authorization was that "any proposed change of use from storage/warehouse use is subject to review in accordance with applicable parking, building, utility, fire and other City codes."

The south half of the building is now proposed to be utilized as a beauty school/salon. The balance will remain as storage/warehouse. The Board needs to determine the number of parking spaces required, and whether they will accept a parking agreement for the portion of the parking lot that extends onto an adjoining lot.

The operator of the beauty school/salon, Ronae, has indicated that she anticipates that the business will need approximately 25 parking spaces, with long-term potential for maybe even more. This is based on 3 instructors, up to 20 students, and up to 10 clients. She is currently the only licensed instructor. If the other instructors

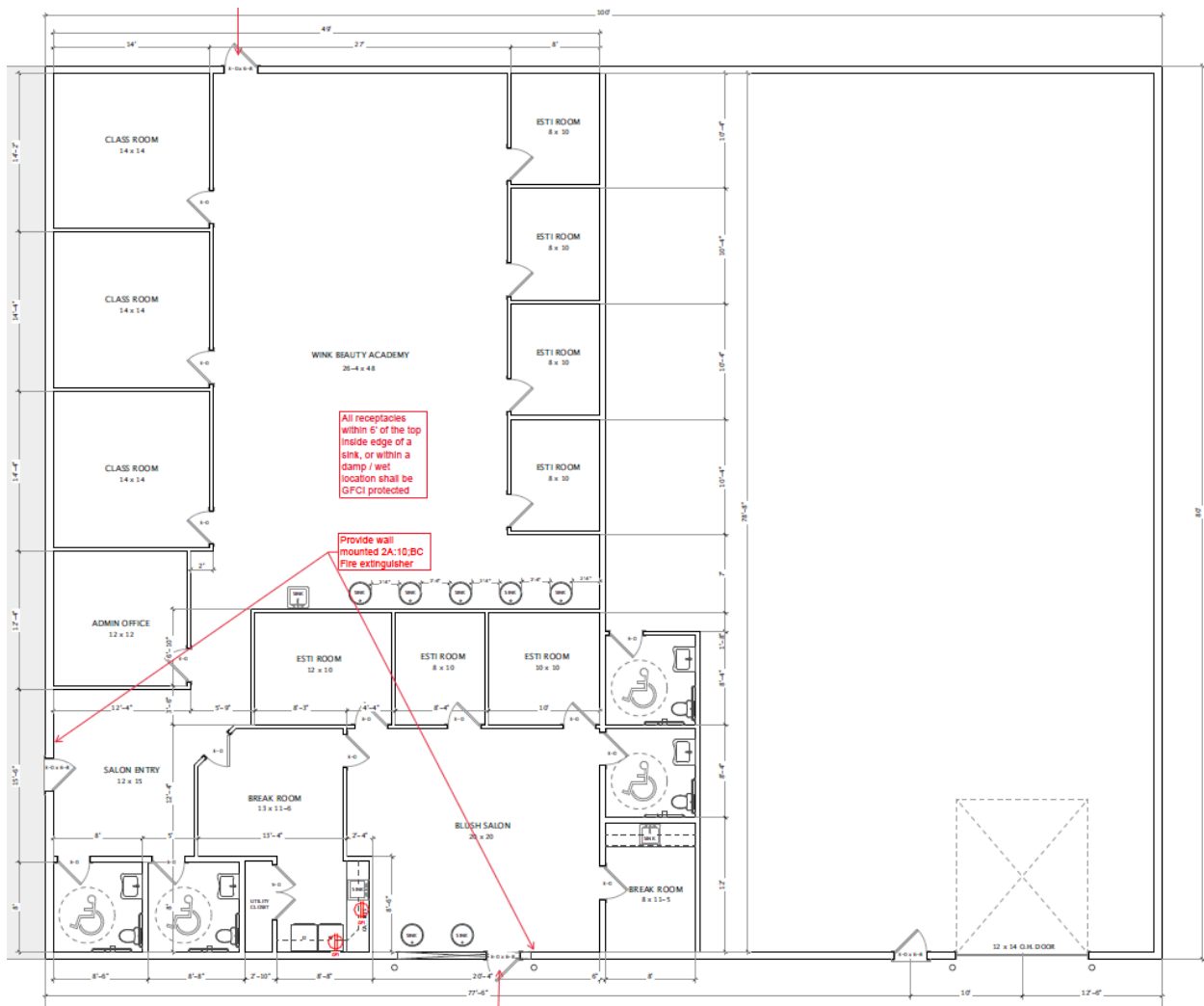


get their own teaching certifications, they then could accommodate more students and more clients, which would mean additional demand for parking.

In response to staff's request for a parking plan, the above drawing was submitted, which shows a total of 25 spaces. Keeping the parking out of the sewer and utility easement, as specified in the agreement, would mean 105' is needed in the north-south dimension to provide the nine spaces shown in the east row.

Any parking for the storage/warehouse portion of the building is expected to be accommodated at the rear of the building, if the beauty school utilizes all of the spaces provided.

The basic floor plan is shown below and a more detailed plan, showing individual stations and seating layouts, is attached.



REVIEW CRITERIA:

10-16-9: NUMBER OF SPACES REQUIRED:

The minimum number of parking spaces required for a use shall be according to table 1 of this section, unless the planning and zoning board authorizes otherwise based on reliable data, such as parking data from a highly comparable facility or a parking demand study prepared by a qualified parking consultant or engineer, which justifies use of a different parking ratio.

10-16-7: OFF SITE PARKING:

The planning and zoning board may authorize parking facilities located on neighboring private property to qualify as required off street parking under the following conditions:

A. The parking spaces are not required for another building, structure or use, unless joint parking is allowed pursuant to section [10-16-6](#) of this chapter;

B. The nearest point of the parking lot is within the following distances, as measured along the pedestrian's path of travel, from the building served:

...

4. Five hundred feet (500') for uses not otherwise specified above.

C. A legally binding long-term agreement, typically a minimum of ten (10) years, for the off-site parking, in a form and with conditions acceptable to the city planner, city attorney and planning and zoning board, is entered into between the affected property owner(s) and recorded in the office of the county recorder. An agreement shall be required regardless of whether the neighboring property is owned by a different or same property owner as the use requiring the parking.

D. If the offsite parking is no longer available for any reason, including, but not limited to, expiration or termination of the parking agreement, then the certificate of occupancy may be revoked pursuant to section [10-16-12](#) of this chapter, and the property owner shall be subject to such other penalties as provided in this title.

STAFF COMMENTS:

The parking ordinance does not have a specific ratio for how many spaces should be required for a beauty school or salon. The tenant's estimate of 25 seems reasonable for the foreseeable future. However, if the school and salon were running a full capacity, there may be a shortage of parking. As the adjacent lot is not developed and in the same ownership as the salon building, there remains the potential to expand the parking lot beyond that currently proposed. If a site plan application is submitted for development of the adjacent vacant lot, the parking situation can be further analyzed at that time.

In order for the proposed parking lot to meet applicable construction requirements, the following modifications are needed:

- 1) Add wheel stops to the spaces in the east row.

- 2) If the east parking lot will be used at night, add parking lot lighting (a full-cutoff style fixture, mounted on the wall of the building would work). The south parking lot already has a light.

The parking agreement is shorter than the 10 years recommended by the ordinance, but the one-year notice of termination provision allows the tenant and City to address the issue if needed. The agreement is being reviewed by the city attorney as to form.

ATTACHMENTS:

Floor Plans
Parking Agreement

ALTERNATIVES:

Specify the number of parking spaces required, and determine if the parking agreement is acceptable.

RECOMMENDATION:

It is recommended that the Planning and Zoning Board authorize the plan for 25 parking spaces, and accept the parking agreement subject to the following conditions:

1. Expand the lease area in the parking agreement from 100' to at least 105'.
2. Add wheel stops to the spaces in the east row (one stop per space, centered).
3. Surfacing and construction of the parking lot shall comply with the City standards.
4. If the east parking lot will be used at night, add parking lot lighting (a full-cutoff style fixture, mounted on the east wall of the building would work).
5. The executed parking agreement is to be authorized by the city attorney and recorded at the County clerk's office prior to occupancy of the beauty school/salon.



PRECISION PLAN
AND DESIGN INC.

A CUSTOM PLAN
SERVICE

930 12TH STREET
CODY, WYOMING 82414

307.587.8327 | 307.273.5709

@PRECISIONPLANDDESIGN@GMAIL.COM

MEMBER ILPA No. 1271

PROJECT LOCATION
CODY, WY

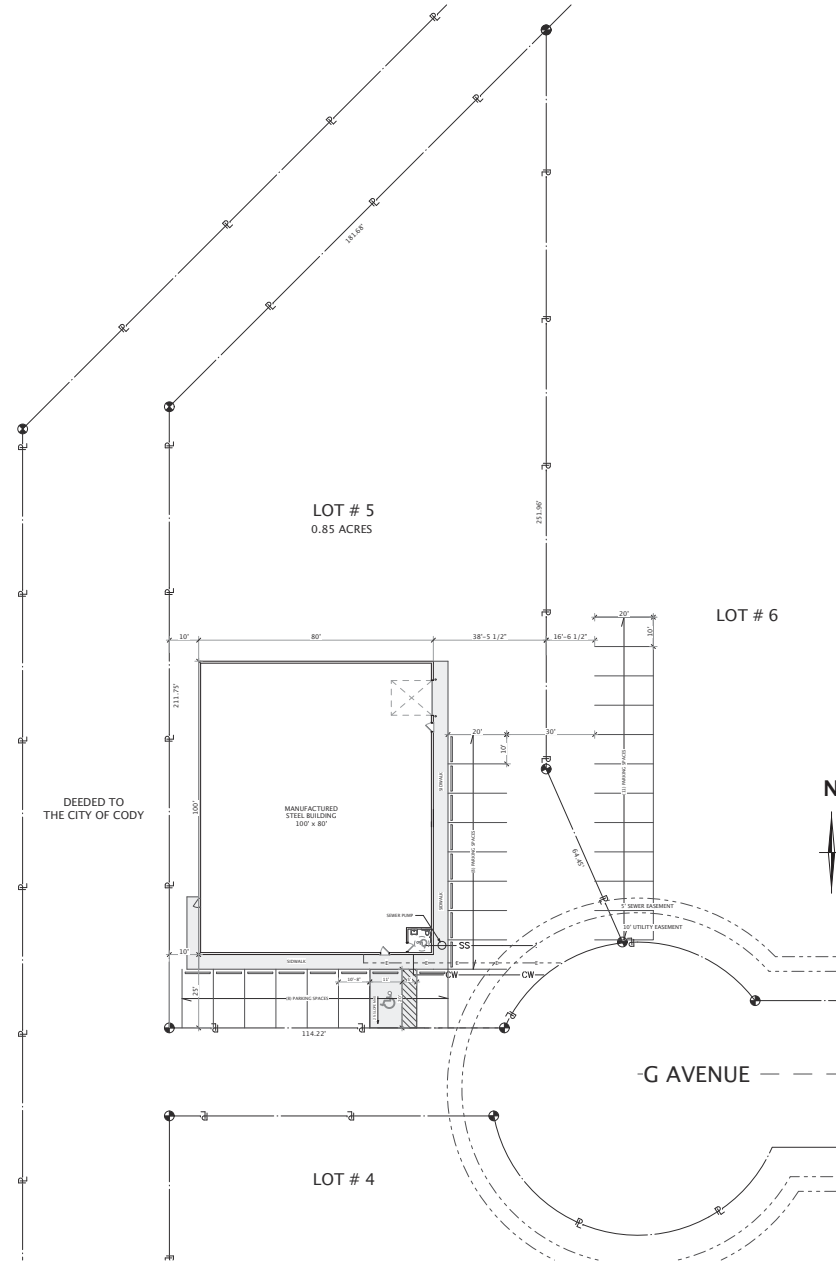
LOT # 5 BLACKBURN P.U.D.
ED HIGBIE
1020 ASBURY DRIVE
CODY, WYOMING 82414
P: 307.898.1403
@edhigbie@ctwest.net

NOTE:
ALTHOUGH GREAT CARE
AND EFFORT HAVE GONE
INTO THIS PLAN TO CREATE
A PRECISE INTERPRETATION
OF THE FINISHED PROJECT,
IT IS IMPOSSIBLE TO
GUARANTEE THAT THIS PLAN
IS WITHOUT IMPERFECTIONS.
THEREFORE PRECISION PLAN
AND DESIGN INC. AND/OR
ASSOCIATES ASSUMES NO
LIABILITY FOR ANY PROJECT
CONSTRUCTED FROM THIS
PLAN. THE BUILDER/OWNER
MUST VERIFY ALL
DIMENSIONS. THIS PLAN IS
SUBJECT TO CHANGE PER
ENGINEER AND/OR LOCAL
CODES AND STANDARDS.

DATE: 10.12.21
REVISION: 5

PROJECT NO.
2010

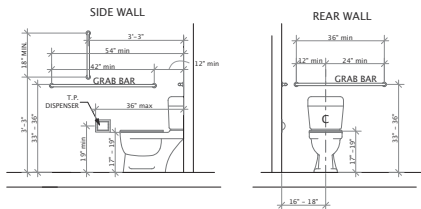
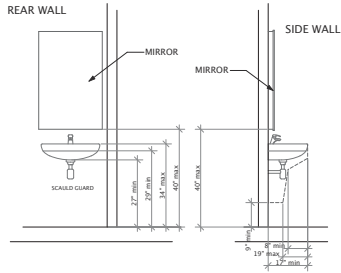
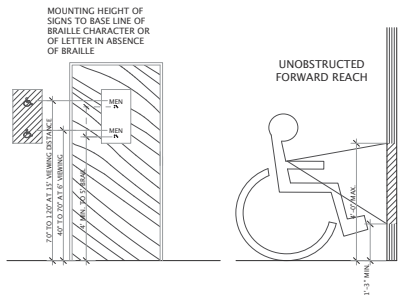
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SITE PLAN



109
C1.0

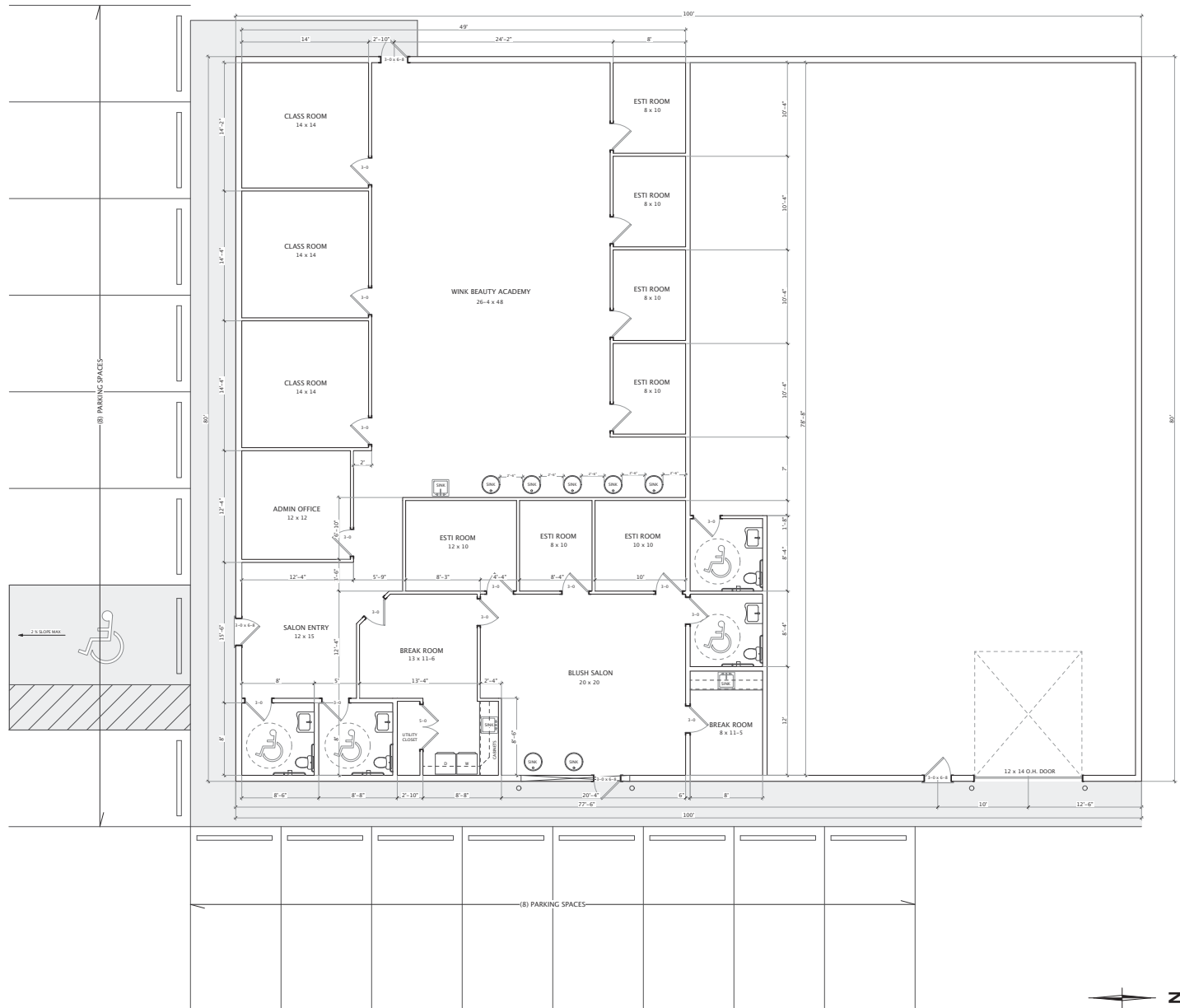
SITE PLAN / BLACKBURN P.U.D.

SCALE: 1" = 20'



GENERAL NOTES:

1. WATER SUPPLY AND DRAIN PIPES UNDER LAVATORIES AND SINKS SHALL BE INSULATED OR OTHERWISE CONFIGURED TO PROTECT AGAINST CONTACT. THERE SHALL BE NO SHARP OR ABRASIVE SURFACES UNDER LAVATORIES AND SINKS.
2. PROVIDE BACKING FOR ALL TOILET ACCESSORIES.
3. ALL CONSTRUCTION METHODS AND FIXTURES TO MEET ADA CODES AND STANDARDS.



1
A1.0

MAIN FLOOR PLAN

SCALE: 3/16" = 1'-0"



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A CUSTOM PLAN
SERVICE

930 12TH STREET
CODY, WYOMING 82414

307.587.8327 | 307.271.5709

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MEMBER (LSA No. 1271)

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DATE: 10.12.21
REVISION: 5

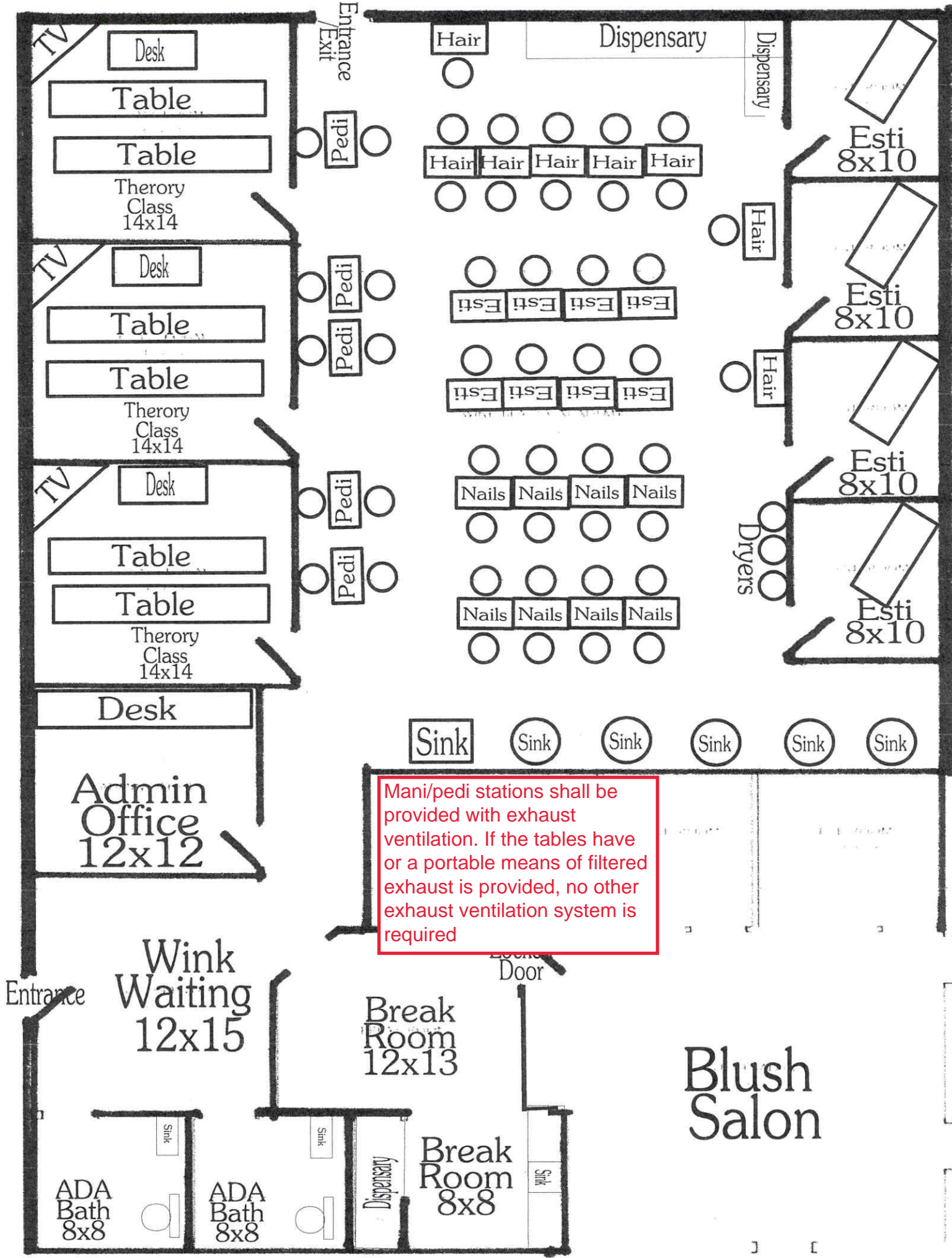
PROJECT NO.

2010

SHEET #

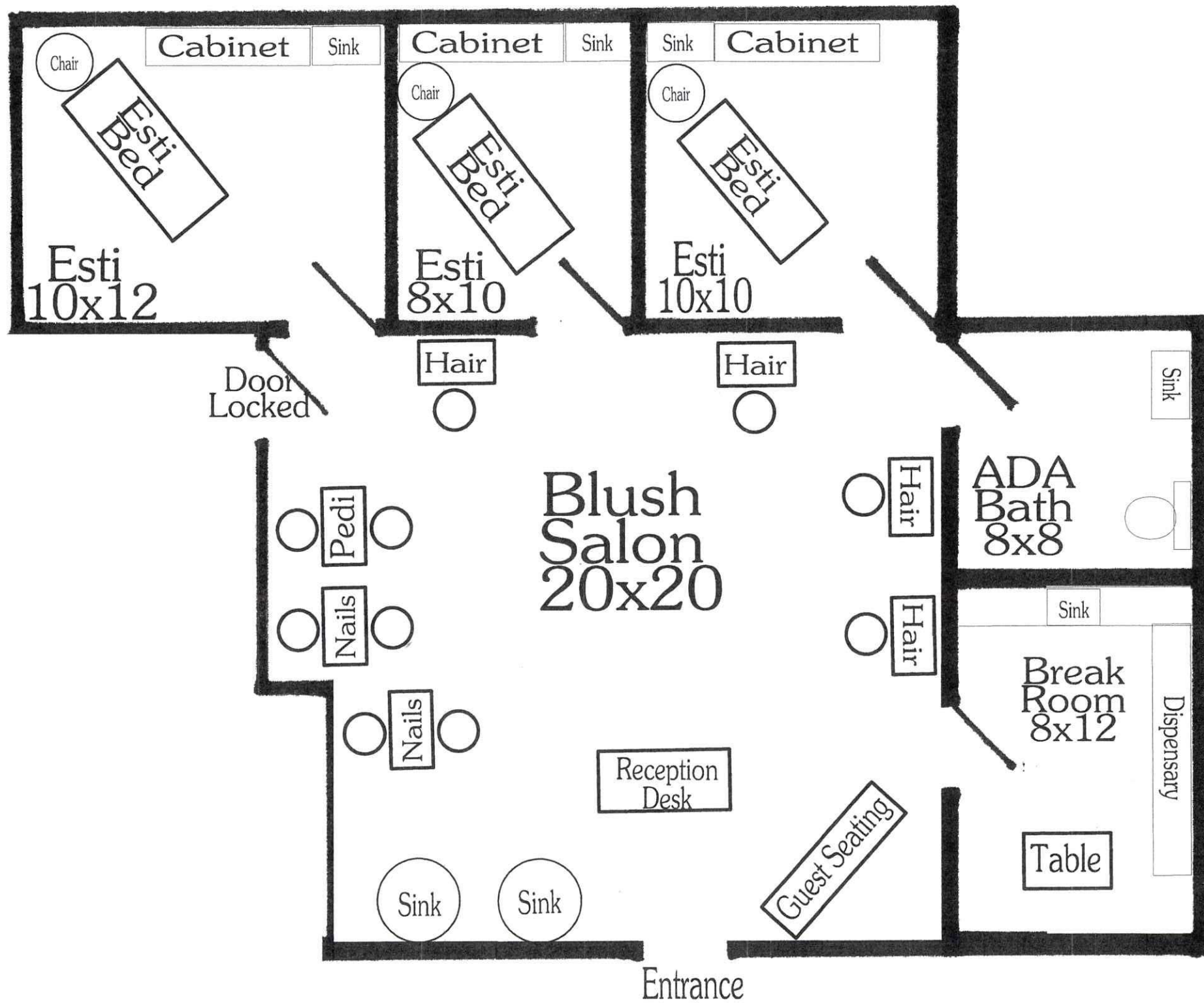
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MAIN FLOOR



Mani/pedi stations shall be provided with exhaust ventilation. If the tables have or a portable means of filtered exhaust is provided, no other exhaust ventilation system is required

Blush
Salon



PARKING AGREEMENT

This parking agreement is entered into by and between C & E Blackburn, LLC a Wyoming liability Company and Wink Beauty Academy, LLC

This agreement is for the benefit of 2401 G Avenue, Cody, Wyoming. The legal of said lot is Lot 5 Blackburn PUD.

WHEREAS, C & E Blackburn, LLC owns said property and they are leasing said property which requires more parking than they can provide on Lot 5 Blackburn PUD. It is hereby agreed to that C & E Blackburn, LLC which also owns Lot 6 Blackburn PUD will allow parking upon Lot 6 Blackburn PUD as per this agreement.

Parking shall be permitted along the Southwest corner of Lot 6 Blackburn PUD. Approximate dimension of said parking will be 40' along the west boundary and extending northly for 100'. See attached map. Parking will not be allowed within the utility and sewer easement.

Article 1- SHARING OF PARKING SPACES:

WHEREAS, for the purpose of operating a Beauty Saloon along with Wink Beauty Academy, LLC is leasing Lot 5 Blackburn PUD also know as (2401 G Avenue) requires more parking than can be provided upon said lot. Therefore, additional parking on Lot 6 Blackburn PUD is required to accommodate the customers and clients. This parking area shall be non-exclusive for the use by 2401 G Avenue.

Article 2- Term

The term of this agreement on November 1, 2021 and remain in perpetuity until terminated pursuant to Article 6 below.

Article 3- CONSIDERATION:

The Parties acknowledge and agree that no money will be exchanged in consideration of the arrangement set forth in this agreement.

Article 4_ DISCLAIMER OF WARRANTY:

Each Party acknowledge and agrees that the parking spaces being made available to it by the other party under this Agreement are being made available on an "as is " basis and that both Parties expressly disclaim any and all warranties of quality, whether express or implied, including but not limited the warranties of merchantability and fitness for a particular purpose, with respect to the parking spaces being made available to the other party under this agreement.

Article 5- LIMITATION PF LIBILITY:

Wink Beauty Academy, LLC agrees to release, indemnify and hold C & E Blackburn, LLC. harmless from and against any damage to any vehicles or any personal property left in any vehicles parked in the C & E Blackburn, LLC parking spaces which is caused by Wink Beauty Academy, LLC or their customers and herby specifically agrees that C&E Blackburn, LLC shall not be responsible for any such damages.

Article 6- TERMINATION:

This agreement may be terminated by either Party upon twelve (12) months advance written notice to the other Party. As part of any termination, both Parties agree to notify the City of Cody that a termination notice has been provided. The notices to the City shall be sent to the city contemporaneously with termination to the party.

Article 7 – General Provisions:

- A) GOVERNING LAW: This agreement shall be governed in all respects by the laws of the State of Wyoming and any applicable federal law. Both Parties consent to jurisdiction under state and federal courts within the State of Wyoming.
- B) ASSIGNMENT: This agreement, or the rights granted hereunder, may not be assigned, sold, leased or otherwise transferred in whole or part by either Party without the prior written consent of the other Party.
- C) Notices: Any notices required or pertaining to be given under this Agreement shall be in writing and will be deemed given: (a) on the date such notice is personally delivered to the appropriate Party; (b) on the date which is one day after the date of delivery to a courier service which guarantees next day-business-day delivery at the address set forth above; or (c) on date which is three business days after mailing, by registered or certified United States mail.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective persons thereunto duly authorized.

LESSOR:

C&E Blackburn, LLC

Signature

Date

LESSEE:

Wink Beauty Academy, LLC

Signature

Date

CITY OF CODY PLANNING, ZONING AND ADJUSTMENT BOARD STAFF REPORT

MEETING DATE:	OCTOBER 26, 2021	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	SPECIAL EXEMPTION PUBLIC HEARING: REDUCE THE REAR SETBACK REQUIREMENT AT 3420 TWIN CREEK TRAIL AVENUE. SUP 2021-12	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

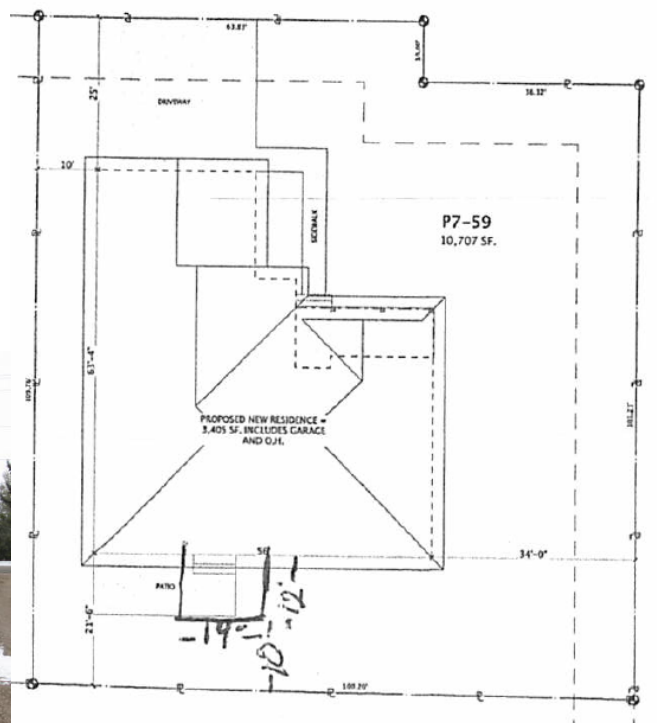
PROJECT DESCRIPTION & BACKGROUND:

Jesse Brittain, as the contractor, and Gary and Marilyn Cabe as the property owners, have submitted a special exemption application requesting that the rear setback requirement at 3420 Twin Creek Trail Avenue be reduced from 15 feet to approximately 10 feet in order to authorize a 12-foot by 19-foot covered porch on the back (south) side of the house. The porch is existing. The applicant has supplied a letter that provides more detail about the situation.



The property is located in the R-2 residential zoning district and the Trailhead Planned Unit Development, which specify a 15-foot rear setback. The setback is measured from the property line to the support posts of the porch.

Existing Condition:



The public hearing for the exemption request was advertised as required by mail to neighboring properties within 140 feet, and by publication in the newspaper on October 14, 2020.

REVIEW CRITERIA:

Pursuant to Section 10-14-2(B)(1) of the City of Cody Code, the Planning and Zoning Board may consider special exemptions to setback requirements.

The standards for approval of a special exemption are as follows, with staff comments provided.

No special exemption shall be approved unless the planning and zoning board finds:

- a. The special exemption will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties;*

Staff Comment: For context, the exemption request should not be viewed as the difference between the existing porch and no porch, but the difference between the existing porch and a porch that meets the 15-foot setback requirement. In this case, that would be the difference between the existing 12-foot-deep covered porch and a 7-foot-deep covered porch.

Neighbor comment is typically a good indicator of whether the exemption will produce an undesirable change in the character of the neighborhood. Seven neighboring property owners were notified of the proposal. As of the time of this staff report, three responses of "no objection" have been received, and zero objections. The map shows the location of those responding, with green as "no objection". The responses are attached. Any additional information presented at the meeting will also need to be considered.



- b. The special exemption is designed to be compatible with adjacent land uses and the area or neighborhood;*

Staff Comment: The covered porch matches the architecture of the house to which it is attached, and therefore has an appearance of a typical residential structure. No specific characteristic of the covered porch has been identified that makes it clearly incompatible with the neighboring house or overall neighborhood. The porch is located where it will not cause shadow effects on neighboring properties.



It is also open-walled, so that it does not have the same visual effect as a walled structure. The fact that the porch is a fair distance and separated by a driveway from the neighboring home to the south is also fortunate, as opposed to being in very close proximity.

- c. *The special exemption is the minimum deviation from the specifications of the zoning ordinance necessary and adequate for the proposed activity, structure or use;*

Staff Comment: Due to the construction method of this covered porch, which utilizes engineered trusses, granting anything less than the full exemption would mean having an engineer re-calculate the truss loads and determine if and how the roof structure could be modified in the field. Removing a portion of the covered porch would likely be more involved than removing the entire structure. If a deviation is to be granted, it effectively is an "all or nothing" scenario.

- d. *The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue other than a special exemption;*

Staff Comment: No other feasible options have been identified that would achieve the requested result.

- e. *Adequate services and infrastructure are or will be available to serve the proposed activity, structure or use;*

Staff Comment: No additional services are proposed or needed that do not already exist on the property.

- f. *The special exemption is consistent with the goals, policies and future land use map of the master plan.*

Staff Comment: The future land use map designation for this area is "low-density residential", which is consistent with the single-family residential use of the property. There are no identified master plan goals specific to the setback situation, other than general statements such as "protect the existing character in stable residential areas" which fits into items 'a' and 'b' above.

ALTERNATIVES:

Approve, deny or approve with conditions, in full or in part.

ATTACHMENTS:

Applicant's letter.

Neighbor responses.

RECOMMENDATION:

Provided no new information is provided at the public hearing to dictate otherwise, staff supports granting the requested exemption.

If approved, the Board will need to make the following findings:

(Draft, subject to information received at public hearing.)

1. That proper notice of the special exemption public hearing was provided by advertising in the Cody Enterprise and by mail to all property owners within 140 feet at least ten days before the hearing.
2. That the Planning and Zoning Board may grant special exemptions that are reasonable and harmless deviations from the zoning ordinance as determined by the standards outlined in Section 10-14-2, City of Cody Code.
3. That the Planning and Zoning Board has held a public hearing as required and has considered all comments pertaining to the request; and,
4. That the points identified in the staff report and at the Board meeting are adequate to set forth the reasoning why the criteria of 10-14-2(C)(2) are met.

AND,

Approve the request to reduce the rear yard setback requirement for the existing covered porch, subject to the following conditions:

1. Obtain a building permit for the covered porch.
2. The porch is to remain open (no walls) within the area of the setback encroachment.

To Whom it May Concern,

I am writing to request an exemption to the building code. It has been brought to my attention that the covered concrete porch I erected in the backyard at 3420 Twin Creek Trail Ave. has put me in violation of the setbacks. The current code requires a 15 foot setback in the backyard on this property and with this porch I only have a 10 foot setback.

This house was purchased during construction and the new owners asked to have the porch covered so that they could sit in their backyard out of the sun. They had also hoped it would help keep the dining room cooler as it would block some of the sun coming into the sliding glass door on the south side of the house.

When I read the code I misunderstood the section about porches. I thought it had said that all covered porches had 5 foot setbacks. I have since learned that this only works if the porch roof is not attached to the house.

I am asking that you give me an exemption for this house to leave the porch in place.

Thank you for your consideration,



Jesse Brittain

Brittain's Remodel and Custom Homes
3539 Cooper Ln.
Cody, WY 82414
307-899-5196

☒ I have NO OBJECTION to the Special Exemption request.

Name CAROL KRAFT

Address: 3413 TWIN CREEK TRAIL AVE.

Comments: _____

Carol M. Kraft

☒ I have NO OBJECTION to the Special Exemption request.

Name Chuck & Karen Winkle

Address: 227 Cooper Ln W Cody WY 82414

Comments: _____

☒ I have NO OBJECTION to the Special Exemption request.

Name Gary M. Cabe - Marilyn Cabe

Address: 3420 TWIN CREEK TRAIL AVE - Cody

Comments: _____

☐ I OBJECT to the Special Exemption request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: cabem2@msn.com

CITY OF CODY PLANNING, ZONING AND ADJUSTMENT BOARD STAFF REPORT

MEETING DATE:	OCTOBER 26, 2021	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	SPECIAL EXEMPTION PUBLIC HEARING: REDUCE THE REAR SETBACK REQUIREMENT AT 3414 TWIN CREEK TRAIL AVENUE. SUP 2021-13	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

PROJECT DESCRIPTION & BACKGROUND:

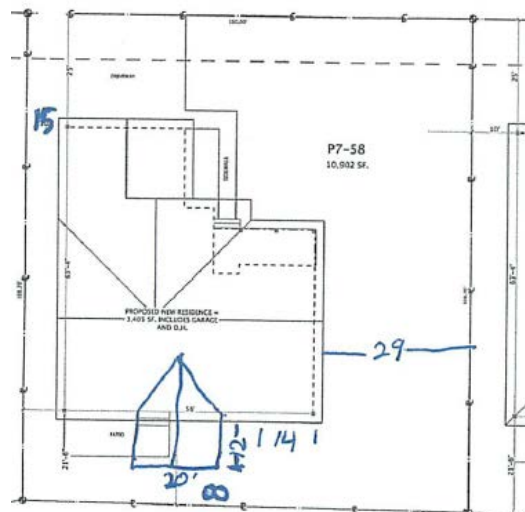
Jesse Brittain, as the contractor and property owner, has submitted a special exemption application requesting that the rear setback requirement at 3414 Twin Creek Trail Avenue be reduced from 15 feet to approximately 8 feet in order to authorize a 12-foot by 20-foot covered porch the back (south) side of the house. The porch is existing. The applicant has supplied a letter that provides more detail about the situation.

The property is located in the R-2 residential zoning district and the Trailhead Planned Unit Development, which specify a 15-foot rear setback. The setback is measured from the property line to the support posts of the porch.



TWIN CREEK TRAIL AVE.

Existing Condition:



The public hearing for the exemption request was advertised as required by mail to neighboring properties within 140 feet, and by publication in the newspaper on October 14, 2020.

REVIEW CRITERIA:

Pursuant to Section 10-14-2(B)(1) of the City of Cody Code, the Planning and Zoning Board may consider special exemptions to setback requirements.

The standards for approval of a special exemption are as follows, with staff comments provided.

No special exemption shall be approved unless the planning and zoning board finds:

- a. The special exemption will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties;*

Staff Comment: For context, the exemption request should not be viewed as the difference between the existing porch and no porch, but the difference between the existing porch and a porch that meets the 15-foot setback requirement. In this case, that would be the difference between the existing 12-foot-deep covered porch and a 7-foot-deep covered porch.

Neighbor comment is typically a good indicator of whether the exemption will produce an undesirable change in the character of the neighborhood. Six neighboring property owners were notified of the proposal. As of the time of this staff report, three responses of "no objection" have been received, and zero objections. The map shows the location of those responding, with green as "no objection". The responses are attached. Any additional information presented at the meeting will also need to be considered.



- b. The special exemption is designed to be compatible with adjacent land uses and the area or neighborhood;*

Staff Comment: The covered porch matches the architecture of the house to which it is attached, and therefore has an appearance of a typical residential structure. No specific characteristic of the covered porch has been identified that makes it clearly incompatible with the neighborhood. The porch is located where it will not cause shadow effects on neighboring properties. It is also open-



walled, so that it does not have the same visual effect as a walled structure. The structure closest to the south of the covered porch is the detached garage/shop shown in this photo.

- c. The special exemption is the minimum deviation from the specifications of the zoning ordinance necessary and adequate for the proposed activity, structure or use;*

Staff Comment: The size of the porch roof is designed to provide shade. A 7-foot-wide roof covering on the south side of a house does not provide much shade. Twelve feet deep on the south side of a house is large enough to provide a usable shaded area, while not clearly providing more than is needed to accomplish the purpose.

- d. The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue other than a special exemption;*

Staff Comment: No other feasible options have been identified that would achieve the requested result.

- e. Adequate services and infrastructure are or will be available to serve the proposed activity, structure or use;*

Staff Comment: No additional services are proposed or needed that do not already exist on the property.

- f. The special exemption is consistent with the goals, policies and future land use map of the master plan.*

Staff Comment: The future land use map designation for this area is "low-density residential", which is consistent with the single-family residential use of the property. There are no identified master plan goals specific to the setback situation, other than general statements such as "protect the existing character in stable residential areas" which fits into items 'a' and 'b' above.

ALTERNATIVES:

Approve, deny or approve with conditions, in full or in part.

ATTACHMENTS:

Applicant's letter.

Neighbor responses.

RECOMMENDATION:

Provided no new information is provided at the public hearing to dictate otherwise, staff supports granting the requested exemption.

If approved, the Board will need to make the following findings:
(Draft, subject to information received at public hearing.)

1. That proper notice of the special exemption public hearing was provided by advertising in the Cody Enterprise and by mail to all property owners within 140 feet at least ten days before the hearing.
2. That the Planning and Zoning Board may grant special exemptions that are reasonable and harmless deviations from the zoning ordinance as determined by the standards outlined in Section 10-14-2, City of Cody Code.
3. That the Planning and Zoning Board has held a public hearing as required and has considered all comments pertaining to the request; and,
4. That the points identified in the staff report and at the Board meeting are adequate to set forth the reasoning why the criteria of 10-14-2(C)(2) are met.

AND,

Approve the request to reduce the rear yard setback requirement for the covered porch that is under construction, subject to the following conditions:

1. Obtain a building permit for the covered porch.
2. The porch is to remain open (no walls) within the area of the setback encroachment.

To Whom it May Concern,

I am writing to request an exemption to the building code. It has been brought to my attention that the covered concrete porch I am building in the backyard at 3414 Twin Creek Trail Ave. has put me in violation of the setbacks. The current code requires a 15 foot setback in the backyard on this property and with this porch I only have an 8 foot setback.

This house is being built for resale and a porch was added when my employees and I were sitting on the roof on a hot day and it was brought up that a covered porch would be nice for whoever buys the house. It would give them some shade and would also add to the look of the house. I agreed with the crew that a covered porch needed to be added.

Since I had read the code and had just sold the house next door with a covered porch, I had assumed that I was good. I have since learned that both houses are in violation of the code.

I am asking that you give me an exemption for this house to leave the porch in place.

Thank you for your consideration,



Jesse Brittain

Brittain's Remodel and Custom Homes
3539 Cooper Ln.
Cody, WY 82414
307-899-5196

I am familiar with the proposal by Jesse Brittain for the Special Exemption request described above.

☒ I have NO OBJECTION to the Special Exemption request.

Name Donna Ann Marilyn Lake

Address: 3420 Twin Creek Trail Ave. - Cody

Comments: _____

I am familiar with the proposal by Jesse Brittain for the Special Exemption request described above.

☒ I have NO OBJECTION to the Special Exemption request.

Name DAVID KRAFT

Address: 3413 Twin Creek Trail Ave.

Comments: _____

I am familiar with the proposal by Jesse Brittain for the Special Exemption request described above.

☒ I have NO OBJECTION to the Special Exemption request.

Name Charles & Karen Winkle

Address: 227 Cooper Ln W Cody WY 82414

Comments: _____

☐ I OBJECT to the Special Exemption request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: ce5winkle@gmail.com

**CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
STAFF REPORT**

MEETING DATE:	OCTOBER 26, 2021	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	SITE PLAN REVIEW: ROBINSON STORAGE FACILITY. SPR 2021-28	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

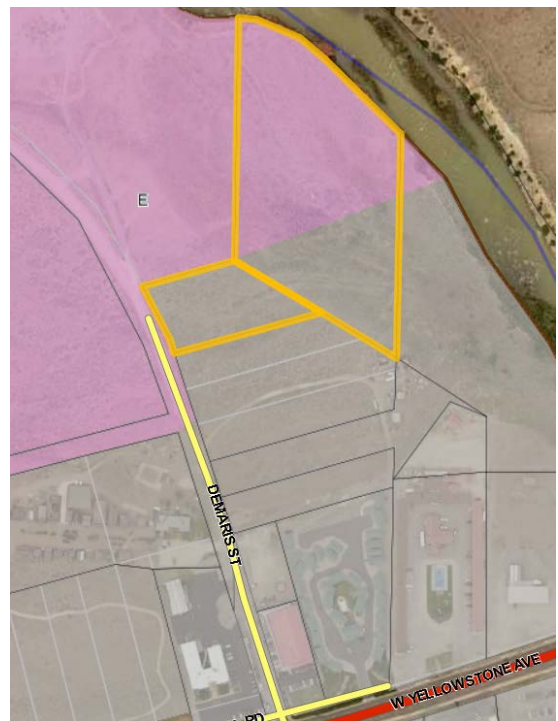
PROJECT DESCRIPTION:

J.W. Robinson has submitted a site plan application for the construction of two storage buildings on a 1.5-acre property located east of Demaris Street, about 1,100 feet north of West Yellowstone Avenue. The northern building would provide 16 units, measuring 15' wide by 40' deep. The southern building would provide 21 units, measuring 15' wide by 50' deep. The property is currently vacant.

The site plan, building elevations, grading and drainage plans, and other application materials are attached.

REVIEW CRITERIA:

The property is located within the Open Business/Light Industrial "D-3" zoning district, which permits storage warehouse buildings.



Section 10-10C-5 of the zoning regulations states:

All structures within the district shall be architecturally compatible. Architectural and landscaping plans shall be submitted to the planning and zoning commission for approval. Architectural and landscaping details shall be maintained as shown by the approved plans.

Section 9-2-3 is as follows:

Before the issuance of any permit under the international building code for commercial buildings situated within the city, the applicant, property owner and occupant shall meet with the planning, zoning and adjustment board to review the application and plans insofar as they pertain to the exterior of a commercial building and site plan conditions. The issuance of a permit shall be conditioned upon the

applicant receiving an affirmative vote of a majority of the planning, zoning and adjustment board members in attendance at said meeting.

STAFF COMMENTS:

Architecture:

The proposed buildings have a typical storage building appearance—metal siding, metal roofing, and overhead doors lining the front of the building. The front walls of both buildings would be 16 feet tall, and the back walls about 14 feet. The single-slope shed roofs have a ½:12 pitch.

The siding is a vertical rib style of metal in a “Fox grey” color. The roof, trim, gutters, downspouts, and corners are metal in a “Burnished Slate” color. The doors are identified as white in color. The following rendering is not the building style, but is the building color scheme. It was created from the manufacturer’s website (peaksteelbuildings.com).



Roof	Burnished Slate (BS)
Walls & Downspouts	FoxGray (FG)
Wainscot	FoxGray (FG)
Trim	Burnished Slate (BS)

The selected roof style and earth/grey-tone color scheme is appreciated, as they minimize both the height and visibility of the buildings. The buildings are in direct line of sight between the downtown area and the Shoshone River canyon.

Neighborhood Compatibility, Setbacks and Buffers, and Height Requirements

The proposal is a permitted use in the D-3 zone in which the property is located. At least 10 feet is provided between the buildings and the exterior property lines, which avoids the need for fire wall construction on the exterior walls of the buildings. As there is not residentially-zoned property immediately next to this property, no zoning setbacks, buffers or height limitations apply.

Landscaping:

Landscaping is not identified on the site plan. Due to some fairly significant excavation with this project, there should be plenty of boulders to select from to utilize as landscaping features along the west ends of the two buildings. Due to the relatively remote location, from a public visibility standpoint, the use of boulders in a native grass and/or washed crush rock setting would be sufficient in staff’s view to meet the intent of the ordinance.

Speaking of boulders, staff would recommend that some type of barrier, such as a row of large boulders or fence be placed at the east end of the project site to minimize the likelihood of a vehicle going off the site and down the steep hillside.

Grading/Storm Water Plan:

An engineered storm water plan has been prepared to address runoff according to the City's storm water policy manual. The plan includes stormwater collection in the form of gutters and downspouts going into a pipe along the back of the north building, a shallow ditch to collect and carry water from behind the south building, and a concrete gutter down the middle of the site. The collected stormwater is conveyed down the hill in a rock-lined (rip rap) channel and into a detention basin that has metered discharge. See Sheet C3.0 and the Drainage Report.

While the City Planner has reviewed the drainage report and grading plan and did not find cause for significant correction or concern, Public Works has not been able to review the report and plan as of the time of this report. If they find any reason for concern, their concerns will need to be addressed.

It is noted that there may be an area or two near the south corners of the south building where graded slopes will exceed 2:1, which slope is considered the default for the steepest stable slope for most soils. Exceeding a 2:1 slope may be able to be avoided at the area near the southwest corner by removing some material along the west property line and in the right-of-way. If any as-constructed slopes exceed 2:1 then slope stabilization methods or retaining walls should be utilized to prevent impacts to adjoining properties.

The detention area and rock-lined channel extend onto an adjacent property, which property is also owned by the applicant. As both lots are under common ownership, there is no need for an easement or maintenance agreement at this time. However, if ownership of either property is to be transferred separately from the other, an easement and/or agreement must be established.

Parking:

Adequate parking and maneuvering area will be provided in front of the storage unit access doors. Designated parking stalls are not required for storage complexes.

Access:

The storage facility will be accessed through a common gravel drive between the buildings. A second access into the property will be provided to the north of the northern building, with the intent of serving potential future development on the owner's adjacent property to the east. The City is agreeable to the location of the two access approaches. However, sight distance to the south is less than desirable.

A person in a lower vehicle cannot see the entire road surface to the south due to the rise in the road. It is not to the point of hiding an entire vehicle, but it is less than desirable. With the excavation of the road for the water line installation that is planned, the high point in the road should be lowered a foot or two in order to eliminate the obstruction. It will also remove the temptation of drivers to speed over the hump to experience a roller coaster effect.

Utility Services

Extension of electrical service to the property and installation of a water main and hydrant for fire protection is planned and shown on the propose construction documents. Public Works has not yet reviewed the construction plans, and will need to do so as part of the process to obtain WY DEQ approval of the water main extension. DEQ and/or Public Works may want an intermediate hydrant, especially if the water main is installed to the north end of the property. Also, with the lowering of the high point in the road, the profile of the water main will no longer have the high point either.

The plans for the electrical extension are still being reviewed by the electrical division. Planning staff would recommend that the grading of the road and adjacent "ditch" occur before installation of the electrical conduit, so that the appropriate depth of cover is maintained. Once the electrical division completes their review, they will provide the applicant with a cost estimate for the materials for the electrical extension. The estimate will be billed and must be paid before the building permit is issued.

It is noted that the site plan shows individual electrical services to each building. While that is an option, it is likely that only one service is needed, unless the buildings will be heated. Having two meters means having two monthly base fees for electricity instead of only one.

Fire Hydrant

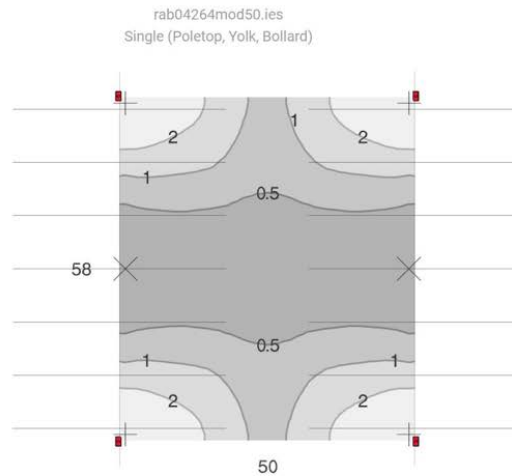
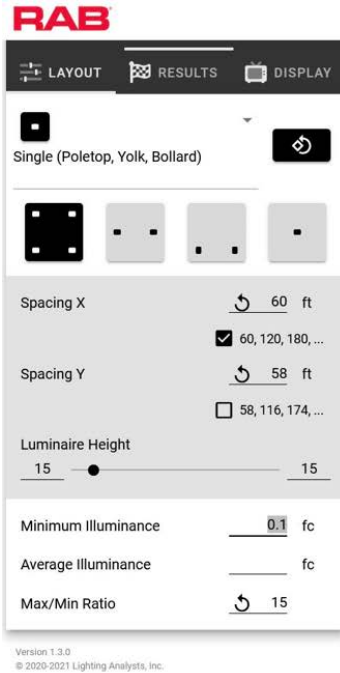
The requirement for a fire hydrant near the buildings will be provided by a proposed hydrant at the end of the water main extension.

Lighting

The application shows 26-watt LED, full cutoff style fixtures on the buildings, spaced at 45 feet on center on the sides of the building that face each other. The calculated result is shown on the first photometric map below. The proposed fixtures and spacing will provide an amount of light that is recommended by many lighting publications for a standard parking lot. (Lighting for Parking Facilities RP-20-98 (IESNA 1998) recommends a maintained horizontal illuminance level of 0.2 footcandles for "basic" parking lot lighting. Average levels recommend for parking lots are 2.0 to 0.5 fc in most publications.)

The style of fixture selected is typically what the Board has historically approved. However, in the past, the Board as questioned whether storage facilities really need

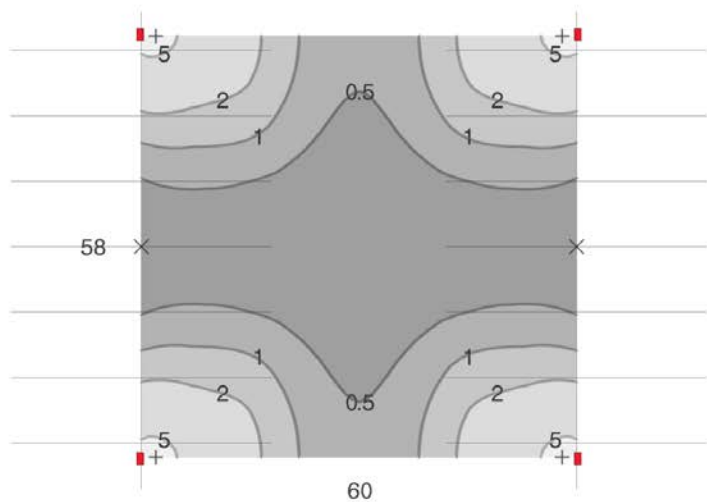
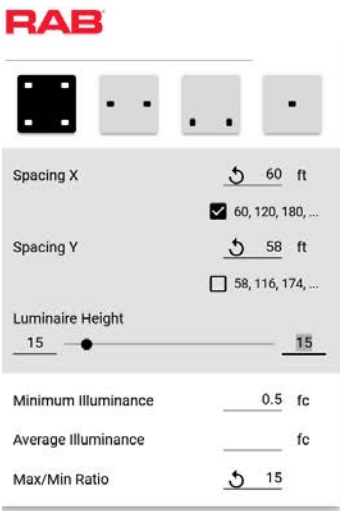
that level of lighting. If that is still their position, planning staff would recommend that either the wattage be reduced and/or the spacing be increased. The information below is provided as a comparison to the wattage and spacing proposed on the application, using 18-watt fixtures at a 60-foot spacing. A 12-watt version is also available.



Min: 0.17 fc
Max/Avg: 4.1

Avg: 1.0 fc
Avg/Min: 5.9

Max: 4.2 fc
Max/Min: 24



Min: 0.21 fc
Max/Avg: 4.9

Avg: 1.2 fc
Avg/Min: 5.6

Max: 5.7 fc
Max/Min: 28

Demaris Street

Demaris Street is a gravel road in front of this property and the lot to the south. The City recently re-paved Demaris Street from the Yellowstone Highway to the Old Trail Town Entrance. The City held off on re-paving from the Old Trail Town entrance to the cattle grate (current end of pavement) based on the knowledge of the water main extension planned for this project. The City and applicant are attempting to coordinate a project to pave Demaris Street to serve this property as well. However, that may not occur until the development of the future project on the applicant's lot to the east. There is no requirement specifically applicable that would require the street to be paved as part of the storage facility project. With the relatively low traffic generated by the storage facility and lack of immediate neighbors, it is not expected to be an issue.

Signage

The proposal includes two signs, each measuring 8' by 8', mounted on the west ends of the two buildings. See Sheet C-11. The request is to utilize the upper 2/3 of the sign to advertise the storage facility, but to have the bottom 1/3 of each sign available for lease by other businesses for off-premise advertising. This falls within the definition of a billboard. The zoning and property location would allow one billboard, but not the two proposed. There is a 1,000-foot spacing requirement between billboards on the same side of a street.

If the second sign advertises the storage facility only, it would be fine at the full 8' by 8' size originally contemplated.

Garbage Collection

No garbage collection is requested.

Snow Storage

Snow storage area is available throughout the property.

ATTACHMENTS:

Application materials and site plans.

ALTERNATIVES:

Approve or deny the site plan application, with or without changes.

RECOMMENDATION:

Approve the application for the storage facility, subject to following conditions.

1. Provide landscaping in the areas west of the buildings, as discussed with the Planning and Zoning Board. (Idea of boulders in a native grass and/or washed crush rock setting?)

2. Provide some type of barrier, such as a row of large boulders or fence at the east end of the project site to minimize the likelihood of a vehicle going off the site and down the steep hillside.
3. If any as-constructed slopes exceed 2:1 then slope stabilization methods or retaining walls should be utilized to prevent impacts to adjoining properties.
4. If ownership of either property is to be transferred separately from the other, an easement and/or agreement must be established for the use of the detention area and rock-lined channel, unless alternative storm water retention facilities are provided to the satisfaction of the City.
5. The high point in Demaris Street must be lowered a foot or two in order to eliminate the sight distance obstruction it creates.
6. Exterior lighting fixtures must be full cutoff in style as proposed. The wattage and spacing of the fixtures shall not exceed ____ (18?) watts and spacing no less than ____ (60?) feet. A color temperature of 4,000 K (soft white) or less is recommended (fixture comes in 3000, 4000 and 5000 K options).
7. If Public Works has not reviewed and approved the storm water plan and water extension plans before the meeting, the plans must be reviewed and approved by Public Works prior to issuance of a building permit. The WY DEQ permit for the water main extension must be approved by DEQ before water main construction can begin.
8. If the electrical division has not completed their review of the electrical plan before the meeting, the electrical plan must be reviewed and approved prior to issuance of a building permit. Payment of the electrical estimate will need to occur no later than with payment of the building permit. Due to long order lead times, payment of the electrical estimate should occur as soon as possible.
9. The contractor(s) performing work in the Demaris Street right-of-way is responsible to obtain an encroachment permit from the City, and comply with the conditions thereof (e.g. traffic control, compaction standards). Includes work associated with the water main extension, electrical extension, road grading, and approach work. Coordinate with Public Works on the repaving of the paved portion of Demaris Street.
10. Once constructed, the applicant's engineer must provide a certification that the storm water facilities have been constructed as approved prior to occupancy of the buildings.
11. Two wall signs, up to 8' by 8' are authorized, but only one can be a billboard (contain off—premise advertising).
12. The project must otherwise comply with the submitted site plan and applicable building, fire, and electrical codes. This authorization is valid for three years. If building permits have not been obtained for both buildings by that time, the authorization of the remaining construction will automatically expire—requiring reapplication.