



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

March 27, 2013

TO: David W. Louie, Chair
Esther L. Valadez, Vice Chair
Harold V. Helsley, Commissioner
Curt Pedersen, Commissioner
Pat Modugno, Commissioner

FROM: Maria Masis, AICP 
Supervising Regional Planner
Zoning Permits East Section

PROJECT NO. R2006-03500-(2) - NONCONFORMING REVIEW NO. 200600008
RPC MEETING: APRIL 3, 2013
AGENDA ITEM NO.: 7

The above referenced case is a request for a Nonconforming Review (NCR) to continue the operation and maintenance of a metal fabrication plant, ARE Fabricators, in the R-4 (Unlimited Residence) Zone. The subject property is located at 1708 E. 61st Street within the unincorporated Florence-Firestone community. The site is currently developed with two interconnected buildings, several storage areas, and a parking lot. There are unpermitted additions to the legal nonconforming structures. This matter was continued to April 3, 2013 at the January 30, 2013 public hearing with instructions for staff to prepare findings and conditions for approval, to include a reasonable grant term for the nonconforming use.

Pursuant to the zoning code, additions to a nonconforming structure are not permitted and the illegal additions must be removed to restore the buildings to a legal nonconforming standing. A condition requiring demolition of the non-permitted additions within 60 days of approval has been included as a draft condition. For clarification, an exhibit describing which parts are legal nonconforming, and which need to be removed has been included as an attachment.

Should you have any questions regarding this case prior to the public hearing, please contact Maria Masis at mmasis@planning.lacounty.gov or (213) 974-6435.

Attachment

MM

**DRAFT FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES
PROJECT NO. R2006-03500-(2)
NONCONFORMING REVIEW NO. 200600008**

- **ENTITLEMENT REQUESTED.** The applicant, A.R.E Fabricators, is requesting a Nonconforming Review (NCR) to authorize the continued use and operation of a metal fabrication plant in the R-4 (Unlimited Residence) Zone. Pursuant to Los Angeles County Code, Title 22, Section 20 Part 5, a metal fabricating plant is not an allowed use in the R-4 zone. Pursuant to County Code Section 22.56.1550 an NCR can be applied for to obtain an extension of time within which a nonconforming use must be discontinued and removed from its site.

HEARING DATES: January 30, 2013, April 3, 2013

**1. PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION.
January 30, 2013 Public Hearing**

A duly noticed public hearing was held before the Regional Planning Commission (Commission) on January 30, 2013. Commissioners Valadez, Louie, Helsley, Pedersen, and Modugno were present. The applicant's representatives, Claudia Gonzalez and Helane Simon presented testimony in favor of the project and answered questions posed by the Commission. There being no additional testifiers the Commission, after discussion, indicated its intent to approve the NCR application and instructed staff to prepare findings and conditions for approval.

2. **PROJECT DESCRIPTION.** The applicant has requested to continue the use and operation of an existing metal fabrication plant on residentially zoned property. The subject property is located on three lots known as lots 1, 2 and 23 and totals 17,820 square feet in area. The site plan depicts a 12,358 square foot lot (Lot 1 and 2), with two existing interconnected buildings of 7,278 square feet and a 5,608 square feet lot, (lot 23), containing a parking lot. There are several covered storage areas shown as 598, 550 and 98 square feet, respectively towards the rear of the property to the south.
3. A.R.E Metal Fabricators is a manufacturing company specializing in the production and installation of metal products. The business takes in small to medium size pieces of steel, copper, cast iron, aluminum, and stainless steel and shape the pieces by bending, welding, shearing, grinding, sanding, and cutting to form different products. The yard area is used to store the finished products or to stockpile metals waiting to be worked on. Example of products that the company manufactures are bins, hoppers, hoods, cabinets, railing guards, duct work, brackets, racks, food carts, step ladders and welded assemblies. There are between 10-15 employees working on site.
4. **LOCATION.** The subject property is located at 1708 E 61st Street within the Gage-Holmes Zoned District in the unincorporated community of Florence Firestone.
5. **EXISTING ZONING.** The subject property is zoned R-4 (Unlimited Residence), and is located within the Florence Firestone Community Standards District (CSD).

Surrounding properties are zoned as follows:

North: R-4 (Unlimited Residence)

South: R-4 (Unlimited Residence)

East: R-4 (Unlimited Residence)

West: R-3 (Limited Multiple Residence)

6. **EXISTING LAND USES.** The subject property is developed with an industrial use, a metal fabrication plant. Surrounding properties to the south and east are developed as residential with single-family residences, duplexes, and triplexes. There is an apartment building under construction to the north. The Metro Blue line is to the immediate west of the subject site. There are commercial uses at the end of the block on Holmes Avenue about 500 feet from the subject property.
7. **PREVIOUS CASES/ZONING HISTORY.** A light manufacturing use was originally established on the subject property in the 1930s when zoning on the property was M-3 (Unlimited). The R-4 zoning on the property was established in 1945, and is still in effect. A number of additional approvals to allow for the continuation of manufacturing uses on the property have been issued over the years. A summary of the various zoning cases and actions that have been taken related to the property is set forth below.

Assessor's data from 1931 indicates that a 3,200 square feet (80'x40') building with a shed (9'x40') was assessed as a light manufacturing use. Assessor's records also show that a second building consisting of 1,850 square feet (50'x37') was added in 1943 next to the first building. The two buildings were interconnected.

Building permits indicate low pressure pumps and motors and storage of incombustible plastics and small offices were permitted in 1943. M-3 zone regulations are defined as: "any building, structure, improvement, or premises may be erected, constructed, established, altered, enlarged, used, occupied, or maintained in Zone M-3 without any restriction under the provisions of this ordinance as to the use or occupancy thereof".

Ordinance No. 4554, adopted on October 2, 1945 designated the current R-4 zoning. There have been no other zone changes after the 1945 zone designation.

Zoning Exception Case (ZEC) 1080- A request to add a plastics manufacturing plant was denied by the Regional Planning Commission in 1953.

ZEC 3093-A request to operate a lamp assembly and manufacturing plant was denied in 1957.

ZEC 3343- A request to establish an unfinished furniture manufacturing plant was denied in 1958.

ZEC 3624- Established the metal fabricating plant on June 9, 1959 and continued operation under ZEC 9593 until October 27, 1970.

ZEC 9486- A request to continue the metal fabrication plant was approved on June 30, 1970.

ZEC 9593- A request to continue a galvanizing and pipe fabricating plant with less than required parking and setback encroachments was approved on October 27, 1970. The parking development and setback allowances expired on June 30, 1975.

ZEC 9729- A request to construct a parking lot in conjunction with the metal fabricating plant, with modification of parking lot development standards and setbacks was approved on July 27, 1971 with a use expiration date of June 30, 1975.

- Pursuant to Code Section 22.64.050, where a ZEC was granted by action of the Commission or Board of Supervisors prior to November 5, 1971, such use is from that day forward considered a nonconforming use under the provisions of Title 22, and is subject to all provisions governing nonconforming uses, as well as all limitations and conditions of such grant.

NCR 77- A 6,876 square foot main building for the metal fabrication plant and a 495 square foot storage building and 14 parking spaces was approved in 1975. This permit expired on January 7, 1986. The building existing on site at this time was built between 1931 and 1943 and was nonconforming both due to standards and to use.

The Negative Declaration adopted for NCR 77 in 1975 did not allow any alteration or expansion to the existing buildings or use, in order to regulate any potential negative impacts.

NCR 86234- Approved the continued use of the metal fabrication for an additional 20 years on November 19, 1986. No change in use or expansion was proposed at that time.

7. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The project site is located within the land use Category 4-High Density Residential of the Los Angeles County General Plan. The High Density Residential land use category is intended for medium and high-rise apartments and condominiums of three or more stories in height, with a maximum density of 22 dwelling units per acre.

The Draft Florence-Firestone Community Plan classifies the land use on the subject property H-30, allowing 30 residential units per acre. The subject property is also located within one block of the Slauson Station TOD overlay area with potential to be included in the TOD area in the future.

At this time the subject area is in transition, as there is a history of nonconforming industrial uses being converted into residential uses. However, the Commission finds that the nonconforming metal fabrication use has operated in accord with its residential neighbors, and is located in a cul-de-sac adjacent to train tracks, and is therefore granting one last extension of the use, prior to requiring its termination.

8. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.**

The subject property is zoned R-4, which allows for a variety of residential and complimentary uses. Pursuant to Code Section 22.20.370 a metal fabrication plant use is not an allowed use in an R-4 zone. However, as explained below, because the use was developed prior to the existing zoning being established for the subject property, the use has been allowed to continue subject to the nonconforming provisions of the Zoning Code.

Pursuant to Section 22.20.380 of the County Code, establishments in the R-4 Zone are subject to the following development standards:

- Front Yards. Each lot or parcel of land shall have a front yard of not less than 15 feet in depth.
- Corner Side Yards. Each lot or parcel of land shall have corner side yards of not less than five feet.
- Rear Yards. Each lot or parcel of land shall have a rear yard of not less than 15 feet.

The existing building was built between 1931 and 1943 and is nonconforming due to setback standards. The building was expanded between 1986 and 2006 without approvals from Regional Planning and the Building and Safety Division of the Department of Public Works.

Pursuant to County Code Section 22.56.1510 a nonconforming use or a building or structure nonconforming due to use and/or standards may be continuously maintained provided there is no alteration, enlargement or addition to any building or structure; no increase in occupant load; nor any enlargement of area, space or volume occupied by or devoted to such use. The unpermitted additions will be removed, as a condition of this grant.

NCR 77 approved a 6,008 sq ft factory adjacent to 868 sq ft of covered storage area and a separate 495 sq ft storage structure located on the south side of the property. NCR 86234 combined the built area and the covered storage area of 868 sq ft for a total of 6,876 sq ft of production area plus 495 sq ft of storage area. The prior two Regional Planning approvals are consistent and match with County Assessor's records in terms of size and built areas.

The existing use was expanded between 1986 and 2006 to a total of 7,278 square feet. An additional building of approximately 1,925 sq ft, which includes the storage area of 868 sq ft that was considered as production area in NCR 86234 was built without Regional Planning and Building and Safety approvals. Further, additional storage space was built without proper permits. Therefore, to bring the project into conformance with nonconforming provisions this grant is conditioned to require all non-permitted expansions be removed.

Amortization of Nonconforming Use

Pursuant to Code Section 22.56.1540, nonconforming uses and buildings or structures nonconforming due to use, and those buildings or structures nonconforming due to standards enumerated in this section, shall be discontinued and removed from their sites within the time specified in this section, except when extended or revoked as otherwise provided in this title:

- Twenty years from the effective date or operative date of the ordinance establishing said nonconforming status and for such longer time so that the total life of the structure from the date of construction, based on the type of construction, as defined by the Building Code (set out in Title 26 of County Code), will be as follows:

Type IV and Type V buildings used as stores and factories: 25 years

Pursuant to Code Section 22.56.1550 an application may be filed with the Director requesting extension of the time within which a nonconforming use or building or structure nonconforming due to use, or due to standards where applicable, must be discontinued and removed from its site as specified in subsection B of Section 22.56.1540 or subsection A of Section 22.64.050.

Any nonconforming building or use on the subject property was amortized by 1965, 20 years after the adoption of the R-4 zoning, or, based on the use and construction type, in 1984, 25 years after the initial approval of the metal fabrication business. The nonconforming industrial operation has been allowed to continue in the residential zone for a total 53 years, through ZEC approvals, and subsequent amortization extensions NCR 77 and NCR 86234.

9. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The area around 61st Street is primarily residential with single-family residence, duplex, triplex and apartment development . The Metro Blue Line tracks are located immediately to the west of the subject property.

The Community vision and priorities identified in the proposed Florence-Firestone Community Plan indicate that land use regulations shall ensure compatibility between different uses and appropriate location of new uses. The proposed Florence-Firestone Community Plan and the TOD plan demonstrate that this area will most likely be transitioning from a single-family residential area to a higher density residential neighborhood in coming years.

While this area is in transition, with nonconforming industrial uses being converted to conforming residential uses, it appears that the subject business has operated in accord with its neighbors, and no complaints or negative comments have been received during the public hearing process.

The Commission therefore finds it appropriate to grant a short, 6 year extension with an additional year for the business to relocate to an industrially zoned area. This would result in a total of a seven-year extension.

10. **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.**

The Fire Department has provided clearance for the project. The Department of Public Works recommends approval of the NCR, with the recommendation that all unpermitted structures not shown on the approved Exhibit A, dated February 9, 1976 be removed.

11. **LEGAL NOTIFICATION AND PUBLIC OUTREACH.** Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.

12. **PUBLIC COMMENTS.**

No public comments were received.

NONCONFORMING REVIEW SPECIFIC FINDINGS

13. With the removal of all non-permitted additions to the business the metal fabrication use would not create an adverse impact in the residential neighborhood by causing, light, vibration and noise impacts to the adjacent residential dwellings.

Therefore, the continued operation of the industrial use in a residential zone will not adversely affect the health, peace or welfare of persons residing or working in the surrounding area, or be materially detrimental to the use, enjoyment or valuation of the property of other persons located in the vicinity of the site, and jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

ENVIRONMENTAL DETERMINATION

14. The Commission concludes the project qualifies as a Categorical Exemption, Class I, Existing Facilities, pursuant to CEQA, and is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

15. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Regional Planning Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits East Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

- A. That to require cessation of such use, building or structure would impair the property rights of any person to such an extent as to be an unconstitutional taking of property; and/or
- B. That such use, building or structure would not during the extension period requested:

- a. Adversely affect the health, peace or welfare of persons residing or working in the surrounding area, or
- b. Be materially detrimental to the use, enjoyment or valuation of the property of other persons located in the vicinity of the site, or
- c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Nonconforming Review as set forth in Section 22.56.1550 of the Los Angeles County Code (Zoning Ordinance).

REGIONAL PLANNING COMMISSION ACTION:

1. The Regional Planning Commission determines that the project is exempt from the California Environmental Quality Act pursuant to a Class I Categorical Exemption.
2. In view of the findings of fact and conclusions presented above, NCR 200600008 is APPROVED.

MM
2013-03-27

**DRAFT CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2006-03500-(2)
NONCONFORMING REVIEW NO. 200600008**

PROJECT DESCRIPTION

The project is a Nonconforming Review (NCR) to continue the use and operation of an existing metal fabrication plant in the R-4 (Unlimited Residence) zone subject to all of the following conditions of approval:

GENERAL CONDITIONS

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 7, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 9 shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. **This grant shall terminate on April 3, 2018.** After the expiration date of the NCR the subject industrial use must be discontinued and removed effective one year after the expiration date or April 3, 2019. Entitlement to use the property thereafter shall be subject to the regulations then in effect. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
9. This grant shall expire unless used within ninety (90) days from the date of final approval of the grant. A single thirty (30) day time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date. For the purposes of this provision, continued operation of the metal fabricating plant and satisfaction of Condition No. 2 shall be considered use of this grant.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$1,400.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund

provides for Seven (7) inspections which include five (5) annual and two (2) biennial for the sixth year. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
12. All development pursuant to this grant must be kept in full compliance with the County Fire Code to the satisfaction of said department.
13. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works to the satisfaction of said department.
14. All development pursuant to this grant shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director of Regional Planning ("Director").
15. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas of the premises over which the permittee has control.
16. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such

occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

17. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, **Three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.
18. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **Three (3) copies** of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

PERMIT SPECIFIC CONDITIONS

19. The permittee shall comply with all the requirements of the Division of Buildings and Safety of the Los Angeles County Department of Public Works.
20. That the subject facility be developed and maintained in compliance with requirements of the Los Angeles County Department of Public Health. Adequate water and sewage facilities shall be provided to the satisfaction of said Department.
21. That the permittee shall comply all the conditions set forth in the Fire Department letter dated February 2, 2012.
22. No activity for which an industrial Waste Permit is required shall be initiated or continued on the subject property before a permit is obtained and any required facilities are installed. The permittee shall keep any required permits in full force and effect and shall fully comply with any requirements thereof.
23. That no punch press of more than 15 tons rated capacity shall be used. Such press shall be hydraulically operated or sufficiently cushioned as to cause no annoyance to surrounding residents.
24. The permittee shall obtain a demolition permit and begin demolition by June 3, 2013. All structures depicted as unpermitted additions on Exhibit B shall be removed.

PROJECT SITE SPECIFIC CONDITIONS

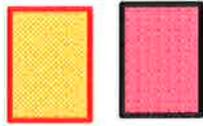
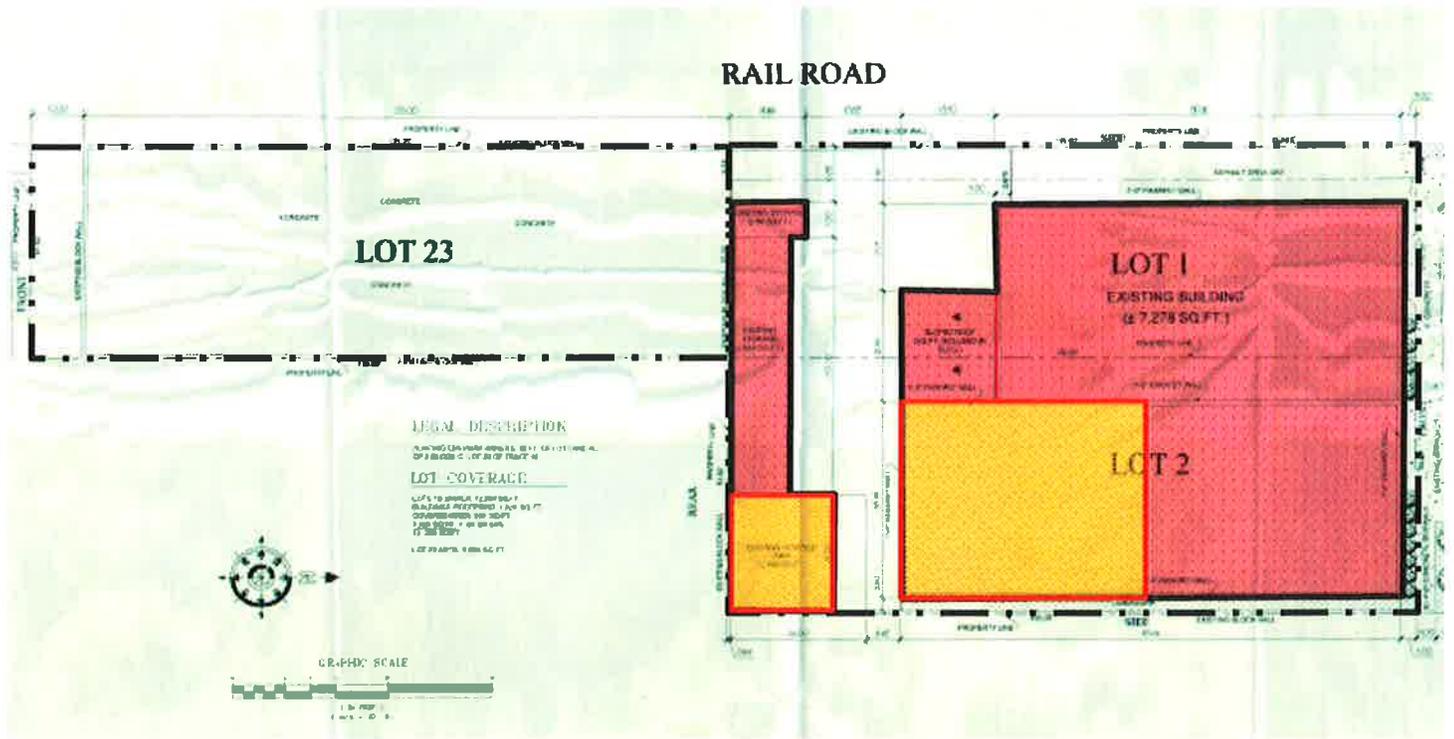
25. The permittee shall provide a minimum of 15 on-site parking spaces.
26. The permittee shall require employees to park on-site as a condition of employment. No vehicular access shall be taken from 62nd Street.

27. The permittee shall ensure that all loading and unloading of trucks is accomplished on-site instead of in the public right-of-way.
28. The permittee shall restrict the hours of operation from 8:00 am to 4:30 pm Monday through Friday.
29. That no operation shall be conducted on Saturday and Sunday.
30. That all areas used by motor vehicles shall be paved and shall be kept in a neat, orderly condition at all times.

Attachments:

Fire/Public Works/Public Health Department Letters

JN:MM



Unpermitted

Permitted

