



## ZONING BOARD OF APPEALS

Tuesday, December 7, 2021

1. Roll Call – 7:00 P.M. – City Hall Council Chambers
2. Approval of Minutes – November 2, 2021 Regular Meeting
3. New Business
  - a. Case #862 – A requested six (6) vehicle parking variance for a provisioning center special condition use at 403 W. Mitchell Street
4. Public Comment
5. Updates
6. Adjournment

You may also join the meeting remotely

Dial by Phone: 888-788-0099 US Toll-free

<https://us02web.zoom.us/j/81429633236>

Meeting ID: 814 2963 3236

If you have any questions you may contact the City Clerk's Office before the meeting by email or phone: [aterry@petoskey.us](mailto:aterry@petoskey.us) or 231-347-2500.

According to the Attorney General, interrupting a public meeting in Michigan with hate speech or profanity could result in criminal charges under several State statutes relating to Fraudulent Access to a Computer or Network (MCL 752.797) and/or Malicious Use of Electronics Communication (MCL 750.540).

According to the US Attorney for Eastern Michigan, Federal charges may include disrupting a public meeting, computer intrusion, using a computer to commit a crime, hate crimes, fraud, or transmitting threatening communications.

Public meetings are being monitored and violations of statutes will be prosecuted.



## ZONING BOARD OF APPEALS

November 2, 2021

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Council Chambers on Tuesday, November 2, 2021. Public was invited to attend in person and via Zoom. Roll was called at 7:00 P.M.

Present: Lori Pall, Chairperson  
Mary Clinton  
Chris Hinrichs  
Scott Morrison  
Jessica Shaw-Nolff

Absent: Jim Knibbs

Others: Nicholas Liebler, White & Liebler Architects  
Brian Kelley, 420 Emmet Street  
Judy Hills, PO Box 2390  
Paul Rossi, Mountain Pass, LLC

Staff: Amy Tweeten, City Planner  
Lisa Denoyer, Administrative Assistant

Upon motion and support, the minutes from the September 22, 2021 special meeting and the October 5, 2021 regular meeting were approved 5-0.

### **Case #861 – Height Variance for 202 East Mitchell Street**

Staff informed the Board that the subject property is at the southeast corner of Emmet and E. Mitchell Street and is in the B-2 Central Business District. It was the former home to 7-Eleven and the Mitchell Street Market and is currently vacant.

The property owner would like to remove the existing building and build a three-story mixed use building. The current height limit in the B-2 Central Business District is three stories, 40-feet and the design of the proposed building would exceed this by five (5) feet.

Chairperson Pall asked staff to explain where the Planning Commission stood with their discussions on new height allowances.

Staff responded that the Planning Commission had been discussing building heights for several months. Based on the height of existing downtown buildings and to allow for additional floor to ceiling heights, they settled on an increase in height in the B-2 District to 45 feet. The Commission held a public hearing at its October 21 meeting and voted to recommend to City Council that the B-2 District height be increased to three stories, 45 feet. However, the ordinance change would not be introduced to City Council until the November 15 meeting and the earliest action could not be taken until December. Due to this time delay, a variance request for the additional five feet of height is being requested. To complete construction documents and bid the project out for possible 2022 construction, the owner needs to know whether the 45-foot height will be allowed.

Nick Liebler, White & Liebler Architects, informed Board members that the proposal had been brought to the Planning Commission in September and they were favorable to it and had no issue with the proposed height. The owner would like to begin construction as soon as possible and is therefore asking for a variance rather than waiting for approval of the proposed height changes. Development standards force most of the buildings in the Central Business District (CBD) to non-compliance. As it stands today only two of the three 3-story buildings in the CBD meet the height restriction. The standard first floor ceiling height is 14-feet and with the current height restrictions it would be very difficult to create livable space above. The proposed building does not feel so tall with the City's owned parking lot to the east and the building being set back from the alley. The intent of the proposed building would be to provide leasable commercial space on the first floor and four high end condo units on the second and third floor. Onsite parking would be created for the residential units and their guests. He also stated that he believes they have done their best to comply with the zoning standards.

Chairperson Pall reminded the Board that, in making its motion, the Board shall state the grounds, or findings of fact upon which it justifies the granting of a variance and may attach any conditions regarding the location, character, and features of the request that further the purposes of the ordinance. In addition, a variance should only be granted after consideration of the following factors:

- 1) The need for the variance is due to unique circumstances, or physical conditions, of the property involved, such as exceptional narrowness, shallowness, shape or area, exceptional topographic conditions or other extraordinary or exceptional conditions of the specific piece of property and is not shared by neighboring properties;
- 2) The request is not due to the applicant's personal or economic situation;
- 3) The practical difficulty was not created by an action of the applicant;
- 4) The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district;
- 5) The request, if granted, would not cause substantial detriment to the public good or substantially impair the intent and purpose of the ordinance; and

The strict application of the regulations would result in peculiar or exceptional practical difficulties.

Board member Shaw-Nolff asked if the old Ben Franklin building had been granted a variance for height.

Staff responded that they had received a slight variance of a foot or less.

Mr. Liebler commented that the southeast corner of the old 7-Eleven was underground and per the ordinance the average grade can only be taken from Emmet and Mitchell Streets.

Chairperson Pall stated that she believed that the Ben Franklin building did not end up using the variance.

Staff responded that she was told they had used their variance.

Board member Hinrichs commented that he worked on that building and he remembers them using a variance.

Board member Clinton asked what the basis was for granting a variance on the old Ben Franklin building.

Staff responded that they were using the existing building that had a tall first floor and were adding on two stories – the difficulty was reuse versus starting over.

Board member Hinrichs concurred that this is what occurred.

Mr. Liebler informed the Board that the owner has no intention to create a usable roof deck even though provisions allow one by code.

Board member Clinton commented that the applicant's request could be rendered moot after the December City Council meeting.

Staff responded that if City Council approves the proposed height changes, they would not go into effect until after a required publication period.

Mr. Liebler responded that they would like to get the project started as soon as possible.

Board member Shaw-Nolff asked when the 40-foot height was enacted.

Staff responded that it was in the original zoning ordinance language. It used to allow four stories and 40-feet high and later the Planning Commission changed it to three stories and 40-feet high because four stories could not properly be built in 40 feet.

Mr. Liebler asked if any buildings had been built since the Ben Franklin addition.

Staff responded that the Bank of Northern Michigan was built when the ordinance read four stories, 40-feet and at that time the height was measured to the top of the roof, not the parapet.

Mr. Liebler commented that the parapet height is set by building code and is currently three and one-half feet.

Board member Clinton commented that it appeared on the drawings that the parapet on the proposed building was three and one-half feet tall and the building itself was 40-feet tall from the average grade.

Mr. Liebler responded that she was correct and that the site has a deceiving slope.

Board member Clinton asked if the parapet was required by code and Mr. Liebler responded that it was.

At this time the meeting was opened for public comment.

Brian Kelley, 420 Emmet Street asked if the first floor would be commercial space, the upper two floors would be residential and if there would be parking behind the building.

Mr. Liebler responded that he was correct and that indoor and outdoor parking would be provided for residents and their guests and commercial parking would be in City parking spaces.

Board member Morrison asked if the six parking spaces behind the building could be used for commercial parking.

Mr. Liebler responded that they would be designated for the residential units or their guests.



Board member Morrison asked staff if there was any issue with a commercial business on the property without providing additional parking.

Staff responded that the property is in the parking exempt district so no additional parking was required.

Chairperson Pall commented that, per the applicant, the variance request was due to a time delay. She felt the Board needed to consider that and was unsure it fell under a practical difficulty when a legislative body will be considering approval in a month and a half. She believes it is a fabulous project and hopes it goes ahead but felt the Board should consider the reason for the request when reviewing the variance checklist.

The board then reviewed the variance checklist and determined that strict compliance with the dimensional requirements of the ordinance would prevent the applicant from using the property for the permitted purpose based on the issue being created by the evolution of building standards.

Board member Clinton expressed concerns about the premature request given City Council would be considering approval of increased height standards and if it were approved no variance would be required.

Chairperson Pall commented that she would rather the request be postponed until the December meeting rather than run the risk of the motion failing.

Mr. Liebler asked if they could build the proposed structure if their request was denied tonight and the Planning Commission approve the proposed language in December.

Staff responded that the Planning Commission has already approved the proposed language and has made a recommendation to City Council for approval. Should the variance request be denied and City Council approve the proposed language, they could build the structure as proposed.

Mr. Liebler commented that they are asking for the variance now in an effort to save time.

Chairperson Pall asked staff if the applicant could come back if the variance request was denied tonight and City Council denied the proposed language.

Staff responded that they could come back. However, they could not come back with the same variance request.

Board member Clinton commented that if the request were postponed until December, City Council could approve a lesser height than proposed and the variance request would be less than what is being asked today.

Chairperson Pall informed the Board and the applicant that four votes for approval would be required for the motion to pass.

Board member Clinton commented that she was unaware until tonight's meeting that part of the reason the applicant was unable meet the standards is because of the City's mandated parapet.

Staff responded that building code requires the parapet and the ordinance requires a horizontal decorative element at the top of the building.

Board members continued reviewing the variance checklist and determined that there would be a way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense; the need for the variance is not due to a situation that is unique to the

property; the variance would uphold the spirit and intent of the ordinance and be fair to neighboring properties; and the need for the variance was not created through previous action of the applicant.

At this time, Board member Clinton made a motion, seconded by Board member Hinrichs, to approve a height variance of five (5) feet for 202 E. Mitchell Street based on the findings that there is a practical difficulty which has been created due to current ordinances and building standards which appear to be in flux and noting that there are current recommendations from the Planning Commission to City Council to propose a 45-foot height limit for buildings in the district in which the project would be built, and if that were to happen it would render this request moot. Also, noting that while there is no uniqueness to the property in question, the request is not due to the personal or economic situation of the owner and the problem was not created by the applicant. The variance requested will minimize any adverse effect on neighbors, that there has been no public objection, and that it would be consistent with the intent and purpose of the ordinance, particularly given as noted the ongoing evolution of standards. Motion carried 4-1, with Chairperson Pall voting against.

### **Approval of 2020 Meeting Schedule**

Board members reviewed the proposed 2022 meeting schedule. Chairperson Pall commented that she felt Tuesday, July 5, 2022 could be an issue given the holiday the day prior.

Board members agreed and voted to change the meeting date to Tuesday, July 12, 2022.

There being no other issues with the proposed schedule, the Board approved the 2022 meeting schedule with changes.

### **Public Comment**

No public comments were received.

### **Updates**

Staff discussed the Corcoran case update that she emailed to the Board and added that she believes Mr. Corcoran may be coming back with another variance request. However, he may wait to see what the Planning Commission approves for ordinance changes.

Staff then gave an update on the Frentz case. The City Attorney is working on a motion to dismiss and a motion in the event that the case is not dismissed. Chairperson Pall commented that Mr. Frentz had reached out to the Mayor and at least one City Council Member voicing concerns of the financial cost for the City to continue arguing the case.

Staff also mentioned that the applicant for a proposed medical marijuana provisioning center at 403 W. Mitchell Street may be before the Board in December for a parking variance.

The meeting was then adjourned at 7:58 P.M.



**BOARD:** Zoning Board of Appeals

**MEETING DATE:** December 7, 2021

**DATE PREPARED:** November 29, 2021

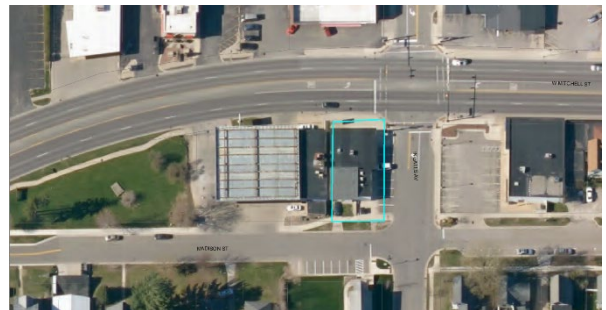
**AGENDA SUBJECT:** Case #862 – A Requested Six (6) Vehicle Parking Variance for a Provisioning Center Special Condition Use at 403 W. Mitchell Street

**RECOMMENDATION:** Consider the request

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## Background

At its August 19, 2021 meeting, the Planning Commission received a special condition use request for a provisioning center at 403 W. Mitchell Street. The proposed site plan indicated that no new parking would be created on site and the existing on-street parking would be used for the majority of the parking requirement.



As a provisioning center is a special condition use, it has to meet a higher level of review standards than a permitted use. As the on-site parking was already being used by the current business, the Commission felt that their continued use may not pose a significant issue for a provisioning center, but did raise safety concerns about the proximity of the northern most vehicle to the traffic signal at the Ingalls Avenue/ West Mitchell Street intersection.

The Commission also questioned whether the use of street parking for a special condition use would be allowed and asked staff to consult with the City Attorney who determined a variance would be needed to meet the special condition use standard 1717(c):

The special land use shall be located on a site that can accommodate on-site traffic circulation and vehicle storage needs for the particular use. The use shall not be located on a site or arranged in a manner that would create a significant traffic or pedestrian hazard on adjacent roads or walkways.

A revised site plan was provided to the Planning Commission at its October 21<sup>st</sup> meeting that removed a portion of the building and added parking to the site. However, the parking lot created did not meet the ordinance standards for parking and would also need variances before a site plan could be approved. So, the Commission recommended that the applicant do what it could to improve the site but that a variance of some kind would be needed before action could be taken on the request and that creating parking that would not be used was not the preferred alternative.

## Request

The building is 3,040 square feet and for a provisioning center retail operation the parking requirement is eight (8) parking spaces. There are currently eight (8) parking spaces on Ingalls Avenue, but the site plan shows six (6) spaces on Ingalls, as the bump out is extended to the south to improve clearance from the intersection, with one space on-site and one on Madison Street south of the building.

The Planning Commission can approve up to 20 percent of required parking to be on-street within 300 feet of a site (or one (1) parking space). Therefore, the site as proposed would require a variance of six parking spaces.

The applicant's statement of practical difficulty is enclosed.

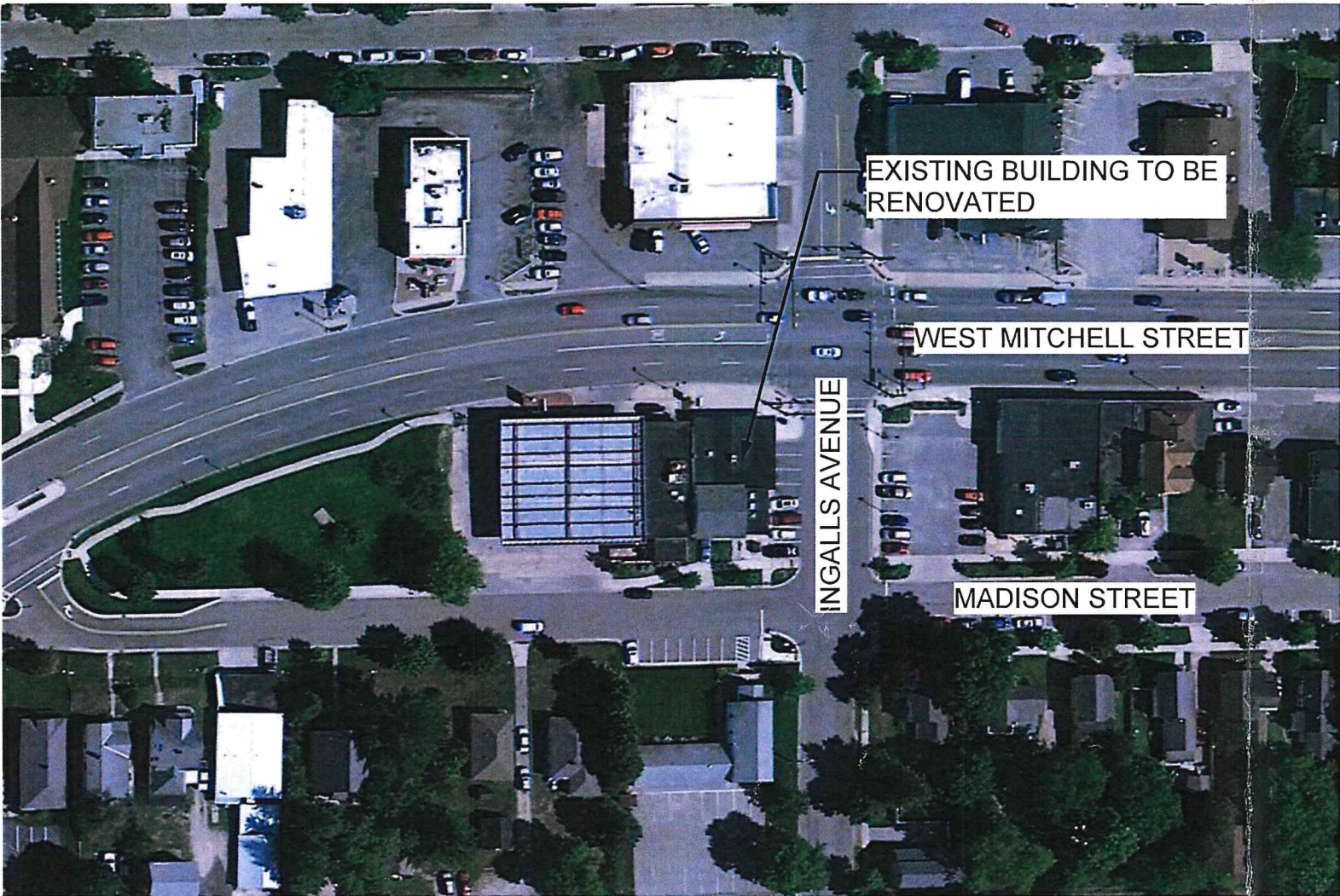
**Action**

In making its motion, the Board shall state the grounds, or findings of fact upon which it justifies the granting of a variance and may attach any conditions regarding the location, character, and features of the request that further the purposes of the ordinance. In addition, a variance should only be granted after consideration of the following factors:

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- 5) The request, if granted, would not cause substantial detriment to the public good or substantially impair the intent and purpose of the ordinance; and
- 6) The strict application of the regulations would result in peculiar or exceptional practical difficulties.



# RIZE PROVISIONING CENTER SPECIAL USE APPLICATION SITE PLAN



1

## AERIAL SITE PLAN

Scale: 1" = 100'-0"

### PROJECT DESCRIPTION / DESIGN NOTES:

THE PROJECT CONSISTS OF THE RENOVATION OF AN EXISTING RETAIL BUILDING INTO A MEDICAL MARIHUANA PROVISIONING CENTER. THE PROPOSED MARIHUANA PROVISIONING CENTER WILL BE A RETAIL OPERATION ONLY.

### BUILDING CODES:

2015 MICHIGAN BUILDING CODE  
2015 MICHIGAN REHABILITATION CODE FOR EXISTING BUILDINGS  
2017 MICHIGAN PART 8. ELECTRICAL CODE  
2015 MICHIGAN MECHANICAL CODE  
2015 MICHIGAN PLUMBING CODE  
2015 MICHIGAN UNIFORM ENERGY CODE  
ICC/ANSI A117.1-2009  
2015 NFPA

EXISTING BUILDING USE: M  
PROPOSED BUILDING USE GROUP: M  
BUILDING HEIGHT: 16'-0"  
ZONING: B-3

### REQUIRED SETBACKS:

FRONT: 0'  
SIDE: 0'  
REAR: 0'

BUILDING TAX ID: 52-19-06-127-051

PROPERTY AREA: 6,098 S.F.  
BUILDING AREA: 3,040 S.F.

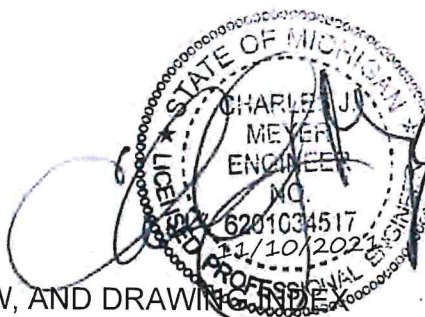
PERCENT OF LOT COVERAGE BY BUILDING: 50%

### APPLICANT INFORMATION:

FIRST PROPERTY HOLDINGS, LLC. DBA RIZE  
1580 N. STEPHENSON AVENUE  
IRON MOUNTAIN, MICHIGAN

### DRAWING INDEX:

1. TITLE SHEET, AERIAL VIEW, AND DRAWING INDEX
2. EXISTING SITE PLAN AND DRIVEWAY DISTANCE DETAIL
3. EXISTING BUILDING ELEVATION PHOTOS
4. PROPOSED SITE PLAN
5. PROPOSED FLOOR PLAN
6. PROPOSED SECURITY CAMERA PLAN
7. PROPOSED BUILDING ELEVATIONS
8. PROPOSED BUILDING RENDERING



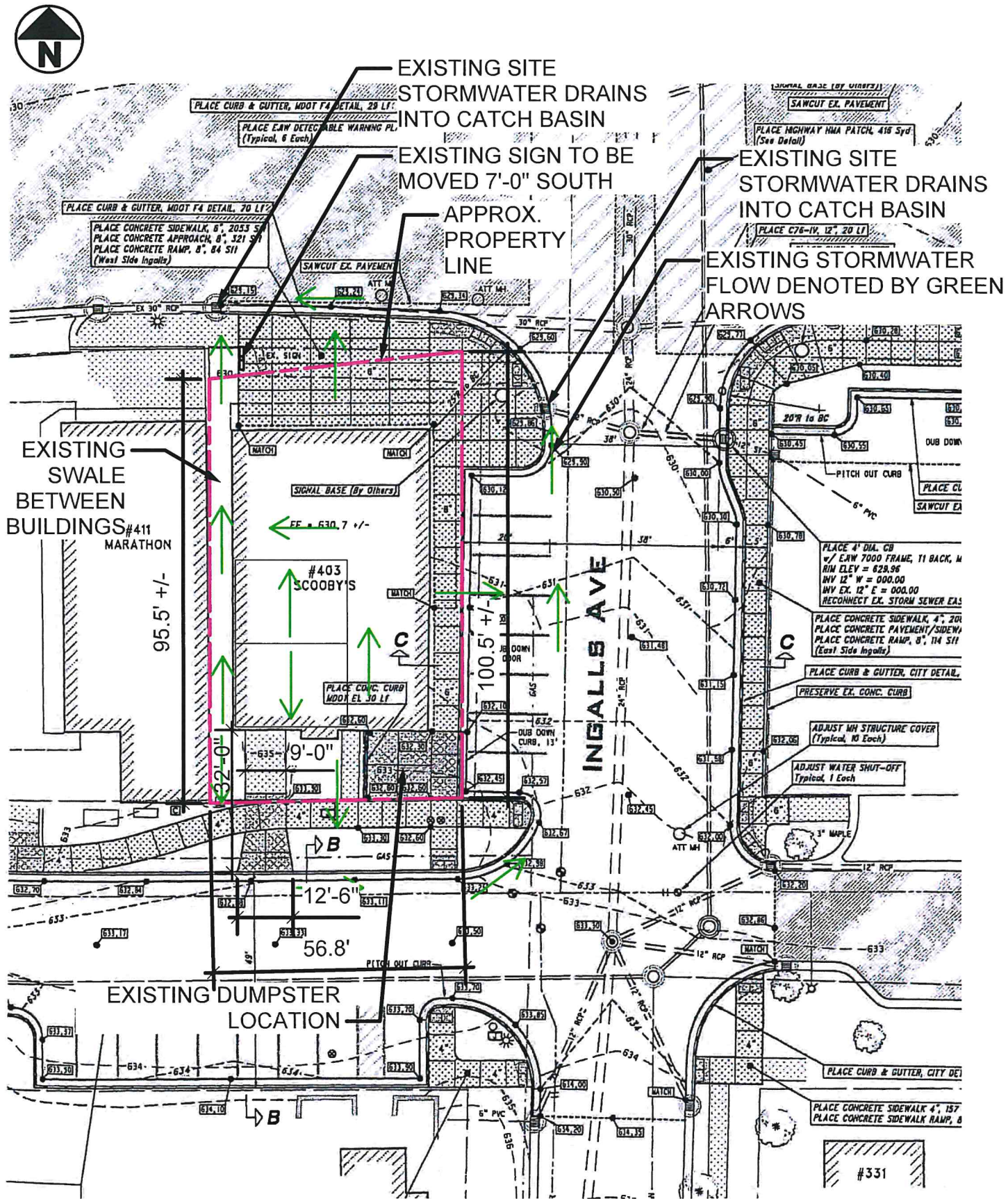
**MOUNTAIN ENGINEERING, INC.**  
329 Doraland Street  
Kingsford, Michigan 49802  
Phone: (906)779-5762 Fax: (906)779-5789 Email: mte@mountaineng.net  
5045 132nd Trail NW, #101  
Williston, North Dakota 58801  
Email: mte@mountaineng.net

RIZE PROVISIONING CENTER  
BUILDING RENOVATION  
403 W. MITCHELL STREET, PETOSKEY, MICHIGAN  
TITLE SHEET, AERIAL VIEW, AND DRAWING INDEX

DRAWING: 211110  
DRAWN BY: JS  
REVIEWED BY: CJM  
DATE: 11/10/2021  
SHEET SCALE: AS NOTED  
SHEET NO.: 1



THE OWNER AGREES TO INDEMNIFY AND HOLD MOUNTAIN ENGINEERING, INC. HARMLESS FROM ANY DAMAGE, LIABILITY OR COST, INCLUDING ATTORNEY'S FEES AND COST OF DEFENSE ARISING FROM ANY CHANGES OR ALTERATIONS MADE BY ANYONE OTHER THAN MOUNTAIN ENGINEERING, INC., OR FROM ANY REUSE OF THE DRAWINGS AND DATA WITHOUT THE PRIOR WRITTEN CONSENT OF MOUNTAIN ENGINEERING, INC.



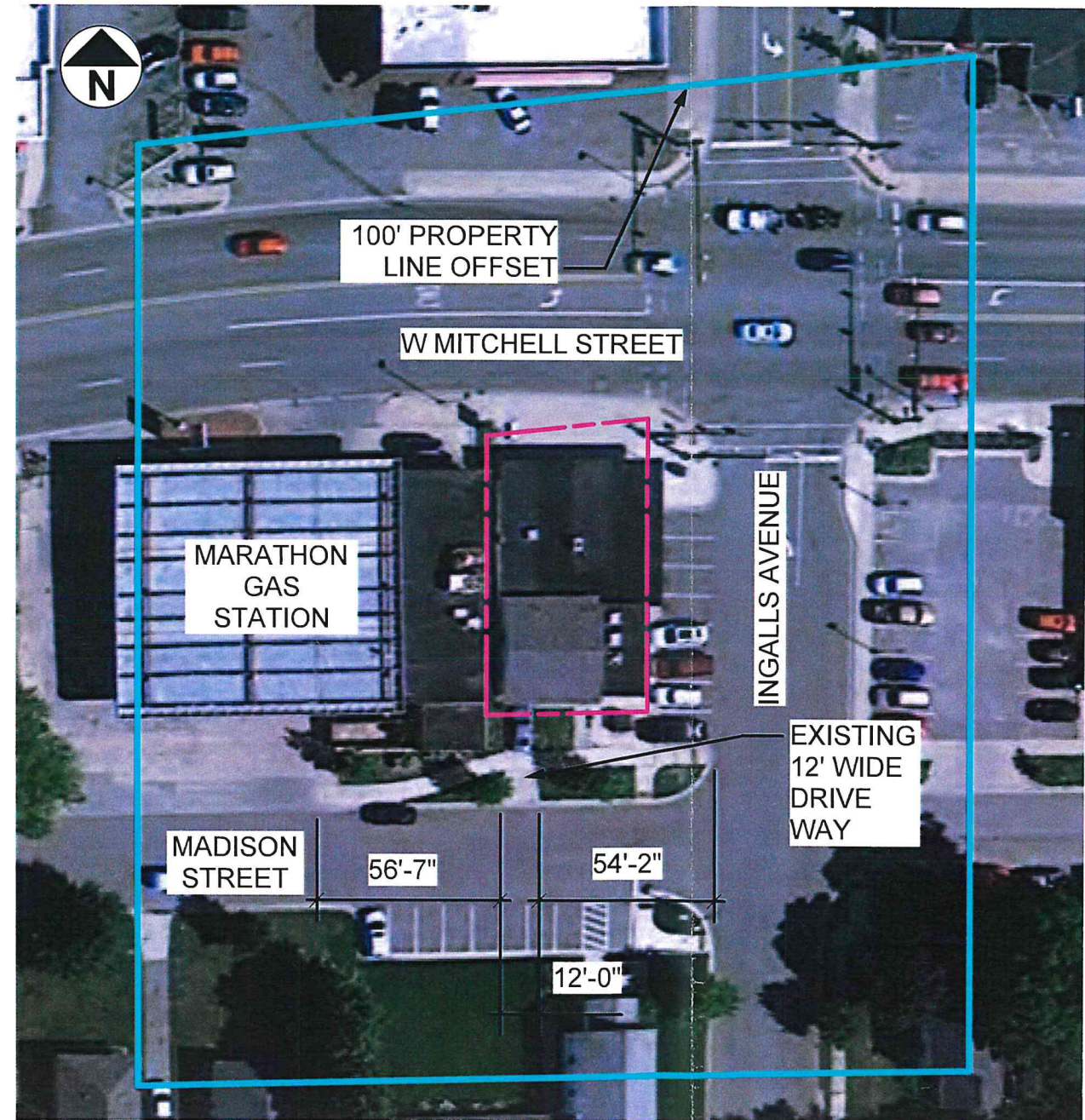
## EXISTING SITE PLAN

Scale: 1" = 30'-0"

### LEGAL DESCRIPTION:

0.14 ACRES AT 403 W. MITCHELL STREET, PETOSKEY, EMMET COUNTY, MICHIGAN

→ STORMWATER DIRECTION FLOW LINES



## DRIVEWAY DISTANCE DETAIL

Scale: 1" = 50'-0"

**MOUNTAIN ENGINEERING, INC.**

5045 132nd Trail NW, #101  
Williston, North Dakota 58801  
Phone: (806) 779-5762 Fax: (806) 779-5789 Email: mtnengr@mtengr.net

RISE PROVISIONING CENTER  
BUILDING RENOVATION

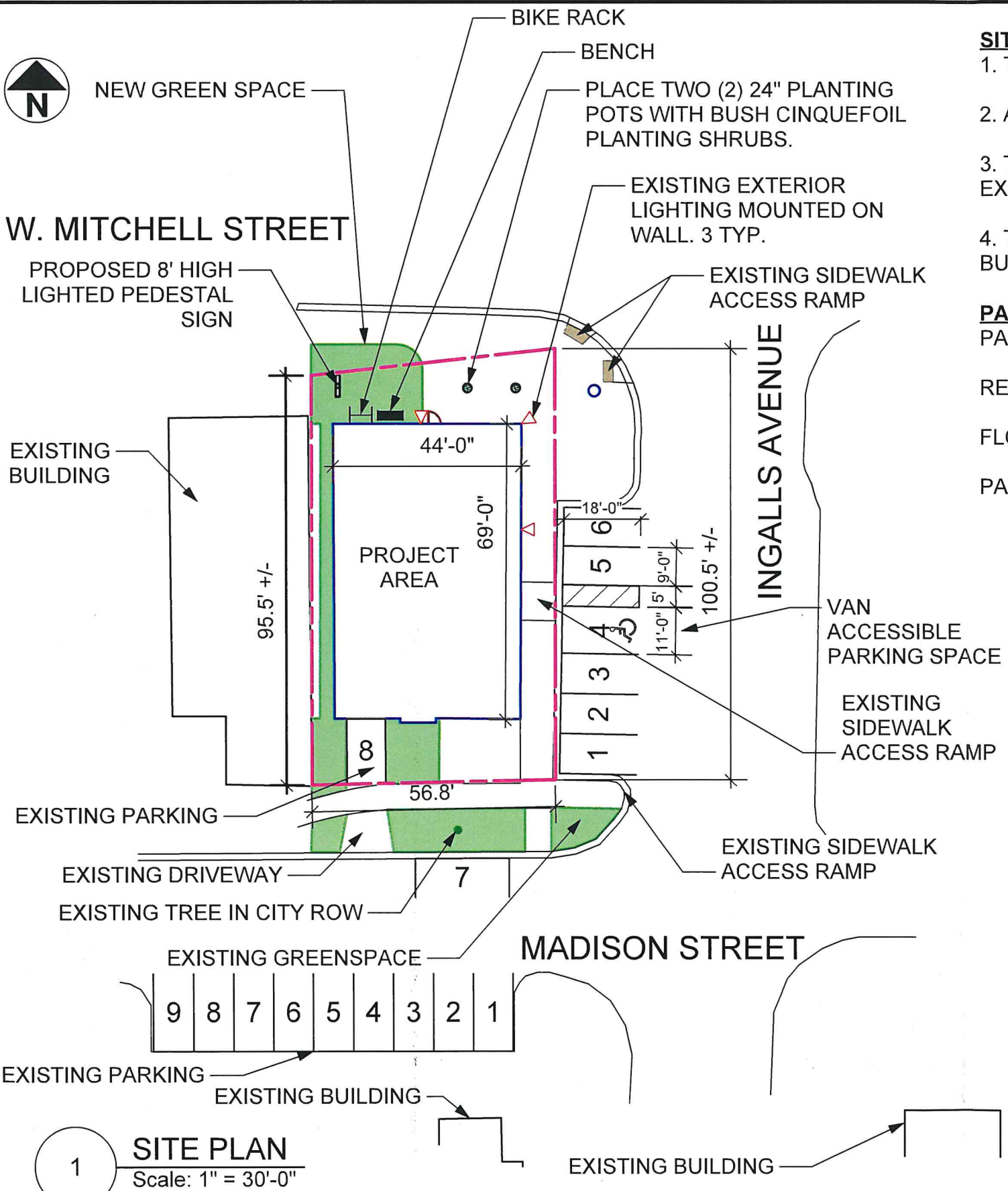
403 W. MITCHELL STREET, PETOSKEY, MICHIGAN

EXISTING SITE PLAN AND DRIVEWAY DISTANCE DETAIL

DRAWING: 211110  
DRAWN BY: JS  
REVIEWED BY: CJM  
DATE: 11/10/2021  
SHEET SCALE: AS NOTED  
SHEET NO.: 2



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**SITE PLAN NOTES:**

1. THERE WILL BE NO SIGNIFICANT GRADE CHANGES TO THE EXISTING SITE PLAN.
2. ALL SNOW ON SITE WILL BE STORED ON EXISTING GREEN SPACE.
3. THE BUILDING WILL USE THE EXISTING WATER SERVICE AND METER AND THE EXISTING SEWER CONNECTION.
4. THE EXISTING ELECTRICAL SERVICE WILL BE SUFFICIENT FOR THE PROPOSED BUILDING RENOVATIONS.

**PARKING CALCULATIONS:**  
PARKING SPACES REQUIRED PER PETOSKEY ORDINANCE SECTION 1704.(h):

RETAIL, CONSUMABLE GOODS: 1 SPACE PER 400 GROSS S.F. OF FLOOR AREA

FLOOR AREA: 3,040 S.F. 8 SPACES REQUIRED

PARKING SPACES PROVIDED: 8 ( 1 ONSITE, 7 OFFSITE WITH 1 ADA SPACE ON STREET)



**TYPICAL CINQUEFOIL PLANTING**  
Scale: N.T.S.

**MOUNTAIN ENGINEERING, INC.**  
329 Dorland Street  
Kingsford, Michigan 49802  
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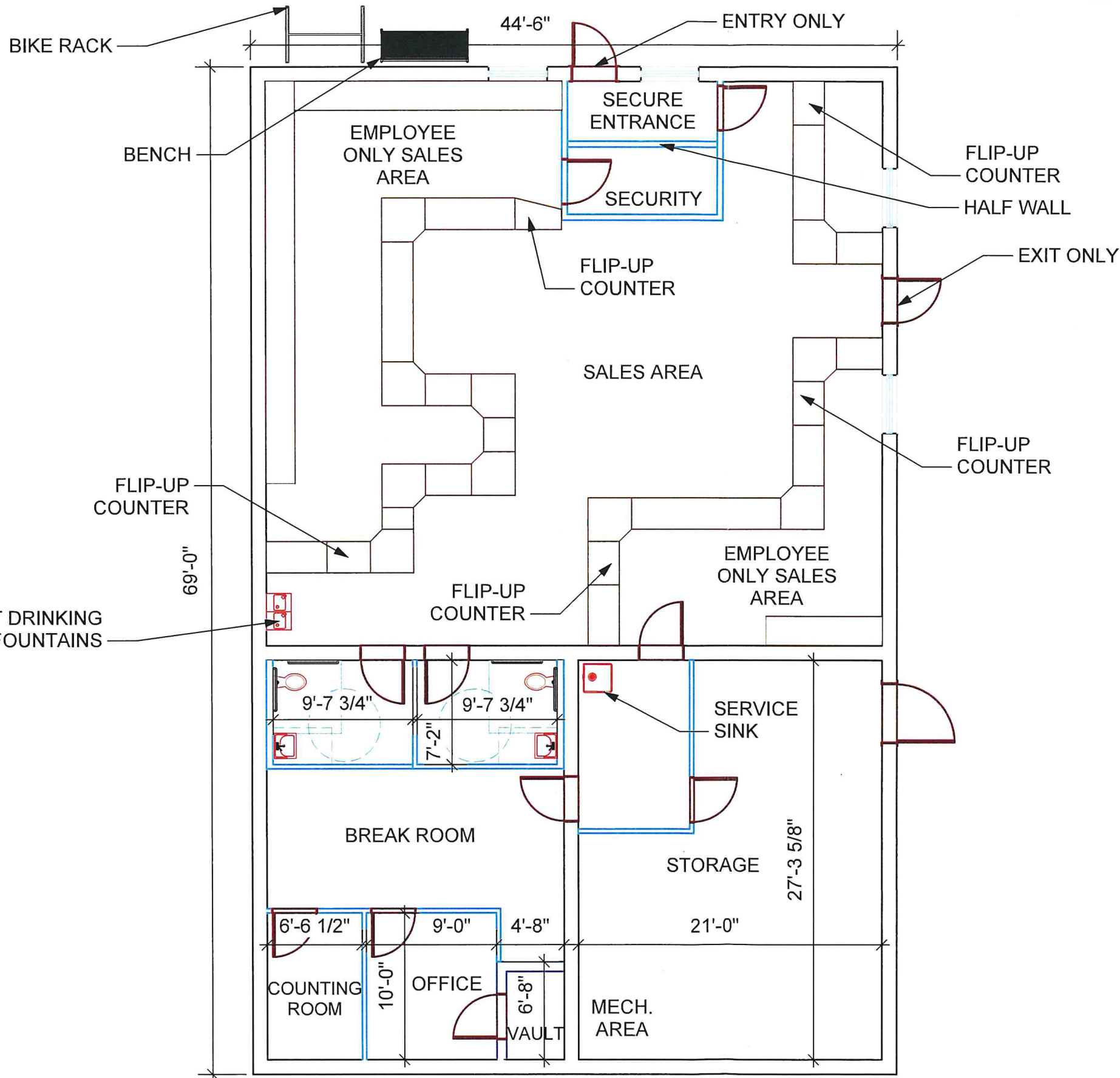
RISE PROVISIONING CENTER  
BUILDING RENOVATION  
403 W. MITCHELL STREET, PETOSKEY, MICHIGAN

PROPOSED SITE PLAN

DRAWING: 211110  
DRAWN BY: JS  
REVIEWED BY: CJM  
DATE: 11/10/2021  
SHEET SCALE: AS NOTED  
SHEET NO.: 3



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**NOTES:**  
1. A KNOX BOX WILL BE INSTALLED ON THE EXTERIOR OF THE BUILDING. COORDINATE WITH PETOSKEY PUBLIC SAFETY TO LOCATE KNOX BOX.

1 **FLOOR PLAN**  
Scale: 1/8" = 1'-0"

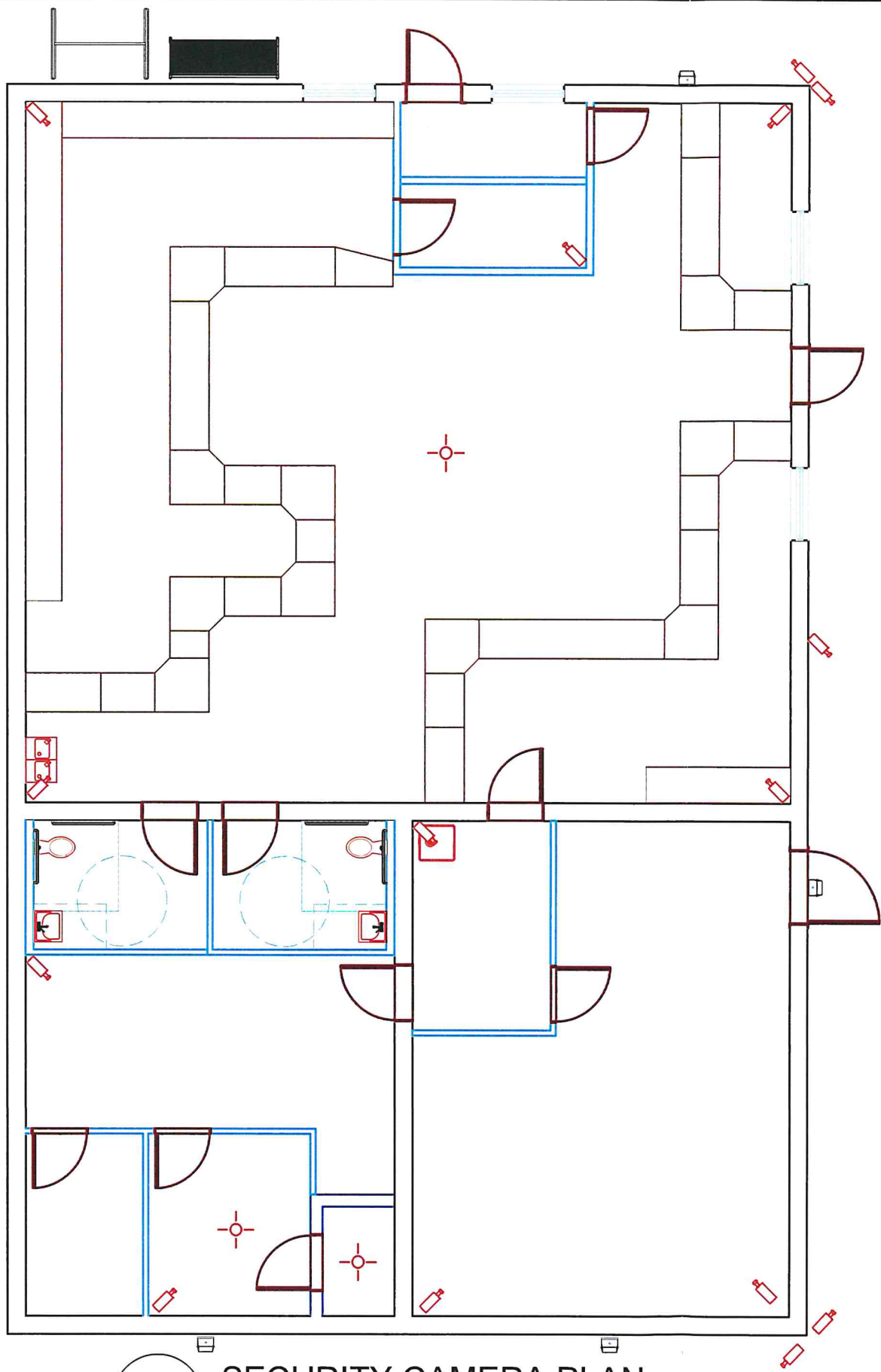
RIZE PROVISIONING CENTER BUILDING RENOVATION 403 W. MITCHELL STREET, PETOSKEY, MICHIGAN	
PROPOSED FLOOR PLAN	
DRAWING:	211110
DRAWN BY:	JS
REVIEWED BY:	CJM
DATE:	11/10/2021
SHEET SCALE:	AS NOTED
SHEET NO.:	4





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**SECURITY LEGEND**

-  CAMERA
-  360 DEGREE CAMERA

SECURITY CAMERA RECORDS ARE RETAINED FOR A MINIMUM OF 60 DAYS.

**LIGHTING LEGEND**

-  EXTERIOR LIGHTING FIXTURE

1 **SECURITY CAMERA PLAN**  
Scale: 1/8" = 1'-0"

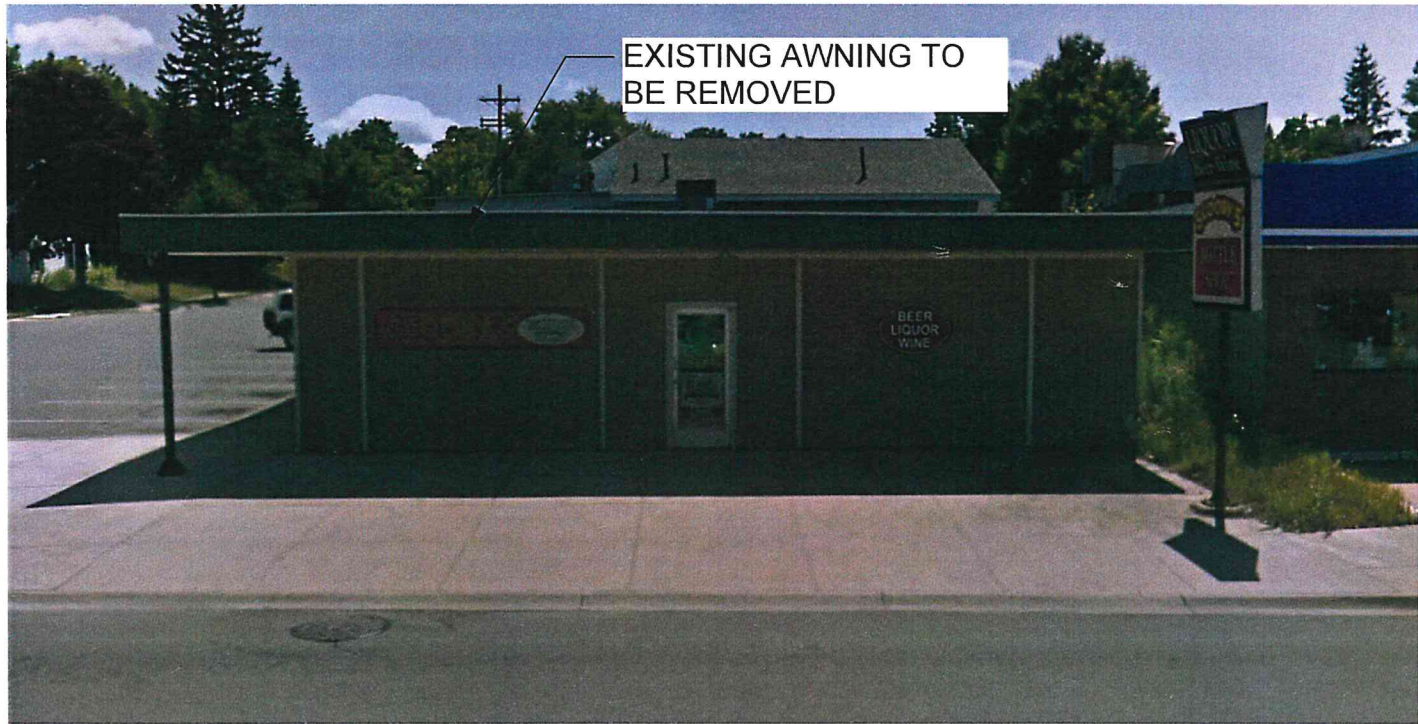
RISE PROVISIONING CENTER  
BUILDING RENOVATION  
403 W. MITCHELL STREET, PETOSKEY, MICHIGAN  
PROPOSED SECURITY CAMERA PLAN

DRAWING: 211110  
DRAWN BY: JS  
REVIEWED BY: CJM  
DATE: 11/10/2021  
SHEET SCALE: AS NOTED  
SHEET NO.: 5

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1 NORTH ELEVATION  
Scale: N.T.S.



3 SOUTH ELEVATION  
Scale: N.T.S.



2 EAST ELEVATION  
Scale: N.T.S.

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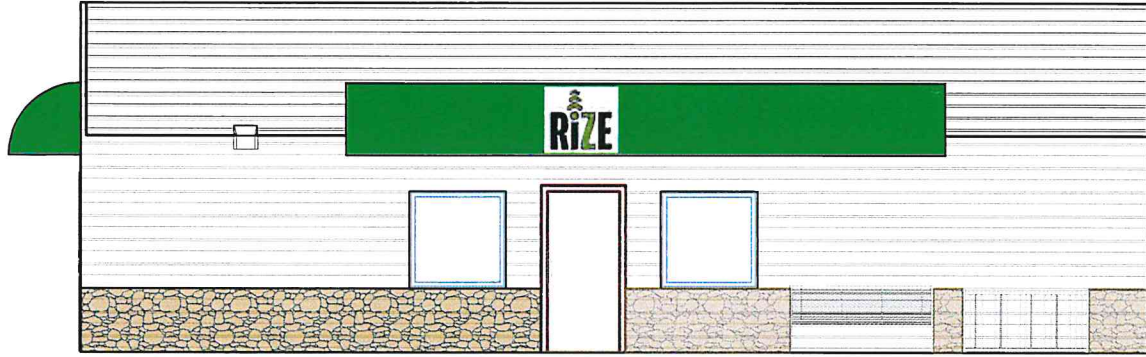
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RIZE PROVISIONING CENTER  
BUILDING RENOVATION  
403 W. MITCHELL STREET, PETOSKEY, MICHIGAN  
EXISTING BUILDING ELEVATION PHOTOS

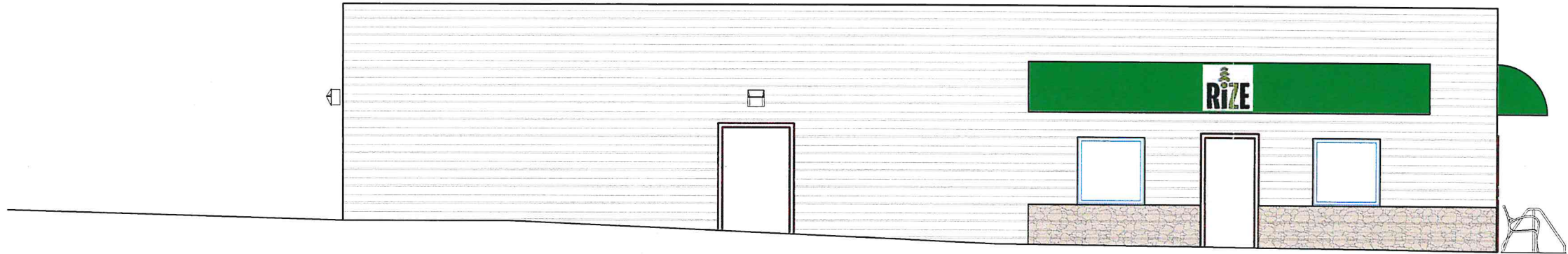
DRAWING:	211110
DRAWN BY:	JS
REVIEWED BY:	CJM
DATE:	11/10/2021
SHEET SCALE:	N.T.S.
SHEET NO.:	6



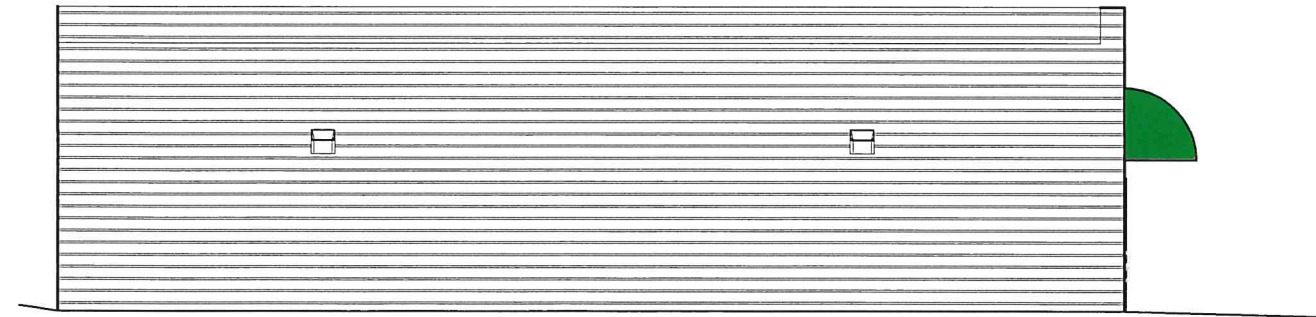
THE OWNER AGREES TO INDEMNIFY AND HOLD MOUNTAIN ENGINEERING, INC. HARMLESS FROM ANY DAMAGE, LIABILITY OR COST, INCLUDING ATTORNEY'S FEES AND COST OF DEFENSE ARISING FROM ANY CHANGES OR ALTERATIONS MADE BY ANYONE OTHER THAN MOUNTAIN ENGINEERING, INC., OR FROM ANY REUSE OF THE DRAWINGS AND DATA WITHOUT THE PRIOR WRITTEN CONSENT OF MOUNTAIN ENGINEERING, INC.



1 **NORTH ELEVATION**  
Scale: 1/8" = 1'-0"



2 **EAST ELEVATION**  
Scale: 1/8" = 1'-0"



3 **SOUTH ELEVATION**  
Scale: 1/8" = 1'-0"

**MOUNTAIN ENGINEERING, INC.**  
5045 132<sup>nd</sup> Trail NW #101  
Williston, North Dakota 58801  
Phone: (906)779-5762 Fax: (906)779-5789 Email: [mengineering@mineng.net](mailto:mengineering@mineng.net)

RIZE PROVISIONING CENTER  
BUILDING RENOVATION  
403 W. MITCHELL STREET, PETOSKEY, MICHIGAN  
PROPOSED BUILDING ELEVATIONS

DRAWING: 211110  
DRAWN BY: JS  
REVIEWED BY: CJM  
DATE: 11/10/2021  
SHEET SCALE: AS NOTED  
SHEET NO.: 7





1 **PROPOSED BUILDING RENDERING**  
Scale: 3/8" = 1'-0"

RIZE PROVISIONING CENTER  
BUILDING RENOVATION  
403 W. MITCHELL STREET, PETOSKEY, MICHIGAN  
PROPOSED BUILDING RENDERING

DRAWING: 211110  
DRAWN BY: JS  
REVIEWED BY: CJM  
DATE: 11/10/2021  
SHEET SCALE: AS NOTED  
SHEET NO.: 8

**MOUNTAIN ENGINEERING, INC.**  
329 Dorland Street  
Kingsford, Michigan 49802  
Phone: (906)779-5762 Fax: (906)779-5789 Email: mtnengr@mtengr.net  
5045 132nd Trail NW, #101  
Williston, North Dakota 58801  
Email: mtnengr@mtengr.net



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W. MITCHELL STREET

PROPOSED 8' HIGH  
LIGHTED PEDESTAL  
SIGN

EXISTING  
BUILDING

95.5' +/-

PROJECT  
AREA

44'-6"

59'-0"

18'-0"

5'-6"

2 3 4 5

45'-0"

24'-0"

MADISON STREET

EXISTING BUILDING

EXISTING BUILDING

BIKE RACK

BENCH

PLACE FOUR (4) 24" PLANTING  
POTS WITH BUSH CINQUEFOIL  
PLANTING SHRUBS.

EXISTING EXTERIOR  
LIGHTING MOUNTED ON  
WALL. 3 TYP.

EXISTING SIDEWALK  
ACCESS RAMP

INGALLS AVENUE

EXISTING  
SIDEWALK  
ACCESS  
RAMP

VAN  
ACCESSIBLE  
PARKING  
SPACE

EXISTING SIDEWALK  
ACCESS RAMP

EXISTING  
GREENSPACE

1 SITE PLAN

Scale: 1" = 30'-0"

**SITE PLAN NOTES:**

1. THERE WILL BE NO SIGNIFICANT GRADE CHANGES TO THE EXISTING SITE PLAN.
2. ALL SNOW ON SITE WILL BE STORED ON EXISTING GREEN SPACE.
3. THE BUILDING WILL USE THE EXISTING WATER SERVICE AND METER AND THE EXISTING SEWER CONNECTION.
4. THE EXISTING ELECTRICAL SERVICE WILL BE SUFFICIENT FOR THE PROPOSED BUILDING RENOVATIONS.

**PARKING CALCULATIONS:**

PARKING SPACES REQUIRED PER PETOSKEY ORDINANCE SECTION 1704.(h):

RETAIL, CONSUMABLE GOODS: 1 SPACE PER 400 GROSS S.F. OF FLOOR AREA

FLOOR AREA: 2,626 S.F. 7 SPACES REQUIRED

PARKING SPACES PROVIDED: 7 ( 5 ONSITE, 1 OFFSITE AND 1 ADA SPACE ON STREET)



2

TYPICAL CINQUEFOIL PLANTING

Scale: N.T.S.

RIZE PROVISIONING CENTER

BUILDING RENOVATION

403 W. MITCHELL STREET, PETOSKEY, MICHIGAN

PROPOSED SITE PLAN

DRAWING:  
210927

DRAWN BY:  
JS

REVIEWED BY:  
CJM

DATE:  
09/27/2021

SHEET SCALE:  
AS NOTED

SHEET NO.:

3

MOUNTAIN ENGINEERING, INC.

329 Dorland Street  
Kingsford, Michigan 49802  
Phone: (906)779-5762 Fax: (906)779-5789  
Email: minengineering@mteng.net

5045 132nd Trail NW, #101  
Williston, North Dakota 58801

Zoning Variance Application  
403 West Mitchell Street

On behalf of First Property Holdings, LLC., we are requesting a variance from the requirement for on-site parking for the new business at 403 West Mitchell Street. During their October 21 2021, the Petoskey Planning Commission recommended we seek a variance for using on-street parking (minutes attached). The attached figures show the proposed project utilizing the existing street parking and also attempting to develop sufficient on-site parking. The following points are relative to this request.

- 1 The current configurations includes three spaces for on-site parking along Mitchell Street on the north side of the building. However, given the traffic flow and the configuration, the owners have agreed to not utilize these spaces.
- 2 The City and MDOT developed seven spaces along Ingles Street for customer parking for this business
- 3 The Planning Commission has serious reservations about safety of backing out of the north most parking space on Ingles Street. They have requested we propose eliminating that space, as is shown on the attached plan
- 4 They also requested we add a handicap parking space to the off-street parking, which is also shown on the plan.
- 5 A site plan dated 210921 (attached) was completed showing the building south portion removed and parking added on the south side of the property. This configuration, while it would meet the on-site parking requirement, would require other zoning variances for backing onto Monroe Street and for the position of the curb cut on Monroe Street. It would also reduce the building footprint by 40% and require extensive fill and regrading.
- 6 The Planning Commission also had a concern with the loss of green space on Monroe Street if the onsite parking was created

We would request a variance to allow the business to use the resulting 6 spaces on Ingles Street, the one parking space on Monroe Street and the existing driveway to meet the eight parking space requirement, as shown on the attached plans dated 211110.



## PLANNING COMMISSION

October 21, 2021

A regular Planning Commission meeting was held in the City Council Chambers, Petoskey, Michigan, on Thursday, October 21, 2021. Roll was called at 7:00 P.M. and the following were:

Present: Cynthia Linn Robson, Chairperson  
Betony Braddock, arrived at 7:23pm  
Rose Fitzgerald  
Richard Mooradian  
Rick Neumann  
Charles Willmott

Absent: Carolyn Dettmer  
Ted Pall

Others: Myron Berry, Mountain Engineering, Inc., Kingsford, MI  
Matthew Fettig, 906 Michigan Street  
Mike Pattullo, Shoreline Architecture, 8 Penn Plaza

Staff: Amy Tweeten, City Planner  
Lisa Denoyer, Administrative Assistant

Upon motion and support, the minutes of the September 16, 2021 meeting were approved with corrections. Motion carried 5-0.

### **Public Hearing and Action on Amendments to the Zoning Ordinance**

Staff informed the Commission that the intent of the proposed ordinance changes was to remove barriers to the creation of housing units in the City.

Staff then read aloud the proposed changes for the Standards for Private Roads in the Subdivision Ordinance that would reduce the required amount of pavement for private streets, while still allowing access by Public Safety vehicles.

Chairperson Robson asked if the Commission could restrict parking and staff responded that she had spoken with the Director of Public Safety and he stated that they could allow parking on one side of the road if it were narrowed to 20-feet.

Commissioner Neumann commented that he felt it needed to be noted in the ordinance if allowed.

Chairperson Robson asked staff what the City standard was for width and if there were any requirements regarding emergency vehicles.

Staff responded that streets are being reconstructed at 28-feet wide and include a 3-foot curb and gutter on each side.

*Please see pages 6 and 7*



Commissioner Willmott asked if parking was allowed on a 28-foot road. Staff responded that it was allowed.

Commissioner Neumann stated that private roads at 20-feet wide should be limited to parking on only one side.

At this time, the meeting was opened for public comments. No public comments were received.

Staff read aloud the proposed changes to eliminate density restrictions in the business and industrial districts to allow a developer to decide the number of units based on other zoning ordinance requirements including building height, parking, and setbacks.

Staff then reviewed the following proposed changes that were submitted by Chairperson Robson:

Sec 801 B-1 Local Business District:

1. Any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the B-1 district.

Sec 1001. B-3 General Business District:

1. Any commercial uses permitted in the B-2 district and any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the B-3 district.

Sec 1201. O-S Office Service District:

1. Any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the O-S District.

Sec 1401. I-2 General Industrial District:

1. Any uses permitted in the I-1 Light Industrial District and any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the I-2 General Industrial District.

Sec 2601. B-3B Business Industrial District:

1. Any uses permitted in the I-1 Light Industrial District including any residential uses permitted in the RM-2 Multiple-family Residential District; and
  - (a) All uses shall be subject to the regulations of the B-3B Business Industrial District; and

Commissioner Fitzgerald commented that she felt Chairperson Robson's changes made sense.

Commissioner Willmott asked if other sections of the ordinance should be reviewed as well.

Chairperson Robson responded that they should, however, the Commission needs to work on this section first and then proceed to the other sections when time allows.



Commissioner Neumann asked if the light industrial district would allow for residential uses. Staff responded that it would allow residential, business and light industrial uses.

Chairperson Robson commented that she believes the industrial districts will likely not be used as such moving forward and that lighter uses and residential uses would be a good use.

At this time, the meeting was opened for public comments. No public comments were received.

Staff then reviewed zoning ordinance changes to increase the height of three-story buildings in the B-2, B-2A and B-2B Districts and of two-story buildings in the B-3 General Business District, and decrease the number of stories in the O-S Office Service District.

Chairperson Robson asked what the maximum size for a parapet would be and if a building did not require a parapet could the building height be 45-feet.

Staff responded that a 3-foot parapet would be allowed and read aloud Sec. 902(3)(a) which states *"Any building with a flat roof shall have a projecting horizontal element (e.g., cornice) that is no less than ten percent of the upper-most story wall area to articulate the top of the building (element is included in upper-story wall area calculation)"*.

Chairperson Robson commented that she does not see in the language of the ordinance where it states that the measurement is to the top of the parapet.

Staff responded that there was no change made to definition of building height. The definition in the ordinance defines it as *"Building height: is the vertical distance measured from the average grade: to the highest point of the roof (parapet) for flat roofs; to the deck line of mansard roofs; or to the average height between eaves and ridge for gable, hip, and gambrel roof"*. Buildings are required to have some sort of element per Sec. 902(3)(a).

Commissioner Neumann commented that the perceived height would still be at the maximum allowed.

Commissioner Willmott commented that buildings would need a parapet to screen rooftop mechanicals and asked where the O-S Office Service District was located and what the rationale was for the district.

Staff responded that there are some on Connable Avenue, Monroe Street, Charlevoix Avenue, Maple Street between Pleasant and Porter Streets, and there are some on Porter, Petoskey, Division, and East Mitchell Streets, as well as on Waukazoo Avenue and south of Michigan Street.

Commissioner Neumann commented that the O-S Office Service District was created between commercial and residential to allow a transition between the higher density of downtown and residential.

Staff commented that the transitional district allows for three-stories, 37 feet.

At this time, the meeting was opened for public comments. No public comments were received.

Commissioner Braddock commented that she agreed with the proposed changes.

At this time, Commissioner Neumann made a motion, seconded by Commissioner Fitzgerald, to recommend the following proposed amendments to City Council:

1. **Article XV. Standards for Private Roads – Sec. 1503. - Standards for size and type of road.**

All private roads shall be paved and shall have a minimum paved width of 20 feet. A private road that is greater than 300 feet in length shall have emergency vehicle turnarounds subject to review and approval by the city. Parking restrictions shall be reviewed and approved by city staff.

2. **Sec. 801. - Principal uses permitted.**

In a B-1 Local Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the B-1 district.

2. **Sec. 1001. - Principal uses permitted.**

In a B-3 General Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any commercial uses permitted in the B-2 district and any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the B-3 district.

2. **Sec. 1201. - Principal uses permitted.**

In an O-S Office Service District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the O-S District.

3. **Sec. 1401. - Principal uses permitted.**

In an I-2 General Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any uses permitted in the I-1 Light Industrial District and any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the I-2 General Industrial District.

4. **Sec. 2601. - Principal uses permitted and principal uses permitted subject to special conditions.**

In a B-3B Business Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this ordinance:

- (1) Any uses permitted in the I-1 Light Industrial District including residential uses permitted in the RM-2 Multiple Family Residential District, provided that:

- a. All uses shall be subject to the regulations of the B-3 Business Industrial District.

5. **Zoning Ordinance Height Changes**

**Section 902 Table 9.3 Building Form**

Building Height Maximum\*: 3 Stories, 45 Feet

**Section 2901 Table 2901.2**

Building Height: 3 Stories, 37 Feet

**Section 3001 Table 3001.2**

Building Height: 3 Stories, 37 Feet

**6. Section 1600 Schedule of Regulations**

The changes noted above and:

B-3 General Business District Maximum Height: 2 stories, 30 feet

O-S Office Service District Maximum Height: 2 stories, 30 feet

Motion carried 6-0

**Review and Discussion of Possible  
Streetscape Changes to the 400 Block of Emmet Street**

Staff reviewed a proposed concept that would eliminate the dedicated left turn lane and create parking/loading areas on Emmet Street. This section of the block currently has no parking. The vehicle turning radius onto Emmet Street would remain sufficient for large trucks given the width of East Mitchell Street. The traffic engineer believes eliminating one northbound lane will improve safety for vehicles exiting Emmet Street and pedestrians. She voiced concerns about left turn movement onto East Mitchell and believes consideration could be made for prohibiting left turns in summer when the intersection was most congested.

Commissioners discussed no left turns onto Mitchell Street from Emmet Street; traffic stacking on Emmet Street; the short distance between the intersection and the traffic light; the reduction of curb cuts; bump-outs for pedestrian crossing; timing of the traffic lights; and the proposed parking spaces/loading areas on Emmet Street. While some Commissioners were in favor of no left turns, other Commissioners felt they should be allowed. It was suggested that the parking/loading spaces along Emmet Street be designated as loading spaces only during daytime hours.

Staff responded that it would be safer for vehicles to turn left at the Petoskey Street light rather than on Emmet Street and that Emmet Street is more of a local route than a tourist route. Traffic driving down Emmet Street would see a backup of traffic and could travel east one block to Petoskey Street.

**Case #233-20 – Requested Façade Amendment**

Staff informed the Commission that the Grand Villas site plan was approved on August 20, 2020 and that the owner was requesting an amendment to the approved site plan building façade. The proposed elevations, conceptual renderings and architect narrative on how the building meets Sections 2903(2)(a)(1) and (2) were included in the packet for Commission review.

Mike Pattullo, Shoreline Architecture, commented that staff had shared the Commission's feedback from their October meeting. They went back to the originally proposed first floor windows with Spandrel glass, and removed the mansard roof in an effort to tie into downtown architecture with more of a traditional cornice line. The first floor commons area had originally been designed as a fitness and lounge area and due to feedback they received the area would now be designed for tenant storage. He then described the exterior building materials that include low maintenance PVC trim and siding, a brick façade and veneer cut stone with a limestone wash at the bottom.

Commissioners commented that their previous concerns were with the look of the first floor and the proposed changes were an improvement and fit better with the downtown. Commissioners asked about landscaping along the north side of the building, windows on the first floor, if the parking deck

was open air and if there were any garage doors on the south side of the building. Commissioners also asked about the location of the dumpster and if there was a location for deliveries.

Mr. Pattullo responded that; there would be landscaping along the north side of the building; the first floor would consist of spandrel windows and decorative panels; the parking deck would be open are for ventilation and light; and there would be open gates along the south side, not garage doors. He also responded that there is a proposed dumpster near the widening of the alley and there would be a mailroom in the main lobby for parcel and mail deliveries.

Chairperson Robson commented that she would prefer to see more spandrel windows instead of the decorative panels. Mr. Pattullo responded that they could accomplish that.

Mr. Pattullo commented that he loved the idea of narrowing Emmet Street to two lanes and that as a pedestrian it is very scary to cross. He suggested either narrowing the street to two lanes or adding a pedestrian rescue lane if the three lanes remained.

At this time, Commissioner Neumann made a motion, seconded by Commissioner Braddock, to approve the request to amend the site plan for Case #233-20, 124 E. Mitchell Street, to incorporate the roofline changes and first floor details indicated in the plans dated 10/8/2021 based on the finding that the requirements of Sections 2903(2)(a)(1) and (2) of the Zoning Ordinance continue to be met with the approved façade changes and additional spandrel glass panels as agreed to by the architect. Motion carried 6-0.

#### **Case #53-21 – Timeline Extension for Special Condition Use**

Staff informed the Commission that an extension had been requested under Section 8-362(i) of the Medical Marihuana Facilities Ordinance for the special condition use process by Rize Provisioning Center for the proposed 403 W. Mitchell Street location.

Myron Berry, Mountain Engineering, Inc., stated that he felt the letter submitted for the request speaks for itself.

Commissioners discussed an extension beginning at the expiration of the August 22, 2021 deadline and agreed that it was warranted.

At this time, Commissioner Willmott made a motion, seconded by Commissioner Fitzgerald, to approve a timeline extension, under Section 8-362(i) of the Medical Marihuana Facilities Ordinance, until March 22, 2022 for a medical marihuana provisioning center at 403 W. Mitchell Street as the applicant had been making diligent progress.

Chairperson Robson stated that the six month extension would expire on February 22, 2022 as it would go into effect at the expiration of the August 22, 2021 deadline. Commissioner Willmott agreed and amended his motion and Commissioner Fitzgerald seconded. Motion carried 6-0.

#### **Case #53-21 – Review of Revised Site Plan for a Medical Marihuana Provisioning Center at 403 W. Mitchell Street**

Staff informed the Commission that a revised plan for 403 W. Mitchell Street had been submitted, with property owner authorization. The new plan would remove a portion of the building to create off-street parking; no changes to the on-street parking were shown; and as proposed, the parking lot would require variances.

Myron Berry, Mountain Engineering, Inc., informed the Commission that the site was developed in the 1850s when parking was not an issue. He believes that the only way to get enough onsite parking would be to remove a portion along the back of the building.



Commissioners commented that the direction of the Commission at their September meeting was to reduce the parking on the street and replace with greenspace if spaces could be added on-site. They again voiced concerns about the safety of spaces closest to the traffic signal and removal of greenspace with the new plan and felt that it made sense for the applicant to go to the Zoning Board of Appeals for a variance to allow use of the parking spaces in the City's public right-of-way to meet the majority of parking requirements.

Staff responded that there could have been a discussion about changes to the curb line, greenspace and possible ways to change the right-of-way to add greenspace, however, staff had not been contacted after the September meeting. She recommended that the consultant discuss these options with staff, improve the site layout and then ask the Zoning Board of Appeals for approval.

Commissioners asked about required parking based on the existing building size and staff responded that the current building size requires eight parking spaces with the option of one remote parking space.

At this time, Commissioner Fitzgerald made a motion, seconded by Commissioner Braddock, to postpone scheduling a public hearing until the Zoning Board of Appeals makes a decision on the variance request. Motion carried 6-0.

### **Discussion of Zoning Ordinance Amendments to Address Housing**

Staff informed the Commission that discussions on accessory dwelling units (ADUs) had been ongoing for about 10 years. There has been a lot of discussion on single family homes and the national crisis on housing. There has also been discussions nationwide on eliminating single family zoning.

Possible changes to the R-1 and R-2 Single Family Residential Districts include changing the intent statement to acknowledge that the City currently has, and may allow, two plus unit dwellings and accessory buildings, change the minimum dimensions for a single family detached dwelling from 24'x24' to 576 square feet, and allow two-family dwellings as a principal use rather than a special condition use. Staff then reviewed the proposed ADU standards.

Commissioners discussed changing bed and breakfast operations from a permitted use to a special condition use, changing fire escape to exterior stairway for upper unit ADUs, and asked if there was a review process for public input.

Staff responded that as proposed it would be an administrative approval for ADUs as the standards would be clearly spelled out and number limited. If ADUs are wanted as a housing option to address the community wide housing crisis, the process needs to be streamlined. From staff's experience, notification of adjacent neighbors will result in neighbors saying they don't want ADUs next to them, but elsewhere.

Commissioners voiced concerns about the ADU rear-yard setbacks not being large enough and asked if mobile homes could be denied as an ADU. Staff responded that the setbacks can be changed if it is deemed necessary and that mobile homes cannot be specifically denied if they meet the other standards, but there could be more specific design requirements added.

Commissioner Willmott commented that he believes people would say no because they are afraid of the impact it would have on their property and that while there are some who believe ADUs should be allowed everywhere, he thinks forcing them on neighbors could be an issue.

Staff responded that so long as the standards of the ordinance are met the request would have to be approved.

Commissioners then discussed changing the ordinance to allow single family dwellings in a multiple family district to be subject to R-2 Single Family Residential District standards.

At this time the, the meeting was opened for public comment.

Comments were received from Mike Pattullo and Matthew Fettig, 906 Michigan Street, regarding the need for additional housing that follows traditional patterns of development such as through form-based standards in residential neighborhoods, minimum square footage, duplexes, and ADUs.

Given the late hour it was decided that discussion would continue at the special joint meeting with City Council on November 8<sup>th</sup>.

### **Public Comment**

The meeting was opened for public comment. No public comment was received.

### **Updates**

Staff reminded the Commission that they have a special joint meeting scheduled with City Council on Monday, November 8<sup>th</sup> at 5:30 P.M.; that City Council adopted the C - College district and that the Michigan Municipal League would be conducting a search for a new city manager.

Staff then informed the Commission that Kent Warner had resigned from the Commission and Commissioners all stated their appreciation for his service to the community.

Chairperson Robson stated that after hearing from unhappy neighbors during the public hearing for the college district she would like the Commission to discuss ways to reach out to the public to create awareness and for public engagement. She would like this discussion to be on the November or January agenda. Commissioner Willmott commented that the Planning Act requirements for public notice are minimal. The Planning Commission and Zoning Board of Appeals send out notices; however, they are at the end of the process.

Staff responded that she would provide the Commission with information on previous practices and encouraged the Commission to read the City's adopted Public Participation Plan.

The meeting was then adjourned at 9:57 P.M.

Minutes reviewed by Cynthia Linn Robson, Chairperson



# City of Petoskey

Office of City Planner

101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

## Zoning Board of Appeals Zoning Ordinance Regulation Variance Checklist

Date: December 7, 2021

Case Number: 862

**It is the applicant's responsibility to prove a practical difficulty. It is not the job of the ZBA to find the practical difficulty for the applicant.**

Issue to be evaluated (Practical Difficulty)	Supports the variance	Does not support the variance	Notes
Will strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose? <ul style="list-style-type: none"><li>- A variance is granted for circumstances unique to the PROPERTY, not those unique to the owner.</li></ul>			
Is there a way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense? <ul style="list-style-type: none"><li>- The ZBA considers the property, not issues with the interior of the structure.</li></ul>			
Is the need for the variance due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district? <ul style="list-style-type: none"><li>- If the situation is often repeated in the same zoning district, then the variance request should be denied.</li></ul>			
If granted, will the variance uphold the spirit and intent of the ordinance and be fair to neighboring properties? <ul style="list-style-type: none"><li>- There are reasons the ordinance was adopted and those reasons should be respected and upheld.</li></ul>			
Has the need for the variance been created through previous action of the applicant? <ul style="list-style-type: none"><li>- The Appeals Board is not responsible for "bailing out" an applicant who created the need for a variance.</li></ul>			



# City of Petoskey

Office of City Planner

101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

## MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

In Case #862, I move to (*approve/ deny*) a **parking variance of six (6) parking spaces at 406 W. Mitchell Street, thus allowing the parking spaces in the street right-of-way to be used for the provisioning center** with the (conditions/modifications) of:

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Based on the findings of fact in the (e.g. agenda memo, submittal materials, etc.) that

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\_\_\_\_\_ and the comments provided by

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(*e.g., those in attendance at the hearing, the applicant, the applicant's representative, etc.*), that demonstrate there is a (*practical difficulty/ lack of practical difficulty*) created by **Sections 1704 and 1717** of the Zoning Ordinance and that the proposed changes (*are not/ are*) contrary to the intent of the ordinance and (*would not/ would*) cause substantial detriment to the public good or substantially impair the intent and purpose of the ordinance.

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