



Zoning Board of Adjustment Meeting Agenda

Wednesday, December 4, 2024 - 4:30 PM

Newton City Hall - Council Chambers
101 W 4th St S
Newton, IA 50208

View this Meeting: Mediacom Channel 12/85/121.12 or www.newtongov.org/cablecast

- I. Call to Order and Roll Call
- II. Review of Minutes of Previous Meeting:
 - 1. October 30, 2024
- III. Public Hearing
 - 1. CU24-5: A Conditional Use Permit to authorize the construction of a new wash bay accessory building at 1700 N. 4th Ave. W., City of Newton, applicant.
 - 2. V24-3: Front yard setback variance for 1111 W. 22nd St. S., City of Newton, applicant.
- IV. Other Business
- V. Adjourn

ADA Compliance: *The City of Newton is pleased to provide reasonable accommodations, in compliance with the Americans with Disabilities Act, for those individuals or groups who require assistance in being able to participate in the meeting. Please contact the Community Development Department at least 24 hours in advance of the meeting by calling 641-792-6622 to arrange for accommodations to be provided.*

Chair: Bev Rossow; **Vice Chair:** Noreen Otto; **Members:** Craig Trotter, Lynette Birkenholz, John Billingsley

Minutes of Meeting Zoning Board of Adjustment Regular Meeting

October 30, 2024

ROLL CALL: Board members present: Billingsley, Birkenholz, Otto, Trotter (4:45)

Board members absent: Rossow

STAFF PRESENT: Brian Dunkelberger, Sr. City Planner

A quorum being present, Vice Chair Otto called the meeting to order at 4:32 PM

Minutes

The Board reviewed the minutes of the previous meeting from August 14, 2024. **Motion** by Billingsley, **seconded** by Birkenholz to approve the minutes as written. **Voice vote**: approved, 3-0.

Public Hearing

- A. CU24-3: Conditional Use Permit to allow an accessory building with a footprint exceeding 1,000 sq. ft. at 1101 1st St. N. Galyn Nook, applicant.

Dunkelberger reviewed the prepared staff report and shared maps and a street view of the subject property. Dunkelberger shared that no concerns were submitted by neighbors or residents in advance of the meeting. Billingsley requested a summary of the request from staff and asked if this was connected to the next item on the agenda. Dunkelberger confirmed. Otto invited the applicant to speak.

Galyn Nook, applicant, described the project and provided additional information about the proposed location and scope of work. Otto commented on the substantial size of the structure and stated how the Board aimed to be consistent in their reviews of these types of requested. She requested further explanation about the intended use of the building and the thinking behind the total size. Nook shared how a tall but skinny outbuilding would look misplaced and how he was especially conscious of aesthetics of the building. He intends to use it for personal storage of an RV, vehicles, a mower, etc. Billingsley thanked Nook for pointing out how looks were an important element of his project.

Hearing no additional questions or comments, Vice Chair Otto called for a motion to close the public hearing. **Motion** by Birkenholz, **seconded** by Billingsley. **Voice vote**: Approved 3-0.

Otto shared how she already voiced her initial concerns, but that she felt the applicant addressed those concerns with his answers. Birkenholz inquired further about the precise location of the proposed building, and commented on the topography of the property. Billingsley said that he believed the application was submitted with the four conditional use permit criteria in mind.

Motion by Birkenholz to approve CU24-3: A Conditional Use Permit to allow a 36' x 48' detached accessory building at 1101 1st Street North, **seconded** by Billingsley. **Roll call vote**: Approved 3-0.

- B. V24-2: Variance to allow the height of the proposed accessory building at 1101 1st St. N. to exceed 15 feet. Galyn Nook, applicant.

Dunkelberger reviewed the prepared staff report and shared the submitted concept plans for the detached accessory structure. Billingsley asked if, theoretically speaking, could the Board approve the Conditional Use Permit but deny the variance? Dunkelberger confirmed. Otto reminded Board members that their objective is to remain objective and consistent in their approach. She requested the applicant to provide specific information pertaining to this variance request and why the building needed to exceed the maximum allowable 15 feet.

Nook described his standard 2001 RV and how he needed at least a 14-foot door. He shared a story about seeing another RV scrape its top when entering a garage, so he hoped to create enough clearance space to never have that worry. He requested the conditional use permit and the variance together because of his needs for personal storage and specifically the minimum dimensions required for storing his RV inside the building.

Hearing no additional questions or comments, Vice Chair Otto called for a motion to close the public hearing. **Motion** by Birkenholz, **seconded** by Billingsley. **Voice vote:** Approved 4-0.

Billingsley and other members discussed the request and shared their appreciation for the applicant being proactive in acquiring these authorizations prior to construction of the building.

Motion by Birkenholz to approve V24-2: A Variance to allow the height of the proposed 36' x 48' detached accessory building at 1101 1st St. N. to exceed 15 feet, **seconded** by Billingsley. **Roll call vote:** Approved 4-0.

- C. CU24-4: Conditional Use Permit for a proposed rebuild and expansion of the existing Alliant Energy substation at 2600 N. 4th Ave. E. Emily Digman, Ulteig, applicant.

Dunkelberger shared the prepared staff report and presented images and maps of the subject property. He summarized the request and defined how this Conditional Use Permit application was strictly in consideration of the proposed expansion and rebuild, and not for the pre-existing or current use and/or facilities. He also suggested that a condition be placed on the permit, if approved, to require the construction of a drainage swale that was evidently supposed to be installed at a previous point in time. Otto asked if the application was denied, then would the status quo be preserved. Dunkelberger confirmed. Otto invited the representative from Alliant to offer a brief overview of the project.

Mike Edelen, Alliant Energy Substation Manager, approached the Board and apologized for the fact that this application was submitted after work had already started. However, he communicated that most of the noisy work was already completed, so he understood why that was a concern the past few weeks prior to the hearing. The remaining construction involved final below-grade construction and then installation of the above-grade facilities. He estimated that all work would be completed by March 2025. Otto asked about the height of the new above-grade structures. Edelen confirmed that nothing would be taller than the existing structures at the site.

Dunkelberger asked Edelen to share more details about the motivation behind this project and recalled a past fire at the substation. Edelen shared three fires had occurred at this substation, and all three were caused by squirrels. Considering high profile customers that utilize this substation such as area schools, government facilities, etc., Alliant aimed to remove that bizarre security risk and operational hazard with these upgrades. He described how he believed the substation was originally constructed in the late 1960s, so much of the equipment and infrastructure was outdated and due for upgrades.

Billingsley questioned if the Board had jurisdiction on this request and challenged the fact that Alliant had requested the permit after the project was halfway complete already. Otto agreed and emphasized how it's important to consider the neighborhood with these types of projects, and asked Edelen to keep that in mind in the future to avoid this scenario. Edelen pointed out how the new infrastructure would actually be quieter than the old equipment, and that they recognized the need to be a considerate neighbor. Billingsley inquired further about the need for a Conditional Use Permit and why the request was submitted after work had begun. Dunkelberger clarified how general maintenance work at the substation would not require a Conditional Use Permit, but that the expanded impervious surface and scale of the project justified the need for this neighborhood review.

Hearing no additional questions or comments, Vice Chair Otto called for a motion to close the public hearing.

Motion by Birkenholz, **seconded** by Billingsley. **Voice vote:** Approved 4-0.

Otto expressed her appreciation for Billingsley's thorough review and her appreciation for Edelen's candid approach during the hearing and Alliant's willingness to construct the drainage swale. Trotter stated that he felt the application was approvable and the project could move forward. Otto pointed out how the upgrades to the substation will actually improve compatibility with the neighborhood by reducing the noise, installing more secure and safe infrastructure, etc. Birkenholz agreed and articulated how the upgrades will actually benefit the neighborhood and the community.

Motion by Birkenholz to approve CU24-4: A Conditional Use Permit to allow the proposed rebuild and expansion of the Alliant Energy substation at 2600 N. 4th Ave. E. with a condition to construct a drainage swale on the south side of the property before April 1, 2025, **seconded** by Billingsley. **Roll call vote:** Approved 4-0.

Old/Other Business

None.

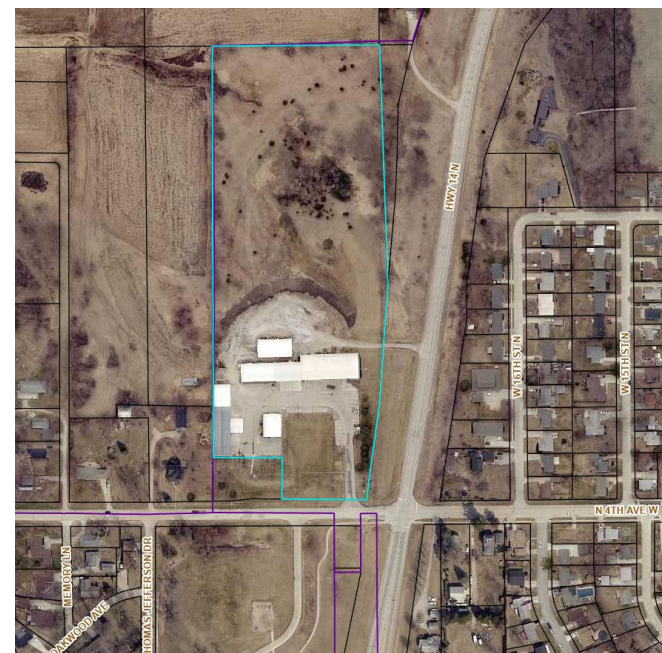
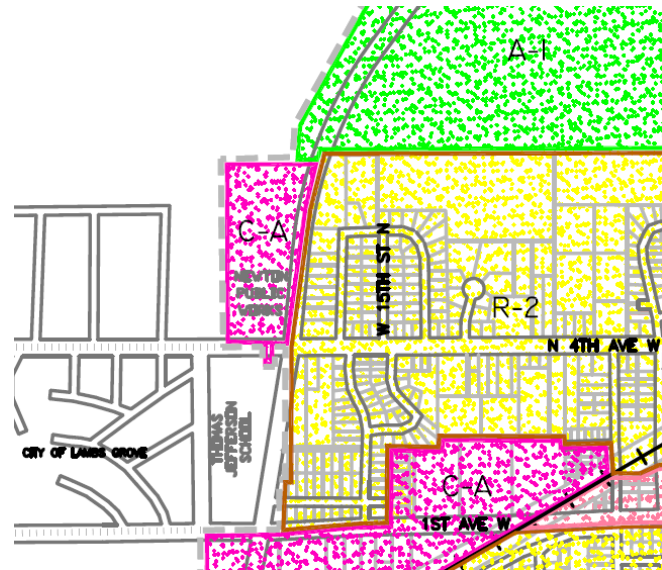
Motion by Billingsley to adjourn the meeting, **seconded** by Birkenholz. **Voice Vote:** approved, 4-0. The meeting was adjourned at 5:28 PM.

Zoning Board of Adjustment – CU24-5 Staff Report

Applicant: City of Newton
 Proposal: Amend site plan to allow a new 38' x 60' accessory building (wash bay)
 Location: 1700 North 4th Avenue West (Parcel #0828351002)
 Current Use: City of Newton Public Works and Parks & Recreation Facility
 Current Zoning: C-A: Arterial Commercial

Context & History:

- 1700 North 4th Avenue West is located within the C-A: Arterial Commercial zoning district and is located at the northwest corner of the intersection with Highway 14. An aerial and zoning map are included for reference, and this city property is located along the western boundary of the Newton corporate limits.
- “Governmental or Public Utility Shops, Yards, Equipment Storage and Maintenance Facilities” were listed as a conditional use within the former “C-2: Highway Commercial” zoning district which is now recognized as the C-A: Arterial Commercial district.
- Thus, the subject property was redeveloped as the Newton Public Works facility under conditional use permit CU86-8, then updated as the facility expanded via CU93-4, CU00-1, CU15-3, and CU19-2. The following conditions were placed on the facility as part of those approvals:
- 1986:
 - Development and use of the site shall be in accordance with the site plan presented including:
 - Landscaping, grading and tree planting
 - Overnight outdoor parking of vehicles limited to emergency situations
 - Standard of maintenance and site appearance previously established by B&N Implement company shall be met or exceeded by City
 - The pasture land shall be restored and



- reseeded
 - Development shall be complete by September 1, 1987
 - City will monitor the water quality runoff from the snow storage area
 - City will design & construct detention dam to equalize rainfall and snow melt run-off
- Traffic on N. 4th Ave. W. shall be limited to:
 - No snow hauling will use North 4th Avenue West between West 8th Street North and Highway 14
 - Hauling of construction materials to site will not use North 4th Avenue West between West 8th Street North and Highway 14
 - Slow moving vehicles, such as street sweepers can use North 4th Avenue West for through travel not to exceed 20 vehicle trips per day
 - All other maintenance traffic shall not use North 4th Avenue West unless performing specific maintenance operations.
- 1993:
 - The overnight outdoor parking of city vehicles shall be limited to emergency basis only
 - The quality and site appearance on the site south of existing buildings established by the public works facility shall be continued for the entire property
 - The expansion of the fill area to the north shall be discontinued immediately
 - The City shall create a landscape buffer consisting of an evergreen mass tree planting
 - The city shall annually monitor the water run-off for snow storage area.
 - Sand will be stored in a single pile on the western edge of the asphalt pad
 - A landscaping plan to limit visibility
 - No snow hauling operations will use N 4th Avenue W
 - The hauling of construction materials will not use with N 4th Avenue W
 - Slow moving vehicles are allowed to use N 4th Avenue W for through traffic.
 - All other city maintenance traffic shall not N 4th Ave W.
- 2000:
 - Amend the site plan to allow 20 x 63' addition to the north side of the building
- 2015:
 - Storm water detention basin installed near southern property line to ensure no storm water impacts beyond property boundary after addition of new impervious surface
- 2019:
 - Amend the site plan to allow a 45' x 60' addition to existing accessory building along western side of the property.

Proposal:

- The City is proposing to construct a new 38' x 60' accessory building on the southern side of the property to be utilized as a wash bay for City vehicles and equipment.
- The storm water detention basin remains in sufficient condition as stipulated by conditions placed in 2015 (CU15-3).
- Existing screening installed per previous conditional use permits remains and is in good condition. The evergreen mass along the eastern side of the property continues to screen the facility from the neighborhood east of Highway 14. A new security fence was also recently installed.
- The proposed structure would not negatively impact on-site traffic circulation patterns.
- No new plantings are proposed. Staff would like to maintain visibility of the site from the southern property line so as to discourage unwanted visitors at the property.

Criteria for Granting Conditional Use Permits:

- *Criteria for Granting:* No conditional use shall be granted by the Zoning Board of Adjustment unless such use:
 1. Is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected;
 2. Is so designed, located, and proposed to be operated that it is compatible with its surroundings;
 3. Will not cause substantial injury to the value of the other property in the neighborhood in which it is to be located; and
 4. Shall conform to the applicable regulations of, and be compatible with the essential character of the district in which it is located.

Therefore, the role of the Zoning Board of Adjustment is to determine the appropriateness of the proposed amendment to the site plan to allow a new accessory building (wash bay) to the existing City of Newton property at 1700 N. 4th Ave. W., and to ensure it does not unreasonably or negatively interfere with the use and enjoyment of another's property.

Public Notice:

Notice of the public meeting was sent to all neighbors within 400 feet of the subject property upon which the proposed conditional use is to be located on November 19, 2024. Notice of the meeting was also published in the *Newton Daily News* twice, first on Tuesday, November 19, 2024, and again on Tuesday, November 26, 2024. If comments are received ahead of the meeting, staff will share them at this point.

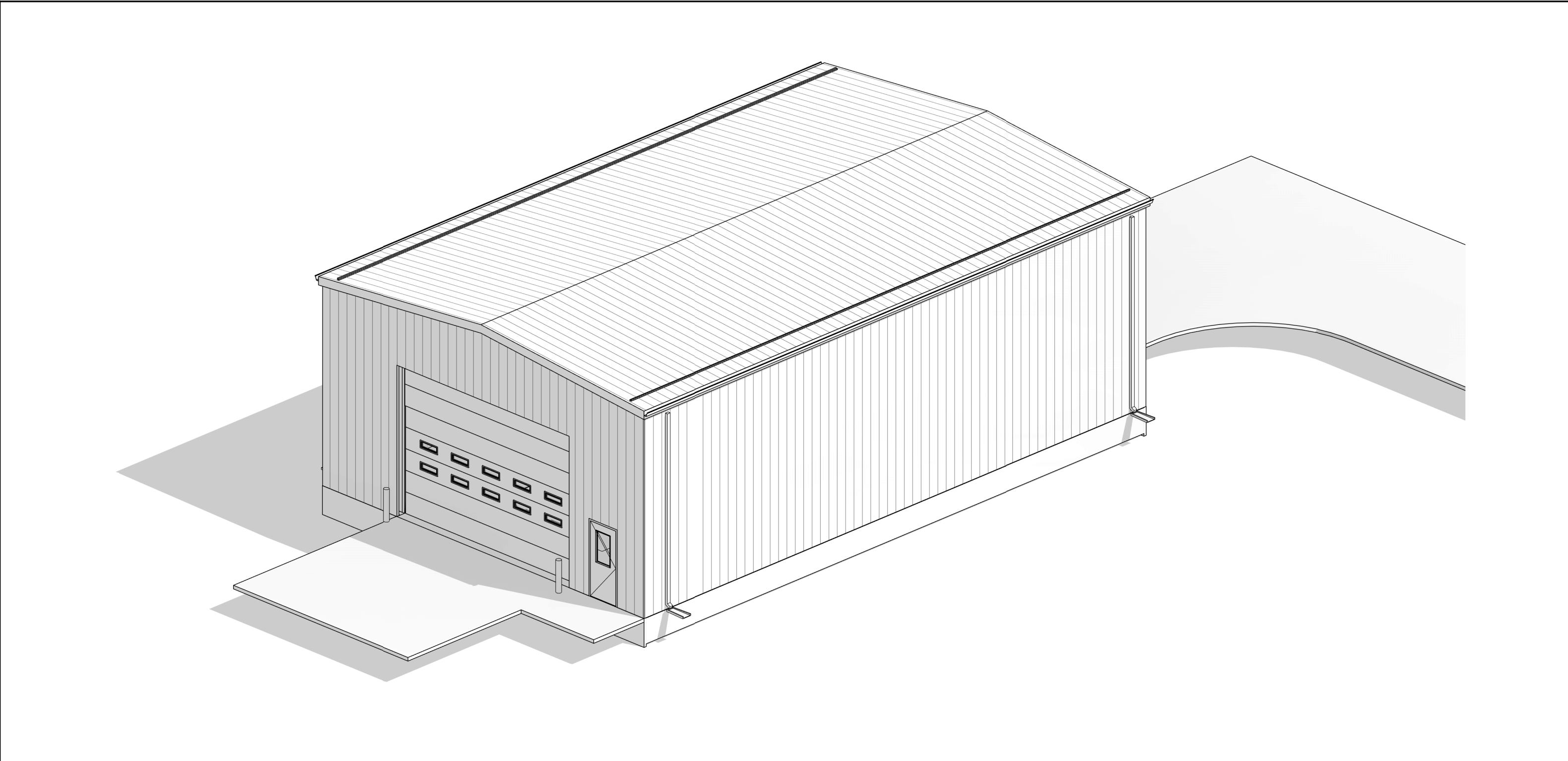
Recommendation:

The use of the facility will not be intensified beyond current conditions and the new building should actually enhance the appearance of city vehicles and equipment. Staff recommends approval of CU24-5 to authorize an amended site plan to allow for the construction of a new 38' x 60' accessory wash bay building and associated paving at the Newton Public Works and Parks & Recreation facility at 1700 N. 4th Ave. W. Conditions placed on the facility in 1986, 1993, 2000, 2015, or 2019 may be reiterated by the ZBA if applicable or new conditions may be considered if deemed necessary as part of this review.

City of Newton
Public Works - Wash Bay

**1700 N 4th Avenue W
Newton, Iowa 50208**

PROJECT IMAGE



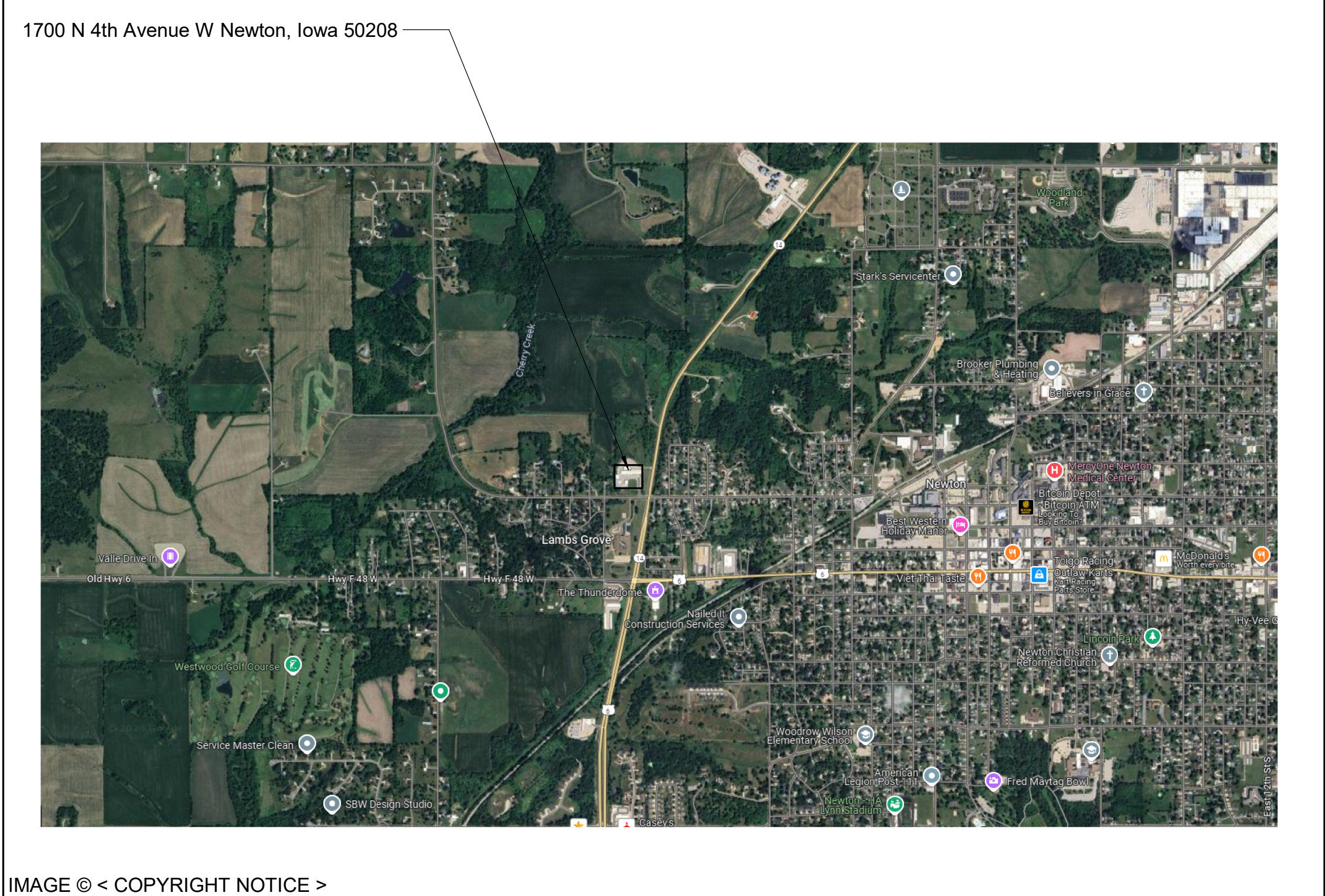
PROFESSIONAL REGISTRATIONS

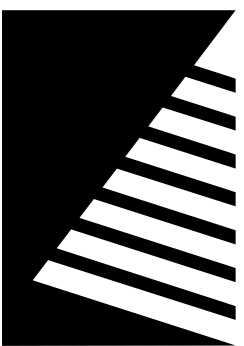


50% CD PROGRESS SET
Public Works - Wash Bay

City of Newton

LOCATION MAP





Farnsworth
GROUP

14225 UNIVERSITY AVENUE, SUITE 110
WAUKEE, IOWA 50263
(515) 225-3469 / info@f-w.com

www.f-w.com
Engineers | Architects | Surveyors | Scientists

ISSUE:	
#	DATE: DESCRIPTION:

50% CD PROGRESS SET
NOT FOR CONSTRUCTION

PROJECT:
City of Newton

Public Works - Wash
Bay

1700 N 4th Avenue W
Newton, Iowa 50208

DATE:	10/25/2024
DESIGNED:	NHD
DRAWN:	NHD
REVIEWED:	KMH

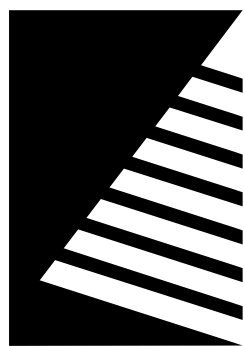
SHEET TITLE:
ARCHITECTURAL
SITE PLAN

SHEET NUMBER:

A1.0

PROJECT NO.: 0240694.00





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ISSUE:
DATE: DESCRIPTION:

50% CD PROGRESS SET
NOT FOR CONSTRUCTION

PROJECT:
City of Newton

Public Works - Wash Bay

1700 N 4th Avenue W
Newton, Iowa 50208

DATE: 10/25/2024
DESIGNED: NHD
DRAWN: NHD/SD
REVIEWED: KMH

SHEET TITLE:

FLOOR PLAN

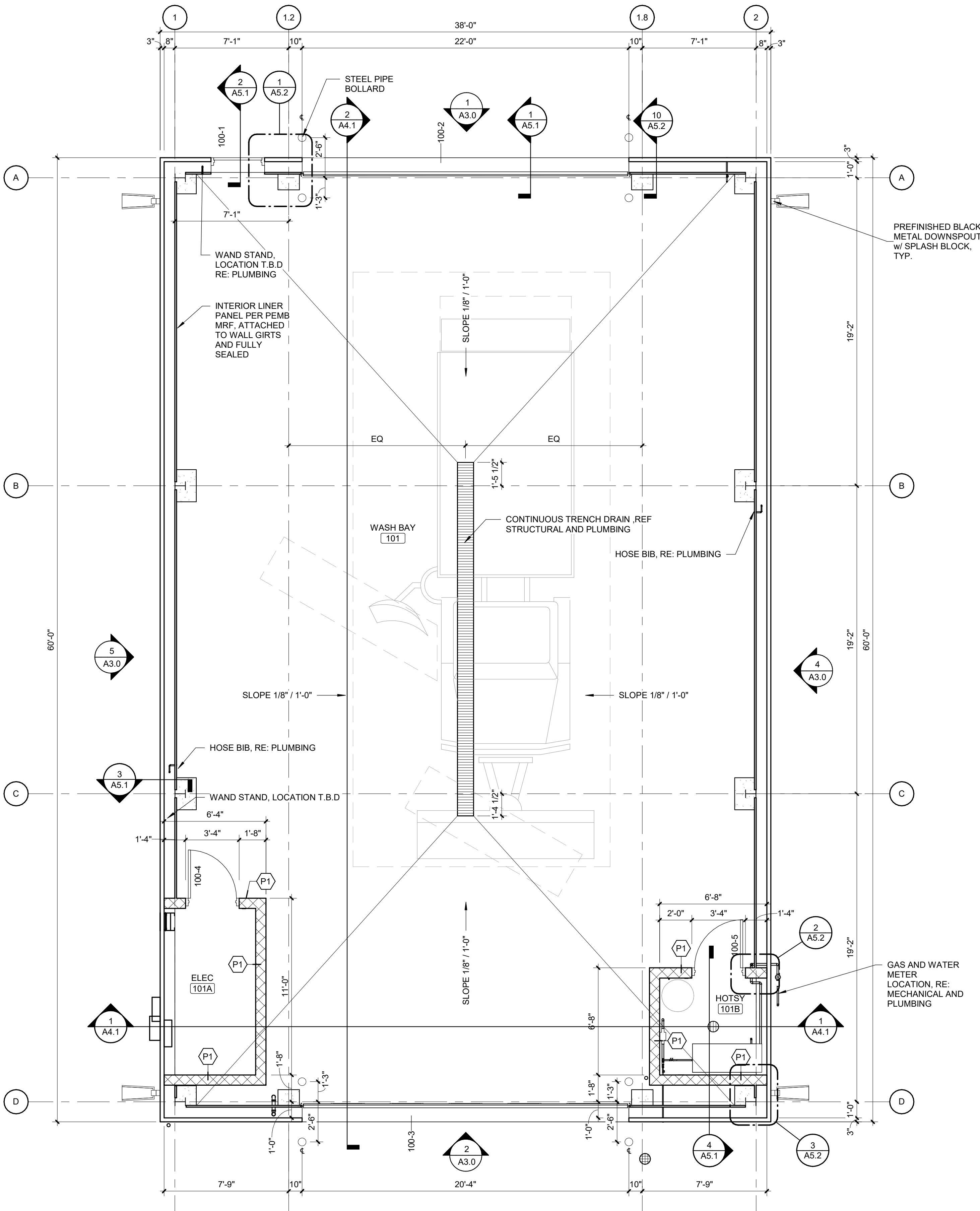
SHEET NUMBER:

A1.1

PROJECT NO.: 0240694.00

PLAN GENERAL NOTES

- FINISHED FLOOR (FF) ELEVATION = 935, RE: CIVIL
- ALL DIMENSIONS ARE TO FACE OF STUD, CMU AND/OR CONCRETE UNLESS NOTED OTHERWISE.
- ALL WOOD IN CONTACT WITH CONCRETE SHALL BE PRESSURE TREATED.
- ALL NEW WORK SHALL BE PLUMB TRUE, AND LEVEL UNLESS OTHERWISE NOTED.
- EXTEND FIRE RESISTANT CONSTRUCTION TO STRUCTURE ABOVE. EXTEND PARTITIONS AROUND EQUIPMENT, CABINETS, AND OTHER ITEMS THAT PENETRATE THESE PARTITIONS AND FILL VOIDS IN PARTITIONS ABOVE CEILING TO MAINTAIN DESIGNATED FIRE RESISTANCE. SEE LIFE SAFETY SHEET(S) FOR FURTHER FIRE AND SMOKE RESISTANCE INFORMATION.
- REFER TO STRUCTURAL DRAWINGS FOR FRAMING INFORMATION AND FRAMING DIMENSIONS.
- COORDINATE SLOPED FLOOR AT TRENCH DRAINS WITH STRUCTURAL.
- VERIFY SIZE, LOCATION, AND CHARACTERISTICS OF WORK AND EQUIPMENT FURNISHED BY OWNER WITH THE MANUFACTURER OR SUPPLIER PRIOR TO COMMENCING CONSTRUCTION ON WORK PERTAINING TO EQUIPMENT.
- VERIFY SIZE AND LOCATION OF ALL OPENINGS FOR MECHANICAL EQUIPMENT AND WORK WITH CONTRACTORS INVOLVED.
- ALL EXTERIOR LANDINGS TO BE 1/4" MAX BELOW FINISH FLOOR, TYPICAL.
- PROVIDE BRAILLE AND RAISED LETTERING EXIT SIGNAGE AS REQUIRED BY CODE AT ALL EXIT DOORS.
- APPLY CONCRETE FLOOR SEALER/WATER REPELLENT THROUGHOUT THE SPACE.

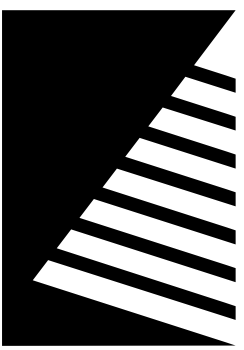


1 FLOOR PLAN

SCALE: 1/4" = 1'-0"



10/24/2024 2:14:23 PM



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ISSUE:
DATE: DESCRIPTION:

50% CD PROGRESS SET
NOT FOR CONSTRUCTION

PROJECT:
City of Newton

Public Works - Wash
Bay

1700 N 4th Avenue W
Newton, Iowa 50208

DATE: 10/25/2024
DESIGNED: NHD
DRAWN: NHD/SD
REVIEWED: KMH

SHEET TITLE:
EXTERIOR
ELEVATIONS

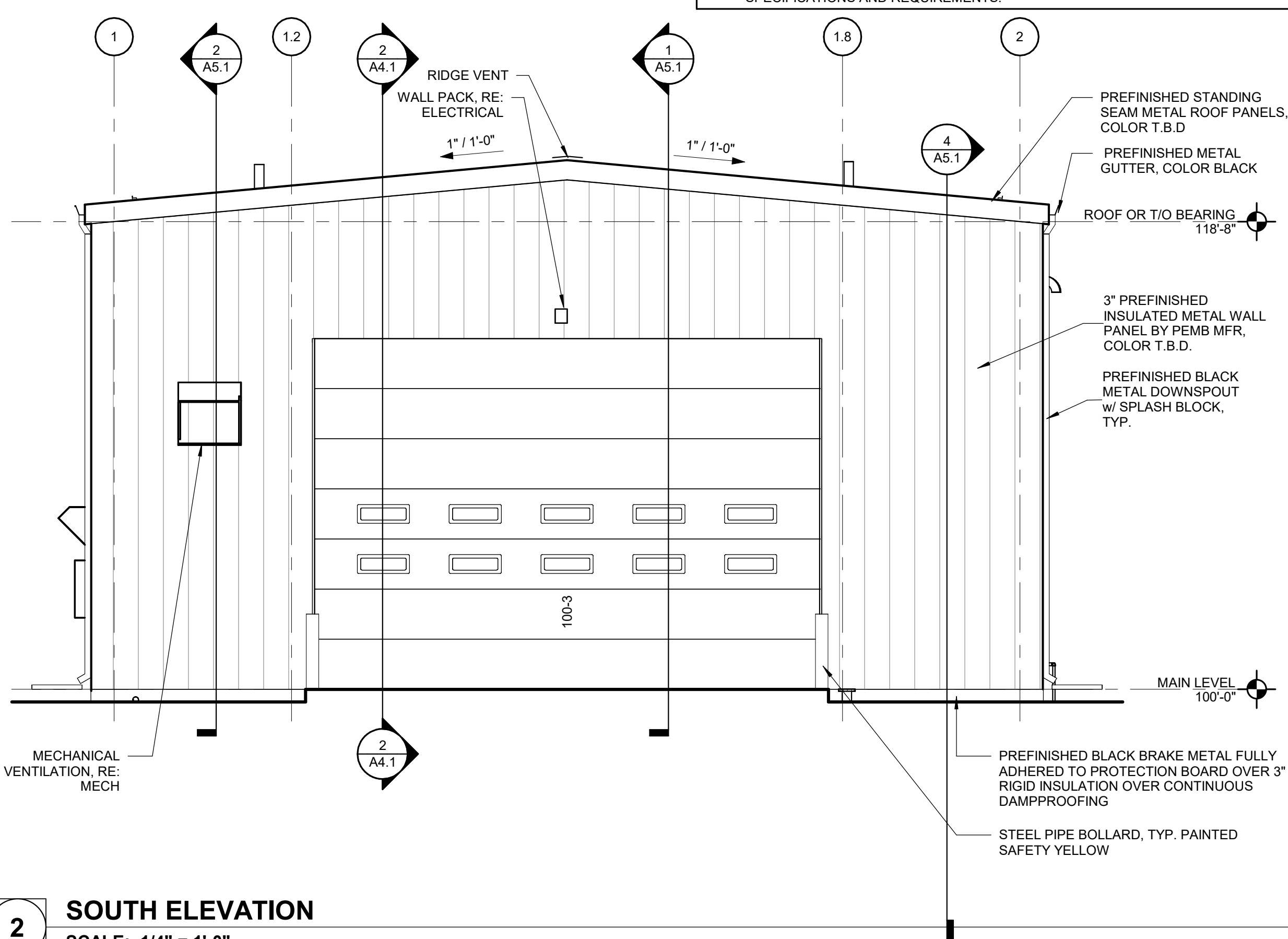
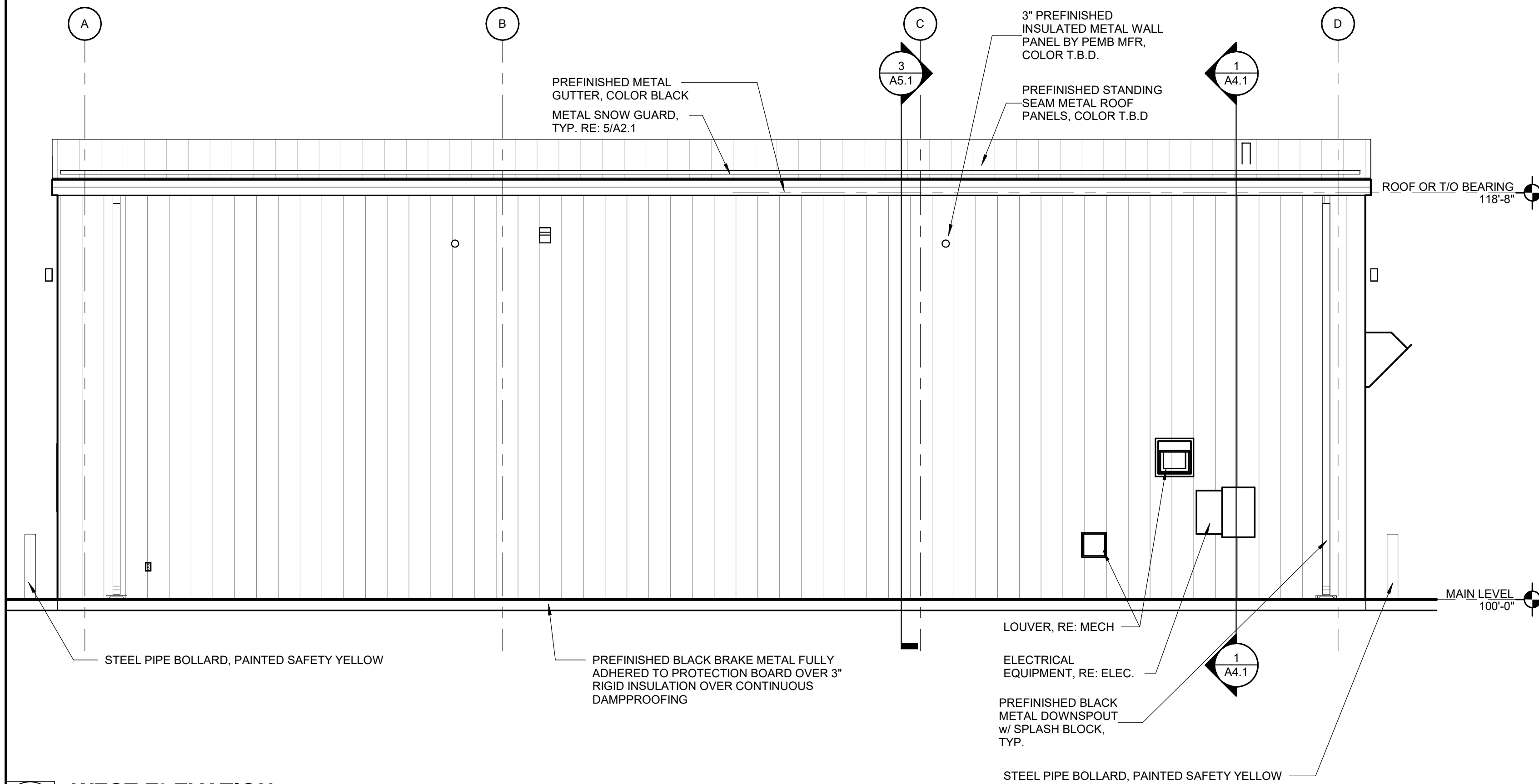
SHEET NUMBER:

A3.0

PROJECT NO.: 0240694.00

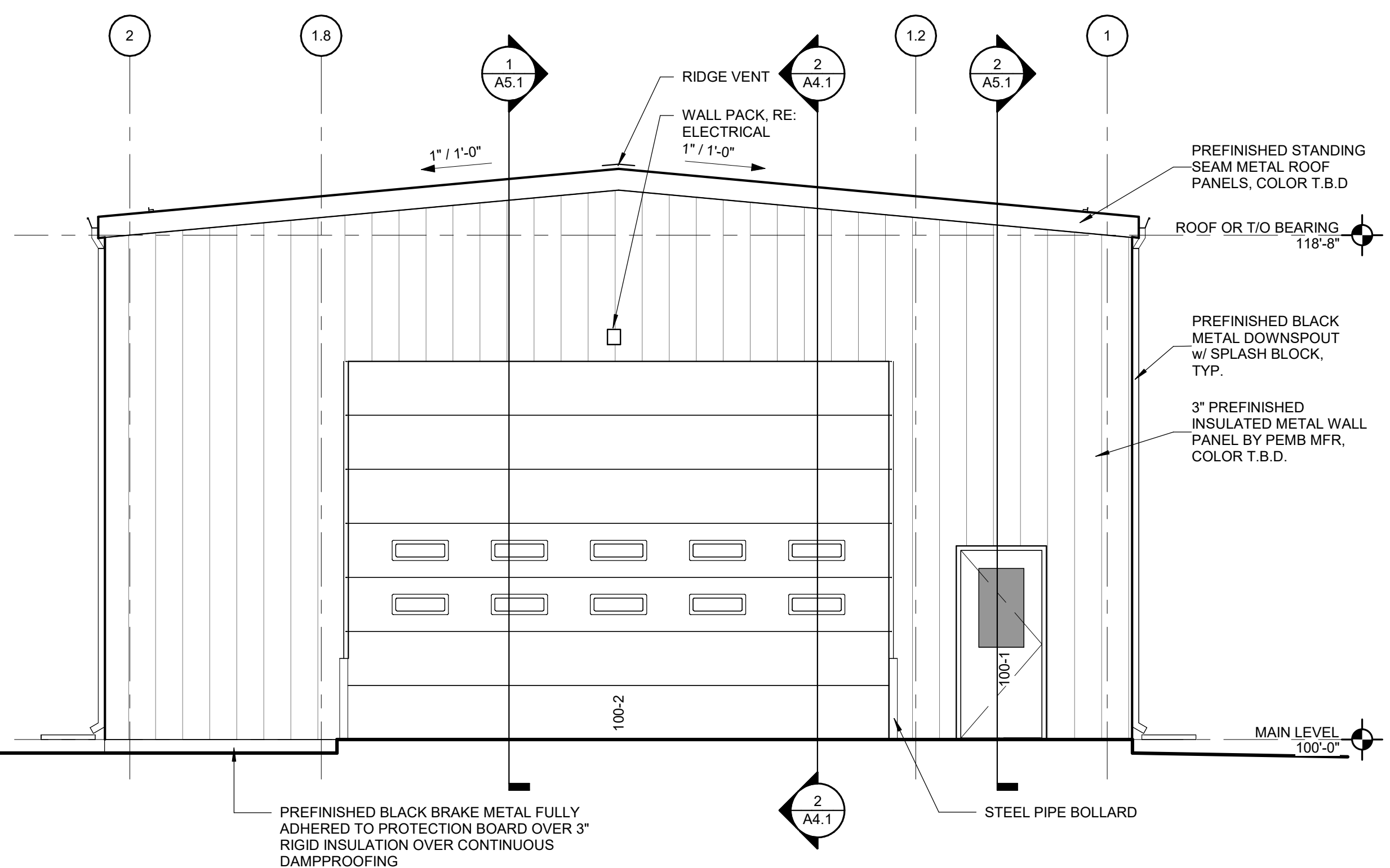
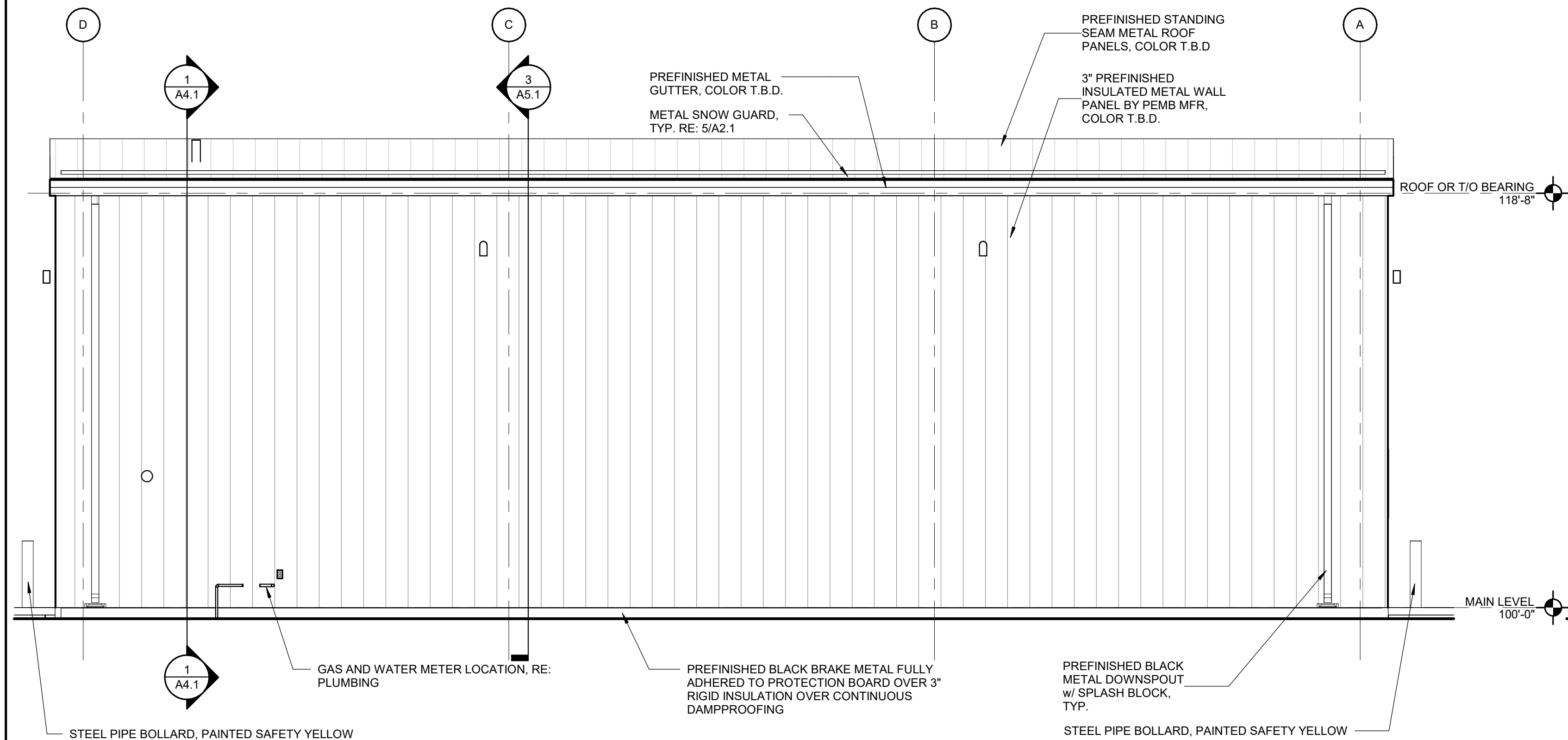
ELEVATION GENERAL NOTES

- A. PENETRATIONS TO NOT BE PLACED AT A INSULATED METAL PANEL JOINT.
B. ALL VERTICAL DIMENSIONS SHOWN ARE FROM FINISH FLOOR.
C. REFERENCE CIVIL AND STRUCTURAL DRAWINGS FOR GRADE CHANGES AND RETAINING WALL DIMENSIONS AND LOCATIONS.
D. PROVIDE BACKING AT LOCATIONS WHERE EXTERIOR LIGHTS ARE SHOWN ON METAL PANEL SYSTEM. COORDINATE WITH LIGHT MANUFACTURERS SPECIFICATIONS AND REQUIREMENTS.



5 WEST ELEVATION
SCALE: 1/4" = 1'-0"

2 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



4 EAST ELEVATION
SCALE: 1/4" = 1'-0"

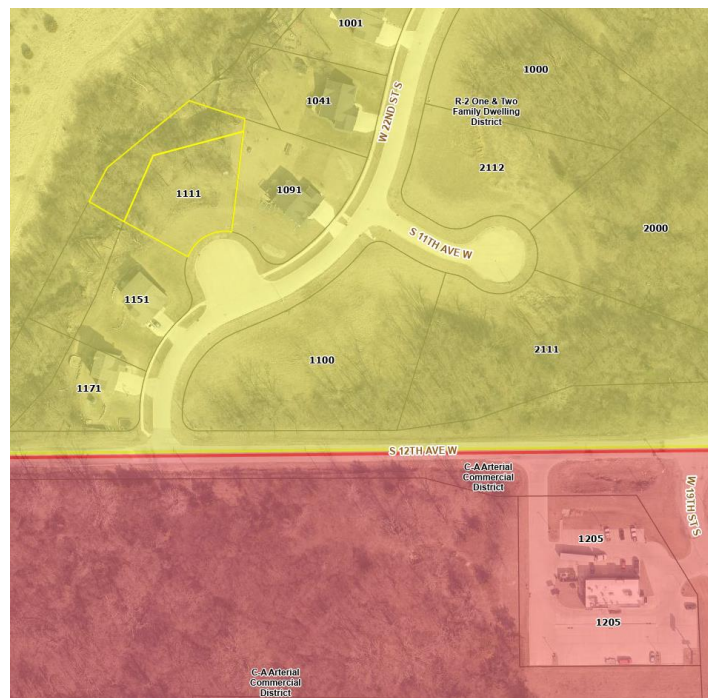
1 NORTH ELEVATION
SCALE: 1/4" = 1'-0"

Zoning Board of Adjustment – V24-3 Staff Report

Applicant:	City of Newton
Proposal:	Variance to allow 10' front yard building setback
Location:	1111 W. 22 nd St. S. (Parcel #0832477010)
Current Use:	Vacant residential lot
Current Zoning:	R-2: One- and Two-Family Residential

The City of Newton is requesting authorization for a reduced front yard setback at 1111 West 22nd Street South. The subject property is located within the R-2: One- and Two-Family Residential zoning district, and its frontage is along the back end of a miniature cul-de-sac.

Fountain Hills Estates, the subdivision in which the subject property is located, was originally platted in 2000. No development occurred between 2000 and 2013, so the City acquired all of the undeveloped lots through tax sale around that time (and one private acquisition). Since 2013, though, eight out of nine lots along the west side of W. 22nd St. S. have been developed with single-family dwellings. However, the subject property (Lot 18) is the one lot on the west side of the street that remains undeveloped.



City staff and NHDC continues to market these lots and regularly shares them with potential buyers and builders. Consistent feedback focuses on topography concerns and the associated upfront investment required. As a result of that feedback, lots 1-11 on the east side of W. 22nd St. S. were replatted in 2018 due to the size and topography constraints and to make them more appealing to prospective buyers or builders.

After recent discussions with a local builder, it was recognized that the topography of this lot creates a hardship that likely has contributed to it remaining undeveloped for the past 20+ years. That is, the grade falls dramatically towards the rear yard and into a drainage channel that flows southerly into Cherry Creek. This means that a builder would be required to bring in a substantial amount of fill and complete a significant amount of grading work to ensure a building meets the established minimum building setbacks. Therefore, the City is proposing this variance for a minimum front yard building setback of 10 feet to accommodate the future development of this particular lot.

Variance Questions:

The Zoning Ordinance includes specific criteria for granting variances. These are listed below, phrased as questions. Answers to the 6 variance questions were provided by staff. For each question, the Board should try to determine what, if anything, distinguishes this case from other projects in the same zoning classification and if the provided answers are sufficient.



According to the ordinance and in order to grant the variance, the answer must be “yes” to the first three questions and “no” to the last three:

1. Do the physical surroundings, shape, or topographical conditions of the specific property involved result in a particular hardship upon the owner, other than a mere inconvenience or loss of revenue?
2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification?
3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?
4. Did the present owner create the alleged difficulty or hardship?
5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?
6. Will granting the variance impair an adequate supply of light and air to adjacent property, increase the congestion, increase the danger of fire, endanger the public safety, or substantially diminish property values within the neighborhood?

Notice of Proposal:

Notice of the public meeting was sent to all neighbors within 200 feet of the subject property upon which the proposed variance is to be located on November 19, 2024. Notice of the meeting was also published in the *Newton Daily News* on Tuesday, November 26, 2024. If comments are received ahead of the meeting, staff will share them at this point in the report.

Recommendation:

Staff recommends that the Board only grant this variance if the answers provided to the six legal test questions are determined to be sufficient and/or if the Board determines that the request aligns with the spirit and intent of the Zoning Code. Staff finds that this variance is not detrimental to the public health or welfare or to the neighborhood considering the circumstances. A reduced front yard setback would still result in a future dwelling being setback much further than the two adjacent homes when taking the large cul-de-sac “bulb” into account.

As always, this recommendation applies with the understanding that neighborhood concerns and questions are addressed so as to avoid anything that is contrary to the public interest. The findings of the Board shall be a determination to either approve, conditionally approve (or a modified motion), or deny this variance.

According to the ordinance, in order to grant the variance, the answer must be “yes” to the first three questions, and “no” to the last three:

- 1. Do the physical surroundings, shape, or topographical conditions of the specific property involved result in a particular hardship upon the owner, other than a mere inconvenience or loss of revenue?**

Yes. This subdivision was platted within a densely wooded area with varied elevations. This specific property abuts a drainage channel/floodplain to the west which make it difficult to develop. This is evidenced by the other 8 lots along the west side of W. 22nd St. S. all being developed over the past decade.

- 2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification?**

Yes. This particular lot has a drainage channel/floodplain that runs along its rear property line which is not common for residential lots in Newton. The grading constraints at this site make it a challenge to develop.

- 3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?**

Yes. Even a 10' setback would result in a future home sitting back further than the adjacent dwellings along this street. If this was a flag lot instead of being positioned on a miniature cul-de-sac, this variance would not be necessary.

- 4. Did the present owner create the alleged difficulty or hardship?**

No. This subdivision was privately platted and constructed in 2000. The City then acquired the lots around 2012-2013 and has been working diligently since that time to see them developed.

- 5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?**

No. Housing is a high priority in Newton. This variance could result in a new residential property which will increase the tax base, fully develop all lots along the west side of W. 22nd St. S., attract a new or existing family to relocate, and remove the lot from the City's list of properties to maintain.

- 6. Will granting the variance impair an adequate supply of light and air to adjacent property, increase the congestion, increase the danger of fire, endanger the public safety, or substantially diminish property values within the neighborhood?**

No. This variance may result in a new home in this neighborhood that was platted for residential development more than 20 years ago. A reduced front yard setback could actually result in the new home being positioned further away from the rear yards and sightlines of the adjacent dwellings.