

**BOARD OF ADJUSTMENT MEETING
PUBLIC HEARINGS ON VARIANCE REQUESTS
MORRISON TOWN HALL
110 STONE STREET, MORRISON, CO
WEDNESDAY, JANUARY 3, 2024
6:00 PM**

1. CALL TO ORDER

2. ROLL CALL

Members: Wyatt Blassingame
Kyle Burris
Margaretta Caesar
Ann Pitinga
Shari Raymond
Maja Stefansdottir
Kathy Wolfe

3. APPROVALS

a) Minutes of November 16, 2022

4. PROCEDURES

6. PUBLIC HEARING – Applicant LivWell, requests a 40-foot side and rear setback variance to provide relief from the 50-foot setback requirement of the MU-CO zone district; 2) Retaining wall height variance to allow retaining walls to exceed 48 inches within the setback areas; and 3) Screening variance to allow no fencing and lower landscaping within 10 feet of the front lot line to provide relief from the requirement to provide a solid 48-inch high fence and/or earth mounding be maintained to substantially visually screen parked cars from adjacent public right-of-way to be located at 16103 Morrison Road, Morrison, CO 80465.

- Call the Hearing to Order
- Staff Report
- Public Comment
- Board Discussion
- Close Public Hearing
- Decision

5. ADJOURNMENT

MINUTES FOR BOARD OF ADJUSTMENT
MORRISON TOWN HALL
110 STONE STREET
WEDNESDAY NOVEMBER 16, 2022
6:00 P.M.

Call to Order. CO-Chairperson Kyle Burris called the Board of Adjustment Meeting to order at 6:00 PM.

Roll Call. CO-Chairperson Kyle Burris, Board Members, Shari Raymond, Ann Pitinga, Kathy Wolfe and Maja Stefansdottir were present. Chairperson Wyatt Blassingame and Board Member Margaretta Caesar were absent. A quorum was established.

Staff Present. Gerald Dahl (Town Attorney), Carrie McCool (Town Planner), Kara Winters (Town Manager) and Ariana Neverdahl (Town Clerk).

Approvals. Pitinga moved to approve the Minutes from the July 12, 2022. Wolfe seconded the motion. All members present voted aye. The motion carried.

Morrison Water Treatment Plant 9.19-foot front setback variance request.

Co-Chairperson Burris opened the public hearing at 6:00PM.

Staff Report. Town Planner McCool stated the applicant Burns & McDonnell Engineering, Inc. have applied for a variance request from Article 10-1E-6. The request is to provide relief from twenty-foot front setback requirement of the I-Industrial Zone District. Town Planner McCool stated the Town of Morrison recently purchased a .97-acre tract of land for the development of the Town's new Water Treatment Plant. Town Planner McCool stated the Twenty-foot setback is not achievable from the north side of the subject property due to the unusual shape and topography of the property. Town Planner McCool stated if the variance request is granted the front setback will allow efficient and safe function of a needed community use and all other zone district requirements will be met. Town Planner McCool stated staff finds that if the variance request is granted, it will not have an adverse effect on the adjacent property or the neighborhood. Town Planner McCool informed the Board of Adjustment the configuration of the .97-acre and steep topography of the subject property significantly limits the water treatment plant building location to the northeast portion of the site. The 9.19-foot front setback variance is the minimum variance that would afford relief with the least modification to allow for construction for the Morrison Water Treatment Plant Expansion.

Applicant Report. Brett Pugh, 9785 Maroon Circle, Centennial 80112.

Stefansdottir asked how tall the building will be. Pugh informed the Board of Adjustment the design of the building is a walkout configuration that will be 35 feet tall on the east side of the building and approximately 25 feet tall on the west side. Pugh also noted the overall building height is below the maximum allowable elevation of 5965 to the topmost peak elevation in accordance with the building envelope limit that was agreed to at the time of the purchase of the property.

Burris asked about the dimensions of the building and the rain garden. Pugh stated the building has three catchment zones for drainage.

Burris asked about the material of the building and how they will blend in with the natural landscape. Town Manager Winters stated Town Staff worked with Denver Mountain Parks to select the colors of the

building.

Wolfe asked about the access road to the plant and if Denver Mountain Parks will allow the Town to use the road. Town Attorney Dahl informed the Board of Adjustment the Town has an Intergovernmental Agreement with Denver to allow the Town access to the road.

Wolfe asked about the security of the building. Pugh stated the building will be key access only with a protective game fence. Town Manager Winters stated the Town will also install security cameras.

Public Comment. None.

Board Discussion. Pitinga stated the adjacent property owners had no objections to the application and the Board should approve it.

Co-Chairperson Burris closed the Public Hearing at 6:20 PM.

A motion was made by Wolfe to approve the 9.19-foot front setback variance request from Burns & McDonnell Engineering Inc. on behalf of the Town of Morrison in connection with the proposed construction of a new water treatment plant. Pitinga seconded the motion. All members resent voted aye. The motion carried.

Adjournment: CO-Chairperson Burris adjourned the meeting at 6:21 P.M.

TOWN OF MORRISON

Kyle Burris, CO-Chairman

ATTEST:

Ariana Neverdahl, Town Clerk

Memorandum

To: Chairperson, Members of the Board of Adjustment

Date: 12/26/2023

Re: Hearing Procedure, Variance Applications

1. **Purpose.** To briefly state procedures for conduct of a public hearing on an application for a variance.

2. **Discussion.**

a. **Quasi-Judicial Proceeding.** A variance hearing is a quasi-judicial proceeding. The quasi-judicial decision-maker is held to the same standard of impartiality as a judge. There are several recognized grounds on which the neutrality and impartiality of a decision maker may be challenged:

- i. Financial or other personal interest in the matter;
- ii. Prejudgment of the matter;
- iii. Relationship to a party or witness such as familial or employment;
- iv. Ex parte communication regarding the matter. In the context of a quasi-judicial proceeding, these are communications with an applicant, witness, or opponent outside the hearing concerning the matter at issue; and
- v. Bias or prejudice against, or in favor of, a party.

This is the typical list of disqualifying grounds; however, the essence of each is that it demonstrates lack of impartiality or neutrality or compromises the appearance of fairness and impartiality such that parties or the public are left with a substantial doubt regarding fairness or impartiality.

The Board of Adjustment will decide the matter by applying the standards contained at §10-1C-1 of the Morrison Town Code to the evidence presented at the hearing. The evidence consists of the material provided by the Town's consultants, the material presented by the applicant, and the information and testimony provided by residents of the neighborhood, if any. The burden is upon the applicant to present evidence to support the application. Four votes are necessary to approve a request.

b. **Procedure.** The Board of Adjustment has previously adopted Rules and Procedures. These should be reviewed and may be modified, as the Board desires. The general order for presentation of a case for a variance would be as follows:

- i. Announce the agenda item and title; declare the public hearing open.
- ii. Ask the Secretary if appropriate notices have been posted.

- iii. Determine if everyone is present who wishes to testify has signed the roster.
- iv. Board members who received any information outside the public hearing regarding the application should disclose at this time, including any potential conflicts of interest. The Board should determine if the member should recuse or not at this time.
- v. Administer oath to all witnesses (can be a group oath: *“If you intend to testify, please stand and raise your right and. If you agree that your testimony will be the truth as you know it, please say yes.”*)
- vi. Determine who is present to represent the applicant. Ask them to introduce themselves by stating their name and address.
- vii. Ask the applicant to present its case through his/her testimony, testimony of witnesses, photographs, illustrations, etc.
- viii. Board questions of the applicant.
- ix. If the Town is appearing it would present its case next, followed by Board questions of the town’s representative.
- x. Public may comment and ask questions. These witnesses should state their name and address. Questions and comments should be addressed to the Chairperson not the applicant.
- xi. The Board may have questions for the public speakers.
- xii. The applicant may submit testimony or exhibits in “rebuttal” of these statements.
- xiii. The public portion of the hearing may be closed or continued for additional information.
- xiv. If the hearing is closed, the Board may discuss the evidence and applicable standards and law. Public testimony is concluded. The Board may address questions to staff only, not the applicant or other witnesses at this time.
- xv. The Board may continue the matter for a decision by written resolution.
- xvi. In simpler matters, a motion may be introduced, discussed, and voted upon. The decision of the Board should ultimately be reduced to a written form with a copy to the applicant and to the Town Clerk. The written decision should set forth the decision and the findings and conclusions of the Board.

c. **Executive Session.** If a Board member has specific questions to ask of the Town Attorney, a request may be made for an executive session. An executive session requires approval by four of the five Board members.

3. **Criteria.** The powers of the Board of Adjustment and the criteria for variances are set forth in §10-C-1 et seq. “Zoning Regulations” of the Morrison Town Code. The State statute which authorizes a Board of Adjustment and establishes the use variance authority, states that the Board has the authority to modify use regulations where there are “practical difficulties” or “unnecessary hardships” in carrying out the strict letter of the ordinance while insuring that the spirit of the ordinance is observed, public safety and welfare served, and substantial justice done.

a. Our ordinance requires that, in order to grant a variance, the Board may vary the application of the regulations set forth in the zoning ordinance, to the extent they are applicable in a particular case, only if the Board finds that:

- i. By reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property;
- ii. The variance, if granted, will observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice;
- iii. The variance, if granted, will not adversely affect the adjacent property or the neighborhood;
- iv. The variance, if granted, will not substantially or permanently impair the appropriate use or development of adjacent property
- v. The variance, if granted, is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter; and

b. In deciding variance applications, the Board may consider whether the alleged difficulty or hardship was self-imposed.

c. The Board may not grant any variance relating to the use of property.



TOWN OF MORRISON

321 HIGHWAY 8 ● MORRISON, CO 80465 ● PHONE: (303) 697-8749
FAX: (303) 697-8752

Staff Report Board of Adjustment

Public Hearing Date: January 3, 2023, at 6:00 p.m., Morrison Town Hall
Prepared by: Carrie McCool, Town Planner
Through: Kara Winters, Town Manager
Property Owner: Town of Morrison
Applicant: G Squared Design for LivWell Enlightened Health
Agenda Items:

- 1) 40-foot side and rear setback variance;
- 2) Retaining wall height variance to allow retaining walls to exceed 48 inches in height within the setback areas; and
- 3) Screening variance to allow no fencing and lower landscaping within 10 feet of the front lot line as screening of surface parking lots.

REQUEST:

The applicant, G Square Design, on behalf of LivWell Enlightened Health, requests three (3) variances from the permitted structures standards of the Mixed Use Commercial and Office (MU-CO) zone district as follows:

1. Rear and Side Setbacks: 40-foot side and rear setback variance to provide relief from the 50-foot setback requirement;
2. Fences, Walls and Retaining Walls: 12-inch retaining wall height variance to allow retaining walls to exceed 48 inches with the setback areas; and
3. Screening: Screening variance to allow no fencing and lower landscaping within 10 feet of the front lot line as screening of surface parking lots to provide relief from the requirement to provide a solid 48-inch high fence and/or earth mounding and planting is maintained to substantially visually screen parked cars from adjacent public right-of-way.

BACKGROUND AND CONTEXT:

The subject property is a 1.009-acre vacant lot known as Lot 3 Red Rocks Ranch, Subdivision Filing 1. It

was previously Civic Planning Area 5 of the Red Rocks Centre Overall Development Plan Amendment #1 and was dedicated to the town after the disconnection, rezoning, and resubdivision of Red Rocks Centre in 2018. The voters of the town passed a ballot measure on April 5, 2022, to permit the town to license a single retail marijuana store restricted to the portion of the town located east of the Dakota Hogback formation (East Planning Area) and subsequently approved the taxing of retail marijuana and retail marijuana products at a rate of 6.25 percent and not exceeding 11.25 percent. Through the approval of Ordinance 518, the Board amended the rate of tax charged upon the sale of retail marijuana and retail marijuana products to 11.25 percent on October 18, 2022.

To implement community will, the Board adopted retail marijuana regulations (Title 3, Chapter 7 Retail Marijuana Establishment) and through its approval of Ordinance No. 510, the Board amended the Mixed Use Commercial and Office (MU-CO) zone district to include a Retail Marijuana Store as a permitted use within the MU-CO zone district. Through approval of Ordinance No. 525, the Board approved the leasing of Lot 3 to LivWell, XVII, LLC (LivWell) for use as the site of a retail marijuana store on December 20, 2022.

The property is located in the East Planning Area with a land use designation of civic pursuant to the 2015 Comprehensive Plan. The East Planning Area encompasses the southern portion of the Rooney Valley known as Red Rocks Ranch, where most land is located in Unincorporated Jefferson County. This area is separated from the Central Planning Area by the Hogback and C-470, which allows more intensive development to occur while limiting the impacts on the historic Central Planning Area. The town-owned property was rezoned from Planned Development to Mixed Use Commercial and Office (MU-CO) in August 2023.

The vacant lot is located north of the town sewer treatment plant at the northeast intersection of C-470 and Morrison Road. There is existing steep site grading on the southern half of the site wherein steep slopes represent significant topographic elevation changes on the site. The lot has an irregular shape and is positioned at a lower elevation compared to the C-470 corridor. It is also encumbered by utility and drainage easements as well as a 20-foot easement for the Ward Canal that traverses across the southern portion of the lot (see Figure 2). The two utility easements are specific to existing sanitary storm service and water utilities that cross the site. These easements are greater than the typical width, given the substantial depth of the existing utilities. The north/south easement is 70 feet in width and the east/west easement is 60 feet in width.



PUBLIC NOTICE:

The proposed variance requests were publicly noticed in accordance with the public notification requirements outlined in the *Morrison Town Code, Title 10: Zoning and Land Development*.

VARIANCE REVIEW STANDARDS:

In passing upon appeals and variance requests, the Board of Adjustment may vary the application of the regulations set forth in the zoning ordinance only if the Board finds that:

1. By reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property.

Staff Findings:

Rear and Side Setbacks: The applicant is proposing to construct a 6,000 square foot single story building to accommodate a retail marijuana store on town-owned property. The MU-CO zone district requires a 50-foot building setback from all sides (front, sides, and rear) of the lot.

The applicant has provided a graphic that depicts the required 50-foot setbacks to show when the required 50-foot setbacks are overlayed with all buildable area restrictions, the resultant buildable area is limited to 3,300 square feet (see Figure 3). This equates to a buildable area of only 7.6% of the lot area and would thus make building the marijuana retail store not feasible. The applicant proposes constructing the building in the northeast corner of the lot with 10-foot rear and side setbacks, which would increase the buildable area to 21.7% of the lot area. The building would have a front setback of approximately 75 feet, which exceeds the minimum front setback requirement of 50 feet.

The applicant has also noted that the two existing utility easements crossing the site, along with the steep topography, have driven the proposed building placement. The existing sanitary storm service and water utilities are easements that cannot be modified and are required to safely access the sanitary sewer and/or water at its depth. The Utilities Director has confirmed the sewer lines are very deep and required the applicant to consider them in the ultimate building placement.

Staff finds the topography of the site and the constraints of the existing easements are exceptional conditions wherein strict application of the rear and side setback requirements would result in peculiar and undue practical difficulties for the applicant.

Fences, Walls and Retaining Walls: Based on the existing steep site grading on the southern half of the site, the applicant is requesting a variance to the height of retaining walls located within building setback zones. The current proposed site layout shows parking along the south edge of the site, which will require a retaining wall running the full width to allow for safe, acceptable grading within the parking lot and an adequate transition at the existing steeply graded portion of the site. The applicant has highlighted the portion of the retaining wall that would be located within the 50-foot side/front setback that would exceed 48 inches in height (see Figure 4). The portion of the wall is limited to the southwestern portion of the site and would only exceed the 48 inch limitation by approximately an estimated 12 inches. The applicant is requesting a variance to allow for walls of 60 inches in height to account for any adjustment to the final design of the walls and finished grading.

Staff finds the existing steep site grading on the southern half of the site is an exceptional condition wherein strict application of the retaining wall height limitations would result in peculiar and undue practical difficulties for the applicant.

Screening: The MU-CO zone district sets forth regulations on permitted encroachment on setback space. Specifically, surface parking lots may be constructed within the front setback to within ten feet (10') of the front lot line, provided that a solid fence forty-eight inches high and/or earth mounding and planting is maintained to substantially visually screen parked cars from the adjacent public right of way.

The applicant proposed a site layout that would include a strip of parking along the western edge of the site. Given the boundaries of the lot and the building and parking requirements, they are proposing to locate the parking up to the 10' limit of the front property line. However, they are requesting a variance to the screening requirement due to the parking being in this area. This lot edge abuts C-470 and its associated northbound on ramp from Morrison Road. The applicant feels that given this site edge does not abut a buildable zoning district, and the elevated position of C-470 in relation to the site would allow for the removal of this screening requirement. As an estimate, based on satellite data, C-470 is between 7 and 10 feet above the proposed parking along the west edge of the site. Additionally, this area would be generally challenging to landscape and maintain, and a fencing element would negatively impact the visual connection to the retail store and open landscape feel of the area; therefore, the applicant is requesting a variance to not provide fencing and to be allowed to have lower landscaping (i.e., native grasses, boulders, and native shrubs) within the 10-foot strip of land.

Staff finds that the elevated location of C-740, combined with the absence of an abutting building zoning district along the lot edge, constitutes an exceptional condition for this property. Strictly enforcing the screening requirement would result in peculiar and undue practical difficulties for the applicant.

2. The variance, if granted, will observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice.

Staff Findings: Staff finds the rear and side setback, retaining wall, and screening variance requests, if granted, would observe the spirit of this article, secure the public safety and welfare, and achieve substantial justice in that the building siting allows the efficient and safe function of a needed revenue-generating use and all other zone district requirements will be met.

3. The variance, if granted, will not adversely affect the adjacent property or the neighborhood.

Staff Findings: The subject site is bounded by the existing town sewer treatment plant to the south, single-family homes to the north/northeast, and the C-470 corridor to the west.

The applicant stated that their intent is to comply with the underlying intent of the Zoning Code with the variance requests and have factored this into the proposed design. They maintain the design is visually open only from the west and south. The north and east are visually "closed" to screen the retail

aspects from the neighboring residential community to the east and north. They have located primary parking and main entry to the southwest, physically, and visually removed from the north and east. They are trying to provide the maximum, appropriate, quantity of parking stalls to ease customer flow and remove the potential negative impacts of traffic flow and parking availability on Morrison Road and the adjacent sewer treatment plant. They have located the building in the northeast corner and sunken it into the existing hillside in an effort to minimize its presence to the neighbors. This also allows desired visibility to C470 traffic without the building overpowering the site or area. The conceptual design, as depicted in the concept site plan (Figure 4), floor plan (Figure 5) and exterior rendering (Figure 6) is thoughtfully developed to coordinate the programmatic goals of LivWell for this retail facility while respecting the Town of Morrison's Zoning intentions.

Rear and Side Setbacks: Staff finds the proposed 10-foot rear and side setbacks would not adversely affect adjacent properties to the north/northeast as adequate building separation is provided, and the proposed building would be embedded into the existing hillside, thereby reducing the possibility of adverse visual impacts on the adjacent neighborhood. Additionally, the building placement maintains the desired visibility for C470 traffic without the building dominating the site or surrounding area.

Fences, Walls, and Retaining Walls: The requested variance from the retaining wall height requirements within building setback zones is limited to walls situated on the southwest portion of the site. The only property that could potentially be affected is the town and individuals traveling along C-470. The town has no concerns with retaining walls exceeding the height limitation by 12 inches considering the topographic elevation changes. Staff finds travelers on C-470 would not be adversely impacted, considering C-470 is positioned 7 and 10 feet above the proposed parking along the west edge of the lot.

Screening: The requested variance from screening requirements for parking located within the 10 foot setback is limited to the strip of parking along the western edge of the site. The only parties that could potentially be affected would be individuals traveling along C-470. Staff finds the elevation differentiation between the lot and the C-470 corridor would eliminate the need to visually screen parking with a fence or earth mounding and plantings within the front setback as the proposed parking would be below the C-470 corridor.

4. The variance, if granted, is the minimum variance that will afford relief with the least modification possible of the provisions of this chapter.

Staff Findings:

Rear and Side Setbacks: The topography of the site, limited buildable area, and constraints of the existing easements significantly limit the building placement anywhere other than the northeast portion of the property. The 40-foot rear and side setback variances are the minimum variance that would afford relief with the least modification to the MU-CO setback requirements.

Fences, Walls and Retaining Walls: The applicant has provided engineered estimates on the height of the retaining walls that are needed to allow for safe, acceptable grading within the parking lot and an adequate transition at the existing steeply graded portion of the site. Staff finds that the request to

allow for walls within the building setback zones to be 60 inches in height is the minimum variance that would afford relief.

Screening: The elimination of the fencing and allowance of lower landscaping to be maintained in the front setback is the minimum variance that would afford relief and is in the spirit of the parking screening requirements as the elevation position of C-470 in relation to the site would visually screen parked cars from the adjacent highway corridor.

5. In deciding variance applications, the Board may consider whether the alleged difficulty or hardship was self-imposed.

Staff Findings: The mixed-use commercial zone districts (MU-C and MU-CO) were adopted by the town back in the 1980s and were derived from the City of Denver Zoning Code. The standards contemplate large office parks and commercial development on large lots with tall buildings. This intention is evident in various requirements, such as the 50-foot setbacks from the front, sides, and rear, limitations on fence and retaining wall heights, and screening requirements for parked cars. When considering these requirements, along with the size and shape of the property, dedicated utility easements, and significant existing topographic elevation changes, it becomes clear that complying with these regulations poses substantial difficulties that were not created by the applicant.

STAFF RECOMMENDATION

Finding the variance requests substantially meet the variance review standards, Staff recommends **APPROVAL** of the three (3) variance requests.

BOARD OF ADJUSTMENT MOTIONS:

Below are potential motions that the Board of Adjustment could consider regarding the variance applications:

1. The Board of Adjustment could approve the variance requests, finding that they substantially meet the standards listed above.
2. The Board of Adjustment could approve the variance requests, finding that they substantially meet the standards listed above with condition(s) outlined by the Board.
3. The Board of Adjustment could deny the variance requests, finding that they do not substantially meet the standards listed above.

RECOMMENDED MOTION:

“I move to **APPROVE** the 40-foot side and rear setback variance request, 12-inch retaining wall height variance request, and variance to allow no fencing and lower landscaping within 10 feet of the front lot line as screening of surface parking lots.”

ATTACHMENTS:

1. Land Development Application
2. Letter of Intent
 - Figure 1: Existing Lot and Surrounding Conditions
 - Figure 2: Existing Lot, Setbacks and Easements
 - Figure 3: Existing Lot, Buildable Area
 - Figure 4: Existing Lot Variance Requests
 - Figure 5: Concept Design, Floor Plan
 - Figure 6: Concept Design, Exterior Rendering

LAND DEVELOPMENT APPLICATION
Town of Morrison
321 Colorado Highway 8, Morrison, Colorado 80465
Telephone: 303-697-8749 Fax: 303-697-8752

Project Name: Case No.:

Property Address:

Project Description:

Is property within Town limits? Yes No Present Zoning:

Name of existing Official Development Plan:

existing Subdivision Plat:

Parcel Size: Acres/Square Feet Jefferson County Assessor's I.D. No.(s):

Existing Use:

Application Fee Attached: Yes No Amount: \$

ACTION REQUESTED:

Annexation: acres of land and acres of right-of-way

Zoning / Rezoning: from: to:

Subdivision: Preliminary Map Major or Minor existing lots proposed lots

Final Plat Major or Minor existing lots proposed lots

Lot Line Adjustment Error Correction Exemption

Proposed Subdivision Name:

Final Site Plan: Existing Building Square footage: Total Proposed Building Sq. Ft.:

Site Plan Amendment: Existing Building Square footage: Total Proposed Building Sq. Ft.:

Official Development Plan Modification: Minor Major

Other:

Land Disturbance Permit Temporary Use Variance Right-of-Way

Site Improvement- Historic Overlay District Special Use Permit Vacation of Easement

APPLICATION INFORMATION: Property Owner? Yes No

Name: Phone:

Firm: Email:

Address:

ARCHITECT / PLANNING CONSULTANT INFORMATION

Contact Person's Name: Phone:

Firm: Email:

Address:

ENGINEERING CONSULTANT INFORMATION

Contact Person's Name: Phone:

Firm: Email:

Address:

G SQUARED DESIGN

November 16, 2023

Town of Morrison
Community Planning & Development
Attn: Carrie McCool
 321 Colorado Highway 8
 Morrison, CO 80465
 303-697-8749

Re: **Zoning Variance Request**
 LivWell Retail Marijuana Store
 16103 Morrison Road
 Morrison, CO 80465

Carrie:

On behalf of LivWell Enlightened Health we have outlined the following Zoning Variance Request for your consideration. The Lot was recently rezoned to MU-CO to allow for a Marijuana Retail Store by Use as part of the Ordinance to allow a Marijuana Retail Store within the limits of the Town of Morrison. As a resultant combination of this Zoning Classification, the size and shape of the existing Lot, current existing site restraints including dedicated Utility Easements and significant existing topographic elevation change, we are requesting the following Variances to the Zoning Code Requirements adopted by the Town of Morrison to allow for the construction of the proposed facility.

Below we have referenced the specific Zoning Code Sections we are requesting a Variance to, with design response information in ***bold italic*** following each section.

Referenced Sections of Adopted Zoning Code:

10-1E-2: Mixed Use Commercial and Office District (MU-CO)

Section C.3.b

Rear And Side Setbacks: "All structures shall be set in a distance of not less than twenty-five feet (25') from other zone lots within this MU-CO District and not less than fifty feet (50') from other zone district boundaries."

Design Intent Request: *The section above requires a 50' Building Setback from all sides of the Lot (front, sides and rear) for this Lot (see Figure 2). When the required 50' setbacks are overlayed with all buildable area restrictions, the resultant Buildable Area is extremely limited (refer to Figure 3) and limited to approximately 3,300 sf. This equates to a buildable area of only 7.6% of the Lot Area. LivWell is proposing an approximately 6,000 GSF single story building. With the current available Buildable Area this facility is not feasible. Our request would increase the buildable area to 21.7% of the Lot Area.*

Specific to the Easements, there are two existing Utility Easements crossing the site (Figure 2 and 3). Both Easements are specific to Existing Sanitary Storm Service and Water Utilities and are of greater than typical width given the substantial depth of the existing utilities. The north/south easement is 70' in width and the east/west easement is 60' in width. These Easements cannot be modified and are required to safely access the Sanitary Sewer and or Water at its depth.

Section C.3.d

Fences, Walls and Retaining Walls: "Fences, walls and retaining walls not exceeding forty eight inches (48") in height may be erected on any part of the setback areas. Within setback lines, fences may be erected to a height of not to exceed seventy-two inches (72")."

Design Intent Request: *Based on the existing steep site grading on the southern half of the site, we are requesting a Variance to the height of retaining walls located within Building Setback Zones. The current proposed site layout shows parking along the south edge of the site which will require a retaining wall running the full width to allow for safe, acceptable grading within the parking lot and an adequate transition at the existing steeply graded portion of the site. We have highlighted the portion of the retaining wall that would be located within the 50' Side/Front Setback that would exceed 48" in height (Figure 4). The portion of the wall is limited to the southwestern portion of the site and would only exceed the 48" limitation by approximately an estimated 12". We are requesting a variance to allow for walls of 60" in height to account for any adjustment to the final design of the walls and finished grading.*

Section C.3.c.7

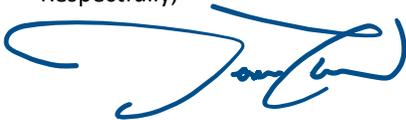
Permitted Encroachments On Setback Space: *"Surface parking lots may be constructed within the front setback to within ten feet (10') of the front lot line; provided, that a solid fence forty eight inches (48") high and/or earth mounding and planting is maintained to substantially visually screen parked cars from adjacent public right of way."*

Design Intent Request: *The proposed site layout would include a strip of parking along the western edge of the site. Given the boundaries of the Lot, and the building and parking requirements, we are proposing to locate the parking up to the 10' limit of the Front Property Line, however we are requesting a variance to the screening requirement due to the parking being in this area. This lot edge abuts C-470 and its associated north bound on ramp from Morrison Road. We feel that given this site edge does not abut a buildable Zoning District, and the elevated position of C-470 in relation to the site would allow for the removal of this screening requirement. As an estimate, based on satellite data, C-470 is between 7 and 10 feet above the proposed parking along the west edge of the site. Additionally, this area would be generally challenging to landscape and maintain, and a fencing element would negatively impact the visual connection to the retail store and open landscape feel of the area, therefore we are requested a variance to not provide fencing and to be allowed to have lower landscaping (ie native grasses, boulders, and native shrubs) within this 10' strip of land.*

It is our intent to comply with the underlying intent of the Zoning Code with this Variance request and have factored this into the proposed design. The design is visually open only from the west and south. The north and east are visually "closed" to screen the retail aspects from the neighboring residential community to the east and north. We have located primary parking and main entry to the southwest, physically, and visually removed from the north and east. We are trying to provide the maximum, appropriate, quantity of parking stalls to ease customer flow and remove the potential negative impacts of traffic flow and parking availability on Morrison Road and the adjacent Water Treatment Facility. We have located the building in the northeast corner, and sunken it into the existing hillside, in effort to minimize its presence to the neighbors. This also allows desired visibility to C470 traffic without the building overpowering the site or area. The conceptual design, as depicted in the concept site plan (Figure 4), floor plan (Figure 5) and exterior rendering (Figure 6) is thoughtfully developed to coordinate the programmatic goals of LivWell for this retail facility while respecting the Town of Morrison's Zoning intentions.

We want to thank you for your time and consideration of the above proposed Variance Request. It is of the utmost importance for LivWell to develop and maintain a facility that embodies the desires of the Town of Morrison. The modifications we have proposed are responsive to the site conditions and respectful of the adjacent properties. Our goal is to produce a successful retail facility, provide benefit back to the town of Morrison and be representative of the way of life and the people of Morrison.

Respectfully,



Jason Heard, NCARB
Project Architect
G SQUARED DESIGN

- Attachments:** Site Diagrams - Figures 1, 2, 3, 4
 Conceptual Design Floor Plan – Figure 5
 Conceptual Design Renderings – Figure 6



Figure 1: Existing Lot with Surrounding Conditions



Figure 2: Existing Lot, Setbacks and Easements



Figure 3: Existing Lot, Buildable Area

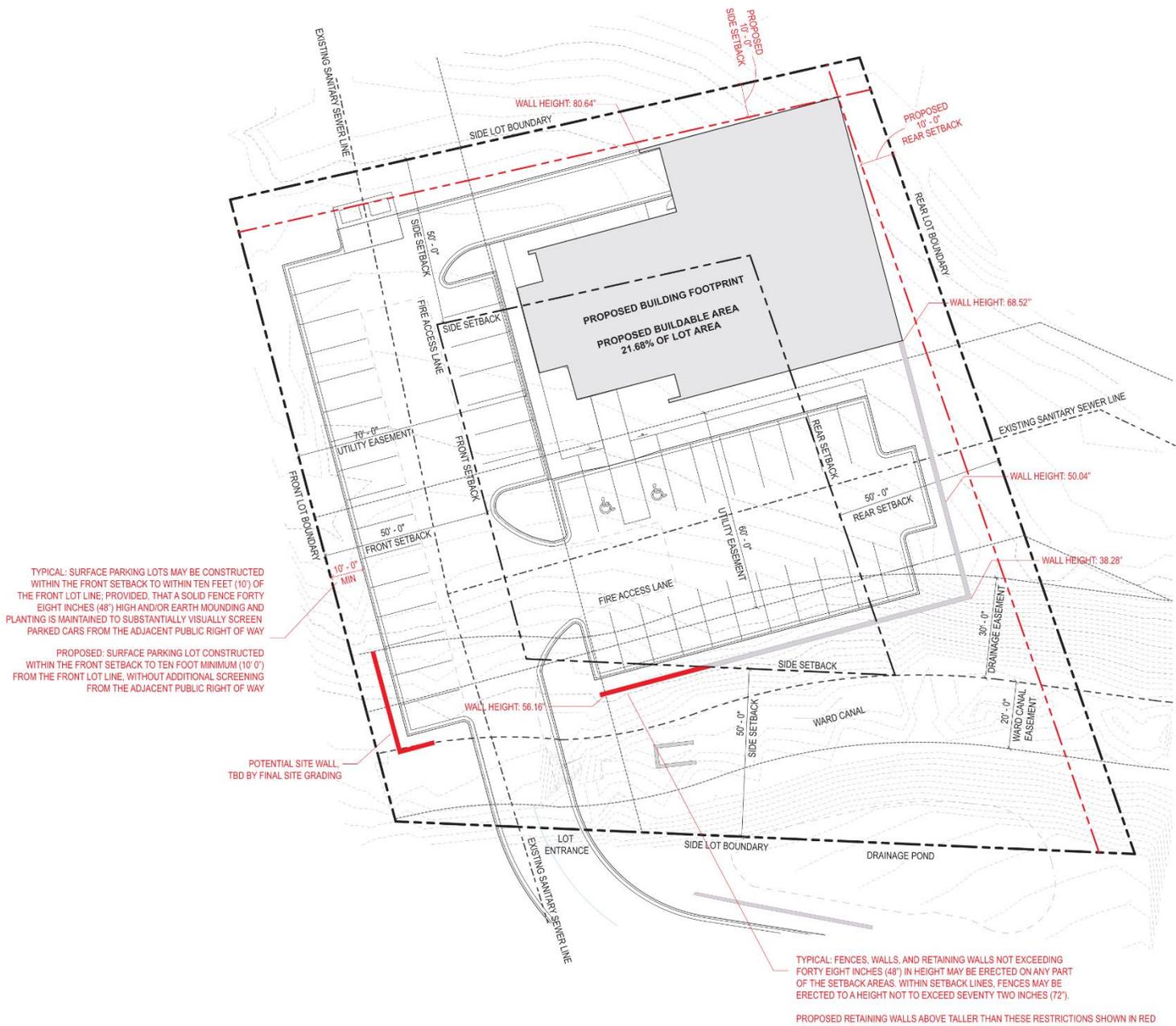


Figure 4: Existing Lot, Variance Requests

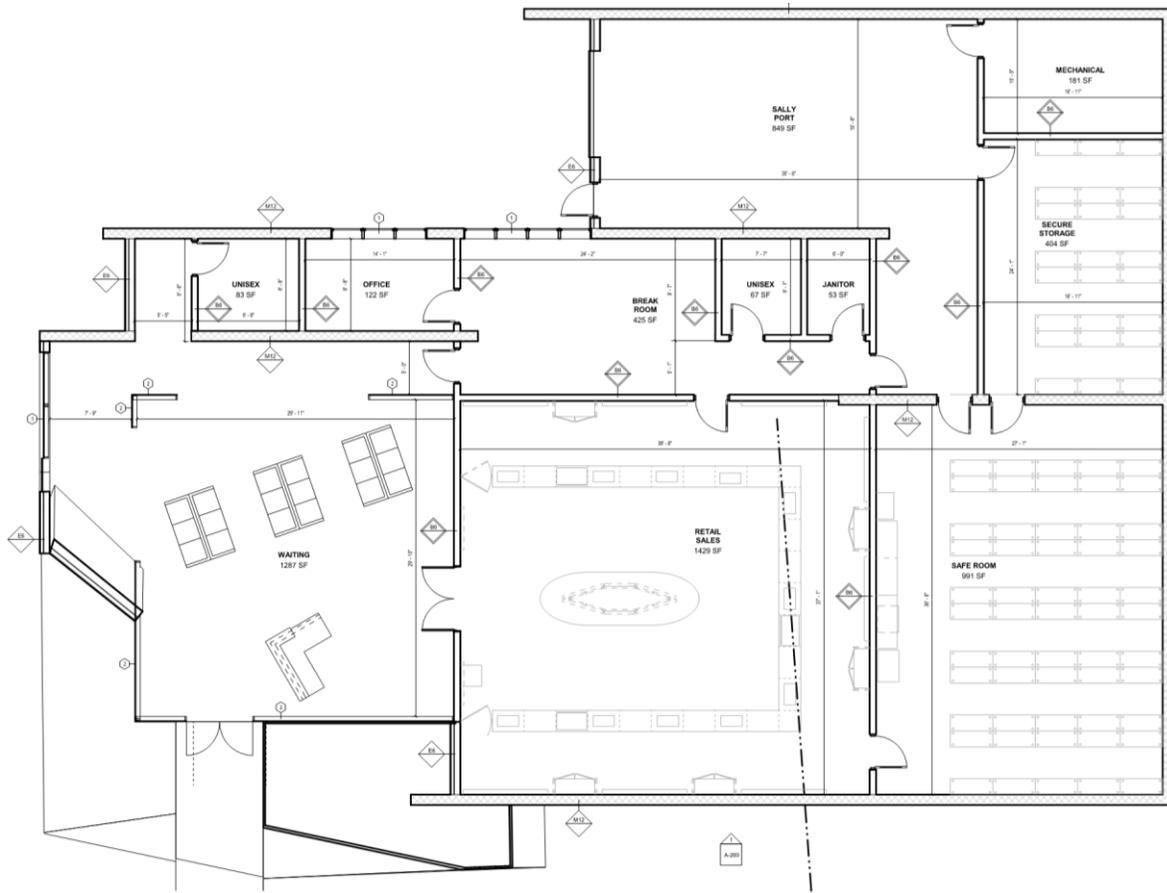


Figure 5: Concept Design, Floor Plan



Figure 6: Concept Design, Exterior Rendering