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MEMORANDUM

TO: PLANNING COMMISSION
FROM: KEN ONDICH – PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: REQUEST FOR VARIANCE #V4-2025 TO ALLOW AN EXISTING LEGAL NON-CONFORMING COMMERCIAL DRIVEWAY LOCATED LESS THAN 200' FROM AN INTERSECTION OF TWO COLLECTOR STREETS TO BE WIDENED BY 15' AND TO ALLOW A DIRECTIONAL SIGN TO BE LOCATED LESS THAN 10' FROM A PROPERTY LINE ALONG 1ST AVE. NW, LOCATED AT 201 7TH STREET NW, AS PROPOSED BY MVE BIOLOGICAL SOLUTIONS US, LLC
DATE: MAY 19, 2025

Background / History

The building located at 201 7th Street NW was constructed in 1986 as “Building 19” which was originally a 15,137 sq. ft. building of what was then MVE (later known as Chart Industries) and was added onto in 2005 with a 17,050 sq. ft. addition, and most recently added onto starting in 2022 (following a fire that same year) with additions totaling 26,528 sq. ft. which were required Variance #V4-2022. Also, variance #V7-2019 approved various freestanding signs to be located around the site with a 0' lot line setback along both 1st Ave. NW and 7th Street NW.

The business, land and facility were purchased by MVE Biological Solutions US, LLC from Chart Industries in October of 2020.

While it had been an ongoing problem for many years, when a new home was constructed at 803 1st Ave. NW, the issue of vehicles driving over the curb and into the yard has been more apparent than ever before. In 2024, MVE did remove the swing gate at the north end of the curb cut to 1st Ave. NW and placed crushed stone to allow trailers more room to back up which was shown to help the issue of driving over the curb on the east side of 1st Ave. NW, enough so to warrant applying for a variance to formally widen the curb cut approach and install signage to better inform all truck drivers how to access their loading dock area without encroaching on the property across the street to the east. This solution requires two variances which are allowing a legal non-conforming driveway to be widened less than 200' from an intersection of two collector streets by 15' and to allow a directional sign to be located less than 10' from a property line along 1st Ave. NW.

Legal Description

Lot 2, Block 1, Chart Inc. Second Addition, according to the plat thereof, Scott County, Minnesota.

Zoning

The subject site is located in the I-1 Light Industrial Zoning District. This district is intended to provide for industrial uses for activities that, because of their nature, are not well suited for close proximity to residential and business areas of the community. Existing industry that is located close to residential areas is allowed to continue and must meet certain performance criteria when applicable. Industrial areas have good access to highway and railroad lines because of their need to receive and distribute products and goods.

Light manufacturing is a permitted use in the I-1 Light Industrial Zoning District.

Neighborhood Conditions and nearby land uses

North – Chart Industries has an open storage area and manufacturing facility located to the north.

South – The New Prague Utilities building is located directly to the south at 200 7th Street NW.

East – Two family homes (including one constructed at 2023 in 803 1st Ave. NW) and Philipps Creek, all of which is located in the RL-90 Single Family Residential District

West – Chart's Industries outdoor storage, Union Pacific Railroad and Chart's large main manufacturing building.

Statement of Practical Difficulties

The applicant submitted a nine page PowerPoint presentation dated 5/6/25 (attached in full to this report) as their statement of practical difficulties. It is best summarized by noting that truck drivers utilizing their shipping dock along 1st Ave. NW have difficulties accessing their property without driving onto the neighbor's lawn at 803 1st Ave. NW which has become more of an issue since a new home was completed there.



Aerial View of Problem Area (© 2024 Google Maps)

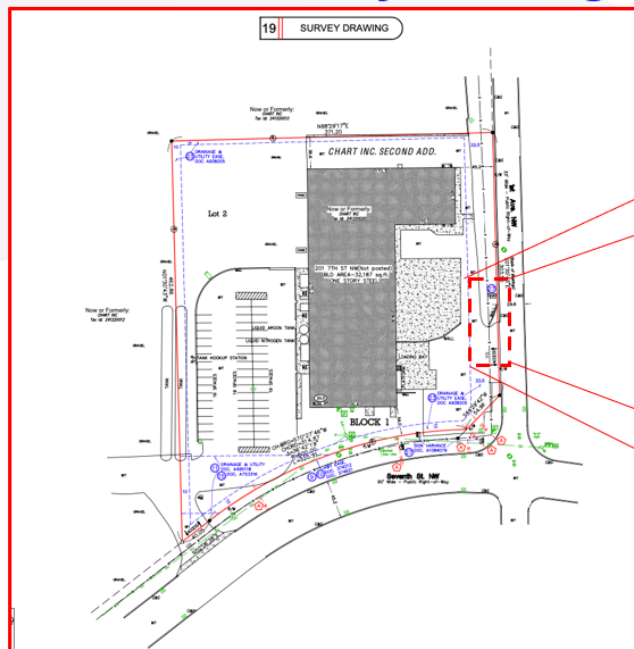


2013 Street View of Problem Area (© 2013 Google Maps)

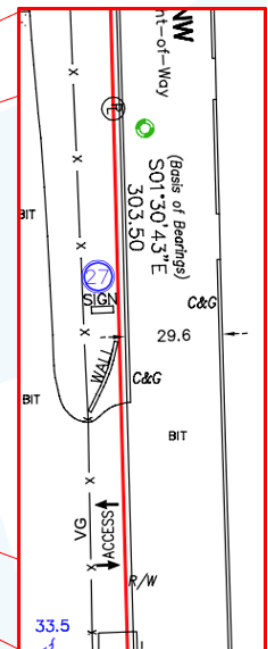


2024 Street View of Problem Area (© 2024 Google Maps)

Exhibit A: Survey Drawing



Site Survey performed by CDS (August 2020)



Problem Area

The letter notes that they considered three options which included relocating their shipping entrance to the west side, creating a drive through with a new entrance from 7th Street NW and finally widening their driveway curb cut to 1st Ave. NW. They determined that widening the driveway curb cut was the best option as it is cost effective and based on temporary measures taken in 2024 has proven to be effective.

Evaluating Feasibility - Option #3

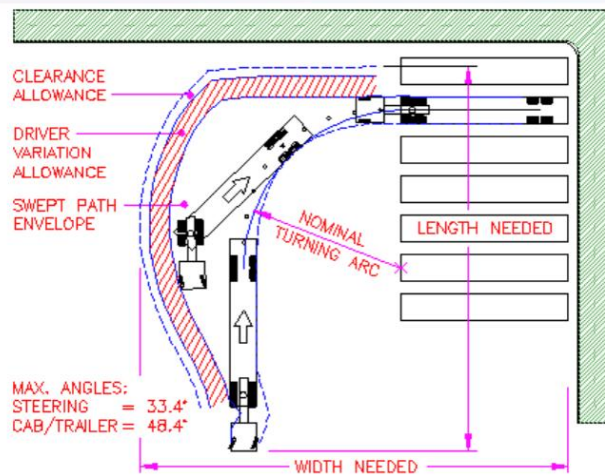
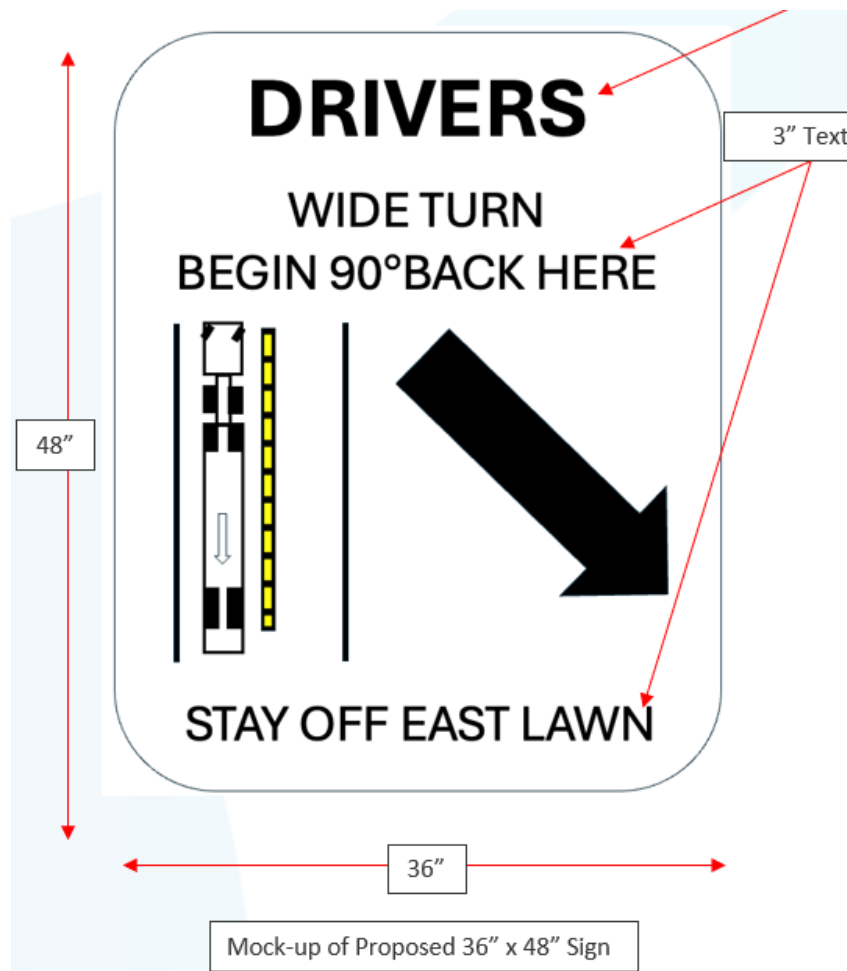


Illustration of Swept Path for 90-Degree Back (© 2004 AASHTO)



Swept Path Scaled & Superimposed onto Problem Area





The solution would remove an existing swing gate and approximately 15' existing fence (which were actually removed in late 2024 to test that the proposed solution would work) at the existing curb cut, level an existing berm and widen the apron and finally install a 36" x 48" instructional sign at 75' north of the curb cut to aid drivers in their efforts to back up into the loading dock area.

General Staff Comments

Public Works Director Matt Rynda noted that the issue of trucks driving over the curb has been an issue for years and believes this variance will be a good idea to try to resolve the issue.

City Engineer Chris Knutson of SEH was not solicited for comments.

Utilities General Manager Bruce Reimers was not solicited for comments as it did not involve electric or water.

Police Chief Tim Applen also noted that this has been an ongoing issue and it's worth seeing if this will fix the problem.

Community Development Staff Notes

As noted in this report, the issue of trucks driving over the curb on the east side of 1st Ave. NW has been an issue for years and has been exasperated with the new home constructed directly across the street. MVE has been looking at solutions and after exploring different options believes the option to widen the driveway is the most cost effective option and will yield the best results.

Staff agrees that this is a good option to begin with and the widening of the driveway to the north does not increase the non-conformity of the driveway which is less than 200' to the intersection of two collector roads.

Regarding the sign, staff notes that a directional sign variance was issued as #V7-2019 back in 2019 for other directional signage to be located up to the property line along both 7th Street NW and 1st Ave. NW. Since the new proposed sign wasn't included in that variance request, it will be included with this variance request.

Criteria for Granting Variance – Section 507

The Zoning Ordinance defines a variance as follows: A modification or variation of the provisions of this Ordinance where it is determined that by reason of unique circumstances relating to a specific lot, that strict application of the Ordinance would cause practical difficulties. Practical difficulties is a legal standard set forth in law that cities must apply when considering applications for variances. To constitute practical difficulties, all three factors of the test must be satisfied, which are reasonableness, uniqueness and essential character. The Zoning Ordinance's criteria addresses these standards.

The Zoning Ordinance identifies criteria for granting variances as noted below. These items must be evaluated by the Planning Commission and City Council when considering variance requests. It is important to note that variances should only be granted in situations of practical difficulties. A variance may be granted only in the event that all of the circumstances below exist. Staff has attempted to evaluate the established criteria for this specific request. Staff's comments are highlighted in yellow below:

- A. The variance is in harmony with the general purposes and intent of this Ordinance. (The requested variance is in harmony with the general purposes and intent of this Ordinance because signs and driveways for light manufacturing facilities are permitted uses in the I-1 Light Industrial Zoning District.)
- B. The variance is consistent with the comprehensive plan. (The requested variance is consistent with the comprehensive plan because signs and driveways for light manufacturing facilities are permitted uses in the I-1 Light Industrial Zoning District.)
- C. The applicant proposes to use the property in a reasonable manner not permitted by this Ordinance, the City Code or the City Subdivision Ordinance. (The applicant will continue to use the property in a reasonable manner with the only change being to widen the existing driveway to 1st Ave. NW by 15' in a northerly direction and to

allow a directional sign to help trucks back up to the dock to be less than 10' from the right of way line.)

- D. Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property since enactment of this Ordinance has had no control. The unique circumstances do not result from the actions of the applicant. (Unique circumstances apply to this property over which the applicant had no control and which do not generally apply to other properties in the vicinity because the site is a corner lot, and the driveway they are proposing to widen is already less than the 200' required spacing from the intersection of 7th Street NW and 1st Ave. NW due to the location of the docking area. Additionally, the narrow width of 1st Ave. NW necessitates the wider curb cut to allow trucks to back up to the dock without encroaching on the yard of the property across the street to the east.)
- E. The variance does not alter the essential character of the neighborhood. (The variance does not alter the essential character of the neighborhood as it would only allow the width of an existing legal non-conforming driveway to be increased to the north by 15' and because the proposed directional sign would be up to the same distance from the right of way line (0') as other signs on the site granted a variance via #V7-2019.)
- F. That the variance requested is the minimum variance which would alleviate the practical difficulties. Economic conditions alone do not constitute practical difficulties. (The variance requested is the minimum variance which would alleviate the practical difficulties because it would allow most delivery trucks to back up without driving over the property across the street to the east.)
- G. The Board of Adjustment may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No variance shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by federal, state or local law. (N/A.)

Staff Recommendation

Staff recommends **approval** of Variance #V4-2025 to allow an existing legal non-conforming commercial driveway located less than 200' from an intersection of two collector streets to be widened by 15' and to allow a directional sign to be located less than 10' from a property line along 1st Ave. NW, located at 201 7th Street NW, as proposed by MVE Biological Solutions US, LLC for the following reasons:

- A. The requested variance is in harmony with the general purposes and intent of this Ordinance because signs and driveways for light manufacturing facilities are permitted uses in the I-1 Light Industrial Zoning District.

- B. The requested variance is consistent with the comprehensive plan because signs and driveways for light manufacturing facilities are permitted uses in the I-1 Light Industrial Zoning District.
- C. The applicant will continue to use the property in a reasonable manner with the only change being to widen the existing driveway to 1st Ave. NW by 15' in a northerly direction and to allow a directional sign to help trucks back up to the dock to be less than 10' from the right of way line.
- D. Unique circumstances apply to this property over which the applicant had no control and which do not generally apply to other properties in the vicinity because the site is a corner lot, and the driveway they are proposing to widen is already less than the 200' required spacing from the intersection of 7th Street NW and 1st Ave. NW due to the location of the docking area. Additionally, the narrow width of 1st Ave. NW necessitates the wider curb cut to allow trucks to back up to the dock without encroaching on the yard of the property across the street to the east.
- E. The variance does not alter the essential character of the neighborhood as it would only allow the width of an existing legal non-conforming driveway to be increased to the north by 15' and because the proposed directional sign would be up to the same distance from the right of way line (0') as other signs on the site granted a variance via #V7-2019.
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because it would allow most delivery trucks to back up without driving over the property across the street to the east.

Attachments

- 1. Site Map Aerial – Dated 5/13/25
- 2. Site Map Aerial Zoning – Dated 5/13/25
- 3. Photos – 5/13/25
- 4. Google Street View – Dated August 2023
- 5. MVE Powerpoint Presentation - Dated 5/6/25

Site Map



Prepared by:
City of New Prague
Planning Department
Date: 5/13/25
For Reference Purposes Only.

Disclaimer: This map was prepared using the City of Davis and is based on the County and City of Davis data submitted to the County and City. While the City is not making this data available, the City does not warrant that data in the GIS is accurate and the City does not intend that the GIS data can be used for purposes such as litigation or any other purpose requiring the exact measurement of distance and direction or the precise location of geographic features. This disclaimer appears on the Monmouth Database, 600-0344-21. The user of this map acknowledges that the City shall not be liable for any damages that may arise from the map or the information it contains.

Aerial Site Map



Zoning District Map



Applicant submitted map of the proposed solution which requires the curb cut width variance and sign placement variance.



Looking north along 1st Ave. NW – Temporary Gravel widened the approach to see if trucks could better make the turn.



Looking NW towards curb cut proposed to be permanently widened by 15' to the north



Looking south along 1st Ave. NW – temporary gravel shows where driveway is proposed to be permanently widened.
Tire tracks can be seen in the grass of the new home opposite the driveway.



Google Street View from August 2023 showing the curb cut prior to the gate and last panel being removed and gravel being temporarily placed. Rocks were placed by previous owner of the lot to deter vehicles from going into the lot.