



118 Central Avenue North, New Prague, MN 56071
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MEMORANDUM

TO: PLANNING COMMISSION

FROM: KEN ONDICH – PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
KYRA CHAPMAN - PLANNER

SUBJECT: CONTINUATION OF REQUEST FOR INTERIM USE PERMIT #I2-2025 TO ALLOW A RAIL CAR REPAIR BUSINESS IN THE I-1 LIGHT INDUSTRIAL DISTRICT AT 100 2ND AVE. SW, AS PROPOSED BY NEW PRAGUE MILL, LLC.

DATE: MARCH 10, 2025

Background

At the February 26th Planning Commission meeting, following the staff presentation, holding the required public hearing and substantial discussion, a motion was passed to table the request for #I2-2025, requesting to allow Cypress Rail Solutions, a rail car repair business, in the I1-Light Industrial District at 100 2nd Ave SW as proposed by New Prague Mill, LLC. At the meeting, staff recommended denial of the request, therefore, staff did not create a list of conditions for approval. As such, the Planning Commission requested staff draft a list of conditions for potentially approving the request based on questions and discussion that occurred during the meeting. These conditions were largely related to the prohibiting of painting, limiting hours of operation, vegetative/screening plans, and requiring a dumpster on site for materials cleaned out of rail cars before they can be repaired. The end of this report includes a list of suggested conditions based on the Planning Commission's feedback along with suggestions from staff should the conditions be used for a conditional approval.

The original report is attached to this memo in full for reference purposes.

Existing Locations

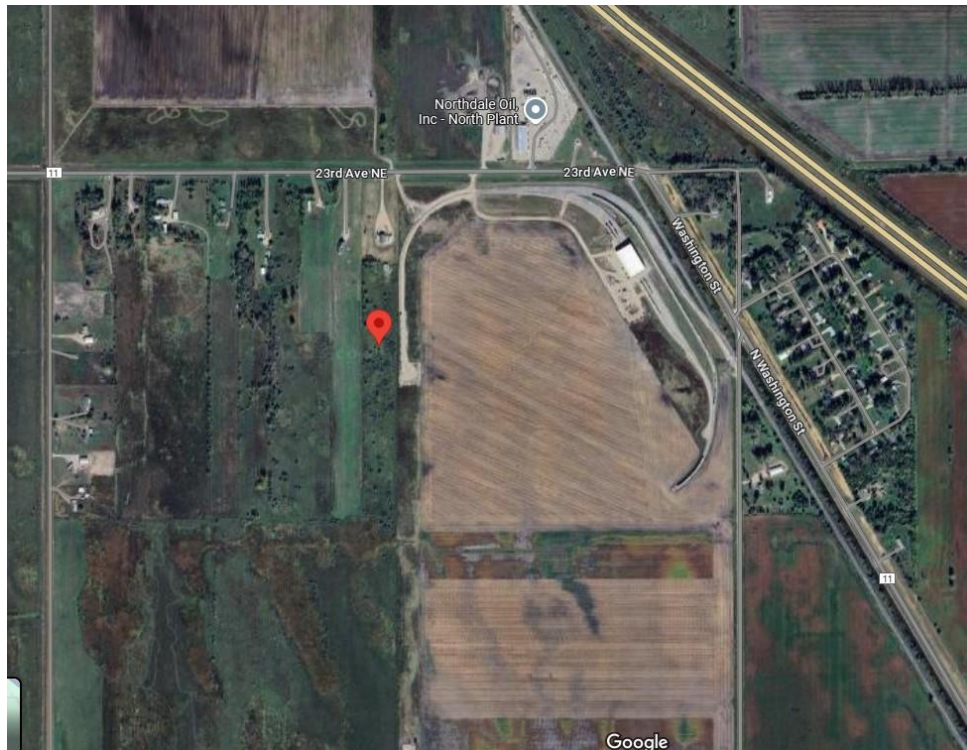
At the Planning Commission meeting, Cypress Rail Solutions stated that they currently operate their business in Grand Forks, ND and Erskine, MN. Staff reached out to Polk County (Erskine) and the City of Grand Forks (Rye/Falconer Township) to determine if there have been any complaints or concerns with the existing rail car repair business. These communities have heard few to no complaints. Both Rye and Falconer Township agreed there have been minimal complaints from their residents. They run a clean facility with no garbage debris, no objectionable fumes, and dust or smoke. Falconer Township did receive a complaint about noise caused by switch engines moving cars in the middle of the night as well as horn blowing at crossings and cars banging into each other. Since that complaint, they have rescheduled their car movements and it is quieter in the evenings.

It should also be noted that both the locations are in townships (outside city limits) and in rural industrial/rural residential locations. The existing properties are located at:

- 22210 US Hwy 2 SE, Erskine, MN 56535
- 1335 23rd Ave NE, Grand Forks, ND 58203

Unlike the other two properties, the proposed New Prague site would be located within city limits. Also unlike the locations near Erskine and near Grand Forks, the proposed site here in New Prague would be in the heart of the city in an old flouring mill in a significantly denser location near several businesses, and residential properties with far more possibilities of disruption from the proposed business.

Staff reached out to MnDOT regarding the current frequency of Union Pacific Railroad in New Prague. New Prague, north of Le Sueur-Scott County line, receives 4 trains per day, and south of the line receives 2 per day.



Cypress Rail Solutions – Located North of Grand Forks, ND



Cypress Rail Solutions – Located East of Erskine, MN

General Planning Staff Comments

Although staff do not want the mill to be underutilized or empty, the proposed use does not match the Future Land Use Map in the Comprehensive Plan. The 2045 Comprehensive Plan was recently adopted in October 2024, guiding the subject property away from I-1 Light Industrial to “Downtown Flex”. The standards for “Downtown Flex” have not been established yet but would likely allow commercial uses commonly seen along Main St. Several of the existing tenants inside the building are similar to uses currently allowed in our B-1 Central Business and B-2 Community Commercial District such as office uses, religious institutions, and retail/service establishments. Based on the existing tenants, the uses have shifted the site towards commercial uses rather than industrial. Even though the applicants are requesting the interim use permit to allow the rail car repair for 10 years, that is a substantial amount of time for an interim use permit. Most interim use requests are usually 1-5 years long.

Staff have concerns about possible nuisance complaints regarding noise. No industrial uses have occurred on the property since 2019 when Miller Milling closed the facility. For the past 5 to 6 years, the residents have likely become accustomed to the lack of noise, smells or even rail car traffic into the site. If the interim use is approved, loud noises will emit from the property (as noted by their own submitted sound decibel readings) especially since the rail car repair will occur in an exterior area. The noise may also be a nuisance for the tenants and businesses operating within the Mill building. The City may receive multiple complaints from neighbors depending on the loudness and frequency of noise resulting in more staff time review of enforcement and compliance. In fact, during the public hearing, nearby resident Joe Nadeau (from 212 2nd St W) expressed these concerns about noise and specifically asked about what tools and methods would be used for repairs on the site. Furthermore, the noise could conflict with future POPS concerts, which is directly north of the property.

As noted in the applicants submitted sound testing, which staff did witness of the “ramp drop” test as measured at 74 dBA at the sidewalk, there was certainly sounds from vehicle traffic that approached the sounds measured from the proposed exterior site for repair. Chapter 7030 for MPCA Noise Pollution control notes that sound must be measured based on the land use activity at the location of the receiver. Generally, sound limits are lowest for residential receivers and higher for industrial. The downtown area (where the measurements were taken at the sidewalk) would be considered “Noise Area Classification 2” which limits daytime decibels to 65 for 50% of an hour or 70 for 10% of the hour. Depending on the amount of time the “ramp drop” or “hammer on metal” or other activities would occur within an hour, the MPCA threshold could be exceeded. While sound readings were not taken at adjacent residential properties, the threshold drops to 60 and 65 decibels respectively. This reading would apply to residential apartments above a commercial area and it’s notable that there are apartments directly north of Main Street where the sound readings were taken.

Absent any possible violations for Chapter 7030 for MPCA Noise Pollution, Section 92.15 of the City Code states that the following is a public nuisance: “Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public”. This code can be utilized for noises not exceeding the MPCA thresholds.

The applicant makes the statement that “if this usage is denied, the city has effectively condemned by property.” In determining of a zoning regulation violates a property owner’s rights, the US Supreme Court has recognized two classes of regulatory takings: Categorical (regulation denies ALL

economically beneficial or productive use of land) and Case-Specific (involving the economic impact of the regulation). City staff argues that this is not a categorical taking as there are many viable businesses already operating on the property, that can and will continue to operate at the property not related to the specific request at hand.

Interim Use Permit Criteria

The City Council may consider an interim use permit for a use which is not specifically listed in this Ordinance as an interim use within the affected district and may grant a permit provided such interim use, after review by the Planning Commission and the City Council, is found to otherwise meet the criteria for granting an interim use permit within the affected district. The City Council shall make the following findings in order to approve an interim use (staff's recommended findings are included below which were written to support the denial of the IUP):

- A. The proposed interim use will utilize property where it is not reasonable to utilize it in a manner provided for the City's Comprehensive Plan and Zoning Ordinance. (The proposed interim use for rail car repair will not utilize property in a reasonable and temporary manner considering the property is currently zoned I-1 Light Industrial Zoning, but is guided as "downtown flex" according to the 2045 Comprehensive Plan and of which exact requirements have not yet been determined.)
- B. The proposed interim use is presently acceptable but, given anticipated development, will not be acceptable in the future. (The proposed rail car repair is not acceptable in that while the property is currently zoned I1-Light Industrial and uses such as automobile repair are listed as permitted, this specific use is proposed to happen in an "exterior" fashion and not within a building. It is additionally noted that the property will be rezoned to "downtown flex" in 2025 or early 2026 to fit the current comprehensive plan and noting that the use is requested to continue 5 years from the date of approval.)
- C. The proposed use will not hinder permanent development of the site. (The proposed designated rail car repair area will hinder permanent development of the site because even though it is utilizing an underutilized canopy covered rail spur, the property is guided as "downtown flex" in the Comprehensive Plan which will lead to continued redevelopment of the site in a non-industrial fashion. The industrial use even as an interim use for a limited time period could deter continued development of the site for commercial purposes, could disturb existing uses on the property itself and could hinder development of adjacent properties.)
- D. The proposed use will not adversely impact implementation of the Comprehensive Plan for the area. (The proposed designated rail car repair area will adversely impact implementation of the Comprehensive Plan as the site is guided as "downtown flex" in the Comprehensive Plan and not guided for industrial uses which is at odds with allowing this industrial use even in an interim fashion.)
- E. The proposed use will not be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare. (The proposed rail car repair may be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare as it may result in noise nuisances relating to Section 92.15 of the City Code or Chapter 7030 of MPCA Noise Pollution regulations.)

- F. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area. (The rail car repair business may result in noises that may conflict with the planned Praha Outdoor Performance Stage, directly north of the Mill and Main Street and potentially other parks, schools, street and other public facilities.)
- G. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided. (Adequate utilities, access roads, drainage and necessary facilities exist for the proposed rail car repair business.)
- H. The date or event that will terminate the use has been identified with certainty. (N/A as staff is not recommending approval.)
- I. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future. (The proposed designated rail car repair area will not impose additional costs on the public if it is necessary for the public to take the property in the future.)

In permitting a new interim use, the City Council may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the City Council considers necessary to protect the best interest of the surrounding area or the community as a whole. Any City Council approval of an interim use shall be subject to the following conditions:

- A. Except as otherwise authorized by this section, an interim use shall conform to this Ordinance as if it were established as a conditional use.
- B. The date or event that will terminate the interim use shall be identified with certainty. The City Council may require the applicant to deposit a cash amount with the City, or provide some other form of security, to ensure compliance.
- C. In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.
- D. Other conditions as the City Council deems reasonable and necessary to protect the public interest and to ensure compliance with the standards of this Ordinance and policies of the Comprehensive Land Use Plan.

As City staff is not recommending approval of the request, staff did not draft conditions for approval in the original report.

Staff was directed by the Planning Commission at the meeting on February 26th to draft a list of possible conditions for approval based on discussion that occurred during the meeting related to painting, hours of operation, dumpster, fencing materials, maintenance of the fence, completion of the northern area of the site, vegetation/landscaping and limiting the use to a five year time frame. Staff's draft of conditions as requested by the Planning Commission is listed below:

1. This Interim Use Permit does not affect any other existing Interim Use Permits or Conditional Use Permits on the property.
2. The proposed rail car repair use shall cease operations within 5 years from the date of approval of this Interim Use Permit which is April 7th, 2030.
3. Approval is granted in general accordance with the site plan dated 3/4/2025 on file with the New Prague Community Development Department which notes the extent of the operation and the location of required fencing/screening/vegetation.
4. Approval is granted in general accordance with the “New Prague Mill Perspective” drawing dated 2/14/25 on file with the New Prague Community Development Department which notes that the paved parking lot, fence/sound wall, monument sign, landscaping and building paint is corrected and maintained throughout the term of the Interim Use Permit.
5. The required “fence” that extends north of the building and around the private rail lines near Main Street must be at least 20’ tall and meet or exceed MnDOT Standard Plan 5-297.661 for “Wood Planking Noise Wall with Concrete Posts” which provides for 100% opacity.
6. Vegetation must be placed around the fence/noise wall as outlined in Condition #4 must meet the requirements of Zoning Ordinance Section 707, Subd. 2 for screening of industrial uses abutting commercial properties. This requires a single row of trees at a minimum 8’ height at 40’ spacing at minimum.
7. Any noise from the proposed rail car repair use cannot exceed the requirements of MPCA Noise Pollution Control Rule 7030 or City Code Section 92.15 regarding public nuisances.
8. To mitigate noise concerns for nearby properties, hours of operation (except for office hours) are only permitted Monday Through Friday, 7am to 4:30pm with no exceptions.
9. The painting of rail cars is prohibited on the site.
10. Employees of the rail car repair site must utilize existing office space (including bathrooms) within existing buildings on the property. Temporary work offices and temporary bathrooms are not permitted.
11. At least 36 paved off-street parking spaces, including required ADA spaces, must be striped with white or yellow paint lines no less than 4” wide providing for parking spaces at a size of 9’ x 20’ on a paved surface, as required by Section 717 of the New Prague Zoning Ordinance to be utilized for the exclusive use of the applicant. If the overall parking area exceeds 50 spaces it must also have interior landscape islands as required by the ordinance.
12. Any parking space must be setback 5’ from any property line to provide a buffer between the sidewalk and the parked vehicles and allow for required perimeter landscape trees.
13. All signs must conform to Section 718 of the Zoning Ordinance which require a permit under a separate permit process.

14. All lighting must conform to Section 704 of the Zoning Ordinance.
15. All dumpsters, garbage containers or refuse bins provided on the site outside of a building shall be screened from view in accordance with Section 703 of the Zoning Ordinance. Additionally, any dumpster that holds residual agricultural products from rail cards must be leak proof and have a cover to prevent odors and must be picked up at least weekly by a refuse company but may be required to be picked up more often if odors persist from the site.
16. A 6' access aisle must be maintained through the exterior work area to ensure access to all doors that abut the area for fire access.
17. If the exterior storage area is ever completely fenced, the applicant must provide a knox box to hold a key for access by the Police/Fire Department.
18. Except as otherwise authorized by the Zoning Ordinance, this interim use shall conform to this Ordinance as if it were established as a conditional use.
19. In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.
20. The applicant shall reimburse the city for all fees and costs it incurs for processing, reviewing, and acting on the application approved herein, including but necessarily limited to any fees charged by the city's professional consultants in accordance with established rates.
21. The property shall be subject to all requirements of the New Prague City Code and shall otherwise comply with all other applicable federal, state, and local laws, rules, and regulations.

If the Planning Commission were to recommend approval, in addition to conditions, new findings would need to be drafted to approve the interim use permit. At this time, staff have not provided findings in the affirmative to approve the interim use permit.

Staff Recommendation

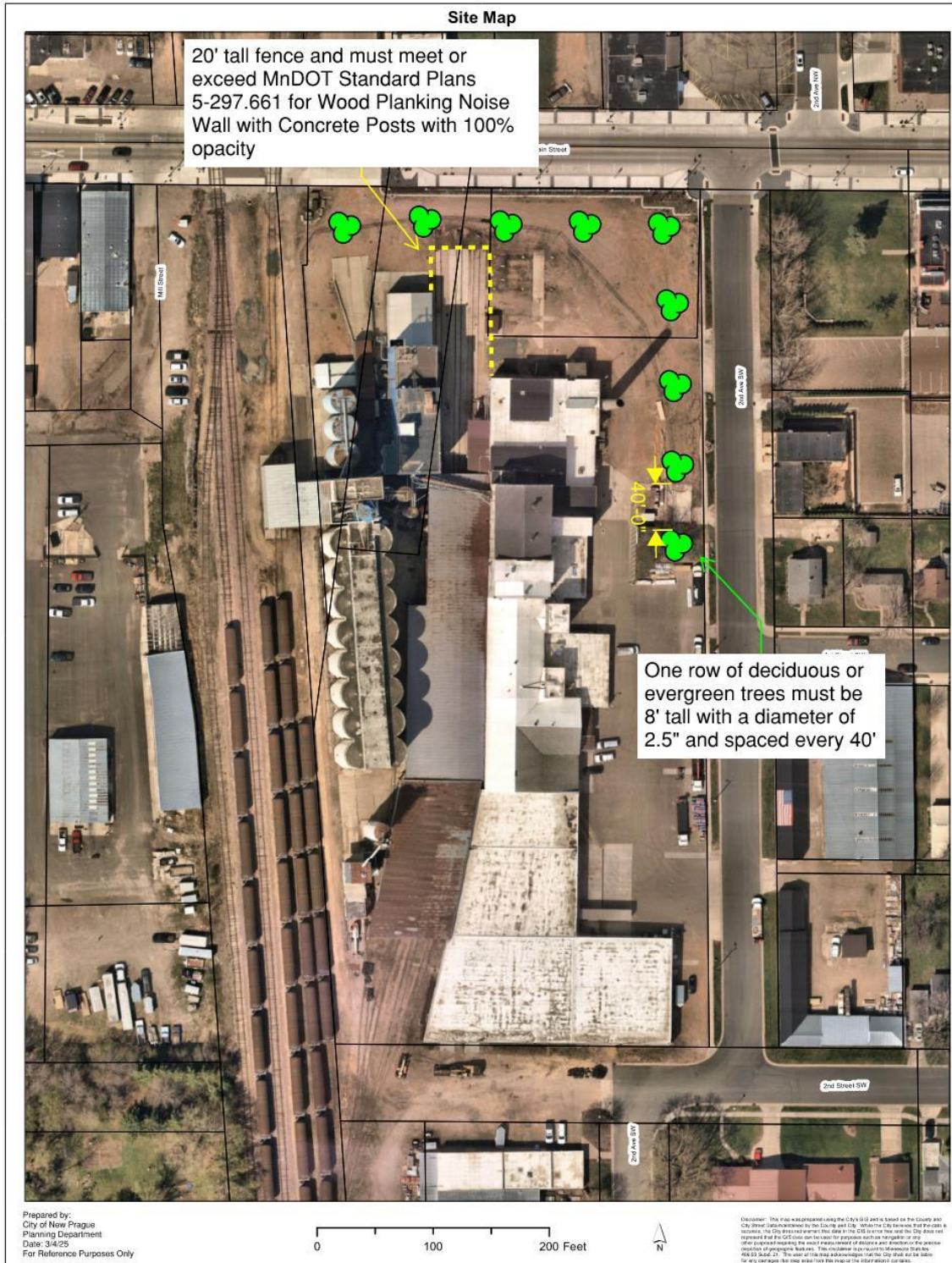
Staff continues to recommend **denial** of the request for Interim Use Permit (#I2-2025) to allow a rail car repair business in the I-1 Light Industrial Zoning District, at the former mill located 100 2nd Ave. SW, as proposed by New Prague Mill, LLC with the following findings:

- A. The proposed interim use for rail car repair will not utilize property in a reasonable and temporary manner considering the property is currently zoned I-1 Light Industrial Zoning, but is guided as "downtown flex" according to the 2045 Comprehensive Plan and of which exact requirements have not yet been determined.
- B. The proposed rail car repair is not acceptable in that while the property is currently zoned I1-Light Industrial and uses such as automobile repair are listed as permitted, this specific use is proposed to happen in an "exterior" fashion and not within a building. It is additionally noted that the property will be rezoned to "downtown flex" in 2025 or early 2026 to fit the current comprehensive plan and noting that the use is requested to continue 5 years from the date of approval.

- C. The proposed designated rail car repair area will hinder permanent development of the site because even though it is utilizing an underutilized canopy covered rail spur, the property is guided as “downtown flex” in the Comprehensive Plan which will lead to continued redevelopment of the site in a non-industrial fashion. The industrial use even as an interim use for a limited time period could deter continued development of the site for commercial purposes, could disturb existing uses on the property itself and could hinder development of adjacent properties.
- D. The proposed designated rail car repair area will adversely impact implementation of the Comprehensive Plan as the site is guided as “downtown flex” in the Comprehensive Plan and not guided for industrial uses which is at odds with allowing this industrial use even in an interim fashion.
- E. The proposed rail car repair may be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare as it may result in noise nuisances relating to Section 92.15 of the City Code or Chapter 7030 of MPCA Noise Pollution regulations.
- F. The rail car repair business may result in noises that may conflict with the planned Praha Outdoor Performance Stage, directly north of the Mill and Main Street and potentially other parks, schools, street and other public facilities.
- G. Adequate utilities, access roads, drainage and necessary facilities exist for the proposed rail car repair business.
- H. The proposed designated rail car repair area will not impose additional costs on the public if it is necessary for the public to take the property in the future.

Attachments

1. Screening/Vegetative Markup– Dated 3/4/25
2. Concept Plan of the Mill – Dated 2/14/2025
3. MnDOT Noise Wall Example – Undated



Screening/Vegetative Markup



NEW PRAGUE MILL PERSPECTIVE
25-03-0026
02-14-2025

Concept Plan of the Mill (Looking Southwest from Main St)



Example of MnDOT Noise Wall Appearance (posts can be inside or outside)



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MEMORANDUM

TO: PLANNING COMMISSION

FROM: KEN ONDICH – PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
KYRA CHAPMAN - PLANNER

SUBJECT: REQUEST FOR INTERIM USE PERMIT #I2-2025 TO ALLOW A RAIL CAR REPAIR BUSINESS IN THE I-1 LIGHT INDUSTRIAL DISTRICT AT 100 2ND AVE. SW, AS PROPOSED BY NEW PRAGUE MILL, LLC.

DATE: FEBRUARY 21, 2025

Background

The New Prague Flouring Mill was first established in 1896 and was the main economic driver in the City, making New Prague a large manufacturer of farm produce for several years. However, in 2019 Miller Milling closed their business, later selling the property to current owners, New Prague Mill, LLC, who have been working to re-purpose the property for multiple tenant uses including the previously approved indoor firing range (Conditional Use Permit #C5-2023), religious institution (Interim Use Permit #I1-2024), and dog grooming business (Interim Use Permit #I1-2025), and other warehouse type uses, which are considered permitted uses at the site under its current I-1 Light Industrial zoning designation.

In October 2024, interim use permit (IUP) #I2-2024 was approved to allow exterior storage of vehicles and recreational equipment under the 28,000 sq ft canopy and the 36' x 44' canopy area as long as all conditions of the IUP were completed (including screening that has not yet been completed). More recently, New Prague Mill, LLC received an inquiry regarding the opportunity of having Cypress Rail Solutions perform rail car repairs on the site. Rather than storing recreational vehicles under the canopy area via I2-2024, New Prague Mill, LLC is requesting to allow rail car repair under the 28,000 sq ft canopy (which is considered “exterior” as it’s not within an enclosed building space) and up to the fence line, which were approved areas for exterior storage through #I2-2024. The rail cars would only be parked on the spur line south of the large, canopied area.

Although the property is currently zoned I-1 Light Industrial, the 2045 Comprehensive Plan has the property guided as “Downtown Flex”, which would allow similar commercial uses as the surrounding B-1 Central Business District. The new district standards have not been solidified yet but once they have been adopted, the property will be rezoned as “Downtown Flex”, prohibiting industrial uses. As such, New Prague Mill, LLC is requesting interim use permit #I2-2025 to allow a rail car repair business to occur at the property for 10 years.

Legal Description

Parcel 1:

Lots 1, 2, 3, and 4 in Block No. 4, in the Village (now City) of New Prague, Le Sueur County, Minnesota.

Parcel 2:

Lot 4, Block 26, Syndicate Addition to New Prague, Le Sueur County, Minnesota, together with that part of the North half of the Vacated alley lying West of the Southerly extension of the East line of said Lot 4.

Parcel 3:

Block 22 of "Beans Re-Arrangement of Block 22 and 23 Syndicate Addition to New Prague".

Parcel 4: Block 23 of "Beans Re-Arrangement of Blocks 22 and 23 Syndicate Addition to New Prague", together with the vacated alley and the North half of vacated "L" street as shown on said Plat.

Parcel 5:

Lots 1 and 2, Block 23-1/2, of "Beans Re-Arrangement of Blocks 22 and 23 Syndicate Addition to New Prague", together with the South half of vacated "L" Street as shown on said Plat.

Parcel 6:

Commencing with the intersection of the County Road with the line of the right way of the M. & St. L. Ry. Co., on the East side of their track, thence running East 70 feet, thence South 356 feet to a point 75 feet East of the said right of way line, thence west 75 feet to said right of way, thence running North 356 feet to the point of beginning, being in the NW1/4 of NW1/4 of Sec. 3-112-23, Le Sueur County, Minnesota.

Parcel 7:

The tract of land lying and being in the County of Le Sueur and State of Minnesota, described as follows, to wit: Beginning at a point on the North line of Section Three (3), Township One Hundred Twelve (112) North, Range Twenty-three (23) West, said point being distant East, One Hundred Fifty (150) feet, measured along said section line from the original centerline of the Railways main track; thence Southwardly Four Hundred Nine and Five-Tenths (409.5) feet, to a point distant Easterly Sixty-Seven and Ninety-seven Hundredths (67.97) feet, measured at right angles thereto, from said centerline of main track, thence Northwardly, parallel with said centerline of main track, Three Hundred Seven and One-Tenth, (307.1) feet; thence eastwardly at right angles, Three and Six Tenths (3.6) feet; thence Northwardly about One Hundred (100) feet to a point on said Section line distant West Sixty-Nine and Seventy-Three Hundredths (69.73) feet from the point of beginning; thence East, upon and along said Section line Sixty-Nine and Seventy-three Hundredths (69.73) feet to the point of beginning.

Parcel 8:

That part of the NW1/4 NW1/4 of Section 3, Township 112 North, Range 23 West, City of New Prague, Le Sueur County, Minnesota, described as follows: Commencing at the intersection of the centerline of main track of the Union Pacific Railroad Company and the North line of Section 3; thence N. 90 degrees 00 minutes 00 seconds E. (assumed bearing) along the North line of Section 3, a distance of 150.00 feet; thence S. 07 degrees 06 minutes 51 seconds W., 409.64 feet to a point distant 67.97 feet Easterly of and measured at right angles from the centerline of said main track; thence N. 04 degrees 22 minutes 30 seconds W., parallel with the centerline of said main track, 307.10 feet; thence N. 85 degrees 37 minutes

30 seconds E., 3.60 feet; thence N. 00 degrees 28 minutes 52 seconds E., 67.01 feet to the Southerly right of way line of State Highway No. 19 (Main Street); thence N. 90 degrees 00 minutes 00 seconds W., along said right of way line, a distance of 27.32 feet to a point distant 50.00 feet Easterly of and measured at right angles to the centerline of said main track; thence S. 04 degrees 22 minutes 30 seconds E., parallel with the centerline of said main track, 464.37 feet; thence N. 07 degrees 06 minutes 51 seconds E., 90.22 feet to the point of beginning.

Neighborhood Conditions

North – Central Business District / Main Street and underutilized portions of the former mill building which are also currently zoned I1-Light Industrial

South – I1-Light Industrial Zoned properties and to the southeast are some residential dwellings (RL-70 and RL-84 Single Family Residential Districts) separated by public roads from the subject site

East – Mach Lumber which is currently zoned I1-Light Industrial and single family homes (RL-70 and RL-84 Single Family Residential Districts) further east

West – Union Pacific Railroad and beyond that is the B-3 Highway Commercial Zoning District and TH13/21.

Overall, the former mill property is very unique in that it is surrounded by a variety of zoning districts. It's especially unique in that it is an industrially zoned property along downtown Main Street, where existing commercial use occurs. In the 2045 Comprehensive Plan, the subject property is guided as "Downtown Flex" to fit the use of the greater downtown area. At this time, "Downtown Flex" does not have defined standards, but it's anticipated that commercial uses such as service and retail will be allowed in the district, while industrial uses likely would not.

Applicant's Statement

The applicant (Bill Gibson on behalf of New Prague Mill, LLC) submitted a statement of practical difficulty (two different letters) and other related information, which can be found as an appendix to this staff report.

Lot Size

The New Prague Mill property is approximately 253,955 sq ft (5.83 acres) in total. The rail car repair is proposed to occur under the 28,000 sq ft canopy (which is considered "exterior" as it's not within an enclosed building space) and would extend up to a tall fence with vegetation around it, which can be seen in the rendering in this report. The rail cars would be parked on the spur line south of the large canopy area.

Zoning

The property is currently zoned I1-Light Industrial District. The purpose of the district is 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. While certain automobile repair is allowed as a permitted use in the I1-Light Industrial

District, that would only include said uses that occur within a building. This particular use is requesting to occur in an “exterior” area and outside of a building which poses a number of concerns, including, but not limited to noise and visual nuisances.

The 2045 Comprehensive Plan was adopted in October 2024. In the Comprehensive Plan, the subject property is anticipated to be guided as “Downtown Flex”. At this time, there are no specified standards for this district, but commercial uses such as retail and services will likely be allowed. The city’s consultants, Bolton & Menk are currently in the process of drafting the Unified Development Code (UDC), which would rewrite the Zoning and Subdivision Ordinance. Once the UDC is adopted, the property will likely be rezoned from I-1 Light Industrial to “Downtown Flex”. In other words, after the property has been rezoned as “Downtown Flex”, industrial uses will likely be prohibited. The property owners intend to have rail car repair occur for a few years to generate additional revenue at the site. The property owners are requesting an interim use permit to temporarily allow rail car repair for 10 years under the 28,000 sq ft., and behind the northern fence found in the rendering.

Parking

According to Zoning Ordinance 717 (2)(P) titled Off-Street Parking and Loading, one parking stall is required for every 1,000 sq ft for industrial uses. Cypress Rail Solutions intends to do work under the 28,000 sq ft canopy and approximately 8,400 sq ft of uncovered space up to the approved northern fence. A minimum of 36.4 parking stalls are required for this proposed use.

In C5-2023 and V4-2023 for 2 If By Sea Tactical, the firing range needs a minimum of 24 parking stalls, in I1-2024 Faith, Recovery, & Music require a minimum of 10 parking stalls, and in I1-2025 Fancy Bones Pet Salon requires at least 2 parking stalls. The approved parking lot plan from C5-2023 showed 52 striped parking stalls. Based on this information, that means there are 18 available parking spaces left in the planned 52 stall parking lot. A minimum of 36 parking stalls are needed for the project. If the project uses the remaining 18 parking stalls, at least 18 more paved parking stalls would be needed at the site before this use could occur. An updated parking lot plan would be need to be provided to show where this parking would be provided. Additionally, the parking should show parking for the re-use of the remainder of the building including for potential users as mentioned in the applicants letters including a post office and dance studio.

The proposed parking lot must follow Section 717 of the Zoning Ordinance, detailing the standards for parking stall dimensions, setbacks, and minimum stall requirement. The parking lot must be striped in white or yellow paint no less than 4’ wide. For a 90-degree angled parking lot, the parking stalls must be 9’ wide, 20’ deep, and a minimum lot drive aisle width of 24’ (for two-way traffic).

Public Works /Utilities / Engineering Comments

Utilities General Manger Bruce Reimers mentioned that he does not have an issue with their utilities but is uncertain about how they are going to set up the electrical service or their requirements. There is currently one meter for the entire site. There is also not a good site to have work being done on rail cars due to the noise. Public Works Director Matt Rynda concurs with the Utilities General Manager’s comments.

City Engineer, Chris Knutson, was not solicited for comments in relation to this request.

Building Official Comments

Building Official Scott Sasse was not solicited for comments as the use is “exterior” and does not occur within a building.

Police Chief Comments

Police Chief Tim Applen had similar concerns regarding noise as noted by other city staff. Even if they are within the noise requirements, it could be considered a nuisance according to our ordinance.

Fire Chief Comments

Fire Chief Steve Rynda was solicited for comments, but no comments were provided at the time of writing this report. In the previously approved report I2-2024, Fire Chief Steve Rynda noted that their only concern would be to maintain some sort of 6’ walking lane to get to all doors adjacent to the storage area. Staff drafted the following condition for I2-2024 to address the concern: *A 6’ access aisle must be maintained through the exterior storage area to ensure access to all doors that abut the storage area for fire access.*

WAC/SAC Fees

N/A.

General Planning Staff Comments

Although staff do not want the mill to be underutilized or empty, the proposed use does not match the Future Land Use Map in the Comprehensive Plan. The 2045 Comprehensive Plan was recently adopted in October 2024, guiding the subject property away from I-1 Light Industrial to “Downtown Flex”. The standards for “Downtown Flex” have not been established yet but would likely allow commercial uses commonly seen along Main St. Several of the existing tenants inside the building are similar to uses currently allowed in our B-1 Central Business and B-2 Community Commercial District such as office uses, religious institutions, and retail/service establishments. Based on the existing tenants, the uses have shifted the site towards commercial uses rather than industrial. Even though the applicants are requesting the interim use permit to allow rail car repair for 10 years, that is a substantial amount of time for an interim use permit. Most interim use requests are usually 1-5 years long.

Staff have concerns about possible nuisance complaints regarding noise. No industrial uses have occurred on the property since 2019 when Miller Milling closed the facility. For the past 5 to 6 years, the residents have likely become accustomed to the lack of noise or smell. If the interim use is approved, loud noises will emit from the property (as noted by their own submitted sound decibel readings) especially since the rail car repair will occur in an exterior area. The noise may also be a nuisance for the tenants and businesses operating within the Mill. The City may receive multiple complaints from neighbors depending on the loudness and frequency of noise resulting in more staff time review of enforcement and compliance. Furthermore, the noise could conflict with future POPS concerts, which is directly north of the property.

As noted in the applicants submitted sound testing, which staff did witness of the “ramp drop” test as measured at 74 dBA at the sidewalk, there was certainly sounds from vehicle traffic that approached the sounds measured from the proposed exterior site for repair. *Chapter 7030 for MPCA Noise Pollution control notes that sound must be measured based on the land use activity at the location of the receiver.* Generally, sound limits are lowest for residential receivers and higher for industrial. The downtown area

(where the measurements were taken at the sidewalk) would be considered “Noise Area Classification 2” which limits daytime decibels to 65 to 50% of an hour or 70 for 10% of the hour. Depending on the amount of time the “ramp drop” or “hammer on metal” or other activities would occur within an hour, the MPCA threshold could be exceeded. While sound readings were not taken at adjacent residential properties, the threshold drops to 60 and 65 decibels respectively. This reading would apply to residential apartments above a commercial area and it’s notable that there are apartments directly north of Main Street where the sound readings were taken.

Absent any possible violations for Chapter 7030 for MPCA Noise Pollution, Section 92.15 of the City Code states that the following is a public nuisance: “Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public”. This code can be utilized for noises not exceeding the MPCA thresholds.

The applicant makes the statement that “if this usage is denied, the city has effectively condemned by property.” In determining of a zoning regulation violates a property owner’s rights, the US Supreme Court has recognized two classes of regulatory takings: Categorical (regulation denies ALL economically beneficial or productive use of land) and Case-Specific (involving the economic impact of the regulation). The City argues that this is not a categorical taking as there are many viable businesses already operating on the property, that can and will continue to operate at the property not related to the specific request at hand.

Interim Use Permit Criteria

The City Council may consider an interim use permit for a use which is not specifically listed in this Ordinance as an interim use within the affected district and may grant a permit provided such interim use, after review by the Planning Commission and the City Council, is found to otherwise meet the criteria for granting an interim use permit within the affected district. The City Council shall make the following findings in order to approve an interim use:

- A. The proposed interim use will utilize property where it is not reasonable to utilize it in a manner provided for the City’s Comprehensive Plan and Zoning Ordinance. (The proposed interim use for rail car repair will not utilize property in a reasonable and temporary manner considering the property is currently zoned I-1 Light Industrial Zoning, but is guided as “downtown flex” according to the 2045 Comprehensive Plan and of which exact requirements have not yet been determined.)
- B. The proposed interim use is presently acceptable but, given anticipated development, will not be acceptable in the future. (The proposed rail car repair is not acceptable in that while the property is currently zoned I1-Light Industrial and uses such as automobile repair are listed as permitted, this specific use is proposed to happen in an “exterior” fashion and not within a building. It is additionally noted that the property will be rezoned to “downtown flex” in 2025 or early 2026 to fit the current comprehensive plan and noting that the use is requested to continue 10 years from the date of approval.)

- C. The proposed use will not hinder permanent development of the site. (The proposed designated rail car repair area will hinder permanent development of the site because even though it is utilizing an underutilized canopy covered rail spur, the property is guided as “downtown flex” in the Comprehensive Plan which will lead to continued redevelopment of the site in a non-industrial fashion. The industrial use even as an interim use for a limited time period could deter continued development of the site for commercial purposes, could disturb existing uses on the property itself and could hinder development of adjacent properties.)
- D. The proposed use will not adversely impact implementation of the Comprehensive Plan for the area. (The proposed designated rail car repair area will adversely impact implementation of the Comprehensive Plan as the site is guided as “downtown flex” in the Comprehensive Plan and not guided for industrial uses which is at odds with allowing this industrial use even in an interim fashion.)
- E. The proposed use will not be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare. (The proposed rail car repair may be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare as it may result in noise nuisances relating to Section 92.15 of the City Code or Chapter 7030 of MPCA Noise Pollution regulations.)
- F. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area. (The rail car repair business may result in noises that may conflict with the planned Praha Outdoor Performance Stage, directly north of the Mill and Main Street and potentially other parks, schools, street and other public facilities.)
- G. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided. (Adequate utilities, access roads, drainage and necessary facilities exist for the proposed rail car repair business.)
- H. The date or event that will terminate the use has been identified with certainty. (The proposed designated exterior storage area shall cease to operate at the site no later than 3/3/2035.)
- I. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future. (The proposed designated rail car repair area will not impose additional costs on the public if it is necessary for the public to take the property in the future.)

In permitting a new interim use, the City Council may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the City Council considers necessary to protect the best interest of the surrounding area or the community as a whole. Any City Council approval of an interim use shall be subject to the following conditions:

- A. Except as otherwise authorized by this section, an interim use shall conform to this Ordinance as if it were established as a conditional use.
- B. The date or event that will terminate the interim use shall be identified with certainty. The City Council may require the applicant to deposit a cash amount with the City, or provide some other form of security, to ensure compliance.
- C. In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.
- D. Other conditions as the City Council deems reasonable and necessary to protect the public interest and to ensure compliance with the standards of this Ordinance and policies of the Comprehensive Land Use Plan.

As City staff is not recommending approval of the request, conditions for approval have not been developed at this time.

Staff Recommendation

Staff recommends **denial** of the Interim Use Permit (#I2-2025) request to allow a rail car repair business in the I-1 Light Industrial Zoning District, at the former mill located 100 2nd Ave. SW, as proposed by New Prague Mill, LLC with the following findings:

- A. The proposed interim use for rail car repair will not utilize property in a reasonable and temporary manner considering the property is currently zoned I-1 Light Industrial Zoning, but is guided as “downtown flex” according to the 2045 Comprehensive Plan and of which exact requirements have not yet been determined.
- B. The proposed rail car repair is not acceptable in that while the property is currently zoned I-1 Light Industrial and uses such as automobile repair are listed as permitted, this specific use is proposed to happen in an “exterior” fashion and not within a building. It is additionally noted that the property will be rezoned to “downtown flex” in 2025 or early 2026 to fit the current comprehensive plan and noting that the use is requested to continue 10 years from the date of approval.
- C. The proposed designated rail car repair area will hinder permanent development of the site because even though it is utilizing an underutilized canopy covered rail spur, the property is guided as “downtown flex” in the Comprehensive Plan which will lead to continued redevelopment of the site in a non-industrial fashion. The industrial use even as an interim use for a limited time period could deter continued development of the site for commercial purposes, could disturb existing uses on the property itself and could hinder development of adjacent properties.
- D. The proposed designated rail car repair area will adversely impact implementation of the Comprehensive Plan as the site is guided as “downtown flex” in the Comprehensive Plan and not

guided for industrial uses which is at odds with allowing this industrial use even in an interim fashion.

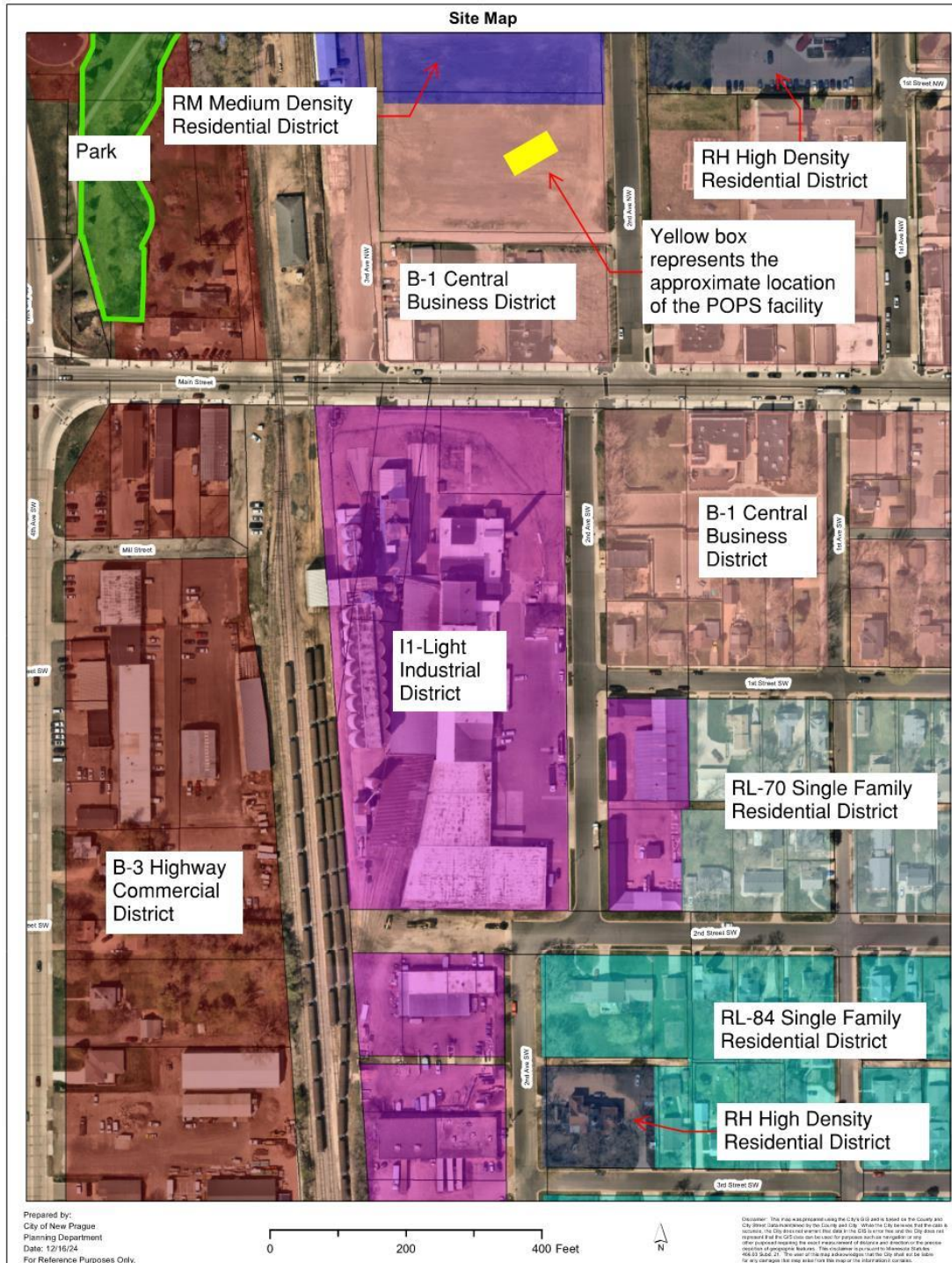
- E. The proposed rail car repair may be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare as it may result in noise nuisances relating to Section 92.15 of the City Code or Chapter 7030 of MPCA Noise Pollution regulations.
- F. The rail car repair business may result in noises that may conflict with the planned Praha Outdoor Performance Stage, directly north of the Mill and Main Street and potentially other parks, schools, street and other public facilities.
- G. Adequate utilities, access roads, drainage and necessary facilities exist for the proposed rail car repair business.
- H. The proposed designated exterior storage area shall cease to operate at the site no later than 3/3/2035.
- I. The proposed designated rail car repair area will not impose additional costs on the public if it is necessary for the public to take the property in the future.

Attachments

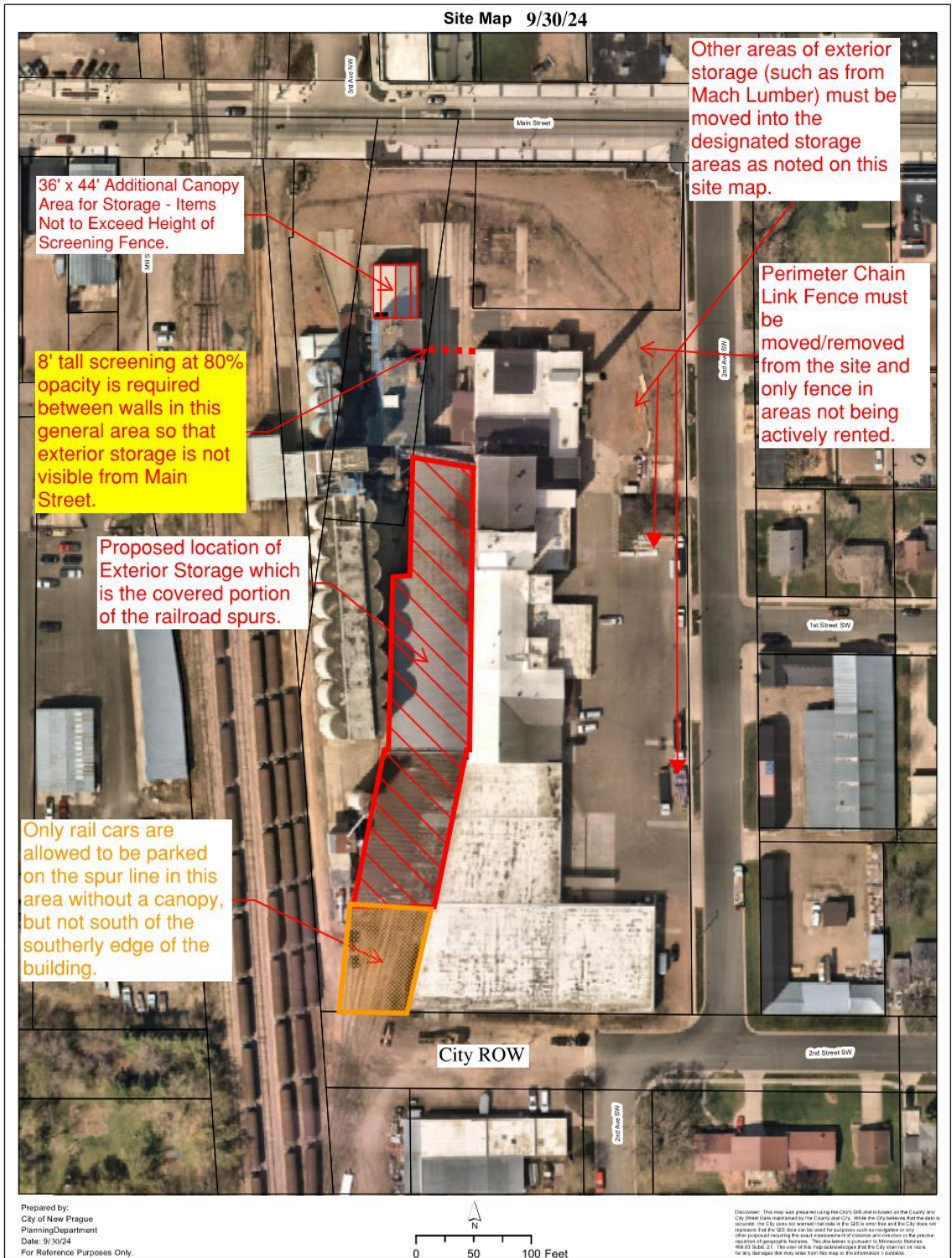
- 1. Site Map Aerial – Dated 2/6/25
- 2. Site Map Zoning – Dated 2/6//25
- 3. Approved Mark Up of I2-2024 – Dated 9/30/24
- 4. Location of Rail Car Storage & Repair – Dated 2/14/2025
- 5. Future Land Use Map – Undated
- 6. Concept Plan of the Mill – Dated 2/14/2025
- 7. Pictures – Dated 2/21/25



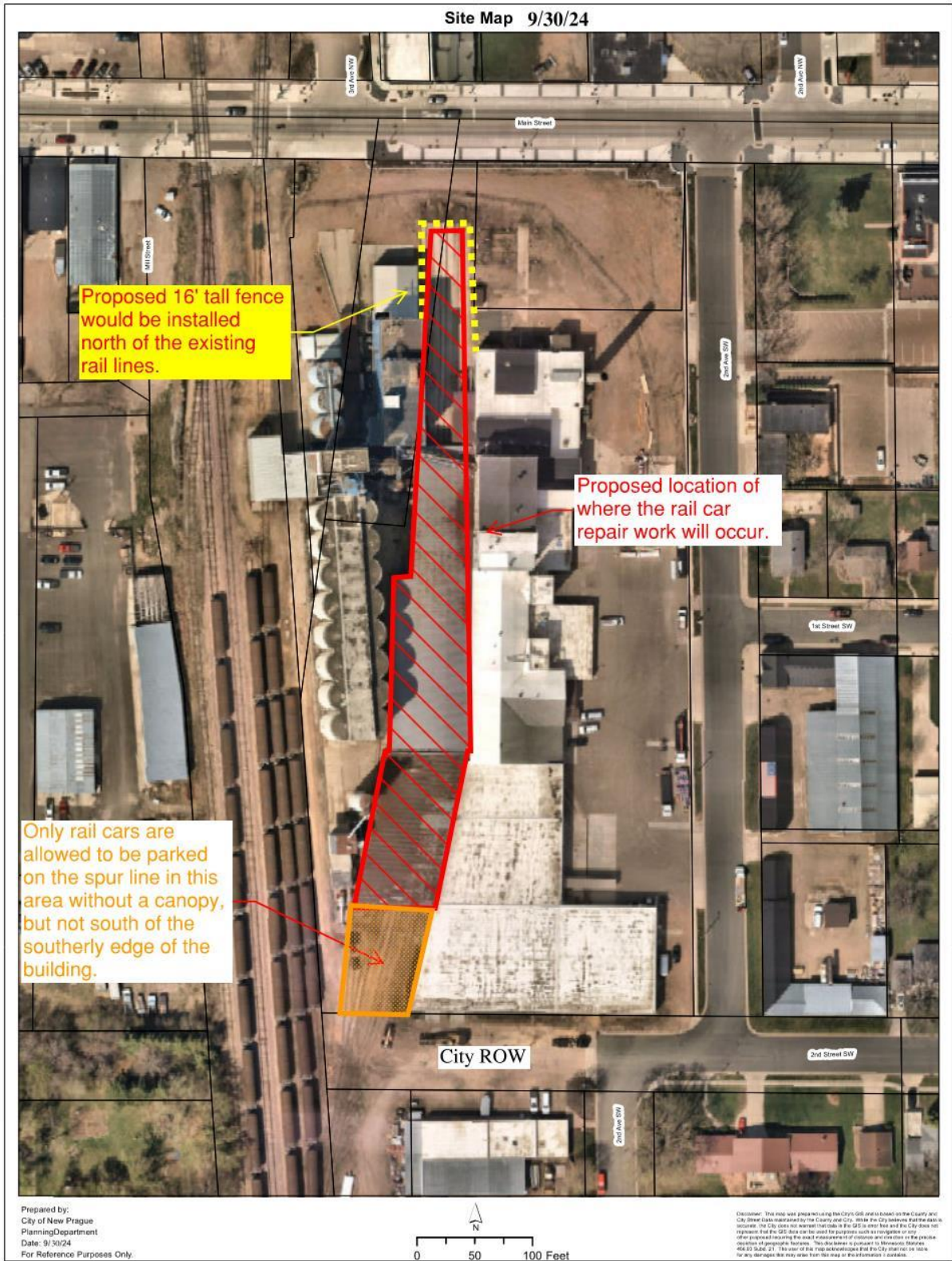
Aerial View of the Property



Zoning of the Subject Site and Surrounding Properties

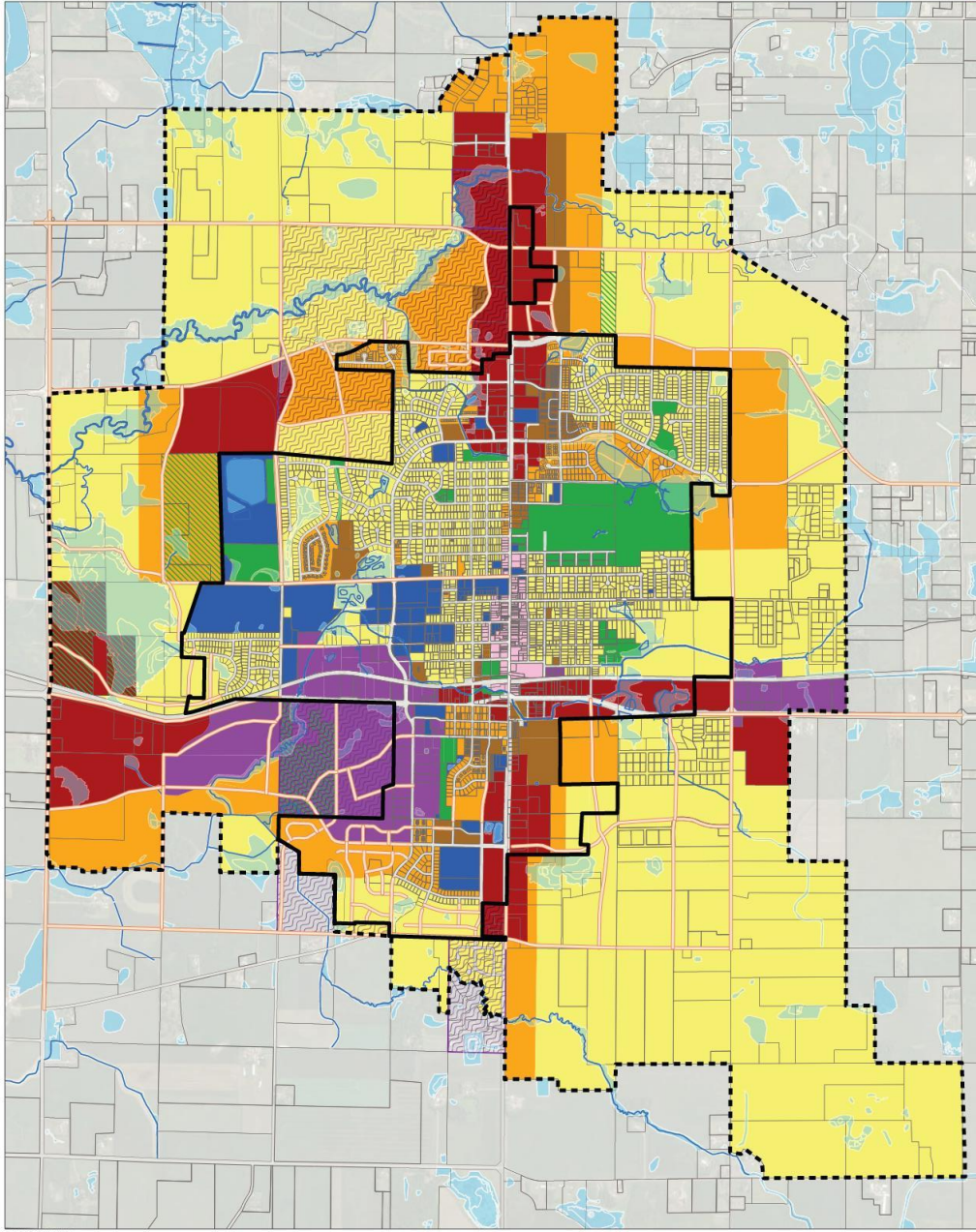


Approved Plan from I2-2024



Intended Location of Rail Car Storage and Repair

**FUTURE
LAND USE**
CITY OF NEW PRAGUE
COMPREHENSIVE PLAN UPDATE
CITY OF NEW PRAGUE
SCOTT/LE SUEUR COUNTY, MINNESOTA

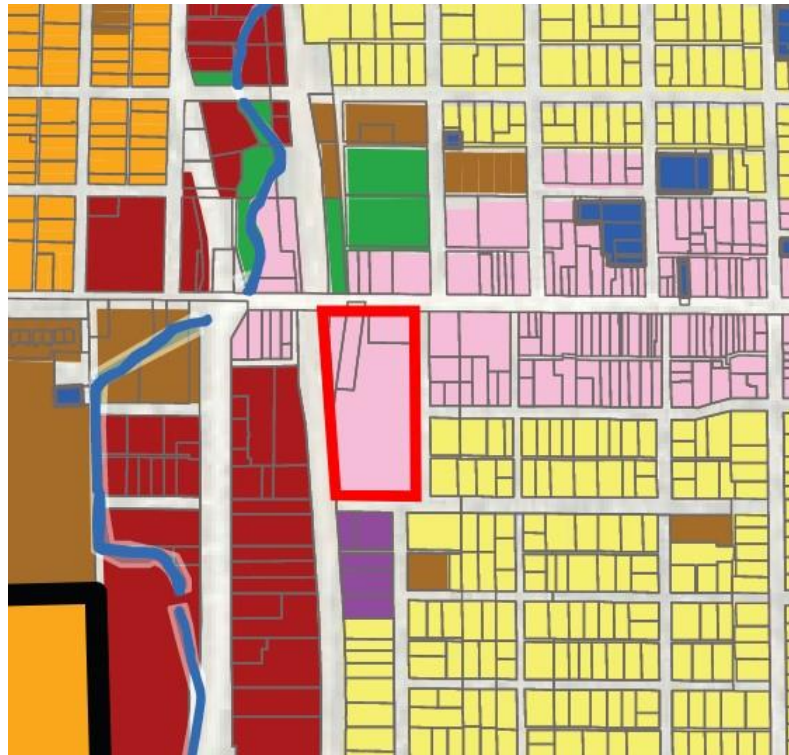


- Future Land Use Categories
- Single Family Res
 - Medium Density Res
 - High Density Res
 - Downtown Flex
 - Business Flex
 - Industrial
 - Public
 - Parks and Green Space
 - Proposed Parks
 - Future Road Corridors
 - Wetlands
 - Surface Water
 - Helena Township OAA
 - New Prague City Limits
 - 2040 Comprehensive Plan Boundary
 - New Prague Parcels

Date Sources:
Scott County, Le Sueur County, City of New Prague, FEMA



Future Land Use Map



Zoomed In Image of the Future Land Use Map



NEW PRAGUE MILL PERSPECTIVE
25-03-0025
02-14-2025

Concept Plan of the Mill Looking Southwest from Main St (Shows the 16' Tall Northern Fence)



View of Canopy Area from Main St W – Sound Blanket Currently Covering Front Entrance



Looking at the NW Corner of the Site from Main Street



Looking West from 2nd Ave SW



Looking West Along 2nd St SW ROW from Rail Spur



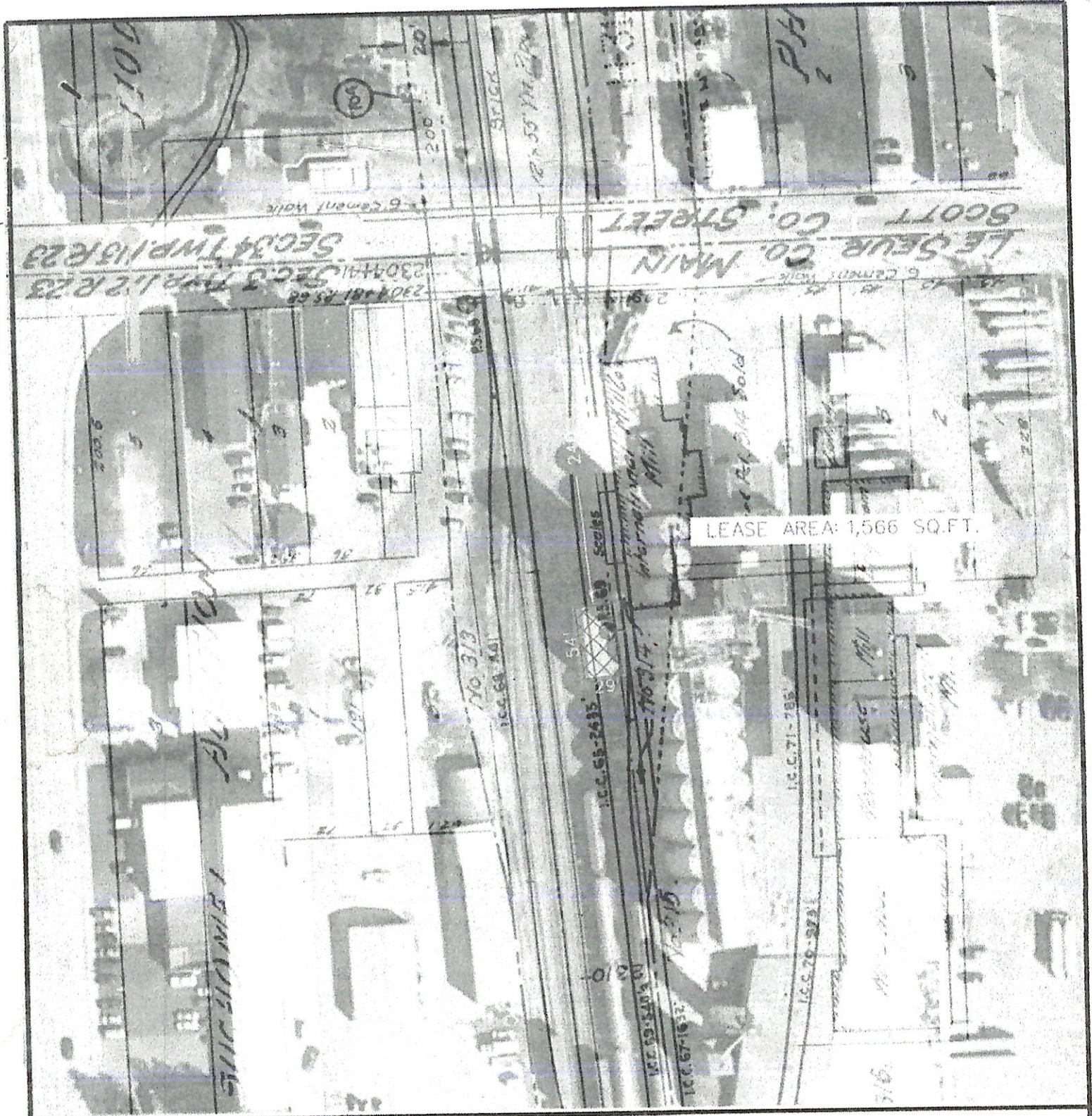
Looking North on the Rail Spur Towards the Southside of the Canopy Storage Area



Looking North on the Rail Spur Towards the Southside of the Canopy Storage Area

EXHIBIT A





LEASE AREA: 1,566 SQ. FT.

LEGEND:

- LEASE AREA SHOWN
- UPPRCO. R/W OUTLINED

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS. EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY
 NEW PRAGUE, LE SUEUR COUNTY, MN
 M.P. 54.03 - MONTGOMERY SUB.
 TO ACCOMPANY AGREEMENT WITH MILLER MILLING COMPANY, LLC.

SCALE: 1" = 100'

OFFICE OF REAL ESTATE
 OMAHA, NEBRASKA DATE: 5-28-2014
 DSK FILE: 2874-77

| | |
|---------------|-----------------------|
| CADD FILENAME | 0287477 |
| SCAN FILENAME | CNW/MN/MSL/V-101B/S-9 |

Sound decibel rating-tested 1/22

measured at the sidewalk

| | |
|---------------------|-------|
| ramp drop | 74 |
| welder running | 58 |
| hammer on metal | 71 |
| semi truck on stret | 73 |
| traffic on street | 53-65 |
| no traffic | 45 |

witnessed by Ken Ondich

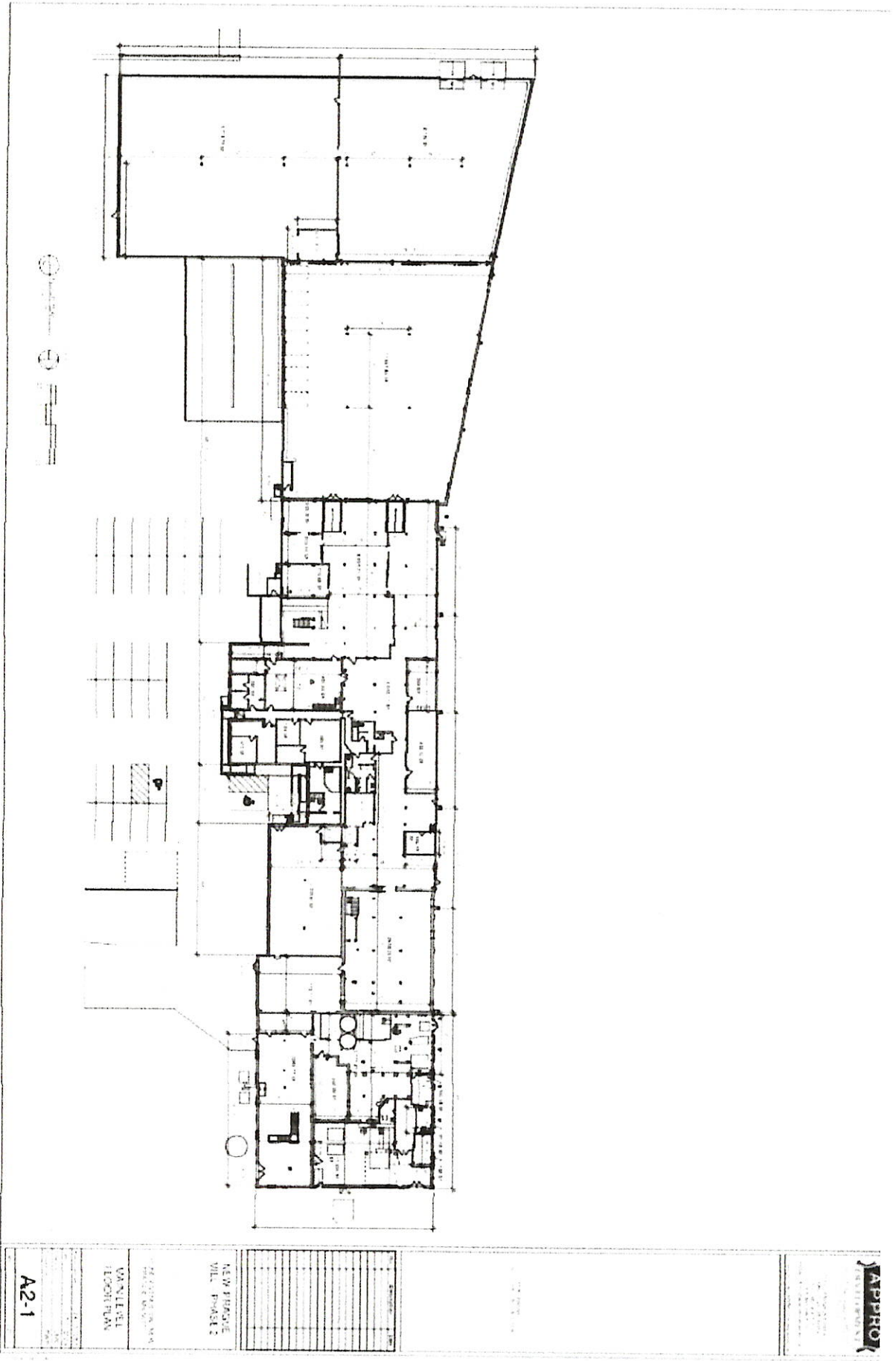
from Google

| | |
|-----------------|---------|
| train horn | 96-110 |
| siren | 100-135 |
| trtain | 70-100 |
| air conditioner | 72 |
| vacuum | 70 |
| busy restaurant | 85 |

New Prague Mill renters

| | |
|---|--------------------------|
|  | CVF Motorsports |
|  | 2 if by Sea |
|  | MVE |
|  | First Look Remodeling |
|  | Fancy Bones Dog Grooming |
|  | Faith Recovery Music |
|  | Post Office |
|  | Cory Newsome |
|  | Cypress Railway |
|  | Future retail/restaurant |





New Prague Mill

To the New Prague planning commission:

Currently there are 12 businesses that are working through the mill. There are 18 employees working. Most of these are new jobs. As these businesses grow, they will need more employees, potentially 12-24 new jobs.

Cypress Rail will be bringing new high long term paying jobs. Potentially we will see 8-10 new opportunities. All of these employees will need housing, food, clothing etc. They will spend money to boost our local economy. I believe this falls in line with the vision New Prague has for the future.

Future tenants for the mill may include the post office and a dance studio. Talks are in process. The first floor will be close to full if successful.

We've used several local contractors at the mill to do improvements: SR painting Steve Ries, Rynda Landscaping Steve Rynda, Lakers Disposal, Cedar Lake Electric, Benny's Plumbing, Braith Auto, Kubes Flooring, Simon Concrete, Brick and Stone, IO Threads, Scott Equipment, Climate Control, Escape Fire.

We have spent almost \$1,000,000 for safety infrastructure and remodeling for tenants. This project is good for New Prague. Please help us to continue the project in good faith by allowing this tenant to help us succeed.

Thanks

Bill Gibson partner New Prague Mill LLC
612-272-1139

New Prague Mill

To the New Prague planning commission:

When we bought the mill in 2022, it was zoned Industrial. The property has silos, railroad tracks, milling equipment, warehouse and office space. Since that time, the city has gone to a "business flex" plan that currently doesn't have rules, but is clearly designed for service or retail type business.

We currently have a potential tenant that would lease our railroad tracks and some warehouse to repair railroad cars. This would clearly be allowed in an I-2 district, but does not seem to be compliant with the "business flex" intention. The problem is that nothing in the business flex program would use railroad tracks or silos to be compliant. In essence, if this usage is denied, the city has effectively condemned my property.

We have thought about alternative uses for the silos, i.e. condominiums, event center, but parking will be a problem. In fact, any alternative use to change the Industrial use to business flex will have a parking issue as those uses will need more parking per sq ft.

Tearing down the silos and pulling the tracks will be very expensive, beyond our means. If we bring in a developer, they will do a big project and more than likely would eliminate the historic portion of the property that the city is trying to protect.

This particular customer has the ability to contact UP rails directly and sign a lease with them to do the repairs outside the mill property 100 feet to the west without city approval. It would not be concealed or covered. Doing this on the mill property would be the very best solution to contain noise and maintain a pleasant exterior. This would be covered by a very tall fence housed in vegetation. There would be no view from the street.

I propose that we leave the west side of the property including the tracks and silos and blue building to be long term I-2 zoning to solve this problem. If we put an end time to this, and the rails are still being used, all we have done is to kick this ball down the road for a future problem with different players.

Regards,

Bill Gibson, partner New Prague Mill LLC

612-272-1139