



NORTH BRANCH —Minnesota—

Steve Cich
Chair

Nathan Ehalt
Commissioner

Ross Otto
Commissioner

Gary Schaefer
Commissioner

Open
Commissioner

**PLANNING COMMISSION
REGULAR AGENDA
WEDNESDAY, SEPTEMBER 17, 2025 @ 6:30 PM
CITY HALL, 6408 ELM STREET, NORTH
BRANCH, MN 55056**

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL OF THE CITY OF NORTH BRANCH IN THE COUNTY OF CHISAGO AND IN THE STATE OF MINNESOTA

REGULAR MEETING

Wednesday, September 17, 2025

1. CALL TO ORDER

Planning Commission Chair Steve Cich called the Planning Commission Meeting to order at 6:30 PM.

2. PLEDGE OF ALLEGIANCE

Chair Steve Cich led the Pledge of Allegiance.

3. ROLL CALL

Present: Commissioner Gary Schaefer, Commissioner Steve Cich, Commissioner Ross Otto,
Commissioner Nate Ehalt

Absent:

Remote:

Others Present: Commissioner Patrick Meacham

Notes:

4. PUBLIC COMMENT

Provides an opportunity for the public to address the Council on items that are not on the Agenda. Please raise your hand to be recognized. Please state your name and address for the record. This section is for the express purpose of addressing concerns of City services and operations. It shall not be used to clarify individual's views for political purposes.

There was no public comment.

5. AGENDA APPROVAL

a. Approve Agenda

ACTION

RESULT: Passed
MOVER: Nate Ehalt
SECONDER: Gary Schaefer
AYES: Gary Schaefer, Steve Cich, Ross Otto, Nate Ehalt
ABSENT:
NOTES:

6. PUBLIC HEARINGS

- a. Variance from City Code Section 66-943 Design Standards for permitted building materials and a Zoning Text Amendment and Conditional Use Permit for outdoor storage at 39777 Flink Ave **ACTION**

City Planner Ryan Saltis gave an overview and a background of the request for a proposed office building and garage for Beach Transport. The business provides aggregate material transportation for public and private road construction. Previous use of the parcel was a single-family residence. It has since been demolished. It is a 4.98-acre parcel located at 39777 Flink Avenue. The goals for the site are to provide office space for business operations, and then also have an attached garage for storage and servicing of the fleet. The site is completely surrounded by a separate ownership parcel. It's currently vacant, with nothing on it, but it is owned by a separate entity.

We'll start with the variance from design standards so that can apply for variance for building materials used in the garage portion of the building. This parcel is located in Zone One for design standards, which requires 65% class one building materials and 35% class two materials. So specifically, the various requests is for the garage and shop portion of the building. Just wanted to touch on this office building portion, so we haven't received any percentages or specific building materials that this is going to be, so that would be a requirement during the site plan review process, if we get to that point for review, soil would have to be at 65% class one materials, 35% class two materials. Here's a list of the materials belonging to each class. So class one is more high-end durable materials, such as brick, stone, glass, copper, and then class two is kind of a little more lenient or less durable materials that take up the rest of the space on buildings. So with this garage shop portion, they are currently prohibited in Zone One and Zone Two, and they're only allowed in Zone Three. So Zone One, a place that had a 65% requirement, class one materials, and 35% class two, we typically won't see these. They're typically found on industrial buildings. So, that says Zone Three. That's our old industrial park, and our new industrial park specifically holds Zone Three. And Zone Threes do not have any requirements for percentages of materials that are needed. So we got to go through some findings of fact here for the variance. So for all variances, the planning agency and council can make a finding of fact based on these numbers here that I'm going to go through. The first one is related to the city's comp plan. So we kind of have everything that we responded to in that bold lettering, so that is found in your packets as well. So variance request mostly applies to zoning ordinances and city code, and not necessarily the comp plan. But it does point out that those areas around 95 and 35 and then also in the central business district, are subject to stricter design standards to achieve the goal of inviting high-quality retail shopping, commercial services. They're also highly visible on these roadways and are sensitive to surrounding uses. So, based on what was submitted to us, that looks like the building of orientation will be facing less towards Flint Avenue. The rear area of the garage and shop will be visible from I-35. The middle did not provide elevations with directional clarification. So, technically, they're not going to have any of those class one, class two materials. It's just the zone three materials that are proposed on this, on these sides, and they are the high-visibility sides for the building, since they face I-35

So number two, the geographical area involved. So the geographical area is not really impacted. One specifically looks at this variance request for building materials, the character of the surrounding area. It is surrounded by commercial and industrial uses. Residential homes are found to the north and west of

the site. Homes are now immediately adjacent to the subject site. The property is surrounded entirely by the 800-acre parcel currently used for ag purposes. The proposed building materials are similar to materials found on buildings to the south of the site previously approved by the Planning Commission and the city council. However, since the construction of these surrounding buildings, the I-35 corridor was reclassified to zone one for building materials, and all parcels were rezoned to that B business surrounding office building constructed entirely out of brick by the applicants. It's the middle office building that appears to meet the minimum of 65%. However, we would like to see a breakdown of those materials and percentages before we proceed with anything and approve it. So the building materials proposed for the garage and shop portion currently do not meet requirements within the Zone One classification. Zone One is the strictest destination for requirements, and the purpose is due to the visibility from I-35; in this case, depreciation is kind of difficult to quantify before it happens. However, it is expected that using higher-quality materials that are common in these other classes will lessen the depreciation of the surrounding areas. It is not expected to place an undue financial burden on the city. However, the allowance of metal panels would result in a lower taxable value and revenue generated for the city. So keep that in mind, one request will impair an adequate supply of light here. We don't anticipate much of this affecting to surrounding properties, congestion in the public right-of-way. So the request for the variance will not impact congestion in the public right-of-way. The property is only accessible from an easement. The proposed metal siding is engineered to be fire resistant on combustible other materials, final wood, which are more likely to catch on fire, but fire safety for the building as a whole will be analyzed during the building plan review stage of development what the city's building department whether the request is consistent with the spirit of the division. So the request is legitimate for allowing building materials, and has been analyzed for this section through findings of fact. Additionally, to these findings of fact, we'll also have to go through conditions on approval. The Planning Commission and city council may not permit that variance for any use that is not permitted under the division of property in the zone where the affected person's line is located. Various modifications or variations of the provisions of the zoning code has applied to a specific piece of property, and they shall only be permitted when they're in harmony with the general purpose and intent of the ordinance. The variance per design standard is based on building a keeping a consistent look with the surrounding buildings. Whether the request meets the general person's intent is determined in the following responses. Number two, when the variances are consistent with the comp plan, variances may be granted by an applicant for that variance establishes that there are practical difficulties, practical difficulties meaning as used in connection with granting of the variance, and the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance. So use of the property is an office space and also a heavy truck repair shop is permitted within this B business-owned district. However, trucking operations are not listed as permitted. The use of the building would remain the same. Other variances approved or denied because they are they are allowed to have office space. . The variance is primarily aesthetic preference. It could also be considered a difference in building quality. When comparing these metal panels to higher durability class one materials, the clinical landowner is due to circumstances unique to the property, not created by landowners. This is the most stringent requirement for building materials. This is due to the visibility from 35 that is not unique to this individual property. Number three, the variance of the grant will not halt the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties included are not limited to adequate access to sunlight through solar energy systems. That's just an example. In this case, the design standards for building materials does have the ability to be met. Knowing any financial features of the site would really prevent that from being met. Other than economic considerations, the character of future buildings is important to this area due to visibility 35 and the future interchange just north of the subject site proposed around 400th Street. This will provide more connectivity to the area. It will also bring more visibility to this site for vehicles traveling along those roads. Number three, board of adjustment appeals. City Council acting as the board of adjustment appeals can impose conditions and grant the variance to ensure compliance and to protect adjacent properties. So that's where you guys come in. You have the ability to put conditions of approval on a variance request in order to protect adjacent properties. So, conditions approval is basically

restrictions placed on properties to minimize potential negative impacts. Some of these things include decreased safety, inconsistent compatibility of neighborhood character, and also screening public facilities.

We are moving on now to the text amendment for outdoor storage. So they do propose to have semi trucks and operational business equipment and materials located outdoors on the site. Outdoor storage and equipment and materials is currently not permitted within the business zoning district. Hence, a text amendment would be needed. It's only listed as a conditional use currently in industrial-zoned properties. So anything that wants outdoor storage has to be zoned industrial as of now, but we're seeking to change this chart here, so anything highlighted so that's the outdoor storage. The planning commission should consider whether, by doing this, adding outdoor storage, equipment, materials as a conditional use is beneficial for all properties on the business, and I believe I was zoning that coming up here, so we can kind of look at that as well. And another thing to point out is that this text amendment would have to be approved prior to approving the requested CP for the same thing. So, just in order of operations, here's getting that down.

So we moved on to conditioning these permits. Okay, so this is for the outdoor storage of the semi-trailers and other business-related equipment. We'll go through the same findings of fact as previously, so the relationship to the city's comp plan doesn't specifically say outdoor storage. Doesn't call it out in the comp plan specifically, but does point out the importance of retaining local business and industry. Granting CP for outdoor storage would allow the operation of this business, or semi-trailers and equipment freely as part of the nature of the business. So vehicles would be allowed to be stored outdoors while avoiding service within that indoor area. There are no real geographical areas or features of interest to be aware of, protecting, or anything characteristic of the surrounding area. So the applicant has submitted a narrative, kind of proposing, explaining the proposal for the storage on their site, and also, kind of listing several nearby businesses all into the south of this other site. It's not anticipated specifically to place the financial burden on the city when thinking of outdoor storage well impaired adequate supply here, it's not anticipated as well to affect properties, whether the request will unreasonably increase congestion in the public right of way. The subject site is only accessible from the driveway easement from the parcel to the west off Flink Avenue. So, depending on where these are placed, you know, they could be spaced out. They could be close together. You know, we kind of like to see some sort of strategic plan there, just to help ensure that these materials and equipment are mixing or be placed too close to each other, just for safety issues, and then also that there's any circulation issues as well as any Exodus things on site. So, whether the request is consistent with spirit intent, the outdoor storage of semi-trailers and equipment is important to operation for this specific business, and the application of the CUP is consistent with the intent that we found. So, some conditions of approval, for approving requests for variances of deals, amendments or CUPS, in this case, you can put certain conditions on this, such as land and setback requirements. Body or residential use for residential district properties should be screened, so some of these aren't applicable to this site. The site plans do show asphalt paving around the southeast and West sites of the proposed building. If you will see the site plan in your package, you can see that the proposed surfacing for the outdoor storage area is gravel dust, and drainage could become an issue if the semi-trailers are constantly moving around the site. Again, similar to other sites, it could be added as a condition. As a condition of approval to serve as a storage area, just to mitigate that dust, number nine, open outdoor storage should be screened from view for public streets and avoiding residential uses. So the site's kind of unique just because it's not directly off a public street. It's successful at easement, so that's something we'll kind of look at at a later time. The site is not directly surrounded by residential properties, either, not directly adjacent. So we do have Meadows North neighborhood, across Flink Avenue, which would potentially be affected a little bit by the site.

Going on for conditions approval, these shall be properly drained to control surface water run off so applicant has submitted for getting drainage plan as the city which will be reviewed by the city engineer.

These comments will be provided to applicants and their engineers. Grading plans need to be modified, the architectural appearance and functional plan of the building and site shall not be so similar to the existing buildings or areas to cause impairment property value. The outdoor storage component of the site is similar to surrounding uses explained previously at the finding of facts section.

Some questions that can spark discussion between you guys, and things that you should consider before either approving or not approving these requests. So start with variance. Is this variance from design standards of practical difficulty or hardship? So we kind of mentioned that the economic consideration is not applicable for variances. So is the hardship unique to the property we previously discussed. You know, all those properties along 35 being zoned business, and they would have to meet these design standards as well. So it doesn't seem completely unique to this property individually, and then the visibility from 35. What would you like to see? You know, you could add materials. It can go up to a certain percentage. You know, some options for what to do. So right there, under potential conditions requiring stone or similar ways going strong in the garage shop area. Or you could require a less than percentage of classified class two materials, let's say, go from 65% down to 50% for example. And then also as a whole, just looking at what this is zoned as the business. Does it make some sense there? You know, in the future? Do we want to look at potentially rezoning this corridor in the future, or do we look at it as the business? You know, we're kind of reviewing the comp plan right now. So, you know, if discussion, you know, gets to be that way, then they think it should be, you know, industrial or should be a flex zoning district.

So, bigger picture here, just looking at the area as a whole, and whether that makes sense to actually be through with the conditional use permit process for these sorts of businesses as well, because it would apply to those, not just the site. So, consider the existing surrounding use, uses of outdoor storage, and tall businesses in the immediate area should go through this as part of the overall operation of the business. Is there any impact of depreciation on strong properties? Is the proposed gravel area sufficient for the use of outdoor storage? Keep in mind that semi-trailers will be moving in and out of the designated area which could potentially be circulating as this equipment is moved around the site, and potential conditions of approval. Do we need to pave designated areas for outdoor storage? Maybe this dust, specifically on the north side of the building, the majority of outdoor storage is going to take place, we need an operation plan with certain areas identified. What's going to be stored, where? Distance, distance wise, how far harder are they going to be? Is the current screening of the existing trees sufficient for the site? Like I said, some trees might have to be taken down just to make room for that outdoor storage area. So these are the motions of approval or denial that you'll be taking with findings of fact. So need to point out those findings of facts. Whoever makes the motion to approve or deny will need to state why you approve or deny.

Commissioner Shaefer pointed out that there wasn't any water and sewer shown on the map and that this would be a financial burden on the City as it would not be paying for any of the facilities the City has provided for the urban service area. He also asked about whether there will be turn lanes on Flink? City Planner Ryan said that there will not be additional turn lanes.

Chair Steve Cich opened the meeting for public hearing.

Lori Pulkrabek, a trustee for the Karen R Swanson revocable trust, which owns the property on the three sides of the applicant's parcel, read a letter to the Planning Commission stating that there are too many questions and concerns attached to this seemingly rushed application for a variance text, amendment and conditional use permit, she said she would respectfully ask that all three be denied this evening.

Loren Beach, the applicant, addressed the Planning Commission explaining his terminal freight trucking company. He explained to the Commission that he had approached the previous owners to purchase the

parcel and that the house was a substantial mess to clean up, and financially, it isn't feasible for a small business to meet the requirements in the City's ordinances.

Commissioner Nate Ehalt pointed out that the City isn't turning away business, but that we have guidelines that we need to go through in order to also protect the liability of the community. And so, if we make a justification that doesn't follow our own existing ordinances, that allows the County to be open and liable to a suit, I don't know how that can be used as a legal justification for approving a variance based upon the existing comprehensive plan and the process that we are required to go through to look at in terms of approving a variance. So, while it is great that the cleanup is done and that particular site doesn't look like that, that is not a justification for a variance approval

David Sienko from the law firm LGM, attorney for the Karen R Swanson trust, addressed the Planning Commission. Mr. Sienko said the following: I'm trying to be brief summarization of the letter that I provided to you as you heard, my client opposes the Beach transport, heavy trucking business applications for the variance, the text amendment, and then the conditioning permit for the outdoor storage, first in the variance standards. I believe it sounds like you guys know the standards and requirements. I won't repeat them, but under Minnesota statute 460, 2.357 subdivision six, there's rigorous three part test to determine whether or not undue hardship is met. It's kind of the underlying requirement of the applicant, and the applicant has to approve the undue hardship. Three requirements are that the property in question cannot be put to a reasonable use if used under the conditions allowed by the official rules. Number two, it applied to the landowners due to circumstances unique to the property and not created by the landowner. And three, if the variance is granted, will not alter the central character locality. These three requirements aren't found in the application for the variance; they're not addressed. They just don't exist. So I think it's easy to deny, or recommend that the city council deny the variance. The second issue is the zoning text amendment. What's important to note, I think staff kind of brought this up, is that if you have a text amendment to the zoning district B- business, it's good, not just for that parcel, but for all of them, can have a domino effect. So everyone can have outdoor storage. And it sounds like from history, you are trying to remove outdoor storage from this sort of business, and you want to have less of that, not more of it. And if you allow it here, you allow it everywhere. And it's not just something you can do spot zoning just for this parcel. It's for all of the B-business. As you can tell, it's quite extensive, north, south, east, and west, through the kind of main corridors of the city. It's also discretionary. City council doesn't have to change any sort of zoning. It can, but it doesn't have to. There's no requirement that because someone wants the zoning to be changed, the city council has to do it completely and utterly discretionary in kind of considering this. I think it's important to understand what the city kind of views industrial versus business, and the compatibility and why we have different zoning districts even in the first place. The I one purpose, as stated by the code, is that it's for industrial and related uses. Under the two, it is for industrial development, including manufacturing, fabrication, packaging, assembly, warehouse, distribution, and related uses. The Beach business is obviously very different. Some of the allowed uses within primitive uses within the Beach business are artisanal products, bakeries, a club, a grocery store, pet stores, pharmacy, tobacco shop, barber shop, banks, and institutions. What is attempted to have, attempting to happen here, that we're going to change those uses and now we're going to allow outdoor storage. You're turning this into an industrial facility, or industrial zoning. That may not be the ultimate intent, but that is what will happen, because everybody else can do it.

If the zoning text amendment is granted, then we move on to the conditional use permit based upon the application. There's very, very little knowledge of what is intended to happen on this property. We don't know the number of trucks. They simply own two or three trucks. Okay, do the trucks come in and out every day? How many trips are there? How many other trucks contain trips? What's the intention for expansion? Which is. Two, or is there tend to be 20, or is there tend to be 50 trucks at some point? We don't know. There's nothing in the application that would tell us how many trucks could be visiting the

site, what the hours of operation are, or what type of lighting they will have. There's obviously a brand new home development nearby. Sound backing up with the beepers versus and the you know, accelerating and decelerating can be an issue. We don't know how many hours they intend to be operating. If this is going to be going into the evening hours or early morning. We don't know. Are they doing truck repair for other trucks, or is it just truck repair for them? Again, the application is unclear as to what they intend to be doing on the property. So if there is a point where the condition-use permit is granted, the trust asks that there be considerations for screening of the trucks from all sides, not just from I-35, but all four sides, because three sides are surrounded by the trust property. We also want to make sure that if there were to be a conditional use permit, that the applicant has legal access to Flink Avenue through these talks to that next. We also ask it again. We don't know from the application, there is going to be aggregate, none of the materials are stored on site, and if there is, we would want that to be addressed by the conditional use permit. How much can be stored there? How is it stored? Is it how does it how it's screened? Is it screened with trees, or is it screened with, you know, walls or fences? This would have to be all considered in consideration to prevent we also wanting you to consider limiting the number of vehicles that can be parked. Are we talking about 10, 20, 50, you know, semi-trucks. We don't know, but a conditional permit should address those things, also limiting hours of operation, because, again, the truck noise can be impactful, going to an issue that is addressed extensively. And the letter I just provided to you as a heads-up with legal access, this is an interesting access case, and it comes from a person who loves access law. This was an easement that was first created in a land contract, contract for deed in 1978 and in 1978 it stated that it's for a 66-foot perpetual non-exclusive roadway easement for ingress and egress over the route of the existing roadway presently use. So 1978, the problem with that description is that it's ambiguous. We don't know if the original intent was to mean that the road would be improved or unimproved. It's currently unimproved, from what I can tell is dirt road. So does that mean that the owner or holder of that easement can put a two-lane driveway in a three-lane driveway with turn lanes? It's ambiguous. The easement does not tell us that. The easement also doesn't tell us if it's constricted to residential or heavy commercial truck traffic. It's been a residential home since, from what we know, from 1978 until a few months ago, if someone had lived there, would it be the intent of the parties in 1978 to be just residential traffic, or were they contemplating commercial traffic, commercial truck traffic going through this easement? The point of all this is that this is an ambiguous easement and subject to different interpretations, and we believe that this easement does not allow commercial, heavy traffic through the easement. If you put aside what the easement says, we can fast-forward a little bit, and we'll bump into a complex law called the Marketable Title Act. The Marketable Title Act is found in Minnesota statute 541.023, and what it's attempting to do is it's attempting to extinguish old interests and property, such as easements that are 40 years old or older. And this particular easement from 1978 is, of course, more than 40 years old. So under the Marketable Title Act, that interest or this easement is extinguished unless two things happen. The first thing that has to happen is the easement holder of the benefited property of five acres, in this particular case, would have to record a specialized notice letting the whole world know that they have an easement over the trust property. That didn't happen. That's fairly common. So there's a second exception called the possession exception. So under the possession exception of the The Marketable Title Act, you can have an easement holder, such as the five-acre parcel of land, continue to use their that easement in the future, but it's to what they've been using it for. So what would a reasonable person or reasonable buyer know about a particular parts of the property and what the easement holder is using it for? Is what they see. So the possession exception, in this case, from 2018, when that 40-year kind of ended, and then the possession exception comes forward. The question is, well, what was the use during? For 2018 to now, the answer is, it's been a residential driveway that's about 15 feet wide, so under the mark title, there isn't a 66-foot-wide easement, and it's not for any purpose under the sun. It's for residential use only. And we believe that if a condition whose permit is granted, the applicant will have to have legal access to the five-acre site. Any questions?

Chair Steve Cich closed the public hearing.

Motion to recommend approval/denial to City Council, for a Variance from City Code Section 66-943 Design Standards for a proposed building at 39777 Flink Ave.

RESULT: **Failed 4-0**
MOVER: **Nate Ehalt**
SECONDER: **Gary Schaefer**
AYES: **None**
ABSENT:
NOTES:

Motion to recommend approval/denial to City Council, to include Outdoor Storage, Equipment & Materials as a Conditional Use in the B-Business Zoning District.

RESULT: **Failed 4-0**
MOVER: **Nate Ehalt**
SECONDER: **Ross Otto**
AYES: **None**
ABSENT:
NOTES:

Motion to recommend approval/denial to City Council, for a Conditional Use Permit for Outdoor Storage, Equipment & Materials at 39777 Flink Ave.

RESULT: **Failed 4-0**
MOVER: **Nate Ehalt**
SECONDER: **Ross Otto**
AYES: **None**
ABSENT:
NOTES:

7. NEXT MEETING - OCTOBER 7, 2025

8. ADJOURNMENT

The meeting was adjourned at 8:25 PM.

RESULT: **Passed**
MOVER: **Steve Cich**
SECONDER: **Gary Schaefer**
AYES: **None**
ABSENT:
NOTES: