



## **STAFF REPORT**

**TO:** Board of Zoning Adjustment (BZA)

**DATE:** February 10, 2015

**RE:** Case No. **15-101BZA**, a request for variances to **Section 151-4.14(C)** pertaining to the minimum front/ street side, interior side, and rear setbacks, in a Limited Industrial District (I-1) District, where such placement is in non-compliance of the 2011 Land Development Code (LDC) requirements.

**Applicant/Owner:** Fred Dehn  
**Site Location:** 16516 N. 69 Highway  
**Site Size:** 3.50± acres

Application: 01/26/2015  
S23 | T53 | R30

**Existing Land Use and Zoning:** Limited Industrial (I-1) District

**Zoning/Platting History:** None

**Surrounding Land Use and Zoning:**

- North* – Community Commercial (C-2) zoned land and Agriculturally (AG) zoned land
- East* – 69 Highway, Beason Meadows (AG & R-1), Sachs Addition (R-1A)
- South* – Stone Ridge, Replat (R-1A), Agriculturally (AG) zoned land, Williams Estates (R-1A), City of Excelsior Springs
- West* – Community Commercial (C-2) zoned land, Stone Ridge (AG) and Stone Ridge, Replat (R-1A)

### **EXISTING CONDITIONS**



Courtesy Clay County Assessor, GIS/Mapping



Courtesy Microsoft® Bing™

## **REVIEW**

Fred Dehn representing Precision Repair System is asking variances for three existing structures on the property located at 16516 N 69 Highway, with the intent of pursuing a related plat for the acreage so that the subject properties may be in full conformance with the 2011 Clay County Land Development Code (LDC).

The LDC notes in the Section 151-4.14 (C) the minimum front/street side setback for Limited Industrial (I-1) is 35 feet, minimum interior side setback is 30 feet, and the minimum rear setback is 40 feet. The applicant is requesting the following variances from the aforementioned codes in the Limited Industrial (I-1) District.

For details on the subject buildings, see "Attachment D – Site Plan Drawing".

### **FRONT/STREET SIDE SETBACKS:**

*[minimum 35 feet]*

#### **BUILDING #1:**

- 5.60-ft front/street setback variance

#### **BUILDING #2**

- 3.94-ft front/street setback variance

#### **BUILDING #3**

- 5.62-ft front/street setback variance

### **INTERIOR SIDE SETBACKS:**

*[minimum 30 feet]*

#### **BUILDING #1:**

- 4.05-ft side setback variance

### **REAR SIDE SETBACKS:**

*[minimum 40 feet]*

#### **BUILDING #1**

- 23.99-ft rear setback variance

In review of a non-use variance request, the following approval conditions must be met [Section 151-3.11 (D) (2)]:

- A.** *"The requested variance arises from **conditions that are unique** to the subject property, that are not ordinarily found in the same zoning district and that are **not a result of the owner's intentional action**;"*

Staff Response: **Exhibits A and B** have been presented by the petitioner, and **Attachment D** was generated by Staff.

- B.** *"The granting of the permit for the Variance will **not be contrary to the public interest** and will **not adversely affect the rights of adjacent property owners or residents**;"*

Staff Response: Public Notice was published for this case in the Kearney Courier on February 5, 2015, and certified letters were sent on February 7, 2015 to the adjacent property owners at the addresses furnished by the applicant. At this time, there have been no objections to the request.

- C.** *"The strict application of the provisions of which a Variance is requested will constitute an **unnecessary hardship** upon the property owner represented in the application;"*

Staff Response: This will be presented by the petitioner at the meeting on February 24, 2015

- D.** *"and, The Variance desired will **not adversely affect the public health, safety, or general welfare, nor destroy the intent of the Comprehensive Plan**."*

Staff Response: The subject property falls within the Natural Resources Tier of the 2008 Clay County Comprehensive Plan. This request for variances will have no negative implications on the 2008 Comprehensive Plan. In addition, no opposition to this variance has been received to date.

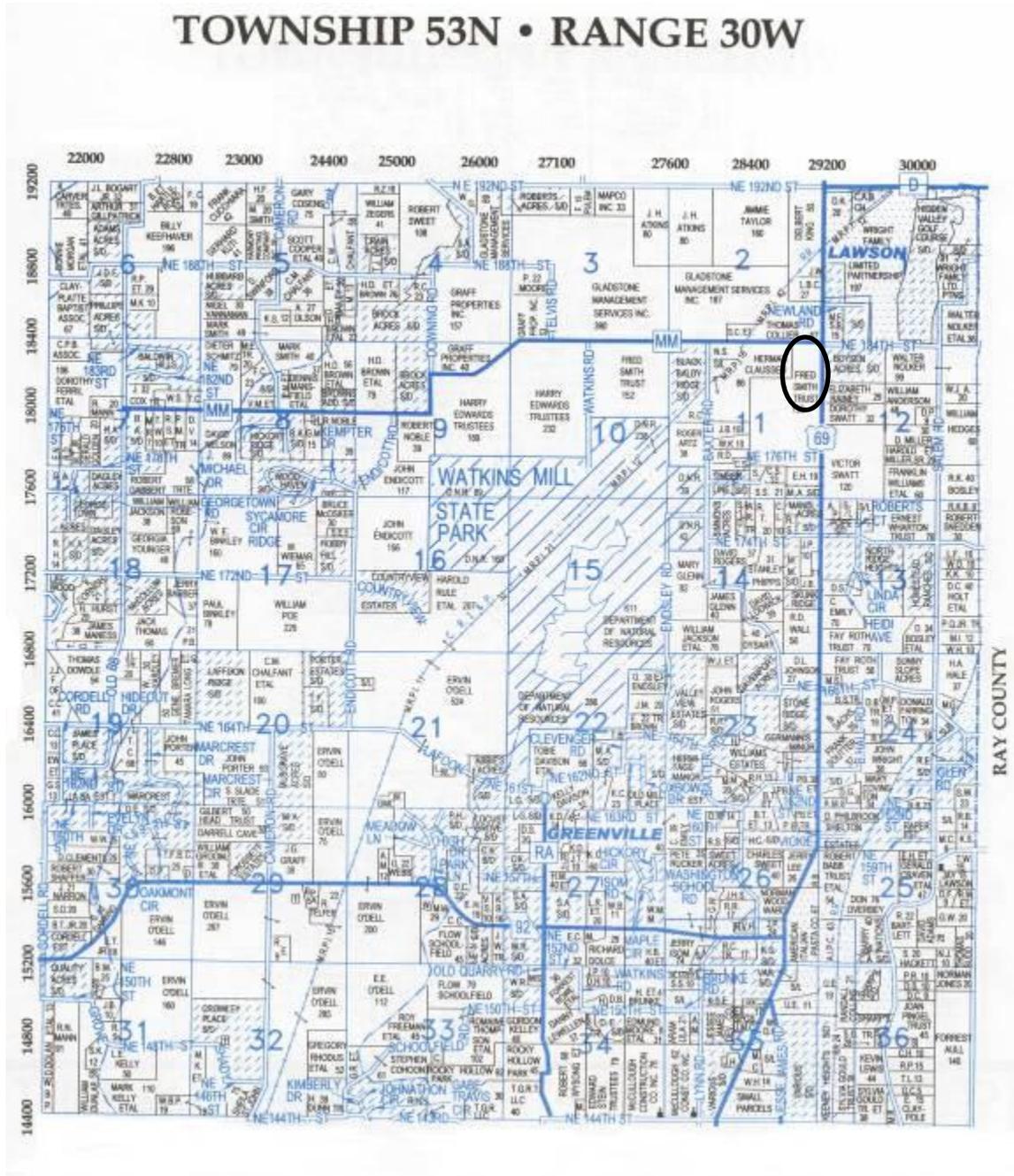
## **RECOMMENDATION**

**If the Board of Zoning Adjustment finds that the non-use variance approval criteria under Section 151-4.14 (C) have been met, then the following variances are to authorize the request:**

1. A maximum 5.65-foot front/street side setback variance from Section 151-4.14 (C) to allow the structures to remain as established on the property.
2. A maximum 4.10-foot interior side setback variance from Section 151-4.14 (C) to allow the structure to remain as established on the property.
3. A maximum 24.05-foot rear side setback variance from Section 151-4.14(C) to allow the structures to remain as established on the property.

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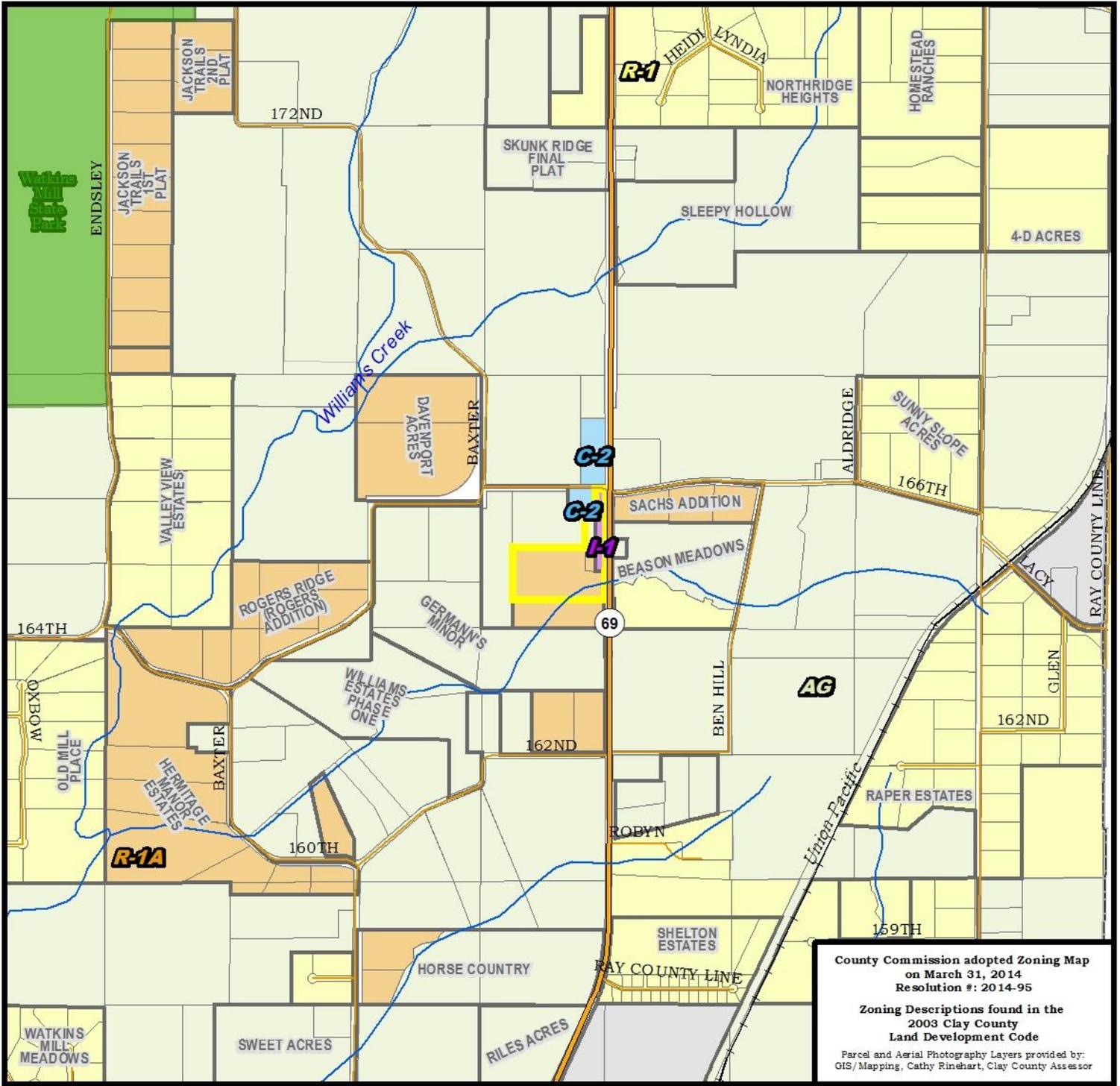
## Attachment A – Vicinity Map



ADDRESS: 16516 N 69 Hwy, Excelsior Springs, MO  
FROM: Clay County Courthouse go east on E. Kansas St. turn Left on N. Lightburne St/MO 33  
Turn Right on NE US Highway 69 follow for 13.9 miles  
Destination will be on the left.

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## Attachment B - Existing Conditions Map



County Commission adopted Zoning Map on March 31, 2014  
 Resolution #: 2014-95

Zoning Descriptions found in the 2003 Clay County Land Development Code

Parcel and Aerial Photography Layers provided by: GIS/Mapping, Cathy Rinehart, Clay County Assessor

Map Document: (G:\GIS\Project\_Files\Vacinity Map - 8 x 11 P.mxd) 02/03/2015 -- 10:30:38 PM

**Planning & Zoning Department**

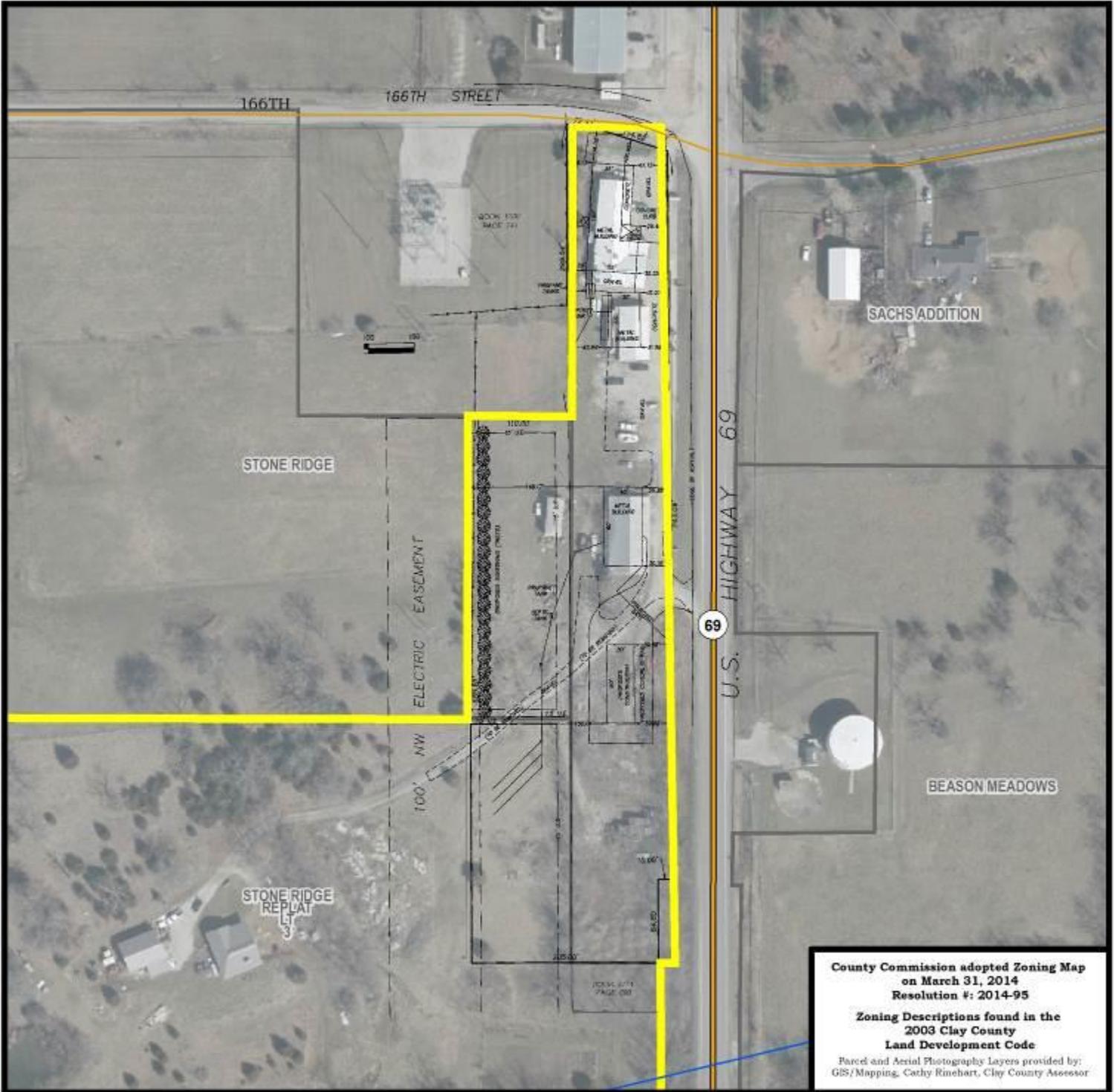
1 inch = 1,500 feet  
1 inch = 0.28 miles

**LEGEND**

Property Line	Roads	Subdivisions	Overlay Districts	Zoning Districts	C-1
Streams (EPA)	Interstates	City Limits	CD (Conservation District)	AG	C-2
Railroads	State Highways	Parks	POD (Preservation Overlay District)	R-1	C-3
Highway Ramps	Local Roads	County Boundaries	PUD (Planned Unit Development)	R-1A/R-5	I-1
				R-1B/RU	I-2
				R-3	OP

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## Attachment C - Site Plan Map



**County Commission adopted Zoning Map**  
**on March 31, 2014**  
**Resolution #: 2014-95**  
**Zoning Descriptions found in the**  
**2003 Clay County**  
**Land Development Code**  
 Parcel and Aerial Photography Layers provided by:  
 GIS/Mapping, Cathy Rinehart, Clay County Assessor

Map Document: (G:\GIS\Project\_Files\Vacinity Map--8 x 11 P.mxd)  
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**Planning & Zoning Department**



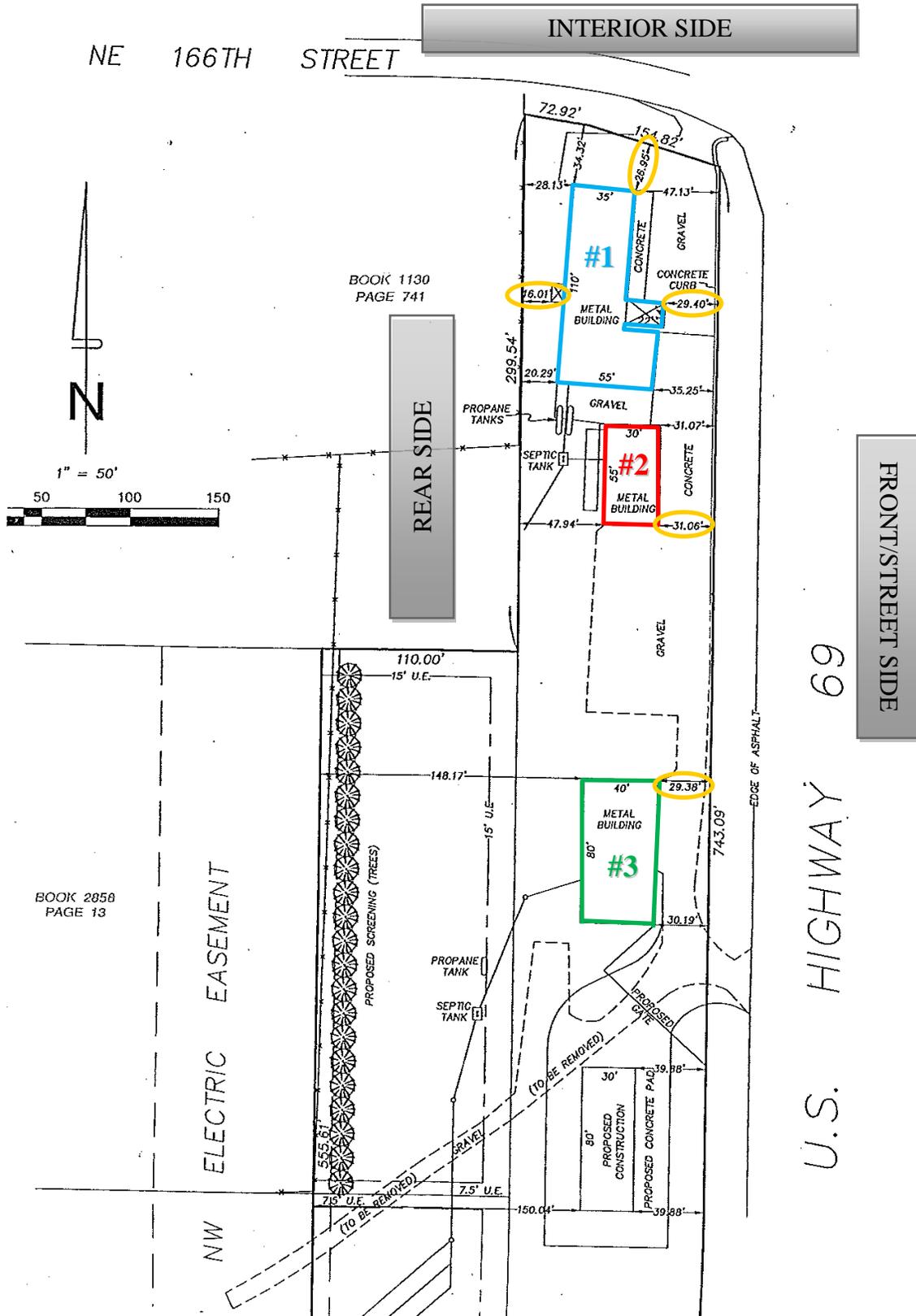
1 inch = 150 feet  
1 inch = 0.03 miles

**LEGEND**

Property Line	Streams (EPA)	Subdivisions
Railroads	Interstates	City Limits
Highway Ramps	State Highways	Parks
	Local Roads	County Boundaries

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## Attachment D - Site Plan Drawing



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## **Exhibit A – Property Owner Letter - Page 1 of 2**

January 21, 2015

Fred Dehn, President  
Precision Repair Systems, Inc.  
16516 N. US Highway 69  
Excelsior Springs MO 64024

Clay County Board of Zoning & Adjustment  
Attn: Matthew Tapp  
234 Shrader, Suite C  
Liberty MO 64068-2448

Mr. Tapp:

As Precision Repair System's representative, I am asking for variances for the three buildings that now exist on Precision's property. The purposes of these variances are to bring the buildings into compliance with existing Clay County regulations concerning distances to property boundaries.

A. The requested variances arise from two conditions:

1. Two buildings (Buildings #1 and #2) were constructed by one of the original owners of the lot (not by Precision). Building #1 (the northern most building) was constructed in the early 1960s by the person who owned the property before Precision. Building #2 (located just to the south of Building #1) was built sometime in the late 1930s or early 1940s by a past land owner. These buildings do not at this time comply with Clay County regulations.
2. Building #3 (the building located just to the south of Building #2) was constructed by Precision in 1984. At the time of construction, Precision obtained all the required permits and inspections of the building site before construction was started. The building was also inspected after its construction. At that time, the building met or exceeded Clay County codes. Since that time, these codes have changed. A variance is needed to bring Building #3 back into compliance.

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## Exhibit A – Property Owner Letter - Page 2 of 2

### B. The requested variances:

1. Building #1 requires variances for the building front (facing east toward Highway 69). The building was constructed at a slight angle on the property and is 47.13 from the front property line. The southern end of the building is 35.25 feet from the front property line; but, the middle of the building was only built 29.40 feet from the front property line. The back of the building is 16.01 feet from the west property line. The northern end of the building is now also less the required number of feet from NE 166th Street (a side road that intersects Highway 69).
2. Building #2, the oldest building on the property, also faces Highway 69. The front of the building is 31.06 feet from the front property line.
3. Building #3 faces Highway 69. The front of this building is 29.38 feet from the front property line.

The granting of the permits for Variances will not be contrary to the public interest or the interests of any adjacent property owners. The two most northern buildings were in existence when Precision purchased the property. The building Precision built was in compliance when it was constructed, but has now has fallen out of compliance since new regulations have been adopted. By asking for these variances, it is Precision's intent to bring the existing buildings into compliance with present Clay County regulations.

Please call if you have any questions: 816-637-3876

Respectfully,



Fred Dehn

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## Exhibit B – Property Owner Pictures



Front of Building #1 (facing east)



Back of Building #1 showing air compressor enclosure



Front of Building #2 and south end of Building #1



Front of Building #3 (facing east)