



VARIANCE CASE NUMBER WPVAR20-0007

(Rusk Side and Rear Yard Setback Reduction)

Washoe County Planning Commission
January 5, 2021



Request

Variance to reduce the required building setbacks for an Agricultural Building as a Main Use from 100 feet to 25 on the side (west) and from 100 feet to 16 feet on the rear (south).

Reduction of 75 feet on the west and 84 feet on the south.



Unusual Request for Planning Commission

- PC does not review stand-alone variances
- Stand-alone variances are heard by the Washoe County Board of Adjustment
- PC has the authority to hear and decide on variances

Section 110.804.15 Review Procedures. The Board of Adjustment, the Planning Commission or a hearing examiner shall review variances in accordance with the provisions of this section.

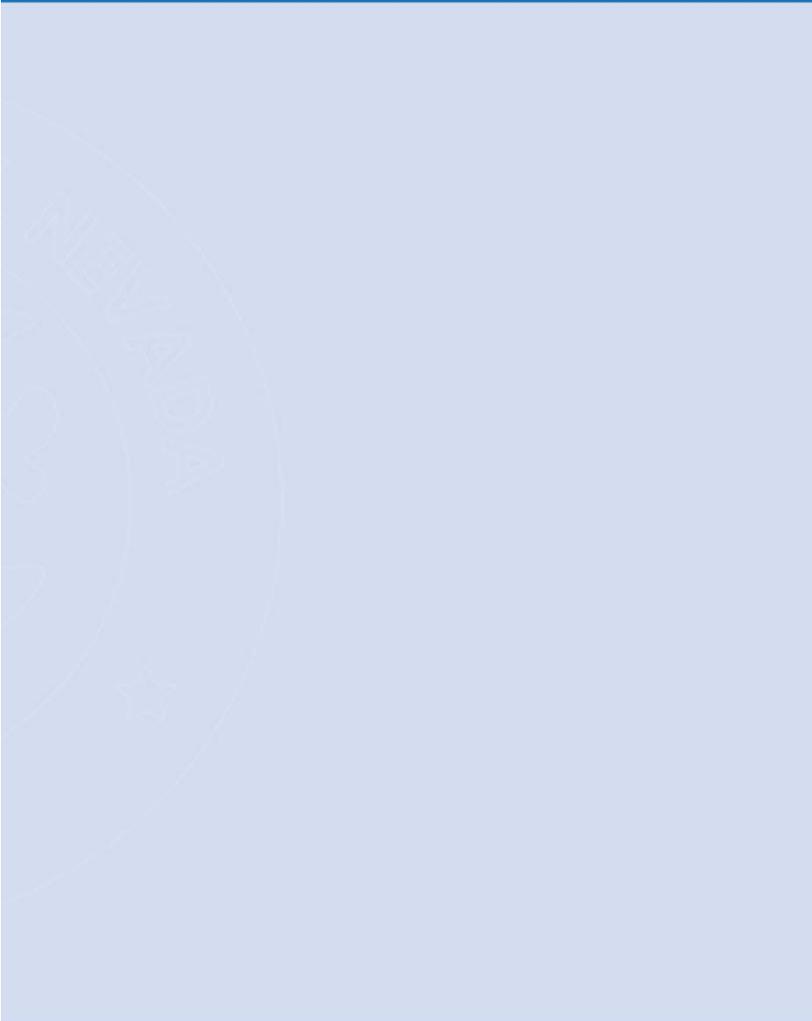
- Because the BOA previously met only on even numbered months, and there is no prohibition on the PC hearing a variance request, the applicant demanded that Washoe County accept the application in November, for a hearing before the PC in January. The County is required to conduct a hearing within 65 days of submittal of an application of this type, and thus could not wait until February for a hearing before the BOA. Beginning in 2021, the BOA conducts public hearings each month.



Unusual Request for Planning Commission

- The findings of fact for a variance are distinct from other types of applications.
- Findings apply to the characteristics of the subject site.
- Findings do not apply to the convenience of the applicant.
- Findings do not apply to the characteristics of the development itself.

Vicinity Map



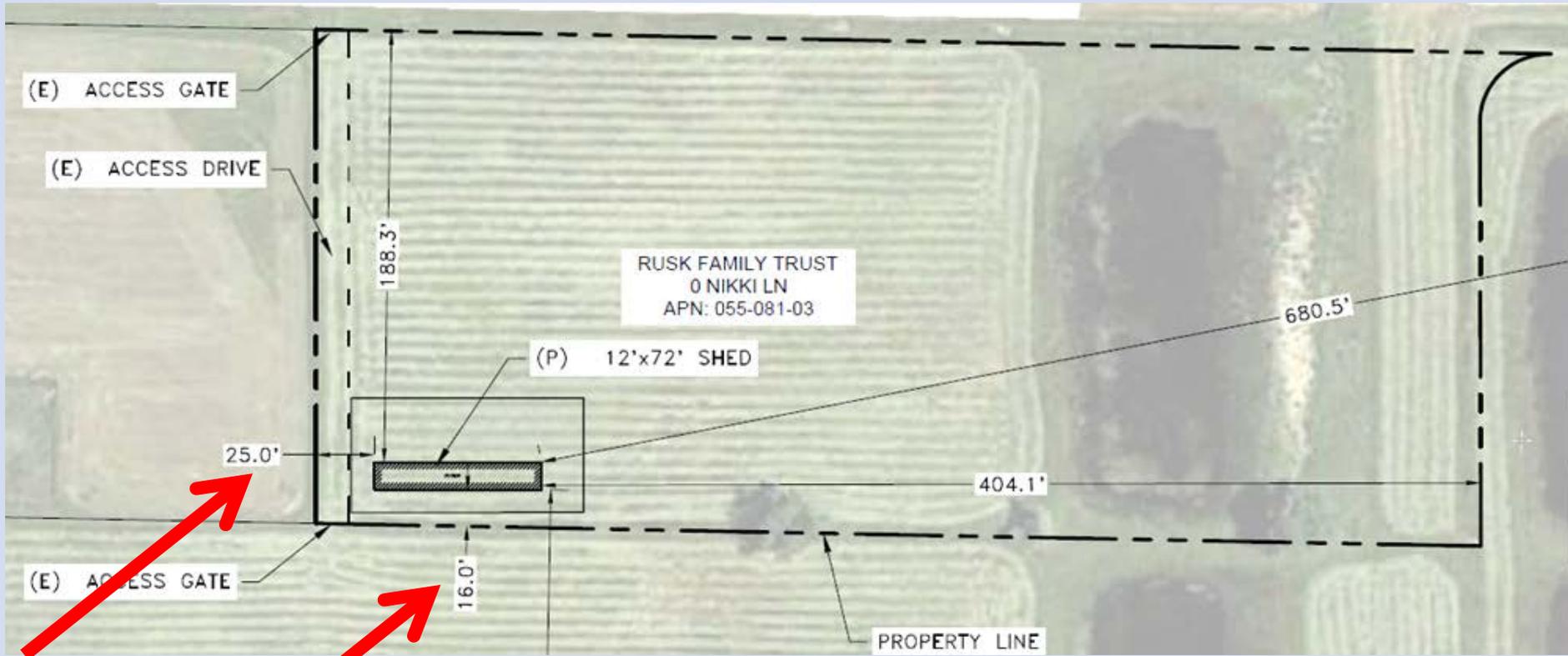


Overhead Photo





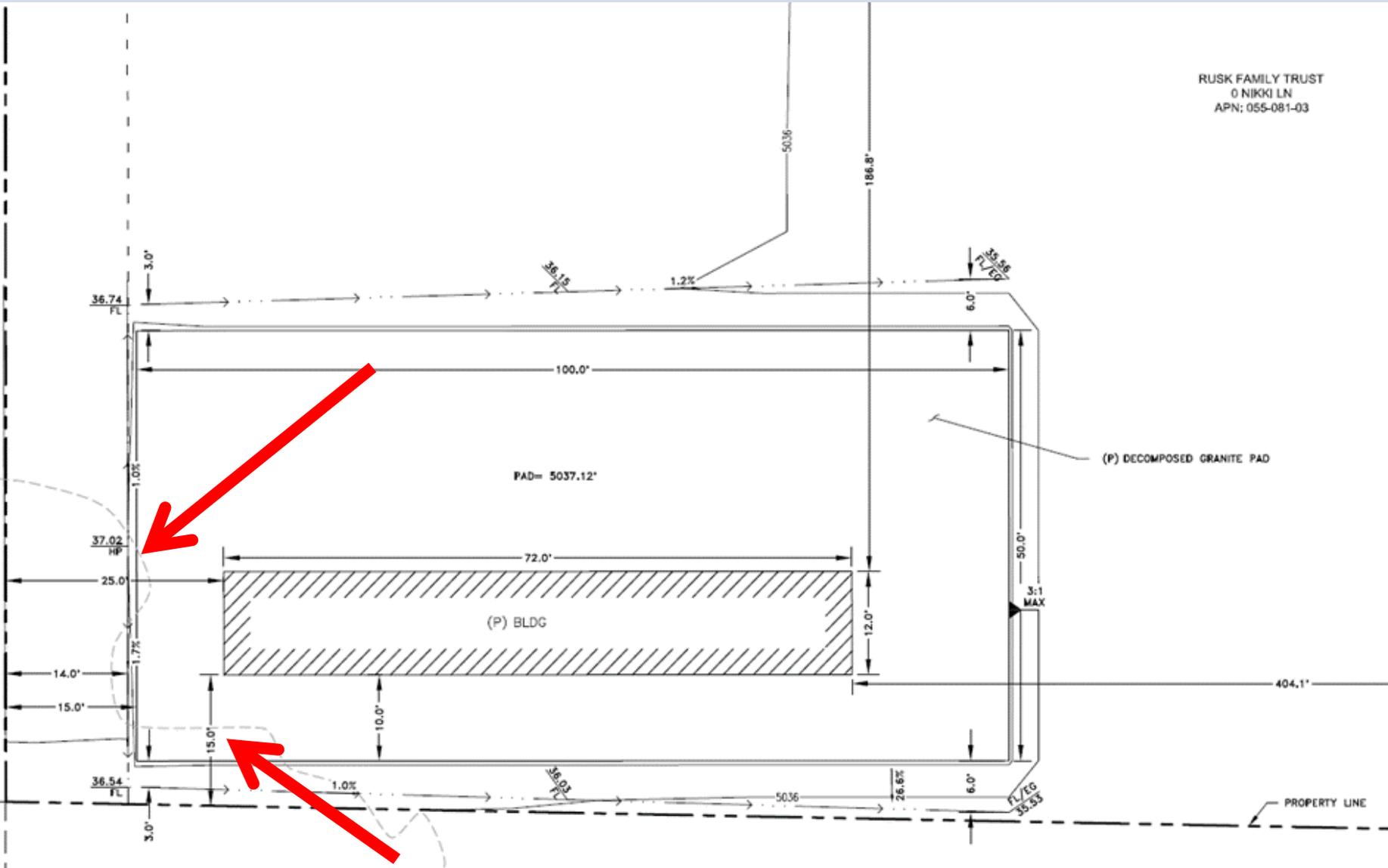
Proposed Site Plan





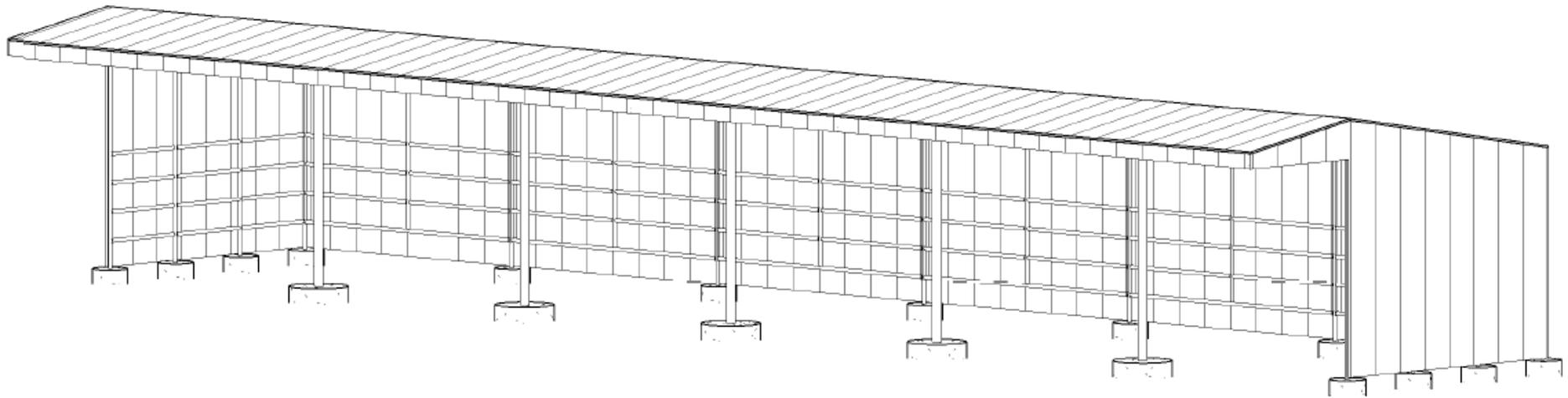
Proposed Detail Site Plan

RUSK FAMILY TRUST
0 NIKKI LN
APN: 055-081-03



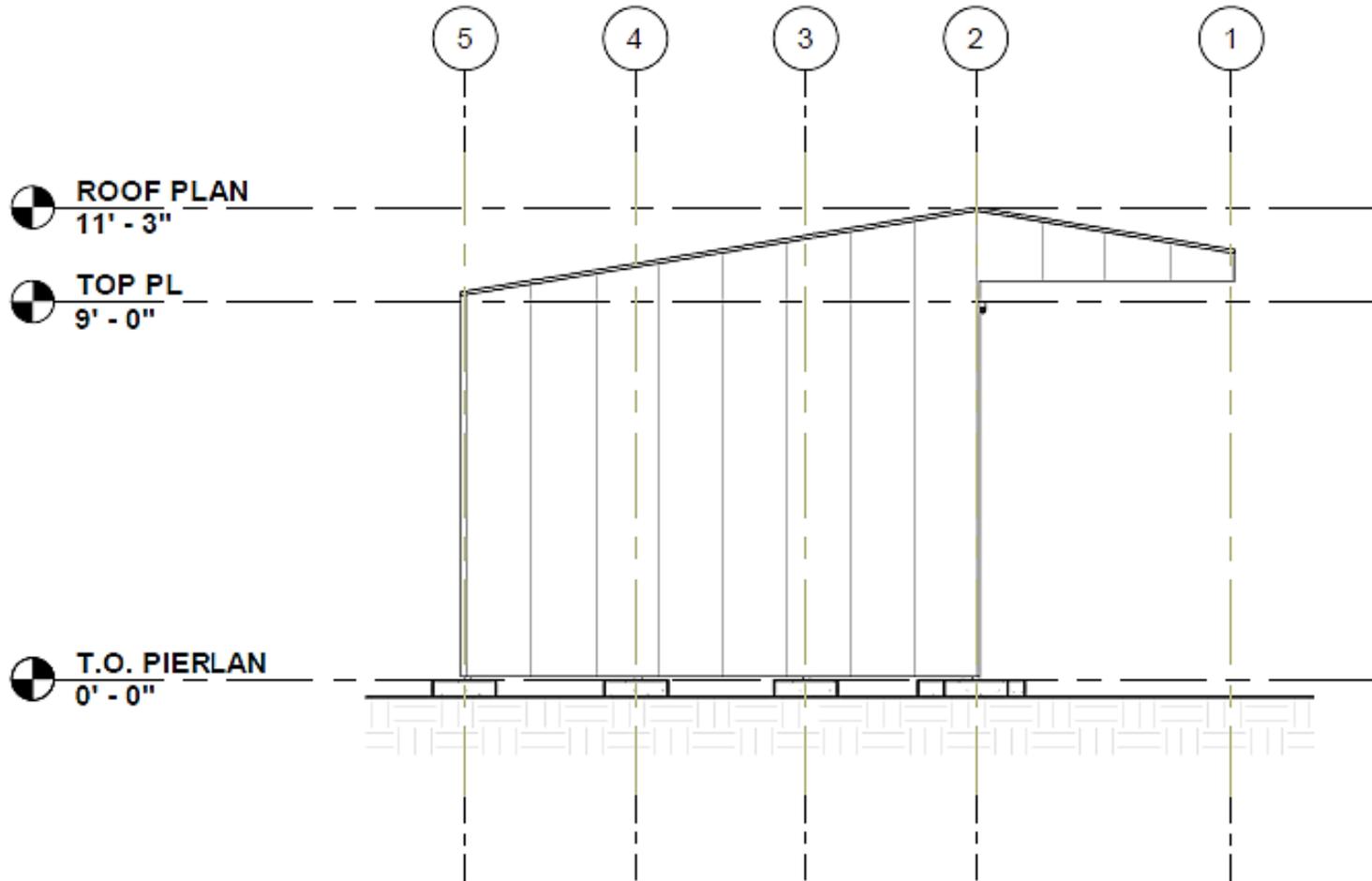


Proposed Structure





Proposed Structure

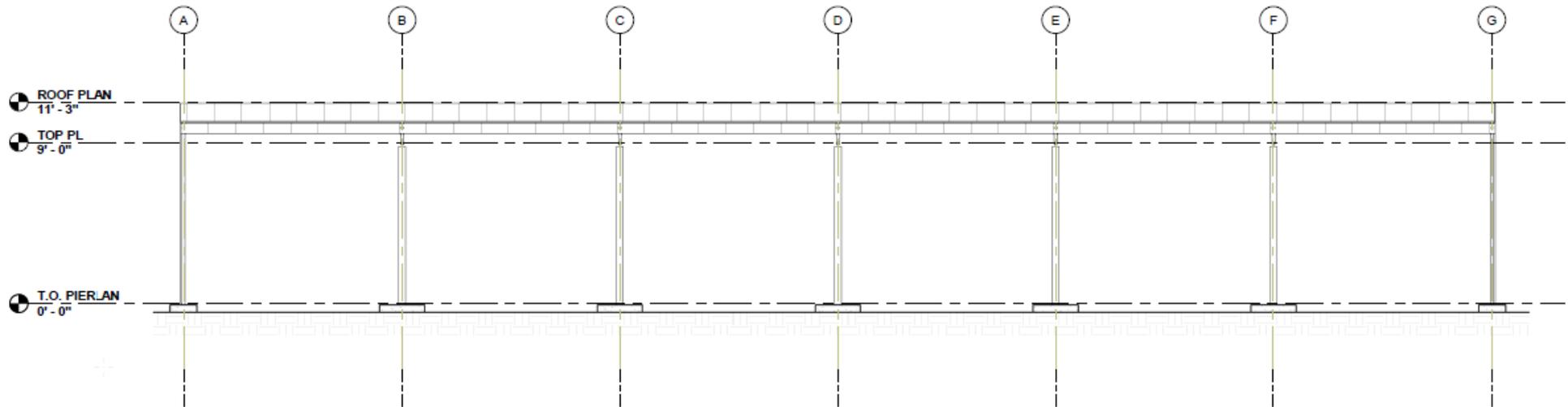


EAST ELEVATION

1/4" = 1'-0"



Proposed Structure



NORTH ELEVATION

1/4" = 1'-0"

B

A



Variance Requirements / Findings of Fact

Nevada Revised Statutes (NRS 278.300) limits the power of the Planning Commission to grant variances only under particular circumstances. The applicant has the responsibility to demonstrate that the subject property exhibits one or more of the following characteristics to demonstrate a hardship:

- 1) exceptional narrowness, shallowness, or shape of a specific piece of property; or
- 2) by reason of exceptional topographic conditions; or
- 3) other extraordinary and exceptional situation or condition of the piece of property.

If such a finding of fact can first be made, then the Board must also show that the strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property.



Evaluation of Parcel of Land

- **Regulatory zone of General Rural (GR).**
- **The minimum lot size for the GR zone is 40 acres and the minimum lot width is 660 feet (WCC Table 110.406.05.1)**
- **This parcel of land is approximately 2.5 acres in size and is consistent with the High Density Rural (HDR) zone.**
- **WCC 110.406.06 addresses this situation as follows, “If a lot does not meet the minimum lot size for the regulatory zoning for the lot, the yard requirements and setback dimensions shall be based on the lot size for the next densest regulatory zone for which the lot does meet minimum size for lots in that zone.”**
- **The minimum lot size for the HDR zone is 2.0 acres and the minimum lot dimension is 150 feet.**



Evaluation of Parcel of Land

- **Evaluation is based upon the dimensions of the High Density Rural (HDR) zone.**





Variance Findings of Fact

Exceptional Narrowness:

Minimum Lot dimension for the HDR zone is 150 feet.



Parcel is approximately 515 feet in width.

The subject parcel is not exceptionally narrow.



Variance Findings of Fact

Exceptional Shallowness:

Minimum Lot dimension for the HDR zone is 150 feet.

Parcel is approximately 189 feet in depth.

The subject parcel is not exceptionally shallow.



Variance Findings of Fact

Exceptional Shape:

The parcel is essentially rectangular.



The parcel is not exceptionally shaped.



Variance Findings of Fact

Exceptional Topography:

The subject parcel is essentially flat. (difference in elevation of 2 feet over a width of 500 feet)

The parcel does not contain exceptional topographic conditions.





Variance Findings of Fact

Extraordinary and exceptional situation or condition of the property and/or location of surroundings.

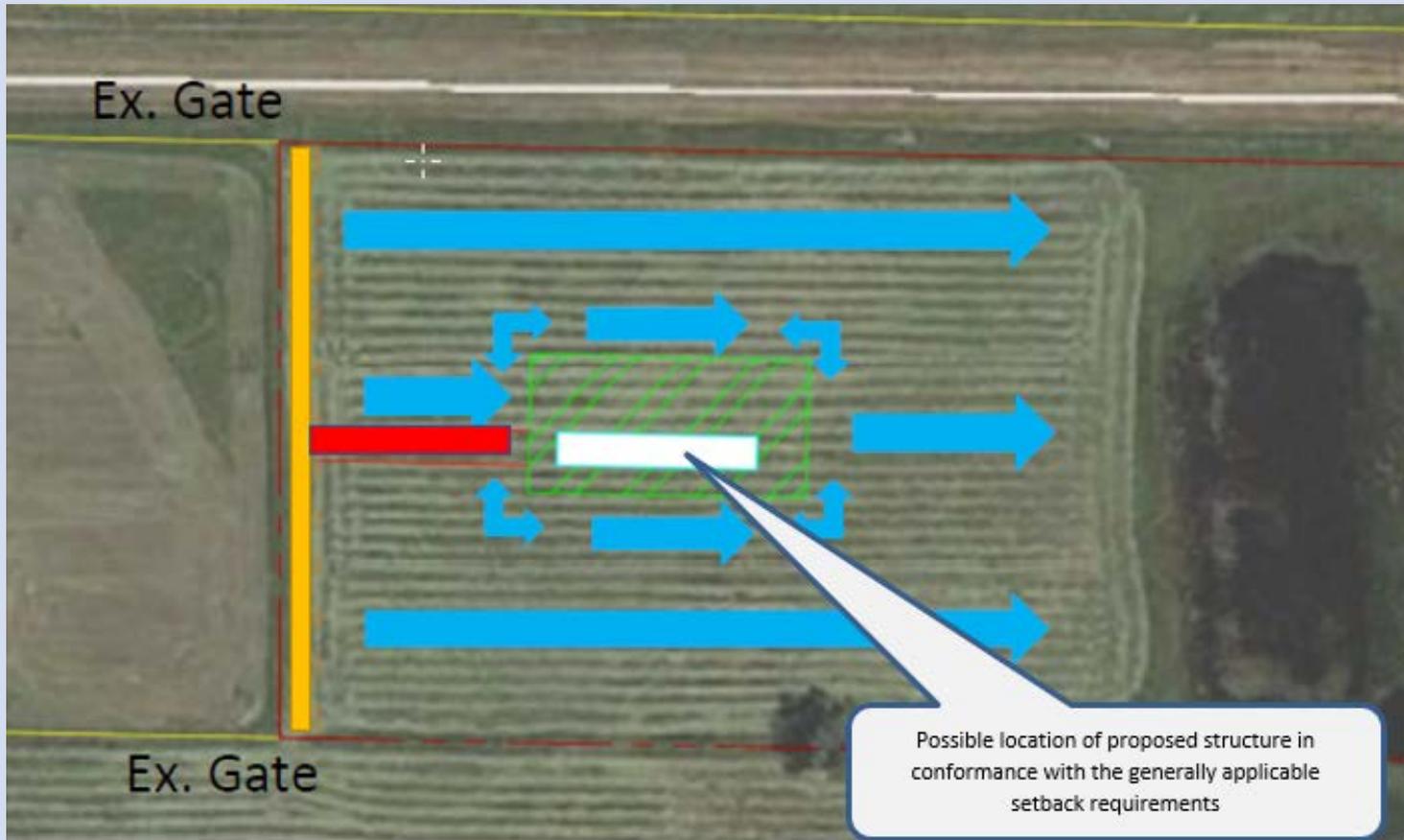
Applicant contends that easements on other parcels of land and high ground water levels are exceptional.

Those conditions are not extraordinary or exceptional as the same conditions exist both in the proposed location and within the required setback area.

The parcel of land does not demonstrate any extraordinary and exceptional situation or condition of the property and/or location of surroundings.



Variance Findings of Fact



The applicant provided this site plan demonstrating that the proposed agricultural building can be constructed on the subject site within required setbacks.



Code Analysis

The application asserts that the Development Code is “inappropriately” written, and that the required setback should only be from a parcel of land with street, highway, school or park.

The structure shall be located at least one hundred (100) feet from the property line, any street or highway, a public park or school; and

The Code is clear. A 100-foot setback is required from the property line, among other things.



Reviewing Agencies

- Washoe County Community Services Department
 - Planning and Building Division
 - Planning and Building Division – Parks and Open Spaces
 - Engineering and Capital Projects – Land Development
 - Engineering and Capital Projects - Traffic
 - Engineering and Capital Projects - Operations
- Washoe County Health District
 - Air Quality Management
 - Environmental Health
 - Emergency Medical Services
- Truckee Meadows Fire Protection District
- Regional Transportation Commission
- Washoe Storey Conservation District
- Nevada Division of Wildlife

Evaluation of a variance request is essentially limited to Planning. Due to the lack of a physical hardship of the property, denial is recommended.



Variance Findings

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.



Variance Findings

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;

This finding cannot be made. As detailed in the staff report and during this presentation there are no special circumstances applicable to the property that result in exceptional and undue hardships.

- 1) The applicant has demonstrated that the Agricultural Building can be constructed within the required setbacks.
- 2) The applicant stated that they own other adjacent parcels. The applicant has the opportunity to combine parcels and may be able to reconfigure the property lines and meet the required setbacks.



Variance Findings

2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;

This findings cannot be made. Granting this variance would substantially impair the intent and purpose of the Development Code by granting a variance when there is no demonstrated hardship or special circumstances of the land as required by NRS and WCC.



Variance Findings

3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;

This finding cannot be made. Granting the variance will constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated, due to the lack of any demonstrated hardship or special circumstances of the land as required by NRS and WCC, for the approval of a variance.



Variance Findings

4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;

This finding can be made. The applicant seeks to construct an agricultural building on the subject site, which is permissible, and has been demonstrated by the applicant to be practical, on the subject site, in accordance with all generally-applicable Code provisions.



Variance Findings

5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

This finding is not applicable. There is no military installation within the area required for public notice for this request. For that reason, this finding is not required to be made.



Recommendation

After a thorough analysis and review, denial is recommended for Variance Case Number WPVAR20-0004, being unable to identify any special circumstances of the land as required by NRS and WCC.



Possible Motion

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission deny Variance Case Number WPVAR20-0007 for Rusk Family Trust, being unable to make all four required findings in accordance with Washoe County Development Code Section 110.804.25.