

**CITY OF PAPILLION
PLANNING COMMISSION
STAFF REPORT**

AUGUST 26, 2020 AGENDA

**527 N WASHINGTON STREET
SPECIAL USE PERMIT
SUP-20-0005**

I. GENERAL INFORMATION

- A. APPLICANT:**
KhaTu Erlbacher
12704 S 71st Street
Papillion, NE 68046
- B. PROPERTY OWNER:**
KhaTu and Shawn Erlbacher
12704 S 71st Street
Papillion, NE 68046
- C. LOCATION:**
527 N Jefferson Street
- D. LEGAL DESCRIPTION:**
South 60' of Lot 7, Block 33, Beadles Addition excluding right-of-way
- E. REQUESTED ACTION:**
Approval of a Special Use Permit to allow Custom Manufacturing as a principal use and authorize the construction of a two vehicle parking facility within the Downtown Overlay District pursuant to § 205-118(A)(6).
- F. EXISTING ZONING AND LAND USE:**
LC Limited Commercial, Single-Family Residential
- G. SIZE OF SITE:**
0.2 acres

II. BACKGROUND INFORMATION

- A. COMPREHENSIVE PLAN SPECIFICATIONS:**
The Future Land Use map identifies the area as Urban Corridor.
- B. EXISTING CONDITION OF SITE:**
Single-Family Residential
- C. GENERAL VICINITY AND LAND USE:**
The area to the north is zoned LC Community Commercial. The two developed lots are single-family residential structures of which one has been historically used for both commercial and residential uses. The

abutting undeveloped LC District lot to the north is owned by the applicant. The area to the east consists primarily of the St. Columbkille PUD Overlay District, which is zoned R-3/PUD-2 Urban Family and being developed as parking lots to support the St. Columbkille campus. The property immediately to the east is zoned R-2 Single-Family Residential (Medium Density) and developed as Single-Family Residential. The area to the west, across N Washington Street, is zoned Limited Commercial and R-2 Single-Family Residential (Medium Density) with single-family residential structures that are occupied by a mix of office, commercial, and Single-Family Residential uses. The property to the south is zoned R-2 Single-Family Residential (Medium Density) and developed as Single-Family Residential.

D. RELEVANT CASE HISTORY:

According to the Sarpy County Assessor, the existing Single-Family Residential building was constructed in 1922.

In 2011, City Council approved the creation of the Downtown Overlay District. The Downtown Overlay District enables the adoption of special performance and development standards in combination with site development regulations of a base district for areas located within and around the downtown district of the City of Papillion. The district recognizes the importance of the historic pattern of development within the downtown area and provides for its conservation. The Downtown Overlay District requires the approval of a Special Use Permit to:

- (1) Construct any new primary structure excluding single-family residences.
- (2) Construct any accessory structure associated with a commercial, industrial, or civic use.
- (3) Construct any significant additions to existing buildings that change the existing building footprint by more than 20%. Additions to single-family residential structures that maintain the residential nature of the structure are exempt.
- (4) Demolish any primary structure.
- (5) Remove any trees located within the public right-of-way unless such removal is ordered by the Public Works Director.
- (6) Construct a new parking facility or expand an existing parking facility. Parking facilities include parking lots and parking structures. The following actions shall be exempt from this requirement:
 - (a) A driveway.
 - (b) A single vehicle parking pad.
 - (c) Interior improvements and/or reconfigurations of an existing parking facility.

In October 2019, the applicant submitted a permit to remodel 527 N Washington Street (a single-family residence in the LC Limited Commercial District) to accommodate a compounding pharmacy. Staff determined that the compounding pharmacy would be classified as Custom Manufacturing because it requires a laboratory to combine previously prepared components into a final product. The applicant was

advised that the use would be allowed as a home-based business. In October 2019, a building permit was issued to remodel 527 N Washington Street to allow a compounding pharmacy as a home-based business. In July 2020, staff was informed that the State of Nebraska would not issue a Community Pharmacy license because it was a home-based business. Staff supports a compounding pharmacy at this location subject to certain conditions and supports the allowance of other Custom Manufacturing uses in the LC Limited Commercial District if subject to a special use permit. Therefore, the zoning ordinance amendment process to allow Custom Manufacturing by special use permit in the LC Limited Commercial District was initiated.

In July 2020, the Planning Commission recommended approval of an ordinance to amend Table 205-38 to allow Custom Manufacturing by special use permit in the LC Limited Commercial District. Ordinance #1891 was introduced to City Council on August 4th and the second reading/public hearing occurred on August 18th. City Council is anticipated to vote on Ordinance #1891 on September 1st.

E. APPLICABLE ORDINANCES AND REGULATIONS:
Zoning Regulations and Comprehensive Plan.

III. ANALYSIS AND DEVELOPMENT ALTERNATIVES

STAFF COMMENTS:

A. REQUEST:

1. This is a request for a Special Use Permit to allow Custom Manufacturing as a principal use and authorize the construction of a two vehicle parking pad within the Downtown Overlay District pursuant to § 205-118(A)(6).
2. Per the applicant, the pharmacy service consists of preparing patient specific compounded medication prescriptions. Prescription delivery is by mail or pick up by appointment only. Given that the pharmacy takes previously prepared products and compounds them into a final product using a small laboratory, the use is classified as Custom Manufacturing.
3. The property is located within the Downtown Overlay District. Accordingly, a Special Use Permit is required for the construction of the two vehicle parking pad depicted on the site plan. Pursuant to § 205-118(C), multiple actions within the Downtown Overlay District that require a Special Use Permit may be consolidated into a single application.

B. LAND USE/COMPREHENSIVE PLAN:

1. The Urban Corridor designation is for the Washington Street corridor. It permits small or residential scale residential, office, and local commercial uses. (Comprehensive Plan, page 28)

2. The proposed Custom Manufacturing use conforms to the current Future Land Use designation of Urban Corridor because the use will be located within an existing residential building. As such the residential scale will be maintained. The limited anticipated traffic will also respect pedestrian traffic and maintain a residential feel.

C. ACCESS:

1. Access to the lot is provided via an alley that extends from N Washington Street to N Jefferson Street.
2. The existing driveway is proposed to be expanded to 24' in width to provide access to the 20' x 20' parking pad depicted on the site plan.
3. The addition of a drive-through window is not proposed at this time. Staff finds it appropriate to consider that possibility because it is common for a drive-through window to be provided for larger scale pharmacy uses. The addition of a drive-through window at this location would not be appropriate due to the access limitations at the site and the residential nature of the surrounding area. Accordingly, staff recommends that the Special Use Permit include a prohibition on the installation of a drive-through window.

D. GENERAL:

1. Site Plan:
 - a. Only one off-street parking stall is required. The site plan depicts the addition of a 20' x 20' parking pad that can accommodate two vehicles. There is also an existing garage and driveway that can be utilized for parking.
 - b. An existing pedestrian walk that connects the house and the garage will be modified to connect to the parking pad.
2. The floor plan depicts both residential and commercial uses within the structure. Per Fire Marshal Steve Thornburg, the applicant should update the floor plan to show the intended commercial use of the space. A commercial building with sleeping space in the building will need to have sprinklers installed. This requirement does not apply if the sleeping space is converted to a commercial space such as an office. Also, any stovetop that is capable of producing grease-laden vapors will require a kitchen hood with a suppression system installed. Revisions to the floor plan may be addressed as part of the Certificate of Occupancy.
3. Per Fire Marshal Steve Thornburg, the proposed floor plan increases the area used to store chemicals in comparison to the original residential remodel permit. The applicant shall identify the intent on the storage of chemicals, the maximum quantity of each chemical to be stored on the premises, and whether such storage will be separated from other use areas.
4. One of the purposes of the Special Use Permit is to authorize the applicant to build a two vehicle parking facility within the Downtown

Overlay District subject to applicable regulations for such construction. The criteria for reviewing a Special Use Permit to authorize certain action within the Downtown Overlay District is established by § 205-118(B). Pursuant to § 205-118(B), staff reviewed the Special Use Permit application and determined the existing pattern of development will not be negatively impacted by the addition of the parking pad.

5. Signage is not proposed at this time; however, it would be permitted in compliance with the LC District sign regulations. The sign budget is 30 SF so any signage will be limited in scale, which is encouraged with the Urban Corridor.
6. Given the range of uses permitted by Custom Manufacturing, staff recommends that the Special Use Permit be issued only for the applicant and that it terminate at such time that the applicant ceases operations. This will require any future Custom Manufacturing use to be evaluated to ensure that it is appropriate within the context of the surrounding uses.
7. Staff recommends that the Special Use Permit be approved subject to the following conditions:
 - a. A drive-through shall not be permitted.
 - b. The Special Use Permit shall not be transferrable and shall be limited to the applicant only. The Special Use Permit shall immediately terminate at such time that the applicant sells the property or ceases operations of the compounding pharmacy.
 - c. The applicant shall obtain all necessary building permits prior to performing any action authorized by the Special Use Permit. Said Special Use Permit shall not be construed to waive or otherwise substitute for any necessary permits or separate approvals related to building demolition, building construction, or placement of private improvements within any public right-of-way.

IV. RECOMMENDATION

The Planning Department recommends approval of the 527 N Washington Street Special Use Permit (SUP-20-0005) based on:

1. General consistency with the Comprehensive Plan.
2. Compatibility with adjacent uses.
3. Compliance with the Zoning Regulations.

The recommendation for approval is contingent upon City Council approval of Ordinance #1891 and the applicant:

1. Agreeing to the conditions of the Special Use Permit approval as detailed in Section III, D, 7.

V. COPIES OF REPORT TO:

Applicant
Public upon request

- VI. ATTACHMENTS:**
Special Use Permit Application
SUP Site Plan
Aerial

Report prepared by:

Michelle Romeo, City Planner

Derek Goff, Staff Engineer



SPECIAL USE PERMIT APPLICATION

The following items must be submitted with the application for consideration:

1. Five full sized, **folded** site plan drawings for initial review including:
 - a. Site plan checklist and wireless facility checklist (if applicable) attached to application form;
2. PDF files for all exhibits submitted;
3. Title Company certified property owners list, and two sets of mailing labels, within 300' of request; and
4. Application fee. (\$150 for amendments to existing Special Use Permit, \$300 for areas of one acre or less, \$500 for areas over one acre)

The following information must be provided for the application to be considered complete:

APPLICANT INFORMATION:

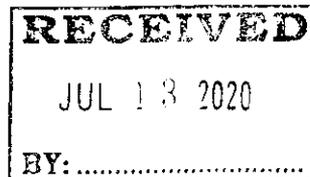
Name: KhaTu Erlbacher E-Mail: erlbacher72@yahoo.com
 Address: 12704 S 71st Street City/State/Zip: Papillion, NE 68133
 Phone Number: 402-200-9834 Fax Number: 866-212-6778

PROPERTY OWNER INFORMATION: (Attach a separate sheet if there are multiple owners.)

Name: KhaTu & Shawn Erlbacher E-Mail: erlbacher72@yahoo.com
 Address: 12704 S 71st Street City/State/Zip: Papillion, NE 68133
 Phone Number: 402-200-9834 Fax Number: 866-212-6778

PROPERTY INFORMATION: (Attach a separate sheet if needed.)

General Location: 527 N Washington St, Papillion, NE 68046
 Legal Description: Parcel A: South 60 ft of Lot 7, Block 33, Beadles Additions
except the West 5 ft thereof conveyed to the City of Papillion



Received July 16 2020

REQUEST INFORMATION:

Zoning District: ^{City of Poplarville, Downtown Overlay District} Limited Commercial ^{KE}

Proposed Use Type (as defined in Article III): Limited Commercial ^{KE} Custom Manufacturing

Please describe the nature and operating characteristics of the proposed use:

Office-based retail pharmacy service consisting of prescriptions,
patient specific compounded medication prescriptions and
consultations. Prescription delivery by mail or pickup by appointment only.

Will the approval of the Special Use Permit result in the construction of a building or facility? No, however a remodel of premises is complete

The City Council has the authority to mandate a renewal period for a Special Use Permit. Does the applicant object to a renewal requirement? If so, please explain why.

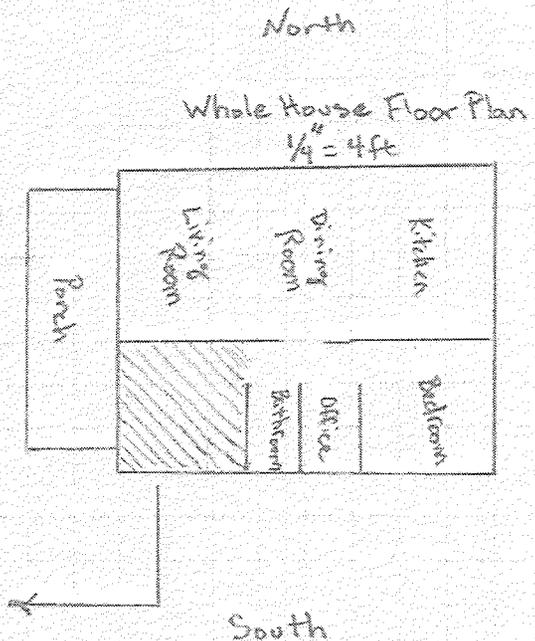
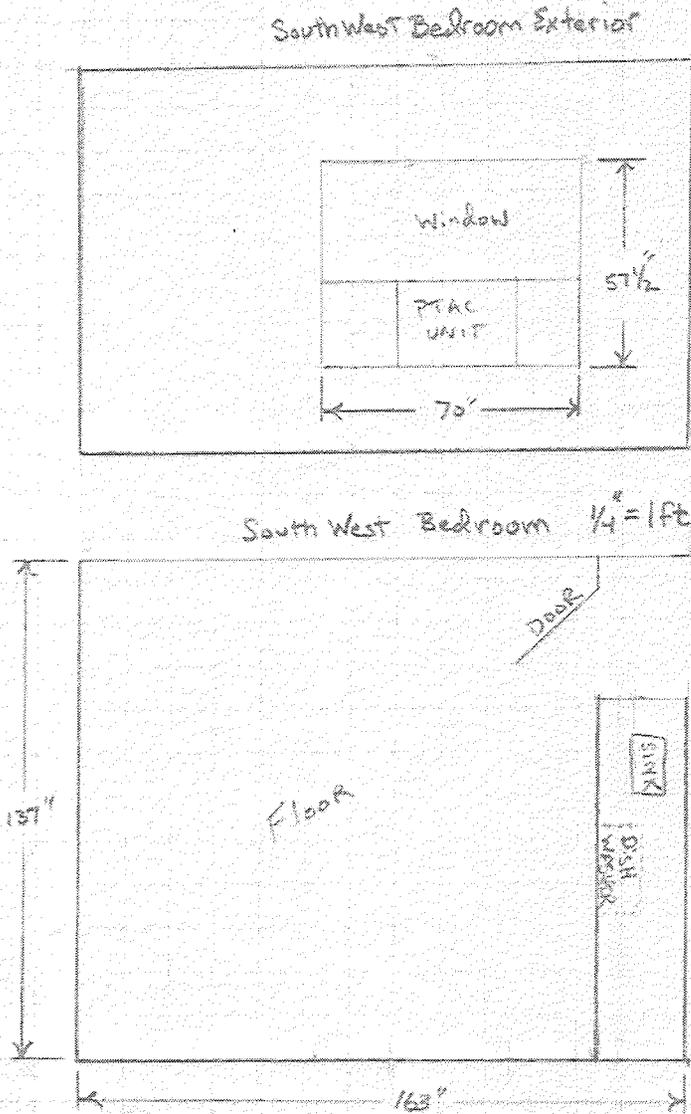
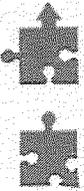
Please note the following procedures:

1. The Planning Commission will hold a public hearing and make a recommendation to the City Council.
2. City Council will hold a public hearing and make a final decision on the special use permit.
3. All necessary agreements will be recorded with the Sarpy County Register of Deeds, the cost of which will be borne by the special use permit applicant or property owner.
4. Please see the Planning Department's fee policy regarding revision/resubmittal fees.

I, the undersigned, understand a sign will be posted on my property and will remain until the public hearing process at Planning Commission and City Council is complete. I further understand the special use permit process as stated above and I authorize City Staff to enter the property for inspection related to the specific request during this process.


Owner Signature (or authorized agent)

7/12/2020
Date

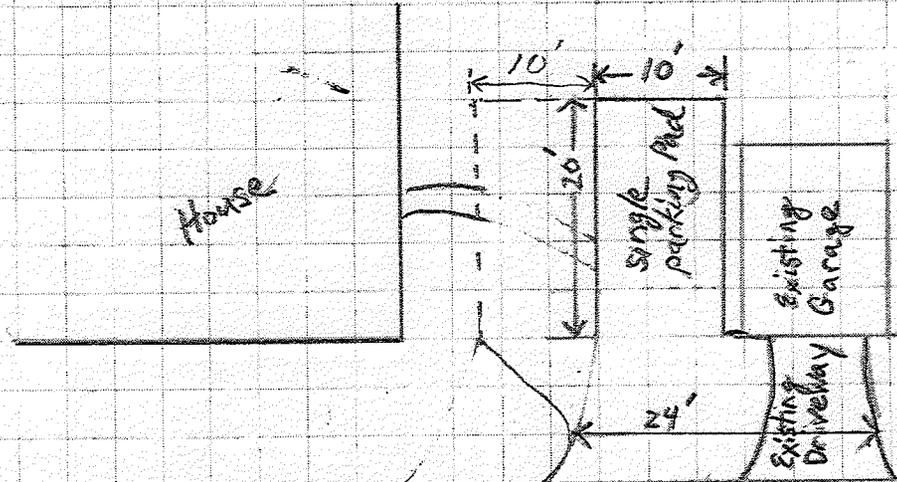


PROPRIETARY INFORMATION
 All information is the property of, and solely owned by the Designer.

RECEIVED
DATE
 JUL 13 2020
 BY:

DESIGNED BY:
 WITNESSED BY:

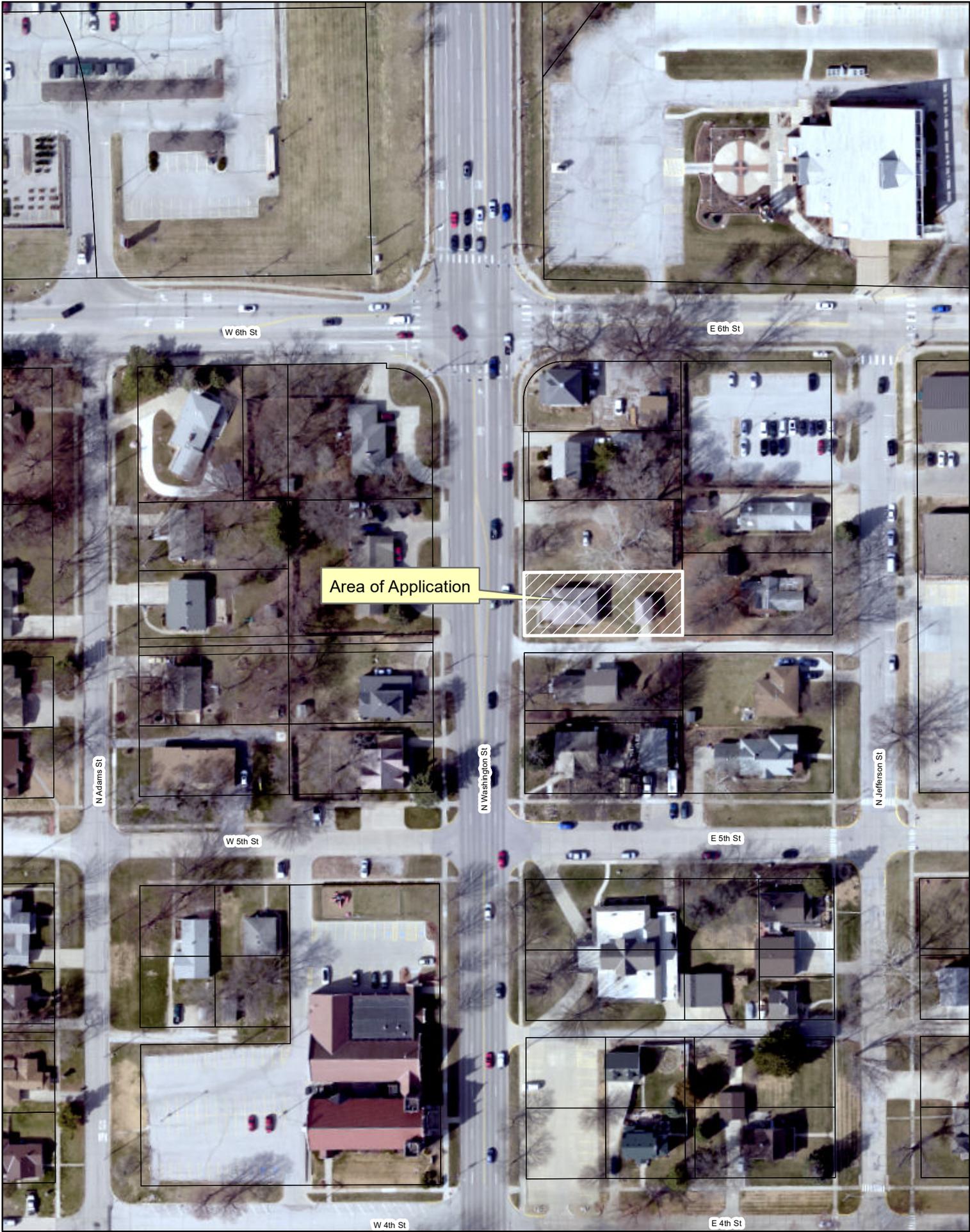
North



South

$\frac{1}{4}'' = 4'FE$

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JUL 13 2020
BY:



**527 N Washington Street - RxSolutions Compounding Pharmacy
SUP-20-0005**

