

Report to the Manitowoc Plan Commission

Meeting Date: May 26, 2021 **Second meeting July 14, 2021 text in red is new.**

Request: PC 18-2021: Connection Church; Request for a Conditional Use Permit pursuant to 15.110(3)(a) for the establishment of a Church and Gym/Community Center located at 1455 North Rapids Road.

Existing Land Use for Subject Property: Church

Existing Zoning for Subject Property: R-2, Single Family District

Surrounding Property Land Uses and Zoning:

Direction	Existing Land Use	Existing Zoning
North	Residential	R-2 (Single Family), R-4 (Single & Two-Family), & R-5 (Low Density Multiple Family)
South	Residential	R-3 (Single Family)
East & West	Residential	R-2 (Single Family)

Comprehensive Plan: The subject property is shown as “Institutional and Community Facilities”. This land use category is intended to facilitate large-scale public buildings, schools, religious institutions, power plants and substations, hospitals, airports, and special care facilities.

Consistency Analysis

While a Conditional Use is not required to be consistent with the Comprehensive Plan, in this instance the requested use is consistent with the land use category identified.

Report: Connection Church is the owner of the property located at 1455 North Rapids Road and has operated a church on the property for quite some time. In research of the history of the parcel it was found that a Conditional Use has never been issued for the church making it a legal non-conforming use. In order to clean up the non-conforming situation and to allow the addition of a gym/community center on the site, it was determined that a Conditional Use would be the most appropriate route forward.

No modifications to the church facility or accessory parking lot are intended at this time. However, by the issuance of the conditional use it would allow expansions that meet the requirements of the R-2 District. The existing church is approximately 8,000 square feet with adequate parking.

The applicant is proposing to construct a new 12,000 square foot multi-use facility. The facility will not be open to the public and only for the use of private members or members of the church. Amenities within the structure include pickle ball playing surface, lounge, kitchenette and toilet facilities. Expected hours of operation are 8 a.m. to 10 p.m.

Within the R-2 District, primary uses (under the conditional use, the multi-use facility would be considered a primary use versus an accessory use) are required to meet the following regulations:

- Front/Street Setback – 25 feet
- Side Setback – 7.5 feet
- Rear Setback – 25 feet
- Lot Coverage – 25%
- Building Height – 35 feet

The existing lot is 3.39 acres or 147,668 s.f.. The proposed building is 50' setback from north line, 35' from east property line.

The existing church and community center meet the minimum area requirements of the district.

Municipal Code: Pursuant to Section 15.370(27)(c) of the Municipal Code, “the Plan Commission and Council shall consider whether the requested use:

- A. is reasonably necessary for the convenience and welfare of the public.
- B. Is in harmony with the character of the surrounding area.
- C. Will have a minimal effect or no effect on the surrounding property values.

The Commission and Council can affix conditions to the CUP to provide assurances that the proposed use will remain in conformity with the criteria under subsection (27)(c) as well as compliance with regulations of the particular zoning district which the conditional use would be located.”

State Statute: As a reminder, in 2017 the Wisconsin legislature also passed Wisconsin Act 67 which lessened the discretion and control of local governments regarding the issuance of conditional use permits.

“ §62.23(7)(de) Conditional use permits.

1. In this paragraph:

a. “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.

b. “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2. a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of

which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10."

Public Comments: Notices for the Plan Commission informational hearing were mailed out per MMC 15.370(27)(b) to all abutting or fronting property owners on May 20th. The church held there own neighborhood meeting on May 21st.

Public comments:

RoseAnn Kuehne, 4411 Just Ct
Bob Blattler, 1456 Kellner Street
Bob Fuller, 4417 Just Ct
Nate and Mary Hochmuth, 1504 Kellner Street
Mark and Joanne Gaedtke, 1440 Hubbard Circle
Kathy Nelson, 1428 Hubbard Circle
Janice Krueger, 1436 Hubbard Circle

Noise generated
Size, location, height and exterior materials of the building
Precedent of private businesses operated on church properties, Building open to members only
Hours of operation
Water issues
Property Values

Based on neighborhood comments.

Assessor comments based on statements regarding property values:

Hi Paul,

I was reviewing the information you provided me about the new outbuilding (Multipurpose Facility) on the Connection Church parcel on North Rapids. Here are some of my thoughts or things to consider.

- 1. What is the main use of this building? If the primary use for this building is for church purposes, it should qualify for exemption. If the primary or main use is for non-church activities or functions then it could be a taxable building. If so, the land that the building sits on could be taxable as well.*

2. *As far as home values around the church parcel it is really tough to tell right now. We really wouldn't know until homes started selling around there to see what kind of impact. If the building is used for church functions or purposes, I don't see the outbuilding really effecting the home values, but I don't have nothing to support that at this time. If the building is used for non-church functions and there is a lot of noise, I could see it effecting home values a little. Again, it is really tough to tell what impact this will have on home values if any at all.*

Bill Gaber – Accurate

Police Department comments.

“We look at what is reasonable given the level of noise, time of day, location in comparison to residences, and the necessity of the activity that is creating the noise. This has worked well for us. Decibel readings in ordinances may sound like a good idea, but that tends to handcuff common sense in many instances. 8am to 10 pm would most likely be reasonable for some noise, but I'm not sure what kind of noise we are talking about here. If we were called to the scene we would assess each situation and have them adjust accordingly if necessary. Email from Police Chief Reimer.”

Timeline:

- Public Hearing at the Common Council is planned for Monday, June 21st, 2021.

Recommendation: Approve the request for a Conditional Use Permit for a Church and Gym/Community Center pursuant to the submittal packet and conditions:

JULY 14 MEETING UPDATE

Request: Connection Church; Request for a Conditional Use Permit pursuant to 15.110(3)(a) for the establishment of a Church and Gym/Community Center located at 1455 North Rapids Road.

- No Conditional Use Permit is on file for the existing church, so it is classified as a Legal non-conforming use. It can remain in operation as a non-conforming use but it cannot be expanded, enlarged, extended, reconstructed, moved or structurally altered. The CUP request is for both the existing church and the proposed Multi-purpose building.
- At the May 26th Plan Commission meeting staff's recommendation was to approve the request, the Commission voted 3 to 3 on the request, so the recommendation from the Plan Commission to the Council was not in support of the Conditional Use Permit. Plan Commission discussed adding some additional conditions but these conditions were not formally added to the staff conditions because the Plan Commission vote was not in support of the CUP. Below are the original staff recommendations plus the Plan Commission suggested additions.
 - A. The CUP shall require Connection Church be in compliance with all applicable local and state regulations.

- B. The Gym/Community Center shall be restricted to the hours of 8 a.m. to 10 p.m. Lighting for Gym/Community Center shall be so arranged as to reflect the light away from adjoining residential premises.
 - C. Connection Church shall develop the Gym/Community Center in compliance with the conceptual plans dated May, 2021.
 - D. When the facility is in use the doors shall remain closed. (Note: this condition was a recommendation from the May 26, 2021 Plan Commission meeting)
 - E. Storm water, related to the new building, shall be addressed during the site plan submittal process. (Note: this condition was a recommendation from the May 26, 2021 Plan Commission meeting)
 - F. Per the submitted application, the area labeled Court #5, which is an exterior pickle ball court surface shall not be permitted. (Note: this condition was a recommendation from the May 26, 2021 Plan Commission meeting)
 - G. Connection shall not assign or transfer its interest in the CUP to any party without the written approval of the Manitowoc City Plan Commission and Manitowoc Common Council.
 - H. Non-compliance with the terms of the CUP may result in the modification of the terms and conditions of the CUP, issuance of citations and financial penalties, or immediate revocation of the CUP.
- At the June 21st public hearing in front of the Common Council, a motion to deny the CUP was recommended, Council never voted on the motion to deny instead the Council voted 9 – 0 to refer the item back to the Plan Commission for additional discussion between the applicant and the neighbors.
 - Community Development staff was made aware by the applicant and a neighbor of a meeting held on Saturday July 10. The Church hosted the discussion, no city staff was present at the meeting but we were informed that 3 alders and a select group of neighbors were invited.
 - Staff's understanding of the July 10th neighborhood meeting was that the Church presented four options for the location of the multi-purpose facility. No consensus was reached between the parties. ACE Building Service has provided a letter detailing the costs and issues with the four options.

The list of documents are following:

- o June 18, 2021 Letter from City Attorney McDaniel sent to the Common Council regarding Conditional Use Permits
- o ACE Building Service Letter & Renderings of 4 options for building location presented at the July 10 neighborhood meeting
- o Original Staff Conditions with Plan Commission suggested Conditions added



CITY OF MANITOWOC

WISCONSIN, USA

www.manitowoc.org

June 18, 2021

TO: Mayor and Common Council

FROM: City Attorney Kathleen M. McDaniel

RE: Conditional Use Permits

Connection Church requested a Conditional Use Permit (CUP) for a building to be used as a Community Center and Gym at their facility on 1455 North Rapids Road. This property is zoned R-2, Single-Family District, and uses such as a church, school, or private club require a conditional use in this district pursuant to [Manitowoc Municipal Code 15.110](#). The Plan Commission failed to approve the CUP by a 3-3 vote. The CUP is now being brought forward to Council for consideration and a final decision.

When reviewing applications for a CUP, the Council is subject to limitations in State law and the Manitowoc Municipal Code. Council shall approve a CUP whenever the applicant agrees to comply with state law and any conditions imposed by the City. Under [City ordinance](#), the Council shall also consider if the requested use is reasonably necessary for the convenience and welfare of the public, in harmony with the character of the surrounding area, and will have minimal or no effect on property values. When deciding to impose conditions on a CUP, the conditions must be set using facts and information, not personal preferences or speculation, and be measurable and specific whenever possible. There were eight conditions proposed by staff for this CUP, and the applicant has agreed to meet all of them.

If an applicant agrees to meet all requirements of City code and conditions imposed by the City, Council shall grant the CUP pursuant to City ordinance and [Wis. Stat. § 62.23\(7\)\(de\)](#).

In the event that the CUP is granted and the applicant fails to comply with City ordinances or conditions imposed in the CUP, the Council has the authority to revoke a permit. A revocation could occur after public hearing by the Plan Commission, a recommendation by the Plan Commission, and a Public Hearing by the Council. The City has not needed to revoke a CUP in recent history.

CONNECTION CHURCH MULTI-PURPOSE FACILITY LOCATION SCENARIOS

Refer to the attached sketches for location options and associated project budget impacts

Option A: Originally proposed location

- No impact to project budget

Option B: Relocate the position of the proposed structure south and slightly west.

- Eliminate approximately 10 existing parking spaces
- Relocate existing utility garage
- Approximately \$20,000 in additional project costs

Option C: Rotate orientation of proposed building and offset 25' from existing church structure

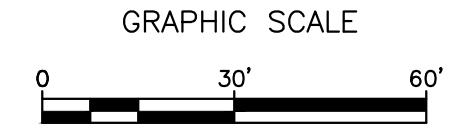
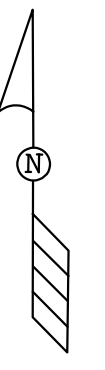
- Demolish existing parking area as needed
- Relocate existing utility garage
- Construct new parking and drive area around structure to replace eliminated parking and connect drives as existing
- Increased impervious surface area > 20,000 square feet; Storm water management plan and provisions required per City of Manitowoc storm water regulations *
- Approximately \$160,000 in additional project costs

Option D: Rotate orientation of proposed building and connect to existing church structure

- Demolish existing parking area as needed
- Relocate existing utility garage
- Construct new parking and drive area around structure to replace eliminated parking and connect drives as existing
- Increased impervious surface area > 20,000 square feet; Storm water management plan and provisions required per City of Manitowoc storm water regulations *
- Construct 3-hour fire wall separation between existing church and proposed expansion
- Code required building modifications due to building expansion vs detached structure
- Approximately \$250,000 in additional project costs

* City zoning code requires any site development project that creates 20,000 square feet of net impervious surface (roof surface, asphalt, concrete, gravel) to comply with Chapter 28 of the municipal code. This will require some means of storm water management (retention pond, bio-filtration basin, bio-swale, etc...)

Option A



07/08/2021

REVISION DESCRIPTION	DATE	REV. BY

ACE BUILDING SERVICE
 OUR REPUTATION IS OUR FOUNDATION
 P.O. BOX 1,656 • 3510 SOUTH 26TH STREET • MANITOWOC, WISCONSIN • 54220
 PHONE: 920.682.7105 • FAX: 920.682.7700 • WWW.ACEBUILDINGSERVICE.COM
 SUPERVISING PROFESSIONAL:

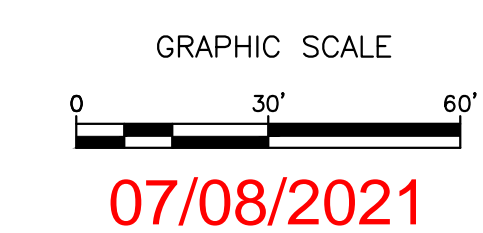
PROJECT INFORMATION:
MULTI-PURPOSE FACILITY
 1455 N. RAPIDS ROAD
 MANITOWOC, WI 54220

THIS PLAN AND IDEAS EXPRESSED HERE-IN ARE THE PROPERTY OF A.C.E. BUILDING SERVICE, INC. THESE PLANS SHALL NOT BE SHARED BY VISUAL MEANS OR REPRODUCED WITHOUT THE CONSENT OF A.C.E. BUILDING SERVICE, INC.

SHEET INFORMATION
 A.C.E. JOB NO. 975/21
 DATE: 05/14/21
 DRAWN BY: SJGJ
 SCALE: 1" = 30'
 SHEET

C1.0

Option B



REVISION DESCRIPTION	DATE	REV. BY

ACE BUILDING SERVICE
OUR REPUTATION IS OUR FOUNDATION
P.O. BOX 1,656 • 3510 SOUTH 26TH STREET • MANITOWOC, WISCONSIN • 54221-1626
PHONE: 920-682-0105 • FAX: 920-682-7700 • WWW.ACEBUILDINGSERVICE.COM
SUPERVISING PROFESSIONAL:

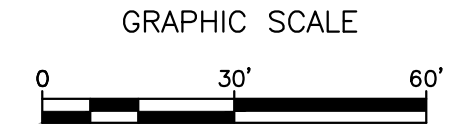
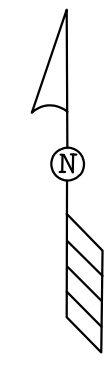
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A.C.E. JOB NO.	975/21
DATE	05/14/21
DRAWN BY:	SJGJ
SCALE:	1" = 30'
SHEET	

C1.0

Option C



07/08/2021

REVISION DESCRIPTION	DATE	REV. BY

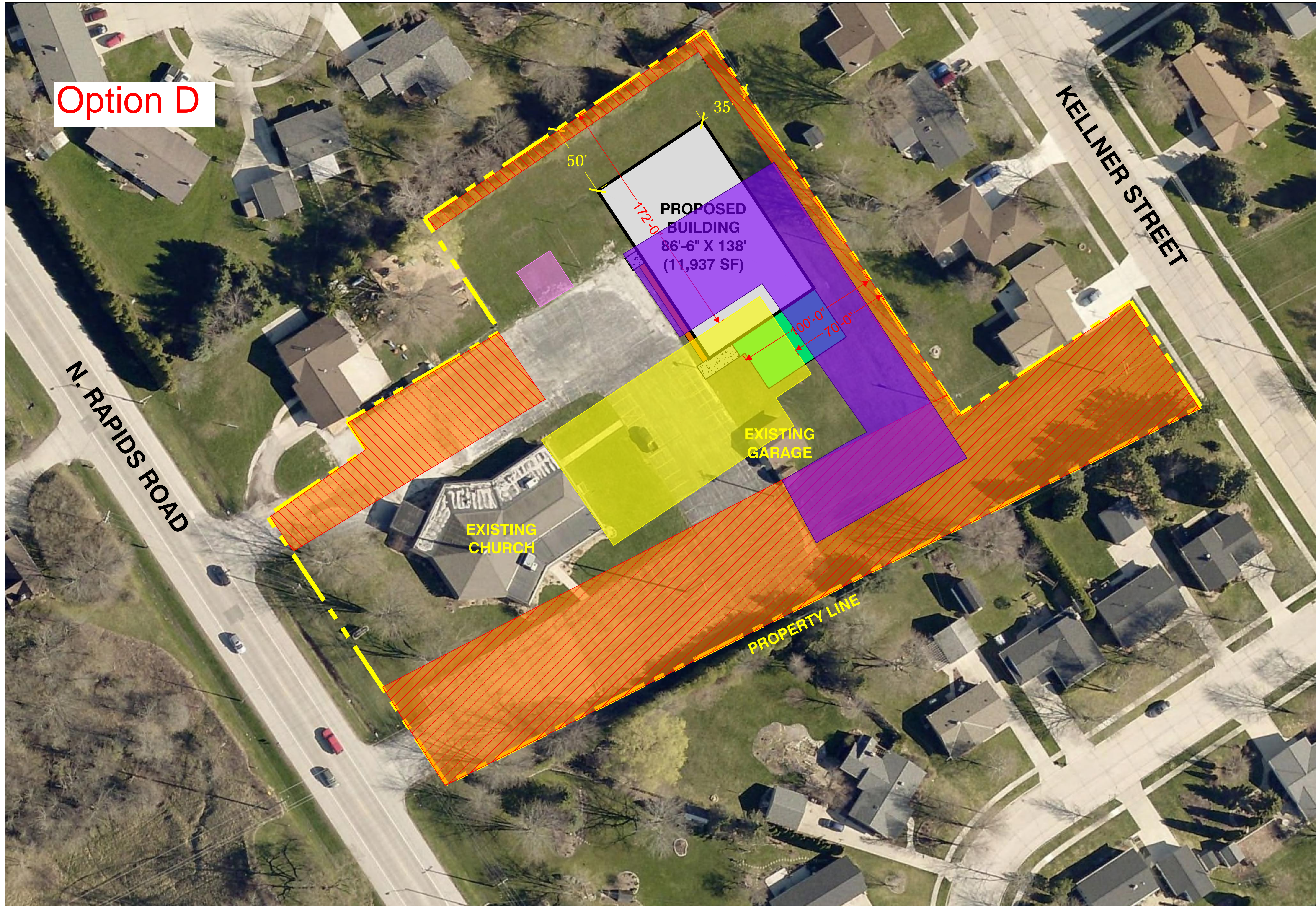
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DATE	05/14/21
DRAWN BY:	SJGJ
SCALE:	1" = 30'
SHEET	

C1.0



Option D

KELLNER STREET

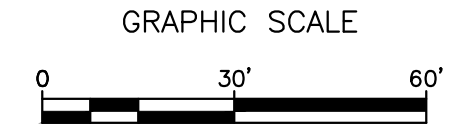
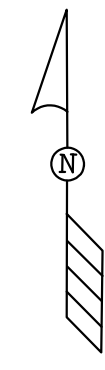
N. RAPIDS ROAD

PROPOSED BUILDING
86'-6" X 138'
(11,937 SF)

EXISTING GARAGE

EXISTING CHURCH

PROPERTY LINE



07/08/2021

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A.C.E. JOB NO.	975/21
DATE	05/14/21
DRAWN BY:	SJGJ
SCALE:	1" = 30'
SHEET	

C1.0

NOTE: THESE CONDITIONS INCLUDE BOTH STAFF'S ORIGINAL CONDITIONS AND CONDITIONS THAT WERE DISCUSSED AT THE PLAN COMMISSION MEETING.

REQUIREMENTS FOR
CONDITIONAL USE PERMIT (CUP) APPROVAL FOR
CONNECTION CHURCH
LOCATED AT 1455 NORTH RAPIDS ROAD
TAX PARCEL # 814-101-010
5/26/2021, 7/14/2021

- A. The CUP shall require Connection Church be in compliance with all applicable local and state regulations.
- B. The Gym/Community Center shall be restricted to the hours of 8 a.m. to 10 p.m. Lighting for Gym/Community Center shall be so arranged as to reflect the light away from adjoining residential premises.
- C. Connection Church shall develop the Gym/Community Center in compliance with the conceptual plans dated May, 2021.
- D. When the facility is in use the doors shall remain closed. (Note: this condition was a recommendation from the May 26, 2021 Plan Commission meeting)
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