

IOWA CITY BOARD OF ADJUSTMENT - REVISED PACKET

Wednesday, April 14, 2021
Electronic Meeting – 5:15 PM
Zoom Meeting Platform

Electronic Meeting *(Pursuant to Iowa Code section 21.8)*

An electronic meeting is being held because a meeting in person is impossible or impractical due to concerns for the health and safety of Commission members, staff and the public presented by COVID-19.

You can participate in the meeting and can comment on an agenda item by joining the Zoom meeting via the internet by going to <https://zoom.us/meeting/register/tJYvdeyurDspHtwPWUIUVCw0HUroksa-mpqw>. If you have no computer or smartphone, or a computer without a microphone, you can call in by phone by dialing (312) 626-6799 and entering the meeting ID 922-2562-0348 when prompted. Providing comment in person is not an option.

Agenda:

1. **Call to Order**
2. **Roll Call**
3. **Appeal Item**
 - a. **APL21-0001:** An appeal of a decision by the Building Official to grant a minor modification (MOD20-0009) reducing the side setbacks to build a new single-family home at 319 N. Van Buren Street: alleging an error in the determination that all applicable approval criteria were met. **REVISIONS MADE REGARDING THIS CASE ARE SHOWN ON THE APL21-0001 UPDATED COVER SHEET**
4. **Special Exception Items**
 - a. **EXC21-0002:** An application submitted by Axiom Consultants, on behalf of Gilbane Development, requesting a special exception to reduce the minimum parking requirement by 50 percent for a multi-family redevelopment project at 700, 710, 720, & 730 S. Dubuque Street and 206 & 220 Lafayette Street.
 - b. **EXC21-0003:** An application submitted by LT Leon Associates for a special exception to allow drive-through facilities in a Community Commercial (CC-2) zone for online grocery pick-up at Iowa City Hy-Vee #3 located at 1125 N. Dodge Street.

- c. **EXC21-0004:** An application submitted by LT Leon Associates for a special exception to allow drive-through facilities in a Community Commercial (CC-2) zone for online grocery pick-up at Iowa City Hy-Vee #1 located at 1720 Waterfront Drive.

5. Consideration of Meeting Minutes: March 10, 2021

6. Adjournment

If you will need disability-related accommodations in order to participate in this meeting, please contact Kirk Lehmann, Urban Planning at 319-356-5230 or at kirk-lehmann@iowa-city.org. Early requests are strongly encouraged to allow sufficient time to meet your access needs.

Upcoming Board of Adjustment Meetings

Formal: May 12 / June 9 / July 14

Informal: Scheduled as needed.

UPDATED COVER SHEET

To: Board of Adjustment
Item: APL21-0001
Parcel Number: 1010162004

Prepared by: Kirk Lehmann, Associate Planner
Date: April 14, 2021

GENERAL INFORMATION:

Applicant(s)/Contact:

David Moore
425 E. Davenport Street
Iowa City, IA 52245
David_lysa@yahoo.com

Property Owner(s):

Prestige Properties Development LLC
329 E. Court Street, Suite 2
Iowa City, IA 52240

Requested Action:

To overturn a decision of the Building Official to approve a Minor Modification reducing the required 7 foot side setback along the north property line by 2 feet and along the south property line by 1 foot.

Purpose:

To maintain the 7 foot side setback requirement.

Location:

319 N. Van Buren Street

Location Map:



Size:

2,800 square feet

Existing Land Use and Zoning:

Vacant; Neighborhood Stabilization Residential (RNS-12)

Surrounding Land Use and Zoning

North: Residential; Neighborhood Stabilization Residential with Conservation District Overlay (RNS12-OCD)

East: Residential; Neighborhood Stabilization Residential (RNS-12)
South: Residential; Commercial Office (CO-1)
West: Residential; Neighborhood Stabilization Residential with Conservation District Overlay (RNS12-OCD)

Applicable Code Sections: 14-4B-1: Minor Modifications

File Date: February 9, 2021

ATTACHMENTS:

1. Location Map, [PDF p. 7-8](#)
2. Zoning Map, [PDF p. 9-10](#)
3. Memo Regarding Staff Decision and Attachments, [PDF p. 11-72](#)
4. Appeal Application – [includes materials not previously in the packet, PDF p. 73-98](#)
5. Neighborhood Mailing Materials, [PDF p. 99-104](#)
6. [Correspondence – includes materials not previously in the packet, PDF p. 105-127](#)

Superceded

COVER SHEET

To: Board of Adjustment
Item: APL21-0001
Parcel Number: 1010162004

Prepared by: Kirk Lehmann, Associate Planner
Date: April 14, 2021

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Superseded

East: Residential; Neighborhood Stabilization Residential (RNS-12)

South: Residential; Commercial Office (CO-1)

West: Residential; Neighborhood Stabilization Residential with Conservation District Overlay (RNS12-OCD)

Applicable Code Sections:

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2. Zoning Map
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4. Appeal Application
5. Neighborhood Mailing Materials

APL21-0001
ATTACHMENT 1

Location Map
Prepared by Staff



0 0.0075 0.015 0.03 Miles

APL21-0001 319 N. Van Buren St.



Prepared By: Joshua Engelbrecht
Date Prepared: February 2021



An appeal submitted by Dave Moore to overturn a decision of the Building Official approving a Minor Modification reducing the required 7 foot side setback along the north property line by 2 feet and along the south property line by 1 foot.

APL21-0001
ATTACHMENT 2

Zoning Map
Prepared by Staff



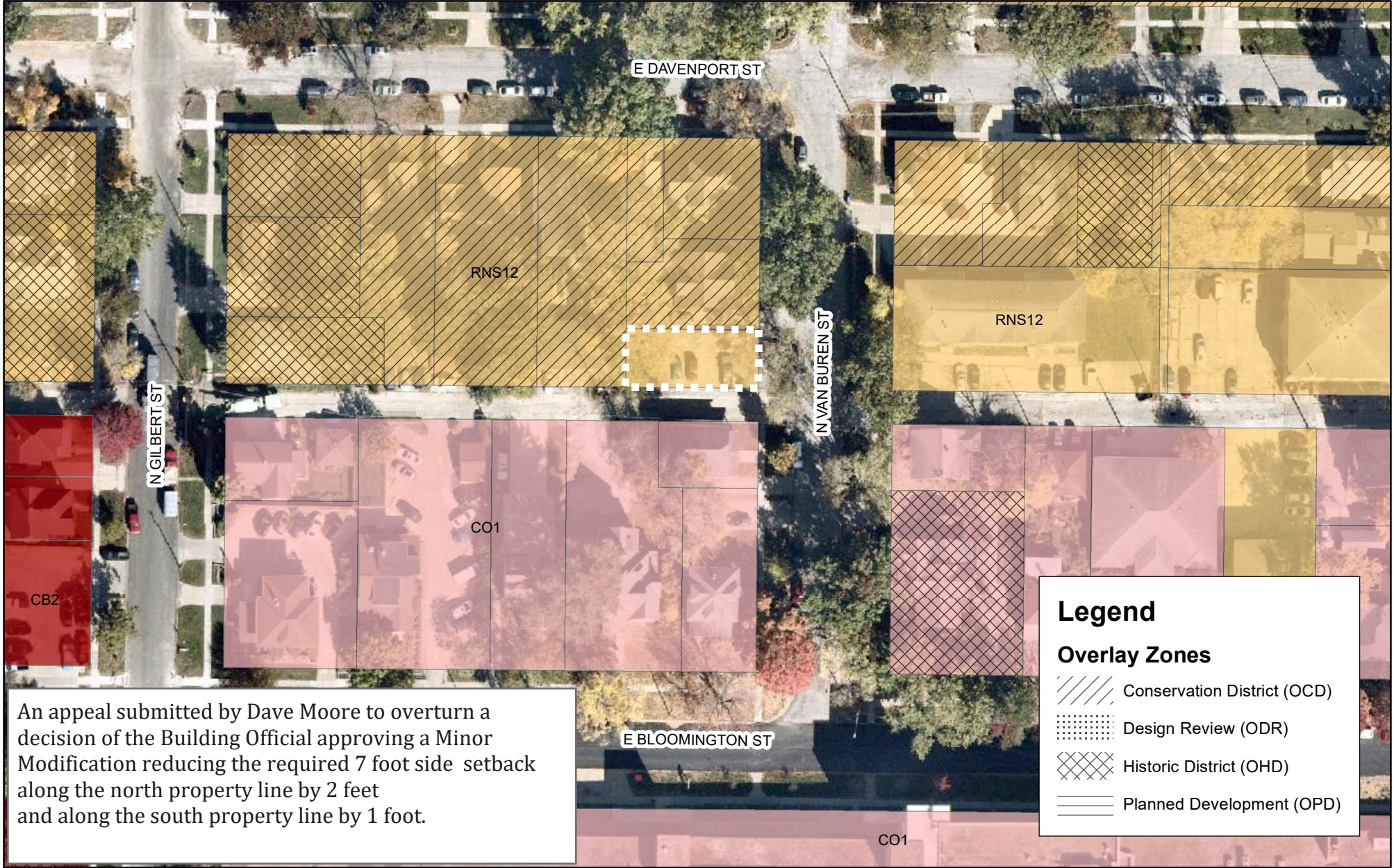
0 0.0075 0.015 0.03 Miles

APL21-0001

319 N. Van Buren St.



Prepared By: Joshua Engelbrecht
Date Prepared: February 2021



An appeal submitted by Dave Moore to overturn a decision of the Building Official approving a Minor Modification reducing the required 7 foot side setback along the north property line by 2 feet and along the south property line by 1 foot.

Legend

Overlay Zones

- Conservation District (OCD)
- Design Review (ODR)
- Historic District (OHD)
- Planned Development (OPD)

APL21-0001
ATTACHMENT 3

Memo Regarding Staff Decision
and Attachments
Prepared by Staff



CITY OF IOWA CITY MEMORANDUM

Date: April 9, 2021
To: Board of Adjustment
From: Danielle Sitzman, Building Official & Development Services Coordinator
Re: **Appeal of Minor Modification Case Number MOD20-0009, 319 N. Van Buren Street**

BACKGROUND:

Minor Modification Generally

The Zoning Code allows the Building Official to grant modifications from a list of specific standards if the proposed development meets certain criteria and continues to meet the intended purpose of those regulations. This list of changes that can be considered and the amount they may be changed are itemized as Minor Modifications in Section 14 4B-1A of the City Code. Minor Modifications are intended to provide flexibility for unusual situations for which strict application of the regulations is impractical, but for which review by a Board or Commission is unnecessary. Special Exceptions are similar to Minor Modifications, (but not as “minor”) and need to be approved by the BOA rather than staff.

Minor Modifications require that an administrative hearing be held and that written notice to surrounding property owners within 200’ of the subject property be sent ten (10) days prior to the hearing. Following the hearing, the Building Official issues a written decision listing the findings on which the decision was made and any conditions to be placed on the decision. The granting of a Minor Modification is not grounds for granting other Minor Modifications for the same or differing properties (Section 14-4B-1D).

Minor Modification on Appeal

On December 4, 2020, the property owner of 319 N. Van Buren Street applied for a Minor Modification requesting a reduction in the required side setbacks along the north property line by 2 feet and along the south property line by 1 foot based on Section 14-4B-1A-7:

Required setbacks from a side lot line may be reduced by up to two feet (2’), but in no case shall a required setback from a side lot line be reduced to less than three feet (3’), unless the subject side lot line abuts a public right-of-way or permanent open space.

The purpose was to accommodate construction of a new single-family dwelling. (See Attachment 1)

Notification letters were sent on December 11, 2020 and a public hearing was held on January 6, 2021. (See Attachment 2) On January 14, the Minor Modification was approved after finding it met the applicable approval criteria. (See Attachment 3)

A neighboring property owner has appealed the decision granting the minor modification.

ANALYSIS:

Description of Lot

The property is an existing vacant, nonconforming lot containing 2,800 square feet with dimensions of 35’ x 80’. It is part of the original town plat of Iowa City, is currently zoned Neighborhood Stabilization Residential (RNS-12), and is outside of any historic preservation or

conservation district or the Central Planning District. The RNS-12 zone is intended to stabilize certain existing residential neighborhoods by preserving the predominantly single-family residential character of these neighborhoods and preventing the conversion or redevelopment of single-family uses to multi-family uses.

Setbacks

In the Municipal Code, a setback is the distance between a specified object, such as a building, and another point, such as a lot line. For the subject property the side setback areas are those that would be on the north and south sides of future structure.

According to Section 14-2A-4B. "Minimum Setback Requirements For Principal Buildings" the minimum setback requirements are intended to:

- a. Maintain light, air, separation for fire protection, and access for firefighting;
- b. Provide opportunities for privacy between dwellings;
- c. Reflect the general building scale and placement of structures in the city's neighborhoods;
- d. Promote a reasonable physical relationship between buildings and between residences; and
- e. Provide flexibility to site a building so that it is compatible with buildings in the vicinity.

For the subject property, the required minimum side setback is five (5) feet for the first two (2) stories and an additional two (2) feet for each additional story. The overall height limit on structures in this zoning district is 35 feet regardless of stories. The applicant was requesting a reduction from the seven (7) foot setback requirement to five (5) feet on the north side and six (6) feet on the south side in order to build a three-story dwelling.

There are no other design standards for single-family homes applicable to this property besides the dimensional zoning standards in Section 14-2A-4 and the Single-Family Site Development Standards in Section 14-2A-6.

DECISION:

The Building Official may approve an application for a Minor Modification, in whole or in part, with or without conditions, only if the approval criteria are satisfied. The approval criteria can be analogized to the standards that are required to be met in a special exception. The Minor Modification was approved after finding it met the applicable approval criteria as follows.

- 1. Special circumstances apply to the property, such as size, shape, topography, location, surroundings, or characteristics, or preexisting site development, which make it impractical to comply with the subject regulation or which warrant a modification and/or waiver of the subject regulation.**

Building Official Findings:

- Lots that are nonconforming due to their size being less than the minimum lot area and/or lot width often constitute a special circumstance which makes it impractical to comply with setback regulations. Nonconforming lots typically exist because they were platted under prior zoning standards or before standards existed at all (as in this case).
- It is unusual for non-conforming lots to be vacant and or redeveloped for single-family uses. Only about one such in-fill project has occurred in each of the last twenty years across the entire City.
- While Minor Modifications do not set precedent, similar practical difficulty findings for setback reductions have been made for additions to existing buildings and less commonly for new structures and are the reason the Minor Modification administrative process exists.
- Newly constructed single-family homes are commonly built with attached garages for automobiles and room sizes that accommodate modern amenities such as closets and full-sized plumbing fixtures.

2. The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to other property or improvements in the vicinity and in the zone in which the property is located.

Building Official Findings:

- Alley access and use for the subject property is similar to other existing dwellings along alleys in this neighborhood.
- Light, air, and opportunities for privacy will be maintained by the observation of other dimensional standards of the zoning code and the inherent limit on the extent of reduction allowed by Minor Modification of side setbacks.
- No assumption that neighboring properties “would make up the difference” for the reduction was made.
- Many 2 and 3-story buildings are present in the blocks surrounding the subject property including within the immediate 200-foot notification area. It is common for such buildings to also not meet current setback requirements. As such, though the proposal is uncommon, it generally reflects the building scale and placement of structures in this area. (See Attachment 4)
- Buildings may be up to 35’ in height by right regardless of the number of stories in this zoning district.
- Side setbacks of at least 5 feet from lot lines maintain separation for fire protection and access for firefighting in accordance with Building Codes.

3. The minor modification does not exceed the minor modification standards or allow a use or activity not otherwise expressly authorized by the regulations governing the subject property.

Building Official Findings:

- The requested reduction is less than or equal to the amount allowed to be modified and retains the minimum spacing required.
- The Modification granted represents the minimum dimension needed to accommodate the proposed development and setbacks are the sole modification requested.
- While the applicant indicated a willingness to exchange the north and south setback distances during the administrative hearing, Staff did not believe that would result in a better design. Therefore, no condition was placed on the approval.

4. The minor modification requested is in conformity with the intent and purpose of the regulation modified.

Building Official Findings:

- Light, air, and opportunities for privacy, scale, and the physical relationship between buildings will be maintained by the observation of other dimensional standards of the zoning code and the inherent limit on the extent of reduction allowed by Minor Modification of side setbacks.
- Fire protection separation distances and access are addressed by the Building Code which applies to all new construction and will be maintained.
- Allowing for a range of different setback distances to be administratively approved provides flexibility to site a building so that it is compatible with buildings and streets in the vicinity while still meeting the minimum requirements.

5. The requested minor modification complies with other applicable statutes, ordinances, laws and regulations.

Building Official Findings:

- The Minor Modification granted does not relieve the property owner from complying with all other applicable statutes, ordinances, or laws.
- All other current dimensional zoning requirements and other code requirements will be met including required open space.
- Denial of the requested Minor Modification does not ensure a limitation on height or stories.
- As with most properties in the City of Iowa City, the subject property is not subject to any design or architectural controls.

REVIEW BY THE BOARD OF ADJUSTMENT:

The City Code sets forth the authority of the Board in an appeal.

Section 14-7a-2c1 states:

Powers: The board shall have the following powers:

1. Appeals: To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the City Manager or designee in the enforcement of this title or of any ordinance adopted pursuant thereto.

Section 14-8-3b, in part, states:

3. At a public hearing, the board shall review all applicable evidence presented regarding the subject appeal.
4. In exercising the above mentioned powers, the board of adjustment may, in conformity with the provisions of this title or ordinances adopted pursuant thereto, affirm, or upon finding error, reverse or modify, wholly or partly, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the officer from whom the appeal is taken.

It is City staff's position that there is no error in the minor modification decision. The criteria were considered and satisfied. City staff respectfully requests that the Board affirm the minor modification decision.

ATTACHMENTS:

1. Application
2. Notification Letters
3. Decision Letter
4. Surrounding Property Images & Map
5. Correspondence from Applicant (received prior to the minor modification hearing)
6. Correspondence from Public (received prior to the minor modification hearing)

MINOR MODIFICATION – General Approval Criteria (14-4B-1)



CITY OF IOWA CITY
 410 East Washington Street
 Iowa City, Iowa 52240-1826
 (319) 356-5000
 (319) 356-5009 FAX
 www.icgov.org

- **Site Address:** 319 N. Van Buren Street, Iowa City, Iowa
- **Applicant:** Prestige Properties Development LLC
- **Provide a separate page with names and addresses of neighbors within 200' of the subject property**
- Check the minor modification(s) requested:

- | | |
|---|---|
| <input type="checkbox"/> 1. Commercial parking requirement reduced by 10% | <input type="checkbox"/> 13. Modification to driveway spacing standards * |
| <input type="checkbox"/> 2. Commercial parking reduction of up to 50% shared parking | <input type="checkbox"/> 14. Building addition/accessory building for accessory uses within parks and open spaces |
| <input type="checkbox"/> 3. Reduction of minimum parking requirement for housing program or affordable housing units (CB-5 and CB-10) | <input type="checkbox"/> 15. Building addition/accessory building for general educational facilities or religious/private group use |
| <input type="checkbox"/> 4. Height of wall or fence increased up to 25% but no greater than 8' in height | <input type="checkbox"/> 16. Modifications of multi-family site development standards * |
| <input type="checkbox"/> 5. Height of building increased up to 10% | <input type="checkbox"/> 17. Modifications to industrial/research zone site development standard or public zone development standards * |
| <input type="checkbox"/> 6. Wheelchair ramp setback | <input type="checkbox"/> 18. Additional garage entrance/exit to structure parking |
| <input checked="" type="checkbox"/> 7. Reduction of side setback up to 2' leaving no less than 3' of side yard | <input type="checkbox"/> 19. Freestanding sign in CB-2 zone |
| <input type="checkbox"/> 8. Front or rear yard reduction up to 15% of the required setback | <input type="checkbox"/> 20. Modification/waiver to non-conforming development provisions |
| <input type="checkbox"/> 9. One parking space for persons with disabilities in a required front yard for commercial use adjacent to an R zone | <input type="checkbox"/> 21. Modification to driveway length single family zone |
| <input type="checkbox"/> 10. Freestanding sign height increase by up to 10 feet | <input type="checkbox"/> 22. Entranceway/gateway in R zone |
| <input type="checkbox"/> 11. One non-resident employee for home occupation | <input type="checkbox"/> 23. Modification to reduce open space requirement for single family and two family uses * |
| <input type="checkbox"/> 12. One non-resident employee for bed & breakfast | |

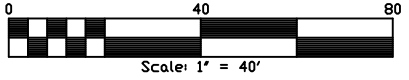
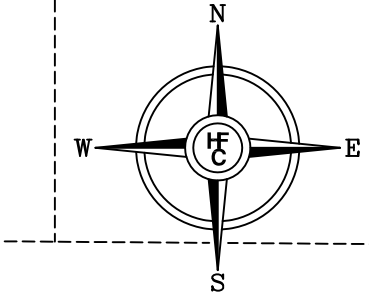
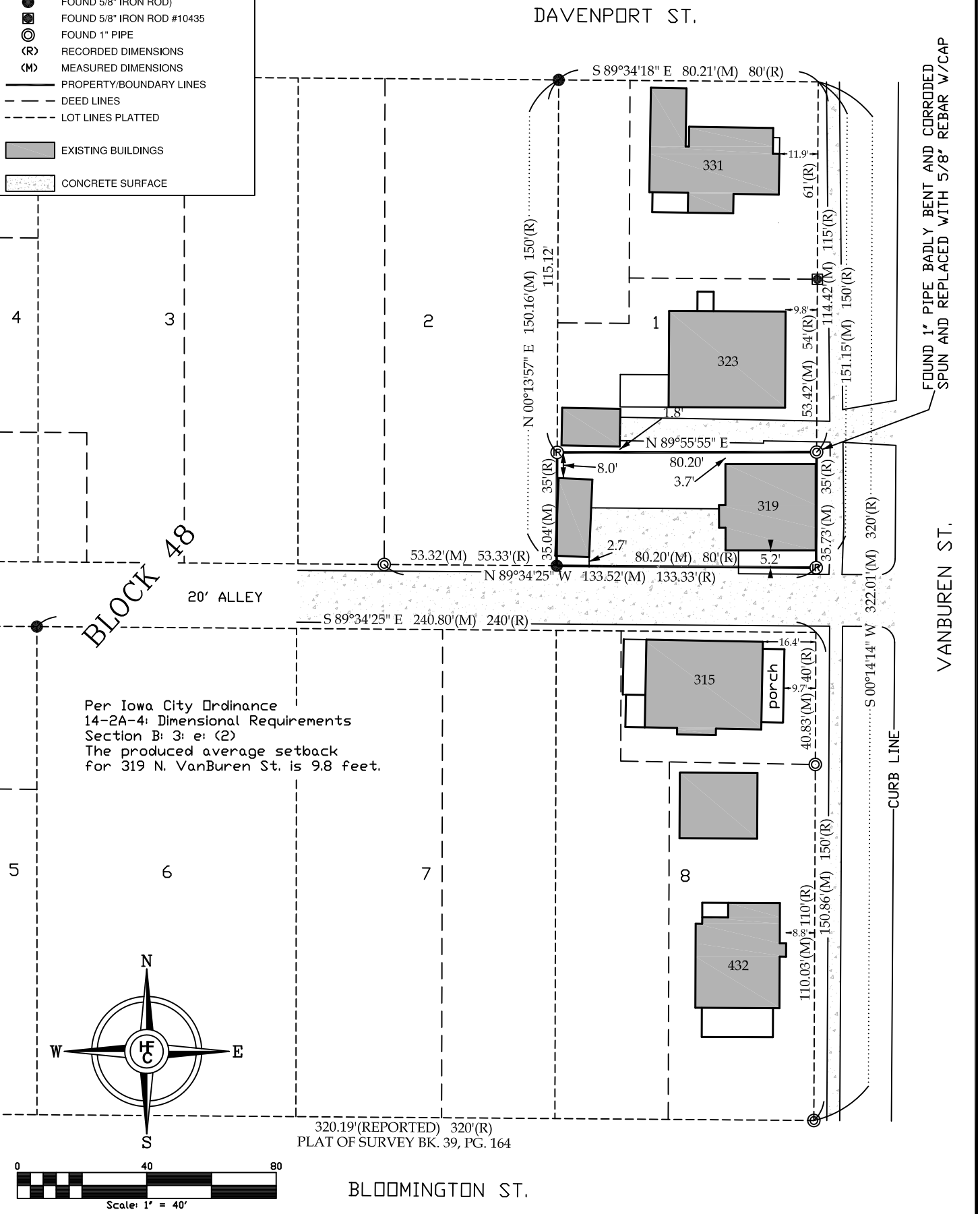
** indicates alternate/specific approval criteria*

1. Indicate any special circumstances which create a need for minor modification, such as size, shape, topography, configuration of lot, location or surroundings:
 See accompanying letter.
2. Explain why a minor modification will not be detrimental to the public health, safety, or welfare or be injurious to other property or improvements in the vicinity and in the zone in which the property is located:
 See accompanying letter.
3. Explain how the minor modification does not exceed the minor modification standards or allow a use or activity not otherwise expressly authorized by the regulations governing the property:
 The minor modification permits a reduction of the side yard setback by up to 2 feet so long as there is a remaining setback of 3 feet. The requested modification fits within these standards.
4. Explain how the minor modification requested is in conformity with the intent and purpose of the regulation modified:
 See accompanying letter.
5. Explain how the minor modification complies with other applicable statutes, ordinances, laws and regulations:
 The owner has met with staff to review the project. The project is in compliance with all applicable statutes, ordinances and regulations except the side yard setback for which this minor modification is being requested.

Any minor modification granted shall be subject to the requirements of, and in conformity with, the intent and purposes of the Iowa City's Zoning Chapter. The applicant bears the burden of proving that a minor modification is necessary and must exercise the minor modification within 180 days from the date of approval or the minor modification shall become null and void. Minor modifications do not in any way alter an applicants' obligation to comply with other applicable statutes, ordinances, laws or regulations.

LEGEND

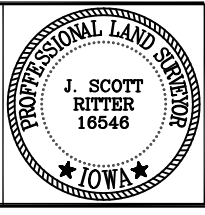
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- (●) FOUND 5/8" IRON ROD
- (■) FOUND 5/8" IRON ROD #10435
- (○) FOUND 1" PIPE
- (R) RECORDED DIMENSIONS
- (M) MEASURED DIMENSIONS
- PROPERTY/BOUNDARY LINES
- - - DEED LINES
- - - LOT LINES PLATTED
- █ EXISTING BUILDINGS
- ▨ CONCRETE SURFACE



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

for average building setback

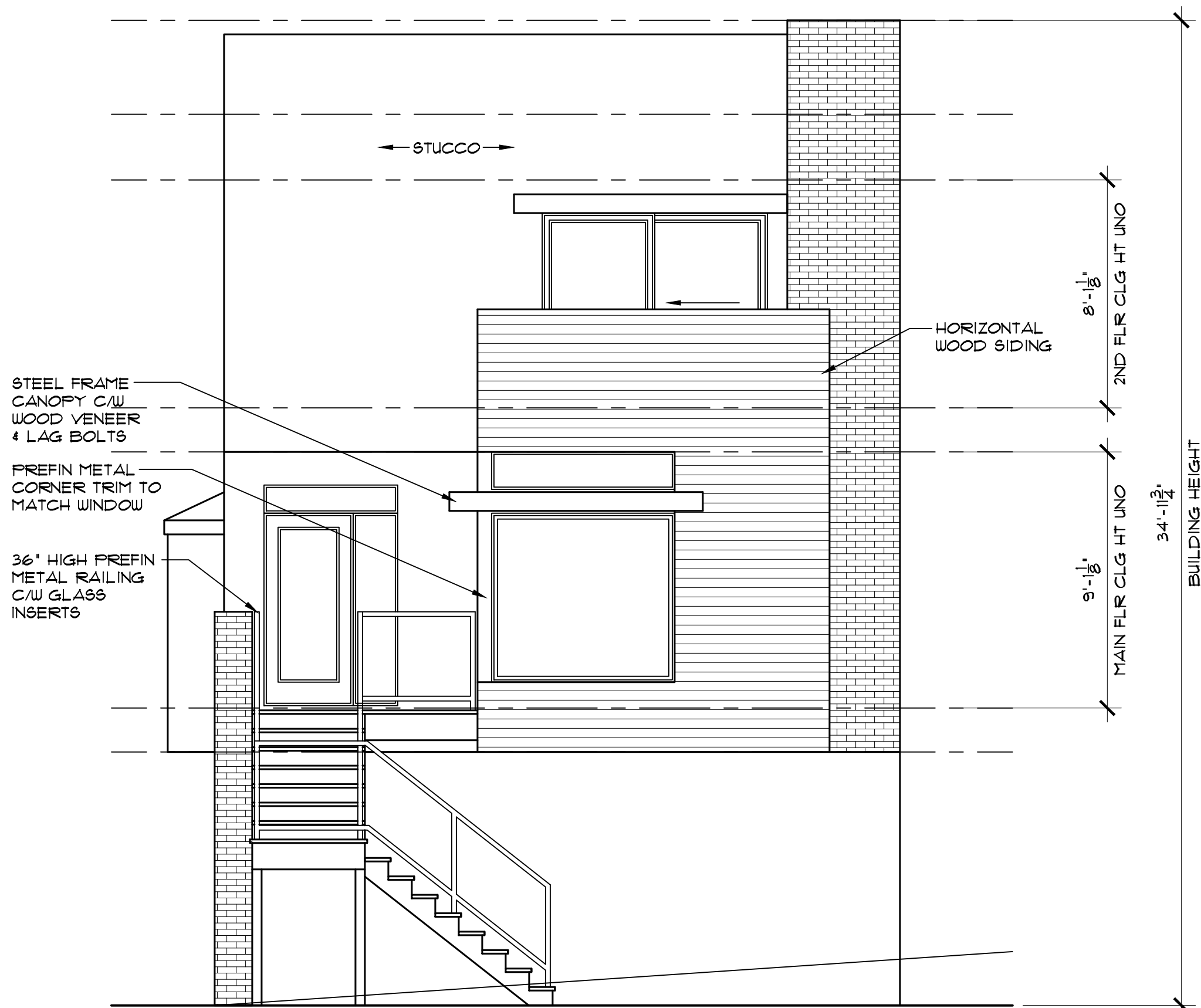
J. Scott Ritter, P.L.S. Date
 Iowa License Number: 16546
 My license renewal date is December 31, 2018.
 Pages covered by this seal: THIS SHEET ONLY



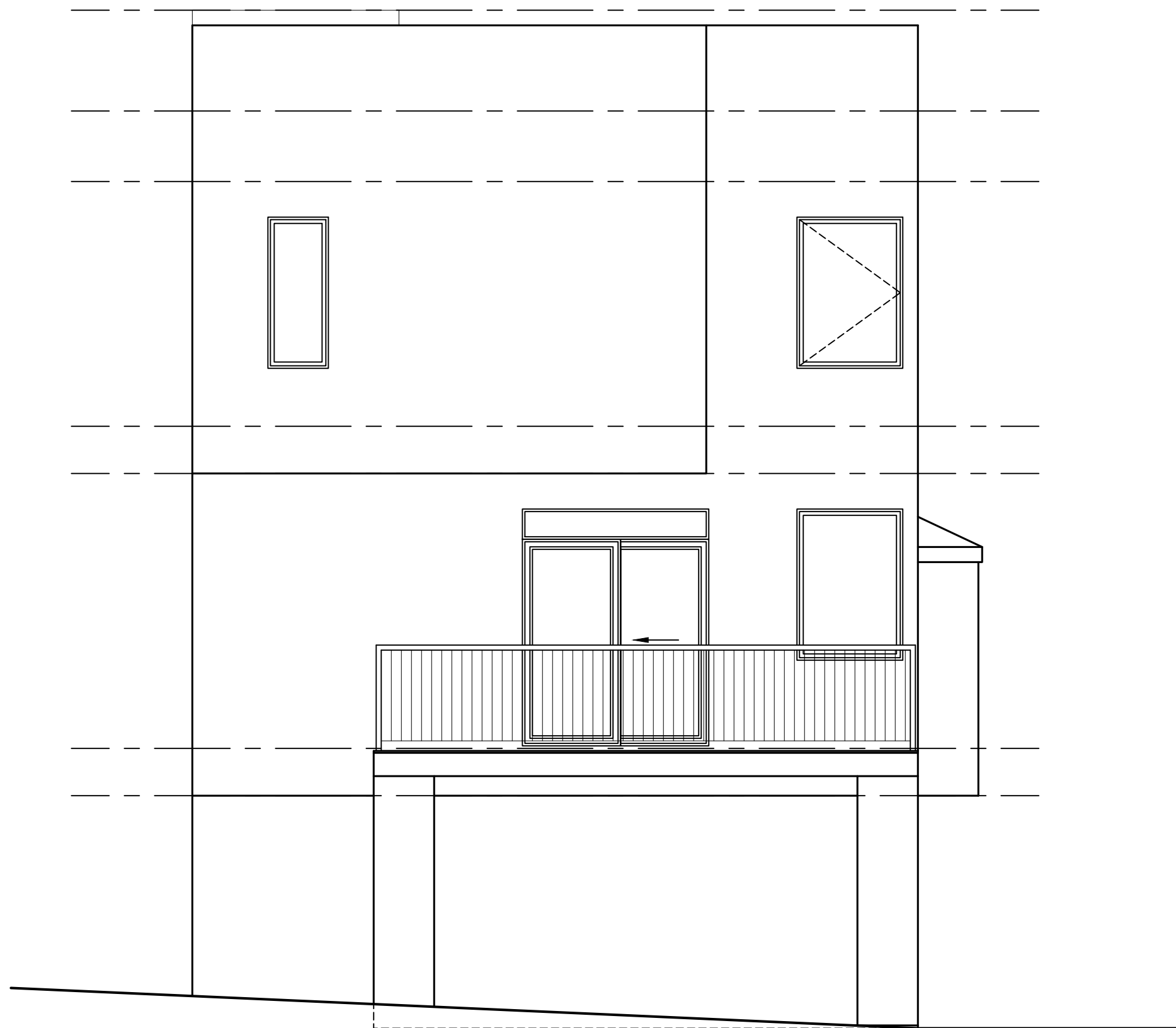
PLAT OF SURVEY
RETRACEMENT
319 VANBUREN ST.
IOWA CITY, IOWA

DATE: 10/25/17	DRN: JSR	APP:
FLD BK: ROBOT	PROJ. NO: 177172	

Y:\2017 SURVEYS\177172 Prestige Properties\Drawings\177172.DWG, 12/20/2017 10:45:10 AM



EAST ELEVATION
SCALE: 1/4" = 1'-0"



WEST ELEVATION
SCALE: 1/4" = 1'-0"

www.robinsonplans.com
A DIVISION OF ROBINSON RESIDENTIAL DESIGN INC.

2232 2ND AVENUE
REGINA, SASKATCHEWAN
CANADA S4R 1K3
TOLL FREE: (877) 352-6617
FAX: (306) 352-6619

**PRESTIGE
PROPERTIES**
IOWA CITY, IOWA

PROJECT: 319N VAN BUREN AVE.

SCALE
1/4" = 1'-0"

DATE
DEC 03, 2020

DRAWN BY
R.R.D.I.

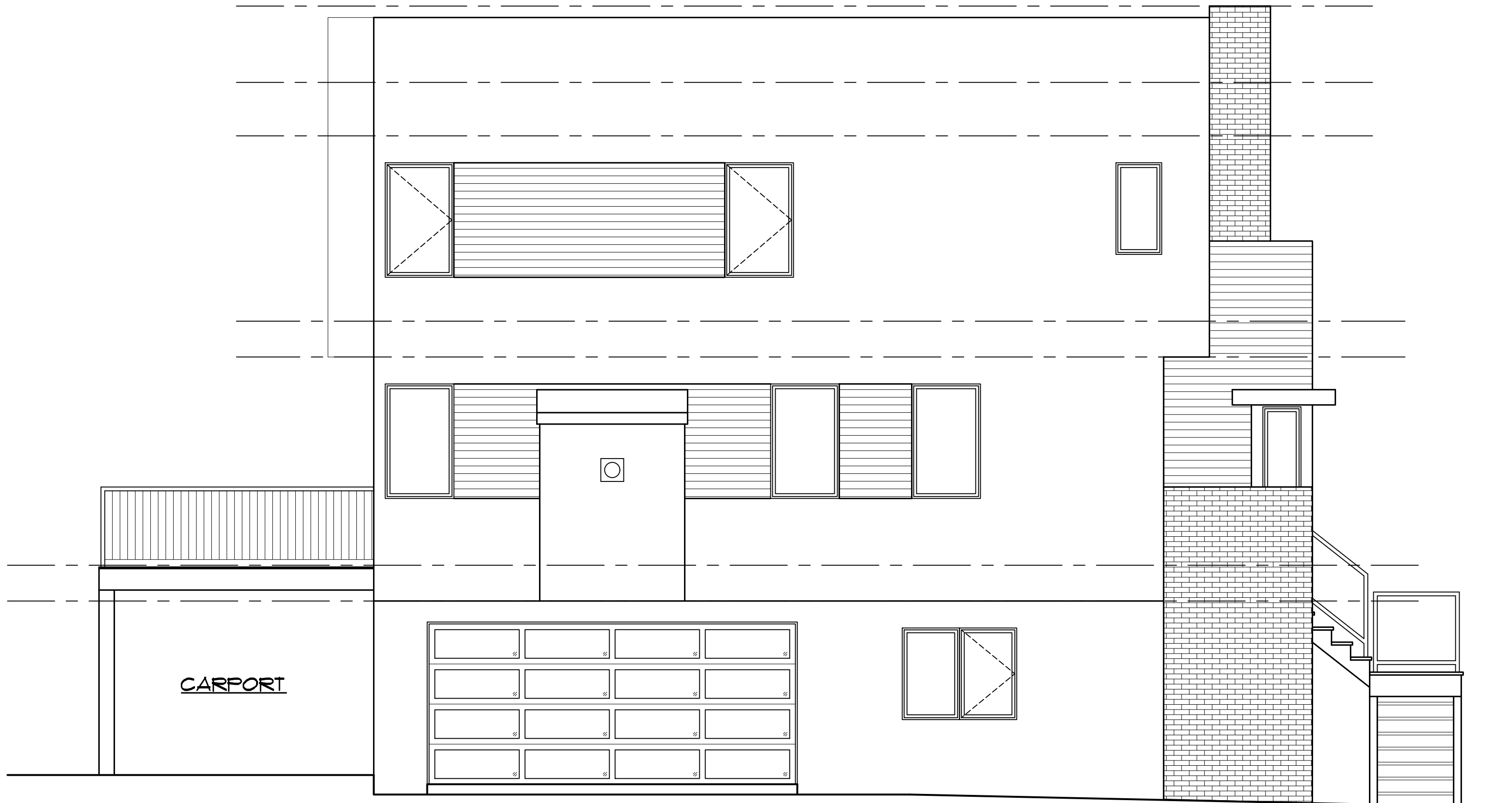
BASE PLAN #
MCCALLUM 1561

DRAWING TITLE
EXTERIOR ELEVATIONS

DRAWING NO.

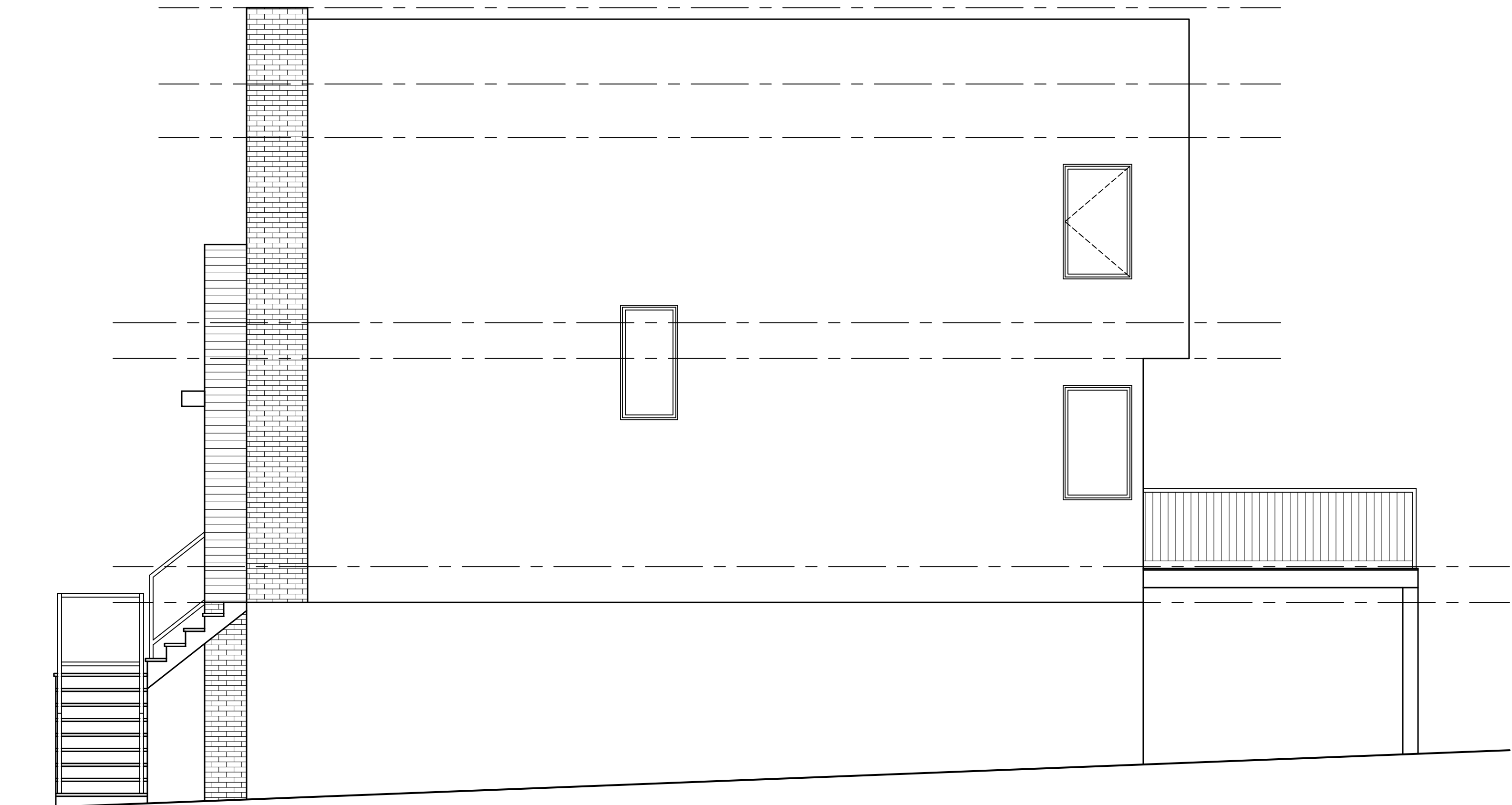
A-1

1. Copyright of these plans remains with Robinson Residential Design Inc. and issuance of them are for a one time build only. Duplication of these plans in whole or in part is strictly prohibited, without prior written permission from Robinson Residential Design Inc.
2. Drawings are not to be scaled.
3. All plans are drawn to suit the National Building Code of Canada (NBCC) and the International Residential Code (IRC). Due to local building codes, zoning regulations and climatic conditions, plans must be reviewed by a local building official prior to construction. All structural components indicated on these drawings must be reviewed and engineered by a licensed professional in the local province/state.
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CARPORIT

SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"

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FAX: (306) 352-6619

**PRESTIGE
PROPERTIES**
IOWA CITY, IOWA

PROJECT: 319N VAN BUREN AVE.

SCALE
1/4" = 1'-0"

DATE
DEC 03, 2020

DRAWN BY
R.R.D.I.

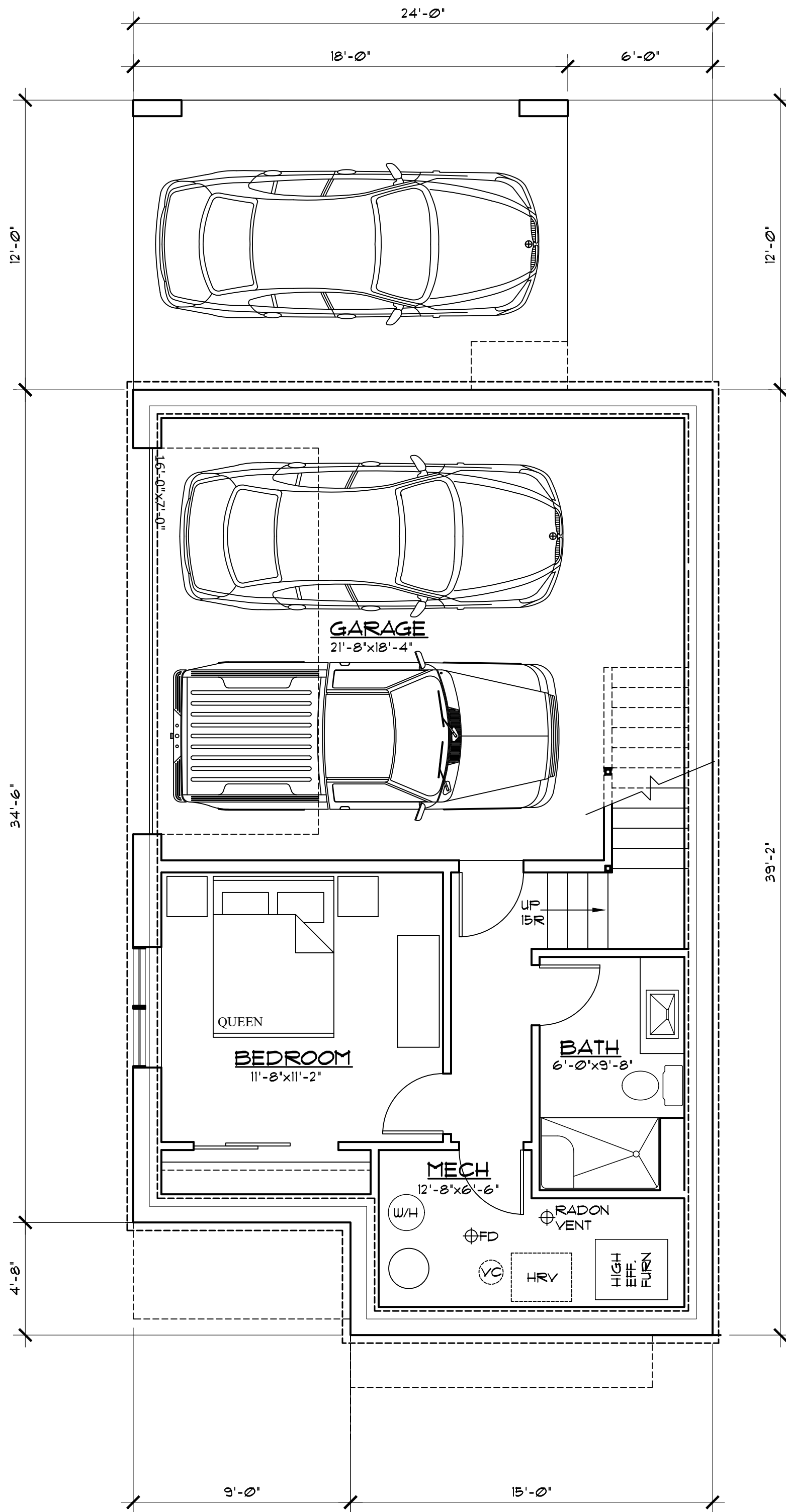
BASE PLAN #
MCCALLUM 1561

DRAWING TITLE
EXTERIOR ELEVATIONS

DRAWING NO.

A-2

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FOUNDATION PLAN
 SCALE: 1/4" = 1'-0"
 AREA: 898 SQ. FT.

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 A DIVISION OF ROBINSON RESIDENTIAL DESIGN INC.

2232 2ND AVENUE
 REGINA, SASKATCHEWAN
 CANADA S4R 1K3
 TOLL FREE: (877) 352-6617
 FAX: (306) 352-6619

**PRESTIGE
 PROPERTIES**
 IOWA CITY, IOWA

PROJECT: 319N VAN BUREN AVE.

SCALE
 1/4" = 1'-0"

DATE
 DEC 03, 2020

DRAWN BY
 R.R.D.I.

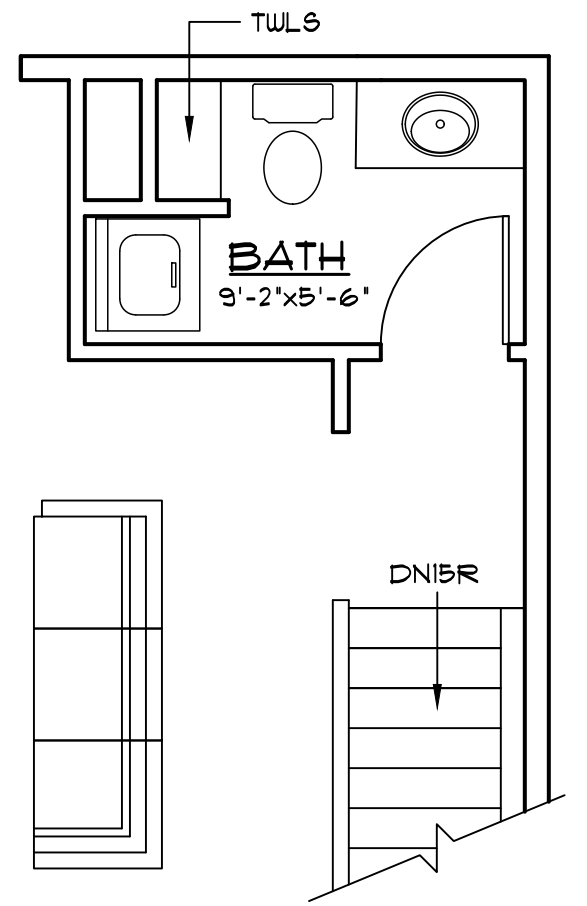
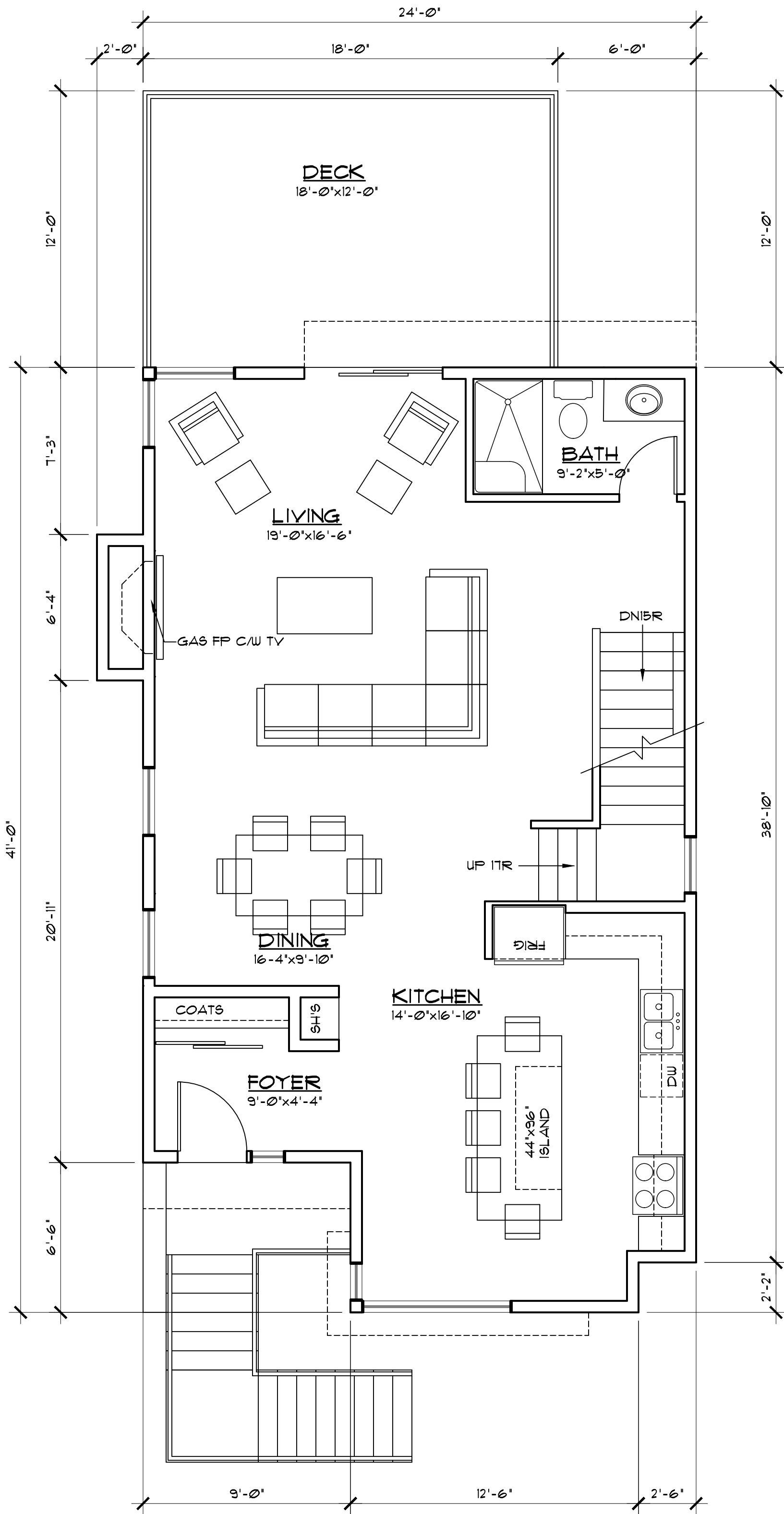
BASE PLAN #
 McCALLUM 1561

DRAWING TITLE
 BASEMENT PLAN

DRAWING NO.

A-3

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ALTERNATE BATH
SCALE: 1/4" = 1'-0"

MAIN FLOOR PLAN
SCALE: 1/4" = 1'-0"
AREA: 920 SQ FT
TOTAL AREA: 1830 SQ FT

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2232 2ND AVENUE
REGINA, SASKATCHEWAN
CANADA S4R 1K3
TOLL FREE: (877) 352-6617
FAX: (306) 352-6619

PRESTIGE
PROPERTIES
IOWA CITY, IOWA

PROJECT: 319N VAN BUREN AVE.

SCALE
1/4" = 1'-0"

DATE
DEC 03, 2020

DRAWN BY
R.R.D.I.

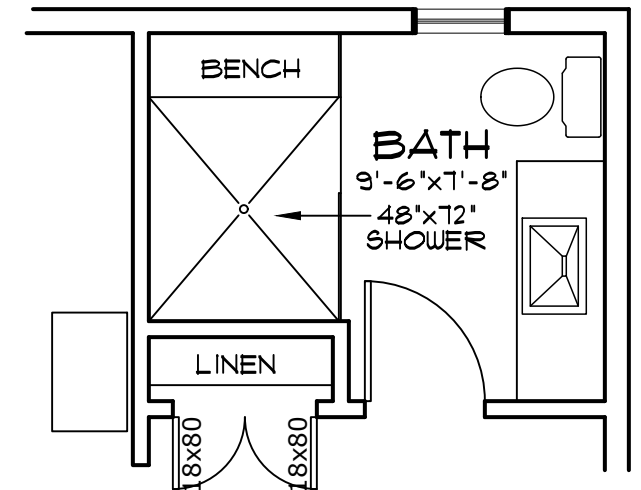
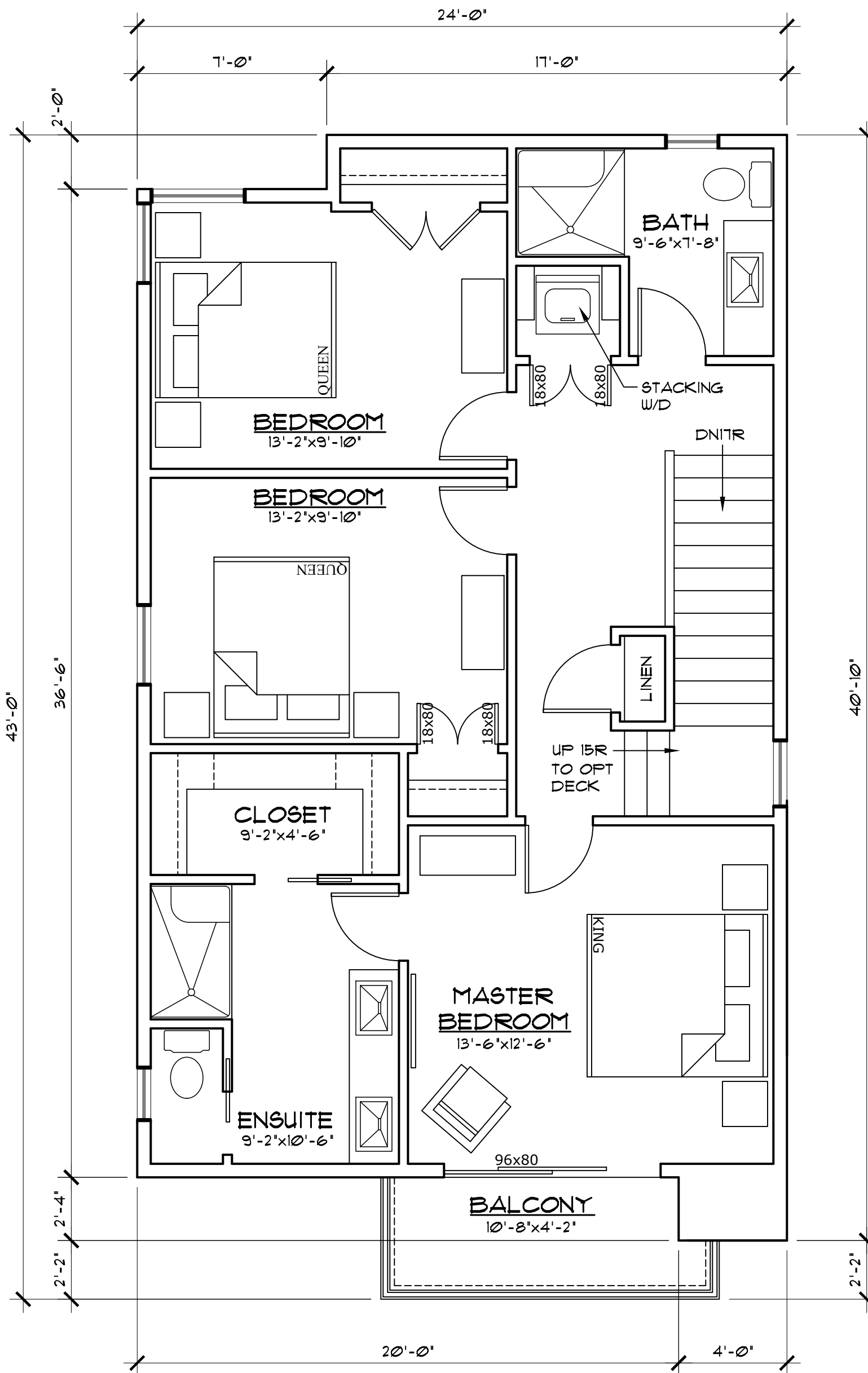
BASE PLAN #
MCCALLUM 1561

DRAWING TITLE
MAIN FLOOR PLAN

DRAWING NO.

A-4

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ALTERNATE BATH
SCALE: 1/4" = 1'-0"

SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"
AREA: 910 SQ FT

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A DIVISION OF ROBINSON RESIDENTIAL DESIGN INC.

2232 2ND AVENUE
REGINA, SASKATCHEWAN
CANADA S4R 1K3
TOLL FREE: (877) 352-6617
FAX: (306) 352-6619

PRESTIGE PROPERTIES
IOWA CITY, IOWA

PROJECT: 319N VAN BUREN AVE.

SCALE
1/4" = 1'-0"

DATE
DEC 03, 2020

DRAWN BY
R.R.D.I.

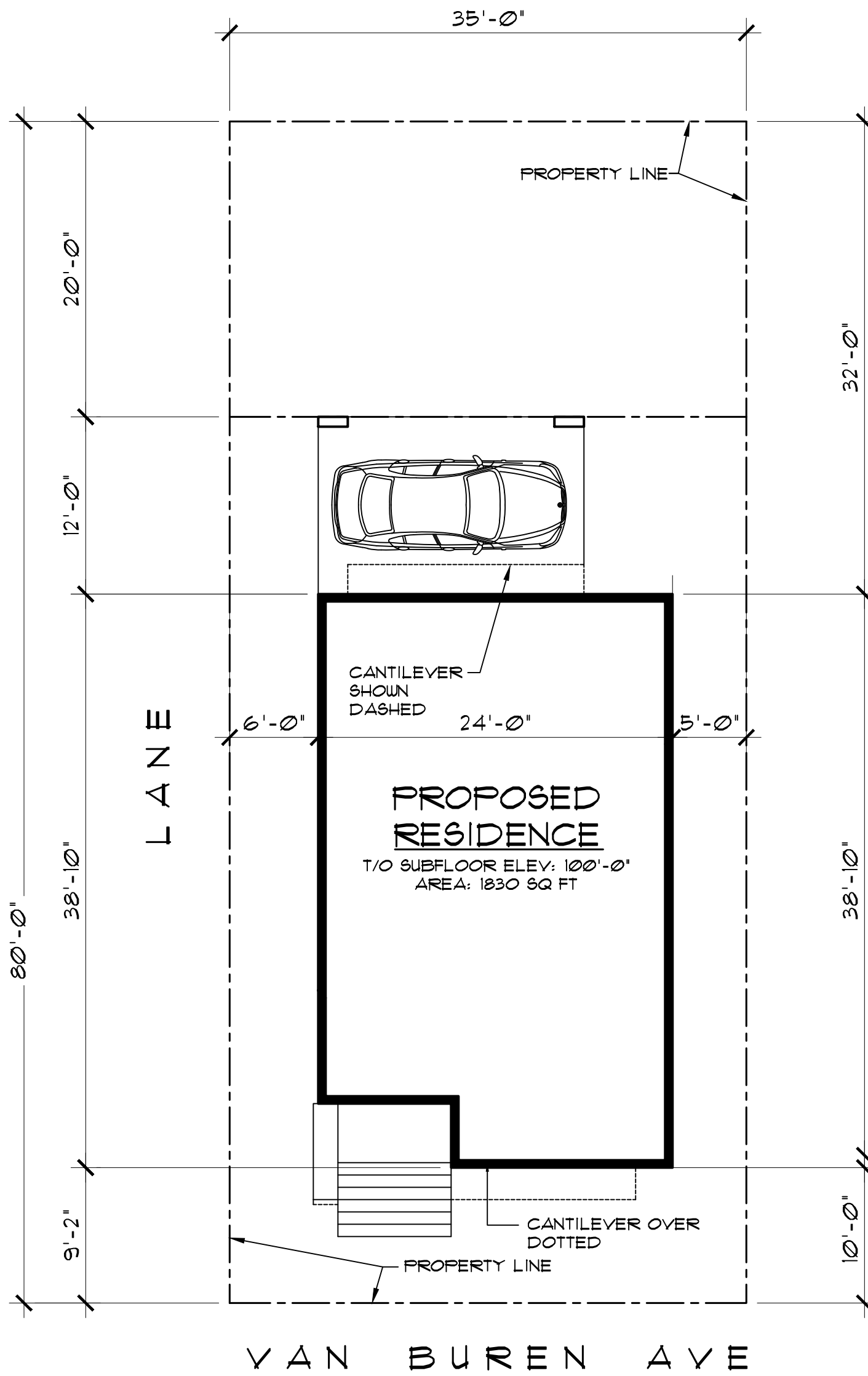
BASE PLAN #
MCCALLUM 1561

DRAWING TITLE
SECOND FLOOR PLAN

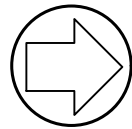
DRAWING NO.

A-5

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4. Robinson Residential Design Inc. assumes no liability or responsibility for any errors, omissions and any incidental indirect or consequential damages whatsoever arising from the use of these drawings or the information provided therein.



SITE PLAN
SCALE: 1/8" = 1'-0"



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PRESTIGE PROPERTIES
IOWA CITY, IOWA

DRAWING TITLE
SITE PLAN
SITE PLAN NOTES

DRAWING NO.

A-6

PROJECT: 319N VAN BUREN AVE.

SCALE
1/8" = 1'-0"

DRAWN BY
RRD.J.

CHECKED BY
RRD.J.

DATE
DEC 03, 2020

BASE PLAN #
THE McCALLUM

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4. Robinson Residential Design Inc. assumes no liability or responsibility for any errors, omissions and any incidental, indirect or consequential damages whatsoever arising from the use of these drawings or the information provided therein.

2. Drawings are not to be scaled.



CITY OF IOWA CITY

Department of Neighborhood and Development Services, 410 E. Washington Street Iowa City, Iowa 52240

December 11, 2020

Prestige Properties IV LLC
329 E. Court Street, Suite 2
Iowa City, Iowa 52240

Dear Property Owner:

An application for a Minor Modification to the Zoning Ordinance has been received by our office for a reduction of the required side yard setback in order to build a new single-family dwelling at 319 N. Van Buren Street in Iowa City. Specifically, the applicant, Prestige Properties, has requested a reduction of the required side yard setback from 7 feet to 5 feet on the north side and 6 feet on the south side.

Because you are the owner of property within 200 feet of the exterior boundary of the property in question, this letter is being written to inform you that an administrative hearing regarding this request has been scheduled for Wednesday, January 6th, 2021 at 11:00AM via electronic meeting. To participate in the hearing, please see the below instructions:

Electronic Meeting

(Pursuant to Iowa Code section 21.8)

An electronic meeting is being held because a meeting in person is impossible or impractical due to concerns for the health and safety of applicants, staff and the public presented by COVID-19

You can participate in the administrative hearing through Zoom. Join the Zoom meeting here:
<https://us02web.zoom.us/j/82668209706?pwd=WmNROE42RG1Rc2w0RURzZ0JjdHQ1Zz09>

If you have no computer or smartphone, or a computer without a microphone, you can call in by phone by dialing: (312)626-6799 and entering Meeting ID: 826 6820 9706 Passcode: 691963

Providing comment in person is not an option. Letters and comments may be submitted via email to marnie-teagle@iowa-city.org or by mail to 410 E. Washington Street, Iowa City, IA 52240.

A minor modification may be approved and/or modified, in whole or in part, with or without conditions, if all of the following are found:

- (1) Special circumstances apply to the property such as size, shape, topography, location or surroundings.
- (2) The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to the property or improvements in the vicinity and in the zoning district in which the property is located.
- (3) The minor modification does not exceed the minor modification standards or allow a use or activity not otherwise expressly authorized by the regulations governing the subject property.
- (4) The minor modification is in conformity with the intent and purpose of this Chapter.
- (5) The minor modification does not, in any way, alter the applicant's obligation to comply with other applicable statutes, ordinances, laws or regulations.

Please direct any questions you may have to the Department of Neighborhood & Development Services at 319-356-5123.

Sincerely,

A handwritten signature in black ink that reads "D. Sitzman" followed by a long, horizontal flourish.

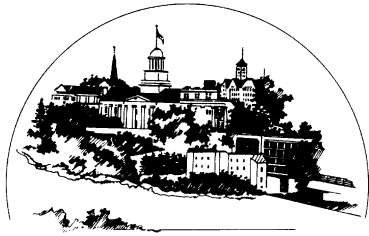
Danielle Sitzman
Building Official, Neighborhood and Development Services

Enclosure

Owner
Prestige Properties IV LLC
Prestige Properties IV LLC
Julia Ella Leupod Revocable Trust and Jerod Leupod
Don and Dorothy Fowles
Prestige Properties IV LLC
Prestige Properties IV LLC
Bloomington Street Properties LLC
Bloomington Street Properties LLC
Prestige Properties Development LLC
Jason Vardaman
Andrew and Lindsey Litton
Andrew and Lindsey Litton f/k/a Lindsey Scheppmann
David and Lysa Moore
Michael and Kelley Mclaughlin
Shawn Colbert
Erp LLC
Msl Jcl, LC
Darlene Clausen and Alfred Marron
Bloomington Building Properties LLC
Steve and Christina Nash
M322 LLC
Rem Properties LC
Rem Properties LC
Marlin Ingalls

Mailing Address
Prestige Properties IV LLC, 329 E. Court Street, Suite 2, Iowa City, Iowa 52240
Prestige Properties IV LLC, 329 E. Court Street, Suite 2, Iowa City, Iowa 52240
Julia Ella Leupod Revocable Trust, 13515 253 rd Avenue, Spirit Lake, Iowa 51360
Don and Dorothy Fowles, 4655 Running Deer Woods NE, Iowa City, Iowa 52240
Prestige Properties IV LLC, 329 E. Court Street, Suite 2, Iowa City, Iowa 52240
Prestige Properties IV LLC, 329 E. Court Street, Suite 2, Iowa City, Iowa 52240
Bloomington Street Properties LLC, 5 Kimball Road, Iowa City, Iowa 52245
Bloomington Street Properties LLC, 5 Kimball Road, Iowa City, Iowa 52245
Prestige Properties Development LLC, 329 E. Court Street, Suite 2, Iowa City, Iowa 52240
Jason Vardaman, 315 N. Van Buren Street, Iowa City, Iowa 52245
Andrew and Lindsey Litton, 331 N. Van Buren Street, Iowa City, Iowa 52245
Andrew and Lindsey Litton f/k/a Lindsey Scheppmann, 331 N. Van Buren Street, Iowa City, Iowa 52245
David and Lysa Moore, 425 E. Davenport Street, Iowa City, Iowa 52245
Michael and Kelley Mclaughlin, 614 Pine Ridge Road, Coralville, Iowa 52241
Shawn Colbert, 415 E. Davenport Street, Iowa City, Iowa 52245
Erp LLC, 1530 Iwv Road SW, Oxford, Iowa 52322
Msl Jcl, LC, 228 Woolf Avenue, Iowa City, Iowa 52246
Darlene Clausen and Alfred Marron, 508 E. Bloomington Street, Iowa City, Iowa 52245
Bloomington Building Properties LLC, 510 E. Bloomington Street, Iowa City, Iowa 52245
Steve and Christina Nash, 1113 Prairie Grass Lane, Iowa City, Iowa 52246
M322 LLC, PO Box 3049, Iowa City, Iowa 52244
Rem Properties LC, Attn: Richard Mason, 953 Weeber Street, Iowa City, Iowa 52246
Rem Properties LC, Attn: Richard Mason, 953 Weeber Street, Iowa City, Iowa 52246
Marlin Ingalls, 515 E. Davenport Street, Iowa City, Iowa 52245

Property Address
330 N. Gilbert Street, Iowa City, Iowa 52245
324 N. Gilbert Street, Iowa City, Iowa 52245
318 N. Gilbert Street, Iowa City, Iowa 52245
310 N. Gilbert Street, Iowa City, Iowa 52245
404 E. Bloomington Street, Iowa City, Iowa 52245
412 E. Bloomington Street, Iowa City, Iowa 52245
424 E. Bloomington Street, Iowa City, Iowa 52245
430 E. Bloomington Street, Iowa City, Iowa 52245
432 E. Bloomington Street, Iowa City, Iowa 52245
315 N. Van Buren Street, Iowa City, Iowa 52245
323 N. Van Buren Street, Iowa City, Iowa 52245
331 N. Van Buren Street, Iowa City, Iowa 52245
425 E. Davenport Street, Iowa City, Iowa 52245
421 E. Davenport Street, Iowa City, Iowa 52245
415 E. Davenport Street, Iowa City, Iowa 52245
411 E. Davenport Street, Iowa City, Iowa 52245
504 E. Bloomington Street, Iowa City, Iowa 52245
508 E. Bloomington Street, Iowa City, Iowa 52245
510 E. Bloomington Street, Iowa City, Iowa 52245
314 N. Van Buren Street, Iowa City, Iowa 52245
322 N. Van Buren Street, Iowa City, Iowa 52245
332 N. Van Buren Street, Iowa City, Iowa 52245
509 E. Davenport Street, Iowa City, Iowa 52245
515 E. Davenport Street, Iowa City, Iowa 52245



CITY OF IOWA CITY Department of Neighborhood and Development Services 410 E. Washington Street Iowa City, Iowa 52240

December 14, 2020

Prestige Properties IV LLC
329 E. Court Street, Suite 2
Iowa City, IA 52240

Dear Sir or Madame,

Your application for a minor modification to the Zoning Ordinance has been received by our office. This letter is being written to inform you that an administrative hearing for a reduction to the required side setback at 319 N. Van Buren Street in Iowa City, IA is scheduled for Wednesday, January 6th, 2021 at 11:00AM via electronic meeting. To participate in the hearing, please see the below instructions:

You can participate in the administrative hearing through Zoom. Join the Zoom meeting here:
<https://us02web.zoom.us/j/82668209706?pwd=WmNROE42RG1Rc2w0RURzZ0JdHQ1Zz09>

If you have no computer or smartphone, or a computer without a microphone, you can call in by phone by dialing:
(312)626-6799 and entering Meeting ID: 826 6820 9706 Passcode: 691963

A minor modification may be approved and/or modified, in whole or in part, with or without conditions, if all of the following are found:

- (1) Special circumstances apply to the property such as size, shape, topography, location or surroundings.
- (2) The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to the property or improvements in the vicinity and in the zoning district in which the property is located.
- (3) The minor modification does not exceed the minor modification standards or allow a use or activity not otherwise expressly authorized by the regulations governing the subject property.
- (4) The minor modification is in conformity with the intent and purpose of this Chapter.
- (5) The minor modification does not, in any way, alter the applicant's obligation to comply with other applicable statutes, ordinances, laws or regulations.

Please direct any questions you may have to the Department of Housing and Inspection Services at 319-356-5120.

Sincerely,

Marnie Teagle

Marnie Teagle
Code Enforcement Specialist
Neighborhood and Development Services

CC: David Ginger / Belin McCormick Attorneys at Law

MINOR MODIFICATION DECISION

January 14, 2021

Michael Oliveira
Prestige Properties, LLC
329 E. Court St -Unit 2
Iowa City, IA 52240

Dear Mr. Oliveira:

The Minor Modification requested to reduce the required seven (7) foot side setback along the north property line by two (2) feet and along the south property line by one (1) foot to accommodate construction of a three-story single-family dwelling at 319 N. Van Buren Street, Iowa City with a resulting minimum north property line side setback of five (5) feet and south property line side setback of six (6) feet, is hereby approved. Per Municipal Code Section 14-4B-1A-7, side setbacks may be reduced up to two feet (2'), but in no case shall a required setback from a side lot line be reduced to less than three feet (3'), unless the subject side lot line abuts a public right-of-way or permanent open space.

The subject property is an existing small vacant lot containing 2,800 square foot with dimensions of 35' x 80'. It was created as part of the original town plat of Iowa City in 1906, is currently zoned RNS-12 Neighborhood Stabilization Residential zone, and is outside of any historic preservation or conservation district. The RNS-12 zoning district is intended to stabilize certain existing residential neighborhoods by preserving the predominantly single-family residential character of these neighborhoods and preventing the conversion or redevelopment of single-family uses to multi-family uses.

The applicant intends to apply for construction of a detached single-family dwelling unit. The proposed single-family dwelling includes three stories in order to accommodate an attached garage on the ground floor and desired living spaces within, while meeting all other required current code standards.

The subject property does not meet current zoning standards for lot frontage, width, or minimum lot area, but a single-family use is considered conforming and may still be established on such a lot of record per Municipal Code (14-4E-7). The minimum required side setback for a detached single-family dwelling in the RNS-12 zone is 5 feet for the first two stories plus 2 feet for each additional story with a maximum building height of 35 feet. Therefore, the size and location of the property contribute to create special circumstances for new construction.

The Minor Modification will not be detrimental to the public health, safety, or welfare or be injurious to other properties in the neighborhood. Separation for fire protection and access for firefighting is maintained with side setbacks of 5 feet on the north property line and 6 feet on the south alley facing property line. Alley access and use is similar to other existing dwellings along alleys in this neighborhood.

The Minor Modification does not exceed the standards authorized by the Minor Modification standards or allow a use or activity not otherwise authorized by the Zoning Code. The modification granted represents the minimum dimension needed to accommodate the proposed development.

Prepared by and return to Marnie Teagle, Code Enforcement Specialist, City of Iowa City, 410 E Washington St., Iowa City, IA, 319.356.5120

The Minor Modification conforms with the intent and purpose of the Zoning Ordinance to ensure that light, air, and separation for fire protection, and access for firefighting are maintained, provide opportunities for privacy between dwellings, reflect the general building scale and placement of structures in the city's neighborhoods, promote a reasonable physical relationship between buildings and between residences, and provide flexibility to site a building so that it is compatible with buildings in the vicinity.

The Minor Modification does not relieve the property owner from complying with all other applicable statutes, ordinances, laws or regulations. All other current dimensional zoning requirements or other code requirements will be met.




























This document must be recorded at the Office of the Johnson County Recorder. This modification must be exercised with 180 days from the date of approval, or the Minor Modification shall become null and void.

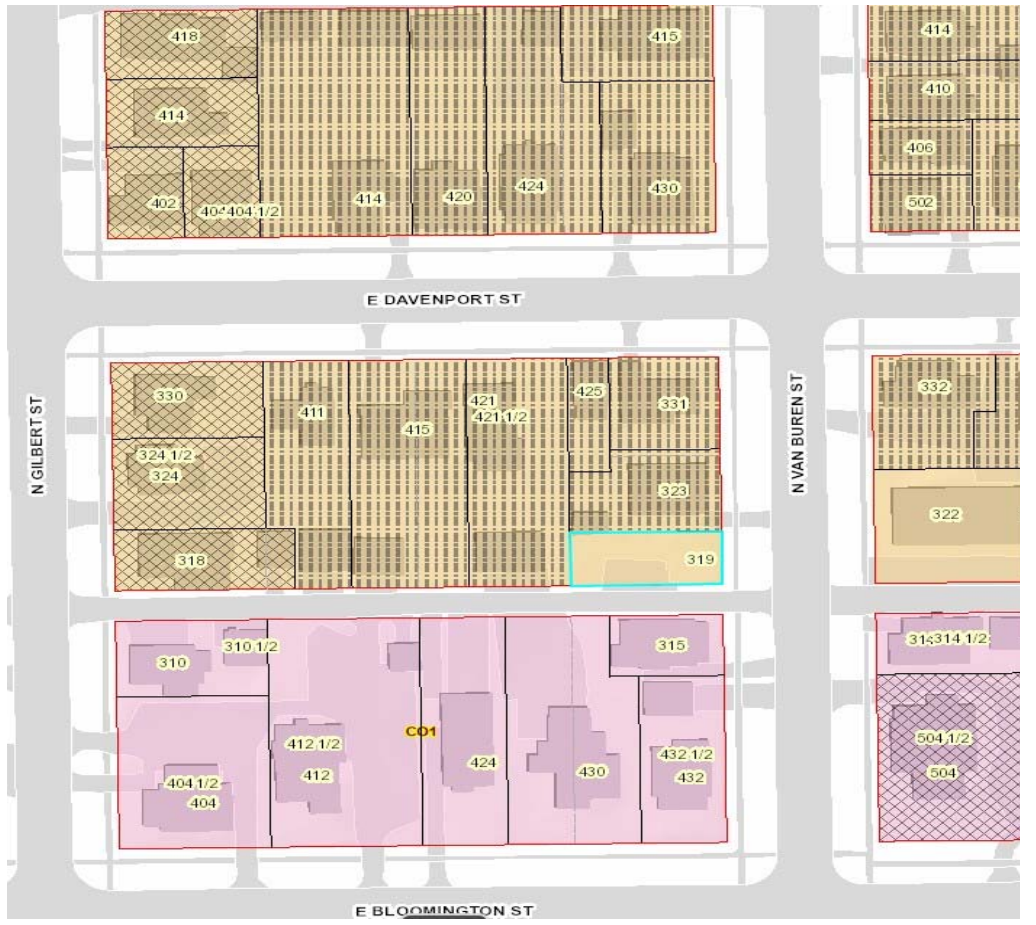
Sincerely,

A handwritten signature in black ink, appearing to read "D. Sitzman", is enclosed in a thin black rectangular border.

Danielle Sitzman
Development Services Coordinator and Building Official
City of Iowa City

CC: David Ginger, Attorney, Belin McCormick, P.C.

	310 N Gilbert St	West Side
	315 N. Van Buren St	East Side
	318 N Gilbert St	West Side
	322 N. Van Buren St	Across East Side
	323 N. Van Buren St	East Side
	324 N. Gilbert St	West Side
	402 E. Davenport St	Across North Side
	331 N. Van Buren St	East Side
	330 N. Gilbert St	West Side
	404 E. Davenport St	Across North Side
	404 E. Bloomington St	South Side
	415 E. Davenport St	North Side
	414 E. Davenport St	Across North Side
	420 E. Davenport St	Across North Side
	424 E. Bloomington St	South Side
	421 E. Davenport St	North Side
	424 E. Davenport St	Across North Side
	425 E. Davenport St	North Side
	332 N. Van Buren St	Across East Side
	430 E. Bloomington St	South Side
	432 E. Bloomington St	South Side
	504 E. Bloomington St	Across East Side
	502 E. Davenport St	Across NE Corner
	430 E. Davenport St	Across North Side
	314 N. Van Buren St	Across East Side
	411 E. Davenport St	North Side
	412 E. Bloomington St	South Side



David Ginger

Direct Dial: (515) 283-4668

Direct Fax: (515) 558-0668

E-mail: dlginger@belinmccormick.com

December 7, 2020

VIA ELECTRONIC SUBMISSION ON SELF SERVICE PORTAL

City of Iowa City
Attention: Marnie Teagle
410 E. Washington Street
Iowa City, Iowa 52240

RE: 319 N. Van Buren Street – Minor Modification to Side Yard Setback

Dear Marnie:

My firm represents Prestige Properties Development LLC (the “Owner”). The Owner owns the vacant lot with a local address of 319 N. Van Buren Street, Iowa City, Iowa (the “Lot”) and has been contacted by Dr. Brian Richards and Dr. Bronwen Richards (the “Purchasers”) regarding the construction and sale of a single-family home upon the Lot. The unique circumstance of the Lot, however, make the strict application of the side yard setback requirements impractical with respect to the construction of a single-family home desirable to a modern day homeowner, and I write to respectfully request a minor modification on behalf of the Owner pursuant to Iowa City Code 14-4B-1(A)(7).

For some background, the Lot is located within the Neighborhood Stabilization Residential Zone with a side yard setback requirement of 5 feet for the first two stories and an additional 2 feet for each additional story. The dimensions of the Lot are approximately 80 feet in width by 35 feet in length. In other words, the Lot is very narrow—which necessitated the recently demolished single-family home upon the Lot to have side yard setbacks of approximately 3.7 feet on the north and 5.2 feet on the south (see enclosed plat of survey retracement)—and is relatively small. On a lot of this size, it is nearly impossible to accommodate the needs of a modern day homeowner—with a need for more square footage and attached garages—while remaining in strict compliance with all setback, maximum building coverage, open space requirements and other applicable statutes, ordinances, laws and regulations that apply to modern day construction. After multiple design review meetings with city staff, the Owner and Purchasers have come to an agreement on a single-family home design that meets the needs of a modern day homeowner and is in compliance with all statutes, ordinances, laws and regulations with one exception. As such, the Owner requests a minor modification to reduce the required side yard setback for the north boundary by 2 feet (for a north side yard setback of 5 feet) and for the south boundary by 1 foot (for a south side yard setback of 6 feet) to permit the construction of a single-family home that meets the needs of modern day homeowner and is as close as possible to compliance with all statutes, ordinances, laws and regulations.

Upon reviewing the history and situation of the Lot and properties in the vicinity of the Lot, the minor modification requested would not be detrimental to health, safety or welfare or be injurious to other property or improvements; nor is it inconsistent with the intent and purpose of setbacks. The north side yard setback of the recently demolished single-family home was 1.3 feet less than the side yard setback being requested by the Owner, and the south side yard setback of the recently demolished single-family home was .8 feet less than the side yard setback being requested by the Owner. I understand this does not create a right in Owner for a reduced side yard setback, but it is indicative that the requested minor modification is not detrimental to health, safety or welfare or injurious to other property or improvements. Further, the structure to the north of the Lot (i.e. 323 N. Van Buren Street) is more than 9 feet from the lot line, and there is an alley to the south of the Lot—meaning there will still be adequate distances

between the next closet structures to provide for the health, safety and welfare of the public and remain consistent with the intent and purpose of side yard setbacks.

I have enclosed the site plan showing the dimensions of the single family house desired to be constructed upon the Lot for your review. Please let me know if you have any questions or need any additional information to start the minor modification application process.

Best,

A handwritten signature in black ink that reads "David Ginger". The signature is written in a cursive, flowing style.

David Ginger
For the Firm

Enclosures

(3678274.1).doc

David Ginger

Direct Dial: (515) 283-4668

Direct Fax: (515) 558-0668

E-mail: dlginger@belinmccormick.com

January 8, 2021

VIA ELECTRONIC MAIL

City of Iowa City
Attention: Marnie Teagle
410 E. Washington Street
Iowa City, Iowa 52240

RE: 319 N. Van Buren Street – Minor Modification to Side Yard Setback

Dear Marnie:

As you know, my firm represents Prestige Properties Development LLC (the “Owner”) with respect to a minor modification to the side yard setback for the vacant lot with a local address of 319 N. Van Buren Street, Iowa City, Iowa. At the minor modification hearing on January 6, 2021 (the “Hearing”), it was mentioned that the City would accept additional comments, and there have been various comments submitted by neighbors for the City’s consideration. As such, I would like to provide additional comments on behalf of the Owner.

To start, I would like to reiterate my comments made at the Hearing to focus on whether the minor modification being requested fits within the criteria for approval set forth in Iowa City Code 14-4B-1(B). If the comments submitted by neighbors are considered in their entirety, it becomes clear that the neighbors’ true concerns are that (1) the proposed building will be used for student housing (despite the comments made by the Richards at the Hearing to the contrary) and (2) the architectural style of the proposed building does not “fit” with the character of the neighborhood. The comment submitted by Shawn F. Colbert perfectly summarizes the true concern of the neighbors:

“Let’s be real about what we are considering bending the rules for. This is an oversized box, uncharacteristic of the neighborhood it resides in, being built to cram tenants into in order to generate the maximum amount of rental income.”

Mr. Colbert and the Owner agree on one thing. Everyone should “be real” here. The real issue the neighbors have with the project is they do not like the architectural style and worry the property will be used for tenants. Even if these were true, which the Owner does not concede, they are not factors to consider under Iowa City Code 14-4B-1(B) and should not be given any weight.

Various other comments submitted by neighbors raise hypothetical issues without giving any consideration to the prior building located on the property or what surrounds the property. One commenter, Dorothy Fowles, mentions there may be water runoff issues for the building to the north. The commenter fails to take into account, however, that the prior building located on the property was *closer to the boundary line than the proposed building*, which discounts this statement. Other commenters have mentioned that the height of the proposed building may block light and should be consistent with the heights of other buildings in the area. These commenters fail to consider the numerous trees in excess of the height of the proposed building—which would already restrict light—and that there are other buildings in the area with a substantially similar height. 314 North Van Buren Street, 331 North Van Buren Street, 432 East Bloomington Street and 504 East Bloomington Street, for example, are all two story buildings with pitched roofs and chimneys substantially similar in height to the proposed building. Similarly, the

two buildings to the north of the property are two story buildings with pitched roofs. When the circumstances of the past building located on the property and the surrounding area are considered, it is clear that none of the hypotheticals raised by the neighbors are serious concerns.

A final concern expressed by neighbors that is worth mentioning is the concern of the potential for property damage or personal injury due to vehicles pulling in and out of the garage for the proposed building. As I mentioned at the Hearing, the Owner is requesting a side yard setback of 6 feet to the south and is willing to modify the request to a side yard setback of 5 feet to the south if desired by the City. The prior garage located on the property was only setback 2.7 feet—meaning it was much closer than the location of the proposed garage. It is also worth noting that a side yard setback of 5 feet would be *permissible without minor modification* if the building was a two-story building. With respect to potential property damage or personal injury due to vehicular traffic, there is no difference between a two-story building with a side yard setback of 5 feet—which is permissible without a minor modification—and a three-story building with a side yard setback of 5 feet. Because the prior garage was closer to the boundary line, the Owner is not requesting to have a side yard setback that is less than a side yard setback for a two-story structure and there is no difference in vehicular dangers between a two-story building with a side yard setback of 5 feet and a three-story building with a side yard setback of 5 feet, the minor modification requested does not create any real concern of vehicular danger.

At the end of the day, everyone acknowledges that this is a small lot with a width of only 35 feet. The minimum lot width under the current regulations is 45 feet, and, if this property had a lot width of 45 feet as contemplated under the current regulations, the Owner would not need a minor modification for the proposed building. As such, it is a perfect candidate for a minor modification, and I respectfully request a minor modification be granted.

Best,

A handwritten signature in cursive script that reads "David Ginger".

David Ginger
For the Firm

From: Darlene Clausen <clausendarlene7@gmail.com>
Sent: Wednesday, January 6, 2021 12:44 PM
To: Marnie Teagle
Subject: 319 N Van Buren

I was unable to give my comments in the Zoom meeting because I was not using a set up familiar to me. I couldn't figure out how to take myself off mute until the time for comments ended.

I write in opposition to the request for minor modification of the side yard setback for the proposed building at 319 N Van Buren.

Of the five conditions listed for having a setback modification, I do not believe the building meets condition 1, 2, or 4.

1. Special circumstances apply to the property, such as size, shape, topography, location, or surroundings.

There are many small lots in the neighborhood built to accommodate 2 or 3 bedroom houses, many with parking or a garage. The house at the opposite end of the alley at 318 N Gilbert is a 3 bedroom house with a garage built on a lot similar in size. It is a one story building.

2. The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to other property or improvements in the vicinity and in the zone in which the property is located.

Setbacks are there to allow space between buildings to protect surrounding buildings from potential disaster like fire. Buildings built close together can enable a spread of fire. There are buildings on the Northside that are close together but most were built before the setbacks were regulated. To request a reduction in setback based on what was formerly done contradicts the reason for establishing setbacks.

4. The minor modification requested is in conformity with the intent and purpose of the regulation modified.

The Northside has been working to maintain an environment conducive to diverse family types. It is difficult to imagine how a single family house with thirteen stairs leading to the living area would be manageable to a young family (imagine carrying a stroller up and down those stairs) or to anyone with mobility issues. This proposal does not consider changes to what ownership may look like in years to come.

Development of the lot would be desirable if it tried to promote the character of the neighborhood. A three story building with a flat roof certainly does not seem to recognize the character at all.

Thank you,
Darlene Clausen
508 E Bloomington St

From: Jake Vardaman <jakev@mac.com>
Sent: Monday, January 11, 2021 3:24 PM
To: Marnie Teagle
Subject: 319 N Van Buren St

Good afternoon, If I have the wrong address please advise. I know that Jan 11th was given in the zoom meeting as the deadline for submitting concerns.

Minor modification concern:

- We would object to the building be moved any closer to the South side on alley (setback). Our property (315 N Van Buren) has been injured several times from vehicles backing out of the lot at 319. Both a wooden guard rail and the chain link fence still show major damage from these events. I believe our house itself would have also been breached if not for the guard rail. Moving access setback South towards the alley would severely constrict vehicle access even more than before. This would also be dangerous for my small children who play in the back North side of our property.

I'm all for a beautiful property being built at 319, my only concern is safety for property and family.

Thank you for the opportunity to submit this concern,

Jake Vardaman

From: Jake Vardaman <jakev@mac.com>
Sent: Tuesday, January 5, 2021 10:04 PM
To: Marnie Teagle
Cc: Becky Vardaman
Subject: 319 N Van Buren zoom

Hi Marnie,

Can you please forward me a zoom link. I'm a property owner within 200 feet.

My back yard fence has been destroyed by vehicles backing out by the previous home owners. I am also somewhat concerned about fitting in with the character and aesthetic of the neighborhood as per building height/width.

Would like to attend the zoom.

Thanks,

Jason (Jake) Vardaman
315 N Van Buren St
Iowa City, Ia 52245

This email is from an external source.

From: andylitton@mchsi.com
Sent: Wednesday, January 6, 2021 10:22 AM
To: Marnie Teagle
Subject: 319 N Van Buren

Good morning Marnie,

Thanks for the link to the Zoom meeting.

I would like to take a monument and address the project at 319 N Van Buren. I am the property owner directly North at 323 N Van Buren. I would like to oppose the minor modification in the set backs. I believe it would adversely affect my property by encroaching upon it. The developer knows what the set backs are and should be required to maintain them in order minimize the impact on my property.

Thank you.

Andy Litton 319-621-7072

----- Original Message -----

From: "Marnie Teagle" <Marnie-Teagle@iowa-city.org>
To: "andylitton" <andylitton@mchsi.com>
Sent: Wednesday, January 6, 2021 10:06:49 AM
Subject: Zoom Meeting Info

Please see the below info:

Join Zoom Meeting

<https://us02web.zoom.us/j/82668209706?pwd=WmNROE42RG1Rc2w0RURzZ0JjdHQ1Zz09>

Meeting ID: 826 6820 9706

Passcode: 691963

One tap mobile

+13017158592,,82668209706#,,,,,0#,,691963# US (Washington D.C)

+13126266799,,82668209706#,,,,,0#,,691963# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 826 6820 9706

Passcode: 691963

Find your local number: <https://us02web.zoom.us/j/82668209706?pwd=WmNROE42RG1Rc2w0RURzZ0JjdHQ1Zz09>

Marnie Teagle
Code Enforcement Specialist
City of Iowa City
410 E Washington Street

Iowa City, IA 52240
319-356-5123
marnie-teagle@iowa-city.org<mailto:marnie-teagle@iowa-city.org>

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From: Fowles, Dorothy L [ART] <dfowles@iastate.edu>
Sent: Thursday, January 7, 2021 10:31 AM
To: Marnie Teagle
Subject: 319 N. Van Buran objection

Importance: High

Administrative hearing participants:

We would like to file a formal objection to the reduction of setbacks requested by Prestige Properties for 319 N. Van Buren Street, Iowa City.

1. The northside reduction creates the potential for water runoff problems for the adjacent property. We formerly owned a residence on S. Van Buren Street. When a new structure was built adjacent to ours its runoff caused water problems in our structure's basement that was going to require considerable expense to correct. I am concerned that this may be real potential problem for the owners of the property north of 319. Setbacks are established for a reason and should not be modified to accommodate an oversized new structure.
2. The south side reduction request is on the alley and may not cause much of a concern until vehicles start to park adjacent to the house when there are 4 or 5 occupants who each have a car. They are likely to park partly in the alley so that they have room to open the vehicle doors.
3. Of real concern is the fact that the proposed residence is really too large for the lot. It is stated as a single-family dwelling. Is this really the intent of the developer? Why are there 4 full bath rooms (including one on the main floor), 4 bedrooms, and off-street parking for 3 cars, but no designated storage space or yard space in a single-family dwelling? What is the hypothetical "family" that would occupy a residence with this configuration--or is the intent to be student housing, just disguised as a family dwelling? If the developer is serious about this being built for single family, I would suggest removing the bedroom and bath on the foundation level and add storage there. Removal of the carport would add green space in the back yard. Also there would be an extra 120 square feet of outdoor space available by not granting the set-back exception.

Respectfully submitted,
Dorothy and Don Fowles
Property owners of 310 North Gilbert St.
Iowa City, Iowa

From: S Colbert <scolbert1158@gmail.com>
Sent: Monday, January 11, 2021 2:05 PM
To: Marnie Teagle
Subject: 319 N. Van Buren Minor Modification

To Marnie Teagle and whom it may concern,

To start, I would like to thank you for adding my previous letter to the public record.

I understand that some may have misinterpreted what I had conveyed in that letter. This has led to some misleading assertions made by the respectable Mr. David Ginger. This has prompted me to clarify my opposition for the record.

The views expressed in this letter and my previous letter are my own thoughts and opinions and I am not in any way communicating on the behalf of others.

I believe I made abundantly clear that my foremost concern is that zoning codes are created to be adhered to, not to be modified unnecessarily.

In fact, Mr. Ginger's contention that the balance of rental to owner occupied homes, and architectural aesthetics should "not be given any weight" is what I would see as an exercise in the exact purpose of the zoning codes.

14-4B-1 states that "the minor modification requested shall be in conformity with the intent and purpose of the regulation modified."

The regulation to be modified is contained within 14-2A-4, which presents five purposes of minimum setbacks, which include:

"Reflect the general building scale and placement of structures in the city's neighborhoods"

"Provide flexibility to site a building so that it is compatible with buildings in the vicinity."

In regards to the other purposes of minimum setbacks: natural lighting, privacy, reasonable distance between buildings, etc. My neighbors have provided many examples of how this development and minor modification do not harmonize with the intent of the zoning code.

Chapter 1 of the Iowa City Zoning code clearly defines the purpose of the code in its entirety:

"The provisions of this title are intended to implement the city of Iowa City's comprehensive plan in a manner that promotes the health, safety, order, convenience, prosperity, and general welfare of the citizens of Iowa City."

When I purchased my home in this neighborhood over two years ago, I was familiar with Iowa City's comprehensive plan for housing and was quite pleased to know part of the plan is to:

"Support policies that preserve and enhance the character of existing neighborhoods,"

"Strive to create a healthy balance of rental and owner-occupied housing in all neighborhoods."

"Develop neighborhood plans that help ensure a balance of housing types, especially in older parts of the city."

The zoning code is a tool to execute this plan. The setback modification that could be allowed by Chapter 4 is a permissive portion of the code, not mandatory. So many of my neighbors have voiced logical opposition to this proposal. With everything I've stated in mind, I would ask you to please reject this minor modification request.

While I am in opposition to allowing a modification to the setback requirements, I welcome the development of this vacant lot. An owner occupied dwelling is much more desirable than the tire tracks that reside there now. The Iowa City comprehensive plan encourages development of lots such as this one. But the development really should fall within the parameters of the zoning codes and the comprehensive plan put in place by our elected local government.

Thank you.

Shawn Colbert

415 E. Davenport St.

Iowa City, IA

319-541-7700

From: Marlin Ingalls <ingallsmarlin@gmail.com>
Sent: Monday, January 11, 2021 10:56 AM
To: Marnie Teagle
Subject: 319 N. Van Buren St. Iowa City

I would like to object to the proposed new construction located at 319 N. Van Buren St., in Iowa City. I feel that the proposed property is not sensitive to the architecture of the neighborhood in both size and design, will block light and sight distance due to excessive height, and does not represent a positive representation or example for future construction in the neighborhood.

you.
IA, 52245

Thank
Marlin R. Ingalls.

515 E. Davenport St., Iowa City,



January 4, 2021

Marnie Teagle
410 East Washington Street
Iowa City, Iowa 52240

RE: 319 North Van Buren Street

Dear Ms. Teagle,

Friends of Historic Preservation is a non-profit organization that advocates for the preservation of historic buildings and neighborhoods, and therefore the quality of life in our community. We support the City's effort to stabilize and preserve older neighborhoods through new investment. One of our members asked us to review the proposal for 319 N. Van Buren Street.

The proposal for a three-story flat-roof building is quite out of scale and character with the historic Northside Neighborhood. The building would be much taller than the one- and two-story houses existing in the area. It would contain none of the features, such as porches and varied rooflines, of the neighborhood houses. Its window pattern is stark. The facade presents a blank wall at the street level compared to welcoming front stoops and porches common in the Northside. Rather than being an integrated design component, the front entrance is high above the street via a stairway that hangs from the building. And imagine traversing that stairway in icy weather conditions (there are practical as well as aesthetic reasons for good design).

We believe it is possible to build a modern house that is compatible with a historic neighborhood. There is not a need to do a reproduction of a Victorian or Craftsman Style house, but a modern design that includes elements, such as an entry stoop or porch, double-hung windows and pitched roofs would help a new building be compatible with its neighbors. Scale and height are also important. We believe that the proposed design will not contribute to the City's stated goal to stabilize and preserve the Northside Neighborhood. Rather, it will detract from the neighborhood and the enjoyment of adjacent properties. Modification of zoning requirements should only be granted for buildings that are compatible in design with their surroundings. We urge you to deny the proposal as presented and work with the neighborhood and applicant to achieve a compatible infill house for 319 N. Van Buren Street.

Sincerely,

Maeve Clark,
President, Friends of Historic Preservation

January 10, 2021

Marnie Teagle, Building Specialist
City of Iowa City
410 E Washington Street
Iowa City, IA 52240

Dear Ms. Teagle,

Please accept the following comments regarding the minor modification request to the current side yard setbacks at 319 N. Van Buren Street. After reading David Ginger's letter of January 8, 2021, I feel it is important to reiterate and elaborate on the points made by many of the neighbors in opposition to the minor modification.

Regardless of who lives at 319 N. Van Buren Street, whether it be owner-occupants or the college-age children of the owners, or unknown future residents, the proposed house is too large for the small lot on which it is proposed. The house would be much taller than any in the neighborhood and will have negative effects on the neighborhood, especially the adjacent properties that will be denied natural light and air flow that zoning setbacks are intended to provide.

The applicant's desire for a taller and larger house should not override the required zoning setbacks for taller buildings. Approval of the special treatment requested by Prestige Properties and the potential buyers would diminish the neighbors' enjoyment of their properties, especially 323 N. Van Buren Street.

The requested Minor Modification clearly does not meet the tests required for approval by the Zoning Code. The code states "*Minor modification reviews provide flexibility for unusual situations applicable to the property, for which strict application of the regulations is impractical.*" In this case strict application of the setback requirements would not be impractical. A one- or two-story house on this lot would comply with required setbacks and would be in keeping with the character of the surrounding neighborhood. Although a smaller house may not be as profitable for the developer, it certainly would be possible on this small lot.

Regardless of who will occupy the building, I repeat what many of the Northside property owners and residents have stated as legal reasons why the proposed modification should be denied:

The Zoning Code states that there are five conditions that must be met for approval of a Minor Modification. This application does not comply with requirements 1, 2 and 4.

1. *Special circumstances apply to the property, such as size, shape, topography, location, surroundings, or characteristics, or preexisting site development, which make it impractical to comply with the subject regulation or which warrant a modification and/or waiver of the subject regulation.* There are no special circumstances here that warrant a modification of the required setbacks. There are several small non-conforming lots located throughout the Northside Neighborhood. Although this lot is smaller than the 5,000 square feet required for a single-family dwelling in the RNS-12 zone, that does not justify the proposal to put a larger house on it. Rather, the small size of the lot would argue for compliance with the zoning code and a smaller house more appropriate for the lot and the neighborhood. The neighborhood, which the City's

Comprehensive Plan has made a commitment to preserve, is characterized by one-, one-and-a-half-, and two-story houses with pitched roofs that appear much smaller than the proposed three-story building. And as required by the Minor Modification criteria, there is nothing about the shape, topography, location, surroundings, characteristics, or preexisting site development which make it impractical to build a house that fits within the prescribed setbacks.

2. *The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to other property or improvements in the vicinity and in the zone in which the property is located.* The proposed three-story building will block natural light and air for the adjacent properties and present an unattractive view to residents of the neighborhood. One of the intents of the setback requirement is to preserve open space and prevent properties from denying their neighboring properties natural light and air flow. Consideration should be given not to just the current owners of the adjacent properties, but future residents to help assure that the neighborhood is a livable space over time. This is a goal of the Northside Neighborhood Association as well as the City as stated in the Comprehensive Plan.

4. *The minor modification requested is in conformity with the intent and purpose of the regulation modified.*

The following includes quotes from the Zoning Code (in *italics*) with my comments in **boldface**:
Purpose: The minimum setback requirements are intended to:

a. *Maintain light, air, separation for fire protection, and access for firefighting;* **The proposed modification will deny neighboring properties—especially 323 N. Van Buren Street—access to natural light and airflow and will result in a less than ideal situation for fire protection.**

b. *Provide opportunities for privacy between dwellings;* **The proposed modification will allow a three-story building with windows looking down onto adjacent properties.**

c. *Reflect the general building scale and placement of structures in the city's neighborhoods;* **The proposed three-story building will be out of scale with houses in the surrounding neighborhood and will have less open space than required by zoning setbacks.**

d. *Promote a reasonable physical relationship between buildings and between residences;* **The proposed three-story building will not have a reasonable relationship with the adjacent one- to two-story residences.**

e. *Provide flexibility to site a building so that it is compatible with buildings in the vicinity.* **The proposed three-story building with its flat roof, blank street level wall, and second-floor front door would be quite incompatible with buildings in the vicinity.**

The intent of greater setbacks for taller buildings is to help them fit into the neighborhood by providing greater open space around the larger buildings and neighboring properties. Setbacks also help assure adequate natural light and airflow. Prestige Properties' contention that the small size of the lot is reason to allow a greater building volume, and thus less open space, is counter to the intent and purpose of the setback requirements. The smaller lots size does not prevent Prestige from building a smaller and perhaps more affordable dwelling at 319 N. Van Buren Street.

The proposed Minor Modification should be denied for not meeting the intent of the zoning code and the goals of the Comprehensive Plan to preserve and improve older neighborhoods.

Sarah Clark
NNA Recorder
sclark52245@gmail.com

From: James Dreier <mudrums@yahoo.com>
Sent: Tuesday, January 5, 2021 10:28 AM
To: Marnie Teagle
Subject: Comments regarding request for zoning privileges for 319 N. Van Buren

January 4, 2021

City of Iowa City
Attn: Marnie Teagle
410 E. Washington St.
Iowa City, IA 52240

RE: Comments on 319 N. Van Buren St. Zoning Modification Request

Dear Ms Teagle,

As longtime home owners at 424 N. Van Buren (over 30 years), we wish to submit comments on Prestige Properties request for Iowa City to grant special zoning privileges in the form of a "Minor Modification" at 319 N. Van Buren Street.

After reviewing the submitted archetecual plans along with the request letter submitted by the lawyers representing Prestige Properties, we are adamantly opposed to this "Minor Modification" for the following reasons.

1. The structure as proposed would diminish the archetecual integrity of our Northside neighborhood and the guidelines put forth by the Northside Neighborhood Association.
2. This neighborhood struggles with the balance of family and student housing, and this would be yet another multi-occupent rental house in our neighborhood. These properties often cause nuisance and disorderly house issues.
3. The planned design, which is out of character with the rest of the neighborhood, will likely obstruct the view of several neighboring houses.
4. Prestige Properties clearly understood the size and restrictions when they purchased this small lot and it is unreasonable now to ask the neighborhood to accept a 4 bedroom rental house, too large for the lot.
5. During our many years living on Van Buren Street, Prestige Properties has purchased more and more real estate around us. We have had multiple issues with renters in these properties, resulting in numerous calls to both the police and the owner of Prestige Properties.

We understand that investment property development is an important part of our local economy and tax base. We have learned to live with all the advantages and disadvantages of our mixed neighborhood. However, we expect those who purchase land to build in our neighborhood would accommodate the important zoning ordinances, that preserve the integrity and character of our unique neighborhood.

We appreciate the opportunity to submit comments on the future of our neighborhood and recommend this zoning request be denied.

James and LeAnne Dreier
424 N. Van Buren St.
Iowa City, IA. 52245

(319) 621-6002

From: Sarah Clark <sclark52245@gmail.com>
Sent: Tuesday, January 5, 2021 1:31 PM
To: Marnie Teagle
Subject: Comments related to 319 N. Van Buren Street administrative hearing on 1/6/21

Ms. Teagle,

This is in response to the request by Prestige Properties for a "minor modification" of the zoning ordinance as it pertains to 319 N. Van Buren Street. I write in opposition to the applicant's request for a reduction in the size of the side yard setbacks in order to maximize the size of the building built on the lot because I do not believe that the "minor modification" sought meets all five conditions which must be met per our zoning code. Specifically, I believe it fails to meet conditions #1, #2, and #4. The applicant, who is interested in doing infill development, must surely have been aware of what the zoning code allowed when 319 N. Van Buren was purchased some years ago.

1. Special circumstances apply to the property, such as size, shape, topography, location, surroundings, or characteristics, or preexisting site development, which make it impractical to comply with the subject regulation or which warrant a modification and/or waiver of the subject regulation.

It is not clear what "special circumstances" exist that justify a modification or waiver of the setback regulation. Yes, it is a small lot, but there are other small lots located within the Northside neighborhood which contain houses. Indeed, up until a few years ago, a small, one-story house existed on this lot before being demolished by the applicant. This lot is surrounded by one, one-and-a-half, and two-story structures, which are characteristic of the neighborhood. There is no compelling reason that makes it impractical for the applicant to build a smaller (and likely less expensive) house which fits within the prescribed setbacks.

2. The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to other property or improvements in the vicinity and in the zone in which the property is located. The proposed three-story house with a flat roof is out of character with the one to two-story houses/buildings in the surrounding neighborhood. If a smaller setback is allowed, the taller side walls of a three-story structure will have a greater impact on the houses immediately adjacent to 319 N. Van Buren. While there are modern apartment buildings scattered throughout the neighborhood, including across the street from 319 N. Van Buren, those buildings adhere to a two-story height, and don't appear as physically imposing as would a three-story house which completely fills a small lot.

4. The minor modification requested is in conformity with the intent and purpose of the regulation modified.

Requiring a greater setback for taller buildings is to help those buildings fit into the neighborhood by providing greater open space around the building and the surrounding properties in addition to assuring adequate natural light and airflow. Reducing the setback requirements for a taller building is directly counter to the intent and purpose of those requirements.

Finally, I believe approving this "minor modification" request runs counter to the Comprehensive Plan's goal which is to preserve and improve older neighborhoods.

I have no doubt that the neighborhood would welcome development of this site as long as it is done in a manner consistent to the zoning code and Comprehensive Plan. It would certainly be a bonus if that development was in the character and spirit of the adjacent Goosetown/Horace Mann Conservation District.

Sarah Clark
Northside Neighborhood Association Recorder

From: David Moore <david_lysa@yahoo.com>
Sent: Monday, January 11, 2021 4:36 PM
To: Marnie Teagle
Subject: from dave and lysa moore, re 319 n van buren

Dave and Lysa Moore
425 E. Davenport St.
Iowa City, Iowa 52245

RE: 319 N. Van Buren St.

Dear Ms Teagle,

Thanks again for the opportunity to provide comment on this matter.

i recently read the many letters that are posted on the city website. Letters from the neighbors, and also the letter written by the lawyer for Prestige Properties.

All of the letters from persons who live in owner-occupied dwellings within 200 ft. have objections to the project, and for a wide variety of reasons.. In fact, every single person who lives within 200 ft., wrote a letter.

Additionally, there are letters in opposition from The Friends of Historic Preservation, from a representative of the North Side Neighborhood Association, and from a member of the Historic Preservation Commission.

There is also a letter in opposition from the landlord who owns the 2 properties directly to the north, one of which is adjacent to the proposed building.

There is a letter from the property owner at 310 Gilbert St. The owner of Larew Law Office, 504 E. Bloomington, spoke against, at the zoom meeting. There are several other letters from other concerned neighbors that live in the north side.

There were many reasons for opposition, and they were wide and varied - encroachment on an adjacent property, obstruction of light because of the volume and height of the building, water runoff, parking problems, and more.

I'd like to address a few of the comments from the letter written for Prestige Properties, by their lawyer, David Ginger.

-Mr. Ginger dismisses the concerns about water runoff, by stating that the prior building was closer to the adjacent properties. But the prior building was tiny. This building is huge. i am no expert, but i would imagine it would make a difference,

-He then dismisses the concerns about light blockage, stating that there are trees in excess of the height of proposed building which already restrict light. first, there have never been any tall trees on that property in the 35 years i have lived here. second, any surrounding trees in the neighborhood are of no issue in winter, when they do not have leaves, when light from the south is needed.

-He contends that there are buildings in the area of similar height. I know these buildings. One building - at the top of it's chimney, at the top of it's tallest peak, could be 35 ft.. The proposed building is 35 ft, tall, and is flat.. It would loom high above the buildings to the north, where the highest peaks are about 24 ft.

-Mr Ginger then mentions the previous garage on the site, which had a smaller set back than the proposed 2 car garage. But, in the 35 years that we lived here, that garage never had a vehicle in it. . It was just used for storage. The cars that occupants used, were parked outside and backed into the alley. I have heard there was damage to 315 N. Van Buren from those vehicles.

Thank you for the opportunity to provide some additional comments,

Dave and Lysa Moore

This email is from an external source.

From: David Moore <david_lysa@yahoo.com>
Sent: Tuesday, January 5, 2021 11:26 PM
To: Marnie Teagle
Subject: Fw: letter from dave and lysa moore, about 319 van buren

Dave and Lysa Moore
425 E. Davenport St.
Iowa City, Iowa 52245

RE: 319 N. Van Buren St.

Dear Ms. Teagle,

We have lived at 425 E. Davenport St. for over 35 years. Thank you for the notification letter we received, as property owners within 200 ft of the proposed development.

We are opposed to the application for a Minor Modification.

We also hope that you could work with the neighborhood and the developer to find a design which is more in character with the surrounding properties on the north side.

The zoning code states that there are 5 conditions that must be met for approval of a minor modification. We feel that this application does not comply with #1, #2, and #4.

#1 - "Special circumstances apply to the property such as size, shape, topography, location or surroundings"

There are no special circumstances here that warrant a modification of the required setbacks. Although this lot is smaller than the 5,000 sq ft. required for a single family dwelling in the RNS-12 zone, that does not justify the proposal to put a larger house on it. Rather, the small size of the lot would argue for compliance with the zoning code and a smaller house more appropriate for the lot and the neighborhood. The neighborhood, which the City's Comprehensive Plan has made a commitment to preserve, is characterized by one, one-and-a-half, and two story houses with pitched roofs that appear much smaller than the proposed 3 story box shaped dwelling. And as required by the Minor Modification criteria, there is nothing which makes it impractical to build a house which fits within the prescribed setbacks.

#2- "The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to the property or improvements in the vicinity and in the zoning district which the property is located."

The proposed three-story house will be out of character with the other houses in the neighborhood. There is one modern apartment building across the street from this lot that contrasts with the traditional houses in the neighborhood, but even that building is only two stories in height. The proposed three story building will block natural light and air for the adjacent properties and present an unattractive view to residents of the neighborhood.

One of the intents of the setback requirement is to preserve open space and prevent properties from denying their neighboring properties natural light and air flow. Consideration should be given not to just the current owners of the adjacent properties, but future residents to help assure that the

neighborhood is a livable space over time.

#4- "the minor modification is in conformity with the intent and purpose of this Chapter.

The intent of greater setbacks for taller buildings is to help them fit into the neighborhood by providing greater open space around neighboring properties. The developer's contention that the small size of the lot is reason to allow a greater building volume, and thus less open space, is counter to the intent and purpose of the setback requirements. The smaller lot size does not prevent them from building a smaller and perhaps more affordable dwelling at 319 N. Van Buren.

Thank you again, for the opportunity to weigh in on this matter. We hope this Minor Modification request is denied, and we hope that the city can work with the neighborhood and the developer, to find a design that is more in character with the rest of the properties on the north side.

Sincerely,

Dave and Lysa Moore

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This email is from an external source.

From: David Moore <david_lysa@yahoo.com>
Sent: Tuesday, January 5, 2021 4:56 PM
To: Marnie Teagle
Subject: Fw: letter from dave and lysa moore, about 319 van buren

Dave and Lysa Moore
425 E. Davenport St.
Iowa City, Iowa 52245

RE: 319 N. Van Buren St.

Dear Ms. Teagle,

We have lived at 425 E. Davenport St. for over 35 years. Thank you for the notification letter we received, as property owners within 200 ft of the proposed development.

We are opposed to the to the application for a Minor Modification.

We also hope that you could work with the neighborhood and the developer to find a design which is more in character with the surrounding properties on the north side.

The zoning code states that there are 5 conditions that must be met for approval of a minor modification. We feel that this application does not comply with #1,#2, and #4.

#1 - "Special circumstances apply to the property such as size, shape, topography, location or surroundings"

There are no special circumstances here that warrant a modification of the required setbacks. Although this lot is smaller than the 5,000 sq ft. required for a single family dwelling in the RNS-12 zone, that does not justify the proposal to put a larger house on it. Rather, the small size of the lot would argue for compliance with the zoning code and a smaller house more appropriate for the lot and the neighborhood. The neighborhood, which the City's Comprehensive Plan has made a commitment to preserve, is characterized by one, one-and-a-half, and two story houses with pitched roofs that appear much smaller than the proposed 3 story box shaped dwelling. And as required by the Minor Modification criteria, there is nothing which makes it impractical to build a house which fits within the prescribed setbacks.

#2- "The minor modification will not be detrimental to the public health, safety, or welfare or be injurious to the property or improvements in the vicinity and in the zoning district which the property is located."

The proposed three-story house will be out of character with the other houses in the neighborhood. There is one modern apartment building across the street from this lot that contrasts with the traditional houses in the neighborhood, but even that building is only two stories in height. The proposed three story building will block natural light and air for the adjacent properties and present an unattractive view to residents of the neighborhood.

One of the intents of the setback requirement is to preserve open space and prevent properties from denying their neighboring properties natural light and air flow. Consideration should be given not to just the current owners of the adjacent properties, but future residents to help assure that the neighborhood is a livable space over time.

#4- "the minor modification is in conformity with the intent and purpose of this Chapter.

The intent of greater setbacks for taller buildings is to help them fit into the neighborhood by providing greater open space around neighboring properties. The developer contends that the small size of the lot is reason to allow a greater building volume, and thus less open space, is counter to the intent and purpose of the setback requirements. The smaller lot size does not prevent them from building a smaller and perhaps more affordable dwelling at

319 N. Van Buren.

Thank you again, for the opportunity to weigh in on this matter. We hope this Minor Modification request is denied, and we hope that the city can work with the neighborhood and the developer, to find a design that is more in character with the rest of the properties on the north side.

Sincerely,

Dave and Lysa Moore

This email is from an external source.

LAREW LAW OFFICE

LarewLawOffice.com

Phone: 319.337.7079

Fax: 319.337.7082

Main Office

504 E. Bloomington St.
Iowa City, Iowa 52245-2858

210 Cedar St.
Muscatine, Iowa 52761-2504

252 E. 3rd Street
Des Moines, Iowa 50309-4114

James C. Larew

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Sent via Email: Marnie-Teagle@iowa-city.org

January 11, 2021

Marnie Teagle, Code Enforcement Specialist
City of Iowa City
410 E Washington Street
Iowa City, Iowa 52240

Re: *319 N Van Buren, Iowa City, Iowa*

Dear Ms. Teagle:

Prestige Properties Development, LLC, (“Prestige” or “Owner”), the current owner of 319 N. Van Buren Street (“Property”), in conjunction with prospective purchasers, Dr. Brian Richards and Dr. Bronwen Richards, of LeClaire, Iowa, seek exceptions to the Zoning Chapter of the Municipal Ordinances of the City of Iowa City (“City”) to accommodate their goal of constructing, on one of the smallest lots in the Northside Neighborhood, a thirty-five-foot high, three-story, four-bedroom, four-full-bath, three-car-stalled, box-shaped structure with a flat roof. To achieve that end, they have requested that the City grant the Owner the privilege of being excepted from the City’s reasonable minimum side-yard set-back zoning requirements. In order to obtain this exception, something called a “Minor Modification,” Prestige has the burden of proving that the requested relief is “necessary.” Necessity, in this instance, requires proof of compliance with each of five separate elements, something that Prestige has not, and, in fact, cannot, prove. Lacking such proof of necessity, the request must be denied.

The City’s described intensive involvement in this project (at the January 6, 2021 Hearing, the Owner’s witnesses described having been involved in two years of negotiations with the City related to design issues) comes as a surprise—and, in fact, a disappointment. More than thirty years ago, my wife, Mary, and I purchased a severely-deteriorated mid-19th century brick Victorian house, located at 504 E. Bloomington Street, about 100 feet from the Property that is the subject of this proceeding. We invested about every dollar we had (in fact, by the end of the project, well-more than we had) to restore it and make it useable as a law office (downstairs) and two apartments (upstairs). It was hard work. That which was not done by skilled local tradesmen and women we did ourselves. We enjoyed doing it. Importantly, we felt

it was the right thing to do as members of the Northside Neighborhood, an area whose residents, then, as now, struggled to keep the residential ambiance intact, against the relentless pressures of developers eager to maximize profits with rental housing projects. Since the completion of our own renovation project, many times over the past three decades, residents of the area have expressed their appreciation for our efforts.

More recently, and oddly, at almost exactly the time that the City of Iowa City was approving the Owner's demolition of the nearby, habitable, modest home, built in the 1870's, at 319 N. Van Buren Street, the same municipality, on its own motion—that is to say, Mary and I neither initiated the action nor promoted it—through its Planning and Zoning Commission, moved forward to have our property designated as a local Historic Landmark, imposing use and exterior design restrictions on the structure into perpetuity.

In a March 8, 2018 Memorandum issued by the Historic Preservation Commission to the Planning and Zoning Commission, in support of the proposed Historic Landmark preservation status, the principles animating that designation included the following:

The subject property [again, about 100 feet from the 319 N. Van Buren Street property] is located within Subarea A of the Central District. The Central District Plan discusses challenges this area faces in terms of balancing the needs of different housing types and residents, including many student rentals. The plan encourages the provision of incentives to maintain, improve, and reinvest in older housing stock in the area, which can include incentives tied to historic preservation...along with the goal of preserving historic resources and reinvesting in older neighborhoods. Neighborhoods that are closest to the University and other large employers such as Mercy hospital benefit from a mixture of housing types including historic resources where a diversity of people can live and work or go to school in the vicinity.¹

The City knows the importance of preserving the delicate balance of housing needs in the Northside Neighborhood and espouses a concern—at least in some circumstances—for respecting existing housing structures, the “older housing stock.” The sentiments that animated that concern should be considered with respect to the Owner's request for privileged exemptions from the Zoning Chapter.

In a letter dated January 8, 2021, and addressed to you, the Owner's attorney Mr. David Gringer, from the Des Moines law firm, Belin McCormick, has responded to at least some of the myriad opinions that have been registered by owners of his client's neighboring properties. (Notably all owners of properties within a 200-foot radius of the Property who have registered any opinions, either in-person at the Hearing convened on January 6, 2021, or in writing, have *objected* to the granting of this privilege; no citizen of Iowa City, except Prestige's owner, has registered an opinion in favor of the same). In it, Mr. Gringer, paraphrasing sentiments expressed by Mr. Shawn F. Colbert, a neighbor of 319 N. Van Buren Street who objects to Prestige's project, suggests that “[e]veryone should ‘be real.’” I agree, and have formulated my response, accordingly.

¹ City of Iowa City Memorandum to Planning and Zoning Commission from Jessica Bristow, Historic Preservation Planner and Sylvia Bochner, Planning Intern, March 8, 2018.

1. Reality One: This Property Has a History of Zoning and Regulatory Exceptionalism That is Unsettling and Threatens the Quality of Life of Northside Property Owners and Residents

For more than a century, at least since the 1870's, 319 N. Van Buren Street was the site of a charming, modest, one-story frame house whose footprint, including its front stoop, was 744 square feet. That footprint filled a little more than one-fourth of the lot, whose perimeter measures 35 feet by 80 feet, and whose total size is about 2800 square feet. For many of those years, a small, one-vehicle garage stood at the westerly end of the Property, allowing vehicular access to-and-from the City-owned alley, which runs, on an east-west axis, along the parcel's southerly border. That alley is used by the general public, including, principally, owners of properties that face Bloomington Street, to the south, and East Davenport Street, to the north.

An alternating current of ownership controlled the Property's fate for more than the past half century, when the structure provided housing to many persons, moving between the poles of, on the one hand, longer-term owners (e.g., the Emma Elberts Trust, from 1954 to 1980; the Collins' family, from 1983 to 1988—during which time new siding and windows were installed; and Scott Ronny Tomer, from 1993 to 2012) to, on the other hand, multiple, serial ownership flippers (e.g., Walters, Yansky, Blair, intermittently, between 1988 and 1993). While in Mr. Tomer's ownership, according to City records, general internal remodeling improvements were made to the Property.

The present owner, Prestige, purchased the Property from Mr. Tomer on January 10, 2012, and initially rented it to residential tenants. Prestige has been buying housing properties in the Northside Neighborhood area for years, largely operating them as rentals. According to City records, Prestige is now one of the largest property owners in the area. It rents mostly to college students. While, clearly, student residents are an important part of the City's population, it is also the case that as student-rental units increase, the number of housing options are diminished for retirees, young couples, families with children who wish to live near Horace Mann School and downtown, as well as lower income families.

City records document no structural improvements made to the Property during Prestige's ownership of it. In fact, the Property did not fare well under Prestige's possession. Five and one-half years after buying it, in 2017, Prestige applied for a demolition permit; the City issued it and the structure was torn down. An examination of the City's records does not reveal how the condition of this residential rental property so rapidly deteriorated, to the extent that necessitated its condemnation and removal. But, under the City's rental regulatory supervision, that is what happened.

Similarly, even though applicable zoning provisions do not appear to permit such uses, for more than two years thereafter—from the date of the structure's demolition up to and including the date of the January 6, 2021, hearing—the Property's unpaved, barren ground has been used, and continues to be used, by the Owner to store raw piles of building materials (dirt, gravel) and to park cars. If such improper uses have resulted in any citations or municipal infractions issued by the City, the records available to the public do not appear to have recorded them.

A further, curious feature about this Property—one that involves the public’s interest, and not just the interests of the current and previous owners-of-record—is the extent to which it has benefited from spot-zoning. That is to say, while the Northside Neighborhood—the result of generations of residents’ support and local political activism—enjoys zoning protections (such as the City’s Comprehensive Plan, the adjacent Horace Mann / Goosetown Conservation District, and the Historic Conservation Overlay), a special, carved-out zoning status that has been preserved for this particular Property. This parcel, and not its immediate real property neighbors, has been specially zoned by the City as a RNS12 (Neighborhood Stabilization Residential Zone), and not as a part of the Historic Conservation Overlay.

The latter designation—which applies to most surrounding property—is intended to give added measures of protection to property owners who have invested in their homes and neighborhood amenities against those who might—for example—otherwise be inclined to attempt drop a large, modern, cut-and-paste-designed, oversized building, readied for concentrated tenant occupancy, onto a lot that is too small for the project. A property whose owner is reasonably perceived by neighboring property owners to be receiving special zoning treatment, under the City’s regulatory authority, can—and, in too many instances, predictably, will—result in conflicts amongst neighbors. That is what is happening here.

Notwithstanding this troubling course of regulatory events, one that appears to be inconsistent with any professed commitment by the City, in its planning documents, “... to maintain, improve and reinvest in older housing stock,” it is clear that remaining threads of applicable provisions of the Zoning Chapter, when applied to the known facts of this request for special treatment, can result in the proper outcome in this instance: the denial of the Prestige’s request for an exemption from the important set-back requirements of the RNS 12 zoning district.

2. Reality Two: The Prospective Buyers of the Proposed Structure Have Offered a Personal Narrative in Support of the Owner’s Request for the Privilege of an Exception to the Zoning Ordinance That Does Not Seem Real

To support its request for special zoning privileges from the City, taken in the form of a “Minor Modification” of set-back requirements imposed on all properties located in the Neighborhood Stabilization Residential Zone (RNS-12), Prestige brought to the January 6, 2021 Hearing a series of witnesses to speak on its behalf. These witnesses included the prospective purchasers of the Property from Prestige, Dr. Brian Richards and Dr. Bronwen Richards (sometimes, jointly, hereafter, “Purchasers” or “Drs. Richards”), residents of LeClaire, Iowa, each of them self-employed as accomplished dental specialists in the Quad Cities area.

According to the account expressed by them at the Hearing, the Purchasers, years ago, before moving to the Quad Cities, had owned and resided at 315 North Van Buren (“315”), located just across the alley, to the south, from 319 North Van Buren.² According to Dr. Brian Richards, he and his spouse “love the area” (the only area discussed at the Hearing were the two

² The summary of the statements made by the Purchasers are made from best-available notes of the meeting. If the City recorded the January 6 meeting, such recording has not yet been made available to the public on the City’s website.

addresses—315 and 319 North Van Buren Street) and that they had “worked really hard” to “actually get back there.” He expressed the couple’s observation that if they “had to do it over again” they probably wouldn’t have sold “the little white house [315]” to Jason “Jake” Vardaman, who was also present at the Hearing.³ Dr. Brian Richards stated further that, knowing that he and his spouse “wanted to go back to the area,” they “saw the lot available [319] [and] decided to try building.” Dr. Brian Richards acknowledged the fact that the lot was small and would “have done something different” with the design, but “to do what we had to do to fit that space [they] had to go up.” Describing the plans as “a nice design,” he underscored that he and his wife “love the area” and “that’s kind of where [they] wanted to be.”

In addition to the “return to the neighborhood” residential aspirations of he and his spouse, Dr. Bronwen Richards, Dr. Brian Richards further described that the couple had two college-age sons, “one in college, one ready to go to college,” and that he and his wife “we’re kind of building the house for our future.”

Dr. Bronwen Richards spoke next and, after affirming her husband’s account, further stated that she had lived next door to the subject Property, at 315 N. Van Buren Street for ten years, and that her husband had resided there for thirteen years. When, she attested, they had “found the place [319 North Van Buren Street] and had the opportunity...yes its very small but we’d like to comply with everything...we’re trying to figure out how...to get back in there and enjoy Iowa City again.”

One of the Hearing participants, Mr. David Moore, who lives within 200 feet of the property, attempted to inquire directly of the Purchasers, in follow-up to their statements, as to whether the couple, truly, intended to live at the residence, as their statements had implied, or whether they viewed it as a rental investment property. The line of questioning was summarily cut-off by the City’s Hearing Convenor before any answer was provided.

There is little reason to challenge the Drs. Richards descriptions of how much they enjoyed, years earlier, living at 315 N. Van Buren Street, as residents of the Northside Neighborhood. Although they did not say as much when they spoke in support of obtaining exceptions to the Zoning Code at the January 6, 2021 hearing, one can imagine that, back then, they appreciated, when looking from the front porch of their home to the north, the unique, charming, modest home at 319 N. Van Buren Street, a residence appropriately-sized for the lot—the structure now torn down by the Owner to accommodate the tall boxed building that Drs. Richards propose to build and occupy. Or, perhaps, back then, looking across the street, southeasterly, they appreciated the efforts that Mary and I made to preserve the Victorian building at 504 E. Bloomington Street: painting trim, installing a fence and new windows, tuck-pointing the old exposed brick walls.

³ Mr. Vardaman, both at the Hearing and in written communication with the City, has expressed his opposition to the proposed plans to construct the residential building at 319 N Van Buren Street. He believes that the reduced side yard restriction will cause vehicles moving in and out of the three garage slots to run into his fences and cause property damage to his residential home. He also objects to the harms that will be caused to the “character and aesthetic” of the neighborhood.

In any event, the Purchasers, at the Hearing, did provide personal testimonials in support of Prestige's proposal to build a structure, on their behalf, that exceeds the Zoning Chapter's allowed set-back, side-yard requirements. Such testimonials—describing their intent to occupy the premises, personally, if it were to be built—were perhaps aimed to blunt the predatory sharp edge of a request, made by a developer, in support of a building and a concept that is only too familiar to Northside Neighborhood residents: commercial ventures aimed to increase the numbers of, and to maximize profits of each, new housing projects. Commercial, profit-driven projects, when aided by exemptions to minimum zoning set-back requirements pose special potential harms to fragile residential neighborhoods. The importance of the precedent that the City will be setting if it grants the requested exceptions could be profound, causing adverse ripples for years to come as this, or other, developers point to this example as a basis for their own, further demands for Zoning Chapter exceptions.

Whether the present intent of the Purchasers—to move to and occupy the new structure—was fully, or accurately, stated by them is a question that deserves careful consideration. Middle-age epiphanies do occur and, perhaps, this couple is experiencing just such an event. Can such a change-of-life dream be satisfied by purchasing and occupying, with two adult, college-age sons—on what is probably the smallest lot in the Northside Neighborhood—this project: a parcel with virtually no green space, located immediately adjacent to an active City-owned alley, a towering three-floor, flat-roofed building? Will the dream be realized with a proposed structure that will tower over adjoining properties, adorned with four small bedrooms, four separate bathrooms, limited common areas, virtually no storage space, and serviced by parking garage spaces that will be difficult to get into and out of, and which will be separated from the first-floor living spaces by no fewer than thirteen steps? Perhaps. But, perhaps, not. That such an epiphany might be abandoned after the proposed building is completed, and that such a building might be turned into a rental investment property seems entirely possible, if not probable. If so, then balancing neighboring residents' rights reasonably to rely on stabilities assured by clearly-stated minimum zoning set back requirements against the request for exemptions from those requirements, to accommodate a commercial venture, must be the subject of particularly careful scrutiny.

A cursory review of public real estate records in Scott County, Iowa, may provide clues as to the likelihood that the Purchasers—notwithstanding how sincerely they presently believe themselves to be committed to the prospect of relocating themselves to the Property and residing there full-time—will carry forward with their vision if the City were to grant Prestige the privilege of exemptions from zoning ordinance set back requirements. According to those real estate records, the Drs. Richards reside at 2301 Forest Reed Place, LeClaire, Iowa 52753. The adjoining lots, owned by what is described as the "Brian J. Richards Revocable Trust," are comprised of an area of 1.61 acres (that is, 70,132 square feet) and, according to photographs on the Scott County Assessor's website, include expansive lawns. Listed as a single-family dwelling, the combined living area (inclusive of a finished basement) exceeds 7,900 square feet. This does not include the garage (936 square feet) or the swimming pool (900 square feet of water surface area)—each of which, alone, exceeds the 744 square foot footprint of the home that was demolished by the Owner to make way for this proposed project in Iowa City's Northside Neighborhood. The Scott County Assessor describes Drs. Richards' home as having

fourteen rooms, including five bedrooms and seven bathrooms, assessing the value of the property in 2020 at \$1,308,020.

The Northside Neighborhood, one of the oldest residential areas in Iowa City, has always welcomed and included successful residents and one of the most interesting mixes of citizens anywhere in the vicinity. “Success,” over the years, and now, has been measured in many different ways: artists, writers, poets, musicians, scholars, medical professionals, blue collar workers, people struggling with the challenges of disabilities, people becoming acclimated to a new nation or a new community—the list goes on and on. The request to grant special zoning privileges for 319 North Van Buren Street should not be granted or denied on the basis of anyone’s wealth or status. However, prospective owners who, in vouching their support of special zoning privileges, base their request on their personal reasons for doing so, including their professed desire to move into the structure they propose to build, and to reside in it with their adult sons, should not be exempt from having those reasons scrutinized and carefully considered.

3. Reality Three: The Requested Special Zoning Privilege—to Obtain a “Minor Modification” to Allow a Larger Building Than Would Otherwise be Allowed by Reducing Side Yard Set-Back Requirements Should be Denied Because It Fails to Meet the Minimum Requirements of the Law

The Owner, Prestige Properties Development, LLC, has the burden of proving zoning privileges in the form of a “Minor Modification” to allow a larger building than otherwise would be allowed on the property at 319 N. Van Buren Street. The policy considerations for the City are critical. There is a legal adage in Iowa to the effect, that a man, who, having killed his parents, cannot throw himself on the mercy of the court because he is an orphan. So, too here, a developer should not be allowed to purchase a small lot, with a viable modest home, to allow it to deteriorate to the extent that it must be demolished, then claim that he must be allowed special zoning privileges because the high-density residential structure that he wants to build is too big for the lot.

Although, perhaps, new to the Drs. Richards, the shop-worn pattern is easily recognized by those who have resided in Iowa City for any period of time—including those citizens who have staked their claims and livelihoods on their homes in the Northside Neighborhood: an out-of-town family sending their children to the University of Iowa, transform rental expenses that otherwise would be paid to third party apartment owners (or, to the UI), and, instead, invest those funds in a structure, charging rent to roommates—who oftentimes are friends of the children.

The proposed structure is consistent with this model: four bedrooms tightly packed into a building three-stories high, with parking provided. The housing scheme, if properly established, can meet tax laws and result in successful investments—even when it is predicated on tearing down existing housing stock that fulfilled residential needs for more than a century. However, such schemes cannot be accommodated at the expense of the public interest, which would happen if the special privileges, in the form of a “Minor Modification,” were to be granted in this instance.

The strict application of the setback requirement for 319 N. Van Buren Street will create no hardship for a project properly conceived and appropriately scaled. One cannot blame—or, at least, not be surprised—if a developer would want to maximize his own financial return by buying a small lot and then trying to use it more intensively than the zoning laws allow. That the property can be utilized within the bounds of the applicable zoning laws is proven by the very existence, for more than a century, of the residential home that the Owner demolished—before, apparently, he had a viable alternative use planned that would conform with the law. And, in any event, assuring the maximum rate of return for a developer in an established residential neighborhood is not the primary goal of the City’s Zoning Chapter, including provisions related to Minor Modification requests. That is the driving force of this application, and that is not enough.

Here—and, as described eloquently in the many comments and letters of persons who have submitted opinions to the City, including, but not limited to, those with property ownership interests within 200 feet of 319 N. Van Buren Street—it is obvious that abandoning the clear setback line requirements to accommodate a footprint that is too big, and a building that is too tall for the real estate parcel, will be detrimental to the public health, safety, or welfare, or be injurious to other property or improvements in the vicinity and in the zone in which the property is located.

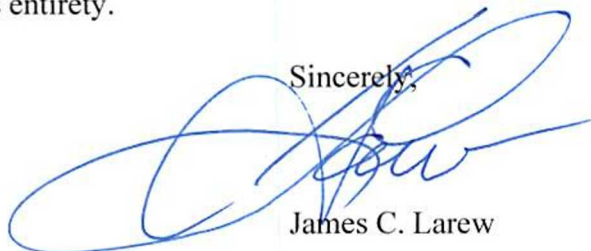
The Minor Modification request must be denied because it is not in conformity with the intent and purpose of the regulation that is modified—there are solid, time-tested reasons why buildings should be set-back from side yard property lines and they are incorporated into the Zoning Chapter. As one of the nearby neighbors, Shawn F. Colbert, the very citizen quoted by Mr. Ginger in his letter to the City of January 8, 2021 asks, in his email dated January 6, 2021 to the City: “[W]hy do these zoning ordinances exist if the [C]ity and developers aren’t going to abide by them?”

Why, indeed.

Perhaps the City, by this proceeding, intends to open a new era marked by: encouraging the demolition of usable, low-income housing; altering and ignoring the characteristics of established neighborhoods; or, increasing the intensity of uses of residential lots in such areas. If so, then granting the requested Minor Modification would surely set a precedent under which, despite zoning restrictions appearing in the Zoning Chapter to the contrary, persistent developers could achieve these goals.

However, if that is not the City’s intent, then the request for the Minor Modification made by Prestige Properties Development, LLC, for the lot located at 319 N. Van Buren Street, should be denied in its entirety.

Sincerely,



James C. Larew

Ms. Marnie Teagle
Code Enforcement Specialist
City of Iowa City
410 E Washington Street
Iowa City, IA 52240

Dear Ms. Teagle:

We have seen the response of David Ginger (the lawyer) regarding 319 N. Van Buren St. We have attempted to summarize the issues that seem important to the issue.

Historic Neighborhood. There has been an attempt to preserve historic buildings and the character of the North Side. The design of the proposed house is quite out of character. The cubic 3-story design means that it will have substantially great *volume* than any other house in the neighborhood. The visual effect will be large. Additionally, the flat roof design will be totally out of character. This lot is contiguous with the Goosetown/Horace Mann Conservation District. Why would the City grant a variance adjacent to that District that is so dramatically out of character with the District?

Usage. The letter we received from the City indicates that the owners have applied to “build a new single family dwelling” at this address. Were they to propose a two-story, two- or three-bedroom house with two baths, that statement might be credible. In fact, they propose to have four bedrooms and four full baths—transparently being more consistent with renting to at least four unrelated students. The design is inconsistent with the stated purpose of the proposed house. It is reasonable to expect the design to be consistent with the proposed usage when a variance is requested. Why would the City grant a variance based on a subterfuge?

Parking on the Alley. If the property is to be used for student housing, it will be highly tempting to use the 6-foot setback area along the alley for guest parking. The tendency will be to park somewhat into the alley in order to allow the car door next to the house to open.

Student versus Owner Occupancy. Concerns have been expressed over time that the ratio of student to owner occupied housing should be kept to a minimum and not allowed to increase further in this north side area. It would be inconsistent with those concerns to allow a variance for a property for a usage that is so clearly consistent with student housing.

Blocking Light. As others have argued, the three-story, flat roof house will block light to the house north of this lot, which is especially egregious in the colder months when sunlight is so desirable. The response that “trees do it” is not adequate.

Water Control. The flat roof will collect a lot of water, yet there is no specification of how the water run-off is to be controlled. It is also important to consider the runoff from the side of the building. The sides of this proposed building will have a large area for rain to hit and run down in an uncontrolled manner. This concern is especially important for the north side. That water will come down the north side of the building and cumulate on a small area produced by the 5-

foot setback. It is highly probable that such water will end up in large quantities on the property adjacent to the north, thereby having a destructive effect on a neighbor. Additionally, the property has a moderately large footprint for the lot, reducing the ground area to absorb water. If the owners should pave the area next to the alley (e.g., for parking), that would decrease the water absorption area further.

Don & Dorothy Fowles (owners of rental property at 310 N. Gilbert St.)

From: Diana Harris <cwerrr@gmail.com>
Sent: Sunday, January 03, 2021 11:11 PM
To: Marnie Teagle
Subject: proposal 319 N. Van Buren

Although I do not live within a 3-block radius of 319 N. Van Buren, I go by that property many times a week, mostly on foot. The proposed house for that lot does not qualify as a minor modification of the zoning ordinance. It is too large (#1), it will be detrimental to the neighborhood (#2), and is not in conformity with the intent of the comprehensive plan (#4). Prestige Properties tore down a small house that fit the neighborhood for size and placement on the lot. I assume that Prestige knew at the time what the comprehensive plan allowed. The proposed house is too large for the lot and for the scale of existing houses in the neighborhood. In addition, the architectural design of the house does not fit the neighborhood. I do not think the modification to the zoning ordinance for this proposed house should be granted.

Diana Harris
523 Brown St, Iowa City, IA 52245

From: Sharon DeGraw <sharondegrow@yahoo.com>
Sent: Tuesday, January 5, 2021 5:00 PM
To: Marnie Teagle
Subject: re: zoning change for 319 North Van Buren Street

Dear Ms Teagle,

I'm a Northside resident concerned about the requested change in zoning at 319 North Van Buren Street. I live nearby and use this street when going downtown or visiting Northside shops because it's a charming street with nice homes. I hope you do not award the request for zoning change, and do consider the following:

- 1) Please don't reduce the the amount of green space – especially for a smaller-than-average lot such as this one.
The impact of a 35-foot building would be significant and out of context in a neighborhood of one-and-a-half and two story homes.
- 2) The developer should be encouraged to build at a height that's in keeping with surrounding building heights.
- 3) Granting a special zoning exception after demolishing a home in this neighborhood is concerning.

Thank you for your consideration.

Sincerely,

Sharon DeGraw
519 Brown Street
Iowa City

From: S Colbert <scolbert1158@gmail.com>
Sent: Wednesday, January 6, 2021 11:48 PM
To: Marnie Teagle
Subject: Zoning Modification for 319 N. Van Buren St.

To Marnie Teagle and whom it may concern,

I am Shawn Colbert, the owner and occupant of 415 E. Davenport St. I am writing you today to voice my disapproval of allowing a zoning modification for 319 N. Van Buren St.

I have a few concerns with this proposal.

The first and foremost being, why do these zoning ordinances exist if the city and developers aren't going to abide by them?

Secondly. If I as a private citizen, as opposed to a property management company, were to raze the habitable dwelling that currently exists on my property (as was done in this case), to build a dwelling that doesnt meet code, such as the one proposed, would it be allowed and/or would exceptions be made for me?

Thirdly. Let's be real about what we are considering bending the rules for. This is an oversized box, uncharacteristic of the neighborhood it resides in, being built to cram tenants into in order to generate the maximum amount of rental income. It sets a bad precedent for the Northside neighborhood which could potentially open it up to future overdevelopment.

Fourthly. Does the existing neighborhood infrastructure exist for a dwelling of this size?

Please contact me if there are any questions or if there is any followup information about these issues I have brought up.

Thank you for taking these concerns into consideration as part of your decision making process for this modification approval.

Shawn F. Colbert
415 E. Davenport St.
Iowa City, IA 52245
319-541-7700

From: Fowles, Don C <don-fowles@uiowa.edu>
Sent: Saturday, January 9, 2021 4:57 PM
To: Marnie Teagle
Subject: Zoning Variance at 319 N. Van Buren Street
Attachments: We sent you safe versions of your files; Letter to City re 319 N Van Buren.docx

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Dear Ms. Teagle,

We have looked again at the issues associated with the above proposed property. Please see the attached for our thoughts on the matter.

We care a lot about the character of the neighborhood. A few years ago John Kammermeyer wanted to buy our house at 310 N. Gilbert so that he would own a quarter of a city block. He planned to sell it to Mercy Hospital, who would have torn down all the houses on the lot. We refused to sell our property, because it is a lovely historic building in character with the neighborhood, even though he would have offered a generous price.

Thank you for your help.

Don & Dorothy Fowles

APL21-0001
ATTACHMENT 4

Appeal Application
Submitted by the Appellant

Addition to Appeal

Addition to Appeal of Minor Modification for 319 N. Van Buren Street (Board of Adjustment meeting – April 14, 2021)

Date: April 12, 2021

Addition to Appeal

On April 9 the Building Official issued a memorandum with an analysis of the Minor Modification for 319 N. Van Buren Street. We question if this additional information should have been submitted to the Board. Section 14-8C-3: Appeals B. Appeals Procedures states, "The city manager or designee shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken."

It appears that the Building Official is adding to the record after the fact. Much of this information was not contained in the January 14 decision letter on which our appeal is based. We are compelled to respond to this new information. We have also attached our original appeal document to be read with the Building Official's memorandum (we are concerned that our appeal document did not appear until page 68 of the April 14 agenda packet).

Under #1. in defense of the Minor Modification decision the Building Official states, "Newly constructed single-family homes are commonly built with attached garages for automobiles and room sizes that accommodate modern amenities such as closets and full-sized plumbing fixtures." **Nothing in this statement would lead one to the conclusion that a newly constructed single-family house warrants zoning waivers or needs to be 3 stories above grade in order to include a 2-car attached garage, closets, and full-sized plumbing fixtures.** A casual review of the City Assessor's records reveals that there are several score of newly built houses with attached 2-car garages, 1- and 2-stories in height, and equal to or considerably smaller than the 2-story house that could be built on this lot (1,860 square feet of above grade area, 740 square feet of basement area, and a 380 square-foot attached garage) without any waiver of setback requirements. It is certainly possible to include ample closets and plumbing fixtures in such a house.

Also under #1. the Building Official states, "It is unusual for non-conforming lots to be vacant and or redeveloped for single-family uses." Why would this justify a waiver of zoning requirements? The vacant lot is a clean slate, the zoning rules are known to the owner. As we demonstrate in our original appeal document, it is possible to design a reasonably sized house and even a fairly large house on this lot and still conform with zoning setback and height requirements.

Under #2. the Building Official states, "**Many 2 and 3-story buildings** are present in the blocks surrounding the subject property including within the immediate 200-foot notification area. It is common for such buildings to also not meet the current setback requirements. As such, though the proposal is uncommon, it generally reflects the building scale and placement of structures in this area." (emphasis added)

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We looked at the properties within 200 feet. We found **no** 3-story buildings within the RNS-12 zone. The zoning code defines “story” as, “The portion of a building included between the upper surface of any floor and the upper surface of the next floor above. The topmost “story” shall be that **habitable** portion of a building included between the upper surface of the topmost floor and the ceiling above.” In other words, unfinished and uninhabitable attics are **not** considered a story. There may be some 2-story and 2.5-story houses with attics that have been converted to living space elsewhere in the neighborhood, but there are **no** 3-story houses within the RNS-12 zone within the 200 feet area identified by the Building Official. (Using City Assessor’s records and visual cues, such as the presence of air conditioning units and window treatment, we identified seven single-family houses within the entire RNS-12 zone with finished attics).

There is an apartment building at 322 N. Van Buren Street with 3 floors, but even that building is only 2 and 1/2 stories in height above ground as the first floor is partially submerged below grade and it has generous setbacks from its neighbors (12 feet on the north and 25 feet on the south).

Some of the properties within the 200-foot radius of 319 N. Van Buren are actually located within the Commercial Office (CO-1) zone so are **not** relevant to a case in the RNS-12 zone. Even there we found only one 3-story building. It is located at 430 Bloomington Street and contains 7 apartments (again, not comparable to a single-family house in the RNS-12 zone). Even so, it has side setbacks of at least 11 feet on both the east and west sides, 58 feet on the north and 24 feet on the south. It also has a pitched roof that casts much less of a shadow than a 35-foot-tall flat-roofed building.

Of the 12 properties in the RNS-12 zone within 200 feet of 319 N. Van Buren we found these non-conformities: the 1-story house at 314 N. Gilbert Street is approximately 4 feet from the south property line while 5 feet is required; the 2-story duplex at 421/421 and 1/2 E. Davenport Street appears to be located on the west property line while 5 feet is required; 425 E. Davenport Street, a 847 square-foot 1.5-story house, is 2.5 feet off the east property line and 4 feet off the west property line while 5 is required (measurements verified with property pin).* There are two non-conforming 1-story garages at 411 and 415 Davenport Street that are 2 feet off the property line while a 3 foot setback is required for accessory buildings. The garage at 323 N. Van Buren Street is 2.5 feet from the south property line and 1 foot from the west. But these garages have low pitched roofs and are located at the back of lots and therefore have little if any negative consequences for their neighbors.

There are **no** 3-story buildings that are non-conforming in terms of setback in the vicinity. There is only one 2-story building that is non-conforming. This contradicts the Building Official’s finding that the proposed 3-story 35-foot-tall building “generally reflects the building scale and placement of structures in this area.”

Prestige Properties’ attorney made a similar statement in a January 8 letter in which he wrote, “... there are other buildings in the area with a substantially similar height. 314 North Van Buren Street, 331 North Van Buren Street, 432 East Bloomington Street and 504 East Bloomington Street, for example, are all two story buildings with pitched roofs

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and chimneys substantially similar in height to the proposed building.” Again, three of these properties are in the CO-1 zone, not the RNS-12 zone. Even so, we measured the height of those to which we were able to gain access.

314 N. Van Buren: 27 feet and 8 inches to the peak, and only 25.5 feet to the midpoint between the eaves and the roof ridge, which is the way height is measured for zoning purposes.** It is considerably shorter than what is proposed at 319 N. Van Buren.



504 E. Bloomington: 27.5 feet to peak. We did not measure to midpoint but estimated to be approximately 25 feet. It is considerably shorter than what is proposed at 319 N. Van Buren.



331 N. Van Buren: 25 feet 3 inches to the peaks on the gable ends. There is a slightly higher peak in the center of the roof but based on the way height is measured for zoning purposes this house is approximately 25 feet tall.

The proposed 35-foot tall 3-story building would clearly be out of scale with even the largest buildings in the RNS-12 zone.

Also under #2, as a rationale as to why a 3-story building with reduced setbacks will not be detrimental or injurious to other properties, the Building Official states, “Buildings may be 35’ in height by right regardless of the number of stories in this zoning district.” Reviewing the City Assessor’s records we found no full 3-story houses regardless of height in the RNS-12 zone, though there may be some attics that have been converted to living space. As noted earlier, even the apartment buildings are not 3 stories above grade and none appear to be 35 feet tall. The only buildings in the RNS-12 zone that achieve a height of 35 feet are St. Wenceslaus Church and the Preucil School of Music. Horace Mann School, which is located in the Public (P) zone, also achieves 35 feet and is a full three stories in height. Each of these landmark buildings is across a public street or well set back from any nearby dwelling.

Under #4. the Building Official states, “Light, air, and opportunities for privacy, scale, and the physical relationship between buildings will be maintained by the observation of other dimensional standards of the zoning code and the inherent limit on the extent of reduction allowed by the Minor Modification of side setback.” This statement makes the

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additional 2-foot setback required for 3-story buildings meaningless. The additional setback is required to minimize the impact that a taller building has on its neighbors. By reducing the setback the Building Official would permit a 3-story building to be as close to its neighbor as permitted for a 2-story house. A 3-story building will block light and air from its neighbors to a greater extent than a 2-story house. The Building Official's decision does not address why a small lot should be allowed to have less setback for a 3-story building and therefore be allowed to diminish the enjoyment of neighboring properties.

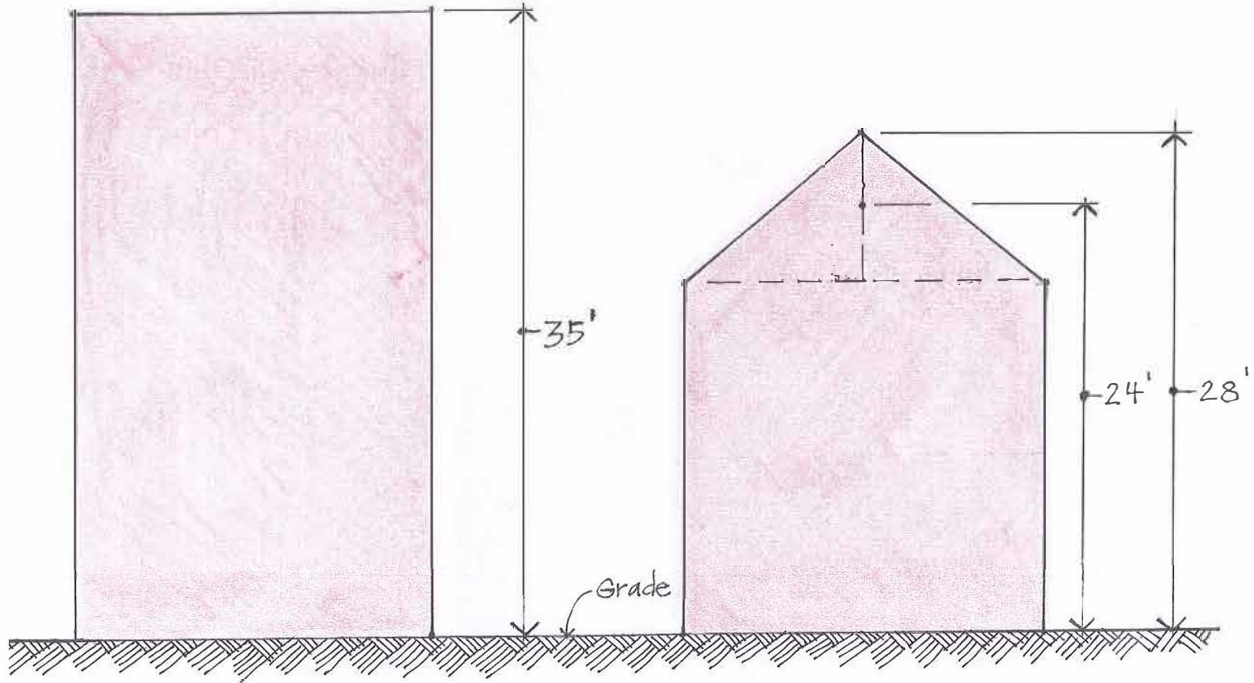
Also under #4 the Building Official states, "Allowing a range of different setback distances to be administratively approved provides flexibility to site a building so that it is compatible with buildings and streets in the vicinity while still meeting minimum requirements." How is an approximate 2,700 square foot 3-story, 35-foot tall house on a small 2,800-square-foot lot compatible with the 1- and 2- story houses found throughout the RNS-12 zone where the average house size is 1,538 square feet and the average lot size is 5,077 square feet? How is the proposed house with the front door located on the second floor and a blank wall at the street level compatible with the houses in this neighborhood?

We believe that the additional rationale found in the Building Official's April 9 memo does not justify approval of a Minor Modification, which will diminish the enjoyment of other properties in the neighborhood.

*We used Johnson County GIS to identify properties within 200 feet of 319 N. Van Buren Street. We then looked at the footprint of buildings in relationship to property lines. It should be noted that Johnson County GIS does not distinguish the foundation foot print from eaves and other building projections that are allowed to extend into required yards (Section 14-2A-4: B.4. Building Features Permitted Within Required Setback Area). For properties where structures appeared close to the property line we used a tape measure to verify setbacks.

**See the next page for a graphic showing how height is measured for zoning purposes.

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One reason that height is measured to the midpoint between the eaves and the ridge or peak is because a building with a pitched roof casts less of a shadow than a building with a flat roof. Something the Building Official failed to consider. The following definitions are from Zoning Code:

BUILDING HEIGHT: The vertical distance from grade to the roofline. (See definitions of grade and roofline.)

ROOFLINE: The highest point of the coping of a flat roof, the deck line of a mansard roof or **the midpoint between the eaves and ridge of a saddle, hip, gable, gambrel or ogee roof.**

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Appeal of Minor Modification for 319 N. Van Buren Street (Board of Adjustment meeting - April 14, 2021)

Grounds for Appeal

This appeal is from the January 14, 2021 Building Official decision granting a Minor Modification in RNS 12 zone, at 319 N. Van Buren Street to Prestige Properties to reduce and waive side yard setbacks required for a proposed 3-story dwelling.

The Building Official's decision is incorrect. Modifications or waivers may be granted only if five criteria are met (Zoning Code Section 14-4B-1). The Building Official's decision concludes, without support or analysis, that (1) it is impractical to comply with the setback requirements; (2) the modification will not be injurious to other property or improvements in the vicinity and in the zone in which the property is located; (3) the modification conforms to the intent or purposes of the dimensional requirements; and (4) the modification complies with other applicable statutes, ordinances, laws and regulations.

Factual Background

Prestige Properties has proposed a 2,660-square foot, 3-story, 4-bedroom, 4-full bathroom house with an attached 2-car garage and single-stall carport for a total of 3 covered parking spaces. The proposed house has a footprint of approximately 900 square feet. The footprint for the house plus garage and carport is 1,116 square feet. **Under Code, the proposed 3-story structure requires a minimum side setback of 7 feet.** "The minimum side setback is 5 feet for the first 2 stories plus 2 feet for each additional story" (Section 14-2A-4 Dimensional Requirements). Prestige seeks to waive the two-foot setback on the north lot line entirely and to reduce the required setback by one foot on the south. **That is, Prestige seeks approval for construction of a 3-story building with side setback allowances appropriate for a 2-story structure.**

Appendix A to this document reports information from the City Assessor on the 171 single family properties located within the Northside RNS-12 zone. Appendix A will be referenced throughout this document to compare Prestige Properties' proposal to build a 2,660-square foot house with 3 covered parking spaces on a 2,800-square foot lot to what is allowed, what is intended, and what is built in the RNS-12 zone.

Argument

Five criteria must be met before a minor modification may be granted. The applicant has failed to meet criteria 1, 2, and 4 as follows:

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Criteria 1. *Special circumstances apply to the property, such as size, shape, topography, location, surroundings, or characteristics, or preexisting site development, which make it **impractical** to comply with the subject regulation or which **warrant** a modification and/or waiver of the subject regulation.*

Prestige asserts and the Building Official concluded without analysis or proof that the circumstances of the lot make the strict application of the side yard setback requirements “impractical with respect to the construction of a single-family home **desirable to a modern day homeowner**” (emphasis added).

Neither Prestige nor the Building Official’s decision provide any analysis of the practicality or impracticality of complying with the requirements of the zoning code for the small lot at issue. The proposed structure is simply ill-fitted to this particular lot and to the neighborhood. The solution lies not in waiving applicable zoning regulations but in amending the proposed structure to one which fits the lot. This small lot may create challenges for development but it does not deny an opportunity to build a desirable house consistent in size, scale, and amenities while conforming to zoning regulations. For example, the zoning code would allow a 2-story, 25-foot-wide house with a footprint of 1,120 square feet on this lot. This would result in 2,240 square feet of floor area. Even more floor area could be achieved with a partial basement of 600- to 700- square feet, allowing for a 2-car garage on grade level of the house. In fact, a house that fully complies with the zoning code would be larger than the average single-family house in this RNS-12 zone, which is 1,538 square feet (Appendix A). Houses of such size and features are currently being built and sold in new subdivisions of Iowa City. This refutes Prestige’s claim and the Building Official’s decision that a waiver of setback requirements is necessary to achieve a “desirable” or “modern” house on this property.

Criteria 2. *The minor modification will not be detrimental to the public health, safety or welfare, or be injurious to other property or improvements in the vicinity and in the zone in which the property is located; and **Criteria 4.** *The minor modification requested is in conformity with the intent and purpose of the regulation modified.**

The intent and purpose of minimum setback requirements are spelled out in Section 14-2A-4: B. of the Zoning Code and shown in **bold italic** font below. Reducing the setback requirements in this case without adhering to the intent and purpose of the standards will result in detriment and/or injury as follows:

a. It will diminish **light and air** to neighboring dwellings. The greater setback requirement for 3-story structures recognizes the need for more space around the building to ensure natural light and air flow for nearby properties. Neighbors at 323 N. Van Buren, directly to the north, would be denied sunlight,

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especially in the winter when sunlight is crucial for enjoyment of a home. The Building Official's letter states that the intent of the additional setback requirement is met, but offers no analysis as how.

b. It will not ***provide opportunity for privacy between dwellings***, nor would it ***promote a reasonable physical relationship between buildings and between residences***. This proposed building would tower over other buildings. It will stand 10 to 12 feet taller than the adjacent house and its windows would look down onto and into 323 N. Van Buren. There is one modern apartment building across the street from the subject lot which contrasts with the houses of the neighborhood, but even that building is only 2 and 1/2 stories in height above ground and has generous setbacks from its neighbors—12 feet on the north and 25 feet on the south.

c. It will not ***reflect the general building scale and placement of structures in the neighborhood***, nor will it be ***compatible with buildings in the vicinity***. At 2,800 square feet, this lot is smaller than the zoning code currently requires for lot area and width, and is one of the smallest in the RNS-12 zone in this neighborhood. **Yet, if permitted to be built as proposed, the house would be the largest and tallest on the block and the fifth largest house within the entire Northside RNS-12 zone** (Appendix A). By contrast, and according to the City Assessor's data, houses comparable in square footage to the proposed Prestige property are on conforming lots ranging in size from 5,000 square feet to 16,000 square feet, not 2,800 square feet (Appendix A). The proposed 3-story building with its flat roof and monolithic shape will visually dominate the surrounding neighborhood.

If allowed to stand the Building Official's decision will result in a 3-story building in a neighborhood of 1- and 2-story houses, a building which is too tall for its small lot. This result would be counter to the intent of the setback requirements as well as the height requirements and minimum lot area and width requirements, which are designed and intended to "control the intensity of use on a lot to ensure consistency and compatibility of new dwellings with the surrounding development" (Section 14-2A-4:A. 1). **The Building Official's decision is not only counter to the intent of the zoning code, it is counter to the intent of the Comprehensive Plan to create and preserve attractive neighborhoods for the long term.**

Additional comments regarding **Criteria 4**. *The minor modification requested is in conformity with the intent and purpose of the regulation modified.*

Paragraph 7 of the Building Official's decision states: "The Minor Modification conforms with the intent and purpose of the Zoning Ordinance to ensure that

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light, air and separation for fire protection and access for firefighting are maintained, provide opportunities for privacy between dwellings, **reflect the general building scale** and placement of structures in the city's neighborhoods, promote a reasonable physical relationship between buildings and between residences, and provide flexibility to site a building so it is **compatible with buildings in the vicinity**" (emphasis added).

The decision of the Building Official offers no facts to support this statement other than to say the arrangement of the proposed development on the lot is "similar to other existing dwellings along alleys in this neighborhood." While it is true the proposed placement in terms of setbacks is similar, the other properties in the vicinity are 1- and 2-story structures and thus they **are not subject** to the additional 2-foot minimum setback requirement. In effect, the decision concludes that the setback requirement which applies specifically and only to 3-story buildings is irrelevant.

According to Section 14-2A-4C (Building Bulk Standards), the height regulations are "intended to promote a reasonable building scale and relationship between buildings; provide options for light, air, and privacy; and **discourage buildings that visually dominate other buildings in the vicinity.**" The purpose of the minimum setback requirements is stated in Section 14-2A-4B: "to provide opportunities for privacy between dwellings, **reflect the general building scale** and placement of structures in the city's neighborhoods, **promote a reasonable physical relationship between buildings and between residences.**"

The decision of the Building Official does not address the purpose of the additional minimum 2-foot setback. By not addressing how the setback reduction preserves the intent of the setback requirement, the decision of the Building Official renders the setback requirement for 3-story buildings meaningless. **If the setback can be waived solely to meet the desires of the property owner or the developer without a compelling reason, why does the regulation exist at all?**

Contrary to the Building Official's written decision, the proposed building does **not** "reflect the general scale of structures in the city's neighborhoods"; does **not** "promote reasonable relationship between buildings and between residences" and would be **incompatible** with the neighborhood, which consists of 1- and 2-story houses with an average of 1,538 square feet sited on lots with an average area of 5,077 square feet (See Appendix A).

Under the section referring to dimensional requirements, the Zoning Code states, "*Purpose: The minimum lot area and width requirements are intended to ensure that a lot is of a size, width, and frontage that is appropriate for the uses permit-*

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*ted in the subject zone and will ensure, in most cases, that the other site development standards of this title can be met. The lot area per dwelling unit standards **control the intensity of use on a lot to ensure consistency and compatibility of new dwellings with the surrounding development.***" (Section 14-2A-4: A) The last clause emphasizes that the size and width of a lot relates to the intensity of what can be built there. Even if one concludes that special circumstances apply to this lot, it does not stand to reason that zoning standards should be modified to allow the tallest and largest house within the RNS-12 zone on this block or the tallest and one of the largest within the entire RNS-12 zone in this neighborhood. **Should one of the smallest lots have the largest volume of building?** If allowed to be built as proposed, the house at 319 N. Van Buren would be the fifth largest house within the entire zone even though this is one of the smallest lots. Based on the City Assessor's data, houses comparable in square footage to the proposed house are located on conforming lots ranging in size from 5,000 square feet to 16,000 square feet.

While the size of this lot limits the extent of development, it does not inhibit construction of a single-family home consistent with surrounding development or the RNS-12 zone, or even new houses being built in new subdivisions. One need only look in the immediate vicinity to see that many properties are non-conforming with regard to lot width and/or area. Many of these are developed with homes that are 22-24 feet in width. **However, none of these are 3-story homes.** Some have garages, some do not. See Appendix A for characteristics of properties in the RNS-12 zone.

While it may be impractical to build the **proposed** 3-story, 4-bedroom, 4-bathroom, 2,660-square-foot house with 3 covered parking spaces on this small lot and comply with the zoning code, it is **not** impractical to build a house with the features that one would reasonably expect to find in most homes in Iowa City--even a fairly large modern house--on this lot and fully comply with the zoning code.

As written in the decision letter, the Building Official appears to have made the decision based on what is "**desired**" by Prestige Properties and not on the conditions of the lot or the intent of the zoning code. The intent of the greater setback for 3-story buildings is to help them fit into a neighborhood by providing greater open space around the larger buildings. The purpose, as expressed in the zoning code, is to help ensure adequate natural light and airflow for neighboring properties. The Building Official's decision does not merely modify the additional 2-foot setback required for a 3-story building. Rather it would waive it altogether on the north side of the property to allow a building to be taller and larger than otherwise permitted.

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Non-conformities

The Building Official appears to have based much of the decision on this being a non-conforming lot in terms of lot area, lot width, and frontage. It is true the lot is small and nonconforming to current zoning requirements for lot area and width. The lot is 35 feet wide, whereas 45 feet is required. The lot area is 2,800 square feet, while 5,000 is the minimum lot area for a single-family structure. However, the Building Official made a factual error regarding lot frontage. The subject lot is conforming in terms of frontage. The required minimum is 25 feet; the actual frontage of this lot is 35 feet. (Section 14-2A-4: Dimensional Requirements. Table 2A-2.) As detailed in Appendix A, there are several similarly situated properties in this RNS-12 zone. None of them contain 3-story buildings and none of them approach the square footage proposed at 319 N. Van Buren Street.

It should be noted that while non-conforming provisions do not prevent the development of a house on a single-family lot, they do encourage development to become as conforming as possible. The code states:

“A nonconforming single-family use may also be expanded, repaired and structurally altered, provided such expansion or alteration does not increase or extend any other nonconforming situation of the property”
(Section 14-4E-4:B)

The code also states:

“A nonconforming structure that contains a single-family use may be restored to the same degree of nonconformity or less if destroyed or damaged by fire, explosion, act of God or by a public enemy. Such a structure may also be repaired or structurally altered, provided such construction does not increase or extend the degree of nonconformity and does not increase or extend any other nonconforming situation of the property”
(Section 14-4E-4C)

While these two provisions do not directly apply to the present case, they do illustrate the intent of the code to bring development toward conformity. The previous house on this property was nonconforming in terms of front and side setbacks. But the house was approximately 900 square feet in size and had only 1 and 1/2 stories. It therefore had much less effect on its neighbors than the proposed 3-story house. A newer house may be desirable on this lot, but to allow a tear down of a small house on a tiny lot in order to build a structure so out of scale as to require waivers of zoning requirements runs counter to the non-conforming standards found in the zoning code and would set a worrisome precedent for older neighborhoods where there are modest and affordable homes on lots that are smaller than the minimum lot area and lot width required by code.

Addition to Appeal

For the foregoing reasons, the application of Prestige Properties for approval to reduce and waive the additional 2-foot setback required for a 3-story building at 319 N. Van Buren Street in the RNS-12 zone should have been denied.

Addition to Appeal

APPENDIX A: ANALYSIS OF DATA FROM IOWA CITY ASSESSOR

A basic principle of zoning is to treat similar properties consistently and to not grant special treatment to some properties. We collected data from the City Assessor on the 171 single family properties located within the Northside RNS-12 zone to examine application of this principle.

How does Prestige Properties' proposal to build a 2,660-square foot house with 3 covered parking spaces on a 2,800-square foot lot compare to what is allowed, what is intended, and what is built in the RNS-12 zone?

The average size single family dwelling is 1,538 square feet. The average lot size is 5,077 square feet, which is nearly double the size lot on which Prestige proposes to build a 2660-square foot 3-story house. Not one of the 171 properties contains a 3-story house. Although it is possible that a few have attics that have been converted to living space, these would be under pitched roofs and have less effect on neighboring properties than the proposed full 3-story building with a flat roof.

The statistic illustrates what is intended by the zoning code — If you walk or drive down the streets of the RNS-12 zone, you will see that the houses consistently range from 1- to 2-stories. There are no 3-story houses. Even the apartment buildings within the zone tend to be only 2.5 stories above grade, with one floor partially submerged below grade. The proposed full 3-story building would be counter to this pattern, and using the words of the zoning code **would not** “*Maintain light, air, separation for fire protection, and access for firefighting; Provide opportunities for privacy between dwellings; Reflect the general building scale and placement of structures in the city’s neighborhoods; Promote a reasonable physical relationship between buildings and between residences, and provide flexibility to site a building so it is compatible with buildings in the vicinity*” (Zoning Code Section 14-2A-4B).

As intended by the zoning code larger houses are located on larger lots. Within this RNS-12 zone there are 11 houses with over 2,200 square feet. With only one exception (418 N. Gilbert Street) these larger houses are located on lots that meet the minimum lot area requirement of 5,000 square. Five of the larger houses are located on lots of 9,000 to 16,000 square feet. Yet Prestige Properties, with the Building Official’s approval, proposes to build one of the largest houses on one of the smallest lots. This is counter to the intent of the zoning code to use lot area, height limits, and setbacks to align development intensity with the size of a lot.

Of the 24 non-conforming lots similar to 319 N. Van Buren Street (2,700 to 3,100 square feet) only one property (730 Market Street) has a relatively large house on it. But at 2,026 feet this house is still smaller than the 2,660-square foot house proposed by Prestige Properties. The other similar non-conforming lots have houses that range from 532 square feet to 1,684 square feet with an average of 1,147 square feet. Like 319 N. Van Buren several of these lots are non-conforming in terms of lot width with one being as narrow at 30 feet. Yet these properties contain occupied dwellings that continue to find a place in Iowa City’s housing market. (See TABLE 1.)

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TABLE 1. LOTS WITH AREA OF 2700 TO 3100 SQ. FT.

Address	Lot Area in Sq. Ft.	Lot Width	House Sq. Ft.	Garage Stalls
410 Church	2800	40	1,193	0
426 Church	3000	40	1,117	1
430 Church	3000	40	1,272	1
704 Jefferson	2800	40	1,684	0
706 Jefferson	2800	40	1,180	2
318 Linn	2880	36	1429	0
512 Van Buren	3040	37.5	1,290	2
510 Van Buren	3040	37.5	928	0
415 Johnson	3040	37.5	657	0
411 Johnson	3040	37.5	648	0
224 Dodge	3040	38	1,617	0
220 Dodge	3040	38	532	0
209 Lucas	3000	75	1,467	1
326 Fairchild	2800	40	1370	0
408 Fairchild	2760	42	979	0
514 Fairchild	3000	40	1,078	0
516 Fairchild	3000	40	1,592	1
425 Fairchild	3000	30	992	0
522 Davenport	3000	40	1,396	1
528 Davenport	3000	40	1,396	0
530 Davenport	3000	40	1,396	0
730 Market	3000	40	2,026	1
828 Market	2800	40	920	0
715 Market	2850	38	1,440	1

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Prestige Properties proposes to fit 3 covered parking spaces on its small lot. Of the 171 single family properties in this RNS-12 zone only 7 had more than 2 covered parking spaces. One property had a 4-stall garage, seven had 3-stall garages. There were 24 properties with 2-stall garages, 81 with a 1-stall garage. There are 59 properties with no garage. The lots with 3 and 4 parking spaces were large lots containing at least 6,000 square feet.

TABLE 2. GARAGE STALLS

Garages in Northside RNS-12 Zone	
1-stall	80
2-stalls	24
3-stalls	7
4-stalls	1
0 covered parking	59

This data demonstrates that to achieve the intensity of development desired by Prestige Properties it is necessary to have a larger lot. One can conclude from this data that the Building Official erred in the decision that it is impractical to build a reasonable sized house “desirable to a modern day homeowner” at 319 N. Van Buren Street without a modification of the setback requirements.

Appeal of Minor Modification for 319 N. Van Buren Street (Board of Adjustment meeting - April 14, 2021)

Grounds for Appeal

This appeal is from the January 14, 2021 Building Official decision granting a Minor Modification in RNS 12 zone, at 319 N. Van Buren Street to Prestige Properties to reduce and waive side yard setbacks required for a proposed 3-story dwelling.

The Building Official's decision is incorrect. Modifications or waivers may be granted only if five criteria are met (Zoning Code Section 14-4B-1). The Building Official's decision concludes, without support or analysis, that (1) it is impractical to comply with the setback requirements; (2) the modification will not be injurious to other property or improvements in the vicinity and in the zone in which the property is located; (3) the modification conforms to the intent or purposes of the dimensional requirements; and (4) the modification complies with other applicable statutes, ordinances, laws and regulations.

Factual Background

Prestige Properties has proposed a 2,660-square foot, 3-story, 4-bedroom, 4-full bathroom house with an attached 2-car garage and single-stall carport for a total of 3 covered parking spaces. The proposed house has a footprint of approximately 900 square feet. The footprint for the house plus garage and carport is 1,116 square feet. **Under Code, the proposed 3-story structure requires a minimum side setback of 7 feet.** "The minimum side setback is 5 feet for the first 2 stories plus 2 feet for each additional story" (Section 14-2A-4 Dimensional Requirements). Prestige seeks to waive the two-foot setback on the north lot line entirely and to reduce the required setback by one foot on the south. **That is, Prestige seeks approval for construction of a 3-story building with side setback allowances appropriate for a 2-story structure.**

Appendix A to this document reports information from the City Assessor on the 171 single family properties located within the Northside RNS-12 zone. Appendix A will be referenced throughout this document to compare Prestige Properties' proposal to build a 2,660-square foot house with 3 covered parking spaces on a 2,800-square foot lot to what is allowed, what is intended, and what is built in the RNS-12 zone.

Argument

Five criteria must be met before a minor modification may be granted. The applicant has failed to meet criteria 1, 2, and 4 as follows:

Criteria 1. *Special circumstances apply to the property, such as size, shape, topography, location, surroundings, or characteristics, or preexisting site development, which make it **impractical** to comply with the subject regulation or which **warrant** a modification and/or waiver of the subject regulation.*

Prestige asserts and the Building Official concluded without analysis or proof that the circumstances of the lot make the strict application of the side yard setback requirements “impractical with respect to the construction of a single-family home **desirable to a modern day homeowner**” (emphasis added).

Neither Prestige nor the Building Official’s decision provide any analysis of the practicality or impracticality of complying with the requirements of the zoning code for the small lot at issue. The proposed structure is simply ill-fitted to this particular lot and to the neighborhood. The solution lies not in waiving applicable zoning regulations but in amending the proposed structure to one which fits the lot. This small lot may create challenges for development but it does not deny an opportunity to build a desirable house consistent in size, scale, and amenities while conforming to zoning regulations. For example, the zoning code would allow a 2-story, 25-foot-wide house with a footprint of 1,120 square feet on this lot. This would result in 2,240 square feet of floor area. Even more floor area could be achieved with a partial basement of 600- to 700- square feet, allowing for a 2-car garage on grade level of the house. In fact, a house that fully complies with the zoning code would be larger than the average single-family house in this RNS-12 zone, which is 1,538 square feet (Appendix A). Houses of such size and features are currently being built and sold in new subdivisions of Iowa City. This refutes Prestige’s claim and the Building Official’s decision that a waiver of setback requirements is necessary to achieve a “desirable” or “modern” house on this property.

Criteria 2. *The minor modification will not be detrimental to the public health, safety or welfare, or be injurious to other property or improvements in the vicinity and in the zone in which the property is located; and **Criteria 4.** *The minor modification requested is in conformity with the intent and purpose of the regulation modified.**

The intent and purpose of minimum setback requirements are spelled out in Section 14-2A-4: B. of the Zoning Code and shown in **bold italic** font below. Reducing the setback requirements in this case without adhering to the intent and purpose of the standards will result in detriment and/or injury as follows:

a. It will diminish **light and air** to neighboring dwellings. The greater setback requirement for 3-story structures recognizes the need for more space around the building to ensure natural light and air flow for nearby properties. Neighbors at 323 N. Van Buren, directly to the north, would be denied sunlight,

especially in the winter when sunlight is crucial for enjoyment of a home. The Building Official's letter states that the intent of the additional setback requirement is met, but offers no analysis as how.

b. It will not ***provide opportunity for privacy between dwellings***, nor would it ***promote a reasonable physical relationship between buildings and between residences***. This proposed building would tower over other buildings. It will stand 10 to 12 feet taller than the adjacent house and its windows would look down onto and into 323 N. Van Buren. There is one modern apartment building across the street from the subject lot which contrasts with the houses of the neighborhood, but even that building is only 2 and 1/2 stories in height above ground and has generous setbacks from its neighbors—12 feet on the north and 25 feet on the south.

c. It will not ***reflect the general building scale and placement of structures in the neighborhood***, nor will it be ***compatible with buildings in the vicinity***. At 2,800 square feet, this lot is smaller than the zoning code currently requires for lot area and width, and is one of the smallest in the RNS-12 zone in this neighborhood. **Yet, if permitted to be built as proposed, the house would be the largest and tallest on the block and the fifth largest house within the entire Northside RNS-12 zone (Appendix A).** By contrast, and according to the City Assessor's data, houses comparable in square footage to the proposed Prestige property are on conforming lots ranging in size from 5,000 square feet to 16,000 square feet, not 2,800 square feet (Appendix A). The proposed 3-story building with its flat roof and monolithic shape will visually dominate the surrounding neighborhood.

If allowed to stand the Building Official's decision will result in a 3-story building in a neighborhood of 1- and 2-story houses, a building which is too tall for its small lot. This result would be counter to the intent of the setback requirements as well as the height requirements and minimum lot area and width requirements, which are designed and intended to "control the intensity of use on a lot to ensure consistency and compatibility of new dwellings with the surrounding development" (Section 14-2A-4:A. 1). **The Building Official's decision is not only counter to the intent of the zoning code, it is counter to the intent of the Comprehensive Plan to create and preserve attractive neighborhoods for the long term.**

Additional comments regarding **Criteria 4**. *The minor modification requested is in conformity with the intent and purpose of the regulation modified.*

Paragraph 7 of the Building Official's decision states: "The Minor Modification conforms with the intent and purpose of the Zoning Ordinance to ensure that

light, air and separation for fire protection and access for firefighting are maintained, provide opportunities for privacy between dwellings, **reflect the general building scale** and placement of structures in the city's neighborhoods, promote a reasonable physical relationship between buildings and between residences, and provide flexibility to site a building so it is **compatible with buildings in the vicinity**" (emphasis added).

The decision of the Building Official offers no facts to support this statement other than to say the arrangement of the proposed development on the lot is "similar to other existing dwellings along alleys in this neighborhood." While it is true the proposed placement in terms of setbacks is similar, the other properties in the vicinity are 1- and 2-story structures and thus they **are not subject** to the additional 2-foot minimum setback requirement. In effect, the decision concludes that the setback requirement which applies specifically and only to 3-story buildings is irrelevant.

According to Section 14-2A-4C (Building Bulk Standards), the height regulations are "intended to promote a reasonable building scale and relationship between buildings; provide options for light, air, and privacy; and **discourage buildings that visually dominate other buildings in the vicinity.**" The purpose of the minimum setback requirements is stated in Section 14-2A-4B: "to provide opportunities for privacy between dwellings, **reflect the general building scale** and placement of structures in the city's neighborhoods, **promote a reasonable physical relationship between buildings and between residences.**"

The decision of the Building Official does not address the purpose of the additional minimum 2-foot setback. By not addressing how the setback reduction preserves the intent of the setback requirement, the decision of the Building Official renders the setback requirement for 3-story buildings meaningless. **If the setback can be waived solely to meet the desires of the property owner or the developer without a compelling reason, why does the regulation exist at all?**

Contrary to the Building Official's written decision, the proposed building does **not** "reflect the general scale of structures in the city's neighborhoods"; does **not** "promote reasonable relationship between buildings and between residences" and would be **incompatible** with the neighborhood, which consists of 1- and 2-story houses with an average of 1,538 square feet sited on lots with an average area of 5,077 square feet (See Appendix A).

Under the section referring to dimensional requirements, the Zoning Code states, "*Purpose: The minimum lot area and width requirements are intended to ensure that a lot is of a size, width, and frontage that is appropriate for the uses permit-*

*ted in the subject zone and will ensure, in most cases, that the other site development standards of this title can be met. The lot area per dwelling unit standards **control the intensity of use on a lot to ensure consistency and compatibility of new dwellings with the surrounding development.***" (Section 14-2A-4: A) The last clause emphasizes that the size and width of a lot relates to the intensity of what can be built there. Even if one concludes that special circumstances apply to this lot, it does not stand to reason that zoning standards should be modified to allow the tallest and largest house within the RNS-12 zone on this block or the tallest and one of the largest within the entire RNS-12 zone in this neighborhood. **Should one of the smallest lots have the largest volume of building?** If allowed to be built as proposed, the house at 319 N. Van Buren would be the fifth largest house within the entire zone even though this is one of the smallest lots. Based on the City Assessor's data, houses comparable in square footage to the proposed house are located on conforming lots ranging in size from 5,000 square feet to 16,000 square feet.

While the size of this lot limits the extent of development, it does not inhibit construction of a single-family home consistent with surrounding development or the RNS-12 zone, or even new houses being built in new subdivisions. One need only look in the immediate vicinity to see that many properties are non-conforming with regard to lot width and/or area. Many of these are developed with homes that are 22-24 feet in width. **However, none of these are 3-story homes.** Some have garages, some do not. See Appendix A for characteristics of properties in the RNS-12 zone.

While it may be impractical to build the **proposed** 3-story, 4-bedroom, 4-bathroom, 2,660-square-foot house with 3 covered parking spaces on this small lot and comply with the zoning code, it is **not** impractical to build a house with the features that one would reasonably expect to find in most homes in Iowa City--even a fairly large modern house--on this lot and fully comply with the zoning code.

As written in the decision letter, the Building Official appears to have made the decision based on what is "**desired**" by Prestige Properties and not on the conditions of the lot or the intent of the zoning code. The intent of the greater setback for 3-story buildings is to help them fit into a neighborhood by providing greater open space around the larger buildings. The purpose, as expressed in the zoning code, is to help ensure adequate natural light and airflow for neighboring properties. The Building Official's decision does not merely modify the additional 2-foot setback required for a 3-story building. Rather it would waive it altogether on the north side of the property to allow a building to be taller and larger than otherwise permitted.

Non-conformities

The Building Official appears to have based much of the decision on this being a non-conforming lot in terms of lot area, lot width, and frontage. It is true the lot is small and nonconforming to current zoning requirements for lot area and width. The lot is 35 feet wide, whereas 45 feet is required. The lot area is 2,800 square feet, while 5,000 is the minimum lot area for a single-family structure. However, the Building Official made a factual error regarding lot frontage. The subject lot is conforming in terms of frontage. The required minimum is 25 feet; the actual frontage of this lot is 35 feet. (Section 14-2A-4: Dimensional Requirements. Table 2A-2.) As detailed in Appendix A, there are several similarly situated properties in this RNS-12 zone. None of them contain 3-story buildings and none of them approach the square footage proposed at 319 N. Van Buren Street.

It should be noted that while non-conforming provisions do not prevent the development of a house on a single-family lot, they do encourage development to become as conforming as possible. The code states:

“A nonconforming single-family use may also be expanded, repaired and structurally altered, provided such expansion or alteration does not increase or extend any other nonconforming situation of the property”
(Section 14-4E-4:B)

The code also states:

“A nonconforming structure that contains a single-family use may be restored to the same degree of nonconformity or less if destroyed or damaged by fire, explosion, act of God or by a public enemy. Such a structure may also be repaired or structurally altered, provided such construction does not increase or extend the degree of nonconformity and does not increase or extend any other nonconforming situation of the property”
(Section 14-4E-4C)

While these two provisions do not directly apply to the present case, they do illustrate the intent of the code to bring development toward conformity. The previous house on this property was nonconforming in terms of front and side setbacks. But the house was approximately 900 square feet in size and had only 1 and 1/2 stories. It therefore had much less effect on its neighbors than the proposed 3-story house. A newer house may be desirable on this lot, but to allow a tear down of a small house on a tiny lot in order to build a structure so out of scale as to require waivers of zoning requirements runs counter to the non-conforming standards found in the zoning code and would set a worrisome precedent for older neighborhoods where there are modest and affordable homes on lots that are smaller than the minimum lot area and lot width required by code.

For the foregoing reasons, the application of Prestige Properties for approval to reduce and waive the additional 2-foot setback required for a 3-story building at 319 N. Van Buren Street in the RNS-12 zone should have been denied.

APPENDIX A: ANALYSIS OF DATA FROM IOWA CITY ASSESSOR

A basic principle of zoning is to treat similar properties consistently and to not grant special treatment to some properties. We collected data from the City Assessor on the 171 single family properties located within the Northside RNS-12 zone to examine application of this principle.

How does Prestige Properties' proposal to build a 2,660-square foot house with 3 covered parking spaces on a 2,800-square foot lot compare to what is allowed, what is intended, and what is built in the RNS-12 zone?

The average size single family dwelling is 1,538 square feet. The average lot size is 5,077 square feet, which is nearly double the size lot on which Prestige proposes to build a 2660-square foot 3-story house. Not one of the 171 properties contains a 3-story house. Although it is possible that a few have attics that have been converted to living space, these would be under pitched roofs and have less effect on neighboring properties than the proposed full 3-story building with a flat roof.

The statistic illustrates what is intended by the zoning code — If you walk or drive down the streets of the RNS-12 zone, you will see that the houses consistently range from 1- to 2-stories. There are no 3-story houses. Even the apartment buildings within the zone tend to be only 2.5 stories above grade, with one floor partially submerged below grade. The proposed full 3-story building would be counter to this pattern, and using the words of the zoning code **would not** “*Maintain light, air, separation for fire protection, and access for firefighting; Provide opportunities for privacy between dwellings; Reflect the general building scale and placement of structures in the city's neighborhoods; Promote a reasonable physical relationship between buildings and between residences, and provide flexibility to site a building so it is compatible with buildings in the vicinity*” (Zoning Code Section 14-2A-4B).

As intended by the zoning code larger houses are located on larger lots. Within this RNS-12 zone there are 11 houses with over 2,200 square feet. With only one exception (418 N. Gilbert Street) these larger houses are located on lots that meet the minimum lot area requirement of 5,000 square. Five of the larger houses are located on lots of 9,000 to 16,000 square feet. Yet Prestige Properties, with the Building Official's approval, proposes to build one of the largest houses on one of the smallest lots. This is counter to the intent of the zoning code to use lot area, height limits, and setbacks to align development intensity with the size of a lot.

Of the 24 non-conforming lots similar to 319 N. Van Buren Street (2,700 to 3,100 square feet) only one property (730 Market Street) has a relatively large house on it. But at 2,026 feet this house is still smaller than the 2,660-square foot house proposed by Prestige Properties. The other similar non-conforming lots have houses that range from 532 square feet to 1,684 square feet with an average of 1,147 square feet. Like 319 N. Van Buren several of these lots are non-conforming in terms of lot width with one being as narrow at 30 feet. Yet these properties contain occupied dwellings that continue to find a place in Iowa City's housing market. (See TABLE 1.)

TABLE 1. LOTS WITH AREA OF 2700 TO 3100 SQ. FT.

Address	Lot Area in Sq. Ft.	Lot Width	House Sq. Ft.	Garage Stalls
410 Church	2800	40	1,193	0
426 Church	3000	40	1,117	1
430 Church	3000	40	1,272	1
704 Jefferson	2800	40	1,684	0
706 Jefferson	2800	40	1,180	2
318 Linn	2880	36	1429	0
512 Van Buren	3040	37.5	1,290	2
510 Van Buren	3040	37.5	928	0
415 Johnson	3040	37.5	657	0
411 Johnson	3040	37.5	648	0
224 Dodge	3040	38	1,617	0
220 Dodge	3040	38	532	0
209 Lucas	3000	75	1,467	1
326 Fairchild	2800	40	1370	0
408 Fairchild	2760	42	979	0
514 Fairchild	3000	40	1,078	0
516 Fairchild	3000	40	1,592	1
425 Fairchild	3000	30	992	0
522 Davenport	3000	40	1,396	1
528 Davenport	3000	40	1,396	0
530 Davenport	3000	40	1,396	0
730 Market	3000	40	2,026	1
828 Market	2800	40	920	0
715 Market	2850	38	1,440	1

Prestige Properties proposes to fit 3 covered parking spaces on its small lot. Of the 171 single family properties in this RNS-12 zone only 7 had more than 2 covered parking spaces. One property had a 4-stall garage, seven had 3-stall garages. There were 24 properties with 2-stall garages, 81 with a 1-stall garage. There are 59 properties with no garage. The lots with 3 and 4 parking spaces were large lots containing at least 6,000 square feet.

TABLE 2. GARAGE STALLS

Garages in Northside RNS-12 Zone	
1-stall	80
2-stalls	24
3-stalls	7
4-stalls	1
0 covered parking	59

This data demonstrates that to achieve the intensity of development desired by Prestige Properties it is necessary to have a larger lot. One can conclude from this data that the Building Official erred in the decision that it is impractical to build a reasonable sized house “desirable to a modern day homeowner” at 319 N. Van Buren Street without a modification of the setback requirements.

APL21-0001
ATTACHMENT 5

Neighborhood Mailing Materials
Prepared by Staff



CITY OF IOWA CITY

410 East Washington Street
Iowa City, Iowa 52240-1826
(319) 356-5000
(319) 356-5009 FAX
www.icgov.org

March 17, 2021

RE: Appeal regarding property at 319 N. Van Buren Street

Dear Property Owner:

The Iowa City Board of Adjustment has received an appeal submitted by David Moore. The appeal challenges a Minor Modification reducing the required 7 foot side setback along the north property line by 2 feet and along the south property line by 1 foot for the property located at 319 N. Van Buren Street (see attached map).

As a neighboring property owner, you are being notified of this application. If you know of any interested party who has not received a copy of this letter, we would appreciate it if you would inform them of the pending application.

The Board of Adjustment will review this application at an **electronic** public meeting tentatively scheduled for April 14, 2021 at 5:15 p.m. Because the meeting is subject to change, check the City of Iowa City's website, www.icgov.org/BOA, the week of the meeting to confirm the meeting agenda.

An electronic meeting, pursuant to Iowa Code section 21.8, is being held because a meeting in person is impossible or impractical due to concerns for the health and safety of Board members, staff and the public presented by COVID-19.

Details on how to participate in the electronic meeting will be included in the agenda packet, which will be available at www.icgov.org/BOA the Monday before the meeting. Providing comment in person is not an option.

You may also submit written information for consideration in advance of the meeting, and I will include your comments in the information to be considered by the Board.

Please do not hesitate to contact me at kirk-lehmann@iowa-city.org or 319-356-5230 if you have any questions or comments about this application or if you would like more information on the Board of Adjustment review process.

Sincerely,

Kirk Lehmann
Associate Planner
City of Iowa City
Department of Neighborhood and Development Services

Board of Adjustment: Frequently Asked Questions

What is the Board of Adjustment?

The Board of Adjustment is a panel made up of Iowa City citizens appointed by the City Council. The board reviews and grants special exceptions and variances and also considers appeals when there is a disagreement about an administrative zoning decision made by the City. Members of the board act like judges, making decisions about individual properties and uses that may have difficulty meeting a specific zoning regulation or to resolve disputes about administrative zoning decisions. The actions and decisions of the Board of Adjustment are binding upon all parties unless overturned upon appeal to District Court.

What is a special exception?

There are two types of special exceptions.

1. Within the zoning code a number of land uses are set apart as special exceptions that may be permitted in certain zones. Rather than permitting these uses outright, each is reviewed on a case-by-case basis to ensure that they do not negatively affect surrounding properties. For example, daycare centers are permitted in residential zones by special exception. The same is true of churches and private schools. All may be appropriate uses in residential zones, if certain criteria such as parking, screening, and other requirements are met.

2. Adjustments to specific zoning requirements in cases where there are unique circumstances. Again, the opportunity to adjust these requirements and the criteria for allowing such adjustments are described in the Zoning Code. For example, a homeowner may apply for a reduction in a building setback in order to accommodate an addition or other improvement to their property.

The Zoning Code lists explicitly each use and standard for which a special exception may be considered. In other words, you can't request a special exception for everything—only those things called out as special exceptions in the Code. The Code also provides criteria specific to each request. Applicants must provide evidence that they satisfy each of these criteria, and the Board must consider these criteria when making a determination as to whether to grant a special exception.

What is a variance?

A variance grants a legal right to an owner to develop property in a manner that deviates from a specific provision of the Zoning Code and for which a special exception is not expressly allowed. In seeking relief from the restrictions in the Zoning Code, the property owner applying for the variance must show that the strict application of the Zoning Code would cause and unnecessary hardship such that the property in question is unusable or that a literal interpretation of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the zoning district. In addition the circumstances that create this hardship must be unique to the property in question and must not be of the property owner's own making.

What is an appeal?

The Board considers and rules on appeals from any citizen who believes there is an error in any decision, determination, or interpretation made by the City or its designee in the administration of the Zoning Code. As with their other decisions, the Board's ruling is binding on all parties unless overturned on appeal to the District Court.

How does the review process work?

An application requesting a special exception, variance, or an appeal is a request. The Board makes a decision on whether to grant a specific request only after City staff have provided a review of an application and the public has had an opportunity to make its concerns known. The Board not only has the right to approve or deny requests, but may also choose to approve request subject to certain conditions.

In making decisions, the Board may only consider comments and evidence relevant to the specific standards provided in the code. City Development Staff provide reports to the Board for each application on the agenda. The Staff Report provides background information on the application, informs the Board of all the criteria in the Code that a particular application must satisfy, and interprets whether and how an application has satisfied these criteria.

How can I participate in the process?

Because most applications will be reviewed and decided upon at a single public hearing, it is important for interested parties to respond in a timely and informed manner. Those who wish to speak for or against an application are given an opportunity to be heard by the Board at the hearing, but may also submit written comments prior to the meeting.

Written comments must be delivered to the Department of Neighborhood & Development Services at City Hall no later than 5 days before the hearing in order to be included with the Staff Report. All correspondence submitted after that time will be delivered to the Board at the time of the hearing.

The Board considers the application, the recommendation of staff (in the staff report) and any additional information, correspondence, or testimony provided at the hearing. Board of Adjustment hearings are usually held on the second Wednesday of each month at 5:15 p.m. in Emma J. Harvat Hall in City Hall. You can find more information at the following website: www.icgov.org/boa.

The Staff Report can be very useful to anyone who is unfamiliar with the BOA process or with the Zoning Code and will provide an understanding of the criteria that the Board must consider in rendering its decision. Staff Reports may be obtained from the Department of Neighborhood & Development Services. E-mail kirk-lehmann@iowa-city.org to request a copy of a report.

If you have questions about an application or if you simply want more information about issues related to the Board of Adjustment, please feel free to contact Kirk Lehmann at 319-356-5230 or e-mail kirk-lehmann@iowa-city.org.

To submit comments to the Board of Adjustment write to the Board of Adjustment c/o the Department of Neighborhood & Development Services, 410 E. Washington St., Iowa City IA 52240 or e-mail kirk-lehmann@iowa-city.org.



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APL21-0001 319 N. Van Buren St.



Prepared By: Joshua Engelbrecht
Date Prepared: February 2021



An appeal submitted by Dave Moore to overturn a decision of the Building Official approving a Minor Modification reducing the required 7 foot side setback along the north property line by 2 feet and along the south property line by 1 foot.

Mailing Name	Mailing Address2	Mailing Address3	Mailing Zip Code	Property Address
406 NVB LLC	PO BOX 3049	IOWA CITY, IA	52244-3049	406 N VAN BUREN ST
ADAM DREYFUSS GALLUZZO	430 E DAVENPORT ST	IOWA CITY, IA	52245	430 E DAVENPORT ST
ANDREW J & LINDSEY R LITTON	331 N VAN BUREN ST	IOWA CITY, IA	52245	331 N VAN BUREN ST
AUDITORS OFFICE	913 S DUBUQUE ST STE 100	IOWA CITY, IA	52240	
AUDITOR'S OFFICE	913 S DUBUQUE ST STE 101	IOWA CITY, IA	52240	
BL-1 LLC	PO BOX 3047	IOWA CITY, IA	52244-3047	522 E BLOOMINGTON ST
BLOOMINGTON BLDG PROPS LLC	510 E BLOOMINGTON ST	IOWA CITY, IA	52245	510 E BLOOMINGTON ST
BLOOMINGTON STREET PROPERTIES	5 KIMBALL RD	IOWA CITY, IA	52245	430 E BLOOMINGTON ST
DARLENE CLAUSEN	508 E BLOOMINGTON ST	IOWA CITY, IA	52245	508 E BLOOMINGTON ST
DAVID MOORE	425 E DAVENPORT ST	IOWA CITY, IA	52240	425 E DAVENPORT ST
DON C & DOROTHY L FOWLES	4655 RUNNING DEER WOODS NE	IOWA CITY, IA	52240	310 N GILBERT ST
ELISABETH JEWELL	607 E WASHINGTON ST	MOUNT PLEASANT, IA	52641	424 E DAVENPORT ST
ERP LLC	1530 IWV RD SW	OXFORD, IA	52322	411 E DAVENPORT ST
FIRST HAWK LLC	873 NORMANDY DR	IOWA CITY, IA	52246	327 N JOHNSON ST
I C RENTALS LC	741 OAKLAND AVE	IOWA CITY, IA	52240	331 N JOHNSON ST
JAMES B & BECKY J BUXTON	1811 MUSCATINE AVE	IOWA CITY, IA	52240	402 E DAVENPORT ST
JAMES C SHAW	718 KIMBALL AVE	IOWA CITY, IA	52245	420 E DAVENPORT ST
JASON D VARDAMAN	315 N VAN BUREN ST	IOWA CITY, IA	52245	315 N VAN BUREN ST
JULIA ELLA LEUPOLD REVOCABLE T	13515 253RD AVE	SPIRIT LAKE, IA	51360	318 N GILBERT ST
LAKE & LAKE LC	1912 FLATIRON AVE	IOWA CITY, IA	52240	502 E DAVENPORT ST
M322 LLC	PO BOX 3049	IOWA CITY, IA	52244-3049	322 N VAN BUREN ST
MARLIN R INGALLS	515 E DAVENPORT ST	IOWA CITY, IA	52240	515 E DAVENPORT ST
MARVIN M ROSHEK TRUST	590 W FOREVERGREEN RD	NORTH LIBERTY, IA	52317	415 N VAN BUREN ST
MERCY HOSPITAL	500 E MARKET ST	IOWA CITY, IA	52245	230 N GILBERT ST
MICHAEL T & KELLEY A MCLAUGHLI	614 PINE RIDGE RD	CORALVILLE, IA	52241	421 E DAVENPORT ST
MSL JCL, LC	228 WOOLF AVE	IOWA CITY, IA	52246	504 E BLOOMINGTON ST
OSCAR C BEASLEY	211 N 1ST AVE APT 1	IOWA CITY, IA	52245-3643	321 N JOHNSON ST
PRESTIGE PROPERTIES DEV LLC	329 E COURT ST STE 2	IOWA CITY, IA	52240	319 N VAN BUREN ST
PRESTIGE PROPERTIES IV LLC	329 E COURT ST SUITE 2	IOWA CITY, IA	52240	412 E BLOOMINGTON ST
REM PROPERTIES L C	953 WEEBER ST	IOWA CITY, IA	52246	508 E DAVENPORT ST
RICHARD E MASON	953 WEEBER ST	IOWA CITY, IA	52246	509 E DAVENPORT ST
RONALD R COCHRAN	PO BOX 2	WEST BRANCH, IA	52358-0002	
SHANNON A HEIMAN	410 N VAN BUREN ST	IOWA CITY, IA	52245	410 N VAN BUREN ST
SHAWN F COLBERT	415 E DAVENPORT ST	IOWA CITY, IA	52245	415 E DAVENPORT ST
STEVE V NASH	1113 PRAIRIE GRASS LN	IOWA CITY, IA	52246	314 N VAN BUREN ST
STEVEN G & MARY L REICHARDT	512 DAVENPORT ST	IOWA CITY, IA	52245	512 E DAVENPORT ST
THOMAS R SCOTT	419 E FAIRCHILD ST	IOWA CITY, IA	52245	414 E DAVENPORT ST
YOUTH HOMES INC	1916 WATERFRONT DR	IOWA CITY, IA	52240	

CITY OF IOWA CITY
City Hall
410 E. Washington St.
Iowa City, IA 52240-1826

RONALD R COCHRAN
PO BOX 2
WEST BR

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CITY OF IOWA CITY
52240-1826

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APL21-0001
ATTACHMENT 6

Correspondence
Submitted by Members of the Public

Additional Correspondence 1

From: [andrew.kramer](mailto:andrew.kramer@larewlaw.com)
To: [Kirk Lehmann](mailto:Kirk.Lehmann@northliberty.org); Glietnz@northliberty.org
Cc: [James Larew](mailto:James.Larew@larewlaw.com)
Subject: 319 Van Buren - Statement of Larew
Date: Monday, April 12, 2021 11:52:14 AM
Attachments: [We sent you safe versions of your files.msg](#)
[319 Van Buren. Statement of James C. Larew 4.12.21.pdf](#)



Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Good morning,

Please find attached a statement from James C. Larew regarding 319 Van Buren.

Thank you,

Andrew Kramer
Paralegal
Larew Law Office

Office: 319.337.7079

Fax: 319.337.7082

504 E. Bloomington Street, Iowa City, IA. 52245

252 E. 3rd Street, Des Moines, IA. 50309

210 Cedar Street, Muscatine, IA 52761

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To: Members of the Iowa City Board of Adjustment

From: James C. Larew

Re: Appeal of Application for Minor Modification
319 N. Van Buren Street, Iowa City, Iowa

I represent myself and my spouse, Mary S. Larew, who, together, own a limited liability company, MSLJCL, LC, which is the title holder to a restored Victorian home located at 504 E Bloomington Street, in Iowa City, less than 100 feet from 319 N. Van Buren Street, the subject of this proceeding.

I believe that the action of the City of Iowa City ("City") to approve what has been characterized by the City as a "minor modification" for plans to build a thirty-five-foot-high, three-story, four-bedroom, four-full-bath, three-car-stalled, box-shaped structure with a flat roof on one of the smaller lots in the Northside neighborhood, is clearly contrary to law and should be reversed.

The Minor Modification Decision, issued on January 14, 2021, by Danielle Sitzman, Development Services Coordinator and Building Official for the City of Iowa City, is in error pursuant to two independent, yet reinforcing, reasons:

- 1. Iowa City's Municipal Code sections 14-4B-1A-7 and 14-4B-1.A.7, on their face and as applied to the application for a "minor modification" concerning property located at 319 N. Van Buren Street, are in violation of Iowa's Constitution, of Iowa's home rule statutes related to the limited powers of the Board of Adjustment, and of Iowa's common law.**

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- 2. Even if one were to assume, *arguendo*, that these Municipal Code sections are lawful, when the material facts are objectively considered by the Board of Adjustment no reasonable finding could be made that the Iowa City’s zoning ordinances, when applied to 319 N. Van Buren Street, create an impracticality such as to relieve the owners of the proposed structure of their duty fully to abide by the applicable zone’s side-yard setback requirements.**

A. BACKGROUND FACTS AND SUMMARY OF ARGUMENT

Prestige Properties Development, LLC, (“Prestige” or “Owner”), the current owner of 319 N. Van Buren Street (“Property”), in conjunction with prospective purchasers, Dr. Brian Richards and Dr. Bronwen Richards (“Purchasers”), of LeClaire, Iowa, seek exceptions to the Zoning Chapter of the Code Municipal Ordinances (“Municipal Code”) of the City of Iowa City (“City”) to accommodate their goal of constructing, on one of the smallest lots in the Northside Neighborhood, a thirty-five-foot high, three-story, four-bedroom, four-full-bath, three-car-stalled, box-shaped structure with a flat roof.

To compress the construction of a very large building onto a very small lot—a lot upon which a smaller, functional, single-family dwelling once stood, before it was demolished by Prestige—the Owner and Purchasers seek approval of a zone-required side-yard set-back reduction of up to two feet (2’) of the lot’s north side boundary, and a zone-required side-yard set-back reduction of 1 foot (1’) from of the lot’s south side boundary.

Although characterized under Municipal Code § 14-4B-1 as a request for a “Minor Modification,” in fact, any reasonable interpretation of Municipal Code § 14-4B-1A-7 under Iowa law causes one to conclude that the Owner and Purchasers are really seeking, in effect, what amounts to an “area variance,” based upon their showing that it would be “impractical” for them to comply with the side-yard set-back requirements of Iowa City’s RNS-12 Neighborhood Stabilization Residential zoning requirements.

In fact, for more than sixty years, the Iowa Supreme Court has repeatedly held that area variances such as this one cannot be granted by a City Board of Adjustment except under the most unusual circumstances, and not merely upon an allegation of perceived inconveniences. Rather, the requisite showing by a proponent of an area variance is a much more difficult one to prove: that an

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“unnecessary hardship” would be created if a requested variance is not granted. That situation is not found here, under any reasonable interpretation of the facts.

The clear limits of the Iowa City Board of Adjustment authority to grant any exemptions, such as to zoning ordinance area variances, are firmly established by Iowa General Assembly under constitutional provisions related to home rule authority. Those strict limits with respect to the enforcement of area variances have been frequently reinforced by the Iowa Supreme Court, most recently on February 26, 2021, in *Earley v Bd of Adjustment*, 955 N.W. 2d 812 (Iowa 2021).

Our highest court in that case reversed a decision of the Cerro Gordo County Board of Adjustment’s decision to allow a homeowner with property on Clear Lake to build onto an existing home a side porch whose perimeter had encroached upon the area protected by the county zoning ordinance’s side-yard set-back requirement: exactly the kind a exception that the owners of 319 N. Van Buren seek in this instance.

Drawing on consistent prior holdings rendered over more than six-decades, the *Earley* Court determined, yet again, that an area variance can be granted where, and only where, the application of the zoning regulation in question to a particular piece of property greatly decreases or practically destroys its value for any permitted use. Clearly, that is not the case, here. Rather, the (unproven) allegation made here by the Owner and Purchasers is that to abide by the City’s zoning ordinance would be merely “impractical.”

That is not enough.

Accommodations inconsistent with the law cannot, and should not, be shoe-horned in by Building Officials to appease particular persons with existing and future ownership interests in real property. Municipal Code §§ 14-4B-1 and 14-4B-1A-7 purport to substitute Iowa law’s strict “unnecessary hardship” test with a diluted “practical difficulty” test for area variances by re-characterizing them as mere “minor modifications.” The attempted dilution should be stopped, here. The application for a Minor Modification should be denied in its entirety. This body should direct the City Council to review and revise these Municipal Code provisions to assure that they conform fully with Iowa’s constitution, statutes and common law.

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B. ARGUMENT

1. **Iowa City's Municipal Code sections 14-4B-1A-7 and 14-4B-1.A.7, on their face and as applied to the application for a "minor modification" concerning property located at 319 N. Van Buren Street, are in violation of Iowa's Constitution, of Iowa's home rule statutes related the limited powers of the Board of Adjustment, and of Iowa's common law.**

Zoning law in Iowa is governed by our state Constitution, by state statutes, by local ordinances, and by the Iowa Supreme Court's common law interpretations of them.

The Iowa Constitution, at Article III, § 38A, adopted in 1968, grants home rule authority to cities, as follows:

Municipal home rule. Municipal corporations are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. The rule or proposition of law that a municipal corporation possesses and can exercise only those powers granted in express words is not a part of the law of this state.

This constitutional grant of authority has been supplemented by a statutory recognition of home rule authority by cities. One of those provisions occurs in Iowa Code Chapter 364, titled, the "Power and Duties of City," under which a number of provisions appear that are germane to these proceedings.

Under Iowa Code § 364.1:

"A city may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents. This grant of home rule powers does not include the power to enact private or civil law governing civil relationships, except as incident to an exercise of an independent city power."

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Under Iowa Code § 364.2:

- “1. A power of a city is vested in the city council except as otherwise provided by a state law.
2. The enumeration of a specific power of a city does not limit or restrict the general grant of home rule power conferred by the Constitution of the State of Iowa. A city may exercise its general powers subject only to limitations expressly imposed by a state or city law.
3. An exercise of a city power is not inconsistent with a state law unless it is irreconcilable¹ with the state law.
....”.

Further, under Iowa Code § 364.3(3)(a):

“A city may not set standards and requirements which are lower or less stringent than those imposed by state law, but may set standards and requirements which are higher or more stringent than those imposed by state law, unless a state law provides otherwise.”

Pursuant to Iowa Code § 414.7, cities are required to create boards of adjustment with five citizen members who are empowered, among other things to interpret, implement, and enforce zoning ordinances. Iowa Code § 414.12(3) sets forth a strict standard for the granting of any variance.

“[A board of adjustment is granted the power] to authorize upon appeal in specific cases such variance from the terms of the ordinance **as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in *unnecessary hardship*, and so that the spirit of the ordinance shall be observed and substantial justice done.”** (emphasis added)

The general rule is that the authority to grant an area variance should be exercised by a board of adjustment sparingly and only under exceptional circumstances. Drawing on this statutory standard, and this general rule, the Iowa Supreme Court has repeatedly and consistently defined an “unnecessary hardship.”

¹ A local law is "irreconcilable" with state law when the local law "prohibits an act permitted by statute, or permits an act prohibited by a statute." *Goodell v. Humboldt Cty.*, 575 N.W.2d 486, 500 (Iowa 1998)(citation omitted).

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In 1962, in *Deardorf v. Board of Adjustment*, 118 N.W.2d 78 (Iowa 1962), a three-part test was adopted establish that term's parameters. Under it, a landowner must show that:

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone;
2. The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood; and
3. The use to be authorized by the variance will not alter the essential character of the locality.

Id., at 81.

The test is strictly limiting, its burdens are onerous; as a result, a board of adjustment is very constrained in its authority to grant *any* area variances. Under *Deardorf*, a board of adjustment may award an area variance:

“...where, and only where, the application of the regulation in question to particular property greatly decreases or **practically destroys its value for any permitted use**, or where such application bears so little relationship to the purposes of zoning that, as to the property in question, the regulation is in effect confiscatory, arbitrary, or capricious, or constitutes an unnecessary, unwarranted, or unjust invasion of, or interference with, a fundamental right of property.”

Deardorf, at 82 (emphasis added). Under that legal test, the question is not whether the applicant-property could be improved or “more profit could be made if a variance is granted. Rather, the standard is whether a reasonable return cannot be garnered from a permitted use.” *Graziano v Board of Adjustment*, 323 N.W. 2d 233, 237 (Iowa 1982). A lack of a reasonable return may be shown by proof that the owner has been deprived of *all* beneficial use of his land. The infringement of peaceful enjoyment must equal a denial of all beneficial use. *Greenawalt v Board of Adjustment*, 345 N.W. 2d 537, 542-43 (Iowa 1984).

Under the *Deardorf* test, the Iowa Supreme Court has consistently and repeatedly denied efforts to circumvent area restrictions, such as here, side-yard set-back restrictions that are set forth in City and County zoning ordinances. That is to say, even the most modest request for area variances that are fully supported by neighbors—a striking contrast to the application made by the owner of 319 N. Van Buren Street—must be denied by boards of adjustment where only “practical”

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difficulties (and not “unnecessary hardships”) are imposed by area restrictions established in zoning ordinances.

It is not legally sufficient for a property owner to claim that only minor tweaks of technical requirements are sought. The very essence of the “minor modification” approach created under Iowa City Municipal Code §§ 14-4B-1 and 14-4B-1A-7 impermissibly blurs the bright-line “unnecessary hardship” test established under *Deardorf* and is, therefore, inconsistent with state law.

In *Deardorf*, the bell-weather opinion Iowa Supreme Court issued nearly sixty years ago, a local board of adjustment’s allowance of a property owner to build an apartment house taller than the zoning ordinance was denied. *Id.*, at 79-83. In a subsequent instance, the *Greenawalt* case, our highest court denied a landowner’s attempt to place a six-foot-high fence around the perimeter of a lot troubled by vandalism, in an area whose zone restricted such fences to 42 inches in height. *Greenawalt*, at 543-44. In *Earley*, the most recent case, the Iowa Supreme Court denied an area variance to a family that had inadvertently violated a side-yard set-back requirement when they built a side porch onto an existing house whose foundations had been built too close to the side-yard property line.

Some may complain that such a strict enforcement of area restrictions, under Iowa’s statutes and resulting common law, impose too high a burden, or “impracticalities,” on property owners. Such persons may point to the fact that in the past twenty years, a number of states, both by legislation and by state appellate court decisions, have abandoned strict *Deardorf*-type zoning restrictions and, instead, have allowed *area* (but, generally, not *use*) variances based on less onerous showings based on such “impracticalities.”²

In this instance, although characterized as a mere “minor modification” of Iowa City’s zoning ordinance applied to property located at 319 N. Van Buren Street, an area zoned as RNS-12, in fact, under Iowa City Municipal Code §§ 14-4B-1 and 14-4B-1A-7, the owners seek what is, in fact, an *area* variance. An area variance does not involve a use that is prohibited by an ordinance, but rather concerns a deviation from specific requirement such as height limitations, setback lines, size regulations, and the like. *City of Johnston v Christenson*, 718 N.W.2d 290, 299 n.4 (Iowa 2006).

²

California; Minnesota; Missouri; New Hampshire; Ohio; Pennsylvania; Wisconsin. See: N. William Hines, *Difficulties Standard for Area Variances*, 102 Iowa L. Rev. Online 365 (2018).

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But, the law in Iowa is clear: a city board of adjustment is not authorized to grant an *area* variance unless the landowner requesting the area variance can satisfy all three parts of the *Deardorf* test to prove that the enforcement of a zoning ordinance, without a variance, will result in an “unnecessary hardship” precluding the owner from making a **reasonable use of the land** and cannot earn a reasonable rate of return.

The Board of Adjustment is asked to do that which Iowa law prohibits.

The Iowa City zoning ordinance wrongfully empowers a building official or designee to grant “minor modifications” from certain area restrictions clearly established under applicable zoning provisions. Iowa City Ord. 14-4B-1. “Minor modification reviews provide flexibility for unusual situations applicable to the property, for which strict application of the regulations is impractical.” *Id.* The building official may grant minor modifications “provided the approval criteria are met.” But the use of such discretionary power is exactly what the Iowa Supreme Court has consistently prohibited.

In fact, the only way that the owner of 319 N. Van Buren Street can build the proposed building, using described footprint specifications, is by filing of a special exception or variance application with the Board of Adjustment. Iowa City Ord. 14-4B-1(A). Moreover, in such an instance, to obtain a variance, the owners will be required to demonstrate full compliance with the three-part *Deardorf* test—something that the present record proves cannot be achieved.

The Iowa City Board of Adjustment cannot do what Iowa law does not empower it to do. As such, the application for a Minor Modification for 319 N. Van Buren Street—based on a desire to squeeze a little more floor space for an expansive three-structure housing structure on one of the smallest lots in Iowa City’s historic Northside Neighborhood—should be denied in its entirety.

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- 2. Even if one were to assume, *arguendo*, that these Municipal Code sections are lawful, when the material facts are objectively considered by the Board of Adjustment no reasonable finding could be made that the Iowa City's zoning ordinances, when applied to 319 N. Van Buren Street, create an impracticality such as to relieve the owners of the proposed structure of their duty fully to abide by the applicable zone's side-yard setback requirements.**

For more than a century, at least since the 1870's, 319 N. Van Buren Street was the site of a charming, modest, one-story frame house whose footprint, including its front stoop, was 744 square feet. That footprint filled a little more than one-fourth of the lot, whose perimeter measures 35 feet by 80 feet, and whose total size is about 2800 square feet. For many of those years, a small, one-vehicle garage stood at the westerly end of the Property, allowing vehicular access to-and-from the City-owned alley, which runs, on an east-west axis, along the parcel's southerly border. That alley is used by the general public, including, principally, owners of properties that face Bloomington Street, to the south, and East Davenport Street, to the north.

Alternating ownership controlled the Property's fate for more than the past half century, when the structure provided housing to many persons. On the one hand, there were longer-term owners (e.g., the Emma Elberts Trust, from 1954 to 1980; the Collins' family, from 1983 to 1988—during which time new siding and windows were installed; and Scott Ronny Tomer, from 1993 to 2012). On the other hand, there were multiple, serial ownership flippers (e.g., Walters, Yansky, Blair, intermittently, between 1988 and 1993). While in Mr. Tomer's ownership, according to City records, general internal remodeling improvements were made to the Property.

According to City records, the present owner, Prestige, purchased the Property from Mr. Tomer on January 10, 2012, and initially rented it to residential tenants. Prestige has been buying housing properties in the Northside Neighborhood area for years, largely operating them as rentals. According to those same records, Prestige is now one of the largest property owners in the area. It rents mostly to college students. While student residents are an important part of the City's population, it is also the case that as the number of student-rental units increases in the neighborhood, housing options are diminished for retirees, lower income residents, young couples, and families with children who wish to live near Horace Mann School and downtown.

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City records document no structural improvements made to the Property during Prestige's ownership of it. In fact, the Property did not fare well under Prestige's possession. Five and one-half years after buying it, in 2017, Prestige applied for a demolition permit. The City issued it and the structure was torn down. An examination of the City's records does not reveal how the condition of this residential rental property so rapidly deteriorated, to the extent that necessitated its condemnation and removal. But, under the City's rental regulatory supervision, that is what happened.

Similarly, even though applicable zoning provisions do not appear to permit such uses, for more than two years thereafter, from the date of the structure's demolition up to the present date, the Property's unpaved, barren ground has been used by the Owner to store raw piles of building materials (dirt, gravel) and to park cars. The City's lax enforcement of Municipal Code provisions applicable to such uses is not inconsistent with its actions with respect to the current application for a "Minor Modification."

A further, curious feature about this Property, one that involves the public's interest, and not just the interests of the current and previous owners-of-record, is the extent to which it has benefited from spot-zoning. As the result of generations of residents' support and local political activism, the Northside Neighborhood enjoys zoning protections, such as the City's Comprehensive Plan, the adjacent Horace Mann / Goosetown Conservation District and the Historic Conservation Overlay. However, and for reasons that do not appear in the record of this proceeding, thus far, a special, carved-out zoning status has been preserved for this particular Property. This parcel, and not its immediate real property neighbors, has been specially zoned by the City as a RNS12 (Neighborhood Stabilization Residential Zone), and not as a part of the Historic Conservation Overlay.

The latter designation, which applies to most surrounding property, is intended to give added measures of protection to property owners who have invested in their homes and neighborhood amenities against those who might otherwise be inclined to drop a large, modern, cut-and-paste-designed, oversized building, readied for concentrated tenant occupancy, on to a lot that is too small for the project. A property whose owner is reasonably perceived by neighboring property owners to be receiving special zoning treatment, under the City's regulatory authority, can and, predictably, will result in conflicts amongst neighbors.

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That is what is happening here.

This troubling course of regulatory events is inconsistent with any professed commitment by the City, in its planning documents, "... to maintain, improve and reinvest in older housing stock." It is clear, however, that if remaining threads of applicable provisions of the Zoning Chapter are properly applied to the known facts of this request for special treatment, a proper outcome can be achieved in this instance: the denial of the Prestige's request for an exemption from the important set-back requirements of the RNS-12 zoning district.

To support its request for special zoning privileges from the City, taken in the form of a "Minor Modification" of side-yard set-back requirements that are imposed on all properties located in the Neighborhood Stabilization Residential Zone (RNS-12), Prestige brought to the earlier January 6, 2021, Minor Modification Hearing a series of witnesses to speak in support of the application. These witnesses included the prospective purchasers of the Property from Prestige, Dr. Brian Richards and Dr. Bronwen Richards (hereafter, "Purchasers" or "Drs. Richards"), residents of LeClaire, Iowa, each of them self-employed as accomplished dental specialists in the Quad Cities area.

According to the account expressed by them at the Hearing, the Purchasers, years ago, before moving to the Quad Cities, had owned and resided at 315 North Van Buren ("315"), located just across the alley, to the south, from 319 North Van Buren.³ According to Dr. Brian Richards, he and his spouse "love the area" (the only area discussed at the Hearing were the two addresses—315 and 319 North Van Buren Street) and that they had "worked really hard" to "actually get back there." He expressed the couple's observation that if they "had to do it over again" they probably wouldn't have sold "the little white house [315]" to Jason "Jake" Vardaman, who was also present at the Hearing.⁴

³ The summary of the statements made by the Purchasers are made from best-available notes of the meeting. If the City recorded the January 6 meeting, such recording has not yet been made available to the public on the City's website.

⁴ Mr. Vardaman, both at the Hearing and in written communication with the City, has expressed his opposition to the proposed plans to construct the residential building at 319 N Van Buren Street. He believes that the reduced side yard restriction will cause vehicles moving in and out of the three garage slots to run into his fences and cause property damage to his residential home. He also objects

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Dr. Brian Richards stated further that, knowing that he and his spouse “wanted to go back to the area,” they “saw the lot available [319] [and] decided to try building.” Dr. Brian Richards acknowledged the fact that the lot was small and would “have done something different” with the design, but “to do what we had to do to fit that space [they] had to go up.” Describing the plans as “a nice design,” he underscored that he and his wife “love the area” and “that’s kind of where [they] wanted to be.”

In addition to the “return to the neighborhood” residential aspirations of he and his spouse, Dr. Bronwen Richards, Dr. Brian Richards further described that the couple had two young adult children, “one in college, one ready to go to college,” and that he and his wife “we’re kind of building the house for our future.”

Dr. Bronwen Richards spoke next and, after affirming her husband’s account, further stated that she had lived next door to the subject Property, at 315 N. Van Buren Street for ten years, and that her husband had resided there for thirteen years. When, she attested, they had “found the place [319 North Van Buren Street] and had the opportunity...yes its very small **but we’d like to comply with everything**...we’re trying to figure out how...to get back in there and enjoy Iowa City again.”

One of the Hearing participants, Mr. David Moore, who lives within 200 feet of the property, attempted to inquire directly of the Purchasers, in follow-up to their statements, as to whether the couple, truly, intended to live at the residence, as their statements had implied, or whether they viewed it as a rental investment property. The line of questioning was summarily cut-off by the City’s Hearing Convenor before any answer was provided.

There is little reason to challenge the Drs. Richards’ descriptions of how much they enjoyed, years earlier, living at 315 N. Van Buren Street, as residents of the Northside Neighborhood. Although they did not say as much when they spoke in support of obtaining exceptions to the Zoning Code, one can imagine that, back then, they appreciated, when looking from the front porch of their home to the north, the unique, charming, modest home at 319 N. Van Buren Street, a residence appropriately-sized for the lot, the structure now torn down by the Owner to accommodate the tall boxed building that Drs. Richards propose to build and occupy. Or, perhaps, back then, looking across the street, southeasterly, they

to the harms that will be caused to the “character and aesthetic” of the neighborhood.

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appreciated the efforts that Mary and I made to preserve the Victorian building at 504 E. Bloomington Street.

In any event, the Purchasers, at the Hearing, did provide personal testimonials in support of Prestige's proposal to build a structure on their behalf, that exceeds the Zoning Chapter's allowed set-back, side-yard requirements. Such testimonials—describing their intent to occupy the premises personally, if it were to be built—were perhaps aimed to blunt the predatory request, made by a developer, in support of a building and a concept that is only too familiar to Northside Neighborhood residents: commercial ventures aimed to increase the numbers of, and to maximize profits of new housing projects. Commercial, profit-driven projects, when aided by exemptions to minimum zoning set-back requirements pose special potential harms to fragile residential neighborhoods. The importance of the precedent that the City will be setting if it grants the requested exceptions could be profound, causing adverse ripples for years to come as this, or other, developers point to this example as a basis for their own, further demands for Zoning Chapter exceptions.

Whether the present intent of the Purchasers—to move to and occupy the new structure—was fully or accurately stated by them is a question that deserves careful consideration. Middle-age epiphanies do occur and, perhaps this couple is experiencing just such an event. Can such a change-of-life dream be satisfied by purchasing one of the smallest lots in the Northside Neighborhood and occupying, with two college-age children, a box-shaped, flat-roofed building with virtually no green space, located immediately adjacent to an active City-owned alley? Will the dream be realized with a proposed structure that will tower over adjoining properties, adorned with four small bedrooms, four separate bathrooms, limited common areas, virtually no storage space, and serviced by parking garage spaces that will be difficult to get into and out of, and which will be separated from the first-floor living spaces by no fewer than thirteen steps?

Perhaps. But, then again, perhaps not.

That such an epiphany might be abandoned after the proposed building is completed, and that such a structure might be turned into a rental investment property seems entirely possible, if not probable. If so, then balancing neighboring residents' rights to rely on stabilities assured by clearly-stated minimum zoning side-yard set-back requirements against the request for exemptions from those requirements, to accommodate what amounts to a commercial venture, must be the subject of particularly careful scrutiny.

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A cursory review of public real estate records in Scott County, Iowa, may provide clues as to the likelihood that the Purchasers, notwithstanding how sincerely they presently believe themselves to be committed to the prospect of relocating themselves to the Property and residing there full-time, will carry forward with their vision if the City were to grant Prestige the privilege of exemptions from zoning ordinance set back requirements.

According to those real estate records, the Drs. Richards reside at 2301 Forest Reed Place, LeClaire, Iowa 52753. The adjoining lots, owned by what is described as the “Brian J. Richards Revocable Trust,” are comprised of an area of 1.61 acres (that is, 70,132 square feet) and, according to photographs on the Scott County Assessor’s website, include expansive lawns. Listed as a single-family dwelling, the combined living area (inclusive of a finished basement) exceeds 7,900 square feet. This does not include the garage (936 square feet) or the swimming pool (900 square feet of water surface area)—each of which, alone, exceeds the 744 square foot footprint of the home that was demolished by the Owner to make way for this proposed project in Iowa City’s Northside Neighborhood. The Scott County Assessor describes Drs. Richards’ home as having fourteen rooms, including five bedrooms and seven bathrooms, assessing the value of the property in 2020 at \$1,308,020.

The Northside Neighborhood, one of the oldest residential areas in Iowa City, has always welcomed and included successful residents and has one of the most interesting mixes of citizens anywhere in the vicinity. “Success,” over the years, has been measured in many different ways: artists, writers, poets, musicians, scholars, medical professionals, blue collar workers, people struggling with the challenges of disabilities, people becoming acclimated to a new nation or a new community—the list goes on and on.

The request to grant special zoning privileges for 319 North Van Buren Street should not be granted or denied on the basis of anyone’s wealth or status. However, prospective owners who, in vouching their support of special zoning privileges, base their request on their personal reasons for doing so, including their professed desire to move into, with their adult children, the structure they propose to build should not be exempt from having those reasons scrutinized and carefully considered.

The Owner, Prestige Properties Development, LLC, has the burden of proving zoning privileges in the form of a “Minor Modification” to allow a larger building than otherwise would be allowed on the property at 319 N. Van Buren

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Street. The policy considerations for the City are critical. There is a legal adage in Iowa to the effect, that a man, who, having killed his parents, cannot throw himself on the mercy of the court because he is an orphan. So, too here, a developer should not be allowed to purchase a small lot, upon which is located a viable modest home, to allow it to deteriorate to the extent that it must be demolished, and then to claim that he must be allowed special zoning privileges because the high-density residential structure that he wants to build upon it is too big for the lot and that, therefore, to be required to abide by the local zoning ordinance would be, for him, “impractical.”

Although perhaps new to the Drs. Richards, the shop-worn pattern is easily recognized by those who have resided in Iowa City for any period of time, including those citizens who have staked their claims and livelihoods on their homes in the Northside Neighborhood. An out-of-town family sending their children to the University of Iowa, transforms rental expenses that otherwise would be paid to third party apartment owners (or, to the UI), into investment funds, supporting the costs of the structure, and perhaps, too, charging rent to roommates—persons who, oftentimes, are friends of the family’s children.

The proposed structure is consistent with this model and is not an exemplar of any genuine impracticalities attributable to the enforcement of the City’s zoning ordinance: four bedrooms tightly packed into a building three-stories high, with parking provided. Such a housing scheme, if properly established, can meet tax laws and result in successful investments, even when it is predicated on tearing down existing housing stock that fulfilled residential needs for more than a century. However, such schemes cannot be accommodated at the expense of the public interest, which would happen if the special privileges, in the form of a “Minor Modification,” were to be granted in this instance.

The strict application of the side-yard set-back requirement for 319 N. Van Buren Street will create neither genuine impracticalities nor unnecessary hardships for any project properly conceived and appropriately scaled. One cannot blame, or, at least should not be surprised, if a developer would want to maximize his own financial return by buying a small lot and then trying to use it more intensively than the zoning laws allow.

That this property can be utilized within the bounds of the applicable zoning laws is proven by the very existence, for more than a century, of the residential home that the Owner demolished before, apparently, he had an alternative use planned. In any event, assuring the maximum rate of return for a developer in an

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established residential neighborhood is not the primary goal of the City's Zoning Chapter, including provisions related to Minor Modification requests. That is the driving force of this application, and that is not enough.

Here, and as described eloquently in the many comments and letters of persons who have submitted opinions to the City, including, but not limited to, those with property ownership interests within 200 feet of 319 N. Van Buren Street, it is obvious that abandoning the clear set-back line requirements to accommodate a footprint that is too big, and a building that is too tall for the real estate parcel, will be detrimental. It will be harmful to the public health, safety, or welfare, or be injurious to other property or improvements in the vicinity and in the zone in which the property is located.

The Minor Modification request must be denied because it is not in conformity with the intent and purpose of the regulation that is modified. There are solid, time-tested reasons, some of them directly related to health and safety, why buildings should be set-back from side yard property lines and they are incorporated into the Zoning Chapter.

C. CONCLUSION

As one of the nearby neighbors, Shawn F. Colbert, the very citizen quoted by Mr. Ginger in his letter to the City of January 8, 2021 asks, in his email dated January 6, 2021 to the City: “[W]hy do these zoning ordinances exist if the [C]ity and developers aren’t going to abide by them?”

Why, indeed.

Perhaps the City, by this proceeding, intends to open a new era marked by encouraging the demolition of usable, low-income housing, altering and ignoring the characteristics of established neighborhoods, or increasing the intensity of uses of residential lots in such areas. If so, then granting the requested Minor Modification would surely set a precedent under which, despite zoning restrictions appearing in the Zoning Chapter to the contrary, persistent developers could achieve these goals.

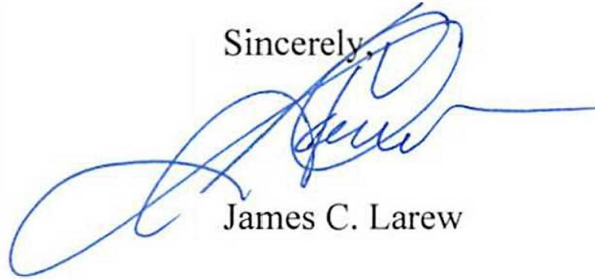
However, if that is not the City's intent, then the request for the Minor Modification made by Prestige Properties Development, LLC, on its own behalf and for the benefit of potential Purchasers of the lot located at 319 N. Van Buren

Additional Correspondence 1

Street, because no genuine impracticalities would be created by a structure that conforms with the City's zoning ordinance, should be denied in its entirety.

More importantly the City should be mindful of its violation of Iowa's Constitution and statutes related to home-rule authority and the limited powers of the Board of Adjustment, and of Iowa's common law and amend its Municipal Code, accordingly so that Board members are not placed in the untenable position of being asked to violate Iowa law.

Sincerely,

A handwritten signature in blue ink, appearing to read 'James C. Larew', is written over the word 'Sincerely,'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James C. Larew

Additional Correspondence 2

From: [James Dreier](#)
To: [Kirk Lehmann](#)
Subject: Letter in support of appeal for 319 N. Van Buren
Date: Monday, April 12, 2021 1:49:18 PM
Attachments: [We sent you safe versions of your files.msg](#)
[DreierLetter.pdf](#)



Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Dear Mr. Lehmann, Attached is a letter supporting the appeal to the Board of Adjustment decision to grant a waiver for a proposed building on 319 N. Van Buren St. Please include this in the documents for the hearing and let me know if you have any questions regarding this letter. Thank you,

James Dreier
424 N. Van Buren St.

(319) 621-6002

Additional Correspondence 2

April 11, 2021

Kirk Lehman
Board of Adjustments
City of Iowa City

Dear Mr. Lehman, We are writing this letter in support of the appeal of the decision made by the Board of Adjustments to initially approve the request for "Minor Modification for 319 N. Van Buren Street" by Prestige Properties, to reduce and waive side yard setbacks required for a proposed 3-story dwelling.

We have resided at 424 N. Van Buren, Iowa City, IA since August of 1989. We are homeowners and have invested 30+ years in this northside neighborhood.

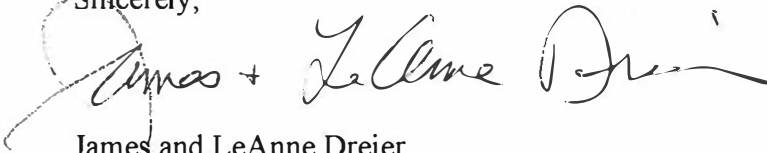
Our primary objection to the request to waive the building codes for this project rests with Section 14-2A-4C (Building Bulk Standards) of the city code. Quoting from the letter of appeal, "These height regulations are "intended to promote a reasonable building scale and relationship between buildings; provide options for light, air, and privacy; and discourage buildings that visually dominate other buildings in the vicinity." The purpose of the minimum setback requirements is stated in Section 14-2A-4B: "to provide opportunities for privacy between dwellings, reflect the general building scale and placement of structures in the city's neighborhoods, promote a reasonable physical relationship between buildings and between residences."

We agree with the appeal letter, and many of our neighbors, that the decision of the Building Official does not address the purpose of the additional minimum 2-foot setback. By not addressing how the setback reduction preserves the intent of the setback requirement, the question remains: If the setback can be waived solely to meet the desires of the property owner or the developer without a compelling reason, why does the regulation exist at all?

Certainly, waivers for reasonable and modest requests can and should be considered by the board. However, in spite of the misleading characteristic of this request as "minor," this waiver's end result is major. If regulations exist for a reason, then I would ask the board to consider this an unreasonable request.

We agree that the application of Prestige Properties for approval to reduce and waive the additional 2-foot setback required for a 3-story building at 319 N. Van Buren Street in the RNS-12 zone should have been denied.

Sincerely,

A handwritten signature in black ink, appearing to read "James + LeAnne Dreier". The signature is written in a cursive, flowing style.

James and LeAnne Dreier

424 N. Van Buren St., (319) 621-6002

Additional Correspondence 3

From: [Freerks, Ann M](#)
To: [Kirk Lehmann](#)
Cc: [David Moore](#)
Subject: Letter RE: Appeal of Minor Modification for 319 N Van Buren St. to Board of Adjustment
Date: Tuesday, April 13, 2021 9:52:17 AM



Hi Kirk,

Please share my letter below with the Iowa City Board of Adjustment today. I'd like to give them time to read it prior to the meeting on Wednesday, April 14th. Please cc me on your forward to them.

Thank you,
Ann Freerks

Dear Board of Adjustment Members,

I served as a Planning and Zoning Commissioner for the City of Iowa City for over a dozen years, several as the chairperson. I was on the Commission when we carefully researched and wrote the current Zoning Code that was adopted by the City Council in 2005.

The Commission spent many months working with our City Planning staff to draft a zoning code that would help preserve existing neighborhoods as well as guide development of new neighborhoods so they create an attractive cohesive, and sustainable living environment for years to come.

When we drafted the Minor Modification section we wrote it to allow "minor" adjustments to zoning rules so property owners would not have to go before the Board of Adjustment for relatively small projects.

The key word here is *minor*. The intent was to allow for **small** additions to a building, where **unique** circumstances made it **impossible** to comply with setback standards and **only if** that minor modification met the intent of the zoning rules and did not cause harm to its neighbors and the structure of the neighborhood as a whole over time.

I want to be very clear to say that we **never** intended for the Minor Modification process to allow a 3-story house in a neighborhood of 1- and 2-story houses. This is not minor.

The Zoning Code makes it clear that the City should strive for consistency and treat similar properties similarly. The Minor Modification process was not intended to grant special privileges to some property owners at the expense of their neighbors.

Additional Correspondence 3

It is important to note that the Code also makes it clear that the intensity of development is based on lot size according to the standards applicable in each zoning district. As such, lots should be developed at the intensity allowed by the lot area, height limits, and set back requirements. The smallest lots should not have the largest buildings.

For many years I put a great deal of energy into making sure that the decisions that Planning and Zoning commission made were wise and just. There are a few mistakes and I am reminded of this as I walk or drive through town, however, overall the work has created an incredible, vibrant community. I urge you to overturn this so that we don't see the impact of this decision start to crop up throughout the community.

The Minor Modification, which you have been asked to review, in no way meets this intent and the criteria that the Planning and Zoning Commission and City Council established for approval. It should be overturned quickly and not be allowed create a precedent, which would cause damage not just in this neighborhood but in all Iowa City neighborhoods.

Thank you for your time,
Ann Freerks
443 South Governor Street
Iowa City

APL21-0001
END OF APPEAL CASE FILE

STAFF REPORT

To: Board of Adjustment
Item: EXC21-0002
Parcel Number: 1015277002, 1015277005,
1015277006, 1015277007, & 0225202007.

Prepared by: Kirk Lehmann, Associate Planner
Date: April 14, 2021

GENERAL INFORMATION:

Applicant: Michael Apt
Gilbane Development
7 Jackson Walkway
Providence, RI 02903
mapt@gilbaneco.com

Contact Person: Michael Welch
Axiom Consultants
60 E. Court Street
Iowa City, IA 52240
319-519-6220
mwelch@axiom-con.com

Property Owner(s): Dragonfly III LLC,
220 Lafayette Street, Suite 160
Iowa City, IA 52240

6 Corp
1469 Wetherby Drive
Iowa City, IA 52240

Public Space One Inc.
229 N. Gilbert Street
Iowa City, IA 52245

Requested Action: 50% reduction of minimum parking requirement

Purpose: To allow development of multi-family housing

Location: 700, 710, 720, & 730 S. Dubuque Street
206 & 220 Lafayette Street

Location Map:



Size:

1.93 acres

Existing Land Use and Zoning:

Mixed Use; Riverfront Crossings - Central Crossings (RFC-CX)

Surrounding Land Use and Zoning

North: Residential; Riverfront Crossings - Central Crossings (RFC-CX)
East: Mixed Use; Community Commercial (CC-2)
South: Commercial & Institutional; Intensive Commercial (CI-1)
West: Mixed Use; Institutional Public (P-2), Riverfront Crossings - Central Crossings (RFC-CX), Intensive Commercial (CI-1)

Applicable Code Sections:

14-4B-3A: General Approval Criteria
14-5A-4F-6: Parking Reduction for Other Unique Circumstances

File Date:

March 12, 2021

BACKGROUND:

The applicant, Gilbane Development, has requested a special exception to reduce the minimum number of required parking spaces for the subject properties at 700, 710, 720, and 730 S. Dubuque Street and 206 & 220 Lafayette Street. The purpose is to allow the redevelopment of the site into a 6-story, multi-family building with 250 units (47 studios/one-bedroom, 155 two-bedroom, and 48 three-bedroom apartments).

The property was rezoned from Community Commercial (CC-2) and Intensive Commercial (CI-1) zone to Riverfront Crossings - Central Crossings (RFC-CX) zone on February 2, 2021 (Ordinance No. 21-4847), subject to the following conditions:

1. Owner shall cause that part of Ralston Creek adjacent to the above-described property, between the parcel's west boundary line and five feet east of the toe of the stream bank, to be Improved as follows:
 - a. Removal of invasive trees;

- b. Stream bank stabilization, including necessary grading and addition of rip-rap;
 - c. Tree planting;
 - d. Installation of a minimum 6-foot wide sidewalk adjacent to the top of the stream bank;
 - e. Installation of pedestrian-scale lighting;
 - f. Prior to issuance of a building permit for any portion of the above-described property, Owner shall;
 - i. Enter into a temporary construction easement agreement with the City of Iowa City, owner of the adjacent land upon which the above-described improvements are to be constructed. Said easement agreement shall be in a form approved by the City Attorney's Office;
 - ii. Obtain approval from the City Engineer of the streambank restoration and sidewalk construction plans; and
 - iii. Obtain approval from the City Forester of the tree planting plan.
 - iv. The above-described work shall be completed prior to issuance of a certificate of occupancy for the above-described property, which shall include a temporary certificate of occupancy.
2. Prior to issuance of building permits, Owner shall dedicate, at no cost to the City, a sanitary sewer easement, in a location to be determined by the City Engineer, and in a form of agreement acceptable to the City Attorney's Office.

Gilbane Development also applied for VAC20-0003, a request to vacate the alley that separates the S. Dubuque Street properties from 220 Lafayette Street. The Planning & Zoning Commission will hear that case when a final price for conveyance is agreed upon between Gilbane Development and the City of Iowa City.

Minimum parking standards are intended to provide off-street parking which accommodates most of the demand for parking generated by the use, particularly where sufficient on-street parking is not available. It also seeks to prevent parking for nonresidential uses from encroaching into adjacent residential neighborhoods. The Central Crossings Subdistrict is intended for moderate intensity mixed use development in buildings with entries opening onto pedestrian friendly public streets and streetscapes, which promotes the goals of the Riverfront Crossings code to promote economically vital, mixed use, pedestrian friendly districts. Properties in the Central Crossings subdistrict are typically eligible to pay a fee in lieu of on-site parking if they are north of the Iowa Interstate rail line. However, the rail line abuts the subject properties to the north, meaning they do not qualify.

The proposed project requires 387 parking spaces as shown in the provided application materials (Attachment 3). However, a parking reduction of up to 50 percent may be requested where it can be demonstrated that a specific use has unique characteristics such that the number of spaces required is excessive. A 50 percent parking reduction would require 193 parking spaces to be provided onsite.

The building footprint is proposed to contain a level and a half of parking with approximately 203 parking stalls. The site plan shows access to below-grade parking on the south side of the building where the alley vacation is expected. This would allow vehicles to exit directly onto Lafayette Street which leads west towards S. Dubuque Street. Approval of the exception would allow the redevelopment to occur as currently proposed.

ANALYSIS:

The purpose of the Zoning Ordinance is to promote the public health, safety and general welfare; to conserve and protect the value of property throughout the city; and to encourage the most

appropriate use of land. It is the intent of the Ordinance to permit the full use and enjoyment of property in a manner that does not intrude upon adjacent property. The Board may grant the requested special exception if the requested action is found to be in accordance with the specific criteria included in **Section 14-5A-4F-6**, pertaining to parking reductions for unique circumstances requiring a special exception, as well as the general approval criteria in **Section 14-4B-3A**.

For the Board of Adjustment to grant this special exception request, each of the following criterion below must be met. The burden of proof is on the applicant, and their comments regarding each criterion may be found on the attached application materials. Staff comments regarding each criterion are set below.

Specific Standards: 14-5A-4-F: Parking Reductions for Other Unique Circumstances:

- 1. Where it can be demonstrated that a specific use has unique characteristics such that the number of parking or stacking spaces required is excessive or will reduce the ability to use or occupy a historic property in a manner that will preserve or protect its historic, aesthetic, or cultural attributes, the Board of Adjustment may grant a special exception to reduce the number of required parking or stacking spaces by up to fifty percent (50%) (up to 100 percent for properties designated as a local historic landmark, listed on the National Register of Historic Places, or listed as key or contributing structures in a Historic District or Conservation District Overlay Zone).**

FINDINGS:

- The applicant has requested the exception on the basis that the specific use has unique characteristics such that the number of parking or stacking spaces required is excessive, which would allow a reduction of up to 50 percent of the required minimum number of parking spaces.
- The property is purpose-built housing for University of Iowa students and includes features specific to that use, such as individual leases, furnished units, and on-site amenities like study lounges. Students exhibit lower demand for on-site parking and are more likely to utilize modes of transportation such as transit, walking, and biking.
- 2019 5-Year American Community Survey data (table B08301) suggests residents in downtown Iowa City use cars less due to proximity to the University, employment, and other services. For typical commutes in Census Tracts near downtown (specifically 16, 17, and 21 as shown in Attachment 3), around 52% drive alone to work, 7% carpool, 34% walk or bike, 4% use public transportation, and the remainder use other modes of transportation or work from home. Tract 21, the closest to downtown, has the lowest levels of car usage with only 27% driving alone to work.
- The applicant proposes approximately 0.81 underground parking spaces per dwelling unit, which equals approximately 0.41 spaces per bed.
- The Institute of Transportation Engineers (ITE) suggest an average parking demand rate of 0.90 vehicles per unit or 0.48 per bed for a Multifamily (Mid-Rise) Dense Multi-Use Urban use, though it is not specific to student housing.
- The RISE at Riverfront Crossings, a student housing project on E. Court Street, provides parking at a rate of 0.60 spaces per unit or 0.34 per bed. Staff is not aware of any complaints regarding spillover parking from the RISE.
- Properties adjacent to the subject property vary more widely from 0.55 (628 S. Dubuque Street) to 1.25 (225 E. Prentiss Street) parking spaces per dwelling unit.

General Standards: 14-4B-3: Special Exception Review Requirements:

- 1. The specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

FINDINGS:

- Parking ratios are similar to other projects that are located downtown and are appropriate as determined by Census data about means of transportation to work.
- Parking ratios are below suggested ratios by the ITE, but the targeted market of students is more likely to use alternative modes of transportation than is anticipated by the ITE.
- Spillover parking is not anticipated to impact on-street parking in neighboring residential areas because most nearby streets either meter or do not allow on-street parking.
- The Harrison Street public parking ramp totaling 550 spaces is within a 3-minute walk of the proposed building for downtown visitors or commuters, and the site plan shows new public parking spaces on S. Dubuque Street as part of the project. Parking permits in public ramps are not typically available to downtown residents.
- Some parking demand may be satisfied by the University's remote parking lots if regular travel is not conducted by car and students are the primary occupants.
- Tenants must consider reduced on-site parking in their decision-making, so it is likely the proposed project will attract tenants who do not require as much on-site parking.
- Overall, the parking reduction will not be detrimental to or endanger the public health, safety, comfort, or general welfare.

- 2. The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood.**

FINDINGS:

- Many properties in the immediate vicinity, especially those owned by the University and County, have more than adequate parking and will not be negatively impacted.
- Nearby residential properties vary in their parking supply but typically cater to the same market as the proposed project. There are no single-family residential uses in the immediate vicinity.
- The Harrison Street Parking Ramp provides adequate off-street parking for customers and visitors.
- The proposed project will provide new on-street parking.
- The proposed project will increase nearby pedestrian traffic, which will likely improve the commercial viability of nearby businesses.
- Improvements to Ralston Creek will increase the attractiveness of the area for properties to the east.
- The parking reduction will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not impair nearby property values.

- 3. Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district in which such property is located.**

FINDINGS:

- The area is already largely developed, and recent nearby redevelopment projects have only increased the demand for additional improvements in Riverfront Crossings.
- The proposed development may cause temporary closures of streets as part of construction but will otherwise not impact development or improvement of surrounding properties in the long-term.
- The proposed parking reduction will not impede normal development.

- 4. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.**

FINDINGS:

- The existing streets provide adequate vehicular and pedestrian access. Pedestrian access is supplemented with amenities along Ralston Creek.
- Staff will ensure adequate utilities, drainage, and other necessary facilities are being provided through the site plan review and building permitting processes, which will include replacement of a sanitary sewer line.

- 5. Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets.**

FINDINGS:

- The parking level entrance is located at grade on Lafayette Street where the alley will need to be vacated as part of the project. The approval of the vacation by City Council is recommended as a condition of the requested parking reduction.
- Vehicular access to the public street network is provided to the west with Ralston Creek blocking access to the east. Lafayette Street intersects S. Dubuque Street at an intersection with a stop sign.
- Several vehicular access points on S. Dubuque Street and one on Lafayette Street will be eliminated as part of the project.
- New public parking will be constructed in the S. Dubuque Street right of way. Staff has recommended that these spaces be metered to help support short-term on-street parking needs in a mixed use area.
- Pedestrian access is proposed along all public streets and along Ralston Creek.
- Adequate measures are being taken to minimize traffic congestion.

- 6. Except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects, conforms to the applicable regulations or standards of the zone in which it is to be located.**

FINDINGS:

- As the project progresses, staff will ensure that all applicable standards and regulations are met through the design review, site plan review and building permitting processes.
- Policies for administrative height bonuses shall be followed as part of this project.

7. The proposed exception will be consistent with the Comprehensive Plan of the City, as amended.

FINDINGS:

- The Comprehensive Plan designates this area for Mixed Use on the Future Land Use map and includes goals to “identify and support infill development and redevelopment opportunities in areas where services and infrastructure are already in place” and to “encourage pedestrian-oriented development...that make it safe convenient, and comfortable to walk.”
- The Downtown and Riverfront Crossings Master Plan includes objectives for the Central Crossings subdistrict such as “promote new housing options” and “restore and enhance conditions along Ralston Creek”. The development program for the area includes “Multiple housing option typologies”.
- The Master Plan highlights this block for residential redevelopment.
- Reducing parking to promote redevelopment, new housing options, and Ralston Creek restoration is consistent with the Comprehensive Plan.

STAFF RECOMMENDATION:

Staff recommends approval of EXC21-0002, to reduce the minimum parking requirement by 50 percent for the properties located at 700, 710, 720, & 730 S. Dubuque Street and 206 & 220 Lafayette Street, subject to the following condition:

1. City Council approval of VAC20-0003.

ATTACHMENTS:

1. Location Map
2. Zoning Map
3. Application Materials

Approved by: _____



Danielle Sitzman, AICP, Development Services Coordinator
Department of Neighborhood and Development Services



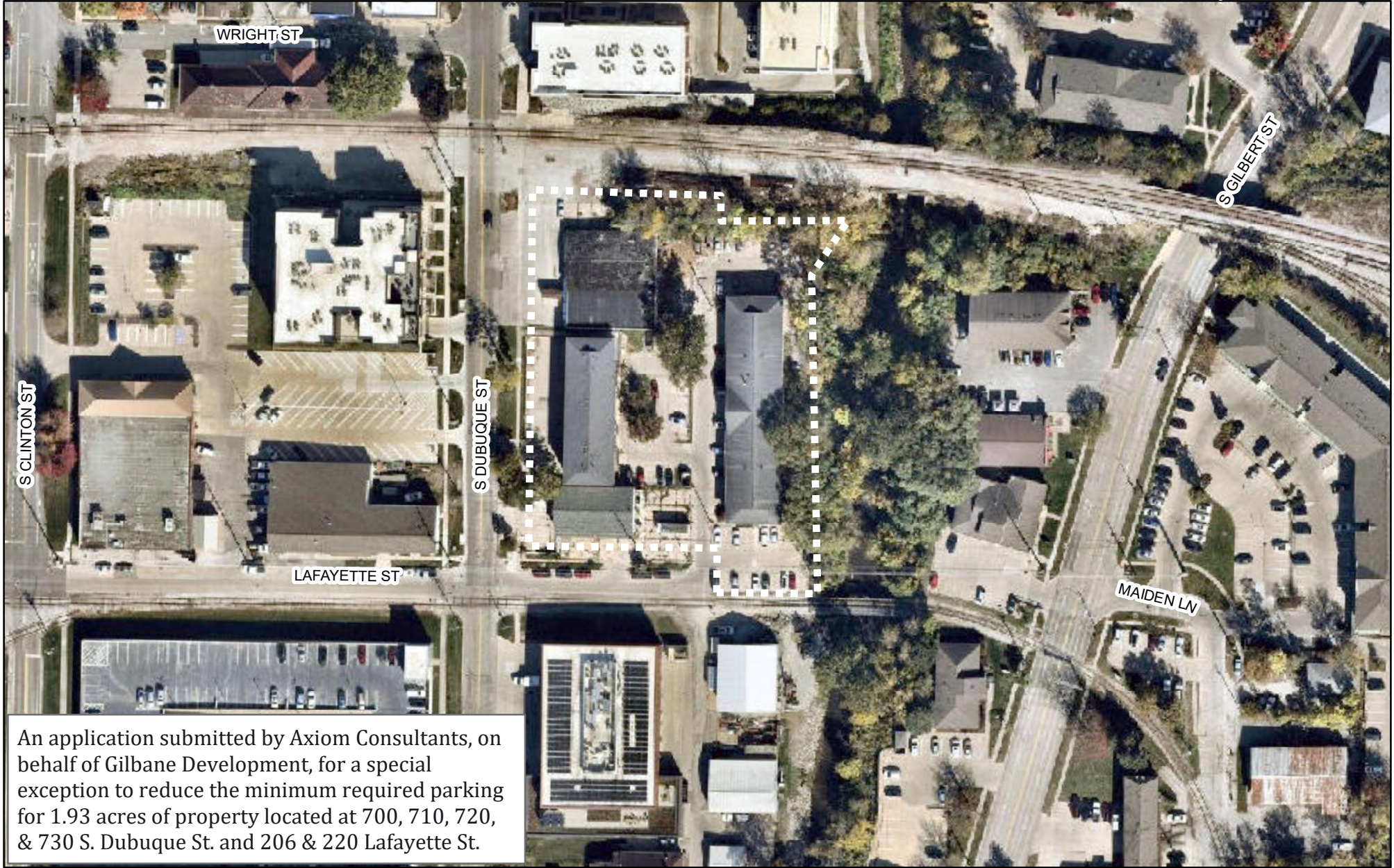
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EXC21-0002

700, 710, 720, 720, 730 S. Dubuque St. 206, & 220 Lafayette St.



Prepared By: Joshua Engelbrecht
Date Prepared: March 2021



An application submitted by Axiom Consultants, on behalf of Gilbane Development, for a special exception to reduce the minimum required parking for 1.93 acres of property located at 700, 710, 720, 720, 730 S. Dubuque St. and 206 & 220 Lafayette St.



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EXC21-0002

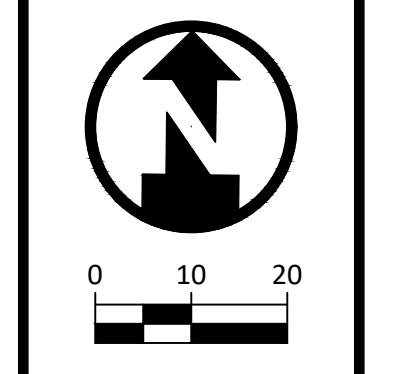
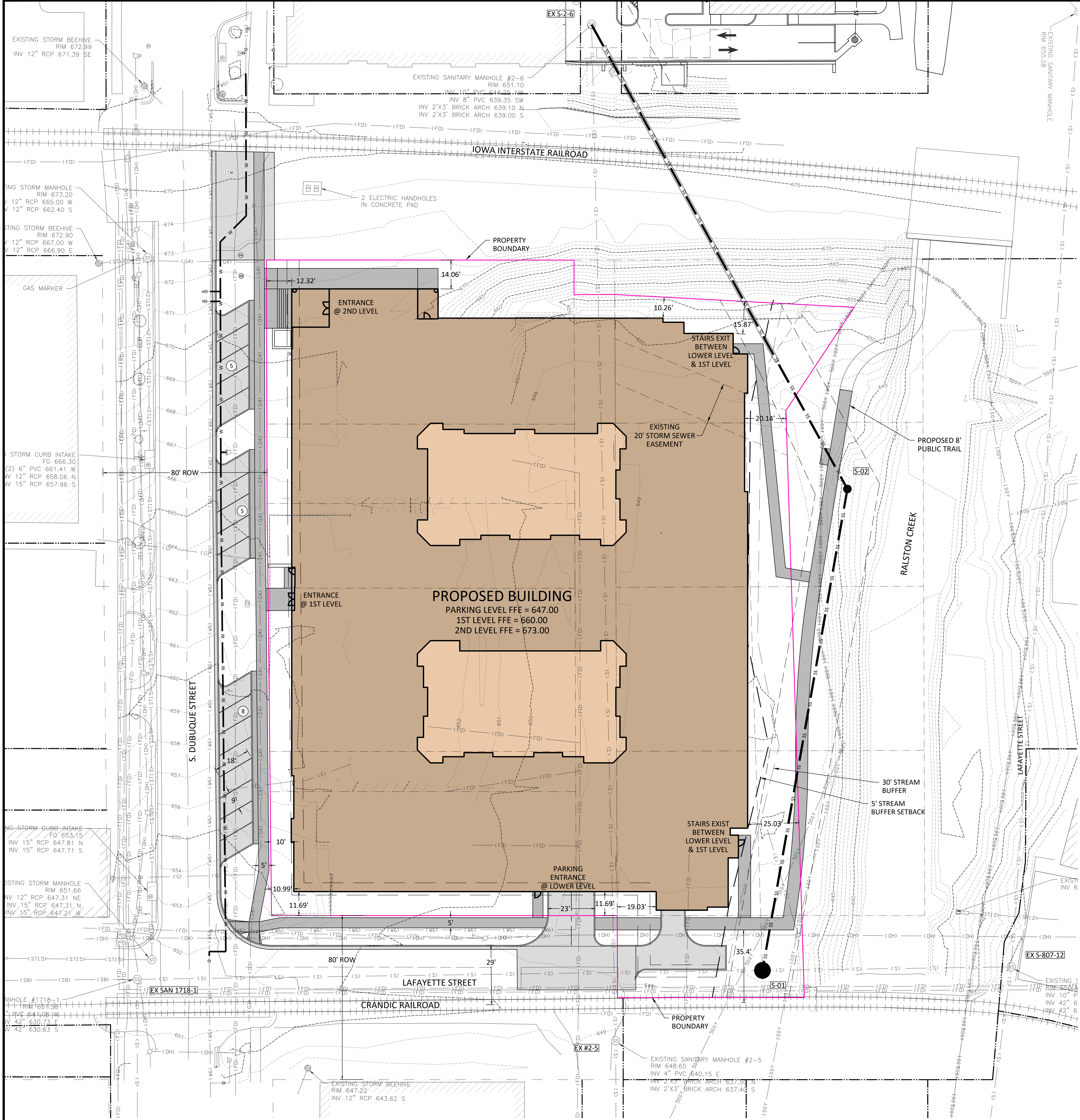
700, 710, 720, 720, 730 S. Dubuque St. 206, & 220 Lafayette St.



Prepared By: Joshua Engelbrecht
Date Prepared: March 2021



An application submitted by Axiom Consultants, on behalf of Gilbane Development for a special exception allowing a 50% parking reduction for 1.93 acres of property located at 700, 710, 720, 730 S. Dubuque St. & 206, and 220 Lafayette St.



REV	DESCRIPTION OF CHANGES	DATE
	REVISED SEWER LAYOUT	02-24-2021
	REVISED SEWER LAYOUT	09-02-2021

PROJECT NAME:
 S. DUBUQUE STREET DEVELOPMENT
 700 S. DUBUQUE STREET
 IOWA CITY, IOWA 52240

CLIENT NAME:
 GILBANE DEVELOPMENT CO.

PROJECT NO.:
 190173

DESIGN PROFESSIONAL:
 WELCH

SHEET NO.:
 C2.00

PRELIMINARY - DESIGN REVIEW

GILBANE DEVELOPMENT – S. DUBUQUE STREET

Special Exception – Parking Reduction

April 5, 2021

On behalf of Gilbane Development, Axiom Consultants and Gibson Traffic Consultants are requesting a parking reduction of up to 50% of the code required parking for the S. Dubuque Street Development project (located at 700, 710, 720, and 730 S Dubuque Street and 206 and 220 Lafayette Street). A parking reduction of up to 50% may be granted by the Board of Adjustment (BOA) as a Special Exception per code section 14-5A-4(F)(6). The BOA may approve this reduction where there are other unique circumstances or where it can be demonstrated that a specific use has unique characteristics where the number of spaces required is excessive. The following sections will provide details on the project, the parking provided within the project, the parking demand, and the justification for the requested parking reduction.

INTRODUCTION

The property is located at the northeast corner of S. Dubuque Street and Lafayette Street. The property is bordered on the north by the Iowa Interstate Railroad and on the east by Ralston Creek. Gilbane Development is proposing to redevelop the properties listed above into a mid-rise, multi-dwelling building with 250 units (47 studios/one-bedroom, 155 two-bedroom units, and 48 three-bedroom units) with a total of 501 beds. The residents of the building will primarily be students attending the University of Iowa. The building will be 6-stories with a level and a half of below-grade parking. There will be approximately 203 parking stalls provided within the building footprint. There will also be public parking stalls along S. Dubuque Street.

The surrounding properties are a mix of multi-dwelling buildings, Johnson County facilities (county administrative building, parking structure and ambulance garage), and commercial properties. There are no single-family properties in the vicinity of this project. The Harrison Street parking structure is located one block to the north.

The property is four blocks from campus and the edge of downtown Iowa City. Residents can be downtown or at the center of campus in less than 15-minutes if walking or less than 5-minutes if biking. The Campus Recreation and Wellness Center is a 10-minute walk. The Main Library is also less than a 15-minute walk. These travel times are comparable to those for students living in Slater, Rienow or Currier Resident Halls. Refer to Appendix A, figures 1-6.

CODE REQUIRED PARKING

The minimum parking supply required per Iowa City Zoning Code (ICZC) 14-5A-4(B) Table 5A-3 is calculated below:

Efficiency and 1 bedroom	0.75 space per dwelling unit (47 units) = 35 spaces*
2 bedrooms	1.5 spaces per dwelling unit (155 units) = 232 spaces*
3 bedrooms	2.5 spaces per dwelling unit (48 units) = 120 spaces
Total	387 spaces

* Per code, when there is a fractional parking space, the number of spaces will be the closest whole number with a half space rounded down.

PARKING DEMAND

Parking demand can be calculated using national averages such as those provided in *Parking Generation, 5th Edition* published by the Institute of Transportation Engineers (ITE) and by investigating parking rates for comparable properties in Iowa City.

Parking generation calculations for residential use according to ITE's *Parking Generation, 5th Edition* suggest a rate of 0.90 vehicles per unit for average parking demand rate identified for ITE Land Use Code (LUC) 221, Multifamily (Mid-Rise) Dense Multi-Use Urban (no nearby rail transit). Refer to Appendix C. The average parking demand in ITE is the average of all the maximum data points within the study period and should be viewed as the average of *maximums*. Further, the ITE data represents market rate apartments and are not specifically designated for student parking. Using the ITE parking rate, 225 parking spaces would be required for the 250 units provided.

Looking at similar scale student-buildings with onsite parking in Iowa City, RISE at Riverfront Crossings has a total of 332 units, 585 beds, and 200 parking spaces for a parking supply rate of 0.60 spaces/unit or 0.34 spaces per bed. RISE at Riverfront Crossings development charges \$150 per parking space and does not limit the number of spaces per unit. If the student parking supply rate on a per unit basis for RISE was utilized for Gilbane Iowa City the 250 units would have a supply of 150 parking spaces. Using RISE's per bed parking rate, Gilbane Iowa City would need 170 stalls.

Table 1 and Table 2 show the parking that would be required for the Gilbane project using the rates identified above from ITE manual and the RISE project. Parking requirements are shown both for per unit and per bed scenarios. The required number of spaces is achieved by multiplying the number of units (250) or number of beds (501) in the Gilbane project by the associated rate from the sources listed above.

Table 1: Comparable Parking Rates – Per Unit

Source	Parking Rate	Required Spaces
ITE Parking Generation, 5 th Ed.	0.90 / unit	225
RISE at Riverfront Crossings	0.60 / unit	147

Table 2: Comparable Parking Rates - Per Bed

Source	Parking Rate	Required Spaces
ITE Parking Generation, 5 th Ed.	0.48 / bed	240
RISE at Riverfront Crossings	0.34 / bed	170

TRANSIT AND NON-MOTORIZED TRIPS

US Census data can be used to understand transportation tendencies of people in and around the project area. This can help us understand and predict the behaviors of the future residents of the project. The mode split data below is based on data contained on the United States Census Bureau website. There will be a total of 501 bedrooms (47 studios/one-bedroom, 155 two-bedroom units, and 48 three-bedroom units) in the Gilbane Iowa City development. An average of 1 resident was assumed per studio/one-bedroom and 2 residents per two-bedroom units, and 2.5 residents per three-bedroom unit. This equates to a full occupancy population of 477 residents. Data from census tract 21, which is just north of the development (north of Iowa Interstate rail line) and without the single-family residential nature of census tracts 16 and 21, was used to look at various modes of transportation. From this information, it is predicted that of the development's residents, 8% will use public transportation (38 residents), 46% will walk (219 residents), 10% will work from home (48 residents) and 5% will use bicycles (23 residents). Refer to Appendix D. Meaning that 149 residents will be relying on a vehicle for their daily activities.

There are several bus lines with transit stops within 6 minutes walking time (0.3 miles) of the development. They include the South Campus Shuttle by CAMBUS, Iowa City Transit (ICT) Cross Park, ICT Broadway, ICT Lakeside, ICT Mall, and ICT Free Shuttle South. Refer to Appendix B. The CAMBUS is free while the ICT University of Iowa student U-Pass (12 months) is \$168 if you do not have a University parking permit.

Iowa City Code (14-5A-4F-8) allows up to 10% of the parking requirement to be scooter and motorcycle parking. This code allows 6 scooter spaces in place of 2 vehicle spaces. Scooters have become a common form of transportation for University of Iowa students.

The University of Iowa provides student parking permits for the Hawkeye Storage Permit (Lot 39). This provides a location for students to store their vehicle offsite and this parking lot is served by CAMBUS. This storage permit and the availability of public transit and the proximity of the development to downtown and campus reduces the need for students to have a car on premise.

UNIQUE CIRCUMSTANCES

The project type coupled with the project location and site topography creates a unique circumstance. The project is **Purpose-Built Student Housing** with amenities tailored to students attending The University of Iowa, including individual leases, fully furnished units, onsite fitness center, and study lounges. The strong focus on students results in a different parking demand than the parking demand for general population, market-rate apartments. National data available from the ITE indicates average parking rates of 0.90/unit or 0.48/bed. The ITE data does not include a sub-set of parking data for student housing. It is necessary to analyze local projects of a similar scale to the proposed development to understand the unique circumstance created by purpose-built student housing. The most comparable property in Iowa City to this development is The RISE. Analysis of the parking demand at The RISE demonstrates that the parking rate at The RISE is 0.60/unit or 0.34/bed. Clearly, student apartments have a lower parking demand than market-rate apartments serving a wider population. The lower parking demand for student housing can be attributed to several factors. First, the shortage of parking on campus means students walk to campus or use CAMBUS to circulate around campus. Secondly, the project's proximity to campus and downtown Iowa City means that many of the students do not bring a car to campus. If they do, they will store their vehicles at the Hawkeye Storage Lot since they do not use their vehicles frequently. Additionally, students are very willing and often prefer to use other modes of transit including public transit, walking, and biking thereby not requiring the use of a personal vehicle.

In addition to the specific use, the projects' location creates another unique circumstance. The project is bounded on the north by the Iowa Interstate Railroad and on the east by Ralston Creek. S. Dubuque Street climbs as you move north along the site. This change in elevation means the entrance to the parking structure is at grade on Lafayette Street and 20 feet below grade at the northwest corner of the site. The location of the railroad and the associated embankment limit the depth of excavation that can occur on the north side of the site. The groundwater levels associated with Ralston Creek along the east property line also limit the depth of excavation and construction that is practical. Pushing the parking level further below grade to gain an additional level of onsite parking would result in a parking level that is below the bottom of Ralston Creek. Construction of this type would result in extensive de-watering measures both during construction and for the life of the building. The energy expenditure for this dewatering equipment would not be in line with Iowa City's sustainability goals.

Building another parking level above grade presents challenges. The city code requires liner units on parking structures that face S. Dubuque Street and Ralston Creek. This means that an additional level of above grade parking would be less efficient than the level and a half already provided. This inefficiency would mean that in order to achieve the total amount of parking required at least one more level of parking if not two would be required. Adding additional parking levels would result in the building being 7 or 8 stories rather than the 6 stories currently proposed. A 7 or 8-story building is not envisioned by the Riverfront Crossings Master Plan in this area. This additional height would be out of scale with the properties to the south that are currently two-story structures (Johnson County Parking Garage and Johnson County Ambulance Garage). Likewise, the maximum height for the properties on the east side of Ralston Creek is only 5 stories by code.

SUMMARY

The project proposes to provide onsite parking for 81% of the units within the building (Table 3). Parking at this rate exceeds that of The Rise (60%), the only other purpose-built, student housing project of a similar scale in the Iowa City area.

Table 3: Proposed Parking Rate

Provided Spaces	Number of Units	Parking Rate
203	250	0.81

Census data demonstrates a high use of transportation methods other than personal vehicles in the Iowa City area. These modes include bicycles, walking, ride-share services, and public transit. Most of the residents are anticipated to be University of Iowa students. Walking and bicycle transportation times from this development to downtown and other locations on campus are similar or less than those of many of the resident halls.

The reduced amount of parking can have a beneficial impact on the community. Reduced onsite parking will encourage walking, bicycling, and public transportation use for the residents of the building. This is in line with the goals of the Iowa City Climate Action Plan.

There are no single-family properties in the immediate vicinity that would be impacted by spillover parking from guests or residents of the proposed building. The redevelopment of these properties will make it

possible to add additional public parking on the east side of S. Dubuque Street. Currently there is not parking in this location because of conflicts with driveways.

The development, as proposed, fits with the surrounding development patterns and existing uses. This development is a continuation of the redevelopment patterns envisioned in the Riverfront Crossings Master Plan and the Comprehensive Plan. The infrastructure for this project is already in place. The existing network of streets and sidewalks will adequately support the development. The public transportation system will benefit from potential ridership and increased demand. The parking structure entrance is located on a secondary street directly north of the alley to the south which eliminates potential conflicts with other traffic on Lafayette Street.

Apart from the parking reduction request, the project conforms with all other regulations and standards of the Riverfront Crossings – Central Crossings District.

The code required parking supply is 387 spaces and the proposed design provides 203 parking spaces within the below-grade parking structure. This is 52% of the required parking (a reduction of 48%). Therefore, we would like the Board of Adjustment to consider our request for a parking reduction for our proposed project as a special exception per code section 14-5A-4(F)(6)

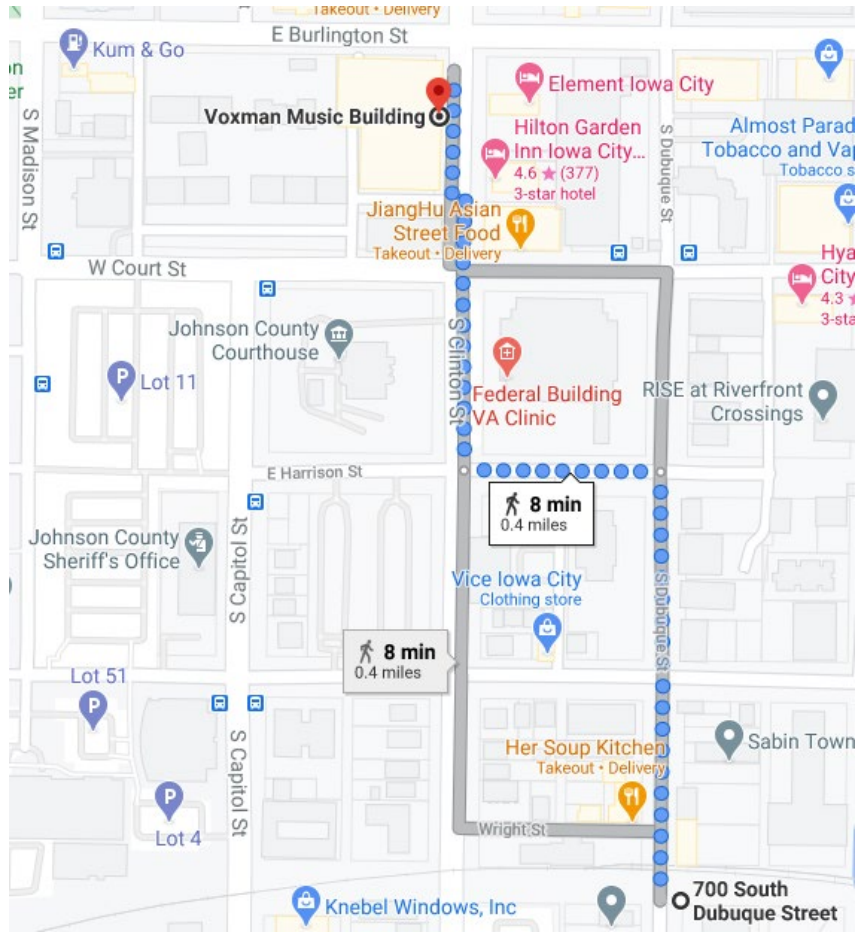


Figure 3: Walking travel distance from 700 S. Dubuque St. to Voxman Music Building

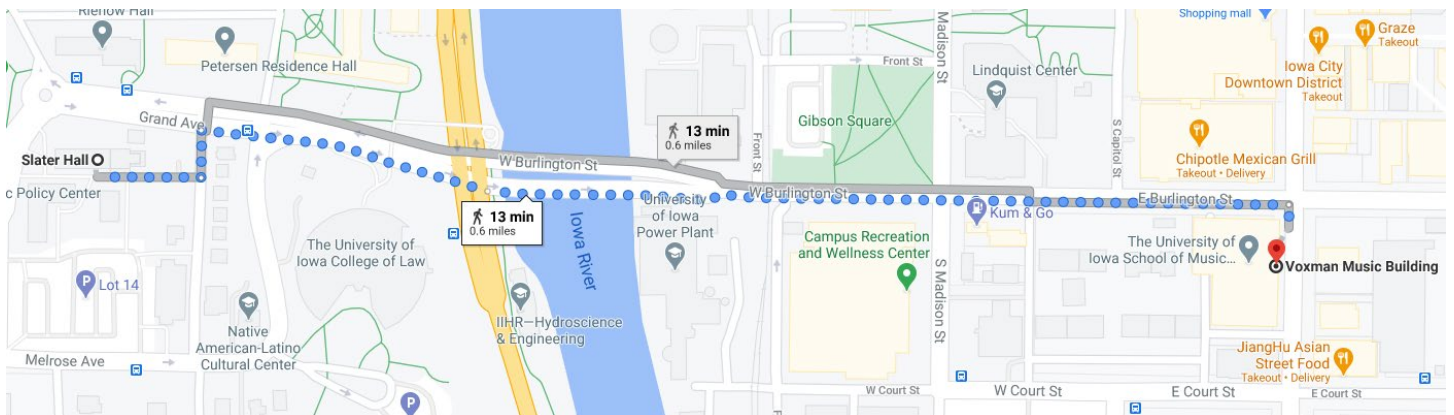


Figure 4: Walking travel distance from Slater Hall to Voxman Music Building

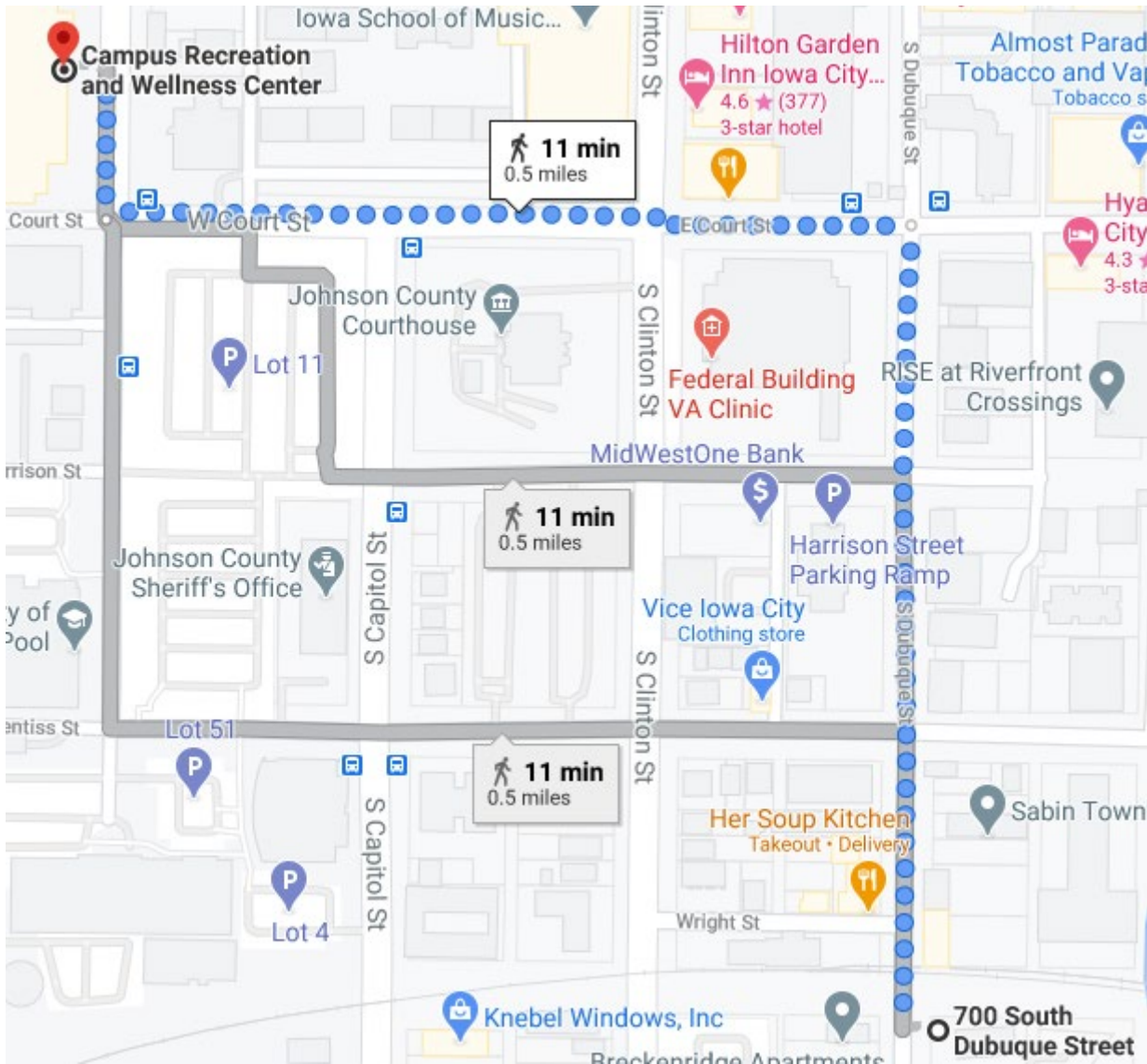


Figure 5: Walking travel distance from 700 S. Dubuque St. to Campus Recreation and Wellness Center

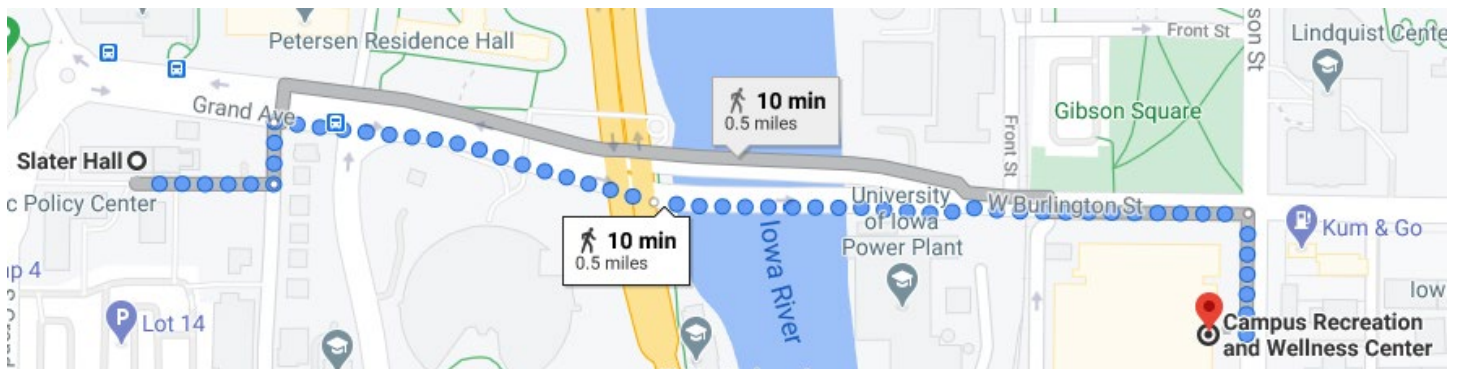
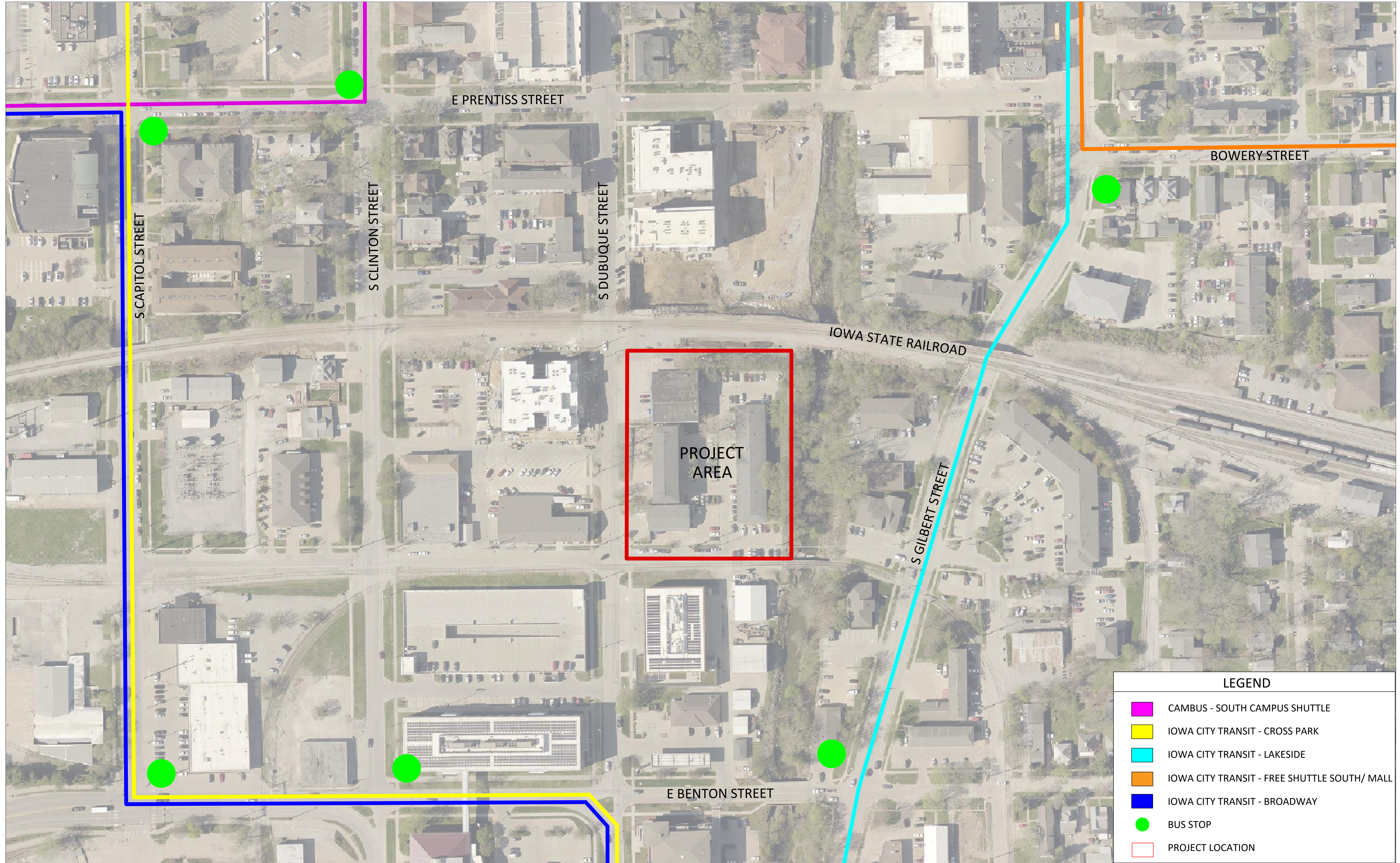
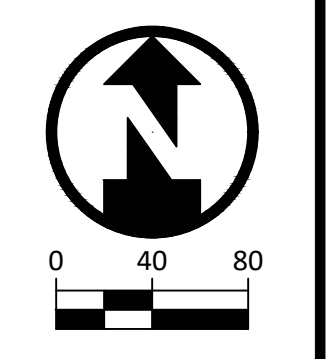


Figure 6: Walking travel distance from Slater Hall to Campus Recreation and Wellness Center

APPENDIX B



LEGEND	
█	CAMBUS - SOUTH CAMPUS SHUTTLE
█	IOWA CITY TRANSIT - CROSS PARK
█	IOWA CITY TRANSIT - LAKESIDE
█	IOWA CITY TRANSIT - FREE SHUTTLE SOUTH/ MALL
█	IOWA CITY TRANSIT - BROADWAY
●	BUS STOP
	PROJECT LOCATION



DRAWING LOG	
REV	DESCRIPTION OF CHANGES

PROJECT NAME: RIVERFRONT CROSSINGS
 700 S. DUBUQUE STREET
 IOWA CITY, IA
 CLIENT NAME: GILBANE

SHEET NAME: PARKING STUDY EXHIBIT
 TRANSIT ROUTES
 SHEET NUMBER: 190173
 DESIGN PROFESSIONAL: WELCH

APPENDIX C

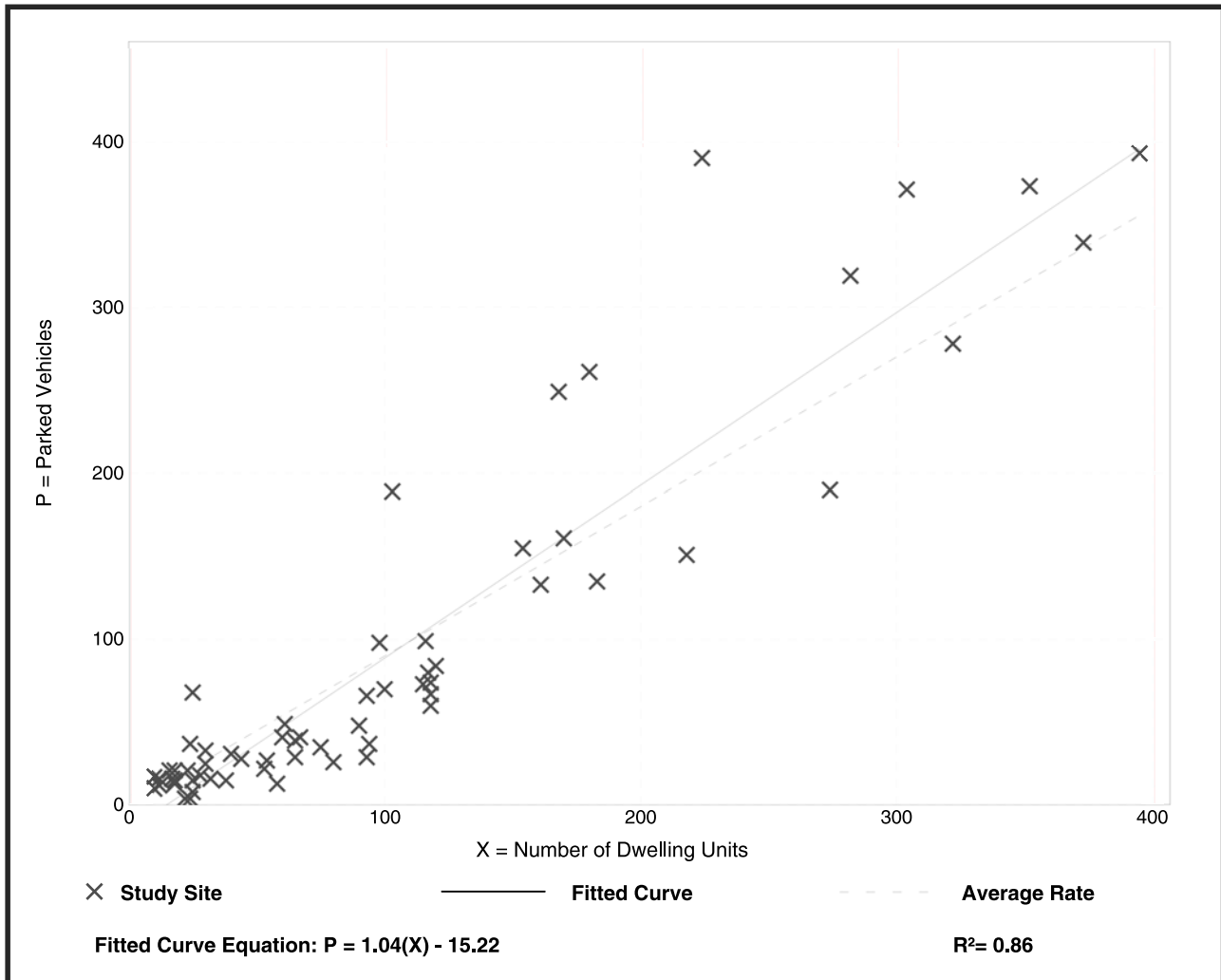
Multifamily Housing (Mid-Rise) (221)

Peak Period Parking Demand vs: Dwelling Units
On a: Weekday (Monday - Friday)
Setting/Location: Dense Multi-Use Urban (no nearby rail transit)
Peak Period of Parking Demand: 10:00 p.m. - 5:00 a.m.
 Number of Studies: 62
 Avg. Num. of Dwelling Units: 104

Peak Period Parking Demand per Dwelling Unit

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.90	0.17 - 2.72	0.63 / 1.27	0.81 - 0.99	0.37 (41%)

Data Plot and Equation



APPENDIX D

MEANS OF TRANSPORTATION TO WORK

Note: This is a modified view of the original table produced by the U.S. Census Bureau. This download or printed version may have missing information from the original table.

Label	Census Tract 16, Johnson County, Iowa		Census Tract 17, Johnson County, Iowa		Census Tract 21, Johnson County, Iowa	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
▼ Total:	5,965	±746	1,778	±242	1,615	±268
▶ Car, truck, or van:	3,610	±697	1,409	±240	469	±146
▼ Public transportation (excluding taxicab):	204	±124	67	±47	130	±58
Bus	204	±124	67	±47	130	±58
Subway or elevated rail	0	±14	0	±10	0	±10
Long-distance train or commuter rail	0	±14	0	±10	0	±10
Light rail, streetcar or trolley (carro público in Puerto Rico)	0	±14	0	±10	0	±10
Ferryboat	0	±14	0	±10	0	±10
Taxicab	0	±14	0	±10	0	±10
Motorcycle	10	±17	0	±10	0	±10
Bicycle	232	±176	134	±73	88	±53
Walked	1,821	±346	135	±88	740	±143
Other means	0	±14	0	±10	19	±37
Worked from home	88	±63	33	±33	169	±98

Nothing to show

Table Notes

MEANS OF TRANSPORTATION TO WORK

Survey/Program:
American Community Survey
Universe:
Workers 16 years and over
Year:
2019
Estimates:
5-Year
Table ID:
B08301

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities, and towns and estimates of housing units for states and counties.

Source: U.S. Census Bureau, 2015-2019 American Community Survey 5-Year Estimates

2019 ACS data products include updates to several categories of the existing means of transportation question. For more information, see: [Change to Means of Transportation](#).

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see ACS Technical Documentation). The effect of nonsampling error is not represented in these tables.

Workers include members of the Armed Forces and civilians who were at work last week.

The 2015-2019 American Community Survey (ACS) data generally reflect the September 2018 Office of Management and Budget (OMB) delineations of metropolitan and micropolitan statistical areas. In certain instances, the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB delineation lists due to differences in the effective dates of the geographic entities.

Estimates of urban and rural populations, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

Explanation of Symbols:

- An "*" entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
- An "-" entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution, or the margin of error associated with a median was larger than the median itself.
- An "-" following a median estimate means the median falls in the lowest interval of an open-ended distribution.
- An "+" following a median estimate means the median falls in the upper interval of an open-ended distribution.
- An "****" entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
- An "*****" entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
- An "N" entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
- An "(X)" means that the estimate is not applicable or not available.

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Technical Documentation section.

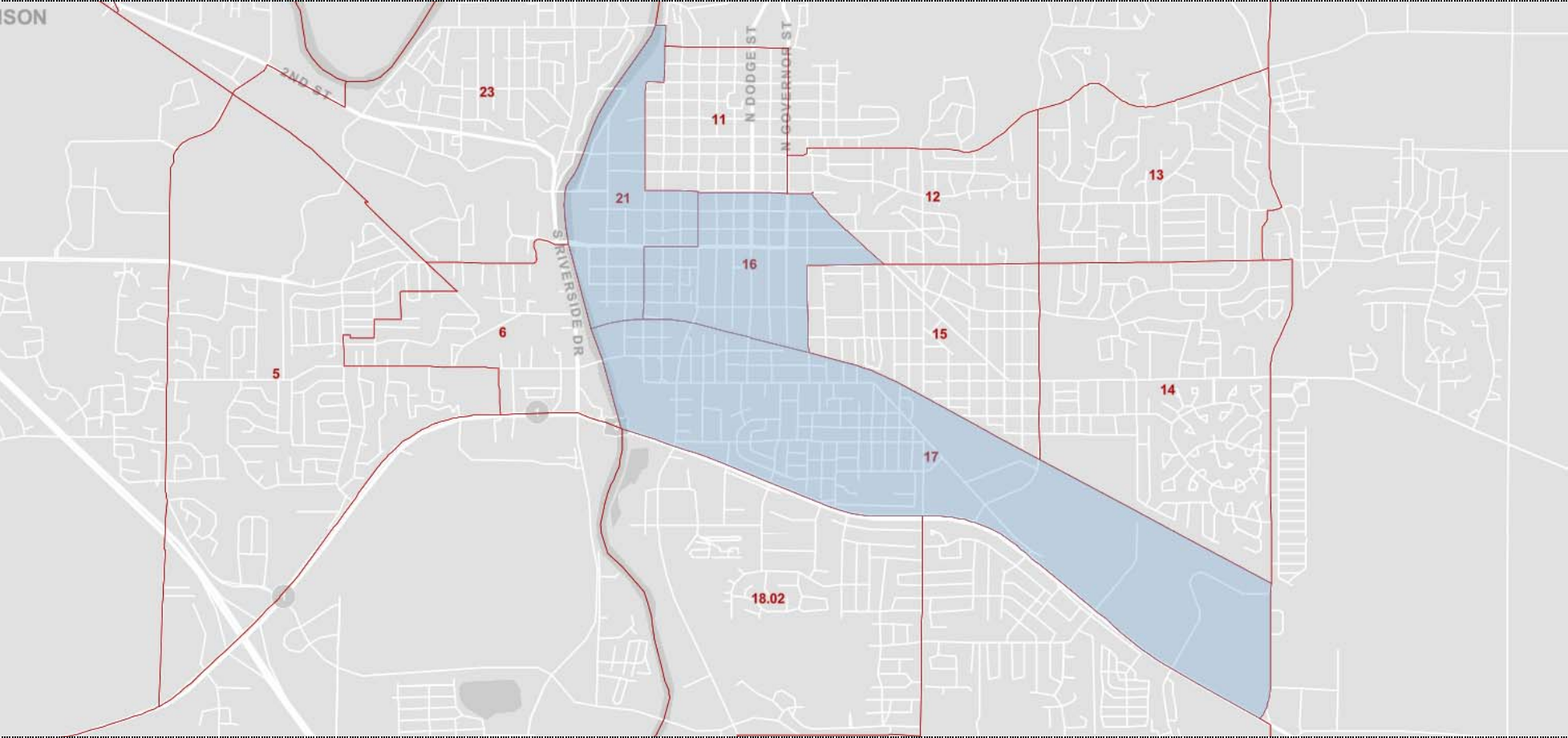
Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section.

Census Tract Selection Map

Geographies: Census Tract

Year: 2019

Select Clear Geos Table Notes



LEGEND	YEAR: 2019
Selected Geographies	3

3000 ft

GILBANE DEVELOPMENT – S. DUBUQUE STREET

Special Exception – Parking Reduction

GENERAL CRITERIA (14-4B-3A):

1. The specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The request for a reduction of the amount of on-site parking provided will not be detrimental to or endanger the public health, safety, comfort or general welfare of community. The reduced parking on-site will reduce the amount of vehicular traffic that would otherwise be present around the site. The reduction will also encourage alternate forms of mobility including walking, biking, and use of existing public transportation services.

2. The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood.

The request for reduced parking will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not diminish or impair property values. The adjacent properties to the west and north are commercial buildings or multi-dwelling buildings. The University of Iowa occupies the majority of the block west of the project with a building and parking lot. The properties to the south are operated by Johnson County (Ambulance Facility and Parking Structure). There are no single-family properties in the vicinity of the project.

3. Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district in which such property is located.

The request for a parking reduction will not impede the normal and orderly development and improvement on the surrounding properties. The development is consistent with the Riverfront Crossings Master Plan and is a continuation of redevelopment that has already occurred in the vicinity of this project.

4. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

The infrastructure for this project already exists. The existing street and sidewalk network can support this proposed development. The city-owned utilities are adequately sized to service this building. Further, the development will replace a sanitary sewer that is more than 100-years old. The public transit system will potentially benefit from increases in ridership and demand from the residents of this building.

5. Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets.

The proposed project will eliminate multiple driveways along the east side of S. Dubuque Street between the Iowa Interstate Railroad and Lafayette Street. The elimination of these driveways will make it possible to add on-street parking to this portion of S. Dubuque Street. The project will eliminate one driveway on Lafayette

Street and replace another with the entrance to the below-grade parking structure. These changes will all result in a more orderly ingress and egress for vehicles using the site.

6. Except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects, conforms to the applicable regulations or standards of the zone in which it is to be located.

Other than the request for the parking reduction, the project conforms with all other regulations and standards of the Riverfront Crossings – Central Crossings District.

7. The proposed exception will be consistent with the Comprehensive Plan of the City, as amended.

Yes, the proposed exception for parking reduction is consistent with the Comprehensive Plan of the city, as amended.



CITY OF IOWA CITY

410 East Washington Street
Iowa City, Iowa 52240-1826
(319) 356-5000
(319) 356-5009 FAX
www.icgov.org

March 23, 2021

RE: Special Exception for
700, 710, 720, & 730 S. Dubuque St. and
206 & 220 Lafayette St.

Dear Property Owner:

The Iowa City Board of Adjustment has received an application submitted by Axiom Consultants, on behalf of Gilbane Development, requesting a special exception to reduce the minimum parking requirements for the properties located at 700, 710, 720, & 730 S. Dubuque St. and 206 & 220 Lafayette St. (see attached map).

As a neighboring property owner, you are being notified of this application. If you know of any interested party who has not received a copy of this letter, we would appreciate it if you would inform them of the pending application.

The Board of Adjustment will review this application at an **electronic** public meeting tentatively scheduled for April 14, 2021 at 5:15 p.m. Because the meeting is subject to change, check the City of Iowa City's website, www.icgov.org/BOA, the week of the meeting to confirm the meeting agenda.

An electronic meeting, pursuant to Iowa Code section 21.8, is being held because a meeting in person is impossible or impractical due to concerns for the health and safety of Board members, staff and the public presented by COVID-19.

Details on how to participate in the electronic meeting will be included in the agenda packet, which will be available at www.icgov.org/BOA the Monday before the meeting. Providing comment in person is not an option.

You may also submit written information for consideration to me in advance of the meeting, and I will include your comments in the information to be considered by the Board.

Please do not hesitate to contact me at kirk-lehmann@iowa-city.org or 319-356-5230 if you have any questions or comments about this application or if you would like more information on the Board of Adjustment review process.

Sincerely,

Kirk Lehmann
Associate Planner
City of Iowa City
Department of Neighborhood and Development Services

Board of Adjustment: Frequently Asked Questions

What is the Board of Adjustment?

The Board of Adjustment is a panel made up of Iowa City citizens appointed by the City Council. The board reviews and grants special exceptions and variances and also considers appeals when there is a disagreement about an administrative zoning decision made by the City. Members of the board act like judges, making decisions about individual properties and uses that may have difficulty meeting a specific zoning regulation or to resolve disputes about administrative zoning decisions. The actions and decisions of the Board of Adjustment are binding upon all parties unless overturned upon appeal to District Court.

What is a special exception?

There are two types of special exceptions.

1. Within the zoning code a number of land uses are set apart as special exceptions that may be permitted in certain zones. Rather than permitting these uses outright, each is reviewed on a case-by-case basis to ensure that they do not negatively affect surrounding properties. For example, daycare centers are permitted in residential zones by special exception. The same is true of churches and private schools. All may be appropriate uses in residential zones, if certain criteria such as parking, screening, and other requirements are met.

2. Adjustments to specific zoning requirements in cases where there are unique circumstances. Again, the opportunity to adjust these requirements and the criteria for allowing such adjustments are described in the Zoning Code. For example, a homeowner may apply for a reduction in a building setback in order to accommodate an addition or other improvement to their property.

The Zoning Code lists explicitly each use and standard for which a special exception may be considered. In other words, you can't request a special exception for everything—only those things called out as special exceptions in the Code. The Code also provides criteria specific to each request. Applicants must provide evidence that they satisfy each of these criteria, and the Board must consider these criteria when making a determination as to whether to grant a special exception.

What is a variance?

A variance grants a legal right to an owner to develop property in a manner that deviates from a specific provision of the Zoning Code and for which a special exception is not expressly allowed. In seeking relief from the restrictions in the Zoning Code, the property owner applying for the variance must show that the strict application of the Zoning Code would cause and unnecessary hardship such that the property in question is unusable or that a literal interpretation of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the zoning district. In addition the circumstances that create this hardship must be unique to the property in question and must not be of the property owner's own making.

What is an appeal?

The Board considers and rules on appeals from any citizen who believes there is an error in any decision, determination, or interpretation made by the City or its designee in the administration of the Zoning Code. As with their other decisions, the Board's ruling is binding on all parties unless overturned on appeal to the District Court.

How does the review process work?

An application requesting a special exception, variance, or an appeal is a request. The Board makes a decision on whether to grant a specific request only after City staff have provided a review of an application and the public has had an opportunity to make its concerns known. The Board not only has the right to approve or deny requests, but may also choose to approve request subject to certain conditions.

In making decisions, the Board may only consider comments and evidence relevant to the specific standards provided in the code. City Development Staff provide reports to the Board for each application on the agenda. The Staff Report provides background information on the application, informs the Board of all the criteria in the Code that a particular application must satisfy, and interprets whether and how an application has satisfied these criteria.

How can I participate in the process?

Because most applications will be reviewed and decided upon at a single public hearing, it is important for interested parties to respond in a timely and informed manner. Those who wish to speak for or against an application are given an opportunity to be heard by the Board at the hearing, but may also submit written comments prior to the meeting.

Written comments must be delivered to the Department of Neighborhood & Development Services at City Hall no later than 5 days before the hearing in order to be included with the Staff Report. All correspondence submitted after that time will be delivered to the Board at the time of the hearing.

The Board considers the application, the recommendation of staff (in the staff report) and any additional information, correspondence, or testimony provided at the hearing. Board of Adjustment hearings are usually held on the second Wednesday of each month at 5:15 p.m. in Emma J. Harvat Hall in City Hall. You can find more information at the following website: www.icgov.org/boa.

The Staff Report can be very useful to anyone who is unfamiliar with the BOA process or with the Zoning Code and will provide an understanding of the criteria that the Board must consider in rendering its decision. Staff Reports may be obtained from the Department of Neighborhood & Development Services. E-mail kirk-lehmann@iowa-city.org to request a copy of a report.

If you have questions about an application or if you simply want more information about issues related to the Board of Adjustment, please feel free to contact Kirk Lehmann at 319-356-5230 or e-mail kirk-lehmann@iowa-city.org.

To submit comments to the Board of Adjustment write to the Board of Adjustment c/o the Department of Neighborhood & Development Services, 410 E. Washington St., Iowa City IA 52240 or e-mail kirk-lehmann@iowa-city.org.



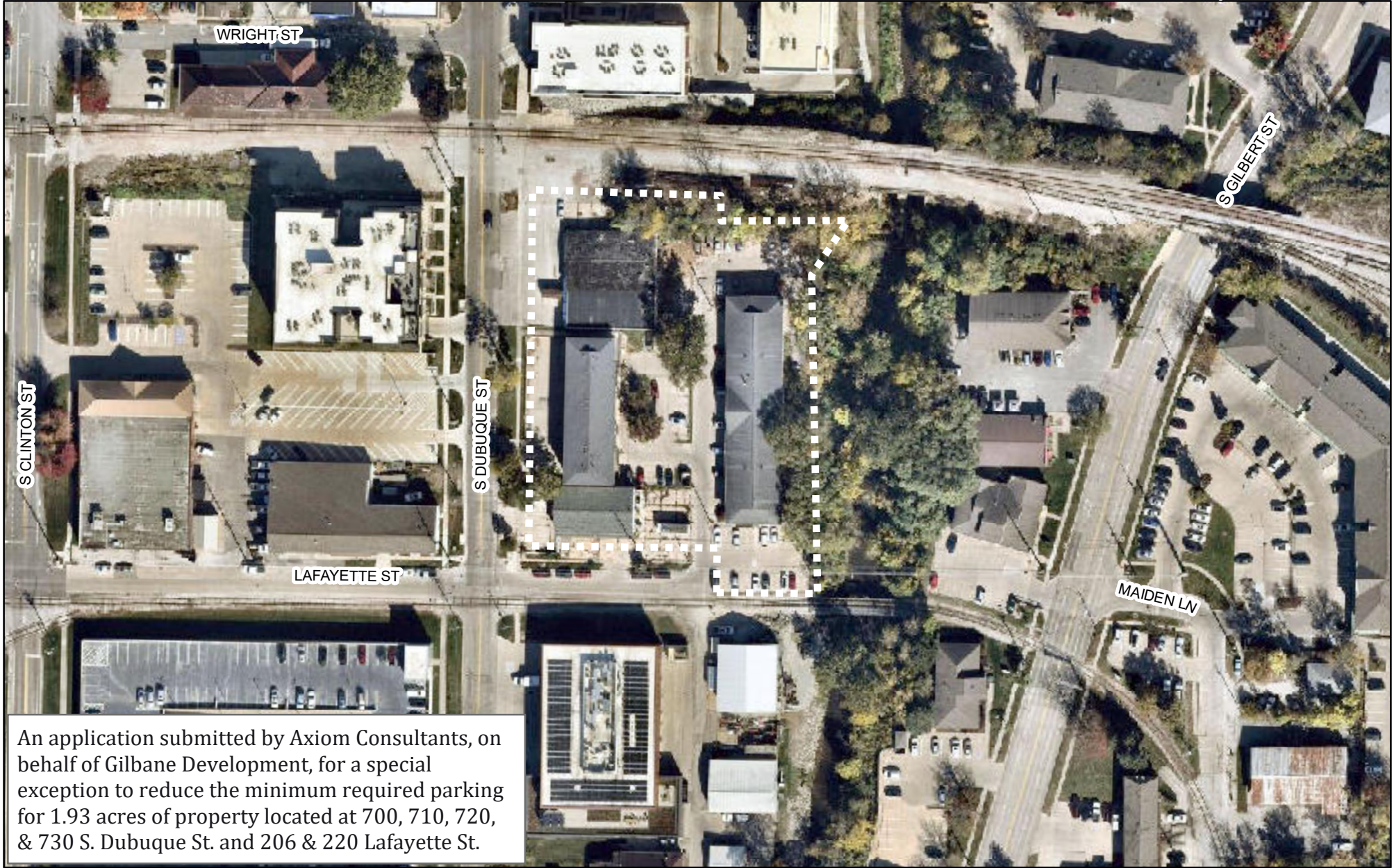
0 0.0125 0.025 0.05 Miles

EXC21-0002

**700, 710, 720, 720, 730 S. Dubuque St.
206, & 220 Lafayette St.**



Prepared By: Joshua Engelbrecht
Date Prepared: March 2021



An application submitted by Axiom Consultants, on behalf of Gilbane Development, for a special exception to reduce the minimum required parking for 1.93 acres of property located at 700, 710, 720, & 730 S. Dubuque St. and 206 & 220 Lafayette St.

Parcel Number	Property Address	City (mail)	Zip Code	Deed Holder1	Deed Holder2	Deed Holder3	Mailing Name	Mailing Address2	Mailing Address3	Mailing Zip Code
1015282003	218 E BENTON ST	IOWA CITY	52240	FISHER, DOUG			DOUGLAS L FISHER	218 E BENTON ST	IOWA CITY, IA	52240
1015278005	725 S DUBUQUE ST	IOWA CITY	52240	TOM AND AMY LLC			TOM AND AMY LLC	122 LAFAYETTE ST	IOWA CITY, IA	52240
1015278006	122 LAFAYETTE ST	IOWA CITY	52240	TOM AND AMY LLC			TOM AND AMY LLC	122 LAFAYETTE ST	IOWA CITY, IA	52240
1015284001	816 S GILBERT ST	IOWA CITY	52240	STEVE, VERNON	STEVE, ROXANNE		VERNON STEVE	2 WOODLAND DR NE	IOWA CITY, IA	52240
1015283001				CITY OF IOWA CITY			CITY OF IOWA CITY	410 E WASHINGTON ST	IOWA CITY, IA	52240-1826
1015282002	228 E BENTON ST	IOWA CITY	52240	FISHER, DOUGLAS L			DOUGLAS L FISHER	218 E BENTON ST	IOWA CITY, IA	52240
1015277006	710 S DUBUQUE ST	IOWA CITY	52240	6 CORP			6 CORP	1469 WETHERBY DR	IOWA CITY, IA	52240
1015212003	615 S DUBUQUE ST	IOWA CITY	52240	JLB ADVENTURES LLC			JLB ADVENTURES LLC	615 S DUBUQUE ST	IOWA CITY, IA	52240
1015221037	620 S DUBUQUE ST UNIT 101	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015212004	619 S DUBUQUE ST	IOWA CITY	52240	ICBUR LLC			ICBUR LLC	201 BLACK SPRINGS CIR	IOWA CITY, IA	52246
1015211003	628 S DUBUQUE ST	IOWA CITY	52240	DEL RAY RIDGE, LP			DEL RAY RIDGE LP	322 E 2ND ST	IOWA CITY, IA	52240
1015212002	613 S DUBUQUE ST	IOWA CITY	52240	IC INVESTORS INC			IC INVESTORS INC	PO BOX 1606	IOWA CITY, IA	52244-1606
1015284004	320 E BENTON ST	IOWA CITY	52240	STEVE, KATHLEEN A			KATHLEEN A STEVE	3158 HATCH LN	THE VILLAGES, FL	32162
1015281014	855 S DUBUQUE ST	IOWA CITY	52240	JOHNSON COUNTY IOWA			JOHNSON COUNTY IOWA	913 S DUBUQUE ST STE 101	IOWA CITY, IA	52240
1015210001	315 E PRENTISS ST	IOWA CITY	52240	BOYD INVESTMENT COMPANY LC			BOYD INVESTMENT COMPANY LC	PO BOX 1516	IOWA CITY, IA	52244-1516
1015281015				CITY OF IOWA CITY			CITY OF IOWA CITY	410 E WASHINGTON ST	IOWA CITY, IA	52240-1826
1015278004				BOARD OF REGENTS STATE OF IOWA FOR THE USE & BENEFIT OF THE UNIVERSITY OF IOWA			STATE OF IOWA	4 JESSUP HALL	IOWA CITY, IA	52242
1015155001	702 S GILBERT ST	IOWA CITY	52240	KENNEDY PLAZA INC			KENNEDY PLAZA INC	711 S GILBERT ST	IOWA CITY, IA	52240
1015283002	817 S GILBERT ST	IOWA CITY	52240	SEHL, GEORGE S			GEORGE S SEHL	805 S GILBERT ST	IOWA CITY, IA	52240
1015283003	805 S GILBERT ST	IOWA CITY	52240	SEHL, GEORGE S			GEORGE S SEHL	805 S GILBERT ST	IOWA CITY, IA	52240
1015276002	723 S GILBERT ST	IOWA CITY	52240	NIDEY, DANIEL R	NIDEY, DOREEN MONITTO		723 LLC	723 S GILBERT ST	IOWA CITY, IA	52240
1015276001	711 S GILBERT ST	IOWA CITY	52240	HODGE APARTMENTS LC			HODGE APARTMENTS LC	711 S GILBERT ST	IOWA CITY, IA	52240
1015277007	700 S DUBUQUE ST	IOWA CITY	52240	6 CORP			6 CORP	1469 WETHERBY DR	IOWA CITY, IA	52240
1015277002	220 LAFAYETTE ST	IOWA CITY	52240	DRAGONFLY PROPERTIES III LLC			DRAGONFLY III LLC	220 LAFAYETTE ST STE 160	IOWA CITY, IA	52240
1015277008	730 S DUBUQUE ST	IOWA CITY	52240	PUBLIC SPACE ONE, INC			PUBLIC SPACE ONE INC	229 N GILBERT ST	IOWA CITY, IA	52245
1015277005	720 S DUBUQUE ST	IOWA CITY	52240	DRAGONFLY III LLC			DRAGONFLY III LLC	220 LAFAYETTE ST STE 160	IOWA CITY, IA	52240
1015210003	625 S GILBERT ST	IOWA CITY	52240	BOYD INVESTMENT COMPANY L C			BOYD INVESTMENT COMPANY LC	PO BOX 1516	IOWA CITY, IA	52244-1516
1015212007	109 WRIGHT ST	IOWA CITY	52240	SANDERSON, DALE E	SIGAFOOSE, JAY W	SIGAFOOSE, MELANIE M	JAY W & MELANIE M SIGAFOOSE	2518 PRINCETON RD	IOWA CITY, IA	52245
1015282001				CITY OF IOWA CITY			CITY OF IOWA CITY	410 E WASHINGTON ST	IOWA CITY, IA	52240-1826
1015276006	755 S GILBERT ST	IOWA CITY	52240	CHAMBERLAIN, MICHAEL J			MICHAEL J CHAMBERLAIN	4272 DOGWOOD TRL NE	IOWA CITY, IA	52240
1015282016	206 E BENTON ST	IOWA CITY	52240	BFLS PROPERTIES LLC			BFLS PROPERTIES LLC	5630 GABLE AVE SW	KALONA, IA	52247
1015282015	808 S DUBUQUE ST	IOWA CITY	52240	JOHNSON COUNTY IOWA			JOHNSON COUNTY IOWA	913 S DUBUQUE ST STE 101	IOWA CITY, IA	52240
1015221001	602 S DUBUQUE ST UNIT 101	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221002	602 S DUBUQUE ST UNIT 102	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221003	602 S DUBUQUE ST UNIT 103	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221004	602 S DUBUQUE ST UNIT 104	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221005	602 S DUBUQUE ST UNIT 105	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221006	602 S DUBUQUE ST UNIT 106	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221007	602 S DUBUQUE ST UNIT 107	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221008	602 S DUBUQUE ST UNIT 108	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221009	602 S DUBUQUE ST UNIT 109	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221010	602 S DUBUQUE ST UNIT 201	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221011	602 S DUBUQUE ST UNIT 202	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221012	602 S DUBUQUE ST UNIT 203	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221013	602 S DUBUQUE ST UNIT 204	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221014	602 S DUBUQUE ST UNIT 205	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221015	602 S DUBUQUE ST UNIT 206	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221016	602 S DUBUQUE ST UNIT 207	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221017	602 S DUBUQUE ST UNIT 208	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221018	602 S DUBUQUE ST UNIT 209	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221019	602 S DUBUQUE ST UNIT 301	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221020	602 S DUBUQUE ST UNIT 302	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221021	602 S DUBUQUE ST UNIT 303	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221022	602 S DUBUQUE ST UNIT 304	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221023	602 S DUBUQUE ST UNIT 305	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221024	602 S DUBUQUE ST UNIT 306	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221025	602 S DUBUQUE ST UNIT 307	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221026	602 S DUBUQUE ST UNIT 308	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221027	602 S DUBUQUE ST UNIT 309	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221028	602 S DUBUQUE ST UNIT 401	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221029	602 S DUBUQUE ST UNIT 402	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221030	602 S DUBUQUE ST UNIT 403	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221031	602 S DUBUQUE ST UNIT 404	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221032	602 S DUBUQUE ST UNIT 405	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015221033	602 S DUBUQUE ST UNIT 406	IOWA CITY	52240	DUBUQUE & PRENTISS INVESTMENTS LC			DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240

1015222039	225 E PRENTISS ST UNIT 401	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222040	225 E PRENTISS ST UNIT 402	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222041	225 E PRENTISS ST UNIT 403	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222042	225 E PRENTISS ST UNIT 404	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222043	225 E PRENTISS ST UNIT 405	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222044	225 E PRENTISS ST UNIT 406	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222045	225 E PRENTISS ST UNIT 407	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222046	225 E PRENTISS ST UNIT 408	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222047	225 E PRENTISS ST UNIT 409	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222048	225 E PRENTISS ST UNIT 410	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222049	225 E PRENTISS ST UNIT 411	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222050	225 E PRENTISS ST UNIT 412	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222051	225 E PRENTISS ST UNIT 413	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222052	225 E PRENTISS ST UNIT 414	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222053	225 E PRENTISS ST UNIT 415	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222054	225 E PRENTISS ST UNIT 416	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015222055	225 E PRENTISS ST UNIT 417	IOWA CITY	52240 DUBUQUE & PRENTISS INVESTMENTS LC		DUBUQUE & PRENTISS INVESTMENTS	920 S DUBUQUE ST	IOWA CITY, IA	52240
1015212011	612 S CLINTON ST	IOWA CITY	52240 ROFFMAN, JOHN	ROFFMAN, JOELLEN	JOHN O & JOELLEN S ROFFMAN	1314 BURRY DR	IOWA CITY, IA	52246
1015212010	614 S CLINTON ST	IOWA CITY	52240 ROFFMAN, JOHN O	ROFFMAN, JOELLEN S	JOHN O & JOELLEN S ROFFMAN	1314 BURRY DR	IOWA CITY, IA	52246
1015212008	114 WRIGHT ST	IOWA CITY	52240 ROFFMAN, JOHN	ROFFMAN, JOELLEN	JOHN O & JOELLEN S ROFFMAN	1314 BURRY DR	IOWA CITY, IA	52246
1015212005	WRIGHT ST	IOWA CITY	52240 BIG BETTY LLC		BIG BETTY LLC	122 WRIGHT ST	IOWA CITY, IA	52240
1015212006	122 WRIGHT ST	IOWA CITY	52240 BIG BETTY LLC		BIG BETTY LLC	122 WRIGHT ST	IOWA CITY, IA	52240

A PORTION OF LOTS 1, 2, 3, 4, AND ALL OF LOTS 5, 6, 7, AND 8, ALL IN BLOCK 18 COUNTY SEAT ADDITION TO IOWA CITY, IOWA ACCORDING TO THE PLAT THEREOF RECORDED IN DEED BOOK 1 & 2, PAGE 253 OF THE RECORDS OF THE JOHNSON COUNTY RECORDER, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 18, OF THE COUNTY SEAT ADDITION TO IOWA CITY, IOWA; THENCE N 01°15'47" W, ALONG THE EAST RIGHT OF WAY LINE OF DUBUQUE STREET, 200.97 FEET; THENCE N 00°47'29" W, ALONG SAID EAST RIGHT OF WAY LINE, 118.70 FEET, TO THE NORTH LINE OF LOT 8; THENCE N 89°22'53" E, ALONG SAID NORTH LINE OF LOT 8, 150.00 FEET; THENCE S 00°41'06" E, 15.97 FEET; THENCE S 87°16'28" E, 137.31 FEET; THENCE S 32°51'20" W, 60.29 FEET; THENCE S 02°26'27" E, 286.42 FEET; THENCE S 89°21'34" W, 91.10 FEET; THENCE N 00°52'18" W, 40.00 FEET TO THE SW CORNER OF LOT 4 OF SAID BLOCK 18 AND THE NORTH RIGHT OF WAY LINE OF LAFAYETTE STREET ; THENCE S 89°21'34" W ALONG SAID NORTH RIGHT OF WAY LINE, 168.60 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL CONTAINS 1.93 ACRES AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.



CITY OF IOWA CITY MEMORANDUM

Date: April 14, 2021
To: Board of Adjustment
From: Kirk Lehmann, AICP, Associate Planner, Neighborhood & Development Services
Re: Deferral of Hy-Vee Drive-Through Applications at 1125 N. Dodge Street (EXC21-0003) and at 1720 Waterfront Drive (EXC21-0004)

Background

LT Leon Associates, on behalf of Hy-Vee, Inc., submitted two special exceptions requesting drive-through facilities in Community Commercial (CC-2) zones associated with their Hy-Vee Aisles Online pick-up program. The two applications are as follows:

1. **EXC21-0003:** Hy-Vee at 1125 North Dodge Street; and
2. **EXC21-0004:** Hy-Vee at 1720 Waterfront Drive.

The applicant has requested deferrals on both applications, which were initially scheduled for the April 14, 2021 Board of Adjustment meeting. EXC21-0003 requires a rezoning prior to consideration by the Board due to a Conditional Zoning Agreement on the property which will need to be amended. For EXC21-0004, the applicant is substantially modifying their site plan, which will require a resubmittal of most attachments on the application.

Recommendation

Once these items are finalized, staff will be able to complete its review and make a recommendation. Because staff is not prepared to make a recommendation to Board of Adjustment at this time, staff recommends deferring each application as follows:

1. **EXC21-0003:** Deferral until the property at 1125 N. Dodge Street is rezoned; and
2. **EXC21-0004:** Deferral until updated application materials for 1720 Waterfront Drive are submitted.

**MINUTES
BOARD OF ADJUSTMENT
FORMAL MEETING
MARCH 10, 2021 – 5:15 PM**

PRELIMINARY

Electronic Meeting

(Pursuant to Iowa Code section 21.8)

An electronic meeting is being held because a meeting in person is impossible or impractical due to concerns for the health and safety of Commission members, staff and the public presented by COVID-19.

MEMBERS PRESENT: Gene Chrischilles, Bryce Parker, Amy Pretorius

MEMBERS ABSENT: Zephan Hazell

STAFF PRESENT: Susan Dulek, Kirk Lehmann

OTHERS PRESENT: Keith Weggen, Britni Andreasson

CALL TO ORDER:

The meeting was called to order at 5:20 PM.

ROLL CALL:

A brief opening statement was read by Pretorius outlining the role and purpose of the Board and the procedures that would be followed in the meeting.

NOMINATION AND SELECTION OF BOARD CHAIR AND VICE CHAIR:

Dulek noted that Hazell has submitted his resignation from the Board as he is moving out of state with his final day being May 1, 2021.

Chrischilles nominated Pretorius as chair. Parker seconded the motion, a vote was taken and the motion passed 3-0.

Chrischilles nominated Parker as vice chair.

Parker nominated Chrischilles as vice chair, Pretorius seconded the motion, a vote was taken and the motion passed 3-0.

SPECIAL EXCEPTION ITEM EXC21-0001:

An application submitted by Britni Andreassen on behalf of Kum & Go, LC for a special exception to allow changes to the total outdoor light output standards for approximately 1.15 acres of property located at 1310 S Gilbert St and 348 Highland Ave.

Pretorius opened the public hearing.

Lehmann began the staff report noting in terms of background the applicant is building a new convenience store at the northeast corner of South Gilbert street and Highland Avenue. The land was rezoned Riverfront Crossings South Gilbert in 2019 with conditions that were related to closing access points on South Gilbert and Highland and some additional right-of-way on South Gilbert Street. Then in 2020 three special exceptions were applied to this site, EXC19-02 to establish the quick vehicle service use in the zone, EXC20-03 which waived a two-story minimum building height with a requirement that the walls be a certain height to create the appearance of a two-story building, and EX20-07 which waived parking setbacks from the 3rd Street facade and also frontage and design related requirements for the north building face. Then in December 2020 the applicant submitted a site plan to the City and upon review the City found that the lighting standards were not met with regards to total light output, and so the applicant has returned to request a special exception to allow a higher maximum total outdoor light output.

Lehmann next showed an aerial map of the site which includes the existing Kum & Go on the west side of the site and some light industrial buildings on the east side of the site. The current zoning is Riverfront Crossings South Gilbert (RFC-SG), but it is surrounded by Intensive Commercial (CI-1) uses to the north and east with more RFC-SG zones to the west, and then to the south is Community Commercial (CC-2). Lehmann showed a picture of the existing building and then the site plan. On the site plan he noted the building is on the southwest corner of site and there are no access off South Gilbert Street, instead there's one access on Highland Avenue and two from 3rd Street. Lehmann next showed the photometric plan and noted it shows the level of illumination on the site at each individual area and shows the different kinds of proposed lighting. In terms of expected light level, the numbers on the site plan are in foot candles which is a measure of light intensity and is one lumen per square foot. Lehmann stated where the plan shows a zero, there's no illumination. When a property is next to a residential zone, 0.5 footcandles is what is allowed at the property line by Code. In this case, there are no residential zones next to the site, but the 0.5 level is a good standard to keep in mind. He noted to the south, the light extends into the right-of-way but doesn't make it to the other side of the right-of-way, and it extends to the property line to the north.

Lehmann stated the Board of Adjustment is charged with approving, approval with conditions, or denying the applications, based on the facts presented. To approve a special exception, the Board must find the application meets all applicable approval criteria, in this case there are specific standards pertaining to the waiver, and then also the general standards which are required for all special exceptions.

Lehmann began with the specific standards at 14-4B-4B-12J which allow waivers from development standards for quick vehicle servicing uses in the Riverfront Crossings District. The standard that applies to this application is for properties in the Riverfront Crossings District, where it can be demonstrated that the proposed quick vehicle servicing use cannot comply with

this specific standard as indicated in subsections of Code. The Board may grant a special exception to modify or waive the provision, provided that the intent of the development standards is not unduly compromised. As part of that, the Board can impose conditions as required. Lehmann then reviewed the staff findings. First, the property is in the Riverfront Crossing District, so the applicant can request a waiver from the standards outlined in 14-4B-4B-12i which requires compliance with the Riverfront Crossings Code. In this case, the applicant is requesting modification to 14-2G-1C which talks about the applicability of the site development standards in the Code, specifically, that the maximum total outdoor light output be increased from 100,000 to 200,000 initial lumens per net acre found in the site development standards at 14-5G-5C. Lehmann explained that what they're requesting in effect is to change the lighting environment district from an E2 medium ambient lighting standard to an E3 high ambient lighting standard. Lehmann explained the two different sets of lighting standards. The E2 medium standard generally applies to higher density multifamily and lower intensity commercial zones, in addition to the current zoning designation Riverfront Crossing South Gilbert, so this includes most multifamily zones such as PRM, RM-20, RM-44, and RNS-20, and then it also applies to all other Riverfront Crossings zones, with the exception of the West Riverfront zone. The E3 high ambient lighting standard generally applies to higher intensity commercial, industrial, and research zones and before the property was rezoned, it was an intensive commercial zone (CI-1). Typically a CI-1 zone would use this high ambient lighting standard if it's outside of the Riverfront Crossings District. The West Riverfront zone also uses an E3 high ambient lighting district, as do the Central Business zones and the Community Commercial zone to the south. Lehmann stated in this case, regardless of whether the property was rezoned, it would have had to comply with the E2 medium standard because it's in the Riverfront Crossing District though it was previously zoned CI-1.

Lehmann stated the intent of the outdoor lighting standards is to reduce obtrusive aspects of outdoor light while preserving safety, security, and the nighttime use and enjoyment of property. The total outdoor light output standards which they want modified have a purpose to prevent excessive overlighting and light pollution. Lehmann noted this property is located along the Highway 1 corridor and is near some intensive commercial and light industrial properties. Those properties tend to be less sensitive to ambient light and outside the Riverfront Crossings District, are in zones that use the E3 high ambient lighting standard. With special outdoor uses such as commercial service stations, additional lighting is typical. The City's outdoor lighting standards include some exceptions for special outdoor uses like outdoor recreational facilities and display lots, but it does include vehicle service stations.

Lehmann stated the experts on lighting standards are the Illuminating Engineering Society (IES) and they provide some recommended lighting levels to ensure adequate illumination and safety of occupants. For this site, because of the use type and use by the general public, the IES recommend a higher level of lighting than what is currently allowed in the zone. All of these things lead staff to find that the request doesn't unduly compromise the intent of the development standards required for this specific criterion.

Lehmann next moved on to the general standards, found at 14-4B-3 and there are seven general standards. The first is that the specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare. Lehmann stated in this case there is an existing convenience store with fuel sales at the site. Additionally, there have already been three special exceptions the Board has approved, including the new convenience store

with fuel sales, the second story minimum building height and the three-foot parking setback on the 3rd Street facade and frontage related design requirements for the north building facade. Lehmann noted in this case, the requested waiver will result in more ambient light throughout the site which will improve safety for employees, customers and others, and the IES standards recommend a higher level of lighting than was currently allowed in the zone. Therefore, staff finds that additional lighting will meet the standard.

Lehmann stated the second standard is that this specific proposal exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood. He confirmed this new request will not change the use or access to the site, it is along a busy commercial corridor with higher levels of ambient light, nearby properties contain higher intensity commercial and light industrial uses which are less sensitive to ambient light, and nearby properties are in zones that utilize the E3 high ambient lighting standard, except for those within the Riverfront Crossings District. In this case, the higher levels of ambient light that are proposed are primarily to the east and north and not towards the mixed-use developments to the west. Lehmann noted they received a comment about a property to the northeast that has some residential uses, so he showed on a map where that property was located. The owner was concerned about light shining in the windows of the apartments in their building. Lehmann stated in this case, the special exception applies only to the total light output, it does not affect the physical controls that control glare and help minimize light trespass on surrounding properties. Additionally, the photometric plan submitted shows that light trespass should not affect that property to the northeast. Therefore, staff finds that increasing the total light output to an E3 high ambient lighting standard will not injure the use or enjoyment of property in the immediate vicinity or affect property values. Lehmann showed the site plan with an overlay of light trespass on surrounding properties and noted most of the light trespass starts to get into the property to the north, but it doesn't get past that railroad right-of-way to the east.

The third general standard is that the establishment of the specific proposed exception does not impede the normal and orderly development and improvement for property for uses permitted in the district. Lehmann noted in this case surrounding properties are developed but may be eligible for redevelopment under the Riverfront Crossings Form-Based Code, especially the property to the north. Redevelopment of the subject property and the requested modified standard won't affect development or improvement of surrounding properties.

The fourth general standard is that adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided. Lehmann stated the subject property already has access to all necessary utilities and redevelopment won't require off-site improvements.

The fifth criterion is tied to ingress and egress designed to minimize traffic congestion on public streets. Lehmann stated the current site has access off South Gilbert, Highland Avenue and 3rd Street. In this case, due to the rezoning, the proposed development will improve traffic congestion and ingress and egress because access points off South Gilbert will be closed and there will be only one access point off Highland Avenue and two access points off 3rd Street. Lehmann explained this will relieve traffic congestion around the intersection of Highland Avenue and South Gilbert Street. In addition, the proposed exceptional will provide better nighttime visibility at the site access points and will improve safety as well as traffic flow.

The sixth criterion states that except for these specific regulations and standards applicable to the exception, it will comply with all other standards in the zone. Lehmann reiterated the property has already received several special exceptions that modify standards which are approved. He stated all other aspects of the compliance will be reviewed upon site plan review and the photometric plan discrepancy is the only outstanding item to be addressed.

Finally, the seventh criterion is that the proposed exception will be consistent with the Comprehensive Plan of the City as amended. Lehmann stated the Comprehensive Plan Future Land Use Map indicates this area for mixed use development which could include retail, office, and residential uses. The Comprehensive Plan also supports urban infill redevelopment, including in the Riverfront Crossings District, and the Riverfront Crossings Master Plan calls for pedestrian scale development along South Gilbert Street with buildings near the street and parking behind. The Plan calls for retail convenience in this area to serve local demand, and this area is envisioned for commercial uses of some sort when it gets redeveloped. Therefore, staff believes that the proposal is consistent with the Comprehensive Plan of the City.

Staff recommends approval of EXC21-0001, to change the maximum total outdoor light output (including both fully shielded and unshielded fixtures) from 100,000 initial lumens per net acre to 200,000 initial lumens per net acre for the properties located at 1310 S. Gilbert Street and 348 Highland Avenue

Lehmann circled back to the public comment staff received, a copy of the letter was in the agenda packet, and again it's regarding light trespass into the properties, the apartments to the northeast, which he already discussed.

Keith Weggen (Civil Design Advantage, Grimes, IA) noted staff did an outstanding job summarizing the project and he would just like to highlight a little bit more information about what they went through in terms of trying to find ways to make the lighting work on the site. Initially when they submitted the project there was a little bit of confusion surrounding which lighting level would be allowed on the site, they initially prepared a site lighting plan that was the E2 illumination level and quickly learned that they couldn't do it and be consistent with the recommendations for minimum light levels. Weggen said it came down to a matter of safety in terms of the use of the site and considering the vast range of ages of who would be visiting the site whether it be customers or employees. They spent several weeks trying to find some different ways to modify the site lighting plan, for example they tried to take out a bunch of different fixtures, relocated fixtures, they changed bulbs in the design, adjusted pole heights, moved things around but no matter how many fixtures they took away or swapped areas with, they could not get to that recommended level for safety, as noted by IES, so staying within that restriction would end up with a site that was highly not recommended and not consistent with those safety recommendations. Weggen reiterated they tried everything they could think of to make it work without needing tonight's special exception.

Chrischilles asked what the lighting level is at the Riverside Drive Kum & Go. Weggen stated that lighting at that site was at the E3 lighting standard so it is similar to what they're proposing here. He noted however, that's a different sized site so the total illumination levels are more than what they need at this location. Chrischilles asked if there have been any complaints from the apartment building directly to the north of the Riverside Drive location with regards to light. Weggen is not aware of any. He noted the pole mounted lights they use are downcast fixtures

and have cut off shields within them, so they don't bleed beyond certain areas or certain distances away from the pole, so with regards to concerns from the neighbors to the northeast, the two poles that are nearest to that east property line are actually oriented to the west and are downcast fixtures with shields built into the backside of them to limit light that would go east. He said they will four poles and the rest is either building or soft mount lights.

Chrischilles asked who did the analysis of the spread of the light, was it done by Weggen's company or by the City. Weggen replied they have a team of lighting designers that work with a lighting manufacturer and lighting engineers and designers that do the vast majority of the site lighting plans for Kum & Go. Chrischilles asked if they agreed with the lights and where the light would bleed. Weggen confirmed they did the photometric plan, so the numbers seen on the drawings show the lighting levels.

Chrischilles asked if the lights are in place now. Weggen stated they're not on the site yet, nothing that's been proposed with this project has been constructed yet, so what is seen out there today is what's been existing for the last several years. Chrischilles asked how they do the analysis if the lights are not there. Weggen explained they take the site plan that they have in AutoCAD and the lighting manufacturers provided a whole slew of different file types that tell them exactly what their product will output in terms of lighting levels. He stated there's a lot of different software components that go into that in terms of the bulb light, the bulb power, the size and height of where the fixture would be mounted, whether or not it has a shield, and that is how lighting designers do photometric plans.

Parker asked if the IES is the only organizational body that measures lumens or is there a second opinion. Weggen stated there may be others, but IES is the most well known and most referred to in terms of industry standard.

Pretorius closed the public hearing.

Chrischilles stated that if the lighting spread analysis is accurate, everything should be okay.

Parker asked if the only concern from public comment was to the northeast of this site and nothing from the new mixed use apartment buildings to the west.

Chrischilles noted the plan shows that light doesn't cross the road though, according to the light plan they provided.

Weggen added that there are street lights in the right of way that may throw more light in that direction than this site, especially since most of this lighting is on the east side of the building.

Chrischilles added that another consideration is the safety of the site at night and that you want as much light as you can safely have without impacting other people.

Parker stated at the same time, City Council approved these standards and light pollution was probably on top of their mind but it's probably correct that street lights put out more light pollution towards residential areas than the site.

Pretorius noted she had no comments to add.

Chrischilles moved for approval of EXC21-0001, to change the maximum total outdoor light output (including both fully shielded and unshielded fixtures) from 100,000 initial lumens per net acre to 200,000 initial lumens per net acre for the properties located at 1310 S. Gilbert Street and 348 Highland Avenue.

Parker seconded the motion.

Parker stated regarding agenda item EXC21-0001 he concurs with the findings set forth in the staff report of this meeting date, March 10, 2021 with the recommended conditions presented by staff, and concludes that the general and specific criteria are satisfied as amended by staff during the presentation unless amended or opposed by another board member. He recommends that the Board adopt the findings in the staff report for the approval of this proposal. seconded the findings.

A vote was taken and the motion passed 3-0.

Pretorius stated the motion is declared approved, any person who wishes to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

Next is a request submitted by Kum & Go, LC to extend the expiration date to September 10, 2021 for EXC19-12, a special exception approved to allow a quick vehicle servicing use in the Riverfront Crossings - South Gilbert zone, EXC20-03, a special exception to waive the minimum 2-story building requirement, and EXC20-07, a special exception waiving the 3-foot parking setback behind the 3rd Street secondary street façade and from frontage type and related design.

Chrischilles moved to approve extend the expiration date to September 10, 2021 for EXC19-12, EXC20-03, and EXC20-07.

Parker seconded the motion.

A vote was taken and the motion passed 3-0.

Pretorius stated the motion is declared approved, any person who wishes to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

CONSIDER THE DECEMBER 9, 2020 MINUTES:

Chrischilles moved to approve the minutes of December 9, 2020. Parker seconded the motion.

A vote was taken and the motion carried 3-0.

Dulek alerted the Board to the parties of an upcoming appeal in case there is a conflict of interest because the rules allow for alternate members from a prior Board to sit in if there is a conflict by one of the current Board members. Dulek stated the appeal is on a vacant lot at 319

North Van Buren and the current owner is Prestige Properties. Prestige Properties is owned by Michael Oliveira and the appeal is submitted by David Moore. Dulek stated if any of the Board members may have a conflict with that please contact Lehmann. She also noted that their office has a conflict of interest during appeals, so North Liberty City Attorney Grant Leintz will be representing the Board during this particular appeal rather than Dulek.

Chrischilles asked what the appeal is about. Dulek noted all information will be in the next Board packet but it's an appeal about a minor modification that was granted. A minor modification is similar to a special exception, but it's granted by staff. This one was a minor adjustment to some regulations, applied for by the property owner and granted, and then the appeal was filed by a neighboring property owner. Dulek cannot go into any more details at this time. Staff will send out an email listing all the appellants and addresses so the Board can decide if they have conflicts.

Parker asked what the date for this appeal case was. Lehmann said it will be April 14. He also noted that will be Hazell's last meeting. Chrischilles noted the Board will be down two people then. Dulek noted Council may appoint somebody next Tuesday to take Cox's spot.

ADJOURNMENT:

Parker moved to adjourn this meeting, Chrischilles seconded, a vote was taken and all approved.

**BOARD OF ADJUSTMENT
ATTENDANCE RECORD
2020-2021**

NAME	TERM EXP.	1/8	2/12	4/8	5/13	5/27	6/10	7/15	10/14	11/18	12/9	3/10	
CHRISCHILLES, GENE	12/31/2022	X	X	X	X	X	X	X	X	X	X	X	
COX, ERNIE	12/31/2020	X	O/E	X	X	X	X	X	O/E	O/E	O/E	-- --	
HAZELL, ZEPHAN	12/31/2021	X	O/E	X	X	X	O/E	X	X	X	X	O/E	
PARKER, BRYCE	12/31/2024	O/E	X	X	X	X	X	X	X	X	X	X	
PRETORIUS, AMY	12/31/2023	X	X	X	X	X	X	X	X	X	X	X	
Vacant seat													

Key: X = Present
 O = Absent
 O/E = Absent/Excused
 -- -- = Not a Member