

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, AUGUST 24, 2017; 4:00 PM

COUNCIL CHAMBERS 226 WEST 4TH STREET DAVENPORT, IOWA 52801

I. Secretary's Report

- A. Zoning Board of Adjustment Minutes
City of Davenport
June 8, 2017

II. Old Business

III. New Business

- A. Request HV17-09 of Gregg Ontiveros dba WJA LLC, for a hardship variance at 2010 East River Drive to construct a five story, 60-foot tall mixed use building containing commercial and residential units. Property is zoned "HSD" Historic Shopping District.

Section 17.27.040 of the Davenport Municipal Code restricts the height limitation of buildings in the "HSD" to three stories not to exceed 45 feet in height.

IV. Other Business

V. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: Community Planning & Economic Development
Contact Info: Matt Flynn 326-2286

Date
8/24/2017

Subject:
Zoning Board of Adjustment Minutes
City of Davenport
June 8, 2017

Recommendation:
Approve the Minutes

ATTACHMENTS:

Type	Description
▣ Cover Memo	ZBA Minutes 6-8-17

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	8/18/2017 - 10:50 AM



MINUTES
City of Davenport
Zoning Board of Adjustment
June 8, 2017



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.

Call to Order

Chairman Hart called the Zoning Board of Adjustment meeting in the first floor Council Chambers at City Hall, 226 W. 4th Street, Davenport, Iowa to order at 4:00 p.m.

Board Members present: Lee, Strayhall, and Reistroffer and Woodard.

Staff present: Ryan Rusnak.

I. Secretary's Report:

Consideration of the minutes from the May 11, 2017 public hearing (there was no meeting on May 25, 2017 due to a lack of business).

Motion:

Motion by Reistroffer, second by Woodard to approve the May 11, 2017 minutes.

Minutes were approved unanimously (5-0) by voice vote.

Lee, yes; Strayhall, yes; Woodard, yes; and Hart, yes.

II. Old Business:

None.

III. New Business:

1. Request HV17-07 of Genesis Health System at 3200 West Kimberly Road for the following hardship variances:

10 feet from the required 35 foot front yard setback for a building; and
18 feet from the required 25 foot rear yard setback for a parking lot.

Property is zoned "PDD" Planned Development District.

Section 17.32.030A.1 of the Davenport Municipal Code requires a minimum 25 front yard setback for buildings with one foot of additional setback for each one foot of building height over 25 feet. Section 17.32.030A.3 requires a 25 foot rear yard setback for parking lots when adjacent to residential zones.

Rusnak presented the staff report. He stated that staff sent out notices to 22 surrounding property owners. To date, staff has not received any letters of objection. A letter in favor of the request was received from Grace Brethren Church.

Rusnak stated that it is staff's opinion that the request has not achieved consistency with item #1 – reasonable return and item #2 – unique circumstances. Therefore, staff cannot recommend approval of the request as proposed.

Attorney Richard Davidson and representatives of Genesis Health system presented rational for approval of the variance.

Motion:

Motion by Reistroffer, second by Strayhall to approve HV17-07 (10 feet from the required 35 foot front yard setback for a building) as presented. Motion was approved by roll call vote 4-1 – Hart voting no).

Motion by Reistroffer, second by Strayhall to approve HV17-07 (18 feet from the required 25 foot rear yard setback for a parking lot) as presented. Motion was approved by roll call vote 4-1 – Hart voting no).

IV. Adjourn

Meeting adjourned at 5:02 pm.

City of Davenport
Zoning Board of Adjustment

Department: Community Planning and Economic Development
Department
Contact Info: Matt Flynn, 888-2286

Date
8/24/2017

Subject:

Request HV17-09 of Gregg Ontiveros dba WJA LLC, for a hardship variance at 2010 East River Drive to construct a five story, 60-foot tall mixed use building containing commercial and residential units. Property is zoned "HSD" Historic Shopping District.

Section 17.27.040 of the Davenport Municipal Code restricts the height limitation of buildings in the "HSD" to three stories not to exceed 45 feet in height.

Recommendation:

Staff recommends denial of the request as it fails to meet findings 1 and 3.

Relationship to Goals:

Urban Revitalization

Background:

Applicant proposes a 5 story building 60 feet in height. Title 17.27.040 of the Zoning Ordinance limits building height to 3 stories and 45 feet.

See attachment for full staff report and supporting information.

ATTACHMENTS:

Type	Description
▣ Backup Material	Staff report and Background Information

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	8/18/2017 - 10:52 AM



ZONING BOARD OF ADJUSTMENT

Meeting Date: August 24, 2017
Applicant: Gregg Ontiveros; WJA, LLC
Address: 2010 East River Drive

Prepared by: Matthew G. Flynn, AICP
Senior Planning Manager
matt.flynn@ci.davenport.ia.us
563-888-2286

Request: Request to construct a five story, 60 foot tall building at 2010 East River Drive. Code limits building height to three stories and 45 feet in height.

Zoning: HSD, Historic Shopping District

Code Section: 17.27.040

Background

The site is located at the northwest corner of Mound Street and East River Drive (U.S. 67) in the Village of East Davenport.

Applicant proposes to construct a five story mixed use building (retail and residential) that stands 60 feet tall. As noted, the limitation within the HSD District is three stories and 45 feet in height.

Discussion

The Board is reminded that its responsibility is to determine if the findings warrant approval of the requested hardship variance. It is not charged to determine if the regulation (in this case, is a three story/45 feet tall maximum in the HDS District) is appropriate.

If the Board believes that the regulation is inappropriate, it may inform the Council of its concerns. However, the Board's opinion about the suitability of the ordinance language should not be the basis for its decision in the hardship variance request.

Since the property is located within the Historic Shopping District, approval of the design, building materials, signage, etc. will also ultimately need review and approval by the City Design Review Board.

Findings

In order to grant a hardship variance, the applicant must demonstrate to the Board that **all** of the following findings are met. Below you will find the findings, the applicant's response and staff's evaluation.

Finding	Applicant Response	Staff Evaluation
1. The property cannot yield a reasonable return with strict compliance to the zoning ordinance:	The prior structure on the site was unable to support sufficient return to justify its continued existence. That structure was demolished and has been vacant for over 7 years. This parcel has a primary asset the potential for river views. The drawbacks of the site include: 1. A railroad trestle supporting rail traffic at various times of the day and night 2. The need to raise portions of the site above base flood elevation 3. The depth of footings to support an multi-floor structure The cost to provide footings to bedrock are the same for a three story structure (which is the current limit) as they are for a 5 story structure. Unfortunately, costs are so great that the developer could not receive a reasonable return on a 3 story structure. Even at 5 stories, the developer needs to demolish the existing bank building and integrate the bank into the 5 story structure. Given the extended absence of use, the difficulty in development, and substantial costs to be incurred, a variance from the height restrictions is the only mechanism which allows the property owner to generate a reasonable return after development.	Additional information from the applicant has been requested to clarify statements with respect to construction costs, return on investment, etc. No data has been provided that explains why a more modest proposal (perhaps less than three stories) would be workable. Without additional information, staff cannot support approval of the finding.
2. The plight of the owner is due to unique circumstances which do not apply to other nearby property:	Other adjacent properties are already developed or serve as a parking lot. It is not necessary to establish footings for those structures. If the proposal was reduced to 3 stories, the same cost for footings would be incurred. The only way to handle those costs is to offset them with a greater amount of revenue which comes from greater density.	In essence the applicant is stating that rules for new construction create a disadvantage on the subject property compared to nearby, already developed properties. Staff can support this statement.
3. The variation, if granted, will not alter the essential character of the locality:	The proposed development is on the edge of the district and is supported by many Village of East Davenport businesses. It will be a different structure from many of the current structures (except for the bank, which is more modern in design and would be replaced as part of this project). Because it borders the area, this	Already noted is the Zoning Ordinance, which limits building height to three stores or 45 feet. The Village of East Davenport Master Plan discusses this site specifically and includes the following statement: <i>Because this site is larger than most in the Village, it may be able to</i>

	project will bring additional energy and interest to the area without over-utilizing it. The essence of the District has a smaller community charm which is not impacted by the addition of market rate residential uses. The District will continue to be a local and regional draw with enhanced patronage by the inhabitants of this development.	<i>accommodate up to three stories, with potential four story elements or rooftop patios with good views of the Village and river.</i> Staff does not concur with the applicant.
4. The variation, if granted, will not impair an adequate supply of light and air to adjacent property:	The parcel under consideration is bounded on the south by Highway 67, the east by Mound Street, and the west and northwest by a railroad trestle. The only adjacent building is the Plaid Rabbit at 1018 Mound Street. As shown on the concept drawings, the proposed setback would be set back from the existing Plaid Rabbit building allowing light and air to be unimpeded. Additionally, the building on the north side is stepped back to insure adequate air and light to the property to the north.	Staff concurs.
5. The variation, if granted, will not increase congestion in public streets:	The site will have over 100 parking spaces to accommodate the mixed uses (bank, restaurant, retail, and housing) expected to be in the building. On Street parking will not be required. Mound and River Drive is a signalized intersection, which will keep traffic from stacking. Residents will likely walk to other businesses in the East Village District.	Staff concurs. The Village is a compact, somewhat dense urban district already and staff believes a managed level of congestion lends to its vitality.
6. The variation, if granted, will not increase the danger of fire or endanger public safety:	The structure will comply with all existing fire and building codes.	Staff concurs.
7. The variation, if granted, will not impair established property values of the locality:	The proposed building will represent a major investment within the District. Values should be positively impacted. Existing businesses should see an increase in sales as tenants in the building use East Village services for dining, entertainment and other retail services.	Staff is uncertain of the impact on property values.
8. The variation, if granted, will not impair public welfare, comfort, or health of the inhabitants of the City:	The proposed structure provides a modern, code compliant structure to fill commercial and residential needs. The structure will increase dining and leisure activities within the District as well as provide market rate residential housing. Property values in the area will not be harmed, nor will public morals.	Staff is neutral on this statement.

Public Input

Eighteen (18) notices were sent to property owners within 200 feet of the subject property and a legal ad run in the Quad City times on August 11, 2017. As a courtesy, notices were sent to the Village Self Supported Municipal Improvement District (SSMID) and Business association.

As of this writing (August 15, 2017) four phone calls and two emails opposed to granting the hardship variance have been received. Additional comments will be presented at the meeting.

Recommendation

Staff has requested additional information to provide a factual basis for supporting Findings 1 (reasonable return) and 3 (essential character). To date that additional information has not been provided.

Staff cannot support the request without additional information proving Finding 1 and a change in City policy that supports a taller building on the site than is provided for in the HSD regulations and supported by the Village of East Davenport Master Plan.

HV17-09: 2010 E. River Drive
Location Map



0 15 30 60 90 120 Feet



PASTRNAK LAW FIRM, P.C.

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Davenport IA 52801
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Thomas R. Schulz – Of Counsel *
Gregory S. Jager – Of Counsel**
Dee A. Runnels – Of Counsel *

*Attorneys Admitted in Iowa and Illinois

**Attorney Admitted in Iowa Only

ILLINOIS OFFICE:
6300 75th Ave., Suite A
Milan, IL 61264

HAND DELIVERY

July 31, 2017

MR MATT FLYNN
SENIOR PLANNING MANAGER
CITY OF DAVENPORT
226 W 4TH STREET
DAVENPORT IA 52801

RE: Application for Hardship Variance by WJA, LLC

Dear Matt:

Enclosed please find the following in connection with the above captioned matter:

1. Completed and signed Hardship Variance Application
2. Check for \$200.00 representing the application fee
3. Copy of Articles of Organization for WJA, LLC (Owner)
4. Copy of the recorded Warranty Deed vesting title of the property in Owner
5. Copies of the proposed site plan and PDF drawings by Design Build showing existing and proposed structures

If you should have any questions or need anything further, feel free to give me a call.

Very truly yours,



THOMAS J. PASTRNAK
Attorney at Law

TJP/kkn
Encs-check(\$200.00)



Property Address* 2010 E. River Dr., Davenport, IA 52803

***If no property address, please submit a legal description of the property.**

Applicant (Primary Contact)**

Name: Gregg Ontiveros
Company: WJA, LLC
Address: P.O. Box 170
City/State/Zip: Milan, IL 61264
Phone: 309-314-0325
Email: greggo@groupa.com

Owner (If different from Applicant)

Name:
Company:
Address:
City/State/Zip:
Phone:
Email:

Engineer (If applicable)

Name:
Company:
Address:
City/State/Zip:
Phone:
Email:

Architect (If applicable)

Name: Andrew Dasso
Company: [design][build] by Architects
Address: 318 E. 3rd St.
City/State/Zip: Davenport, IA 52801
Phone: 309-737-8587
Email: andrew@bulldbyarchitects.com

Attorney (If applicable)

Name: Thomas J. Pastnak
Company: Pastnak Law Firm, P.C.
Address: 313 W. 3rd St.
City/State/Zip: Davenport, IA 52801
Phone: 563-323-7737
Email: tpastnak@pastnak.com

Application Form Type:

Plan and Zoning Commission

- Rezoning (Zoning Map Amendment) ☐
Zoning Ordinance Text Amendment ☐
Right-of-way or Easement Vacation ☐
Final Development Plan ☐
Voluntary Annexation ☐
Subdivision ☐

Zoning Board of Adjustment

- Appeal from an Administrative Decision ☐
Special Use Permit - New Cell Tower ☐
Home Occupation Permit ☐
Special Exception ☐
Special Use Permit ☐
Hardship Variance ☒

Design Review Board

- Certificate of Design Approval ☐
Demolition Request in the Downtown ☐

Historic Preservation Commission

- Certificate of Appropriateness ☐
Landmark Nomination ☐
Demolition Request ☐

Administrative

- Floodplain Development ☐
Cell Tower Co-Location ☐
Identification Signs ☐
Site Plan ☐

****If the applicant is different from the property owner, please submit an authorization form or an accepted contract for purchase.**

Request:

Please describe the variance(s) requested:

Variance from 17.27.040 to exceed 3 story / 45 ft. maximum height. Request is to allow a 5-story building on the subject parcel.

Existing Zoning: **HSD - Historic Shopping District**

Submittal Requirements:

- The completed application form.
- A PDF that shows the location and dimensions of existing and proposed structures affected by the hardship variance. If a paper copy is provided, the maximum size is 11" x 17".
- Description and evidence that demonstrates consistency with the criteria listed in Sections 17.52.060 and 17.52.070 of the Davenport Municipal Code.
- Recorded warranty deed or accepted contract for purchase.
- Authorization form, if applicable. If the property is owned by a business entity, please provide Articles of Incorporation.
- Required fee - \$200.

The Applicant hereby acknowledges and agrees to the following procedure and requirements:**(1) Application:**

- Prior to submission of the application for the hardship variance, the applicant shall correspond with Planning staff to discuss the request, potential alternatives and the hardship variance process.
- The submission of the application does not constitute official acceptance by the City of Davenport. Planning staff will review the application for completeness and notify the applicant that the application has been accepted or additional information is required. Inaccurate or incomplete applications may result in delay of required public hearings.

(2) Public Notice for the Zoning Board of Adjustment public hearing:

- Planning staff will send a public hearing notice to surrounding property owners.

(3) Zoning Board of Adjustment's consideration of the hardship variance:

- Planning staff will perform a technical review of the request and present its findings and recommendation to the Zoning Board of Adjustment.
- The Zoning Board of Adjustment will hold a public hearing and vote of the request.

General Instructions on Evidence of Hardship:

1. **REASONABLE RETURN:** The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the zone. (How does the strict enforcement of the ordinance prevent you from reasonably using your property? You need to demonstrate that without the variance your property has been deprived of all beneficial use. That it would be more valuable, produce more profit, supply jobs or increase the tax base are not valid tests for the variance.)
2. **UNIQUE CIRCUMSTANCE:** The plight of the owner is due to unique circumstances which circumstances to not apply to other adjoining or nearby property. (Do the conditions causing this hardship exist only on your property or do they also apply to adjoining or nearby property? You need to demonstrate that the physical circumstance(s) is not shared by other property.)
3. **ESSENTIAL CHARACTER:** The variation, if granted, will not alter the essential character of the locality. (Will the variation requested alter or change the character of the neighborhood or locality? You need to demonstrate that the requested variation is compatible with and similar to other existing features in the area.)
4. **LIGHT & AIR:** The variation will not impair an adequate supply of light and air to adjacent property. (Will the variation block solar access or prevent or inhibit air circulation to the surrounding property? Dust, fumes, odor, smoke, etc. would neither pose a nuisance nor prohibit or impair the reasonable use of adjacent or surrounding property.)
5. **CONGESTION:** The variation will not unreasonably increase congestion in the public streets. (Will the variation create or increase traffic and/or parking problems for the surrounding area? Explain or demonstrate how this variance will reduce, alleviate or not affect existing traffic circulation or vehicle parking in the adjacent public streets.)
6. **PUBLIC SAFETY:** The variation will not increase the danger of fire or endanger the public safety. (Will the construction/operation for which the variation is requested create a safety hazard for the tenants or surrounding occupants? You will need to demonstrate that your plans meet local building and fire regulations and submit proof of compliance with any state or federal regulations. Please explain the operation and any safety procedures proposed.)
7. **ESTABLISHED PROPERTY:** The variation will not unreasonably diminish or impair established property within the surrounding area. (Will the variation cause a real or perceived loss in surrounding property values? Demonstrate that this variation will have no effect or a positive effect on surrounding property. Will property marketability be affected? The expertise of an appraiser may be required.)
8. **GENERAL WELFARE:** The variation will not in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not impair an adequate supply of light and air to adjacent property.

The parcel under consideration is bounded on the South by Highway 67, the East by Mound Street, and the West and Northwest by a railroad trestle. The only adjacent building is the Plaid Rabbit at 1018 Mound Street, Davenport, Iowa. As shown on the concept drawings, the proposed structure would be set back for the existing Plaid Rabbit building allowing light and air to be unimpeded.

Additionally, the building on the North side is stepped back to insure air and light to property to the North.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not unreasonably increase congestion in public streets.

The site will have over 100 parking spaces to accommodate the mixed uses (bank, restaurant, retail, housing) expected to be in the building. On street parking will not be required. Mound and River Drive is a signalized intersection, which will keep traffic from stacking. Residents will likely walk to other businesses in the East Village District.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not increase the danger of fire or endanger the public safety.

The structure will fully comply with all existing fire and building codes.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not unreasonably diminish or impair established property values within the surrounding area.

The proposed building will represent a major investment within the District. Values should be positively impacted. Existing businesses should see an increase in sales as tenants in the business use the East Village business services for dining, entertainment, and other retail services.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

The proposed structure provides a modern, code compliant structure to fill commercial and residential needs. The structure will increase dining and leisure activities within the District as well as provide market rate residential housing. Property values in the area will not be harmed, nor will public morals.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.070 of the Davenport Municipal Code:

The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the zone.

The prior structure on site was unable to support sufficient return to justify its continued existence. That structure was demolished and has been vacant for over 7 years.

The parcel has as a primary asset the potential for river views.

The drawbacks of the site include:

1. A railroad trestle supporting rail traffic at various times of the day and night;
2. The need to raise portions of the site above base flood elevation; and,
3. The depth of footings required to support a multi-floor structure.

The cost to provide footings to bedrock are the same for a 3-story structure (which is the current limit) as they are for a 5-story structure. Unfortunately, the costs are so great that the developer could not receive a reasonable return on a 3-story structure. Even at 5 stories, the developer needs to demolish the existing bank building and integrate the bank into the 5-story structure.

Given the extended absence of use, the difficulty in development, and substantial costs to be incurred, a variance from the height restrictions is the only mechanism which allows the property owner to generate a reasonable return after development.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.070 of the Davenport Municipal Code:

The plight of the owner is due to unique circumstances, which circumstances do not apply to other adjoining or nearby property.

Other adjacent properties are already developed or serve as a parking lot. It is not necessary to establish footings for those structures. If the proposal were reduced to 3 stories, the same cost for footings would be incurred. The only way to handle those costs is to offset them with a greater amount of revenue which comes from greater density (5 stories).

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.070 of the Davenport Municipal Code:

The variation, if granted, will not alter the essential character of the locality.

The proposed development is on the edge of the District and is supported by many Village of East Davenport businesses. It will be a different structure from many of the current structures (except for the bank, which is more modern in design and would be replaced as part of this project).

Because it borders the area, this project will bring additional energy and interest to the area without over-utilizing it.

The essence of the District has a smaller community charm which is not impacted by the addition of market rate residential uses. The District will continue to be a local and regional draw with enhanced patronage by the inhabitants of this development.

x 

1-28-17

By typing your name, you acknowledge and agree to the aforementioned submittal requirements and formal procedure and that you must be present at scheduled meetings.

Received by: _____

Date:

Planning staff

Date of the Public Hearing:

Meetings are held in City Hall Council Chambers located at 226 West 4th Street, Davenport, Iowa.

282375

003/005

504067 ARTICLE 2 7/28/03

ARTICLES OF ORGANIZATION
of
WJA, LLC

The undersigned Organizer of a limited liability company organized under the Iowa Limited Liability Company Act, Chapter 490A, Code of Iowa, does hereby adopt the following Articles of Organization for such limited liability company.

ARTICLE I
Name of the Limited Liability Company

The name of the limited liability company shall be WJA, LLC.

ARTICLE II
Registered Office and Registered Agent

The address of the initial registered office of the limited liability company is 6145 Lakeland Court, Davenport, Iowa 52807. The initial registered agent at such address is Molly O'Meara Schnell.

ARTICLE III
Principal Office

The address of the principal office of the limited liability company is 120 East Fourth Avenue, P. O. Box 170, Milan, IL 61264.

ARTICLE IV
Period of Duration

The limited liability company's existence shall commence upon the acceptance of these Articles of Organization by the Secretary of State of Iowa for filing and the period of its duration shall be perpetual.

033997

(2)

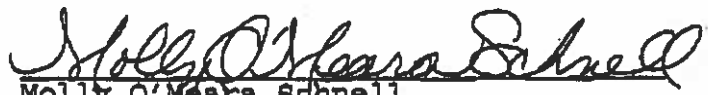
ARTICLES OF ORGANIZATION
of WJA, LLC

Page 2

ARTICLE V
Written Operating Agreement

Any operating agreement entered into by the members of the limited liability company and any amendments or restatements thereof, shall be in writing. No oral agreement among any of the members of the limited liability company shall be deemed or construed to constitute any portion of, or otherwise affect the interpretation of, any written operating agreement of the limited liability company, as amended and in existence from time to time.

IN WITNESS WHEREOF, the aforesaid organizer has caused the execution of the foregoing Articles of Organization on this 28th day of July, 2003.


Molly O'Meara Schnell
Organizer of WJA, LLC

FILED
IOWA
SECRETARY OF STATE
7-28-03
9:59 AM
W354350





Doc ID: 017909210004 Type: LAN
Recorded: 10/08/2010 at 10:13:08 AM
Fee Amt: \$29.00 Page 1 of 4
Scott County Iowa
Rita A. Vargas Recorder

File **2010-00028275**



Warranty Deed

(Corporate/Business Entity Grantor)
THE IOWA STATE BAR ASSOCIATION
Official Form #335

Recorder's Cover Sheet

Preparer Information: (Name, address and phone number)

Molly O'Meara Schnell, Schnell & Hancock, 3170 E. 53rd Street, Suite 200, Davenport, IA 52807, Phone: (563) 359-7112

Taxpayer Information: (Name and complete address)

WJA, LLC, P.O. Box 170, Milan, IL 61264

Return Document To: (Name and complete address)

Schnell & Hancock, PC, 3170 E. 53rd Street, Suite 200, Davenport, IA 52807

Grantors:

Financial District Properties MM, L.L.C.

Grantees:

WJA, LLC, an Iowa limited liability company

Legal description: See Page 2

Document or instrument number of previously recorded documents:

THE IOWA STATE BAR ASSOCIATION
Official Form No. 335

Molly O'Meara Schnell

FOR THE LEGAL EFFECT OF THE USE OF
THIS FORM, CONSULT YOUR LAWYER

Warranty Deed

(Corporate/Business Entity Grantor)

For the consideration of Ten and 00/100 Dollar(s) and other
valuable consideration, Financial District Properties MM, L.L.C.

a(n) limited liability company organized and existing under
the laws of Iowa does hereby Convey to WJA, LLC, an Iowa limited
liability company

the following described real estate in Scott County, Iowa:
See Exhibit A

Exempt per consideration is five hundred dollars or less.

The grantor hereby covenants with grantees, and successors in interest, that it holds the real estate by title in fee simple; that it has good and lawful authority to sell and convey the real estate; that the real estate is free and clear of all liens and encumbrances, except as may be above stated; and it covenants to Warrant and Defend the real estate against the lawful claims of all persons, except as may be above stated.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, according to the context.

Dated: October 6, 2010

Financial District Properties MM, L.L.C.
a(n) limited liability company

By [Signature]
Rodney Blackwell, Manager

By _____

STATE OF IOWA, COUNTY OF SCOTT

This instrument was acknowledged before me on this 6th day of October 2010,
by Rodney Blackwell
as Manager
of Financial District Properties MM, L.L.C.



Becky Hansen, Notary Public

Exhibit A

Part of the Southwest Quarter of Section 30, Township 78 North, Range 4 East of the 5th P.M. in the City of Davenport, Scott County, Iowa, more particularly described as commencing at the intersection of the West line of Mound Street and the South line of East Eleventh Street (formerly called Eddy Street and also formerly called Main Street) as said streets are now laid out and established; thence West along the South line of Eleventh Street 106 feet to the POINT OF BEGINNING of the tract herein sold; thence South parallel with the West line of Mound Street 60 feet; thence East 2 feet; thence South parallel with the West line of Mound Street 30 feet; thence West parallel with the South line of Eleventh Street 36 feet; thence North parallel with the West line of Mound Street 90 feet more or less to the South line of Eleventh Street; thence East along the South line of Eleventh Street 34 feet to the place of beginning.

Subject to a perpetual easement or right-of-way over and across that portion of the above described premises included within the following descriptions: Beginning at a point on the South line of Eleventh Street 106 feet West of the West line of Mound Street; thence South 60 feet; thence East 2 feet; thence South 30 feet; thence West 10 feet; thence North 90 feet; thence East 8 feet to the point of beginning, which said easement shall be for the use and benefit of the present owners of all property abutting on the East and West of the land included within such descriptions and their successors in title.

Part of the S.W. ¼ of Section 30, Township 78 North, Range 4 East of the 5th P.M.; more particularly described as follows: Beginning at a point on the North line of East River Street in the City of Davenport, Iowa 104 feet due West from the West line of Mound Street; thence North parallel with the West line of said Mound Street to a point of 90 feet South of East Eleventh Street (formerly Main Street and formerly Eddy Street); thence West Parallel with the South line of said East Eleventh Street 36 feet; thence South parallel with the West line of Mound Street to the North line of East River Street; and thence Easterly along the North line of East River Street to the point of beginning.

Also that part of said S.W. ¼ of said fractional Section 30, more particularly described as follows: Beginning at a point 130 feet South of the East and West division line of said section and 1230 feet East of the Western boundary line of said section, which point is 140 feet West of the West line of Mound Street and 130 feet South of the South line of East Eleventh Street; thence Westerly to the right-of-way of the Chicago, Milwaukee & St. Paul Railway Company (formerly Davenport and St. Paul Railway Company); thence Southwesterly along the Easterly line of said right-of-way to its intersection with the North line of East River Street; thence Northeasterly along the North line of said East River Street to a point South of the point of beginning; and thence North to the point of beginning.

Excepting therefrom the portion conveyed by Corporate Warranty Deed to the State of Iowa on March 31, 1983 and legally described to-wit:

Beginning at the intersection of the present northerly right of way line of Primary Road No. U.S. 67 (East River Drive) with the easterly right of way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence N34°30¼'E, 62.1 ft., along said easterly right of way line of the railroad;

thence N68°28¼'E, 204.2 ft. to a point on said present northerly right of way line; thence S60°10'W, 235.0 ft., along said present northerly right of way line; thence S64°24¼'W, 17.5 ft., along said present northerly right of way line; thence S73°05¼'W, 5.8 ft. along said present northerly right of way line, to the Point of Beginning; containing 3857 sq. ft., more or less.

NOTE: The easterly right of way line of said railroad is assumed to bear N34°30¼'E.



Designed by architects, P.L.C.

Andrew Cassin, AIA
314 E. Third Street
Chapel Hill, NC 27504
304-777-4287
andrew@cassindesign.com

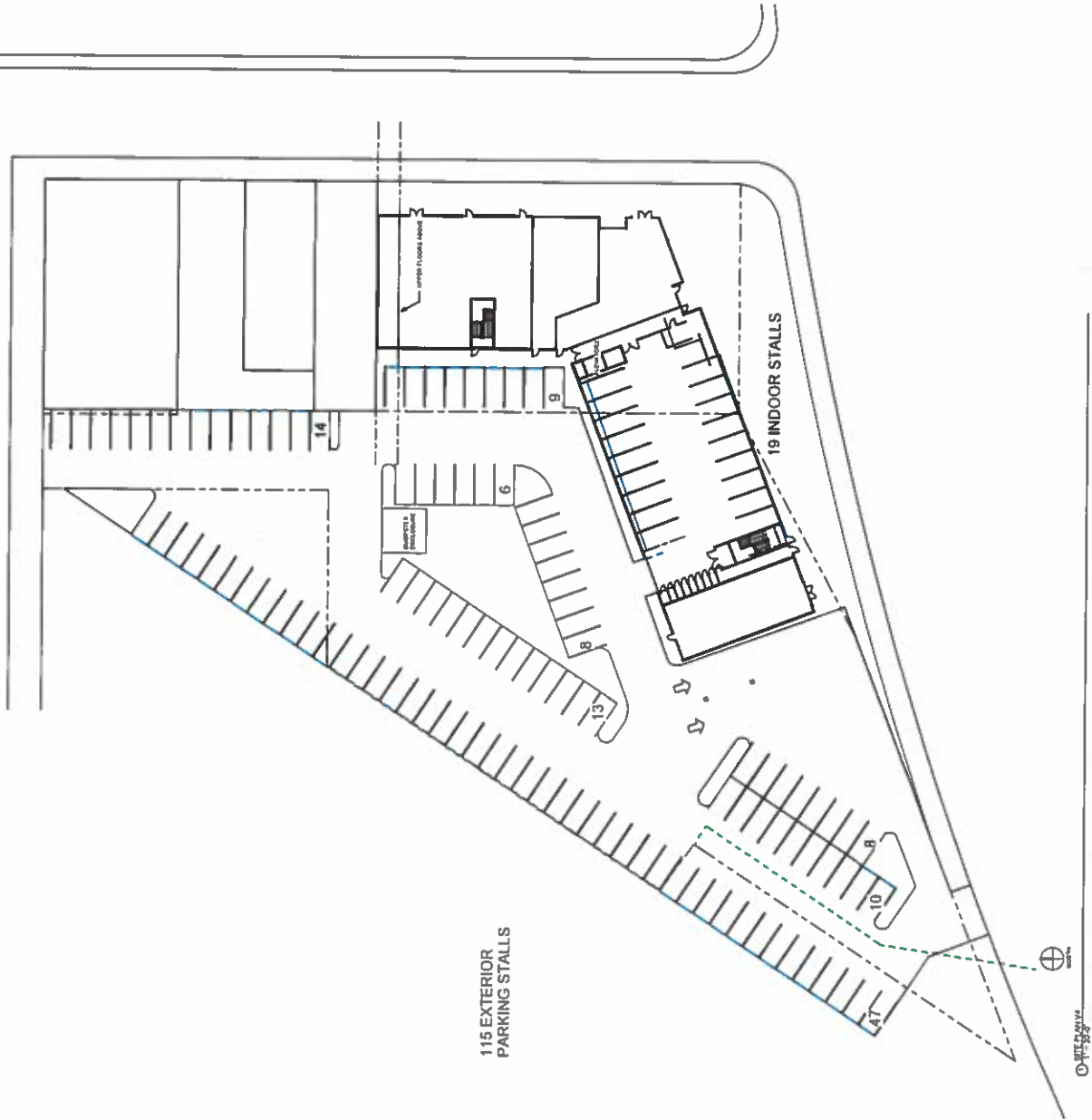
Zach Enck, AIA
308 S. Main Street, Suite 2
Riverton, UT 84101
(875) 400-6088
zach@zachdesign.com



GREGG ONTIVEROS
TRESTLE
SITE PLAN

Account number	18-025
Date	17-08-78
Drawn by	Auditor
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\$100	

920



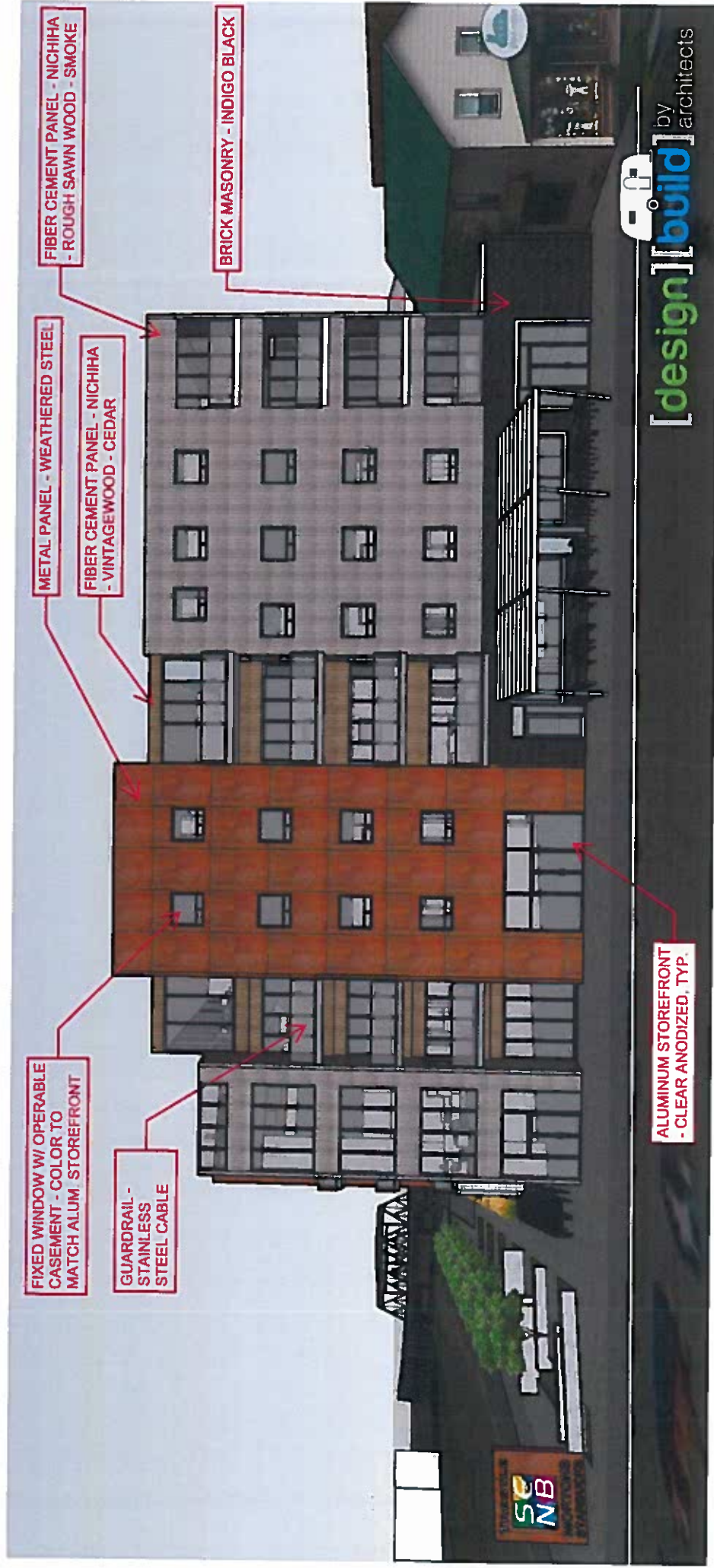


[design][build] by architects





[design][build] by architects



FIXED WINDOW W/ OPERABLE
CASEMENT - COLOR TO
MATCH ALUM. STOREFRONT

GUARDRAIL - STAINLESS
STEEL, CABLE

METAL PANEL - WEATHERED STEEL

FIBER CEMENT PANEL - NICHIIHA
- VINTAGEWOOD - CEDAR

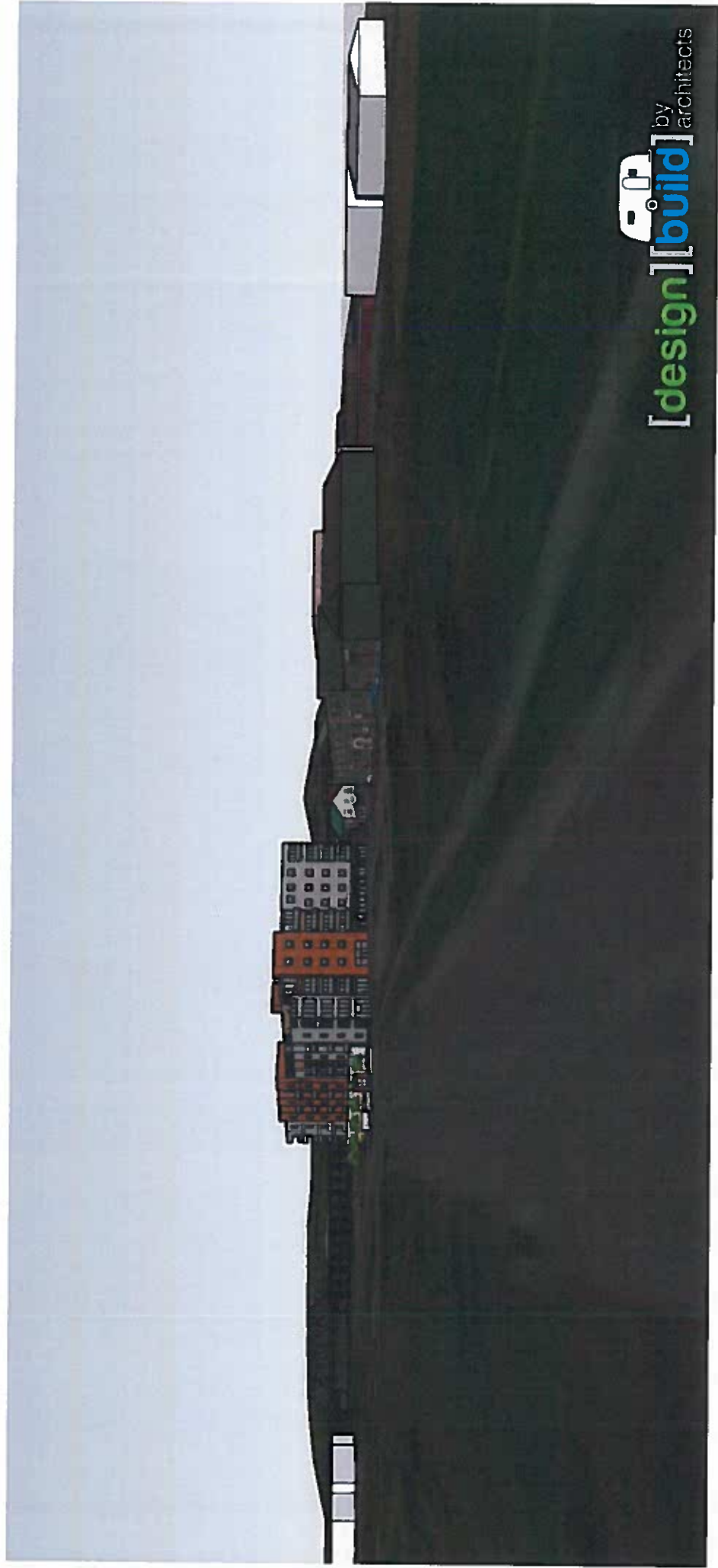
FIBER CEMENT PANEL - NICHIIHA
- ROUGH SAWN WOOD - SMOKE

STONE VENEER
- LIMESTONE

BOARD FORMED CONCRETE
- 6" HORIZONTAL

ALUMINUM STOREFRONT
- CLEAR ANODIZED, TYP.





[design][build] ^{by} architects



[design][build] by architects



PUBLIC HEARING NOTICE
ZONING BOARD OF ADJUSTMENT
CITY OF DAVENPORT

Public Hearing Details:

To: All property owners within 200 feet of the subject property
Date: Thursday, August 24, 2017
Time: 4:00 PM
Location: Council Chambers at City Hall, 226 West 4th Street Davenport, Iowa
Subject: Public hearing for a hardship variance before the Zoning Board of Adjustment
Address: 2010 East River Drive (see map on opposite page)
Case #: HV17-09

What is this All About?

This notice is being sent to inform you that a public hearing will be held for a hardship variance request. The purpose of the variance request is to allow construction of a building that exceeds the height limitation of the zoning district.

Specific Request:

The owner of the property, Gregg Ontiveros, WJA, LLC, proposes to construct a five story, 60 foot tall building. The zoning ordinance limits building height to three stories/45 feet in this location.

What are the Next Steps after the Public Hearing?

Following the public hearing, the Zoning Board of Adjustment will deliberate the request and render a decision. Action by the Zoning Board of Adjustment is not forwarded to the City Council for final action.

Would You Like to Submit an Official Comment?

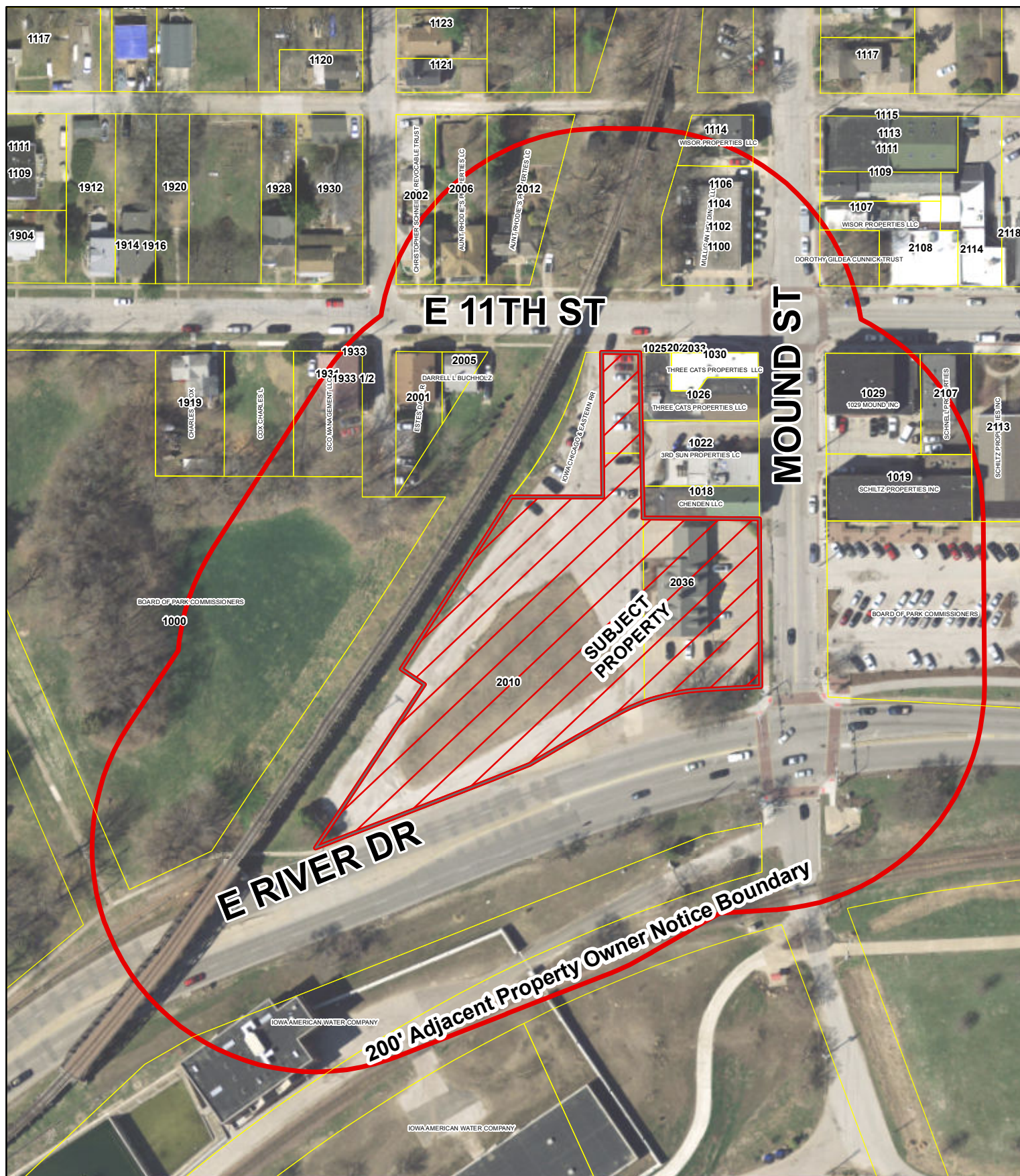
As a neighboring property owner, you may have an interest in commenting on the proposed request either in writing/email or in person at the public hearing. If you intend to send in written comments, it is appreciated if those comments could be received by the Community Planning office no later than 12:00 PM *one day before* the public hearing. Send comments to planning@ci.davenport.ia.us or CPED, 226 W 4th St, Davenport IA 52801.

Do You Have Any Questions?

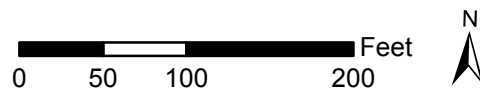
If you have any questions on this request please contact Matt Flynn of the Community Planning and Economic Development Department at matt.flynn@ci.davenport.ia.us or 563-888-2286.

Please note that items may be removed from the agenda or tabled to a future hearing date at the request of the applicant. If you choose to attend the hearing, you may wish to contact Community Planning prior to your departure to learn of any changes to the agenda.

Zoning Board of Adjustment: Adjacent Property Owner Notice Area



Private parties utilizing City GIS data do so at their own risk. The City of Davenport will not be responsible for any costs or liabilities incurred due to any differences between information provided and actual physical conditions.



Tuesday, August 15, 2017

Accounting/Public Notices

Re: Public Notice

Please publish the following Zoning Board of Adjustment public hearing notice in your next available edition of the Quad City Times.

The PO number for this notice is 1801901.

We would appreciate receiving proof of publication for our records. If you have any questions, please contact me at the same email address this was sent with or at my phone number listed in my email.

**ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING NOTICE
CITY OF DAVENPORT**

The Zoning Board of Adjustment will meet on *Thursday, August 24, 2017, at 4:00 P.M.* in the first floor Council Chambers of City Hall, 226 West 4th Street Davenport, Iowa, to hold a public hearing to consider the following request:

Request HV17-09 of Gregg Ontiveros, WJA, LLC at 2010 East River Drive, Davenport, Iowa for the following hardship variance:

Relief from Title 17.27.040 of the Davenport Municipal Code (Zoning) that limits building height to three stories or 45 feet.

Applicant proposes a five story building approximately 60 feet in height.

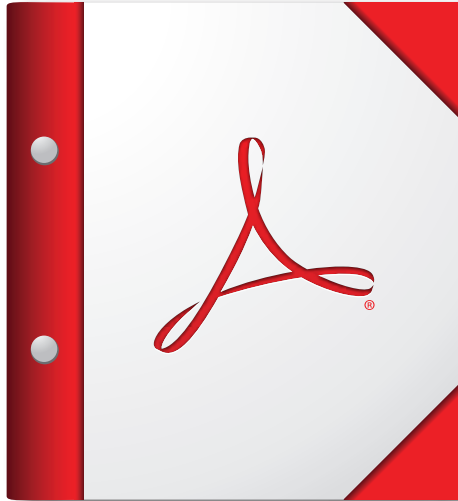
Property is zoned "HSD" Historic Shopping District.

All interested persons may submit written comments on the above item(s) and/or attend the public hearing(s) to express your views. Any written/e-mailed comment(s) to be reported at the public hearing(s) should be received by Community Planning, City Hall, no later than 12:00 p.m. on the day of the public hearing. PO No. 1801901

Community Planning & Economic Development

E-mail: planning@ci.davenport.ia.us

Phone: (563) 326-7765



**For the best experience, open this PDF portfolio in
Acrobat X or Adobe Reader X, or later.**

[Get Adobe Reader Now!](#)

Flynn, Matt

From: Molly Newell <molly@environetmidwest.com>
Sent: Monday, August 14, 2017 9:25 PM
To: Planning Division – CPED
Subject: Public Hearing on hardship variance before the Zoning Board of Adjustment / Village of East Davenport

It may be semantics, but no evidence of hardship was apparent in the proposal, as provided in the newspaper.

Regarding the request to build a 5 story building at the corner of Mound and River Drive, We do not see how the City of Davenport can possibly justify support, if indeed representatives of the public perspective are considering support for the proposed building.

Reasons to vote "no":

1. An ordinance was put in place specifically to avoid this type of consideration in the historic Village of East Davenport. A five Story multiplex is not historic. It does not belong in the district, at the entrance to the district or on the fringe of it.

Too many times already the council has allowed historical buildings to be demolished in favor of new construction. The City Council and review boards should not entertain proposals which reduce (or further reduce) the size and significance of historical districts. Historic Districts are dwindling; they should be managed as a non-renewable resource and as a tourist attraction.

City hall has already allowed extensive damage to the fabric of Historic Districts to occur in favor of increased tax revenues. Damage to any portion of a historic district is irrevocable and subtracts from the value of the whole.

2. We are approaching the tipping point where our historic Village of East Davenport is no longer historical, because many individual parcels with structures which contribute to the historic fabric of the neighborhood have already been demolished or altered in ways uncharacteristic of the original era of construction. Putting a commercial 5 story structure at the entrance to the District, if passed, signifies no respect for the comprehensive planning of years gone by. It also signifies a total lack of respect for those who work to preserve old structures, especially those who shoulder the costs without the assistance of local, state and federal funding sources.

3. Look at LeClaire for comparison. It had a vision of a historic district and did not compromise its vision. To succeed with a vision we must stick to the vision. Ordinances, as previously passed, indicate that the historic aspect of the District is valued, and it is to be preserved. The "new" construction in Le Claire is designed and built to appear "period perfect" or at a minimum congruent with the historic vision.

4. The structure as proposed hides the historic railroad bridge, which is another significant feature of the historic district which will be compromised by the proposed structure.

5. Habitat for selected bird species (Indigo Bunting) adjacent to the RR bridge would likely be displaced permanently.

6. The view towards the River from residences located north of the parcel(s) would become obstructed for some, and totally blocked for others.

7. Parking is already a problem, so to resolve it, consider a historical-looking two story structure with retail, and with a significant part of the 1st and 2nd floors back from River Drive used for parking. Perhaps the City should help with the costs for this, as parking is already a problem for merchants and visitors to the village.

Whatever moves into this space should be open during regular business hours for visitors to the district.

--

Molly & Mike Newell,
Resident of East Davenport
Business Owners in East Davenport

Hello,

My name is Krista Dawson, and I work in East Davenport. I am writing to comment that I am not in favor of the 5-story building proposal that is being discussed on August 24th. I believe this building will not benefit the East Village community overall, and the proposal should be rejected. I am hoping that during the hearing, the community planning office will take into consideration the effects that this development may have on wildlife, historic landmarks, and village characterization.

Thank you for your consideration,

Krista Dawson

Environmental Technician

EnviroNET, Inc.

DBE Certified

One River Place

1225 East River Drive, Suite 130

Davenport, IA 52803-5752

EnviroNET Homepage

Office: 563.323.2262

Cell: 224.522.1270

Fax : 563.323.7797