

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, FEBRUARY 10, 2022; 4:00 PM

CITY HALL | 226 WEST 4TH STREET | COUNCIL CHAMBERS

THE ZONING BOARD OF ADJUSTMENT HOLDS PUBLIC HEARINGS TO CONSIDER HARDSHIP VARIANCES, SPECIAL USE REQUESTS, AND INTERPRETATION APPEALS

I. Call to Order

II. Secretary's Report

A. Approval of ZBA Minutes for 1-27-22

III. Old Business

IV. New Business

A. Request HV22-02 of Aaron Mailey and John Carroll on behalf of Riverwatch LLC at 227 LeClaire Street ([L0015A01](#)) for a hardship variance from Section 17.05.050.B. and 17.09.030.Q. setback requirements for new construction of a hotel and dumpster. The C-D District requires a 0' to 10' built-to zone for at least 80% of the street frontage along all three (3) public streets of this lot. The proposed hotel will be setback approximately 5 feet from the LeClaire Street lot line for approximately 82 feet and 10.5 feet from the lot line for approximately 22 feet along 3rd St and approximately 60 feet from East River Drive. A dumpster enclosure is proposed for the southwest corner of the lot in the front yard. Dumpsters are prohibited within front and corner side yards. [Ward 3]

V. Other Business

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: DNS

Contact Info: ScottKoops@davenportiowa.com

Date
2/10/2022

Subject:

Approval of ZBA Minutes for 1-27-22

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: ScottKoops@davenportiowa.com

Date
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Subject:

Request HV22-02 of Aaron Mailey and John Carroll on behalf of Riverwatch LLC at 227 LeClaire Street ([L0015A01](#)) for a hardship variance from Section 17.05.050.B. and 17.09.030.Q. setback requirements for new construction of a hotel and dumpster. The C-D District requires a 0' to 10' built-to zone for at least 80% of the street frontage along all three (3) public streets of this lot. The proposed hotel will be setback approximately 5 feet from the LeClaire Street lot line for approximately 82 feet and 10.5 feet from the lot line for approximately 22 feet along 3rd St and approximately 60 feet from East River Drive. A dumpster enclosure is proposed for the southwest corner of the lot in the front yard. Dumpsters are prohibited within front and corner side yards. [Ward 3]

ATTACHMENTS:

Type	Description
▣ Exhibit	Staff Report
▣ Exhibit	Application
▣ Exhibit	Presentation
▣ Exhibit	Public Hearing Notice
▣ Exhibit	Notice List



Zoning Board of Adjustment Staff Report 227 Le Claire St | Setback and Build-to Reduction February 10, 2022

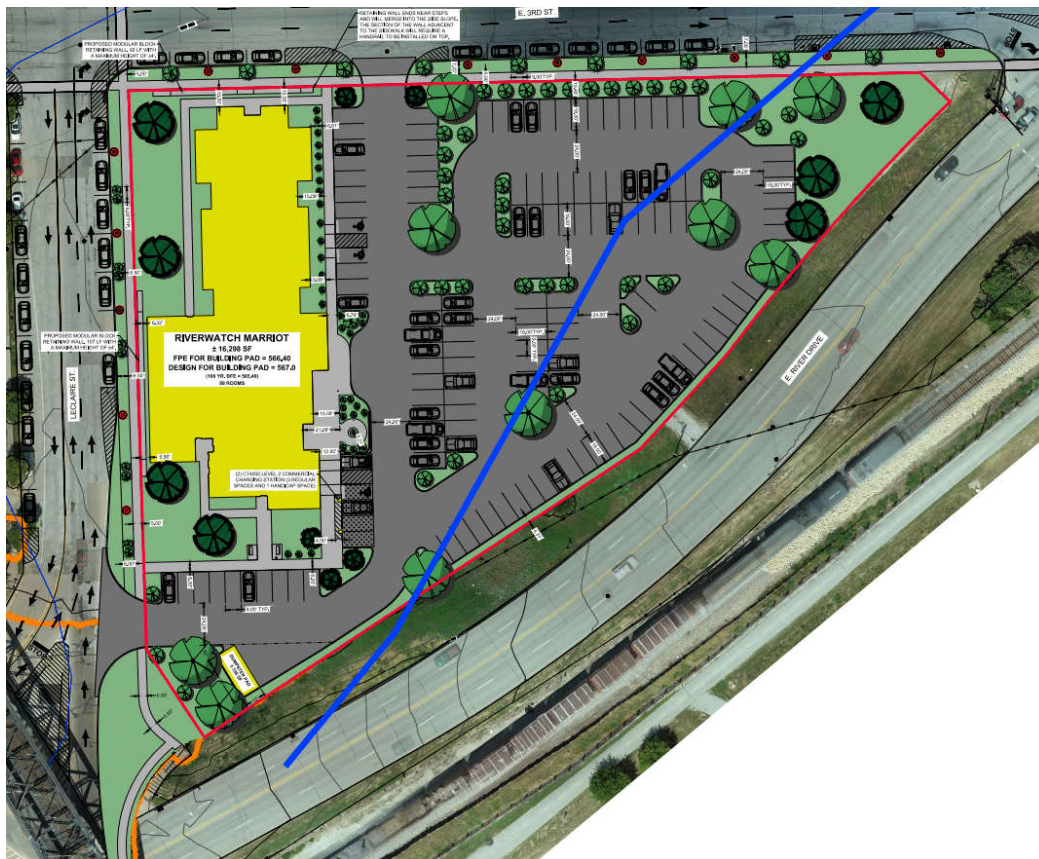
Description

Request HV22-02 of Aaron Mailey and John Carroll on behalf of Riverwatch LLC at 227 LeClaire Street ([L0015A01](#)) for a hardship variance from Section 17.05.050.B. and 17.09.030.Q. setback requirements for new construction of a hotel and dumpster. The C-D District requires a 0' to 10' built-to zone for at least 80% of the street frontage along all three (3) public streets of this lot. The proposed hotel will be setback approximately 5 feet from the LeClaire Street lot line for approximately 82 feet and 10.5 feet from the lot line for approximately 22 feet along 3rd St and approximately 60 feet from East River Drive. A dumpster enclosure is proposed for the southwest corner of the lot in the front yard. Dumpsters are prohibited within front and corner side yards. [Ward 3]

Background & Discussion

The proposed hotel would be located on the former Howard Johnson's hotel site. The subject property has a number of unique features which limit the development of the site. The large size of the lot which is essentially an entire block, the presence of three (3) street frontages, and the location within the floodplain (and partly within the floodway), restrict the location on the lot where the hotel could be legally located and the percentage of the building which is able to be constructed in the built-to zone. The petitioner is utilizing the retaining walls in an effort to bring the building footprint closer to the lot line while still meeting floodplain regulations.

Site Plan



Building Elevations



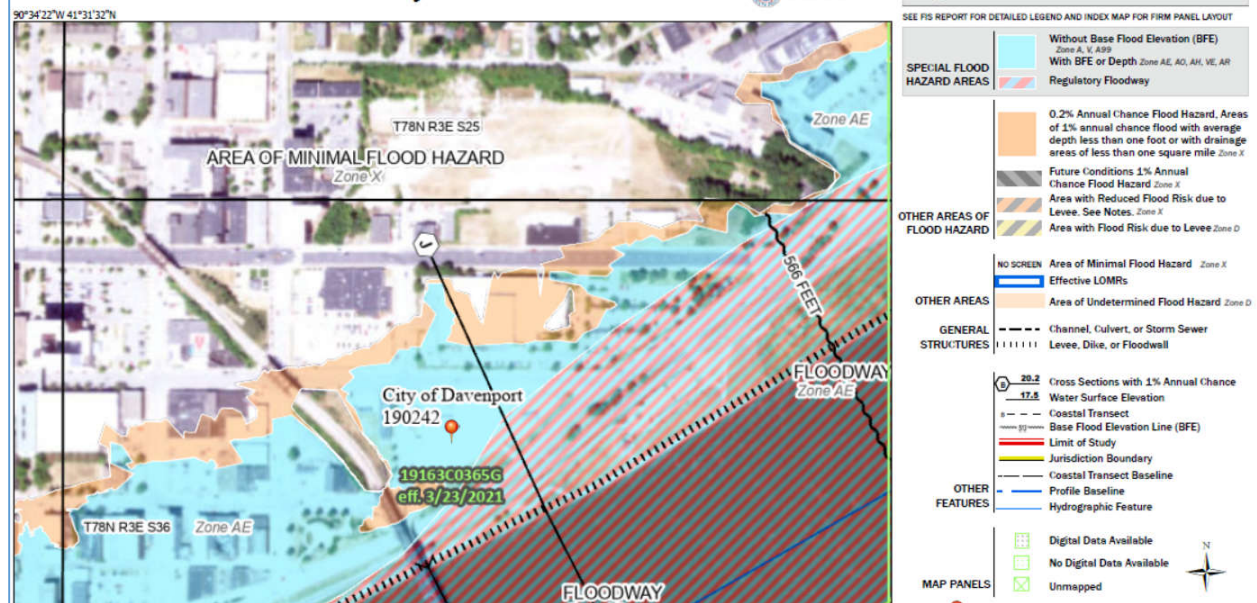
As can be noted in the building elevations above, there are retaining walls along 3rd St. and LeClaire St.

Building Materials



Floodplain Map

National Flood Hazard Layer FIRMette



Purpose of a Hardship Variance

In the Davenport Municipal Code, Section 17.14.060 states: *The purpose of the hardship variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships.*

Applicant's Request

Hardship Variance to 17.05.050.B, Table 17.05-3, C-D District Dimensional Standards, Setbacks as follows:

- 1. Front Setback of 0 feet-10 feet build to zone*
- 2. Required Build-to Percentage of 80%*
- 3. Corner Side Setback of 0 feet -10 feet build-to zone.*
- 4. Hardship Variance to 17.09.030.Q.1 Refuse & Recycling Containers within Front or Corner Side Yard*

The property at 227 LeClaire Street is completely surrounded by public street frontage on all sides, being LeClaire Street, E. 3rd Street and E. River Drive, thus making it all but impossible to meet these zoning standards. Please see the attached site plan and each of our attached explanations to each criteria from 17.14.060 of the Davenport Municipal Code, for further details on our hardship variance request.

Approval Standards

The Zoning Board of Adjustment decision must make findings to support the following:
(code requirement/applicant's response/staff comments)

1. Strict ordinance application will result in hardship unless specific relief requested is granted.

Applicant Response:

Without the specific relief, it will be nearly impossible to develop this property to the strict rules of the ordinance, which results in a hardship to this property and any development. The property is bounded by public streets on all sides, which would force a developer to place a building on all sides of the property for up to 80% of the length of each side, which is impractical to expect. Further, due to the topographical and flood zone nature of the project, we are forced to lift the building site and in doing so, more setback is needed to accommodate grade change, so that an unattractive flood wall is not required for the entire length of the building proposed.

With regard to the refuse location, since it has been determined that the front or corner side yard is the entire area between the property line and the actual building structure, this means the only location for a dumpster would be attached to the building. In this case, due to topographic constraints again, the only location that is feasible to attach the refuse container would be a detriment to the aesthetics and functionality of the building rather than place the refuse containers away from the building in an area of the site that has a topographic advantage to concealing the container, and more room to landscape and block the public view of the container

Staff Comments:

The proposed development is not able to meet code requirements given the parameters of the site and the code requirements. Code requirements in this case do place an undue burden on the use of the property. Criteria for this item have been met for hardship variance determination.

2. The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

Applicant Response:

The property at 227 LeClaire indeed has unique physical surroundings, shape and topographical constraints.

The property is triangular in shape and bounded on all sides by public roadways, resulting in all sides of the property to adhere to the Front Yard and Corner Side Yard setback requirements.

Additionally, a significant portion of the property is located in a regulatory floodway which does not allow structures to be constructed.

Further, the entire remaining portion of the property that is outside of the floodway is located within a regulatory floodplain. All structures must be placed on fill and lifted above the floodplain protection elevation. Due to topographic constraints, placing all sides of the building within the 0 feet to 10 feet build to setback does not allow for the construction of a retaining wall, protective fence and a required sidewalk for emergency ingress and egress from the exits of the hotel.

In this case, due to topographic constraints again caused by the flood plain, the only location that is feasible to attach the refuse container would be a detriment to the aesthetics and functionality of the building rather than place the refuse containers away from the building in an area of the site that has a topographic advantage to concealing the container, and more room to landscape and block the public view of the container. If placed against the building, the traffic traveling along LeClaire Street arriving from Government Bridge or from Downtown Davenport, would have an unsightly view at the front gates of the refuse containment. A better place is as shown on the site plan, where it can be hidden from those traveling along LeClaire Street, and it will also be hidden from those traveling along River Drive due to its elevation being much higher than that of River Drive.

Staff Comments:

Staff concurs with the applicant. The physical site constraints of the property do limit development beyond mere inconvenience. This criteria has been met.

3. The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.

Applicant Response:

A review of the Davenport GIS system and Google Earth shows that this property is unique when compared to a majority of nearby properties. This parcel has been in existence for many years, and is not a recent or self-created hardship.

Further, the unique topographic circumstances with the site being elevated well above River Drive for a large portion of the site allows certain features of the front yard of River Drive to be treated differently than if it were at grade.

Staff Comments:

This site does have certain circumstances, coupled with the location in the floodplain, that present challenges to meet both zoning code and floodplain regulation. As stated before, this triangle lot has nothing but frontages and no true 'rear' to the property. The proposed building location preserves the floodplain to the greatest extent, while also accommodating development on the site. Given the aforementioned constraints, this site does pose a unique circumstance for a newly constructed building based on the limiting physical characteristics of the site.

Regarding the dumpster location, it is possible to integrate the dumpster with the building at the southwest corner of the hotel, however the enclosure and the gates to the enclosure would be facing a city gateway entrance. In order to protect the Arsenal Gateway aesthetics the proposed dumpster location, if properly screened with a solid wall and sufficient vegetation, should be less visually intrusive.

4. The hardship variance, if granted, will not alter the essential character of the locality.

Applicant Response:

A hotel and conference center existed on this property before it was demolished to make way for new development. That Hotel was situated in the center of the property and did not meet current zoning regulations for the build-to setback and 80% build to percentage. With the construction of this new Hotel, we are placing it close to the property lines on two sides which is in substantial conformance with the intent

of the zoning code to promote new buildings be placed near the property lines and public street right of ways. By granting this hardship variance for this hotel, you would be allowing a vibrant and valuable new asset to be constructed in Downtown Davenport which would enhance the neighborhood and surround property values and positively impact the character of the locality. Granting this hardship variance will not alter the essential character of the locality.

Staff Comments:

The character of the area should not be impacted by the by the proposed structure given that this block is an irregular shape and is not part of a contiguous standard city block nor is the site outside of the floodplain. This site will always require special accommodations so that he site will met floodplain development regulations. Protection of essential character will not be negatively impacted should this hardship be granted. This criteria has been met.

Findings & Staff Recommendation:

Findings:

- Item #1 zoning code does result in hardship as applied for the proposed use;
- Item #2 physical and topographical conditions of the site do limit the use;
- Item #3 unique circumstance has been established;
- Item #4 protection of essential character has been established;

Recommendation:

Staff recommends that Board adopt staff's findings and approves request HV22-02 subject to the following:

The refuse area shall met all City standards for screening, in addition to special requirements as follows:

- 1) a robust landscape plan for the dumpster enclosure shall be reviewed by the Design Review Board and approved by planning staff prior to occupancy;
- 2) the enclosure shall be constructed of the same materials as the hotel building (excluding the wood-look panels).

Prepared by:



Scott Koops, AICP,
Planner II

Attachments: ZBA application/plans, notice documents



1200 E 46th Street Davenport,
Iowa 52807
(563) 326-6198
Planning@davenportiowa.com

Complete application can be emailed to planning@davenportiowa.com

Property Address* 227 LeClaire Street, Davenport, Iowa 52801

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

Applicant (Primary Contact)**

Name: Aaron Mailey
Company: Kineth Hospitality Company, Inc.
Address: 25 Main Place, Suite 400
City/State/Zip: Council Bluffs, IA 51503
Phone: 402-306-0649
Email: amailey@kineth.com

Application Form Type:

Plan and Zoning Commission

Zoning Map Amendment (Rezoning) ☐
Planned Unit Development ☐
Zoning Ordinance Text Amendment ☐
Right-of-way or Easement Vacation ☐
Voluntary Annexation ☐

Owner (if different from Applicant)

Name: John M. Carroll
Company: Riverwatch, LLC
Address: 201 W. 2nd Street
City/State/Zip: Davenport, IA 52801
Phone: (563) 326-1008
Email: jc@jcarroll-law.com

Zoning Board of Adjustment

Zoning Appeal ☐
Special Use ☐
Hardship Variance ☒

Engineer (if applicable)

Name: Devin Birch, PE
Company: Austin Engineering Company, Inc.
Address: 220 Emerson Place, Suite 101A
City/State/Zip: Davenport, IA 52801
Phone: 309-691-0224
Email: dbirch@austinengineeringcompany.com

Design Review Board

Design Approval ☐
Demolition Request in the Downtown ☐
Demolition Request in the Village of
East Davenport ☐

Architect (if applicable)

Name: Howie Beauchamp
Company: LK Architecture & Engineering, PC
Address: 345 Riverview, Suite 200
City/State/Zip: Wichita, KS 67203
Phone: 316-238-0230
Email: hbeauchamp@lk-architecture.com

Historic Preservation Commission

Certificate of Appropriateness ☐
Landmark Nomination ☐
Demolition Request ☐

Administrative

Administrative Exception ☐
Health Services and Congregate
Living Permit ☐

Attorney (if applicable)

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

** 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:

Hardship Variance to 17.05.050.B, Table 17.05-3, C-D District Dimensional Standards, Setbacks as follows:

1. Front Setback of 0 feet-10 feet build to zone
2. Required Build-to Percentage of 80%
3. Corner Side Setback of 0 feet -10 feet build-to zone.

The property at 227 LeClaire Street is completely surrounded by public street frontage on all sides, being LeClaire Street, E. 3rd Street and E. River Drive, thus making it all but impossible to meet these zoning standards. Please see the attached siteplan and each of our attached explanations to each criteria from 17-14-060 of the Municipal Code, for further details on our hardship variance request.

Existing Zoning: C-D

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 Section 17.14.060 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 on the request.

(4) The staff report will be available on the City website approximately 4 days before the ZBA meeting at this location: https://www.cityofdavenportiowa.com/government/boards_commissions under Zoning Board of Adjustment > Search Minutes & Agendas.

It is the applicant's responsibility to access the website to see the staff report. Planning staff will not mail/email the report.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The strict application of the terms of this Ordinance will result in hardship unless the specific relief requested is granted.

Without the specific relief, it will be nearly impossible to develop this property to the strict rules of the ordinance, which results in a hardship to this property and any development. The property is bounded by public streets on all sides, which would force a developer to place a building on all sides of the property for up to 80% of the length of each side, which is impractical to expect.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

The property at 227 LeClaire indeed has unique physical surroundings, shape and topographical constraints.

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Additionally, a significant portion of the property is located in a regulatory floodway which does not allow structures to be constructed.

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Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.

A review of the Davenport GIS system and Google Earth shows that this property is unique when compared to a majority of nearby properties. This parcel has been in existence for many years, and is not a recent or self-created hardship.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

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

A hotel and conference center existed on this property before it was demolished to make way for new development. That Hotel was situated in the center of the property and did not meet current zoning regulations for the build-to setback and 80% build to percentage. With the construction of this new Hotel, we are placing it close to the property lines on two sides which is in substantial conformance with the intent of the zoning code to promote new buildings be placed near the property lines and public street right of ways. By granting this hardship variance for this hotel, you would be allowing a vibrant and valuable new asset to be constructed in Downtown Davenport which would enhance the neighborhood and surround property values and positively impact the character of the locality. Granting this hardship variance will not alter the essential character of the locality.

Applicant:

Date:

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.

Authorization to Act as Applicant

I,
authorize
to act as applicant, representing me/us before the Zoning Board of Adjustment for the property located
at

DocuSigned by:

John Carroll

76F7B3D52E4E49A...

Signature(s)*

*Please note: original signature(s) required.



Zoning Board of Adjustment



TownePlace Suites 227 LeClaire Street

DAVENPORT
IOWA | USA



Site



Site



Site

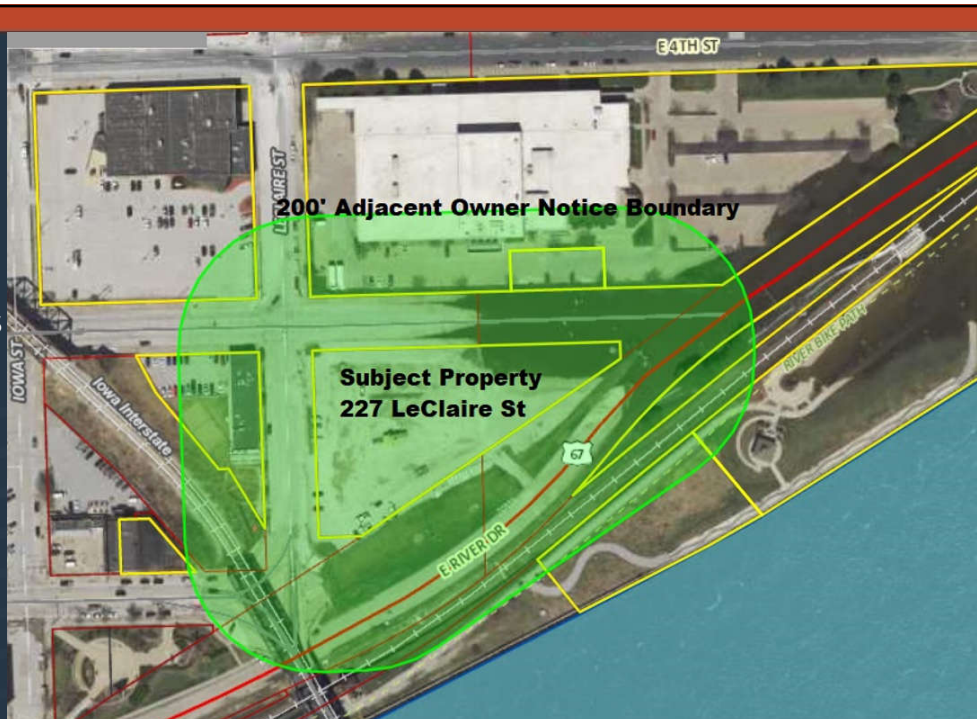






Notice Map

Comments:
No Comments
or calls



Findings

The petitioner has demonstrated the following:

- Item #1 application of the ordinance creating hardship has been established;
- Item #2 physical and topographical conditions of the site do limit the use;
- Item #3 unique circumstance has been established;
- Item #4 protection of essential character has been established;

Recommendation:

- Staff recommends approval of the request as approval standards have been met.



Arsenal Gateway

This eastern section of Downtown, also known as the Arsenal Gateway for its connection to the Arsenal Bridge, has tremendous potential as a center of Downtown Davenport's residential life and its retail and hotel amenities. At the northeastern edge of Downtown, a loft district has emerged in the former warehouse district, including the adaptive reuse of a series of former factory buildings off of Pershing Avenue. To the south and east of the railroad tracks, Davenport has several prominent sites that could be anchors for future development, including the MidAmerican Energy site and the former Howard Johnson Hotel site. The City and the partnership will continue to explore what the highest and best use of this section of downtown will be, imagining it as a critical gateway into the center of Downtown. At Pershing Street between 2nd and 3rd street, there is potential for a gateway plaza and signature public space in front of the Blackhawk Hotel, a space that could serve as a central plaza for the eastern section of downtown and an important space for events and activations. The City should continue to explore infrastructure investments that create a more well lit series of gateways underneath the railroad trestles, with creative signage and artwork announcing the arrival into Downtown.



Eastern Gateway

Downtown's Eastern Gateway is one of the city's most impressive points of entry. With sweeping views of the Downtown Skyline and the overlapping silhouettes of its bridges and dams, this area conveys a prominent sense of arrival into the city's core. Over the coming decade, Davenport's Eastern Gateway will emerge as a center of investment opportunity, recreation, and infrastructure development. The new YMCA and adjacent residential developments will continue to make this a more inviting area. Pedestrian safety enhancements at 3rd and 4th Streets, combined with flood mitigation infrastructure and a new bridge connection, will promote connectivity to the river. A new boat dock landing and redesigned Heritage Park, meanwhile, promise to set the stage for further development and the extension of the Downtown Fabric to the east. Planned projects include:

- 1) Flood mitigation improvements to keep River Drive, 3rd & 4th Streets open longer
- 2) The reconfiguration of the 3rd & 4th Street intersections to improve walk ability circulation
- 3) Completion of River Heritage Park and boat dock improvements
- 4) Completion of First Bridge to improve riverfront and downtown pedestrian access
- 5) Public/private partnership developments near YMCA and former Riverwatch sites
- 6) Potential downtown grocery store location





Public Hearing Notice | Zoning Board of Adjustment

Date: 2/10/2022 **Location:** City Hall | 226 W 4th ST | Council Chambers
Time: 4:00:00 PM **Subject:** Public Hearing for Hardship Variance before Zoning Board of Adjustment

Ald Notice
Ward 3
Notices Sent: 7

To: All property owners within 200' of the subject property **227 LeClaire St:**

What is this About?

This notice is being sent to inform you that a public hearing will be held for a Hardship Variance. The purpose of the Hardship Variance is to grant permission to waive or alter a size or dimensional code requirement.

Request/Case Description

Request HV22-02 of Aaron Mailey and John Carroll on behalf of Riverwatch LLC at 227 LeClaire Street (L0015A01) for a hardship variance from Section 17.05.050.B. and 17.09.030.Q. setback requirements for new construction of a hotel and dumpster. The C-D District requires a 0' to 10' built-to zone for at least 80% of the street frontage along all three (3) public streets of this lot. The proposed hotel will be setback approximately 5 feet from the LeClaire Street lot line for approximately 82 feet and 10.5 feet from the 3rd Street lot line for approximately 22 feet along 3rd St. The building will be setback approximately 60 feet from East River Drive. A dumpster enclosure is proposed for the southwest corner of the lot in the front yard. Dumpsters are prohibited within front and corner side yards. [Ward 3]

What are the Next Steps after the Public Hearing?

For approved ZBA requests, the ruling is effective immediately. Rulings of the Zoning Board of adjustment are final. The applicant may request reconsideration at the next public hearing, and aggrieved parties may file a writ of certiorari with the district court.

Would You Like to Submit an Official Comment?

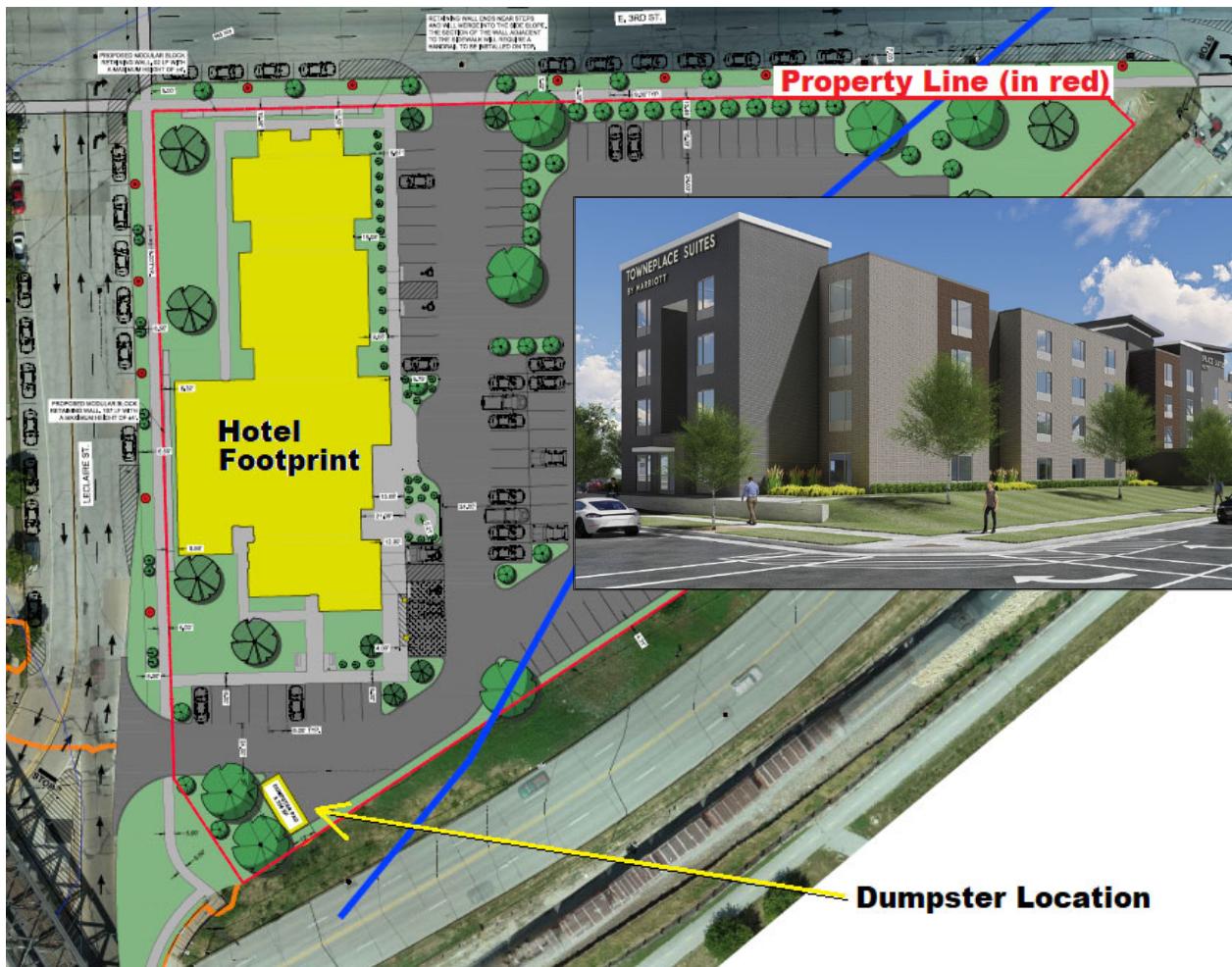
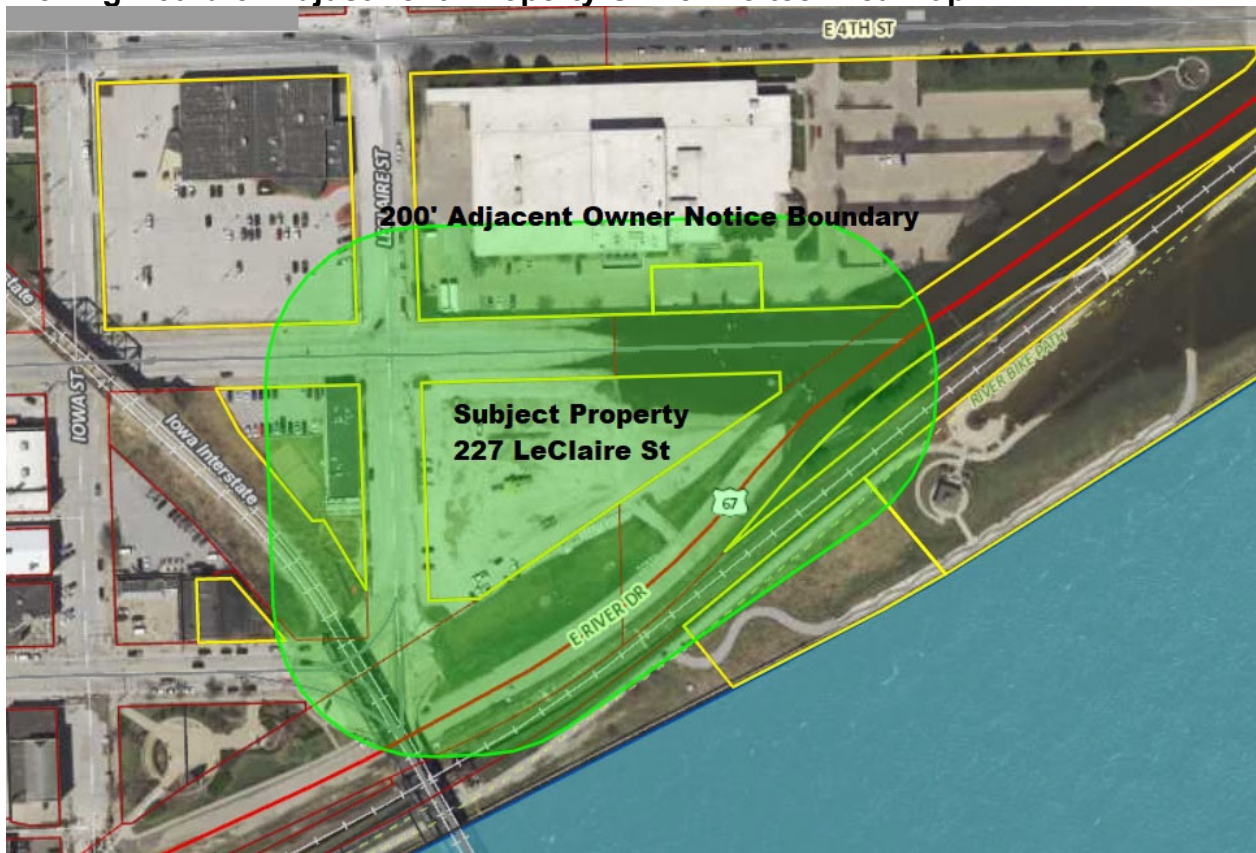
As a property owner/occupant you may have an interest in commenting on the proposed request via email or in person at the public hearing. Official comments must have written signatures sent to planning@davenportiowa.com (no later than 12:00 PM *one day before* the public hearing) or to: Planning, 1200 E 46th St, Davenport IA 52807.

Do You Have Any Questions?

If you have any questions or if accommodations are needed for any reason, please contact the planner assigned to this project (Scott Koops, AICP) at scott.koops@davenportiowa.com or 563-328-6701. Interpretive services are available at no charge. Servicios interpretativos libres estan disponibles. TTY: (563) 326-6145

Please note items may be removed or tabled to a future hearing date at the request of the Applicant or Commission/Board. Those interested in verifying case actions and/or tablings, please contact Planning at 563-326-6198 or planning@davenportiowa.com for updates.

Zoning Board of Adjustment: Property Owner Notice Area Map



HV22-02 - 227 LeClaire Street Notice List

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Petitioner: 227 LECLAIRE ST RIVERWATCH LLC 201 W2ND ST DAVENPORT IA 52801 Neighborhood: East Bluff Neighborhood Assoc: Kris Miller http://www.eastbluffdavenport.org Ward/Ald: Ward 3 Ald Meginnis All Alderman Notified Notices Sent: 8				
L0002A02	320 LECLAIRE ST	SUPERIOR LABELS INC	320 E 2ND ST	DAVENPORT IA 52801
L0002A06A	429 E 3RD ST	YASH COMMERCIAL PROPERTIES LLC	PO BOX 4469	DAVENPORT IA 52808
L0002A07A		DEMOLITION DAVENPORT INC	500 E 3RD	DAVENPORT IA 52801
L0002A07B	500 E 3RD ST	LEE ENTERPRISES INC	PO BOX 3828	DAVENPORT IA 52808
L0015A01		RIVERWATCH LLC	201 W2ND ST	DAVENPORT IA 52801
L0015A04	418 E 2ND ST	MFN INVESTMENTS LLC	2122 E 12TH ST	DAVENPORT IA 52803
Z9005-48		THE LAMAR COMPANY LLC	1130 KERPER CT	DUBUQUE IA 52001
L0003A01A		CITY OF DAVENPORT		
L0014A01A		CITY OF DAVENPORT		