

IOWA CITY BOARD OF ADJUSTMENT MEETING

Wednesday, November 13, 2019 – 5:15 PM

City Hall, 410 East Washington Street
Emma Harvat Hall

AGENDA

A. Call to Order

B. Roll Call

C. Consider the October 9, 2019 minutes

D. Special Exception Item

1. EXC19-10: An application submitted by Lucas Off Campus for a special exception to allow for a before and after school daycare in the Low-Density Single Family Residential (RS-5) zone located at 3001 Muscatine Ave.
2. EXC19-11: An application submitted by Arts Iowa City for a special exception to allow for a specialized education center for classroom/workshop space for a community arts center in an Intensive Commercial (CI-1) zone located at 1423 Waterfront Dr.

F. Adjourn

**NEXT BOARD OF ADJUSTMENT MEETING:
Wednesday, December 11, 2019**

If you will need disability-related accommodations in order to participate in this meeting, please contact Jesi Lile, Urban Planning at 319-356-5240 or at jessica-lile@iowa-city.org. Early requests are strongly encouraged to allow sufficient time to meet your access needs.

STAFF REPORT

To: Board of Adjustment
Item: EXC19-10
Parcel Number: 101330001

Prepared by: Jesi Lile, Associate Planner
Date: November 13, 2019

GENERAL INFORMATION:

Applicant: Kenzie Miller, Director
Lucas Off Campus
3001 Muscatine Ave
(319) 530-3969
lucasoffcampus@gmail.com

Contact Person: Michael Nolan
Horizon Architecture
3116 Alpine Court
(563) 506-4965
michael@horizon-architecture.com

Property Owner: Bethany Baptist Church
3001 Muscatine Ave
(319) 354-3118
office@rivercommunitychurch.org

Requested Action: Special exception to operate a daycare facility

Purpose: To allow for a before and after school program

Location: 3001 Muscatine Ave

Location Map:



Size: 2.98 acres

Existing Land Use and Zoning: Church, Low Density Single Family Residential (RS-5)

Surrounding Land Use and Zoning: North: Residential, Low Density Single Family Residential (RS-5)
Schools, Neighborhood Public (P1) & High Density Single Family Residential (RS-12)
East: Residential, Low Density Single Family Residential (RS-5)
South: Residential, Low Density Single Family Residential (RS-5)
West: Residential, Low Density Single Family Residential (RS-5)

Applicable Code Sections: **14-4B-3: General Approval Criteria**
14-4B-4D-7: Daycare Uses

File Date: October 10, 2019

BACKGROUND:

Lucas Off Campus is an Iowa City non-profit childcare provider that has been in operation since 1987, and provides before and after school care for children from Kindergarten through 6th grade. Recently, they have moved from their previous location at Lucas Elementary to 3001 Muscatine Ave, the site of The River Community Church. Currently, the applicant provides childcare services to approximately 50 children. The applicant is applying for a special exception to operate a daycare facility in a residential zone.

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 for **Section 14-4B-4D-7**, pertaining to Daycare Uses as well as the General Standards laid out in **Section 14-4B-3**.

In order for the Board of Adjustments 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. Staff comments regarding each criterion are set below.

Specific Standards: 14-4B-4D-7: Daycare Uses:

- a. **Required Interior Activity Areas: Child daycare centers must contain at least thirty five (35) square feet of usable interior floor space per child. Adult daycare centers must contain a minimum of sixty (60) square feet of usable floor area per adult client. An additional twenty (20) square feet of floor area is required for every adult client who**

uses ambulatory aids. Reception areas, kitchens, storage areas, offices, bathrooms, hallways, treatment rooms, and specialized areas used for therapy are excluded when calculating the required floor area. The dining area may only be included in the square footage calculation if used by the daycare participants for activities other than meals. When collected in a facility that houses other uses or services, the proposed daycare use must have its own separate indefinable space for program activities during operational hours.

FINDINGS:

- The required square footage for 50 children is 1,750 sq. ft. The site plan submitted shows two childcare areas. The primary area is 1,771 sq. ft, and the secondary is 2,124 sq. ft for a total of 3,895 sq. ft, well over the minimum requirements for indoor activity area.
 - The applicant also has access to a gymnasium that provides another 3,775 sq. ft of play area for the children.
- b. Required Outdoor Areas: Child daycare uses must provide a fenced outdoor play area of not less than one hundred (100) square feet per child based on the maximum number of children that will be using the outdoor play area at any given time. The outdoor play area must meet the following standards:**
- 1. Playground equipment is not permitted within the front and side setbacks.**
 - 2. Outdoor play areas must be well drained, free from hazards, and readily accessible to the daycare center. In residential zones, outdoor play areas must be completely enclosed by a fence at least four feet (4') in height. In commercial and industrial zones, the outdoor play area must be completely enclosed by a fence built to the S4 standard and be screened along the perimeter of the fence to the S3 standard. (See chapter 5, article F, "Screening And Buffering Standards", of this title.) The city may waive the screening requirement if it is determined that land uses surrounding the daycare use will not pose a nuisance or safety hazard to the children such that a screening buffer is necessary.**

FINDINGS:

- The applicant has proposed breaking up children by age group, so there will be no more than 25 children outside at one time. This makes the required fenced area a minimum of 2,500 sq. ft.
- The applicant has shown an outdoor play area on the northwest corner of the site. This area is not ideal due to its proximity to both Muscatine Ave. and Dover St. Staff recommended the applicant explore alternative areas for the required outdoor space, but the applicant stated that they don't own the building and any changes to the existing site would have to be approved by the property owner. In order to improve the safety of the proposed outdoor play area, staff has proposed the following conditions:
 - The applicant must provide a striped pedestrian crossing area from the building to the fenced outdoor play area.
 - The fenced area must be located 30 feet from both Muscatine Ave. and Dover St. in order to provide a buffer between the street and play area, and to shift the play area away from the intersection.
 - The fenced area must only serve children Kindergarten and up.

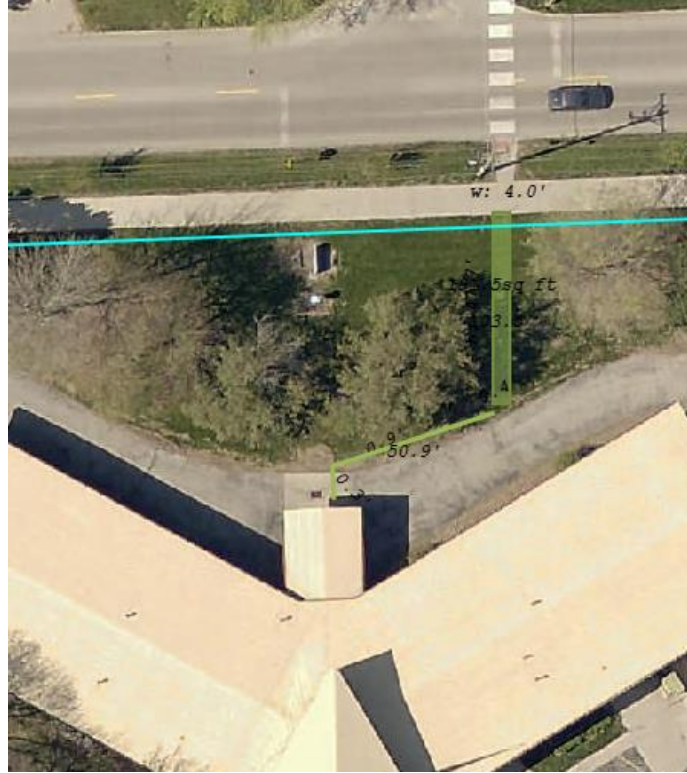
- The applicant must close the exit onto Muscatine Ave. nearest the play area when it is in use and not allow traffic to enter or exit at that location.
 - The circulation route shown on the site plan must be modified to show parents exiting the site onto Dover St. instead of driving between the building and the play area.
 - The applicant has proposed installing a 4-foot chain-link fence around the proposed play area.
 - Per DHS standards, the applicant must provide one supervisor for every fifteen children ages 5-10. The applicant would be required to provide at least two supervisors for the anticipated 25 children that would be using this outdoor area at once.
- c. **Vehicular Circulation: The use must provide a drop off/pick up area in a location that is convenient to or has good pedestrian access to the entrance to the facility. This drop off/pick up area must contain sufficient stacking spaces and/or parking spaces to ensure that traffic does not stack into adjacent streets or other public rights of way. (See minimum parking requirements for daycare in section 14-5A-4, table 5A-2 of this title.) To promote safe vehicular circulation, one-way drives are encouraged.**

FINDINGS:

- The site plan shows a parking area outside the main daycare entrance that is connected to the entrance by a sidewalk.
 - The applicant has shown 27 parking spaces available, which is more than the required 22 parking space.
 - The entrance to the site is away from the public right-of-way, so traffic on-site will not impede traffic on adjacent streets.
- d. **Pedestrian Circulation: A sidewalk must be constructed connecting the main entrance of the center to the adjacent public right of way. Pedestrian access must be clearly separated or distinguished from vehicular circulation areas to minimize the extent to which users of the facility are required to walk across drives or aisles to gain access to the daycare center.**

FINDINGS:

- At the time of this report, the applicant has proposed pedestrian access along the northwest drive from the main entrance to the public right-of-way. Staff feels this does not meet the requirement of a sidewalk, and does not adequately separate pedestrian circulation from vehicle circulation. The applicant has been informed of this deficiency, and has the opportunity to present an alternative to the Board at the public meeting.
 - Staff has recommended extending a sidewalk from the existing crosswalk in front of the church on Muscatine Ave. and providing a pathway to the front door as shown below.



- Staff has proposed a condition that the applicant must escort the children to and from school. This is also a requirement of DHS.
- e. **Site Development Standards:** If the proposed use is located in a residential zone or in the central planning district, it must comply with the multi-family site development standards as set forth in section 14-2B-6 of this title. Daycare facilities that are accessory uses are exempt from this provision.

FINDINGS:

- This is an existing, non-conforming building. The applicant is not proposing any changes to the building itself, but is asking for a special exception to add an additional use.

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

In order for the Board of Adjustments 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. Staff comments regarding each criterion are set below.

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

FINDINGS:

- Staff believes that with the conditions proposed, the site is a safe and suitable place for a childcare center.
 - The site is equipped to handle a large volume of people and has a sufficient occupancy limit for this proposal.
- 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:

- The proposed childcare center is located in an existing building and will not operate off-site.
 - The addition of a chain-link fenced play area will not substantially change the site.
 - There are other childcare programs and schools already in operation in the vicinity, so the addition of a childcare center would not diminish the use and enjoyment of surrounding property owners.
- 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 surrounding neighborhood is already developed.
 - The proposed childcare center will operate entirely on site, so this will not impede development or improvement of surrounding properties.
- 4. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.**

FINDINGS:

- The subject property already has access to all necessary utilities and facilities.
- 5. Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets.**

FINDINGS:

- The subject property has three access points, one off Dover St. and two off Muscatine Ave.
 - Staff is proposing a condition to change the proposed circulation plan to minimize traffic leaving the site onto Muscatine Ave. and direct it toward Dover St.
- 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:

- The proposed exception will not change the site layout aside from the addition of a fenced play area.
- The building meets all setback and height requirements as well as other requirements of the RS-5 zone.

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

FINDINGS:

- Iowa City's Comprehensive Plan supports development that provides opportunities for people in all stages of life, including children, young adults, families, and seniors. Iowa City also lacks childcare facilities to support families. The addition of another childcare facility near two elementary schools would help to support children and families of this neighborhood.

STAFF RECOMMENDATION:

At the time of publication of this staff report, the applicant has not been able to meet the requirement for a pedestrian sidewalk connection to the public right-of-way. For this reason, staff must recommend denial, but is willing to change its recommendation upon development of a satisfactory pedestrian connection with the following conditions:

1. The applicant must provide a striped pedestrian crossing area from the building to the fenced outdoor play area.
2. The fenced area must be located 30 feet from both Muscatine Ave. and Dover St. in order to provide a buffer between the street and play area, and to shift the play area away from the intersection.
3. The fenced area must only serve children Kindergarten and up.
4. The applicant must close the exit onto Muscatine Ave. nearest the play area when it is in use in order to reduce vehicle traffic.
5. The circulation plan must be modified to show parents exiting the site onto Dover St. instead of driving between the building and the play area.
6. The applicant must escort children to and from school at a ratio determined by DHS.

ATTACHMENTS

1. Location Map
2. Zoning Map
3. Application Materials
4. Site Plan Updated November 7, 2019.

Approved by: _____



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

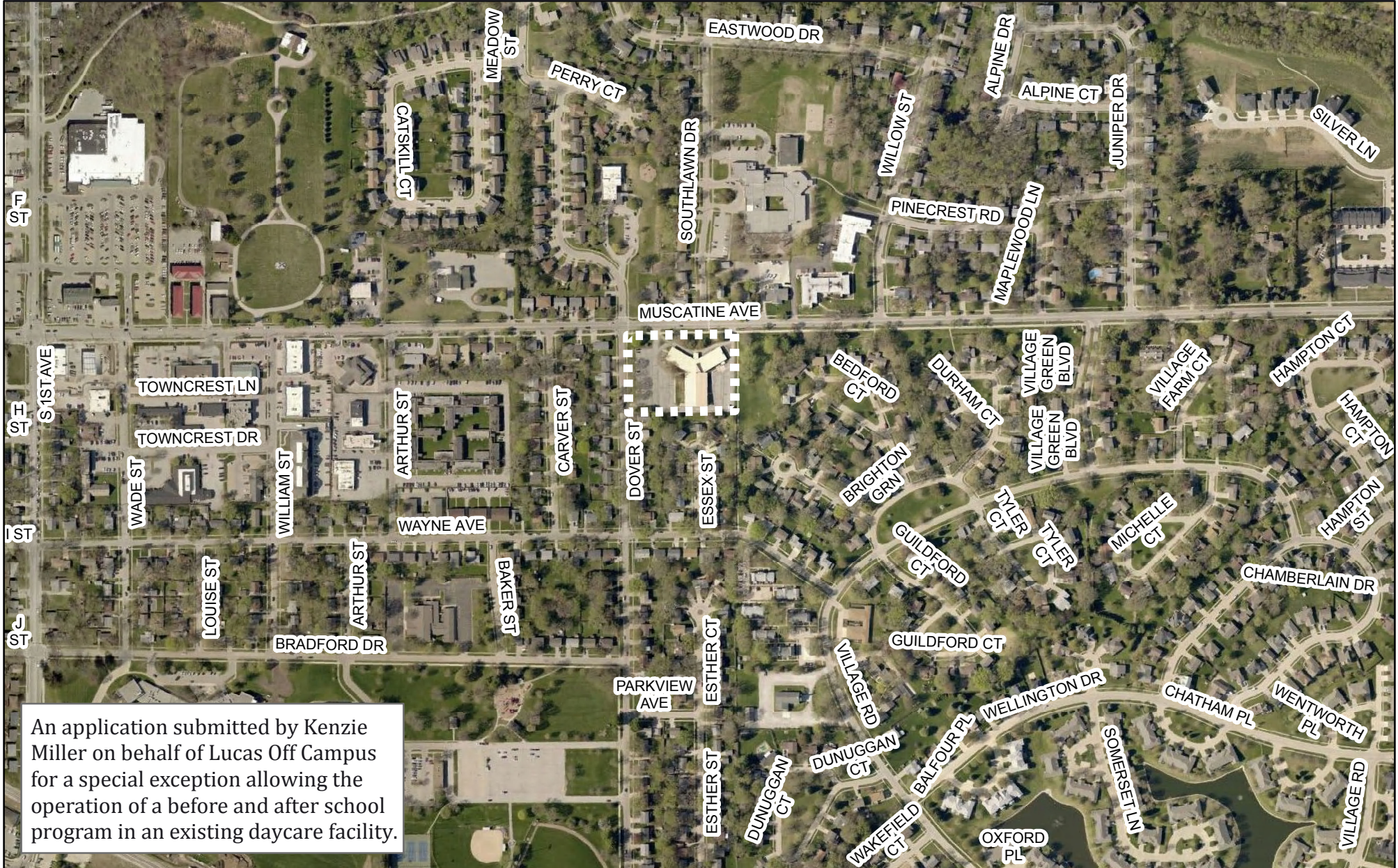


0 0.05 0.1 0.2 Miles

EXC19-10 3001 Muscatine Avenue



Prepared By: Jade Pederson
Date Prepared: Oct 2019



An application submitted by Kenzie Miller on behalf of Lucas Off Campus for a special exception allowing the operation of a before and after school program in an existing daycare facility.



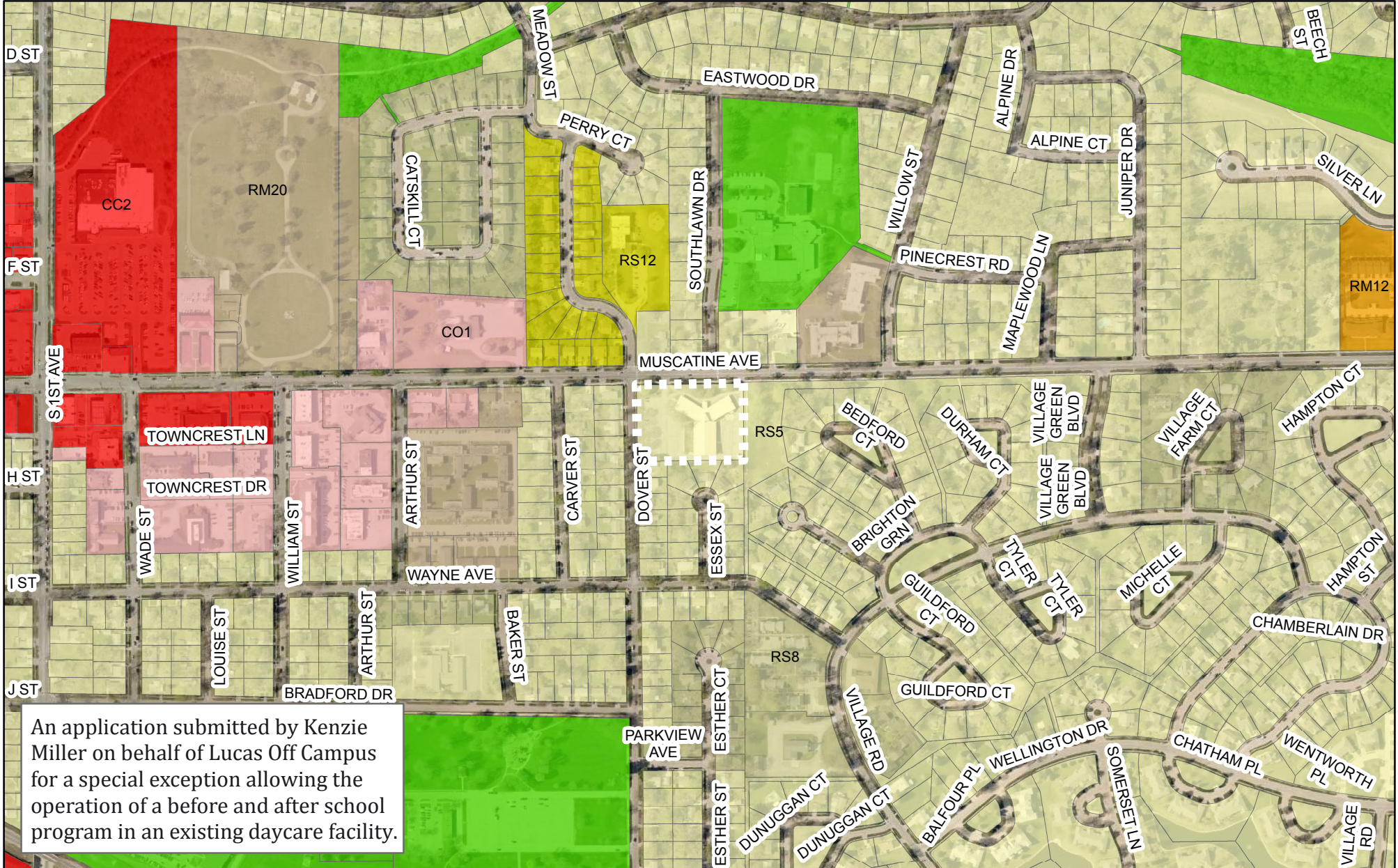
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EXC19-10 3001 Muscatine Avenue



CITY OF IOWA CITY

Prepared By: Jade Pederson
Date Prepared: Oct 2019



An application submitted by Kenzie Miller on behalf of Lucas Off Campus for a special exception allowing the operation of a before and after school program in an existing daycare facility.

APPLICATION TO THE BOARD OF ADJUSTMENT SPECIAL EXCEPTION

DATE: October 9, 2019

PROPERTY PARCEL NO. 1013301001

PROPERTY ADDRESS: 3001 MUSCATINE AVE IOWA CITY IA

PROPERTY ZONE: RS-5

PROPERTY LOT SIZE: 2.98 ACRES

APPLICANT:	Name: <u>LUCAS OFF CAMPUS - KENZIE MILLER DIRECTOR</u> Address: <u>3001 MUSCATINE AVE IOWA CITY IA 52245</u> Phone: <u>319-530-3969</u> Email: <u>lucasoffcampus@gmail.com</u>
CONTACT PERSON: (if other than applicant)	Name: <u>Michael Nolan, AIA Principal, Horizon Architecture</u> Address: <u>3116 Alpine Court Iowa City, IA 52245</u> Phone: <u>563-506-4965</u> Email: <u>michael@horizon-architecture.com</u>
PROPERTY OWNER: (if other than applicant)	Name: <u>Bethany Baptist Church</u> Address: <u>3001 Muscatine Ave Iowa City, IA 52245</u> Phone: <u>319-354-3118</u> Email: <u>office@rivercommunitychurch.org</u>

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CITY CLERK
IOWA CITY, IOWA

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Specific Requested Special Exception; please list the description and section number in the zoning code that addresses the specific special exception you are seeking. If you cannot find this information or do not know which section of the code to look in, please contact Jesi Lile at 356-5240 or e-mail jessica-lile@iowa-city.org.

Purpose for special exception: Requesting special exception to operate before and after school program (daycare facility) in existing facility.

Date of previous application or appeal filed, if any: n/a

In order for your application to be considered complete, you must provide responses to all of the information requested below. **Failure to provide this information may delay the hearing date for your application. A pre-application consultation with Planning staff is STRONGLY recommended to ensure that your application addresses all of the required criteria.**

As the applicant, you bear the burden of proof for showing that the requested exception should be granted. Because this application will be presented to the Board of Adjustment as your official statement, you should address all the applicable criteria in a clear and concise manner.

INFORMATION TO BE PROVIDED BY APPLICANT:

A. Legal description of property (attach a separate sheet if necessary):

You can find the legal description and parcel number for your property by doing a parcel search for your address on the Assessor's website at www.iowacity.iowaassessors.com/or by calling 319-356-6066.

B. Plot Plan/Site Plan drawn to scale showing all of the following information:

1. Lot with dimensions;
2. North point and scale;
3. Existing and proposed structures with distances from property lines;
4. Abutting streets and alleys;
5. Surrounding land uses, including location and record owner of each property opposite or abutting the property in question;
6. Parking spaces and trees - existing and proposed.
7. Any other site elements that are to be addressed in the specific criteria for your special exception (i.e., some uses require landscape screening, buffers, stacking spaces, etc.)

C. Specific Approval Criteria: In order to grant a special exception, the Board must find that the requested special exception meets certain specific approval criteria listed within the Zoning Code. In the space below or on an attached sheet, address each of the criteria that apply to the special exception being sought. Your responses to these criteria should just be opinions, but should provide specific information demonstrating that the criteria are being met. (Specific approval criteria for uses listed as special exceptions are described in 14-4B-4 of the Zoning Code. Other types of special exceptions to modify requirements for the property are listed elsewhere in the Code.)

IF YOU DO NOT KNOW WHERE TO FIND THE SPECIFIC CRITERIA THAT MUST BE ADDRESSED, please contact Jesi Lile at 356-5240 or e-mail jessica-lile@iowa-city.org. Failure to provide this information will constitute an incomplete application and may lead to a delay in its consideration before the Board of Adjustment.

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D. **General Approval Criteria:** In addition to the specific approval criteria addressed in "C", the Board must also find that the requested special exception meets the following general approval criteria or that the following criteria do not apply. In the space provided below, or on an attached sheet, provide specific information, not just opinions, that demonstrate that the specific requested special exception meets the general approval criteria listed below or that the approval criteria are not relevant in your particular case.

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

The proposed use is allowable under the current occupancy (A-3) in the International Building Code, Paragraph 303.1.3. The daycare operation is not concurrent with other building functions so the provided level of fire protection and egress capacity (see sheet A-2 attached) are ample for the proposed use.

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 and impair property values in the neighborhood.**

The current use of the facility contains a daytime daycare center (Stepping Stones). The Lucas Off Campus operates before school until 7:50 a.m. and after school until 6:30 p.m. This is compatible with the traffic flow and occupancy of the neighborhood and is proximate to similar programs at Lucas Elementary and Willowwind School.

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.**

No additions or alterations are proposed, this program will utilize all existing facilities. The program is a tenant and will in no way impact the owner's use or future use of the property.

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

Yes, the A-3 occupancy already provides excess capacity for the needs of the proposed program.

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

Please see attached (A-1) for site flow. Sufficient entrances and exit capacity is existing and a safe pedestrian path is provided to access the program primary location.

6. **Except for the specific regulations and standards applicable to the special 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. [Depending on the type of special exception requested, certain specific conditions may need to be met. The applicant will demonstrate compliance with the specific conditions required for a particular use as provided in the City Code section 14-4B as well as requirements listed in the base zone or applicable overlay zone and applicable site development standards (14-5A through K).]**

Yes, daycare is a conditional use in the RS-5 zone.

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7. **The proposed use will be consistent with the Comprehensive Plan of the City.**

Yes.

E. List the names and mailing addresses of the record owners of all property located within 300 feet of the exterior limits of the property involved in this appeal:

<u>NAME</u>	<u>ADDRESS</u>
See Attached (A-1)	

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NOTE: Conditions. In permitting a special exception, the Board may impose appropriate conditions and safeguards, including but not limited to planting screens, fencing, construction commencement and completion deadlines, lighting, operational controls, improved traffic circulation requirements, highway access restrictions, increased minimum yard requirements, parking requirements, limitations on the duration of a use or ownership or any other requirement which the Board deems appropriate under the circumstances upon a finding that the conditions are necessary to fulfill the purpose and intent of the Zoning Chapter. (Section 14-8C-2C-4, City Code).

Orders. Unless otherwise determined by the Board, all orders of the Board shall expire six (6) months from the date the written decision is filed with the City Clerk, unless the applicant shall have taken action within the six (6) month period to establish the use or construct the building permitted under the terms of the Board's decision, such as by obtaining a building permit and proceeding to completion in accordance with the terms of the permit. Upon written request, and for good cause shown, the Board may extend the expiration date of any order without further public hearing on the merits of the original appeal or application. (Section 14-8C-1E, City Code).

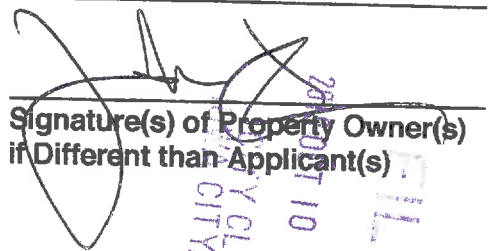
Petition for writ of certiorari. Any person or persons, jointly or severally, aggrieved by any decision of the Board under the provisions of the Zoning Chapter, or any taxpayer or any officer, department or board of the City may present to a court of record a petition for writ of certiorari duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. (Section 14-8C-1F, City Code). Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the City Clerk.

Date: October 9, 2019



Signature(s) of Applicant(s)

Date: Oct 10, 2019



Signature(s) of Property Owner(s)
if Different than Applicant(s)

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History and Background

Iowa City's Good Neighbor Program is part of an effort to make the development process run more smoothly between property owners and developers who seek zoning and related changes, and the neighborhoods that may be affected by those changes. The Good Neighbor Program is not a requirement, but rather a recommended approach that encourages proactive dialogue between property owners, developers, and neighbors that may help identify and resolve issues before the project is reviewed by the Planning and Zoning Commission or the Board of Adjustment.

For minor projects, such as a yard setback reduction, the approach may be as simple as knocking on neighbors' doors to discuss the proposed project with them. For a rezoning or subdivision, it may be appropriate to hold a neighborhood meeting or open house to present the project and invite questions and comments from your neighbors.

While the Good Neighbor Program does not guarantee specific outcomes, answering neighbors' questions and hearing their concerns or suggestions may provide the opportunity to developers/applicants to address concerns or objections before the project is reviewed in a public forum. This can minimize controversy and delays when a project is reviewed by the Board of Adjustment, Planning and Zoning Commission, or the City Council.

Helpful Tips for a

Good Neighbor Meeting

What information can you provide that neighbors will find useful?

- Background information including a description of your project and the public process it must go through.
- Site plans, elevations, models, aerial photos, drawings, etc. This will help them visualize the changes you wish to make.
- Information or other resources that discuss the zoning or land development process. The Neighborhood Outreach Coordinator can provide you with this information or is available at www.icgov.org/goodneighbor

View it from their perspective: How will neighbors see your project?

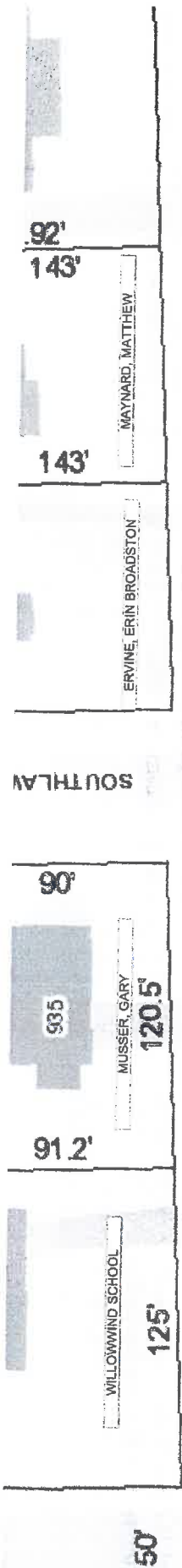
- Put yourself in the place of the people who surround your property. Will they view your project as an enhancement or unexpected change?
- How might your project impact traffic or pedestrian safety in the area?
- Does your project enhance or complement existing

neighborhood character or does it contrast with what surrounds it?

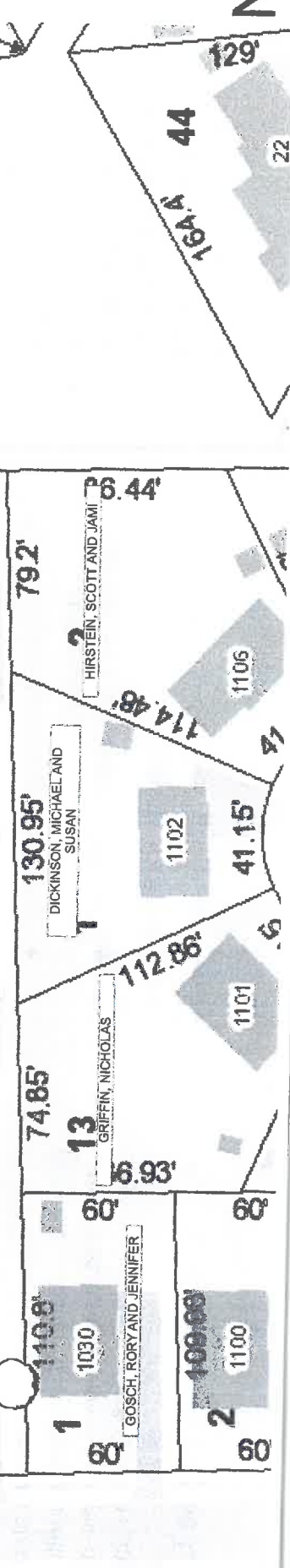
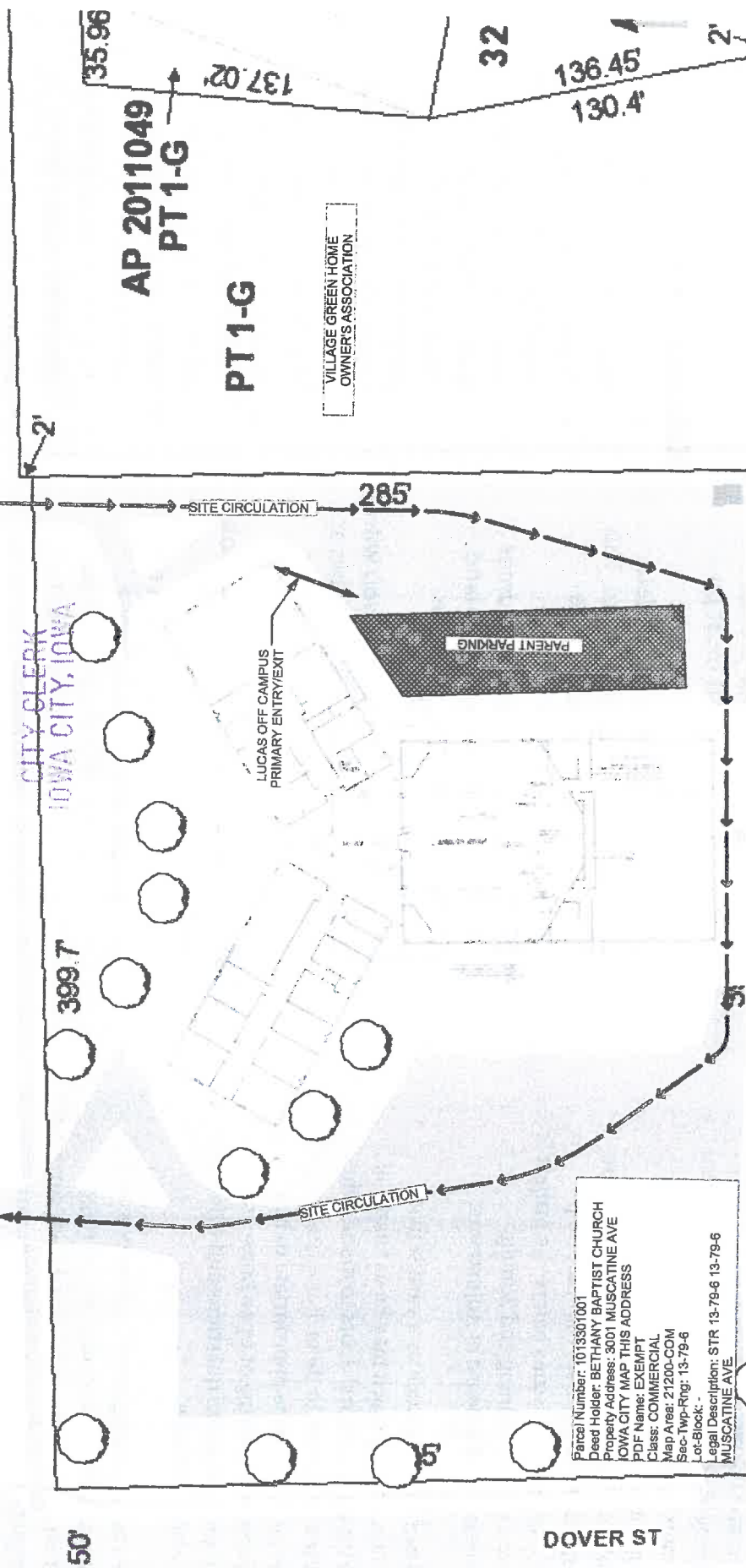
- Will your project alter the natural landscape, impact views, etc.?
- Might your project reduce the sense of privacy for a neighboring property owner?

Ways to respond to concerns

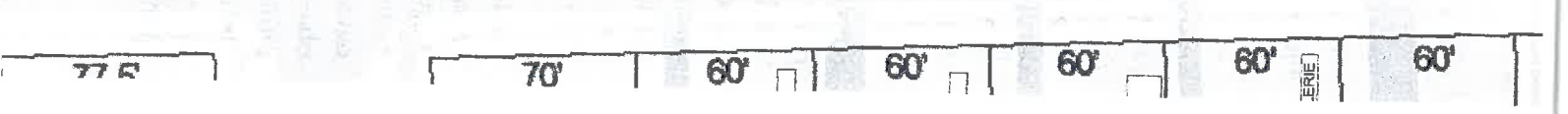
- Listen and be respectful—give people the chance to be heard.
- Focus on identifying problems. This meeting is a chance for you to gather input that may be useful to you in getting your project through the review process. The issues that your neighbors raise are often the same issues that may be raised by the Planning and Zoning Commission or the Board of Adjustment.
- Be open to options that could be reasonable or affordable ways to alleviate or address problems.
- Resolving problems at the meeting is not necessary, but it may be helpful to identify areas where there is some flexibility in your plans.
- Know that you won't necessarily be able to please everyone, but that you are providing an opportunity for dialogue. The neighbors will appreciate your effort and the opportunity to share their views.



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IOWA CITY, IOWA



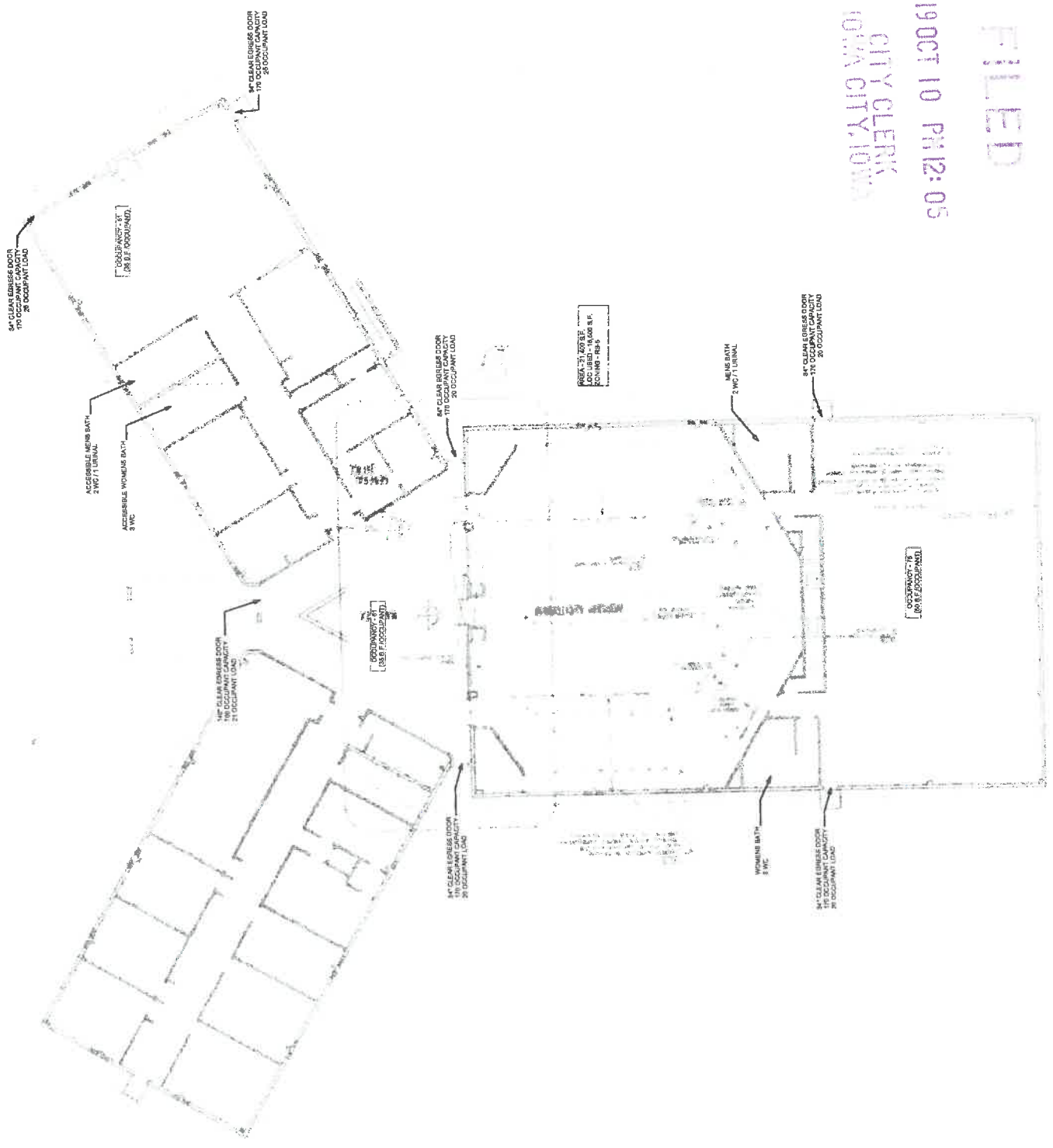
Parcel Number: 1013301001
Deed Holder: BETHANY BAPTIST CHURCH
Property Address: 3001 MUSCATINE AVE
IOWA CITY MAP THIS ADDRESS
PDF Name: EXEMPT
Class: COMMERCIAL
Map Area: 21200-COM
Sec-Twp-Rng: 13-79-6
Lot-Block:
Legal Description: STR 13-79-6 13-79-6
MUSCATINE AVE



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2019 OCT 10 PM 12:05

CITY CLERK
1011A CITY, 10WA



CITY OF IOWA CITY
REVENUE DIVISION
410 E WASHINGTON ST
IOWA CITY, IA 52240
(319) 356-5066

010540-0032 Trina S. 10/10/2019 12:19PM

MISCELLANEOUS

Description: OTHER
(OTHER)

Reference 1: EXC
Reference 2: 19-00010

OTHER (OTHER)
2020 Item: OTHER

1 @ 460.00

OTHER (OTHER)

460.00

95900000-101100-

460.000

10610620-341200-

460.000

Payment Id: 367725

460.00

Subtotal

460.00

Total

460.00

CHECK

Check Number 2843

460.00

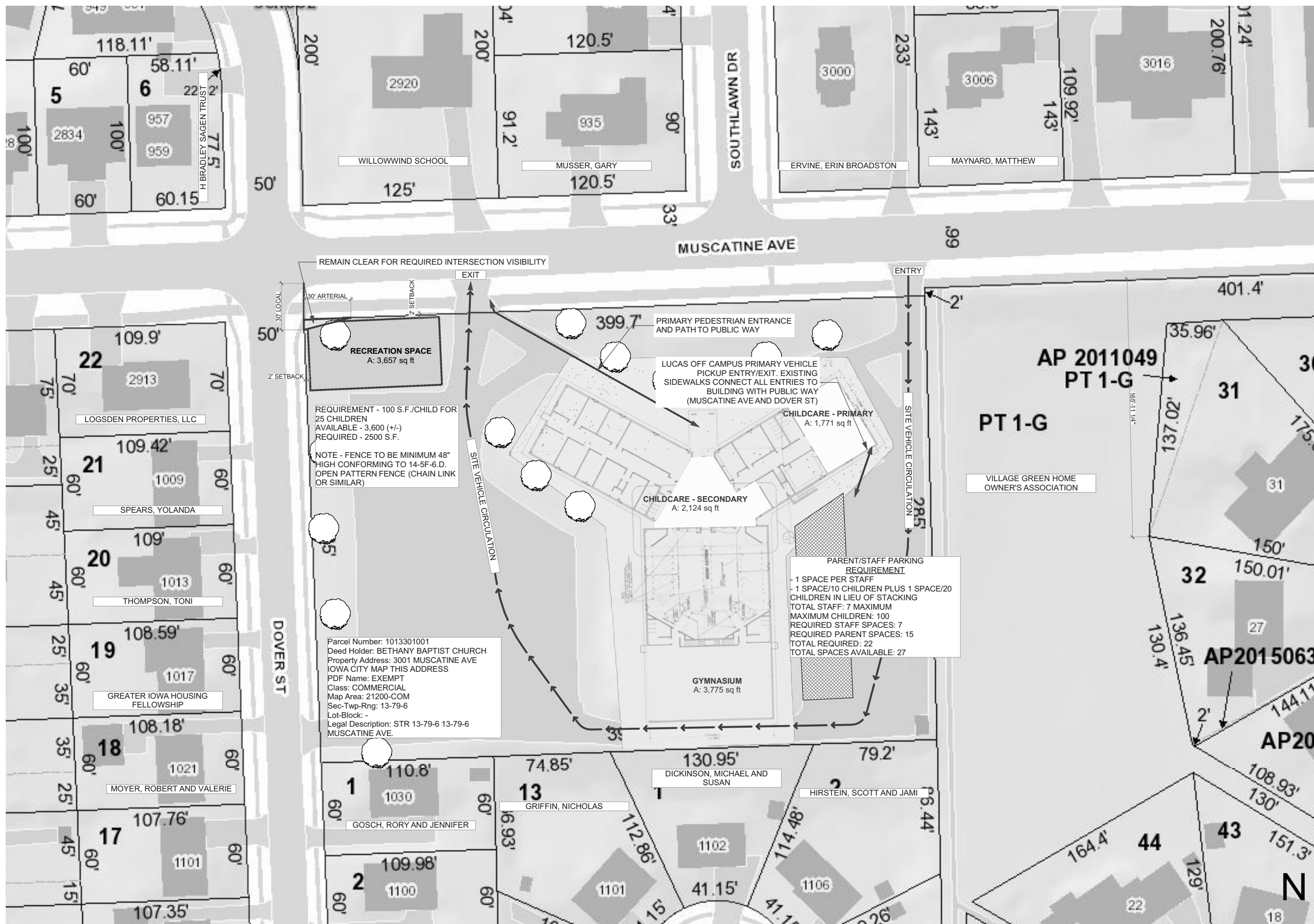
Change due

0.00

Paid by: LUCAS ON CAMPUS

THANK YOU FOR YOUR PAYMENT

CUSTOMER COPY



REMAIN CLEAR FOR REQUIRED INTERSECTION VISIBILITY

30' LOCAL
2' SETBACK
30' ARTERIAL
2' SETBACK

RECREATION SPACE
A: 3,657 sq ft

REQUIREMENT - 100 S.F./CHILD FOR 25 CHILDREN AVAILABLE - 3,600 (+/-) REQUIRED - 2500 S.F.
NOTE - FENCE TO BE MINIMUM 48" HIGH CONFORMING TO 14-5F-8.D. OPEN PATTERN FENCE (CHAIN LINK OR SIMILAR)

Parcel Number: 1013301001
Deed Holder: BETHANY BAPTIST CHURCH
Property Address: 3001 MUSCATINE AVE
IOWA CITY MAP THIS ADDRESS
PDF Name: EXEMPT
Class: COMMERCIAL
Map Area: 21200-COM
Sec-Twp-Rng: 13-79-6
Lot-Block: -
Legal Description: STR 13-79-6 13-79-6 MUSCATINE AVE.

PRIMARY PEDESTRIAN ENTRANCE AND PATH TO PUBLIC WAY

LUCAS OFF CAMPUS PRIMARY VEHICLE PICKUP ENTRY/EXIT. EXISTING SIDEWALKS CONNECT ALL ENTRIES TO BUILDING WITH PUBLIC WAY (MUSCATINE AVE AND DOVER ST)

CHILD-CARE - PRIMARY
A: 1,771 sq ft

CHILD-CARE - SECONDARY
A: 2,124 sq ft

GYMNASIUM
A: 3,775 sq ft

PARENT/STAFF PARKING REQUIREMENT
- 1 SPACE PER STAFF
- 1 SPACE/10 CHILDREN PLUS 1 SPACE/20 CHILDREN IN LIEU OF STACKING
TOTAL STAFF: 7 MAXIMUM
MAXIMUM CHILDREN: 100
REQUIRED STAFF SPACES: 7
REQUIRED PARENT SPACES: 15
TOTAL REQUIRED: 22
TOTAL SPACES AVAILABLE: 27

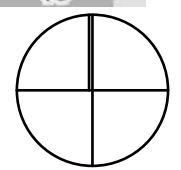
AP 2011049
PT 1-G

PT 1-G
VILLAGE GREEN HOME OWNER'S ASSOCIATION

AP2015063

AP201

18



1

SITE AND AREA PLAN

SCALE: 1/64" = 1'-0"

INITIALS _____



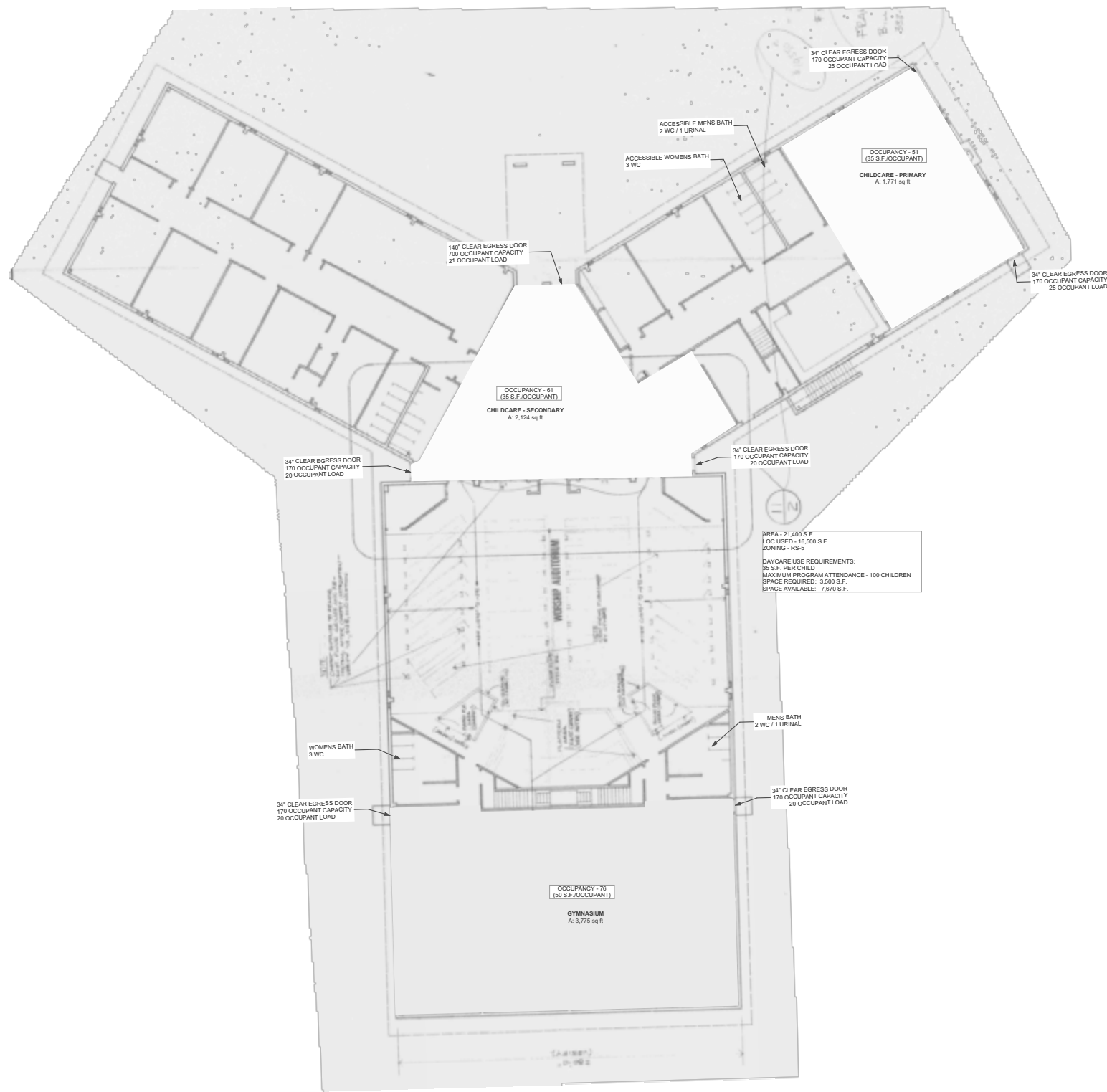
MICHAEL NOLAN, AIA
(563) 506-4965
MICHAEL@HORIZON-ARCHITECTURE.COM

**CODE ANALYSIS FOR
LUCAS OFF CAMPUS -
RIVER COMMUNITY
CHURCH FACILITY**

3001 MUSCATINE AVE
IOWA CITY, IA 52240

SHEET TITLE
SITE AND AREA PLAN

A-1



horizon.
original.
architecture.



MICHAEL NOLAN, AIA
(563) 506-4965
MICHAEL@HORIZON-ARCHITECTURE.COM

**CODE ANALYSIS FOR
LUCAS OFF CAMPUS -
RIVER COMMUNITY
CHURCH FACILITY**

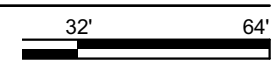
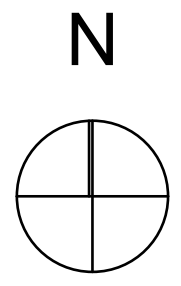
3001 MUSCATINE AVE
IOWA CITY, IA 52240

SHEET TITLE

**EGRESS AND SPACE
PLAN**

A-2

2 EGRESS FLOOR PLAN



STAFF REPORT

To: Board of Adjustment
Item: EXC19-11
Parcel Number: 1015382005

Prepared by: Jesi Lile, Associate Planner
Date: November 13, 2019

GENERAL INFORMATION:

Applicant: Arts Iowa City
2607 Friendship St.
(319) 325-1277
tlknoxy@gmail.com

Contact Person: Jesus Loria
221 E. College St. #303
(319) 338-7878
cloria@neumannmonson.com

Property Owner: John Rummelhart
1112 E. Court St.
(319) 331-6535
jrummelhart@mchsi.com

Requested Action: Special exception for a specialized education center

Purpose: To allow for classroom/workshop teaching spaces for a community art center.

Location: 1423 Waterfront Dr.

Location Map:



wa

Size: 1.59 acres

Existing Land Use and Zoning: Vacant, Intensive Commercial (CI-1)

Surrounding Land Use and Zoning: North: Commercial, Community Commercial (CC-2)
 East: Commercial, Community Commercial (CC-2)
 South: Commercial, Community Commercial (CC-2) & Intensive Commercial (CI-1)
 West: Commercial, Community Commercial (CC-2)

Applicable Code Sections: **14-4B-3: General Approval Criteria**
14-4B-4D-13: Specialized Educational Facilities in the CI-1 Zone

File Date: October 11, 2019

BACKGROUND:

Arts Iowa City is a non-profit organization that has been promoting the arts and artists in the Iowa City area since 1975. Their goal is to promote and teach visual art and craftsmanship and offer local artists exposure as well as studio space.

The building at 1423 Waterfront Drive was built in 1996 as a warehouse for a retail hardware store. This is a large building with high ceilings and almost 43,000 square feet in floor area. In the early 2000s the building was remodeled into a chocolate factory, but the chocolate factory was bought out in 2012 and the building has remained vacant since the chocolate factory’s move.

The applicant proposes to remodel the building and turn it into a community art center with gallery space, performance space, studio space, and classrooms. All uses aside from the specialized education (classroom) use are allowed in the Intensive Commercial (CI-1) zoning district. The special exception request is for the classroom space only.

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 for **Section 14-4B-4D-13**, pertaining to Specialized Educational Facilities in the CI-1 Zone as well as the General Standards laid out in **Section 14-4B-3**.

In order for the Board of Adjustments 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. Staff comments regarding each criterion are set below.

Specific Standards: 14-4B-4D-13: Specialized Educational Facilities in the CI-1 Zone:

The use will be functionally compatible with surrounding uses, such that the health and safety of clients/students are not compromised. The board will consider factors such as the types of businesses that predominate in the immediate vicinity, whether there are any significant negative externalities created by these uses, such as excessive noise, dust, or vibrations from outdoor work areas that may pose a health or safety risk to clients/students of the proposed use; and where such negative externalities exist, whether the building(s) and site can and will be designed to mitigate the harmful effects.

FINDINGS:

- The proposed classroom space will be located indoors and will not be impacted by other businesses in the area. Other businesses in the area include: grocery stores, a gas station, retail, and restaurants. These types of businesses do not produce significant negative externalities such as excessive noise, dust, or outdoor work.

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

In order for the Board of Adjustments 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. Staff comments regarding each criterion are set below.

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

FINDINGS:

- The main proposed workshop disciplines are: jewelry making, woodworking, ceramics and sculpture. All students will be required to use adequate personal safety equipment.
 - Instructors will determine age restrictions for classes based on age, experience, and performance.
- Students will be taught tool and safety procedures and will be tested on their knowledge before being allowed access to any proposed shops or equipment.
 - Students must complete a "Tool Safety Check Out" certification and take a beginning class on tool usage and processes which use specific hand and power tools.
- The applicant plans to add additional ventilation systems (hoods, extractors, dust collectors, etc.) based on the specific requirements of each discipline. The applicant has been in contact with Building Inspection Services to inquire about additional requirements necessary.
- The applicant plans to hold specific youth and children's classes based on age and expected ability levels with appropriate materials and tool training.
- The applicant proposes to use eco-friendly materials and procedures to lessen environmental and personal health impacts.

- 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:

- All activities for the proposed exception will take place inside the building and on the property.
- The proposed use will bring more people to the area, and may increase clientele for surrounding businesses.
- Currently, the subject property is vacant. The applicant is proposing improvements to the building, and filled store fronts typically increase property values in the area.

- 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 applicant proposes to reuse and redevelop an existing building.
- The addition of classroom space inside the building will not impede development or improvement of surrounding properties.

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

FINDINGS:

- The subject property already has access to all necessary utilities and facilities.

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

FINDINGS:

- The subject property has an existing parking lot with two access points.
- The subject property fronts an area of Waterfront Dr. that is not heavily trafficked.

- 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:

- The subject property conforms to all other standards and regulations for the CI-1 zone.

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

FINDINGS:

- The Comprehensive Plan contains many goals supporting Arts & Culture development including:
 - Recognizing the economic development potential of Arts & Culture programing
 - Seeking the participation of diverse populations (young and old) when developing cultural programs.
 - Providing opportunities for arts in all neighborhoods.
 - Exploring the creation of a community arts center.
 - Supporting non-profits involved in arts programing.

STAFF RECOMMENDATION:

Staff recommends approval of EXC19-11, an application submitted by Arts Iowa City for a specialized education center to allow for classroom/workshop teaching spaces for a community arts center located at 1423 Waterfront Dr.

ATTACHMENTS

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



Approved by: _____

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



0 0.05 0.1 0.2 Miles

EXC19-11 1423 Waterfront Drive



Prepared By: Jade Pederson
Date Prepared: Oct 2019



An application submitted by Arts Iowa City for a special exception that allows an arts teaching program to be conducted at the property located at 1423 Waterfront Dr.

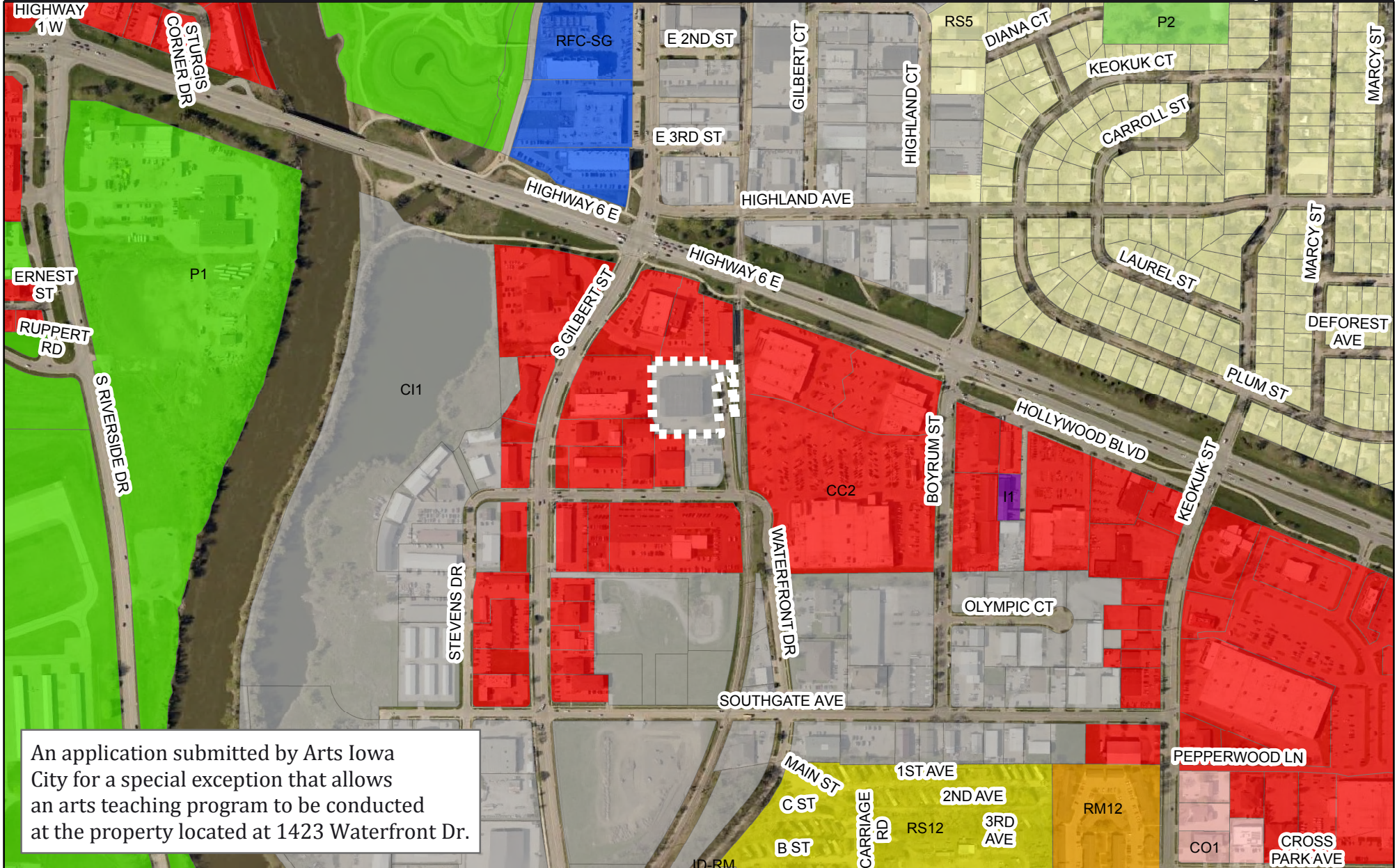


0 0.05 0.1 0.2 Miles

EXC19-11 1423 Waterfront Drive



Prepared By: Jade Pederson
Date Prepared: Oct 2019



An application submitted by Arts Iowa City for a special exception that allows an arts teaching program to be conducted at the property located at 1423 Waterfront Dr.

APPLICATION TO THE BOARD OF ADJUSTMENT SPECIAL EXCEPTION

DATE: October 11, 2019 PROPERTY PARCEL NO. 1015382005

PROPERTY ADDRESS: 1423 Waterfront Dr, Iowa City, IA

PROPERTY ZONE: C11 PROPERTY LOT SIZE: 1.59 Acres

APPLICANT:	Name: <u>Arts Iowa City</u> Address: <u>2607 Friendship St, Iowa City, IA 52245</u> Phone: <u>319-325-1277</u> Email: <u>tlknoxy@gmail.com</u>
CONTACT PERSON: (if other than applicant)	Name: <u>Jesus Loria</u> Address: <u>221 E College St # 303, Iowa City, IA 52240</u> Phone: <u>319-338-7878</u> Email: <u>cloria@neumannmonson.com</u>
PROPERTY OWNER: (if other than applicant)	Name: <u>John Rummelhart</u> Address: <u>1112 E Court St, Iowa City, Iowa</u> Phone: <u>319-331-6535</u> Email: <u>jrummelhart@mchsi.com</u>

219 OCT 11 PM 12: 3
 CITY CLERK
 IOWA CITY, IOWA

FILED

Specific Requested Special Exception; please list the description and section number in the zoning code that addresses the specific special exception you are seeking. If you cannot find this information or do not know which section of the code to look in, please contact Jesi Lile at 356-5240 or e-mail jessica-lile@iowa-city.org.

Purpose for special exception: Classroom/workshop teaching activities are part of the proposed Community Art Center. The teaching program component is not currently allowed by the City of Iowa City Zoning Code.

Date of previous application or appeal filed, if any: N/A

In order for your application to be considered complete, you must provide responses to all of the information requested below. **Failure to provide this information may delay the hearing date for your application. A pre-application consultation with Planning staff is STRONGLY recommended to ensure that your application addresses all of the required criteria.**

As the applicant, you bear the burden of proof for showing that the requested exception should be granted. Because this application will be presented to the Board of Adjustment as your official statement, you should address all the applicable criteria in a clear and concise manner.

INFORMATION TO BE PROVIDED BY APPLICANT:

A. Legal description of property (attach a separate sheet if necessary):

You can find the legal description and parcel number for your property by doing a parcel search for your address on the Assessor's website at www.iowacity.iowaassessors.com/or by calling 319-356-6066.

B. Plot Plan/Site Plan drawn to scale showing all of the following information:

1. Lot with dimensions;
2. North point and scale;
3. Existing and proposed structures with distances from property lines;
4. Abutting streets and alleys;
5. Surrounding land uses, including location and record owner of each property opposite or abutting the property in question;
6. Parking spaces and trees - existing and proposed.
7. Any other site elements that are to be addressed in the specific criteria for your special exception (i.e., some uses require landscape screening, buffers, stacking spaces, etc.)

C. Specific Approval Criteria: In order to grant a special exception, the Board must find that the requested special exception meets certain specific approval criteria listed within the Zoning Code. In the space below or on an attached sheet, address each of the criteria that apply to the special exception being sought. Your responses to these criteria should just be opinions, but should provide specific information demonstrating that the criteria are being met. (Specific approval criteria for uses listed as special exceptions are described in 14-4B-4 of the Zoning Code. Other types of special exceptions to modify requirements for the property are listed elsewhere in the Code.)

IF YOU DO NOT KNOW WHERE TO FIND THE SPECIFIC CRITERIA THAT MUST BE ADDRESSED, please contact Jesi Lile at 356-5240 or e-mail jessica-lile@iowa-city.org. Failure to provide this information will constitute an incomplete application and may lead to a delay in its consideration before the Board of Adjustment.

D. **General Approval Criteria:** In addition to the specific approval criteria addressed in "C", the Board must also find that the requested special exception meets the following general approval criteria or that the following criteria do not apply. In the space provided below, or on an attached sheet, provide specific information, not just opinions, that demonstrate that the specific requested special exception meets the general approval criteria listed below or that the approval criteria are not relevant in your particular case.

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

The proposed teaching/educational activities proposed in this project will meet all applicable codes and ordinances to ensure they are no detrimental to or endanger the public health, safety, comfort, or general welfare.

Classrooms at the facility will be art related - Theory, History, Procedures, etcetera.

The main workshop disciplines will be jewelry, woodworking, and ceramics. All classes and workshops will use responsibly sourced materials in safe, healthy, and environmentally friendly practices. All students and participants will use discipline adequate personal safety equipment. Besides the normal building ventilation system additional systems (hoods, extractors, dust collectors, etc.) will be installed per the specific requirements of each discipline.

Metal smithing and jewelry use lost wax casting equipment, soldering torches along with patina and cleaning products.

Woodworkers will use recommended safety procedures. Ventilation is required for use with power saws, table saws and wood finishing materials.

Students will be taught safety procedures and will be tested on their knowledge and use before allowed shop access. Eco-friendly materials and procedures are emphasized.

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 and impair property values in the neighborhood.

The proposed teaching/educational activities proposed in this project will meet all applicable codes and ordinances. They will NOT be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish and impair property values in the neighborhood.

We consider that the proposed project will boost the property value in the area.

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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 proposed teaching/educational activities proposed in this project will meet all applicable codes and ordinances. They 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 project proposes the reuse of an existing building where the surrounding properties are already developed. The addition of classrooms will not inhibit any adjacent development or surrounding properties.

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

The proposed teaching/educational activities proposed in this project will meet all applicable codes and ordinances. They 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 project proposes the reuse of the existing utilities and facilities already present in the building.

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

Yes. All the proper measures will be taken to minimize traffic congestion on public streets.

Yes. All the proper measures will be taken to minimize traffic congestion on public streets.

The existing facility for the proposed facility already has a parking lot which has a clear circulation pattern that would not affect traffic on public streets.

6. Except for the specific regulations and standards applicable to the special 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. [Depending on the type of special exception requested, certain specific conditions may need to be met. The applicant will demonstrate compliance with the specific conditions required for a particular use as provided in the City Code section 14-4B as well as requirements listed in the base zone or applicable overlay zone and applicable site development standards (14-5A through K).]

Yes; The entire proposed project will meet all applicable codes and ordinances.

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CITY CLERK
IOWA CITY, IOWA

7. The proposed use will be consistent with the Comprehensive Plan of the City.

Yes. The intention of the Comprehensive Plan of the City considers the urban enhancement of the Southwest area of the City. In that regard the Community Art Center will decisively support the City Plan by:

- Creating a destination for people of all ages, backgrounds, and skill levels.

The available transit options in the area are of particular importance to the project. The existing infrastructure and the Art Center will be mutually supported by making use of the existing infrastructure and by creating a destination.

The project is adjacently located in the intersection of pedestrian/bike trails, cars and public transportation and both are mutually supported.

The programing would ensure the building is used during the entire day, which would encourage public presence at different hours of the day creating a more secure environment in that area of the city

E. List the names and mailing addresses of the record owners of all property located within 300 feet of the exterior limits of the property involved in this appeal:

<u>NAME</u>	<u>ADDRESS</u>

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IOWA CITY, IOWA

NOTE: Conditions. In permitting a special exception, the Board may impose appropriate conditions and safeguards, including but not limited to planting screens, fencing, construction commencement and completion deadlines, lighting, operational controls, improved traffic circulation requirements, highway access restrictions, increased minimum yard requirements, parking requirements, limitations on the duration of a use or ownership or any other requirement which the Board deems appropriate under the circumstances upon a finding that the conditions are necessary to fulfill the purpose and intent of the Zoning Chapter. (Section 14-8C-2C-4, City Code).

Orders. Unless otherwise determined by the Board, all orders of the Board shall expire six (6) months from the date the written decision is filed with the City Clerk, unless the applicant shall have taken action within the six (6) month period to establish the use or construct the building permitted under the terms of the Board's decision, such as by obtaining a building permit and proceeding to completion in accordance with the terms of the permit. Upon written request, and for good cause shown, the Board may extend the expiration date of any order without further public hearing on the merits of the original appeal or application. (Section 14-8C-1E, City Code).

Petition for writ of certiorari. Any person or persons, jointly or severally, aggrieved by any decision of the Board under the provisions of the Zoning Chapter, or any taxpayer or any officer, department or board of the City may present to a court of record a petition for writ of certiorari duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. (Section 14-8C-1F, City Code). Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the City Clerk.

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CITY CLERK

Date: _____ October 10, 20 _____

Jesus Loria



Signature(s) of Applicant(s)

Date: _____, 20 _____

Signature(s) of Property Owner(s)
if Different than Applicant(s)

CITY OF IOWA CITY
Board of Adjustment
 2019 Application Deadlines

APPLICATION DEADLINE (12:00 p.m.)	MEETING DATE
December 14, 2018.....	January 9, 2019
January 11, 2019	February 13, 2019
February 15, 2019	March 13, 2019
March 8, 2019	April 10, 2019
April 5, 2019	May 8, 2019
May 10, 2019.....	June 12, 2019
June 7, 2019	July 10, 2019
July 12, 2019.....	August 14, 2019
August 9, 2019.....	September 11, 2019
September 6, 2019.....	October 9, 2019
October 11, 2019	November 13, 2019
November 15, 2019	December 11, 2019
December 6, 2019.....	January 8, 2020
January 10, 2020	February 12, 2020
February 14, 2020	March 11, 2020

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 CITY CLERK
 IOWA CITY, IOWA

APPLICATION FEES*

Special Exception, Variance, or Appeal	\$460
Combination BOA Actions	\$535

*These fees will be updated in February 2020 to reflect changes in the rate of inflation.

Meeting time and location

Board of Adjustment meetings are scheduled at 5:15 p.m. on the second Wednesday of each month in Emma Harvat Hall, City Hall, 410 East Washington Street. Attendees are advised to check the meeting agenda at www.icgov.org/boa or contact the Department of Development Services at 319-356-5230 for possible change in a meeting agenda.

For more information

Contact Jesi Lile at 319-356-5240 or jessica-lile@iowa-city.org.

Submit Application by Noon to:
 City Clerk's Office, City Hall, 410 E. Washington Street



CITY OF IOWA CITY

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

Dear Applicant:

It is the goal of the Department of Neighborhood & Development Services to provide adequate public notification for development items. Following is a list of required items to include with your rezoning, subdivision, OPD, special exception, or variance applications. It is important to conform to these requests to prevent any delays in the process.

- ◆ A list of addresses must accompany every application for rezoning, subdivision, special exceptions and variances. This list must include all landowners of property within 300' of the proposed site, including public ways. This information is available at the City Assessors Office located at 913 S. Dubuque Street.
- ◆ The staff will post a sign at the time an application is filed. The sign must remain until the application is approved or denied. Larger sites will require one sign for every 200' of frontage on each street adjacent to the site. These signs will contain general information regarding the application and will provide a phone number for persons to contact Planning staff with questions regarding the application.

Staff will be responsible for removing the signs. If the applicant notices the sign has been removed or damaged between the time of application and final approval or denial of the request, the City of Iowa City Planning staff should be notified.

- ◆ A copy of the Iowa City's GOOD NEIGHBORHOOD POLICY (enclosed) will be provided to every applicant at the time of application. This policy has been developed to help create more opportunities for early and more effective citizen participation in both major and minor projects and encourages an applicant's participation beyond current legal requirements for notification.
- ◆ An application has been enclosed for your use. If you need additional forms, you may photo copy this form or you can obtain additional copies from our office, or online at www.icgov.org/applications.

If you have any additional comments or concerns about these changes, please contact our department at 356-5230.

Sincerely,

Janet Dvorsky, Administrative Secretary
Department of Neighborhood & 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 Planning 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 Planning 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.

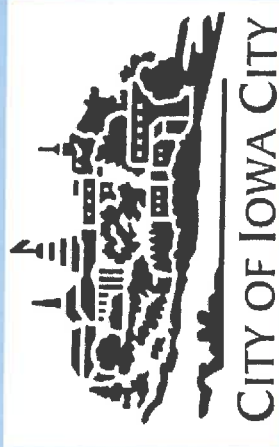
The Staff Report can be very useful to anyone who is unfamiliar with the BOA process or with the Zoning Code and will provide an understanding of the criteria that the Board must consider in rendering its decision. Staff Reports may be obtained from the Department of Planning and Community Development. E-mail jessica-lile@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 Jesi Lile at 356-5240 or e-mail jessica-lile@iowa-city.org.

To submit comments to the Board of Adjustment write to the Board of Adjustment c/o the Department of Planning, 410 E. Washington St., Iowa City IA 52240

Good Neighbor meetings are **NOT** required as part of the review process in Iowa City but they are strongly encouraged in most instances. If you state that you will or have participated in the program, **the following steps must be followed by the applicant:**

- Meeting facilities located as close to the subject property and neighbors as possible. The Neighborhood Outreach Coordinator can make suggestions and final arrangements in most cases.
- Good Neighbor meeting notice reviewed by City staff prior to distribution. The Neighborhood Outreach Coordinator will ensure that it is reviewed/approved and be responsible for sending it on to representatives of impacted neighborhood associations for their distribution.
- Meeting notice sent by applicant to all property owners within 300' of the subject property by applicant and sent out not less than 7 days prior to Good Neighbor meeting date.
- Good Neighbor Meeting occurs no less than 7 days prior to the scheduled board/commission meeting to enable adequate time to provide input.
- Good Neighbor meeting attended by a City staff representative if necessary. Staff will be available as a resource to respond to questions related to process, schedule, and zoning, etc. Staff can be arranged by the Neighborhood Outreach Coordinator.
- Summary Report for Good Neighbor Meeting completed by applicant and submitted prior to board/commission review. A fill-in form of the Summary Report is available at www.icgov.org/goodneighbor.



Neighborhood and
Development Services
410 E. Washington Street
Iowa City, IA 52240
Phone: 319-356-5230
Fax: 319-356-5217

Good Neighbor Program

www.icgov.org/goodneighbor

City of Iowa City Neighborhood and Development Services

The Office of Neighborhood Outreach is available to assist with the Good Neighbor Program by arranging meeting rooms, providing sample meeting notices, notifying neighborhood association contacts, and other information and advice.

Contact Marcia Bollinger, Neighborhood Outreach Coordinator
Phone: 319-356-5237

E-mail: Marcia-Bollinger@iowa-city.org

History and Background

Iowa City's Good Neighbor Program is part of an effort to make the development process run more smoothly between property owners and developers who seek zoning and related changes, and the neighborhoods that may be affected by those changes. The Good Neighbor Program is not a requirement, but rather a recommended approach that encourages proactive dialogue between property owners, developers, and neighbors that may help identify and resolve issues before the project is reviewed by the Planning and Zoning Commission or the Board of Adjustment.

For minor projects, such as a yard setback reduction, the approach may be as simple as knocking on neighbors' doors to discuss the proposed project with them. For a rezoning or subdivision, it may be appropriate to hold a neighborhood meeting or open house to present the project and invite questions and comments from your neighbors.

While the Good Neighbor Program does not guarantee specific outcomes, answering neighbors' questions and hearing their concerns or suggestions may provide the opportunity to developers/applicants to address concerns or objections before the project is reviewed in a public forum. This can minimize controversy and delays when a project is reviewed by the Board of Adjustment, Planning and Zoning Commission, or the City Council.

Helpful Tips for a

Good Neighbor Meeting

What information can you provide that neighbors will find useful?

- Background information including a description of your project and the public process it must go through.
- Site plans, elevations, models, aerial photos, drawings, etc. This will help them visualize the changes you wish to make.
- Information or other resources that discuss the zoning or land development process. The Neighborhood Outreach Coordinator can provide you with this information or is available at www.icgov.org/goodneighbor

View it from their perspective: How will neighbors see your project?

- Put yourself in the place of the people who surround your property. Will they view your project as an enhancement or unexpected change?
- How might your project impact traffic or pedestrian safety in the area?
- Does your project enhance or complement existing

neighborhood character or does it contrast with what surrounds it?

- Will your project alter the natural landscape, impact views, etc.?
- Might your project reduce the sense of privacy for a neighboring property owner?

Ways to respond to concerns

- Listen and be respectful—give people the chance to be heard.
- Focus on identifying problems. This meeting is a chance for you to gather input that may be useful to you in getting your project through the review process. The issues that your neighbors raise are often the same issues that may be raised by the Planning and Zoning Commission or the Board of Adjustment.
- Be open to options that could be reasonable or affordable ways to alleviate or address problems.
- Resolving problems at the meeting is not necessary, but it may be helpful to identify areas where there is some flexibility in your plans.
- Know that you won't necessarily be able to please everyone, but that you are providing an opportunity for dialogue. The neighbors will appreciate your effort and the opportunity to share their views.



Community Art Center
A Place for Community

Bochner Chocolate Factory Building
1423 Waterfront Dr., Iowa City, IA

ARTIFACTORY
Make something of it!

2019 OCT 11 PM 12:13

FILED

Current Community Impact

- Art in the afternoon at IC Senior Center – 350 annual attendees
- Classes and Life Drawing – ~225 annual participants
- Iowa City Arts Festival & Rock the Chalk – over 300 interactions

Community Interest in Bochner Building

- Over 60 volunteers want to make this happen – since August 2019
- 27 artists expressed interest in studios – since August 2019
- 100+ artist and community members on 15 tours
- One donor proactively has provided seed funding



CITY CLERK
IOWA CITY, IOWA

2019 OCT 11 10:00 AM
The Relevance of the Project

FILED

Future Community Impact

High Visibility - Extend "Greatest Small City For the Arts"

- Target over 15,000 Johnson County resident engagements
- Johnson County recognized as a center for community arts

Quality of Life Improvement

- Significant expansion in Arts Education for all ages
- Home for smaller art mediums that struggle to have a permanent location (dance, theater, etc.)

Financial

- Retain talent from community and UI...brain drain
- Direct and indirect jobs and spending
- Out of town visitors, tax revenue from art sales
- Supports property values - economic diversity



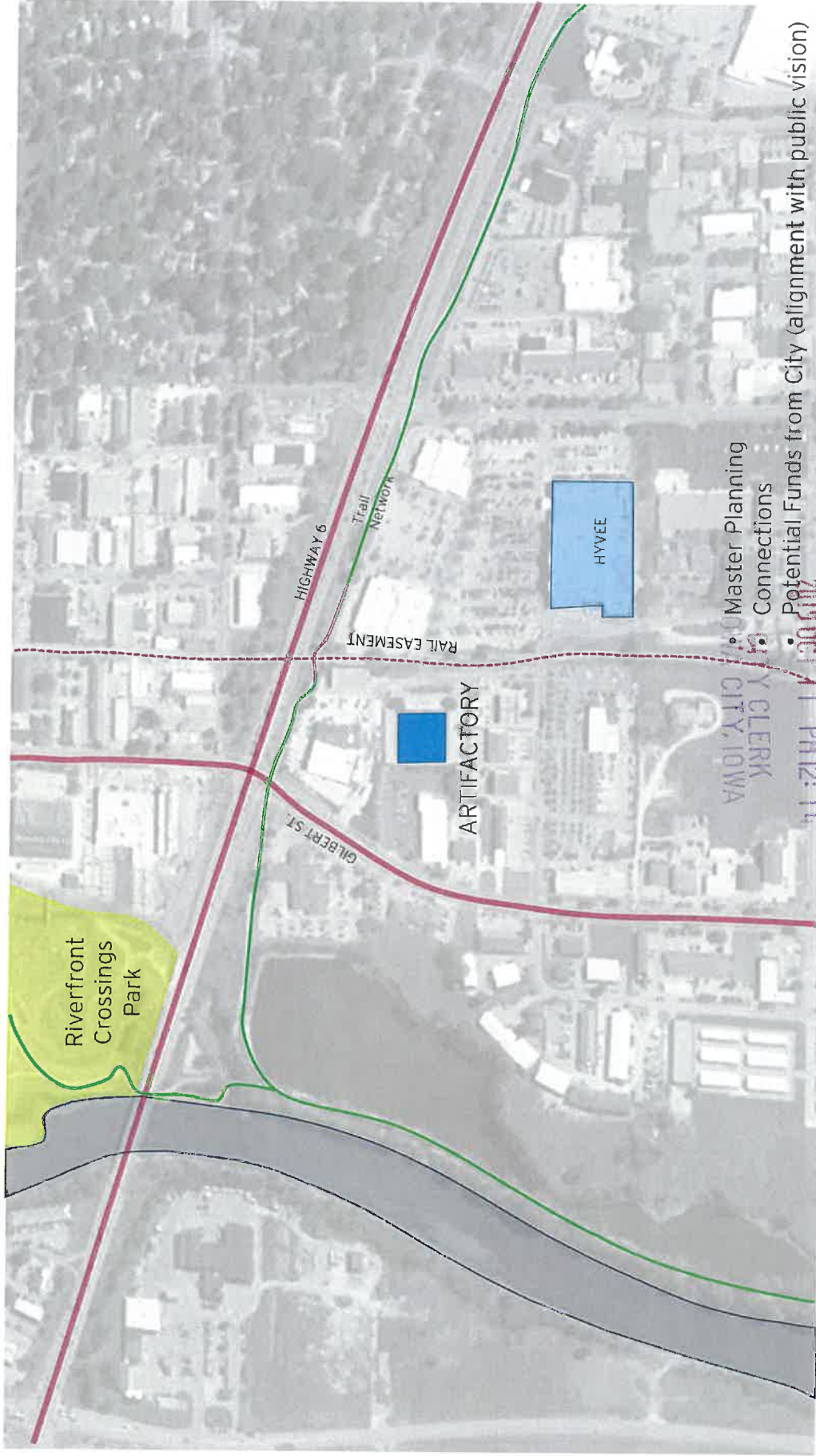
The Relevance of the Project

2019 OCT 11 PM 12:14

CITY CLERK
IOWA CITY, IOWA

FILED

Site Context Study



ARTIFACTORY

Transit and Adjacency Opportunities

Master Planning Connections
Potential Funds from City (alignment with public vision)

Contextual Site Plan



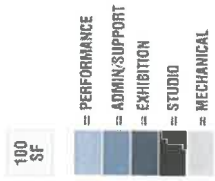
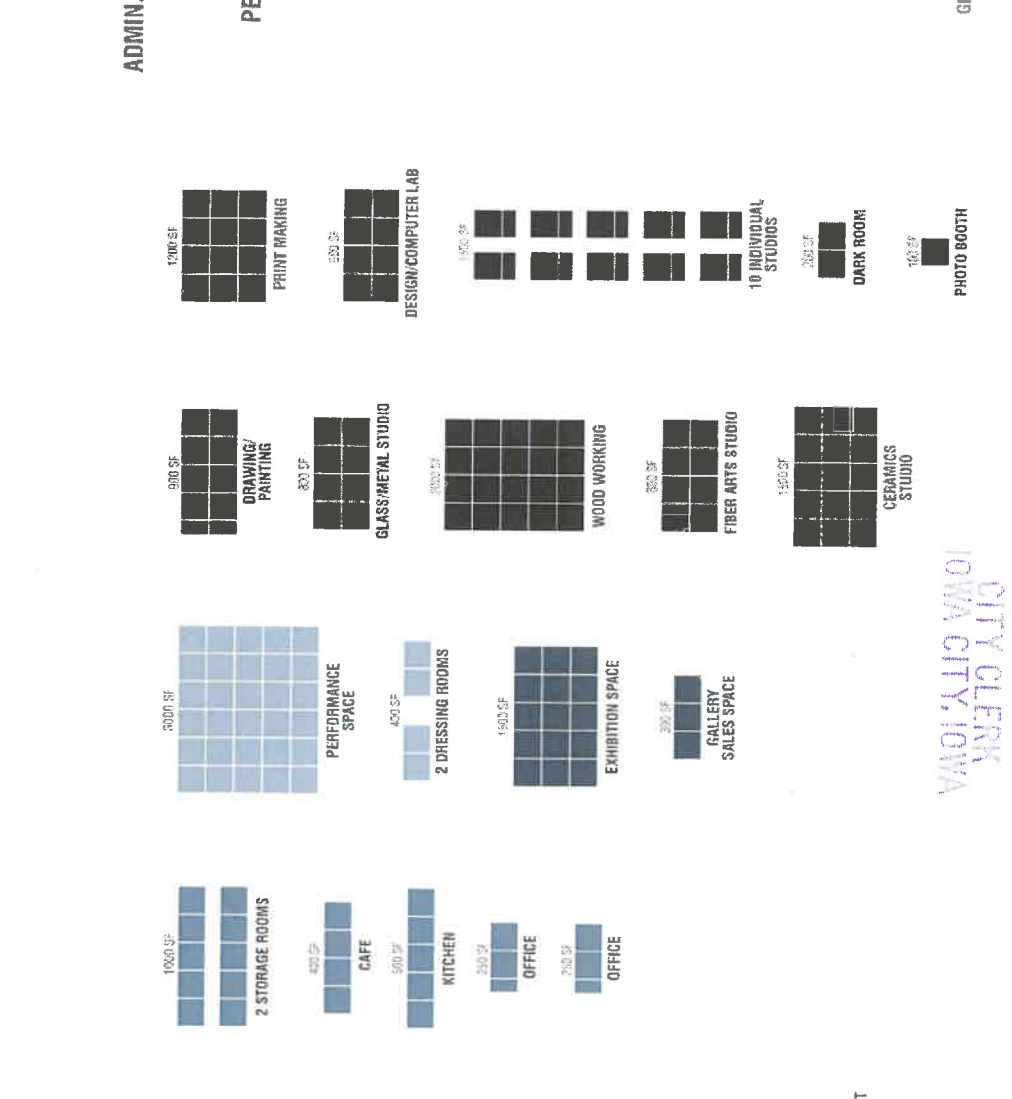
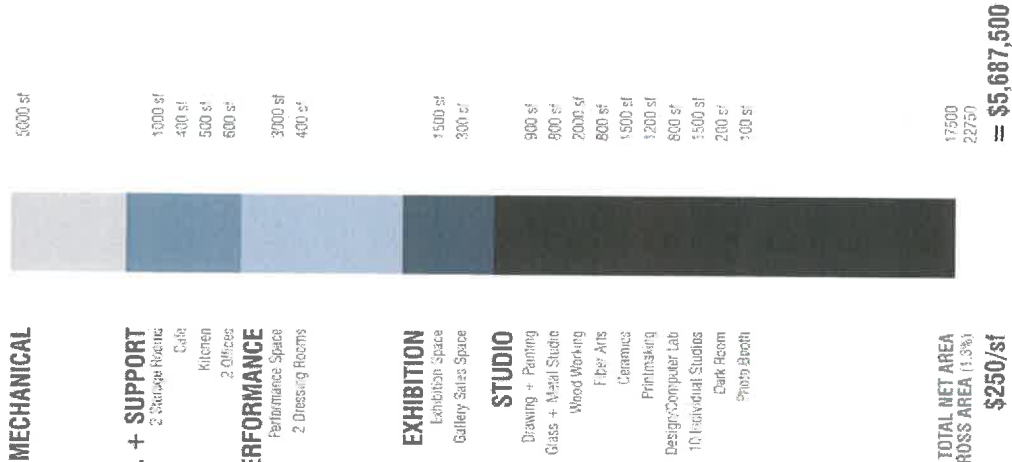
2019 OCT 11 PM 12:14

Contextual Site Plan

FILED

ARTIFACTORY

Building Program Analysis



2019 OCT 11 PM 12:14
CITY CLERK
IOWA CITY, IOWA
FILED



Proposed Program_Draft

Studios	150' x 25	= 3750 sq-ft
Classrooms	30'x30'x2	= 1800 sq-ft
Gallery	30'x30'	= 900 sq-ft
Framing studio	15'x15'	= 225 sq-ft
Sub-total		= 6675 sq-ft
20% for hallways, etc.		= 1335 sq-ft
General/Admin at 30%		= 2002 sq-ft
Total without Ceramics		= 10,012 sq-ft
Ceramics Studio at 60'x60'		= 3600sq-ft
Additional shops		= 6'000 sq-ft
Total		= 20'000 sq-ft

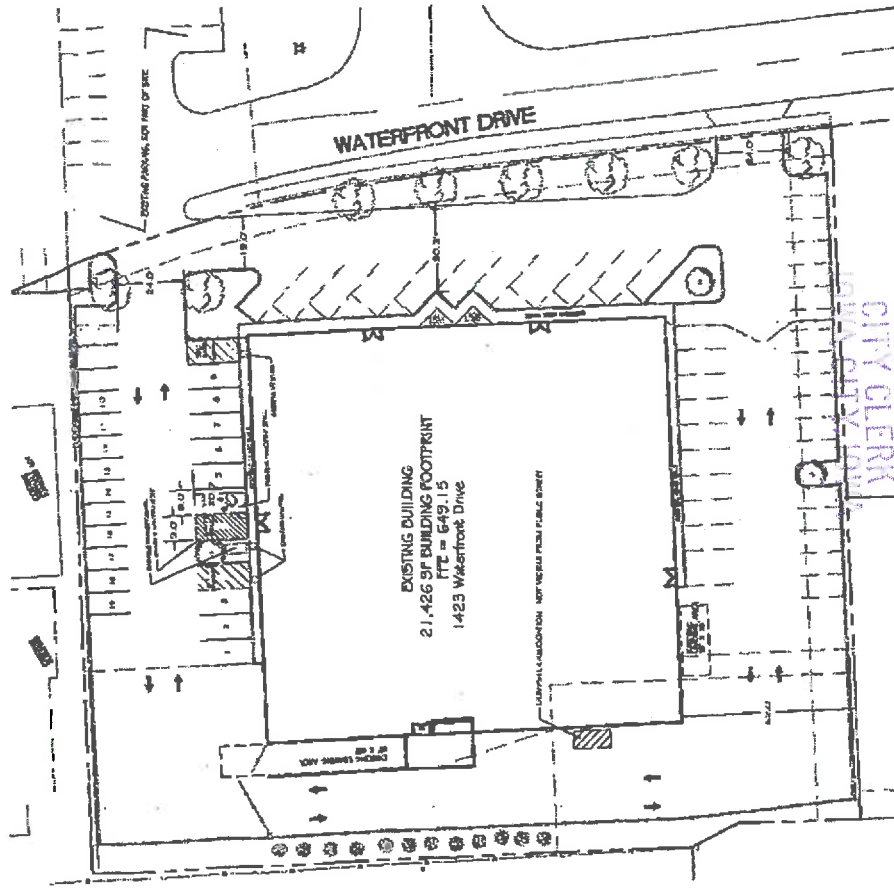
ARTIFACTORY
CITY CLERK
IOWA CITY, IOWA

2019 OCT 11 PM 12:14

FILED



Site Plan



Project Priorities

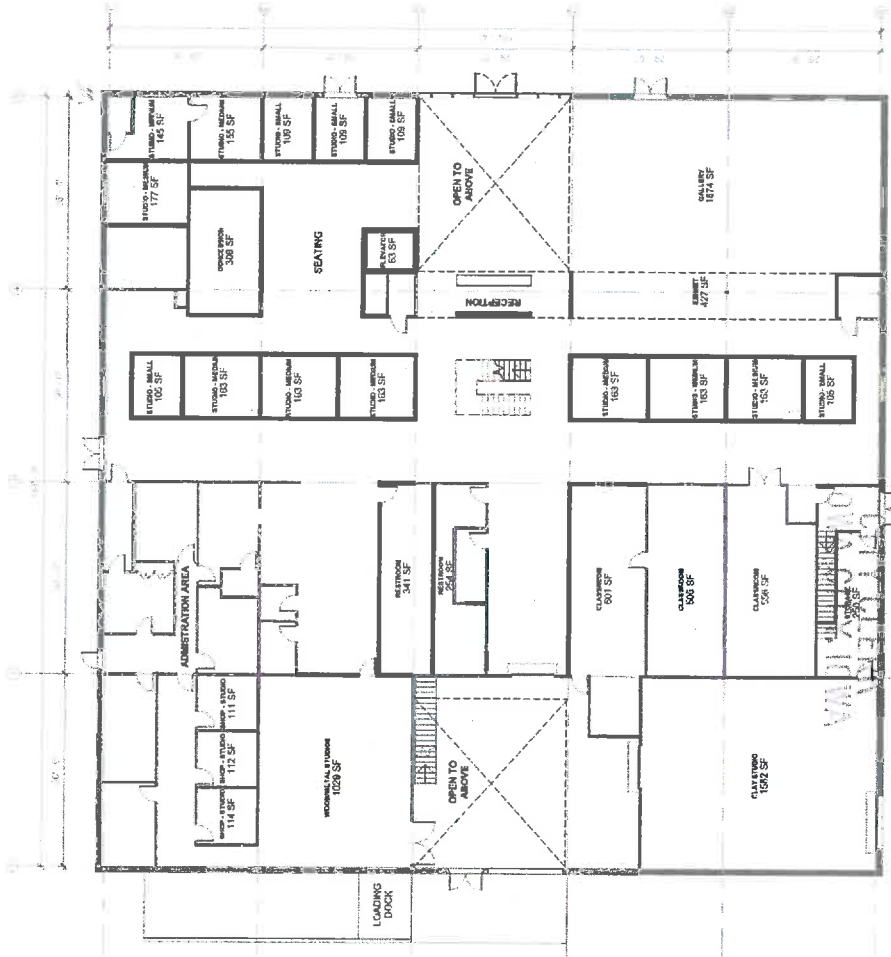
1. Increase daylighting
2. Draw the community in
3. Create a presence within the community

2019 OCT 11 PM 12:14

FILED



Lower Level Floor Plan



Main Program Elements

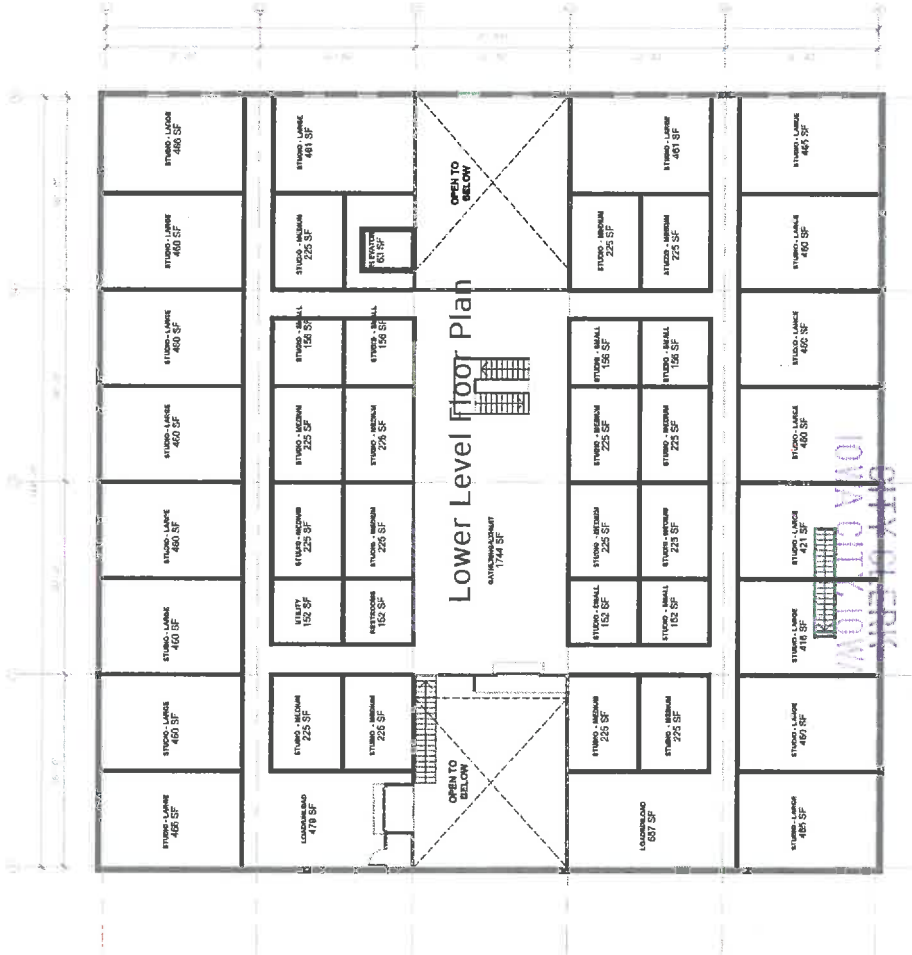
1. Gallery/Gathering
2. Classrooms
3. Workshops
4. Administration

2019 OCT 11 PM 12:14

ARTIFACTORY

FILED

Upper Level Floor Plan



Main Program Elements

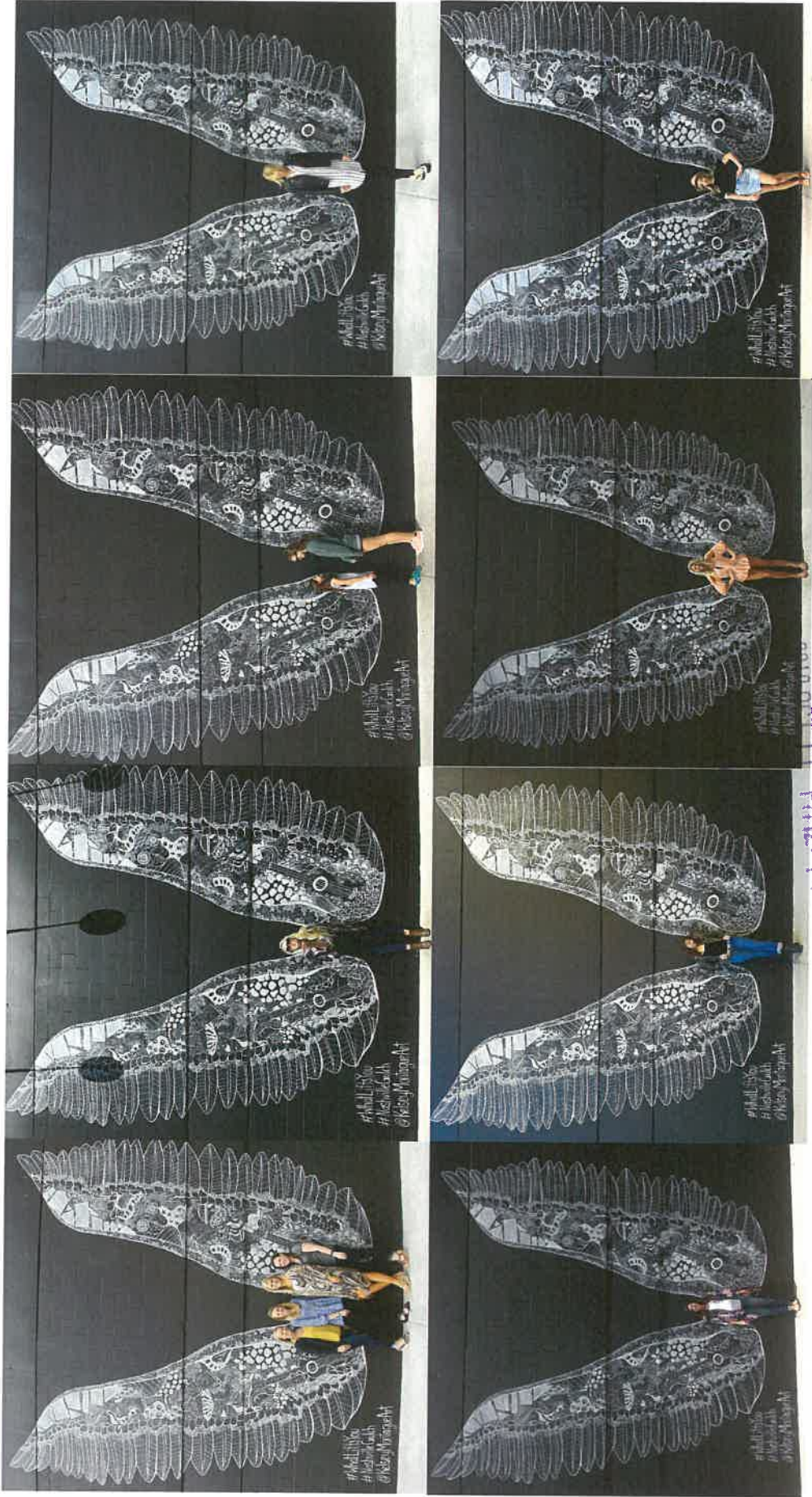
- 1. Artist Studios



2019 OCT 11 PM 12:14

FILED

CITY OF IOWA
IOWA CITY, IOWA



Precedent: Community Made Mural with People Interacting

Exterior Experiential Rendering



ARTIFACTORY

2019 OCT 11 PM 12: 14
Community Made Mural

FILED

Interior Experiential Rendering



FILED

PM 12:15

ARTIFACTORY

CITY OF IOWA CITY
REVENUE DIVISION
410 E WASHINGTON ST
IOWA CITY, IA 52240
(319) 356-5066

010548-0008 Trina S. 10/11/2019 12:12PM

MISCELLANEOUS

Description: OTHER
(OTHER)

OTHER (OTHER)

2020 Item: OTHER

1 @ 460.00

OTHER (OTHER) 460.00

95900000-101100- 460.00D

10610620-341200- 460.00C

Payment Id: 367932

460.00

Subtotal 460.00

Total 460.00

CHECK 460.00

Check Number 7130

Change due 0.00

Paid by: ARTS IOWA CITY

THANK YOU FOR YOUR PAYMENT

CUSTOMER COPY

**MINUTES
BOARD OF ADJUSTMENT
OCTOBER 9, 2019 – 5:15 PM
EMMA J. HARVAT HAZELL, CITY HALL**

PRELIMINARY

MEMBERS PRESENT: Gene Chrischilles, Ernie Cox, Connie Goeb, Amy Pretorius
MEMBERS ABSENT: Zephan Hazell
STAFF PRESENT: Susan Dulek, Jessica Lile
OTHERS PRESENT: John Engelbrecht, Thomas McInerney, Gerry Ambrose, Scott Ward

CALL TO ORDER:

The meeting was called to order at 5:15 PM.

ROLL CALL:

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

NOMINATION OF VICE CHAIR:

Chrischilles nominated Pretorius to be Vice Chair. Cox seconded the nomination. A vote was taken and the motion carried 4-0.

CONSIDER THE JULY 10, 2019 MINUTES:

Pretorius moved to approve the minutes of July 10, 2019. Cox seconded the motion.

A vote was taken and the motion carried 4-0.

SPECIAL EXCEPTION ITEM EXC19-08:

An application submitted by Public Space One for a special exception to allow for an 86% reduction in parking spaces in the Central Business Service (CB-2) zone with a Historic District Overlay (OHD) located at 229 N. Gilbert Street.

Lile began the staff report with an aerial view of the neighborhood with the subject property outlined in white and also a zoning map showing the subject property is surrounded by commercial and commercial business district with a small public parking lot.

So for some background, Public Space One is an artist-led nonprofit that provides studio and gallery space as well as educational opportunities for the greater Iowa City community. They are currently located at 120 N. Dubuque Street, but purchased two houses from the City of Iowa City in August 2019 located at 225 N. Gilbert St. and 229 N. Gilbert St. in order to expand their

teaching, printmaking, gallery, and studio space. The Gilbert Street properties are designated as local host and historic landmarks as of August 6, 2019.

The proposed use for the space at 229 N. Gilbert is for a gallery and reception space, a reading room, and four studio spaces upstairs. This has been designated as a General Community Service use and this requires one parking space for every 300 square feet of floor area. The building has 2,010 square feet of floor area which requires seven spaces.

The applicant is applying for an 86% reduction and the parking which requires them to have one space due to the lot size and unique characteristics of the lot. The applicant obtained a special exception to allow for a parking reduction in 2018 for property on Van Buren Street to be utilized in much the same way however, the organization did not end up purchasing that property. Lile showed a photo of the Public Space One area and the dedicated parking spot shown in green to the rear of the property. It also shows metered parking on Bloomington outlined in red and as well as metered parking on Gilbert Street outlined in yellow. There's also a City own parking lot east next to Bluebird Diner.

Lile explained the role of the Board of Adjustment is to approve, approve with conditions or deny the application based on the facts presented. In order to approve a special exception, the Board must find that the applicant meets all the applicable approval criteria, which is a specific criteria for parking reduction and other unique circumstances and all the general standards for special exception.

With regards to the specific standards, 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). Lile noted the proposed use will not operate as a typical community service center. Examples of typical community service centers include: libraries, museums, soup kitchens, etc. These types of establishments expect higher volumes of people than the proposed use. During peak business hours (9am- 5pm, Monday-Friday), Public Space One expects lower vehicle and foot traffic than other types of community service centers. Most of the events at this location will take place during off-peak traffictimes (evenings and weekends) with some afternoon gallery hours during the week. The historic nature of this property makes providing additional parking impossible due to the small lot size and location of the house. The property is in a particularly walkable area of the city: near Downtown, close to campus, and within a high-density mixed-use neighborhood that is well served by bike facilities and transit routes. There is also on-street parking, including metered parking, nearby, and the property is located less than 300-feet away from a City-owned parking lot.

With regards to the general standards, the specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare. Reduction parking will not have a detrimental or endangering effect on the surrounding public realm due to low traffic volumes, parking available in nearby and a walkable neighborhood. Also, it should be noted that many of the people who frequent Public Space One events either walk or bike there currently.

Next, 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. Again, there are many other public parking options nearby and the reduction in parking will not impact other commercial uses in the area. Again, many people arrive to Public Space One by walking or biking and a condition staff recommends is the applicant provide at least eight bicycle parking spaces on site to provide for this bicycle traffic. The applicant is currently working with the City to find a bike rack but will purchase one for the property if none are available. Additionally, maintaining the historical property will enhance the enjoyment of the property and the property values of the neighborhood.

The establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for use as permitted in the district in which this property is located. The neighborhood is already developed around this property and the reduction in parking on site will not impede development or improvement of the nearby properties. Again, there's on-street parking and a parking lot nearby. Again this is a walkable urban neighborhood that supports a variety of commercial businesses already.

Next, that adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided. All necessary utilities and other facilities are already in place for this property.

Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets. There will only be space for one vehicle on the property minimizing traffic congestion in and out of the property area during the peak business hours, which again are 9am to 5pm, Monday through Friday. The proposed community service use will generate negligible traffic as there will not be a large number of people on-site at the same time and most people that utilize Public Space One have historically arrived by either walking or biking. Special events will mostly be held on evenings and weekends, minimizing traffic congestion during peak business hours (9am-5pm, Monday-Friday).

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. The property complies with all the regulations and standards of the zone in which it is located, which is the CB-2 with the historic district overlay.

Finally, the proposed exception will be consistent with the Comprehensive Plan of the City, as amended. There are many ways this will help further the goals of the Comprehensive Plan including increasing the visibility and awareness of arts and culture programs; supporting nonprofits involved in arts programming; providing appropriate transitions between commercial areas and residential zones; maintaining a strong and accessible Downtown that is pedestrian oriented with a distinctive cultural, commercial and residential character; preserving and promoting unique aspects of the Northside Marketplace; and preserving historical resources and reinvesting in established neighborhoods.

Lile noted that staff did receive email correspondence from a resident and property owner in the neighborhood. This person had concerns about the lack of available public parking on the north side, especially during evening and hours and especially north of Bloomington Street on Gilbert where parking is allowed on both sides of the street. They brought issues that they've seen with

congestion parking in the residential areas.

Staff recommends approval of EX19-08 a special exception to allow an 86% reduction in the parking spaces in the CB-2 zone with an OHD overlay located at 229 North Gilbert Street with the following condition:

1. The applicant must provide at least eight bicycle parking spots and lieu of vehicle parking.

Chrischilles asked if the eight bicycle parking spots will allow for scooters or mopeds. Lile stated those would be for just bicycle and there would be no parking for motorized scooters specifically.

Chrischilles asked how does 225 North Gilbert figure into this. Lile noted it's just another location purchased by Public Space One but they were able to meet their parking requirements on site.

Cox asked if the applicant has to purchase this bike rack and if we know what the estimated costs would be to them. Lile responded she is actually not sure that's why they were trying to find something from the City to see if they can get something at a lower cost because they don't have a ton of funding as a nonprofit organization.

Goeb opened the public hearing.

John Engelbrecht (913 E. Jefferson Street) is the Director of Public Space One and stated he didn't have a whole lot to add and thought the staff report was pretty thorough. He noted they are waiting to hear back from the City regarding a bike rack, but they plan to buy one if the City cannot locate one for them.

Chrischilles asked how often do you think there will be events in the afternoons. Engelbrecht stated they typically don't do too many events in the afternoons, the gallery hours will be open and they are not sure what this visibility will do for gallery hours. They have run a gallery for seven years in the basement of the Wesley Center and a good gallery day is when like four or five people stopped down over the course of three hours. They do very few afternoon events, most are at six or seven in the evening and on the weekends.

Goeb asked how many people they attract for an event in the evenings or weekends, and are most of them evenings or weekends? Engelbrecht replied it is split pretty even, and events that we've done would typically have 75 to 125 people, but these types will not happen in these houses but moved to another site. Large events at these houses would be anything over 30 to 50 people.

Goeb asked then other than the gallery that's open, what kinds of other things would be held there; exhibitions or meetings? Engelbrecht said they would have internal team meetings, the gallery team, which is five to seven people typically at a meeting. He added another one of the rooms is a reading room which is basically a room that represents one of these visiting artists programs that we run, it's a place for us to keep that archive and, again, it's a place that's meant to be for one or two people to spend an afternoon looking at material and not necessarily a large event thing. And then they have studios on the second floor and we're aiming to have four studios with four people using them.

Goeb asked if they are open yet at the new locations. Engelbrecht replied no, but are hoping to open as soon as possible. Yeah.

Pretorius asked if the neighboring property they own is open yet. Again Engelbrecht replied no and noted that one is a little later because it needed a lot more renovation. Pretorius noted they were able to provide the seven parking spaces with that building? Engelbrecht stated because primary focus of that space will be workshops and education area, it was only required to have one parking spot.

Goeb closed the public hearing.

Pretorius noted the one concern that came from a neighbor was something about the area a little congested already, but feels this is not going to actually add to that tremendously and this was probably already a problem when you're that close to commercial.

Goeb agrees that it shouldn't have a big effect any more than a larger family or another use like that and thinks this sounds like a great use for a couple of old buildings that are down there and it is very walkable. She added if the Northside businesses were concerned about the parking she feels they probably would have spoken up because they're the ones that would be as affected as residents.

Chrischilles shared he thinks having the public parking lot next to Bluebird certainly aids this request, there's quite a few parking spots there and he don't anticipate that this will cause any parking problems.

Cox agreed noting looking back at the correspondence he thinks that person was a little confused about who had purchased the property, they thought the City had owned it and most of the complaint was really about enforcement of current parking.

Pretorius moves to approve EXC19-08, a special exception to allow for an 86% reduction in parking spaces in the Central Business Service (CB-2) zone with a Historic District Overlay (OHD) located at 229 N. Gilbert Street with the following condition:

- 1. The applicant must provide at least eight bicycle parking spots and lieu of vehicle parking**

Cox seconded the motion.

Chrischilles stated that regarding agenda item EXC19-08 he concurs with the findings set forth in the staff report of October 9, 2019, and conclude the general and specific criteria are satisfied. So unless amended or opposed by another Board member he recommends that the Board adopt the findings in the staff report as our findings with acceptance of this proposal.

Pretorius seconded the findings of fact.

A vote was taken and the motion carried 4-0.

Goeb stated the motion 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.

SPECIAL EXCEPTION ITEM EXC19-09:

An application submitted by Gerry Ambrose for a special exception to allow for a drive-thru facility in a Community Commercial (CC-2) zone located at 1681 S. 1st Avenue.

Lile began the staff report with an aerial view of the neighborhood and of the zoning map. The subject property is surrounded by other commercial with some public to the north such as Tate High School.

For some background this is a four unit commercial building that was built in 2002 with the drive-thru window on the west side. It was previously granted a special exception in December 2002 for the use of the drive-thru for dry cleaning service, but the use was never established. This previous special exception was also granted under a different Code standard as an auto and truck oriented use from a previous version of the Iowa City Municipal Code that's since been updated in 2005. Lile noted for every special exception the applicant has six months to establish a use after being granted a special exception or they must reapply and the current business does not use the drive-thru window. So the applicant is requesting the Board reduce the number of recommended stacking spaces, as well as reduce the landscaping and screening requirements. The buildings both to the east and west are connected to the subject property by way of their parking lots. To the east 1575 South First Avenue is a coffee shop and gym and to the west at 1705 South First Avenue is a building that contains a variety of usage such as retail, dining, yoga studio, medical offices and the social service organizations.

Lile stated the design of this parking lot has created circulation issues that have been brought to staff's attention. The parking lot at 1705 South First Avenue is a one way drive from west to east both in front of and behind the building that shares an exit with the building at 1681 South First Avenue. The building owners have a shared driveway easement that was put into place and 2002 and due to the narrow drive to access the back of the building at 1705 South First Avenue, delivery trucks park and unload on the east side of that building and exit lane. Typically trucks enter in the front of the 1705 South First Avenue, drive down and back into the exit lane. This blocks one of the lanes on the way out of the parking lot. There also Johnson County's SEATS transportation buses that circulate throughout the parking lot, picking up and dropping patients off and customers. This proposed drive-thru would be accessed by vehicles going around the back of the building at 1681 South First Avenue on the west side, circulating through the rear parking lot and pulling into the drive-thru on the east side of the building.

The coffee shop to the east at 1575 South First Avenue is another business that experiences peak times in the morning. While it does not have a drive-thru window and entrance to the business and much of the parking is on the east side of the building potentially causing conflicts with customers trying to get to the drive-thru. Another potential conflict is from the rear parking lot. Though it does not experience excessive use, the proposed stacking spaces for the drive-thru may cause circulation issues for vehicles exiting.

Lile stated staff has concerns regarding the design and the drive-thru, the stacking spaces and the potential conflicts and circulation patterns. Typically, drive-thrus are designed with stacking spaces wrapped around the building instead of thru a shared driveway and parking lot in order to reduce vehicle and pedestrian conflict.

Lile stated the specific standards that must be met for drive-thru are in section 14-4C-2K(3). First access and circulation, the transportation system should be capable of safely supporting the proposed drive-thru use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, effects on traffic circulation, access requirements, separation of the curb cuts and pedestrian safety in addition to the following criteria. The existing street capacity of South First Avenue is adequate to handle a potential increase in traffic from a drive-thru business. There are traffic circulation issues have been reported by both an owner and a patron of neighboring businesses to the west. There are complaints of inadequate parking, circulation issues with the current parking lot, delivery trucks using the east side of 1705 South First Avenue for parking and unloading as they cannot access the rear entrances, issues with the many one-way routes throughout the parking lot, and people parking in the proposed drive-thru lane.

Next, whenever possible and practical drive-thru lanes shall be accessed from secondary streets, alleys, or shared cross access drives. If the applicant can demonstrate that access from a secondary street, alley, or shared cross access drive is not possible, the Board may grant access to a primary street, but may impose conditions such as limiting the width of the curb cut and drive, limiting the number of lanes, requiring the drive-thru bays and stacking lanes to be enclosed within the building envelope, and similar conditions. Lile noted the access to the proposed drive-thru would be from the existing driveways off of South First Avenue which is classified as a minor arterial street. The property owner has maintained a shared driveway easement with 1705 South First Avenue since 2002. The proposed drive-thru would be located directly east of the shared driveway.

To provide for safe pedestrian movement, the number and width of curb cuts serving the use may be limited. A proposal for a new curb cut on any street is subject to the standards and restrictions in chapter 5, article C, "Access Management Standards", of this title. The applicant is not asking for additional curb cuts.

An adequate number of stacking spaces must be provided to ensure traffic safety is not compromised. A minimum of six (6) stacking spaces is recommended for drive-thru facilities associated with eating establishments and a minimum of four (4) stacking spaces for banking, pharmacies, and similar nonfood related drive-thru facilities. "Stacking spaces" shall be defined as being twenty feet (20') in length and the width of a one lane, one-way drive. The Board may reduce the recommended number of stacking spaces if the applicant can demonstrate that the specific business has unique characteristics such that the recommended number of parking spaces is excessive. Lile stated the applicant cannot provide six stacking spaces without wrapping into their rear parking lot. The applicant is asking for a reduction in the number of required stacking spaces and must demonstrate the unique characteristics of the business that would require fewer spaces. The applicant only expects two stacking spaces utilized at one time due to quick turnaround time (they expect it takes about two minutes to fill an order). Lile showed a diagram that illustrated there is room for vehicles to exit from behind 1705 South First Avenue to the east, and the parking lot behind 1681 South First Avenue. However, this assumes that any delivery truck will park directly against the wall of 1705 South First Avenue, which leaves little room for the driver to maneuver and unload products and potentially causes vehicle circulation issues. Additionally, the shared design of the exit lane does not lend itself to straightforward circulation patterns, especially adding a drive-thru usage. Typically drive-thru facilities design their stacking spaces to wrap directly around the building with traffic patterns that take vehicles around the outside of the parking lot and leave room for vehicles to park in

areas of the lot that avoid conflicts with vehicles entering and exiting the parking lot as well as pedestrians.

Next, sufficient on site signage and pavement markings should be provided to indicate direction of vehicle travel, pedestrian crossing, stop signs, no entrance areas and other controls to ensure safe vehicular and pedestrian movement. Lile noted currently there is one exit sign at the west driveway but no other signs or pavement markings to indicate direction of vehicular traffic, pedestrian crossings, or entrance areas within the parking lot. In order to meet this criterion, the applicant must add additional signage and pavement markings.

Regarding location, in the CB-2 zone and all subdistricts of the Riverfront Crossings District located east of the Iowa River drive-thru lanes and service windows must be located and a nonstreet facing façade and since this property is not located in the CB-2 zone or in Riverfront Crossings District this is not an absolute criteria.

The drive-thru lanes must be set back at least 10 feet from adjacent lot lines and public right away and screened from view according to the design standards. Lile noted the proposed drive-thru lane is not set back 10 feet from adjacent property line, but there is a shared driveway easement. The drive-thru window is not located near the public right of way, and while some of the landscape screening exists and meets the S2 requirements, there is no landscape screening proposed between the drive-thru and 1705 South First Avenue and the sheer nature of the drive makes meeting the screening standards next to impossible.

Regarding design standards, the number of drive-thru lanes, stacking spaces and paved area necessary for the drive-thru facility will not be detrimental to adjacent residential property or detract from or unduly interrupted pedestrian circulation or the commercial character of the area in which this use is located. The Board of Adjustment may increase or reduce any of the following design standards according to circumstances affecting the site. Lile noted the subject property is not surrounded by any residential zoning or uses. The pedestrian circulation for this area is primarily located in the front of the building near the business entrances.

Next, to promote compatibility with surrounding development, the number of drive-thru lanes should be limited such that the amount of paving and stacking spaces do not diminish the design quality of the streetscape or safety of pedestrian environment. Lile noted the applicant is proposing to utilize the single drive-thru lane that is currently non-operational. The existing lane is already paved and does not affect the streetscape or pedestrian environment on South First Avenue.

Drive-thru lanes, bays and stacking spaces shall be screened from views from the street and adjacent property to the S2 standard. If a drive-thru is located adjacent to the residential use or properties zoned residential, it must be screened from view of these properties to at least the S3 standard. Lile noted currently the drive-thru must meet S2 screening standards because it's not located next to any residential properties. However, due to the layout of the proposed drive-thru and its proximity to the shared driveway easement, the applicant cannot provide the screening to the S2 standard between the proposed drive and the property at 1705 South First Avenue. The applicant wishes the Board to waive this particular screening requirement because the drive-thru faces a brick wall with no windows.

Next multiple windows servicing a single stacking lane should be considered to reduce the

amount of idling on the site. In this case there's only one servicing lane for all ordering payment and pickup for the proposed drive-thru. However the applicant feels this is sufficient due to the limited menu items, the lack of a menu board and lack of food preparation necessary.

Stacking spaces, driveways, and drive-thru windows shall be located to minimize potential for vehicular and pedestrian conflicts and shall be integrated into the surrounding landscape and streetscape design of the neighborhood in which it is located. This proposed drive-thru has a fairly low potential for pedestrian conflicts, but it has a high potential for vehicle conflicts between delivery truck parking, vehicles exiting through the shared driveway easement, frequent drop-offs and pickups from the Johnson County SEATS buses and congestion from the coffee shop to the east.

Lighting for the drive-thru facility must comply with outdoor lighting standards set forth in the Code and must be designed to prevent light trespass and glare. Lile stated outdoor lighting should not be a problem at this location due to the proposed hours of operation which are from 6:30am to 6pm depending on the season.

Loudspeakers or intercom systems, if allowed, should be located and directed to minimize disturbance to adjacent uses. The applicant is not proposing to have an intercom or loudspeaker system. All ordering pickup and payment would be at the proposed drive-thru window

Lile next discussed the general standards. First, the specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare. Lile noted there are few pedestrians that utilize drive-thru lane area but the parking lot in general is not very pedestrian friendly and does not contain marked routes for pedestrians. There are traffic and circulation conflicts that already occurred with the surrounding businesses, again with the delivery trucks and the exit patterns of the shared driveway. With the layout of the proposed drive-thru there is no clear circulation pattern for vehicles and it would require the vehicles to circulate to the rear parking lot.

Next, 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. Again, there are existing circulation issues within and between the attached parking lots. With the trucks that deliver to 1705 South First Avenue they must park in the shared driveway as the alley to get behind the building is too narrow for the trucks to utilize. These trucks typically deliver between 7:30am and 12:30pm on weekdays which would be conflicting with the peak times that Daylight Donuts would expect to be using the proposed drive-thru.

The 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 which property is located. The surrounded property is already developed. The addition of the proposed drive-thru should not impede improvement of the surrounding properties unless the businesses or property owners plan to expand in the future.

Adequate utilities, access roads, drainage and necessary facilities have been or are being provided. Since the area is fully developed it has access to all utilities and necessary facilities.

Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets. The addition of the proposed drive-thru should not affect traffic congestion on South First Avenue. However, there are considerable circulation issues within the parking area itself.

Except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects, conforms to the regulations or standards of the zone in which is located. Lile stated the applicant is requesting a reduction in screening requirements and the minimum number of stacking spaces. Aside from those requests the proposed drive-thru conforms to the zoning standards

Lastly, the proposed exception will be consistent with the Comprehensive Plan of the City as amended. The Comprehensive Plan does encourage supporting and growing locally owned businesses which this would be one of them.

Lile noted she received some late correspondence today from a customer of the businesses at 1705, 1681 and 1575 South First Avenue and distributed it to the Board. To summarize, the person was concerned about the congested parking lots, the circulation and congestion concerns with the shared driveway and the Johnson County SEATS drop off alongside 1705 South First Avenue Building.

Staff recommends denial of EXC19-09 an application submitted by Gerry Ambrose to allow for a drive-thru window at 1681 South First Avenue because the applicant has not demonstrated that the proposed drive-thru meets the following criteria.

3a. Access and Circulation: the transportation system should be capable of safely supporting the proposed drive-thru use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service effects on traffic circulation, access requirements, separation of curb cuts, and pedestrian safety. Staff observation and reports from both an owner and patron of neighboring businesses to the west have raised concerns about traffic circulation issues. There are complaints of inadequate parking, circulation issues with the current parking lot, delivery trucks using the east side of 1705 South First Avenue for parking and unloading as they cannot access the rear entrances, observed issues with many one way routes throughout the parking lot and people parking in the proposed drive thru-lane.

3a(3). An adequate number of stacking spaces must be provided to ensure traffic safety is not compromised. A minimum of six stacking spaces is recommended for drive-thru facilities associated with eating establishments and a minimum of four stacking spaces for banking, pharmacies and similar nonfood related drive-thru's. The applicant cannot provide six spaces without wrapping into the rear of the parking lot and the shared design of the parking lot entrances and exits does not lend itself to straightforward circulation patterns.

3c(4). Stacking spaces, driveways and drive-thru windows shall be located to minimize potential for vehicular and pedestrian conflicts and shall be integrated into the surrounding landscape and streetscape design of the neighborhood which it is located. The proposed drive-thru has a high potential for vehicle conflicts between delivery truck parking on the east side of 1705 South First Avenue, vehicles exiting through the shared driveway easement, the frequent drop offs and pickups of the Johnson County SEATS buses and the congestion from the coffee shop to the east.

Additionally the application does not mean the general standard of 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. There are already existing circulation issues within and between the attached parking lots and trucks that deliver to 1705 South First Avenue must park in the shared driveway as the alley behind the building is too narrow for semis to utilize. These trucks deliver in the morning and may conflict with peak times of operation for the proposed drive-thru.

Pretorius asked if staff can confirm that the delivery trucks do in fact park on the shared driveway. Lile confirms they have witnessed trucks parked there.

Chrischilles also stated that he can confirm that as he drives two days a week for SEATS in the afternoons, he doesn't want to drive in the mornings because two or three of her fellow drivers said trucks park in the driveway and around the alleyway, and its several days a week.

Cox thanked staff for all the work they did to prepare this noting there is a lot of details. He is concerned a little bit about the figure on page three of the staff report though, that image doesn't show what is an important detail. There is another entrance by 1950 South First Avenue that is not shown in that figure that wants to make sure everyone knows. 1950 South First Avenue is the dental business at the far left corner of that image, there is an entrance into that lot there that is not pictured. Lile agreed and noted the image on page three was essentially just to show the circulation patterns of the parking lot currently to the west of 1705 and in between the building in the application and that building is where trucks and circulation would go to the back of the building. However, that access point is too narrow for delivery trucks to utilize.

Goeb was curious about the fact that the dry cleaning business was granted an exception and was it that things were changed in the Code in terms of drive-thrus. Lile confirmed that was correct noting in the Code in 2002 when the initial special exception was granted, it was a special exception for auto and truck oriented uses and a community commercial zone. The City adopted a new Code in 2005 that had new standards for drive-thru facilities in a Community 2 commercial zone as well as other zones. So the previous special exception did not have to meet the requirements that the current special exception does.

Chrischilles asked if the old Code have a requirement for fewer stacking spaces. Lile stated it didn't really regulate how many stacking spaces or design standards.

Pretorius asked why the SEATS bus goes behind the building and follow that particular traffic pattern. Why they don't use the entrance of the First Avenue and then stay at the front of the building and then exit. Chrischilles explained that's where the patrons of the adult daycare facility enter and exit, in the back of the building. Also it would severely inhibit those businesses to have a bunch of the SEATS buses in the front of building because there can be five or six buses behind there at a time.

Goeb made the statement that it is a very different kind of parking lot and pattern and is pretty confusing. The first time she knew the parking lot went all the way was when she received the packet yesterday and took a drive around it because she is also somebody who goes to a couple of the businesses there but hadn't done the full circle around. She also noticed that there weren't any directional signs, you could tell by the way the cars were parked which way to go there but no arrows nor really well marked signage.

Pretorius is assuming based on measurements and whatnot if the delivery truck is parked there and a vehicle is parked in front of the window no other vehicles can fit in between. Lile said they can if the truck is parked very close to the side of the building, there is a little bit of area. The concern though is where the stacking spaces go along the building.

Goeb opened the public hearing:

Thomas McInerney (1208 Marcy Street) introduced himself as the architect on the project. He began by saying this is his third time for the same property for the same window for this special exception. There was another time that was not mentioned in the staff report and it was May 14, 2003. It was approved by the Board unanimously with a vote 5-0. It was submitted for a special exception to permit a drive-thru carry-out restaurant and auto truck oriented use at 1621 South First Avenue, which is what this property is and it was for that window. They said that the Board finds that the previous special exception for the auto truck oriented use on the same lot adequately addressed traffic and aesthetic concerns and the current application does not raise them a new. That was special exception. EXC03-00005 dated May 14, 2003.

Chrischilles noted that was approved under the old version of the Code which was then updated in 2008.

McInerney stated that maybe the screening has changed a little, but that's about it, everything else is the same, stacking was the same. McInerney stated he is here with solutions as there's actually a bigger situation here that probably explains a lot of the problems. However, the special exception was granted, so this has precedent. The building at 1705 is 42,200 square feet, which requires 169 spaces. It has at most 130 so if there are problems that is the reason. Simply it's just a matter of an old property that's non-conforming, that's taking advantage of the availability of parking which is oversized by about 20 spaces at the property in question here. So it's really about the poor design of the layout of 1705. McInerney showed a photo in the front showing a very large driveway, it's a one way but yet it's very wide, actually it's excessively wide, from the sidewalk to the curb is over 58 feet, which is compliant with 90 degree perpendicular parking. So the parking in front is plenty wide and could be converted and add significant number of parking. McInerney has done this before at other locations such as the Gateway One complex and Fin and Feather. So the issue here is the parking lot inherited has been a bad idea for the longest time. One could maximize that front and then have loading spaces in back that get closer to the number that we need to actually come to comply with current Code. McInerney acknowledged he was not hired for solving that problem but feels they are being forced to because of the situation of the neighboring property. He doesn't think it's reasonable to expect them to redesign another parking lot in trying to get a special exception.

McInerney acknowledged some other issues to be addressed regarding the other businesses. If they did improve that parking in front and allow the ability to have loading spaces in back it is feasible to modify the turn around the building, to orient and rearrange the back there (there's some dumpsters that if they move and actually the striping was done), one could take that turn with the 40 foot trailer. There wasn't anything any thought put into the parking, they just put in angle parking at 60 degrees. Additionally it's spaced out further than it needs to be, so it's really inefficient. This bad idea ripples through other properties here. The issues could resolved if the regulations were actually enforced for this building. The goal is to take use of the land that's available for the property and how it was designed back in 2002 for the property in question.

Next to discuss the coffee shop, the Java House, Gerry Ambrose is the landlord of the building and he's never heard any complaints about parking problems. There's also parking that was not mentioned to the south, it goes all along First Avenue. McInerney thinks people are actually parking in the front along First Avenue. The patrons of the coffee shop are mostly people using the internet so they just like to hang out. There's not much back in and out traffic because there's only a few spaces, approximately 10 spaces north of the entrance, and about 10 more to the south.

Another thing the two restaurants that were shown as comparable are not comparable to the size of proposed business, Daylight Donuts is the proposed business and it's only 1000 square feet, these other examples are three times the size and have five times the size of the menu. This is not comparable and it's not fair. Another issue on page seven says the proposed drive-thru is not set back 10 feet from the property line, however on the last page of the of the report, there is a dimension listed there that says 18'7". That is the distance from the property line to the drive-thru window.

The shared drive is another issue, it is a driveway easement. That means it's supposed to be a driveway, not a parking space, just a shared driveway. Anybody who parks there can be towed, but they're not because they are being nice now. That shared driveway extends to the eastern face of 1705 all the way across. To have a truck parking there for deliveries is unregulated and subject to be towed.

Next issue is the comment on page nine the drive-thru is not pedestrians friendly but the parking lot in general is not very pedestrian friendly as there are no clearly marked pedestrian routes. McInerney noted there isn't any pedestrian access on that side of the building, it's blocked off there is a generous sidewalk on the other side of the building that wraps around to the building, to the parking and to the back, that was what the original design.

On page 11 it states the applicant cannot provide six spaces without wrapping around into the rear parking lot. However if one would look at the layout they'd see that there's plenty of clearance for backing out for any parking around it. It's designed to be completely separate from the drive-thru access. It will be 120 feet, which is six spaces. It may bend but doesn't mean it's not the full length, it has plenty of clearance, there is 22 feet of backup space for any vehicle that's parked the south. Also on page 11 it says the staff and observation reports from both owner and patron of the neighboring businesses to the west have raised concerns about traffic circulation issues. That is because the parking lot to the west is messed up, it is a poor design. There are complaints of inadequate parking, but no on this property. This property has 52 spaces existing as it is and we would take 10 spaces out to make the driveway friendlier for people crossing through, thinking that would help, but instead it becomes a detriment to this discussion about congestion. By Code they only need 25 spaces and have doubled that because of the nail salon, the Weilands Laboratories and the subway shop at the other end. If it was all one restaurant it would still only need 42 spaces based on the square footage and that's how it's calculated at 150 square feet per spot.

For the building 1705 First Avenue, being that's 42,200 square feet, it needs to be divide for 250 square feet per spot stall that comes out with 169 spaces required. So there's a difference of perception here and they are inheriting the sins of the next door neighbor and that seems to be not a fair way especially when the parking space that they think there's congestion occurring is actually part of a shared driveway easement existing since 2002.

McInerney noted he was just pointing these things that simply can be resolved, he is here with a solution, and there is a way to make the parking much better. Increase the number of spaces on the on the neighbors lot, that would help a lot, it would help even for loading spaces for all the concerns that brought up about circulation. Especially when you realize that the one way driveway is absolutely not necessary, it can be two way and then one would be able to go anywhere they want, like a normal parking lot.

McInerney reiterated this is the third time he's been before the Board over the last 15-16 years for this property and finds it odd how all of a sudden this is a problem. When really, with the type of business we're talking about, which is done with a mobile app, ordering online, easy ability to pick up and carry and move on. It's not a complicated menu. It seems like we're trying to enforce something like a larger place like McDonald's or something. McInerney reiterated it's really about the issues of the neighbor and their inadequacies of their parking layout, which they can actually restripe and actually improve where everybody can benefit. The problem really isn't about our parking which is being utilized by the neighbor, and that's what the complaint letter was talking about, not being able to park anywhere they want. The current lot encourages bad behavior from the poor layout of the neighboring property and the fact that the shared driveway goes all the way to the face of the building does not give them the right to use it as a loading space. The driveway is 22 feet wide and enough space for two vehicles to get around. Even using a 65 foot semi, which is not what is used in this area for deliver, it's usually like 40 foot trailer wheel base, and they back in so they face out which makes sense but the point being is there's still room even with the length of a 65 footer of going around when people are lining up, they still can make it around. There's a reason they laid it out way in 2003, it seemed like a very convenient way for a small size business to have a drive-thru. With the current design we are just encouraging bad behavior from a poor layout for circulation by letting this unused area be randomly used by anybody who is looking for convenient spot, park here and then go into the gym.

Cox asked about McInerney's drawing and how many spots would be moved if they are proposing a new curb at the top. McInerney said it was a response to increase spots and what he feels would be a better circulation for everybody. But in reality, maybe the original idea of just saying just leave it as it is and just approve it as it was before is best. He is proposing taking out 10 compact spaces. There is an island that's there right now and it does throttle right there, which is kind of strange, but it was worked on by someone else, maybe MMS because there's a there's a sanitary manhole cover there. One doesn't even notice there's a drive up there. I mean, it looks like a window.

Chrischilles asked if McInerney is proposing changes in the overall parking arrangements around the two buildings in that border this driveway but changing that doesn't necessarily alter what happens in the driveway area, which is the concern and what the special exception is asking. The way things are right now there are delivery trucks that are going to park there and that's not going to change unless you enforce no parking there, but they don't have anywhere else to start to deliver their goods. McInerney said that's the perception, he is suggesting if they do what they've over at Gateway One and change the parking spots to 90 degrees, it is more efficient. Chrischilles asked then if they are proposing the delivery trucks pull up in front of 1705 and park there for 20 to 30 minutes and that will not affect people being able to get out of those parking spots and into those parking spots with the semi there. McInerney said if they had two way traffic it would work, but right now it is blocked in the middle. Chrischilles noted that it seems as though there's going to be some people that are trapped by the semi. McInerney

stated there would be more parking spaces. Chrischilles noted that now semis are out of the way except for the access possible access to the delivery window. McInerney stated it does not doesn't supersede the concept of a shared driveway being an equal use. He noted there is room for parking there without blockage or congestion. Chrischilles sated that if there is a semi parked on the side there, and you have people at the delivery window, SEATS buses will not be able to get thru there. McInerney said they would, its 33 feet and three semis go through that.

Pretorius asked if there was any reason why the SEATS bus for instance, can't go up and above the property and then down. McInerney replied in theory yes, this is a shared driveway, which means shared access and there are three options for leaving the parking area. He also wants to emphasize that still there's 22 feet in the back and its 22 feet in the front and the drive up window is in the midpoint between those two and that's where the accommodation for the property is and then that's why they also have a shared driveway.

Cox asked if there is a front and rear entrance into 1681? Would one be able to get in there from the backlot as well as the front? McInerney replied customers would just use the front, the back is for delivery system, and because these are small businesses they're not getting large quantities.

Chrischilles asked if there any consideration given to a menu board? McInerney stated because of the online app they didn't see a need since customers will just be coming to pick up orders.

Gerry Ambrose (1280 12th Street, Coralville) stated there are a lot of misinformation provided by the City here. He has been a developer in the Iowa City area since 1981. He has worked in commercial development and brought Sycamore Mall back from practically something that needed to be bulldozed to 100% occupancy. Ambrose sold his interest in that property and bought this property which was Playmore Bowling Alley and reinvented it. He also reinvented the Gateway One Shopping Center, which was 35% occupied when purchased and now has been 100% occupied for over 20 years.

Ambrose noted this is not a unique situation here. He went to Daylight Donuts and asked them to come and see the building. He went to them because he likes to have synergy in his properties and for one tenant to complement the other. Ambrose believes Daylight Donuts would be fantastic for this building and is the best donut. The owner got displaced by Casey's which he can speak to in a minute. The owner believes that about 80% of his business is going to be walking in and there'll be a drive-thru to pick up an orders such as two or three dozen donuts. There is no need for a menu board. The examples of drive-thru that were presented here tonight are Taco Bell or McDonald's or something like that and are nothing like the business being proposed for this location. This is 1000 square feet and it's a donut shop with a limited menu. Ambrose next commented that for 20 years he never knew the property at 1705 believes that that area next to their building is a delivery spot. It's not, it's a driveway with a driveway easement. They have no right to be delivered there. Secondly, Ambrose noted the letter received angers him, he doesn't know this woman and has never talked to her. He can say he's tenant Weiland Laboratories have complained about her. Ambrose has never put up a sign that says they will tow a vehicle parked there, however he does have the right to do that. Ambrose also noted he was met with a lot of negativity from the City about this when he made the application. He could not believe the reaction that he got, it was like it was like a vendetta they were going to stop him from doing this no matter what. The original drive-thru window that

was approved was for Milio's, perhaps it was going to be a dry cleaners at one time but then it was decided to be a Milio's. However Milio's then decided they wanted the other end of the building and didn't want a drive-thru. That drive-thru application was approved. Ambrose noted it was implied here tonight that the Code was radically changed well, it wasn't radically changed, it was just implied that it was radically changed. Additionally looking at the drawing, they have five cars stacked up in the building driveway, not the shared driveway. Ambrose shared a picture of the back of the building at 1705. The traffic pattern is messed up, he was halfway down the building before he realized he was going the wrong way. If somebody came to the City with a with a property design like this it would never be approved. Ambrose has been around a long time and does believe this parking lot was never a one way years ago, he believes it was 90 degree parking and then somebody came up with this crazy plan to make it a one way. Ambrose stated it is obvious that 90+% or maybe 100% of the problems that they are facing here with this issue is not his problem, it's the building at 1705s problem. The City is asking to deny this based on the problem created by 1705. Ambrose reiterated he did not ever know, nor does approve of the area next to the building, which is shown as being a loading area, being a loading area. In the picture shown, there is a car parked alongside that building, parked the wrong way actually, and it clearly shows that if there was a car going through the drive-thru one could get past the parked car. There is always a car parked there, it is an employee's car, so if there's a delivery and there's always a car park there it seems like people are getting around it.

Ambrose noted that redesigning the parking lot is just an idea, they are going to lose 10-11 parking spaces but they are way over parked anyway. There's never been an issue at the Java House. No one's ever discussed a parking issue with Ambrose on this building. The parking issue is with 1705 using our lot for parking, and also having their dumpster on his property. He was trying to be a friendly neighbor. The dumpster will probably need to be moved now for stacking for the drive-thru.

Chrischilles asked how far is Ambrose's property line in relation to that dotted line that runs down the middle of the picture shown. Ambrose said the dotted line is his property line and the stacking shown is on his land, not the shared driveway. Additionally he is not asking his neighbor to allow him to use the driveway for his stacking on their property, although it is also his property.

Chrischilles noted his concern is at the top where it where it constricts to 22 feet it shows just enough room for a car on your property. Additionally the concept of a shared drive way could be disputed at that point and maybe it could be widened. That could that could be the source of what the City is concerned with in terms of causing traffic problems Chrischilles thinks that's the crux of the matter. The point is people can't get around because the semis are there and is wondering how far back the semis go. Ambrose is unsure because he has never seen a semi there in his 20 years. Chrischilles said he knows they are there, he doesn't drive SEATS in the morning so he has not personally seen it. But if the semis go a decent ways back then it could cause a very narrow access way through there at that point, and that's what we're debating here, is the drive-thru going to impede traffic flow.

Ambrose mentioned that he's been in business since 1981 which was a very long time. He has lots of commercial property and he believes a semi driver is ever going to drive up in there. They can't get out of there and they know it. Ambrose stated this is a moot point and most of the deliveries in these type of businesses are on flatbed or small box truck, but not semis. Ambrose

noted there will not be bottlenecks, there's two lanes where they can drive right out. Additionally they are talking about a business where 80% will be walking in and about a donut place, not McDonald's or Starbucks. There are many drive-thrus like Taco Bell or Freddie's where one gets into the drive-thru and get stuck and can't get out. They have one lane in and that's it. If someone is in this proposed drive-thru and decides they can't wait, they can just pull out and drive away. It's a better drive-thru than probably 90% of McDonald's. Ambrose reiterated it was conveniently left out that this locations was approved for a restaurant.

Pretorius asked if Ambrose would be opposed to redoing the parking lot. Ambrose said he will do it if he has to, but his suggestion is to not have to do it because it takes away parking. He can afford to lose those 11 parking spaces, he is over Code regarding parking. It's the neighbor that has the problem with is trying to put the problem on him. If deliveries are needed, deliver behind the building as it what 90% of businesses do. Or just have the delivery, like UPS, pull into that driveway right in the front and make a delivery.

Pretorius noted the current design looks like it might be a little more preventative for traffic to flow from your neighbor's building to behind yours and use that as a second exit strategy. So she actually likes the new design with that medium/little island kind of changing and asked if Ambrose could perhaps provide some paint on the pavement directionally to help sway traffic that direction and change the traffic pattern by educating people. Ambrose replied he would be open to that and could put signs up showing the way.

Chrischilles noted moving the island would be a necessity because yesterday he noticed when he was driving the bus there was a car parked there and one could not get out there. They were in a parking spot, they weren't illegally parked. Ambrose noted people park in a lot of weird places, and to make it a two-way is not a problem and the dumpsters will be moved as well.

Chrischilles asked if there would be no parking spots where the two sets of double arrows are around that small island. Ambrose confirmed there would be no parking spaces there.

Ambrose noted he recently opened Starbucks in the front of Gateway One, there are 10-12 cars stacked there a busy times and they are backed up in front of sometimes all the way to the door and people deal with it. At this location having four or five cars in that drive-thru would be a good day, it's not like Starbucks. Its 1000 square feet, Starbucks is 2500, most of these places are 2500 to 3000 square feet and accommodate 125 seating capacity this will have about 15.

Scott Ward (2 Charles Drive) is the owner of Daylight Donuts. He thanked the Board for their time and acknowledged City staff who certainly did their due diligence and put a lot of thought and effort and came up with some valid concerns. He began with how he got here. In April, business was running along fine and then he found out that Casey's has bought their location and they'd be closing by mid-May. So looking for new locations, Ambrose contacted him and his first thought was 1000 square feet was too small. But the location had a pickup window and that was interesting. So Ward completely redid his business plan to carry out only so there'll be no indoor seating. 1000 square foot is pretty small and his equipment takes up quite a bit of room. The vast majority of his business was carry out anyway, as well as repeat business, people came knowing what they want. He assumes a lot of his business will still be like that. Ward noted when he learned they were closing they found a new spot on the west side of town, but there was an overwhelming outcry from people to stay on the east side. Ward stated his plan is real simple, make fresh doughnuts every day and keep it simple. This is not going to be

Starbucks or McDonald's, he can't think of a situation where there would ever be six cars stacked up. He has been in business for eight years and knows the traffic patterns of when people come in. Maybe it will be somewhat different at a new location, but it would really surprise him if he ever had that many cars stacked up.

Chrischilles noted at the old location there was no drive-up window, so when Ward put out requests to customers for what they'd like to see in a new location, did customers suggest a drive-up window or did Ward alert them it could be an option? Ward said he received a lot of unsolicited advice and the second thing requested after staying on the east side was a drive-up window. Chrischilles stated then they have no way of knowing how much the drive-thru window is going to get used, but you would have to think that since they requested it, that it might be heavier usage than you think. Ward agreed and noted they are all trying to give their best guess and all he can do is give his best opinion based on his eight years of experience. Also, he is basing this on a few of the other donut shops that he knows who have drive-up windows that are similar to him, old fashioned traditional type donut shop.

Chrischilles asked based on the current business, how many people walk in the door that haven't pre ordered take a moment to make their selections. Ward replied that number is fairly small. Because again, the vast majority of the business was repeat customers.

Goeb asked if they make the donuts on site. Ward replied yes and added that is why the 1000 square feet isn't enough for a seating area, the old store was 1250 but the bathroom was in the gas station. So when you add a bathroom, you lose an extra 350 square foot.

Cox asked if at the previous location they had an app that people were using. Ward replied no but that it was something he planned on adding. They do get a lot of phone orders and also a lot of emailed orders. Ward said maybe five to ten a day via phone calls or internet orders.

Goeb asked if people would be restricted in terms of using the drive-up, like they would have had to preorder. Ward confirmed it is not a preorder, one can pull up and order at the window.

Goeb asked staff who has the purview over this whole messy parking lot deal. Ambrose has his buildings, which goes from the proposed donut shop to the Java house, and then the other building at 1705, do they just have responsibility for their side of the parking lot, or how does that work and how does the City get involved? Lile replied that each owner of the property is responsible for their parking lot, but the concerns raised were about current circulation issues. Goeb asked if that was because of the shared driveway or overall how did the parking lot get so oddly configured. Lile noted it was a planning and zoning thing at the time of building and in order to resolve this, the two property owners would have to work together if they were both willing.

Chrischilles asked Mr. Ambrose if when he bought the property was it was a shared driveway at that time. Ambrose replied it was not, this current building didn't exist. He owned the property but it was a bowling alley and that was a parking lot. Chrischilles asked then when did the shared driveway come about? Ambrose negotiated with the owners of the property at the time. There's been two or three owners of that property since that time and it's been recently sold and is under contract to close in less than 30 days to a new owner. Ambrose doesn't know if the new owner has any idea what's going on here and doesn't know who the new owner is but was told Tom Bender, the current property manager will continue to manage the property for the new

owners.

Dulek stated the construction of Ambrose's building and the shared drive was done at the same time in 2002. Ambrose confirmed that was correct and added that at no time did he ever believe that that was a loading area, nor does he feel it should be a loading area now. There's no sign that says that its not but that would be a solution to say this is not a loading area, 1705 should take care of their loading area on their property which is typical and normal. Ambrose doesn't any of his property neighbors to allow him to park on their property to do loading for his tenants.

Chrischilles noted that 1705 can say they are parking the semis on their property. Ambrose rejected that statement and noted the driveway is an easement, an easement means that they relinquish their rights to say that this was exclusively theirs or mine. He is not unwilling to put a sign stating delivery vehicles do not pass past a certain point.

Chrischilles noted Ambrose is giving this from his perspective, which is, his perspective. But if this exception is granted and they keep parking semis there that all figures into the congestion in this drive. Ambrose appreciates what Chrischilles is saying but he meets all the Codes. This is a shared easement and not their property exclusive. Ambrose added the easement is not on the drive-thru. Dulek confirmed the easement is on five feet of Mr. Ambrose's property but 17 feet to the west, and the drive-thru is on Ambrose's property.

Dulek read what the easement says, the terms of the shared driveway are as follows: a) set easement is limited for the use of vehicular and pedestrian travel to the parties, that is the two owners and to their guests and business invitees; b) no vehicles or personal property shall be stored or parked within the easement way and no structured buildings or other improvements which obstruct in any manner the easement way will be permitted; c) Ambrose will pay all the costs of resurfacing, etc.; d) Cahill and Ambrose and their successors in interest shall share equally in the costs of snow removal and future maintenance. Those are the terms of the easement.

Cox stated then under those terms the occupants of 1705 using that for loading they are not following the agreement in that easement. Dulek replied yes, but the City doesn't enforce that, it is for Mr. Ambrose to enforce, it is a private agreement. Cox said then it is a point he could argue. Ambrose stated it is the point in which he is arguing because like not until tonight was he aware it was being used as a loading area.

Chrischilles asked if at any point in that stacking line would cars be in the easement area, Dulek does not believe so because it's only goes five feet from the property line to the east, it's only on five feet of Mr. Ambrose's property. Lile noted that maybe like three cars back it might be really close to sitting on the easement. Ambrose noted the easement says it is for vehicular traffic and that is what this is, they are not putting a building on it or any structure of any sort. It's for vehicular traffic, there will be stacking but that's vehicular traffic.

Pretorius said if the Board doesn't grant the special exception, Ambrose could essentially go back to the agreement with the neighboring property owner cause trouble for them and have them figure out something else for their delivery trucks. Ambrose confirmed he could do that but he didn't intend to do that, he didn't think this was going to be an issue. Ambrose added there's just one tenant in that building, the yoga studio, who's definitely using his parking lot, and

she's the one that had the nerve to write this letter and she was the one that his tenant Weiland Laboratories complained about because they see it every day that they go into the yoga studio and park in his lot. Weiland Laboratories asked if they could have some exclusive parking signs for their use only because there are times in the morning when the yoga studio has a class that they're over there on his parking. Ambrose doesn't want to make those people mad so they don't buy Scott's donuts. He doesn't want to be mean and wants to be a good neighbor. Now one of his property management people might have put a sign up without his knowledge. Tenants do things without saying something but he'd like to keep it friendly. He could put a sign up warning the 18 wheelers not to pull up past a certain point.

Ambrose reiterated the parking and circulation issues are with 1705, and if they don't want fix it, that's fine, that's their prerogative. A new property owner might recognize parking could be maximized and he might be able to pick up 25-30 parking places.

Chrischilles asked Dulek if it is true then according to the easement it specifically says they cannot use it for parking. Dulek says it is limited for the use of vehicular and pedestrian travel and no vehicles shall be stored or part within the easement area. But again this for Mr. Ambrose to enforce. Chrischilles stated then according to the diagram here none of the cars in the stacking line would be over in the easement. Dulek cannot confirm that but the Board has one of the standards state the drive-thru lanes must be set back at least 10 feet from the adjacent property line. Ambrose noted they are 18 feet away from the adjacent property line. Dulek noted the staff report stated there's not 10 feet between the lane and the property line up there and the Code says the drive-thru lane must be set back at least 10 feet from adjacent lot lines, not the window.

McInerney said if they were to look at it as reduced number of spaces for stacking they would comply. Dulek agreed. McInerney noted the whole thing is about traffic flow, they are not parking there, they are just waiting, whereas when a truck is unloading there's no driver in the cab. Chrischilles said if there is a line, a static line, they don't get out of their cars.

Goeb closed the public hearing.

Chrischilles noted in order for this exception to be granted, we obviously have to reduce the stacking requirement because if we don't they don't meet the standard of 10 feet from the adjacent lot lines. So how many cars are going to be in this stacking line is unknown, if they cleared out the northernmost part of that parking lot in to the point where they've got it drawn, and there's an clear and almost 100% available access out of the north to go around and down the other side at all times, or nearly all times, that's a factor in their favor. But what bothers him is the constriction there at 22 feet and how to get around that. A big factor would be 1705 saying that they're not going to have semis park there at all, but that's going to require reconfiguring their parking lot probably to provide some place for semis to park and unload and would like to get some input from them.

Dulek noted the public hearing has been closed so there's no further input available for the Board for this discussion.

Pretorius stated when they have denied drive-thru businesses before she has seen it kill businesses. In this case, she would like to see a way to make this work. The neighboring property probably knows this is going on tonight been made aware and had the opportunity to

come here and speak or speak out against it. The only person speaking out against it essentially was someone she couldn't tell the difference between maybe a genuine concern versus a personal vendetta. This isn't McDonald's, this isn't Starbucks, but she does wish Ward the success of a similar business like that. She recognizes this is a little bit more money and investment to reconfigure this parking lot and drive back here to do this, but if it did become a success, this is much more conducive to both the neighboring property and the other parking spots that are available on the backside of this building. She would love to see traffic rerouted. She feels it is odd to worry so much and allow 1705 the use of this shared access for their deliveries knowing they're probably fully going against the agreement that the two properties have created and then not allowing this slower moving traffic. The neighboring property is parking those trucks there, they're getting out there unloading them, it could take 30 minutes, it could take an hour. Pretorius feels denying this could create more issues for the neighboring property because the applicant could potentially seek out additional legal ways to achieve this. Not to punish the neighbors, but essentially the City is punishing applicant because the neighbor is misusing the shared easement. Pretorius likes the idea of supporting local business and loves doughnuts. She would like the idea of approving the application based on this particular site plan, she doesn't know if there's a way to approve it legally with making sure that the rights of the neighbor are not taken away and they can continue to use the driveway in a way to not create a bottleneck to where it inhibits traffic for the pickup window. Overall she feels they should approve this application and hopes there is a way to allow them to have their deliveries there to be the least impact for everybody and the most neighborly way to proceed.

Cox noted as he looks through the findings it seems like the third finding is the area where he is finding the most to think about and that it's on page five of the report. The minimum number of six stacking spaces for facilities and eating establishments, and a minimum of four for banks, pharmacies and non-food related. He noted he went to the bank recently because his kids wanted to turn in change, but otherwise he never goes to the bank because he's used apps for banks for years. Cox stated there was really a difference in the way the bank is being used that made him think businesses are changing the way in which people are engaging with businesses and an app is a good example of that. He wonders if this business is one that is somewhere between these numbers of spaces that are necessary for the type because it is not a typical eating establishment when compared it to the examples in this report, it is it is not the same. Cox is conflicted because the Board can reduce the number if the applicant can demonstrate this specific business has unique characteristics in which that number recommended would not be necessary. He feels he's heard enough to think that the required amount would not be necessary. The reason the Board is here is to reconcile a conflict that is created by buildings being built and Codes changing after the fact. This is why we have a citizen board right to figure it out. Cox noted he lives on the east side, and continued investment on that side of town in this way is meaningful and he would like to support if we feel like we can meet the exceptions that we are allowed to give.

Chrischilles respects everyone's opinions and wishes we had a crystal ball and we could guarantee that there is only going to be three cars there at any one given time. Chrischilles notes the applicant is going from a business that had some walk in and sit down component to none now and Chrischilles thinks the drive-up window is probably going to be used more than they think. He also loves to support local businesses, but is conflicted.

Cox agrees the prediction piece is difficult. When looking at the current Code, and looking at buildings that have been built very recently that met the Code, he can drive by those buildings

and see the stack far exceed what was called for by the Code. Starbucks being one example. The people that will queue into that line far exceed what the Code calls for.

Goeb acknowledged they are all wanting to be able to allow this to happen but how to do it is the key. She noted the whole area in the parking lot such a mess right now she can't imagine a drive-thru helping. It's a very interesting set of properties there. The morning traffic will be heavier as will the Saturday and Sunday morning traffic, and that is when there will probably be less businesses at the other places and probably no delivery trucks. However she is not sure how to accomplish it through our processes here.

Chrischilles said at the very least they would have to consider the applicant honoring what they've drawn here.

Cox agrees, it would really help because it gives a more or less guarantee access up north and there's still room so people can come in from on the right side there and go between Milio's and the Java House and go back and take the first left to get into the line. So if they did this reconfiguration of their property that might be the best solution for everyone.

Dulek stated the motion must always be in the affirmative for the application, then next discuss the findings.

Dulek noted ordinarily in the findings, if it's a routine application like the prior one, the Board just adopts staff's recommendations, whereas you cannot do that if you're going to approve this application since staff does not recommend approval.

Staff's recommendation addressed three specific standards and one general standard, so the Board will have to make findings with respect to those four standards indicating that the applicant has met them if that's what you choose to do. Dulek suggests to take one at a time and state you feel that the applicant has met the standard.

Pretorius addressed, item 3(a) as she does feel the proposed site plan actually will address the traffic issues and might even improve it based on what the understanding of the current shared driveway having vehicles parked there anyways it they might even already caused a bottleneck especially where that transformer is located. The changing up that back parking lot will allow possibly for a much easier route for vehicles to exit that property if we were to adopt this site plan, currently shown, as part of the exception.

Regarding 3a(3) Goeb thinks that the number of stacking spaces, the minimum of six, has been explained by the applicant how the eating establishment will work and that minimum of three stacking spaces is perhaps a better standard to follow.

Chrischilles addressed standard 3c(4) noting as long as the applicant sticks to the changes in the site plan it does minimize the potential for vehicular and pedestrian conflicts because it gives another fairly clear exit route.

Cox noted that general standard 2 is calling on us to think about how this exception would be injurious to the use and enjoyment of other property or diminished property values. Regarding the two points listed as concerns, he has heard enough to know that those are mitigated in terms of the delivery trucks could be addressed through the existing easement agreement

between the two property owners. There are already some existing circulation issues, but he is less convinced that they are on the application property. Both of these points have been addressed pretty thoroughly through new information tonight. He feels the tenant would be a value to the entire complex.

Chrischilles asked if there is any way in addition to an adoption of the site plan on the screen, how we can get 1705 to make sure the semis don't pass a certain point. Pretorius said it would be better to add language or condition that would essentially allow the neighboring property 1705 to do deliveries an area marked out where they can in fact park and to do those deliveries and does not create the bottleneck area to impede the traffic that's necessary for the drive-thru to operate.

Dulek confirmed they could place that condition on the special exception approval. They could leave it as something that that staff will work with Mr. Ambrose on. Pretorius agreed. Dulek added that this would not change the easement, it just is going to, as long as the building is used for a drive-thru, say five years from now, when Ward expands his business and that's no longer available and whoever moves in there doesn't use the drive-up window anymore, and then all bets are off so to speak. This is all dependent on the current use only.

Goeb asked how they submit this drawing as it is the applicants drawing. Dulek said to state the site plan contained in the October 9, 2019 meeting submitted by the applicant.

Pretorius moves to recommend approval of EXC19-09, a special exception to allow for a drive-thru facility in a Community Commercial (CC-2) zone located at 1681 S. 1st Avenue.

The findings we believe after discussion do demonstrate the needs for this particular business, including adopting the site plan that was submitted by the applicant on page 5 on October 9, 2019, Board of Adjustment meeting. In addition, while the use of the drive-thru window is being allowed, Mr. Ambrose will work with staff to define an unloading and delivery area for the neighboring property at 1705. In addition to the site plan, possibly some additional directional arrows to point traffic towards the additional exits that are now being provided with the new site plan. The changes in the site according to the site plan must be completed before occupancy. She concurs with all the other findings set forth in the staff report of October 9, 2019, and conclude the general and specific criteria are satisfied. So unless amended or opposed by another Board member she recommends that the Board adopt the findings in the staff report as our findings with acceptance of this proposal.

Chrischilles seconded the findings of fact.

A vote was taken and the motion carried 4-0.

Goeb stated the motion 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.

ADJOURNMENT:

Chrischilles moved to adjourn this meeting, Cox seconded, a vote was taken and all approved.

**BOARD OF ADJUSTMENT
ATTENDANCE RECORD
YEAR 2018-2019**

NAME	TERM EXP.	2/14	5/9	6/13	8/8	12/12	2/13	3/13	4/10	5/8	7/10	10/9
COX, ERNIE	12/31/2020	--	--	--	--	--	--	O/E	X	X	O/E	X
GOEB, CONNIE	12/31/2019	O/E	X	X	X	X	O/E	X	X	X	X	X
HAZELL, ZEPHAN	12/31/2021	--	--	--	--	--	X	X	X	X	X	O/E
PRETORIUS, AMY	12/31/2023	--	--	--	--	--	X	X	X	X	X	X
CHRISCHILLES, GENE	12/31/2022	--	--	--	--	--	--	--	--	--	--	X

KEY: X = Present
 O = Absent
 O/E = Absent/Excused
 NM = No meeting
 --- = Not a Member