

NOTICE TO THE AUDIENCE. PLEASE REMEMBER THAT IF YOU ARE INTERESTED IN MATTERS ON THE AGENDA THAT WILL HAVE SUBSEQUENT MEETINGS, IT IS YOUR RESPONSIBILITY TO NOTE THE DATES, TIMES, AND PLACES. NO FURTHER LETTERS OR REMINDERS WILL BE SENT. OF COURSE, IF YOU HAVE ANY QUESTIONS ABOUT ANY GIVEN MATTER, DO NOT HESITATE TO CONTACT THE PLANNING DEPARTMENT IN THE CITY HALL ANNEX, 4403 DEVILS GLEN ROAD, BETTENDORF, IOWA (344-4100).

**MEETING NOTICE
BOARD OF ADJUSTMENT
APRIL 14, 2011
5:00 P.M.**

PLACE: Bettendorf City Hall Council Chambers, 2nd Floor, 1609 State Street

1. Roll Call: Falk _____, Howe _____, McElhiney _____, Stelk _____, Voelliger _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of March 10, 2011.
4. The Board to hold a public hearing on the following items:
 - a. Case 11-015; 3333 - 18th Street (R-2) - A request for a variance to allow parking in a required front yard, submitted by Gary Hintermeister.
 - b. Case 11-016; 5573 Charter Oaks Drive (R-1) - A request for a variance to allow a 6-foot high fence in a required front yard setback, submitted by Robert Huber.
 - c. Case 11-017; 3498 Field Sike Drive (R-1) - A request for a variance to allow a 6-foot high fence in a required front yard setback, submitted by Shadrack Roberts.
 - d. Case 11-018; 4000 Middle Road (C-2) - A request for a variance to allow an additional on-premises identification sign on a non-street frontage and to increase the allowable signage square footage from 300 square feet to 330 square feet, submitted by Ron Crist.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND OTHER APPLICABLE FEDERAL AND STATE LAWS, ALL PUBLIC HEARINGS AND MEETINGS HELD OR SPONSORED BY THE CITY OF BETTENDORF, IOWA, WILL BE ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES. PERSONS REQUIRING AUXILIARY AIDS AND SERVICES SHOULD CONTACT BETTENDORF CITY HALL AT (563) 344-4000 FIVE (5) DAYS PRIOR TO THE HEARING OR MEETING TO INFORM OF THEIR ANTICIPATED ATTENDANCE. TEXT TELEPHONE (TTY) IS AVAILABLE AT (563) 344-4175. IN ADDITION, PERSONS USING TEXT TELEPHONE HAVE THE OPTION OF CALLING VIA THE IOWA COMPASS VOICE/TTY BY DIALING (800) 735-2942.

The following are minutes of the Bettendorf Board of Adjustment and are a synopsis of the discussion that took place at this meeting and as such may not include the entirety of each statement made. The minutes of each meeting do not become official until approved at the next board meeting.

**MINUTES
BETTENDORF BOARD OF ADJUSTMENT
MARCH 10, 2011
5:00 P.M.**

Chairman Stelk called the meeting to order at 5:00 p.m.

Item 1. Roll Call

PRESENT: Falk, Howe, Stelk, *Voelliger
ABSENT: McElhiney
STAFF: Connors, Fuhrman, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of December 9, 2010.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of December 9, 2010 be approved as submitted.

ALL AYES

Motion carried.

Item 4. The Board to review and approve the 2010 Board of Adjustment Annual Report.

Howe commented that there has been a substantial reduction in the number of variance requests, adding that it appears as though the zoning ordinance revisions that have been made are in keeping with the expectations of the community.

On motion by Voelliger, seconded by Falk, that the 2010 Board of Adjustment Annual Report be approved as submitted.

ALL AYES

Motion carried.

Annual Report is Annex #2 to these minutes.

Item 5. Election of Officers.

On motion by Howe, seconded by Voelliger, that Stelk and McElhiney remain in their offices of Chairman and Chairman Pro Tem, respectively.

ALL AYES

Motion carried.

Item 6. The Board to hold a public hearing on the following items:

- a. Case 11-009; Lot 1, Hunter Meadows Commercial Park Second Addition (SW corner of 53rd Avenue and Falcon Avenue (C-2) - A request for a special use permit to allow a drive-up window, submitted by McDonald's.

Stelk asked if there was an affidavit of publication. Soenksen stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #3 to these minutes.

Soenksen reviewed the staff report. Staff report is Annex #4 to these minutes. He explained there is no requirement for establishment of a hardship for special use permit requests, only for variance requests.

Stelk asked if there was anyone present wishing to speak in favor of the request.

Ted Rebitzer, representing the applicant, stated that except for the branding elements that will appear on the restaurant, the structure will be very similar in appearance to the other buildings in the area. He indicated that a neighborhood meeting had been held and that some of the concerns of the residents will be incorporated into the final site development plan which will be submitted next week. Rebitzer stated that while many of the neighbors expressed concern about a reduction of property values, his research indicates that the opposite is true. He explained that of the 9 homes that have been sold recently that are located in close proximity to the commercial uses in the area, all but one were sold for a higher price than they were purchased. He stated that the home that did not sell for more was part of a relocation buyout, adding that this is typical of that kind of transaction.

Rebitzer stated that McDonald's has very strict guidelines on franchise operation with regard to keeping the property in good condition which includes keeping the property free of trash. He requested that he be given the opportunity to rebut any concerns that neighbors may express.

Howe asked what the hours of operation would be. Rebitzer explained that the franchisee would determine when the store would be open, adding that the restaurant will serve breakfast, lunch, and dinner.

Dave Lundy, representing Tom Lundy's estate, expressed support for the request. He stated that he and his brother Curtis Lundy feel that as one of the premier intersections in Bettendorf, the use is appropriate as it is compliant with the land use plan and zoning ordinance. Lundy requested that the Board approve the request in accordance with the recommendation which is a result of staff's comprehensive, objective analysis.

Stelk asked if there was anyone present wishing to speak in opposition to the request.

Dave Berntgen, 5177 Dove Court, stated that interpretation of the intent of the code and comprehensive plan is subjective. He indicated that in order to grant a special use permit, the Board must determine that a proposed use is in harmony with the area in which it is to be located, that the surrounding property will be reasonably protected, and that property values will not be diminished. Berntgen stated that he believes that a commercial development would have a negative impact on the adjacent residential properties.

Berntgen questioned why the applicant should be given a special exception that would diminish the value of the homes of owners who have paid property taxes for a considerable period of time. He stated that the applicant must establish a hardship, adding that the Board must also consider whether granting the request would impose a hardship on the neighbors while taking into consideration their public health, comfort, safety, and welfare.

Berntgen stated that he has seen children play in the commercial lots after having left Frank's Pizza. He indicated that McDonald's targets their advertising toward young children and that it is likely that the proposed restaurant would attract more of them to play there. He stated that he has neither a fence nor a dog and that it would be no problem for those children to enter his property.

Berntgen stated that some of the uses allowed in the C-2 district are more intense than others. He indicated that there is no comparison between the Red Crow Grille or Charm Boutique and a McDonald's restaurant. He stated that Section 15.22 of the code does not specifically allow a fast food restaurant and that Section 15.26.3 of the code expressly forbids a drive-in restaurant. Berntgen commented that the code is confusing to him because Section 15.23 allows a drive-up window with a special use permit which seems to be directly contradictory to other sections. He indicated that he feels that if the intent of the code is to allow a fast food restaurant in a C-2 district it would be a listed permitted use.

Berntgen explained that throughout the zoning ordinance there are many examples of requirements for minimizing the impact of a noxious use on a less intense one. He commented that it was never the intent of the ordinance for a C-2 district to be located directly adjacent to a residential neighborhood.

Berntgen stated that at the neighborhood meeting he had asked where in Bettendorf a fast food restaurant is located so close to a residential home and was given the example of Burger King on Devils Glen Road. He explained after viewing the properties he found that the homes in question are on an unimproved street and certainly do not resemble the homes in his neighborhood. He stated that he had done further research and discovered that the homes in question are not in an R-2 district, but in an A-2 district. Berntgen asked if there are any locations in Bettendorf where a fast food restaurant is located next to an R-2 district. He commented that the Seeds restaurant cannot be used for comparison as it is located across the street from the homes. He added that the

drive-up windows are also dissimilar in that McDonald's uses a speaker for communication.

Berntgen stated that the property where his home is now located was rezoned to R-2 from C-5 in 1992. He added that the C-5 district was intended to buffer the residential subdivisions to the south from the commercial property further north. He explained that the developer of the property had requested a rezoning because he found that the property in question was not marketable, adding that most people consider the rezoning to be a mistake. Berntgen stated that he feels that the unintended consequences of that mistake should be mitigated rather than to skirt the rules of the ordinance and allow a special use in place of an allowed use.

Berntgen stated that he does not believe that there is any public need for a McDonald's restaurant at the proposed location. He added that it should be located somewhere else in Bettendorf. He reiterated that he does not believe that the commercial uses on the east side of 18th Street are similar in intensity to a McDonald's restaurant, the majority of which are open during limited hours of the day.

Berntgen stated that the Board must carefully consider the impact of light, noise, and smells on the abutting residential properties. He requested that the Board not make another mistake like the rezoning of the C-5 property in 1992. He indicated that he does not believe that adequate evidence has been presented to indicate that property values will not be negatively affected. He stated that even though he had purchased his property subsequent to the rezoning, oftentimes circumstances change. He added that he could have had no way to know that a fast food restaurant would be located next to his property. Berntgen stated that the city never intended to contribute to the devaluation of residential property as he claims occurred during the housing bubble when the value of many houses declined.

Berntgen suggested that the Board impose conditions related to hours of operation, noise generation, restrictions on truck deliveries and garbage collection, lighting, and screening.

Julie Berntgen, 5177 Dove Court, read a letter opposing the request from Mandy Brown of 5253 Dove Court. Letter is Annex #5 to these minutes.

Pete Moldt, 5131 Dove Court, asked for clarification of two items noted on the site plan. Richard Panner, representing the applicant, explained that the first item that Moldt had indicated is a trash corral and the second a storage building. Moldt stated that the trash corral is only 75 feet from the Berntgen property, adding that he does not believe that the statement in the staff report regarding the distance from the restaurant to the nearest residential property is accurate. He indicated that he feels that the distance should be measured from the trash corral which means that the proposed restaurant is closer to residential property than any of the examples cited in the report.

Penny Sue Jagers, 5200 Dove Court, expressed concern about the noise that will be generated by the restaurant. She indicated that the speakers for the drive-up window are located such that she believes that they will create a nuisance. Jagers stated that

she has learned that the drive-up windows of 71% of the McDonald's restaurants in the Iowa Quad Cities are open 24 hours per day. She stated that even though she has a 6-foot high fence, there will not be an adequate buffer to protect her from the noise. She reiterated the concern about trash pick-up and truck deliveries occurring during normal sleeping hours.

David Fenton, 5182 Dove Court, stated that he is opposed to the proposed restaurant being located next to a residential neighborhood as there are more appropriate locations in Bettendorf. He expressed concern about the impact of traffic, noise, smells, litter, and congregations of youth. He stated that none of the other fast food drive-up restaurants in Bettendorf abut residential property that is intended to remain so per the comprehensive plan. Fenton stated that he believes that staff misrepresented the fact that restricting access to Falcon Avenue only will reduce traffic congestion on 53rd Avenue. He stated that approximately 80% of sales at fast food restaurants occur at the drive-up window. He indicated that during a 12-hour period, a typical fast food restaurant has approximately 1200 customers. He stated that there are no sidewalks in the area and so it is destined to become primarily a drive-up restaurant, although some will enter the store. He questioned why McDonald's was not asked to provide traffic information or customer volumes. Fenton stated that because most customers will enter the site from 53rd Avenue, it will create traffic congestion which is not in the best interests of the citizens of Bettendorf. He suggested that a more appropriate zoning for the property in question would be C-5 and that the City should acquire the property and rezone it. He indicated that the City should then use it for commercial office space. He acknowledged that the applicant would be allowed to build the restaurant without a drive-up window with no further action by the city. He stated that granting the special use request would exacerbate the mistake that was made to rezone the abutting properties in 1992. Fenton stated that the noise from the speakers would mean that residents would not be able to keep their windows open.

Connors commented that one of the first things that city staff had requested of the applicant is a traffic study. He explained that the traffic study, which was completed at the applicant's expense, did not show that a traffic signal light would be warranted at the Falcon Drive intersection with 53rd Avenue.

There being no one else present wishing to speak in favor of or in opposition to the request, Stelk closed the public hearing.

Voelliger commented that the area in question has been controversial for many years because the developer had been unable to sell many of the lots. He explained that the City Council had granted the developer permission to rezone the area south of Falcon Avenue to residential. He indicated that the residents on Lindenwood Drive and Dove Court should have been aware of the fact that their homes are located adjacent to a commercial district when they were purchased. Voelliger stated that there is no way to control what kind of development may take place on a vacant lot.

Howe stated that while he appreciates the concerns that were expressed about having a fast food restaurant near a residential neighborhood, most of them are not in the Board's purview. He expressed concern about the traffic patterns, the hours of

operation, and the noise issue. He asked if consideration had been given to utilizing technology such that a loud speaker would not be necessary. Ross Yeschek, representing the applicant, stated that the speakers will be directed such that as little noise as possible reaches the residential properties. He explained that the screening that will be used will aid in that effort as well. Howe asked if there is any data available regarding the decibel level generated by the speakers. Yeschek stated that he does not have that available right now, but could obtain it. He indicated that some of the McDonald's restaurants in the area had used the face to face drive-up window rather than a speaker system, but that it had not worked very well.

Howe asked if staff had given any consideration to the noise that will be generated by the development. Soenksen explained there are two developments that use speakers and are near residential neighborhoods. He indicated that the distance from the speaker to the nearest residential structure is 137 feet at Burger King and 151 feet at the car wash on Devils Glen Road. Falk commented that the physical presence of a vehicle between the speaker and the residential homes will likely muffle the sound.

Howe stated that he does not see a preponderance of evidence to suggest the applicant's request should be denied.

On motion by Howe, seconded by Voelliger, that the special use permit to allow a drive-up window be approved in accordance with the Decision and Order.

Soenksen clarified the fact that the proposed development is not for a drive-in restaurant as was indicated by one of the objectors. He explained that an example of a drive-in restaurant as defined by the ordinance is a Sonic restaurant. Howe commented that he believes that the Board is aware that the request is for a traditional drive-up window.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

*At this time, Voelliger left.

- b. Case 11-010; 4513 Stone Haven Drive (R-2) - A request for a variance from the required established setback from 39 feet to 25 feet to allow for construction of a garage, submitted by George and Toni Hallas.

Stelk asked if there was an affidavit of publication. Soenksen stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #3 to these minutes.

Soenksen reviewed the staff report. Staff report is Annex #7 to these minutes.

Stelk asked if there was anyone present wishing to speak in favor of the request.

George Hallas, the applicant, explained that he had been unaware of the established setback requirement. He commented that the proposed structure will be similar in appearance to the house.

Howe stated that while there is no visible hardship, there is a large disparity between the front yard setbacks in the neighborhood. He expressed concern that the structure, once completed, will overwhelm the neighborhood. He stated that is in support of the request.

Falk asked if the proposed structure would cause a violation of the garage to living area ratio requirement. Soenksen stated that it would not as some of the new space would be designated as non-vehicle storage.

Falk expressed concern about the appearance of the structure once the addition is complete. He asked if the applicant had considered placing the addition alongside the existing garage and eliminating the need for a variance. Hallas explained that if the garage is placed further back, it would impinge on the view from the kitchen and breakfast room windows. He added that none of the neighbors with whom he spoke had expressed any objections. Howe commented that because there is a large variation in the neighborhood with regard to the appearance of the homes, the proposed addition will not appear to be obtrusive.

On motion by Howe, seconded by Falk, that the variance from the required established setback from 39 feet to 25 feet to allow for construction of a garage be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 6:25 p.m.

These minutes and annexes approved

John Soenksen
City Planner



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

April 14, 2011

Staff Report

Case No. 11-015

Location: 3333 – 18th Street

Applicant: Gary Hintermeister (for Bettendorf High School)

Zoning Designation: R-1, Single-family Residence District

Request: Variance to allow parking in a required front yard setback.

Background Information and Facts

The site of this request is Bettendorf High School on 18th Street (see Attachment A – Location Map). The applicant is requesting permission to allow parking in a required front yard in the area that currently serves as a buffer/median between the front (west) parking lot and 18th Street (see Attachment B – Site Plan).

Staff Analysis

The request is part of a major renovation being planned at the school which includes a new theatre and new/relocated front entrance. The applicant states the following reasons for the request:

- The proposed parking configuration will allow ADA-compliant parking in front of the new entrance.
- The proposed parking configuration will allow parking within close proximity to the new main entrance for visitors and persons reporting to the new/relocated administrative offices.
- The location allows security officer(s) to have a better line-of-sight view for non-students approaching the main entrance to the building.

The minimum front yard setback required for this zoning district (R-1, Single-family) is 30 feet. Based on the attached site plan, it appears that the proposed parking configuration will reduce that setback to 15 feet.

It is estimated that 11 trees will be removed from the proposed parking area as a result of this project. As a result, there are three areas of concern that may arise:

1. The existing greenspace area between the front driveway and 18th Street serves as a buffer to the adjacent residences located across 18th Street. This reduction of the buffer area will be in addition to the fact that the new auditorium will be closer to 18th Street than the existing structure.
2. Many concerts and drama events at the school are scheduled after dark. The design of the proposed parking area means that vehicle headlights will be pointed toward the adjacent residential area.

3. Staff has concerns about drivers backing out of parking spaces at the same time pedestrian/vehicular traffic is utilizing the driveway.

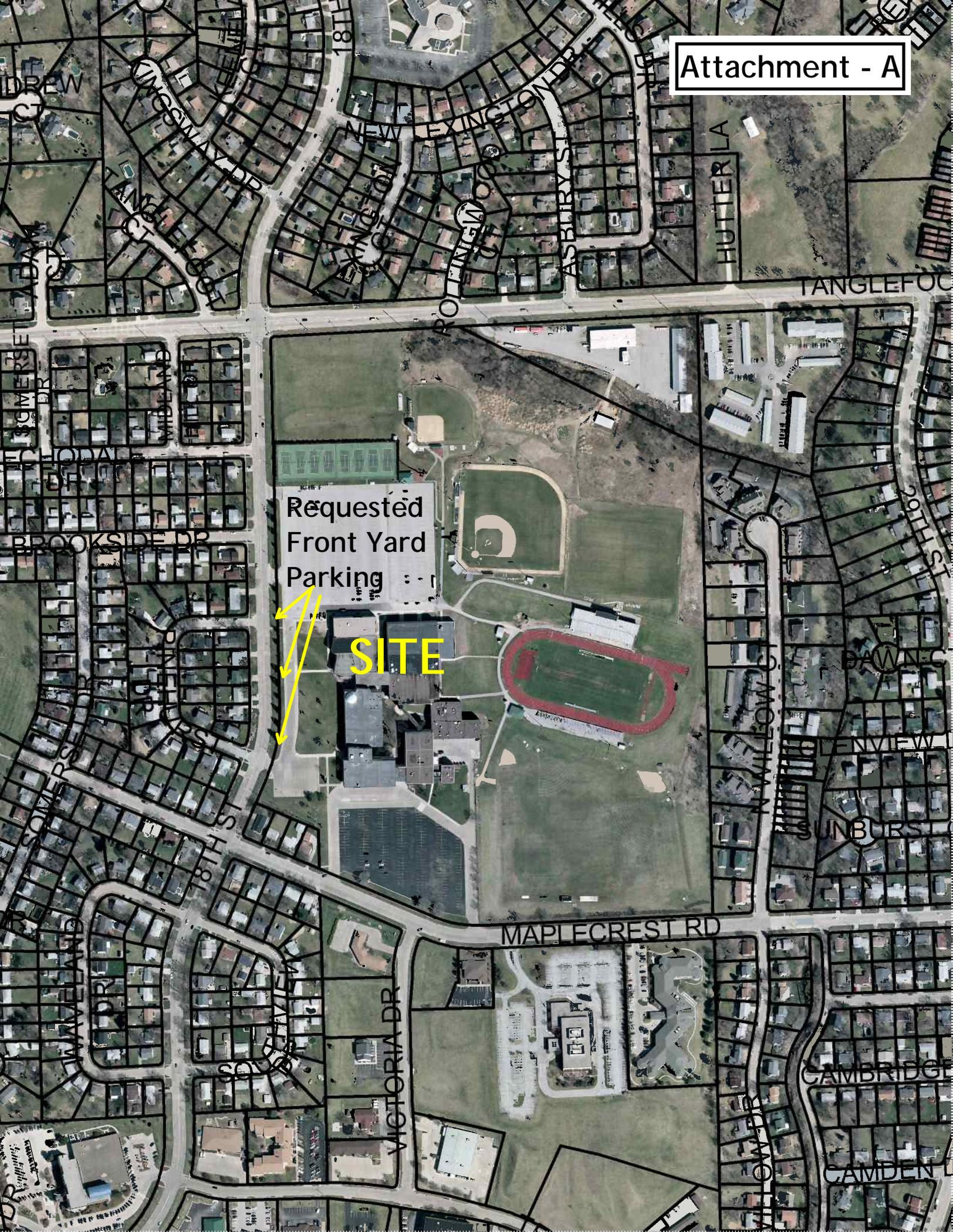
Having raised the above concerns, it is also acknowledged that a similar parking situation (parking in the front by the main entrances and no buffering between car headlights and the adjacent houses) has existed at Pleasant Valley High School for numerous years without any reported serious problems (see Attachment C - PV High School.) The only serious car/pedestrian accident at that location (approximately five years ago) resulted after a homecoming parade and rally and was not related to the concerns raised in the above analysis. At the Pleasant Valley High School site, there is no vegetation separating the front parking area and the homes across the street. According to the plan submitted for Bettendorf High School, a significant number of trees will be planted separating the parking and homes across the street (see Attachment D – Landscape Plan).

Staff Recommendation

Staff cannot identify a hardship other than the concerns raised by the applicant for available parking in accordance with the Americans with Disabilities Act.

Respectfully submitted,

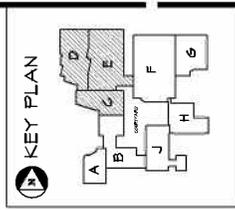
John Soenksen
City Planner



Requested
Front Yard
Parking

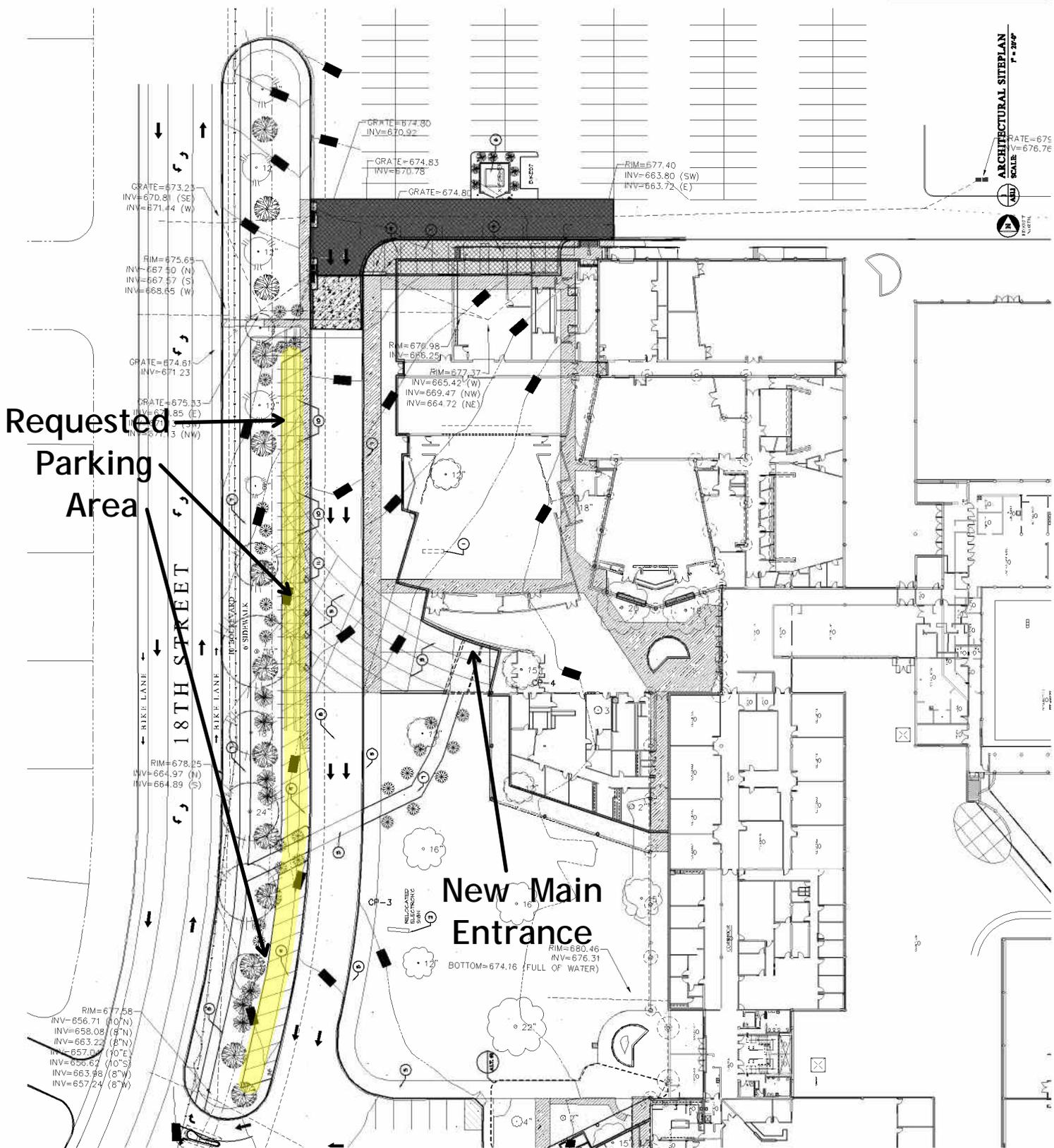
SITE

Attachment - B



ARCHITECTURAL SITEPLAN
 SCALE: 1" = 20'-0"
 DATE: 11/15/11
 DRAWN BY: [Signature]

- DRAWING AND KEY NOTES**
1. RELOC EXISTING ELECTRONIC SIGN AND PROVIDE AS SHOWN IDENTIFY ALL UTILITIES.
 2. RELOCATED EXISTING ELECTRONIC SIGN PROVIDE AS SHOWN IDENTIFY ALL UTILITIES. PROVIDE 12" MIN. CONC. CURB TO SEPARATE FROM SIDEWALK TO SANITARY LINE.
 3. PROVIDE JOINT FLEXION PAVEMENT COMPARTMENT - SEE DETAILS.
 4. PROVIDE REINFORCED CONCRETE CURB AS SHOWN.
 5. PROVIDE 12" MIN. CONC. CURB TO SEPARATE FROM SIDEWALK TO SANITARY LINE.
 6. PROVIDE 12" MIN. CONC. CURB TO SEPARATE FROM SIDEWALK TO SANITARY LINE.
 7. PROVIDE 12" MIN. CONC. CURB TO SEPARATE FROM SIDEWALK TO SANITARY LINE.
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 15. PROVIDE 12" MIN. CONC. CURB TO SEPARATE FROM SIDEWALK TO SANITARY LINE.
 16. PROVIDE 12" MIN. CONC. CURB TO SEPARATE FROM SIDEWALK TO SANITARY LINE.



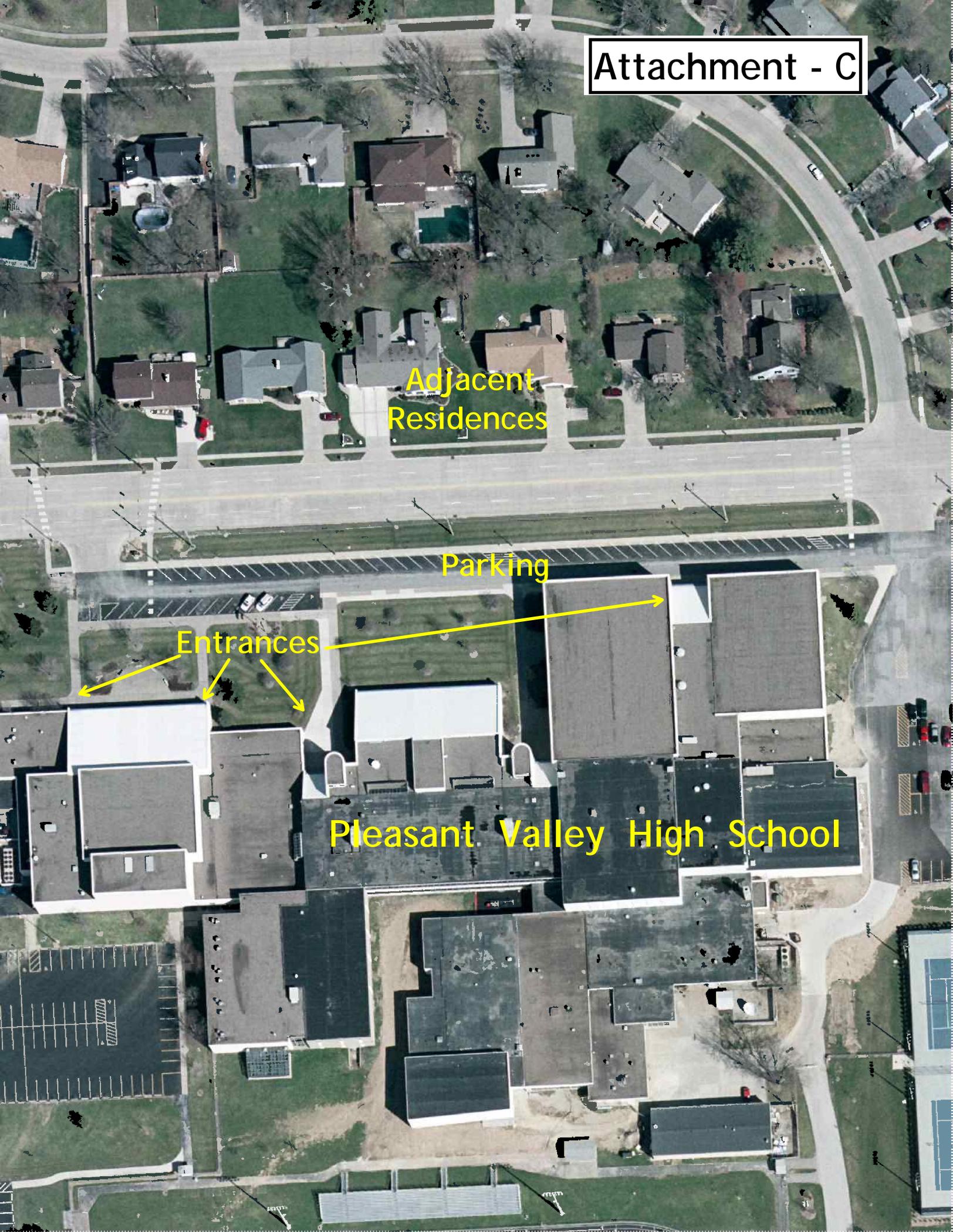
Attachment - C

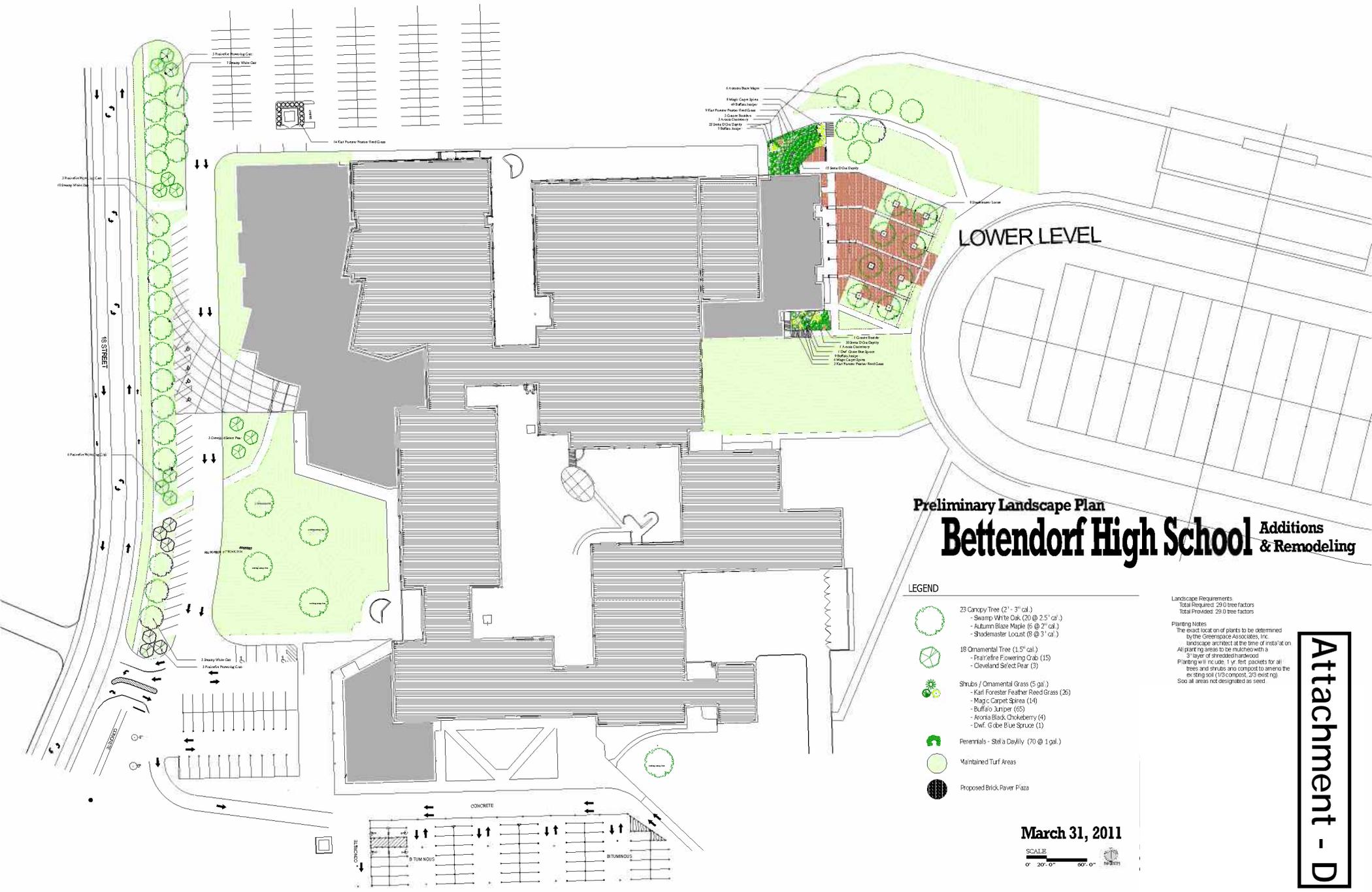
Adjacent Residences

Parking

Entrances

Pleasant Valley High School





Preliminary Landscape Plan
Bettendorf High School Additions & Remodeling

- LEGEND**
- 23 Canopy Tree (2' - 3" cal.)
 - Swamp White Oak (20 @ 2.5" cal.)
 - Autumn Blaze Maple (6 @ 2" cal.)
 - Shademaster Locust (6 @ 3" cal.)
 - 18 Ornamental Tree (1.5" cal.)
 - Prairie Flowering Crab (15)
 - Cleveland Select Pear (3)
 - Shrubs / Ornamental Grass (5 gal.)
 - Karl Forester Feather Reed Grass (26)
 - Magic Carpet Spirea (14)
 - Buffalo Juniper (65)
 - Aronia Black Chokeberry (4)
 - Dwarf Globe Blue Spruce (1)
 - Perennials - Stella Cavilly (70 @ 1 gal.)
 - Maintained Turf Areas
 - Proposed Brick Paver Plaza

Landscape Requirements
 Total Required: 290 tree factors
 Total Provided: 290 tree factors

Planting Notes:
 The exact location of plants to be determined by the Greenspace Associates, Inc. landscape architect at the time of installation on All planting areas to be mulched with a 3" layer of arched hardwood. Planting will include 1 yr. first packets for all trees and shrubs and compost to amend the existing soil (1/2 compost, 2/3 soil). See all areas not designated as seed.

March 31, 2011

SCALE
 0" 20'-0" 60'-0" NORTH

Attachment - D

Case No. 11-015

**APPEAL AND APPLICATION TO THE ZONING BOARD OF ADJUSTMENT
OF BETTENDORF, IOWA**

Part 1. Property Involved.

Street Address BETTENDORF HIGH SCHOOL, 3333 18th STREET
Legal Description of the property. _____

Part 2.

Applicant Name GARY HINTERMEISTER Phone 503-355-1856
Address DOWNING ARCHITECTS FAX 503-355-1857
2415 18th St. BETTENDORF

Owner Name BETTENDORF COMMUNITY SCHOOLS Phone 503-359-3681
Address 729 21st STREET FAX 503-449-1095
BETTENDORF, IA

Agent _____ Phone _____
Address _____ FAX _____

Part 3. This application is for the following: (check at least one)

- 1. Variance/Exception. Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:
 - (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
 - (b) That it will not impair an adequate supply of light and air to adjacent property.
 - (c) That it will not unreasonably increase the congestion in public streets.
 - (d) That it will not increase the danger of fire or of the public safety.
 - (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
 - (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.

- ____ 2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:
 - (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
 - (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
 - (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
 - (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
 - (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
 - (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.

____ 3. Other. _____
(Attach a separate sheet and explain in detail.)



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

April 14, 2011

Staff Report

Case No. 11-016

Location: 5573 Charter Oaks Drive

Applicant: Robert Huber

Zoning Designation: R-1, Single-family Residence District

Request: Variance to allow a 6-foot fence within a required front yard setback.

Background Information and Facts

The site is located at the southwest corner of Moencks Road and Charter Oaks Drive. The applicant would like to place a 6-foot high fence adjacent to, and within 19 feet of, Moencks Road (see Attachment B – Plot Plan). Because the request involves a corner lot, the proposed fence would be located within a front yard as defined by Code.

Staff Analysis

Moencks Road has recently been improved and has a steady amount of traffic. Although the proposed fence would be located within the required setback, it would still be set back 19 feet from the property line adjacent to Moencks Road. Therefore, staff feels that the request will not give an intrusive appearance to the east side of the property.

In the past, the Board has found that the double front yard setback for corner lots has posed a legitimate hardship for fence placement if the fence is placed in an appropriate manner.

On July 8, 2010 the Board approved a similar request at 3493 Adele Lane. The circumstances in that case mirror the reasons stated in the present request:

- The double front yard requirement of the corner lot.
- The desire to place a privacy fence next to a street that was becoming busy due to recent roadway improvements (north end of Devil Glen Road)
- The owner in the previous case placed the fence 15 feet back from the adjacent roadway (see Attachment C – Previous Plot Plan). The proposed fence will be set back 19 feet.

Staff Recommendation

Staff feels that this request is almost identical to the hardship previously identified and approved by the Board.

Respectfully submitted,

John Soenksen
City Planner

CROW CREEK RD

CHARTER OAKS DR

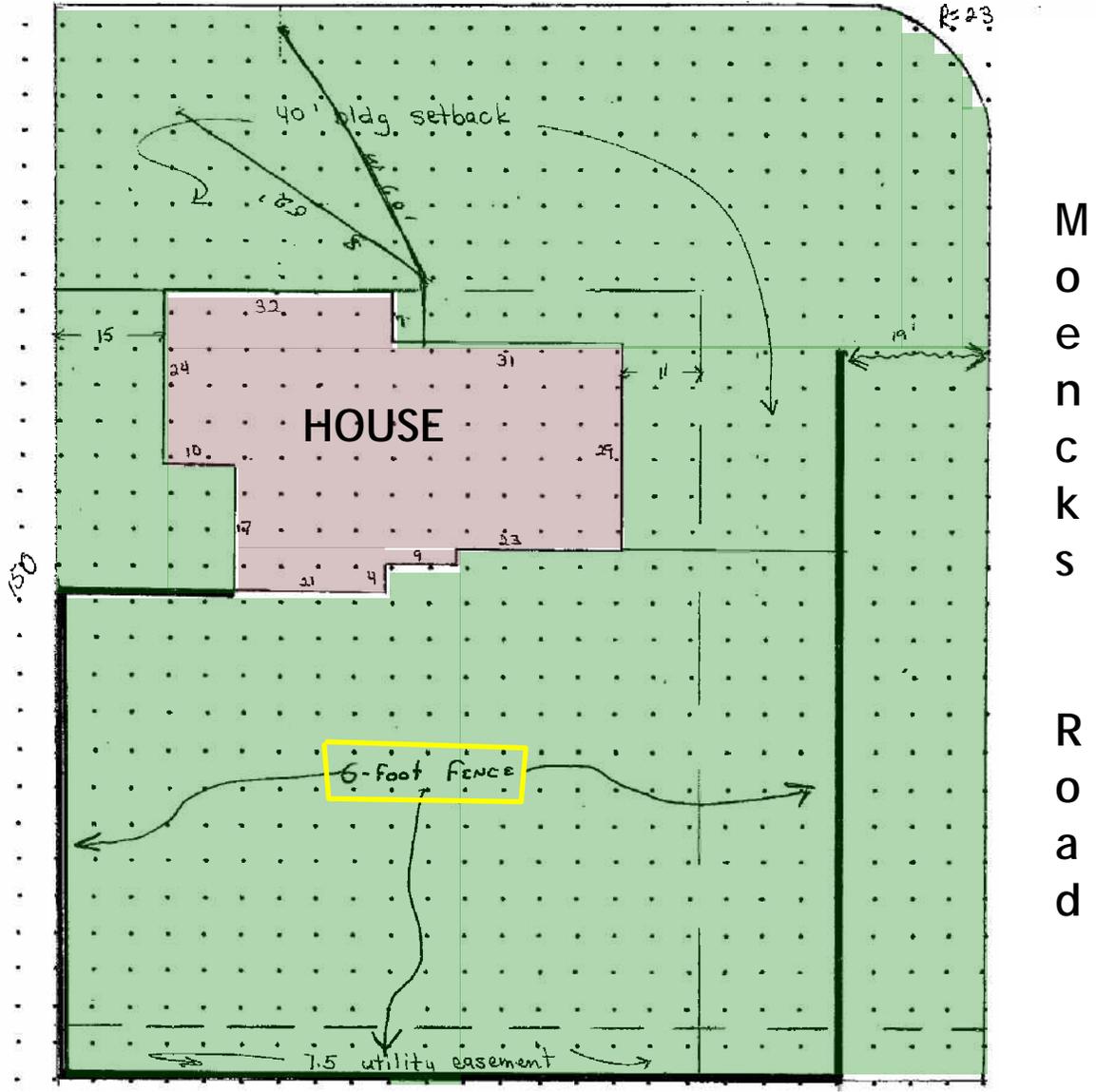
SITE

MOENCKS RD



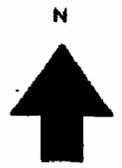
Attachment - B

Charter Oaks Drive



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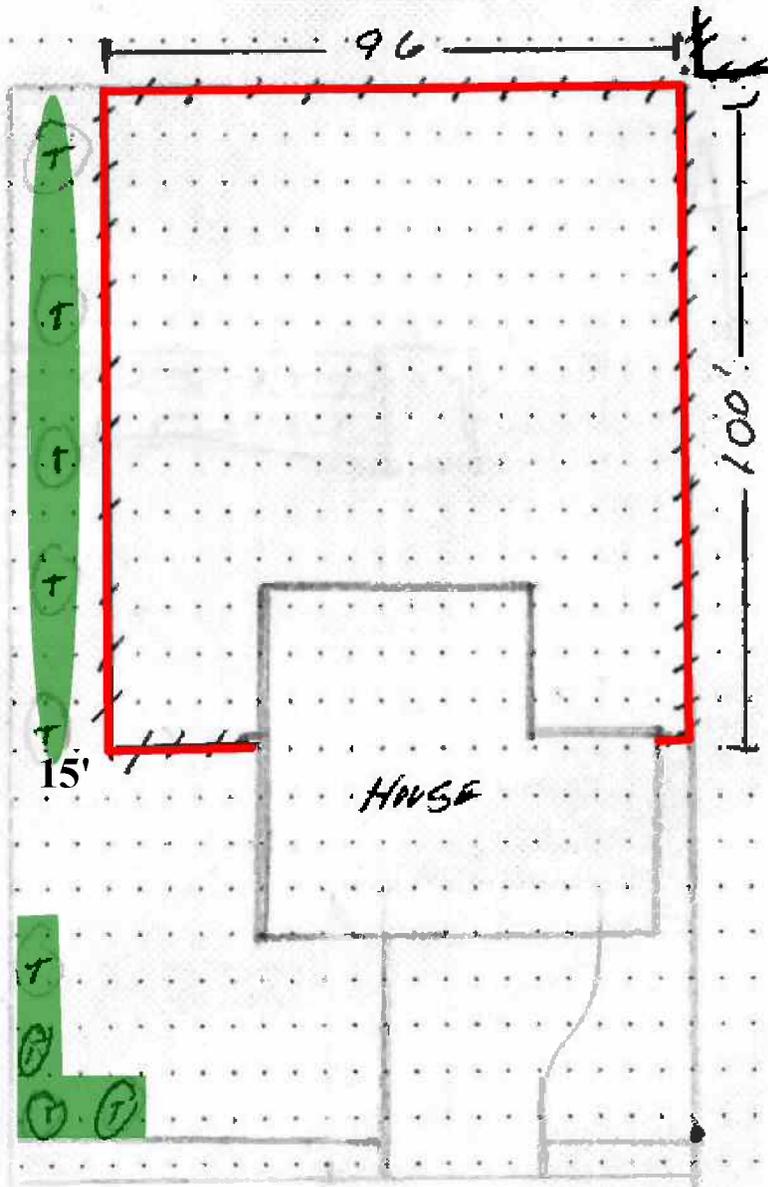


SCALE 1" = 20'

Attachment - C

Lot 42
Valleywynds
Third Add

Devils Glen



FENCE 

Tree 

Approx 325'

Adele Lane

Case No. 11-016

**APPEAL AND APPLICATION TO THE ZONING BOARD OF ADJUSTMENT
OF BETTENDORF, IOWA**

Part 1. Property Involved.

Street Address 5573 CHARTER OAKS DRIVE - BETTENDORF
Legal Description of the property. 1780 - 025 DEER RUN ADD LOT 25

Part 2.

Applicant Name ROBERT HUBER Phone 563-332-9932
Address 5573 CHARTER OAKS DR - BETTENDORF FAX _____

Owner Name ROBERT HUBER Phone 563-332-9932
Address 5573 CHARTER OAKS DR - BETTENDORF FAX _____

Agent _____ Phone _____
Address _____ FAX _____

Part 3. This application is for the following: (check at least one)

1. Variance/Exception. Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:
- (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
 - (b) That it will not impair an adequate supply of light and air to adjacent property.
 - (c) That it will not unreasonably increase the congestion in public streets.
 - (d) That it will not increase the danger of fire or of the public safety.
 - (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
 - (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.
- ____ 2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:
- (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
 - (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
 - (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
 - (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
 - (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
 - (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.
- ____ 3. Other. _____
(Attach a separate sheet and explain in detail.)



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

April 14, 2011

Staff Report

Case No. 11-017

Location: 3498 Field Sike Drive

Applicant: Shadrack Roberts

Zoning Designation: R-1, Single-family Residence District

Request: Variance to allow a 6-foot high fence in a required front yard setback.

Background Information and Facts

The site is located north of 53rd Avenue at the northwest corner of Field Sike Drive and Devils Glen Road (see Attachment A – Location Map). The applicant would like to place a 6-foot high fence surrounding the rear yard that would encroach approximately 15 feet into the front yard adjacent to Devils Glen Road (see Attachment B – Plot Plan).

Staff Analysis

Staff's evaluation revealed that there will be no line-of-sight issues affecting vehicular traffic at the intersection of Devils Glen Road and Field Sike Drive even if Devils Glen Road is widened to four lanes sometime in the future (see Attachment C – Fence Placement Illustration). Although difficult to see on Attachment C, the fence, if allowed, will be to the west of a berm adjacent to Devils Glen Road.

Although this request is similar to the one approved in July of 2010 at 3493 Adele Lane, there are some differences:

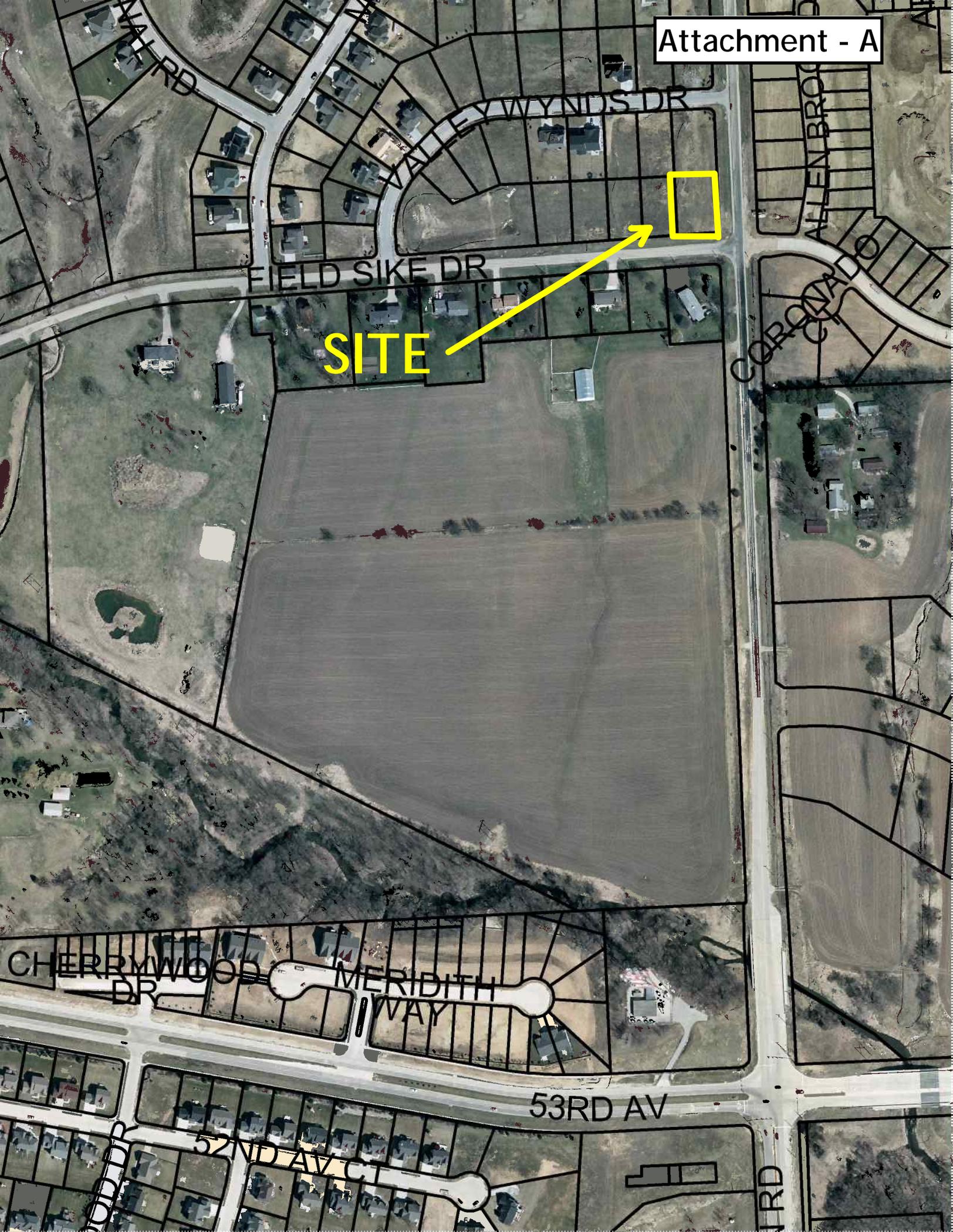
1. The berm on the property for the current case is much less pronounced than is the one at the Adele Lane property.
2. There was considerable landscaping in place on the berm at the Adele Lane property between the fence and the roadway (see Attachment D – Previous Plot Plan). This is not the case for the current variance request.
3. The fence being currently requested would be 5 feet closer to Devils Glen Road than is the fence at the Adele Lane property.

Staff Recommendation

In the previously approved case at Adele Lane, the Board expressed a comfort level because of the amount of landscaping between the fence and the roadway. While the current request is similar in many ways to the Adele Lane property for which a variance was granted, the lack of existing landscaping may not offer the Board that same comfort level.

Respectfully submitted,

John Soenksen
City Planner



SITE



WYNDYS DR

WYNDYS DR

ALLEN BROOK

FIELD SIKE DR

CORONADO

CHERRWOOD DR

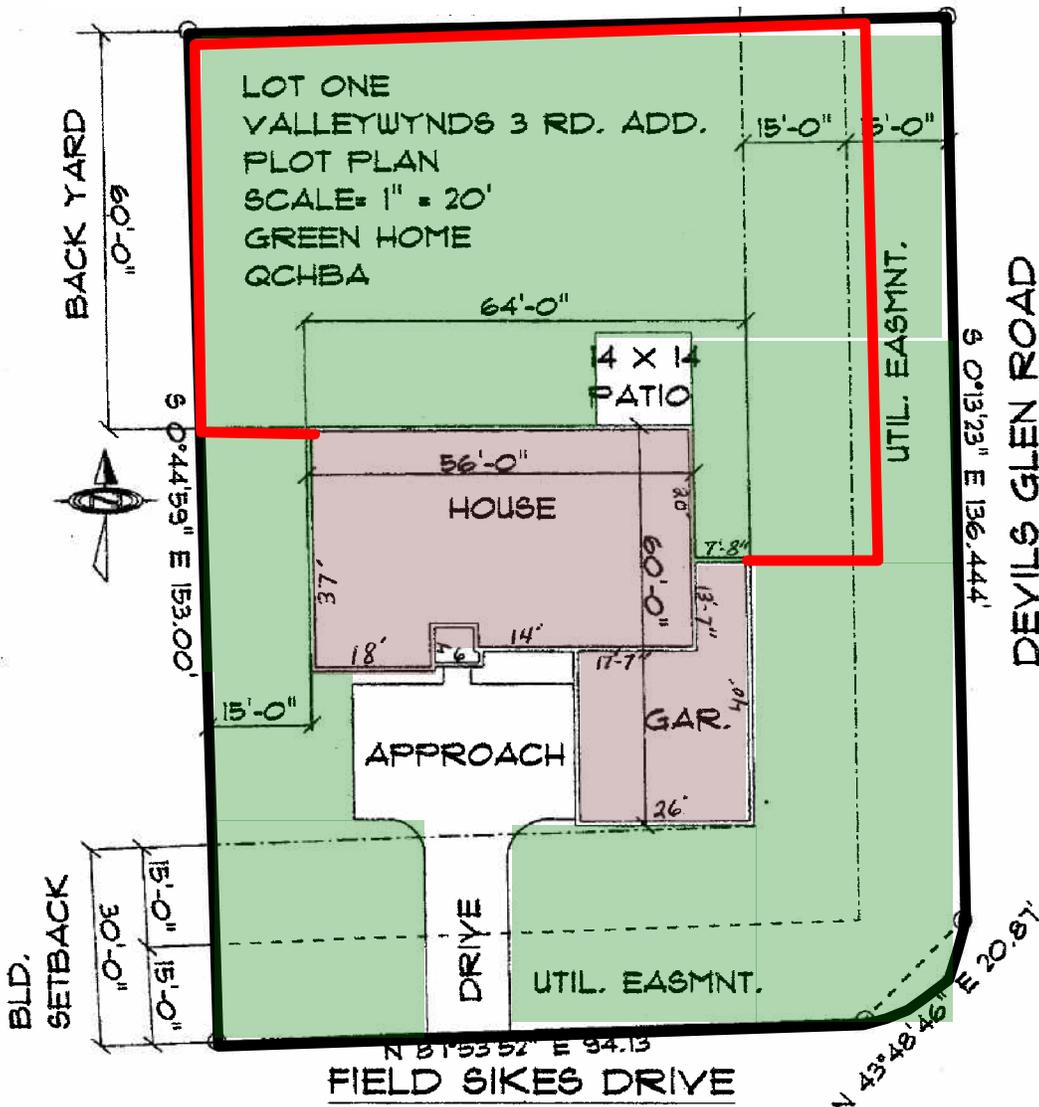
MERIDITH WAY

53RD AV

52ND AV CT

53RD AV

Attachment - B



Attachment - C

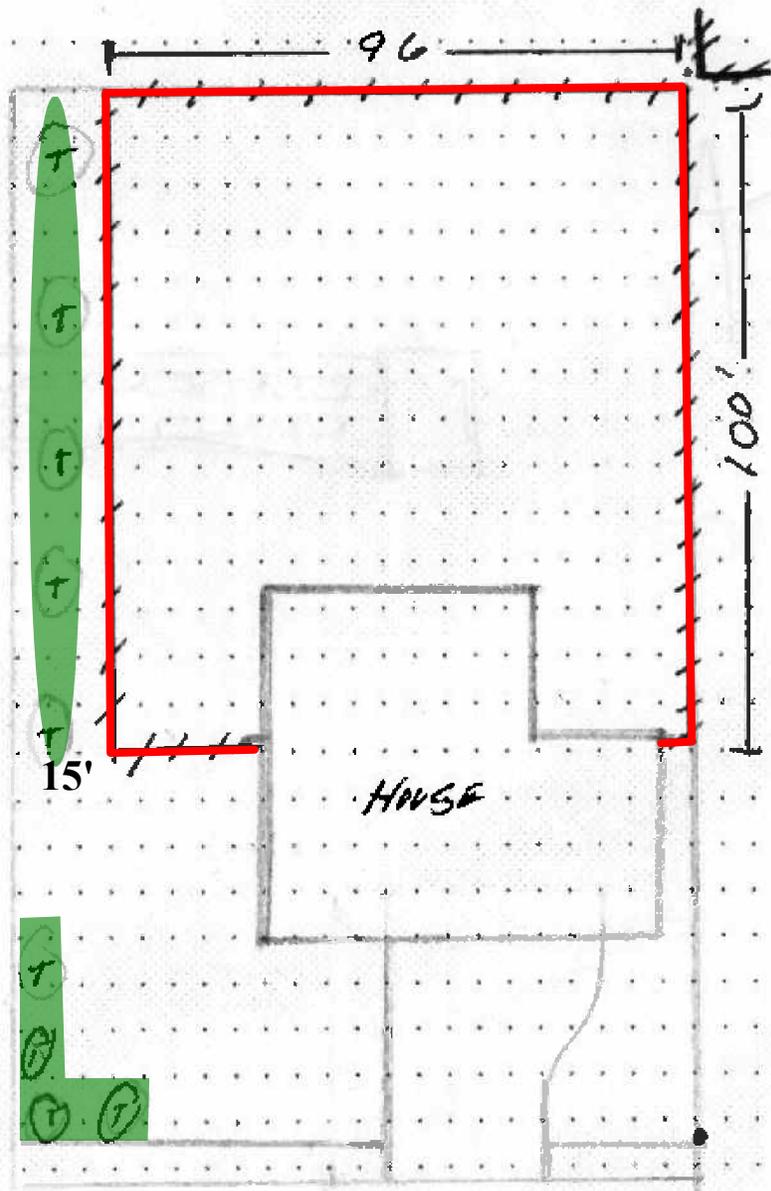


Field Sike Drive

Attachment - D

Lot 42
Valleywynds
Third Add

Devils Glen



Fence 

Tree 

Approx 325'

Adele Lane

Case No. 11-017

**APPEAL AND APPLICATION TO THE ZONING BOARD OF ADJUSTMENT
OF BETTENDORF, IOWA**

Part 1. Property Involved.

Street Address 3498 Field Side Dr. Bettendorf, IA 52722
Legal Description of the property. _____

Part 2.

Applicant Name Shadrack M. Roberts Phone 563-424-2130/564-2263
Address 3498 Field Side Dr. FAX _____ (cell)

Owner Name Shadrack M. Roberts Phone 563-424-2130
Address 3498 Field Side Dr. FAX _____

Agent _____ Phone _____
Address _____ FAX _____

Part 3. This application is for the following: (check at least one)

- 1. **Variance/Exception.** Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:
 - (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
 - (b) That it will not impair an adequate supply of light and air to adjacent property.
 - (c) That it will not unreasonably increase the congestion in public streets.
 - (d) That it will not increase the danger of fire or of the public safety.
 - (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
 - (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.

- 2. **Special Use Permit.** Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:
 - (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
 - (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
 - (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
 - (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
 - (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
 - (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.

- 3. **Other.** _____
(Attach a separate sheet and explain in detail.)

Part 4. General Information.

Section(s) of Zoning Ordinance Involved _____ Existing Zoning _____

Part 5. Reasons for Application. In the space below, give a general description of the activity desired and principal reasons why this application should be granted by the Board. If this application is for a variance, please state the hardship which the zoning ordinance imposes on the property. Use the following criteria as justification for the requested variance. Use additional sheets if necessary.

- (a) **It shall be the property owner's responsibility to show that the terms of this ordinance will impose unusual and practical difficulties or particular hardships. The hardship established by the property owner must not be SELF-IMPOSED. A self-imposed hardship is NOT justification for the approval of a variance request.**
- (b) If the variance granted is in harmony with the general purpose, intent, and spirit of this ordinance.
- (c) If the board determines that the granting of the requested variance will not serve merely as a convenience to the applicant, but will alleviate a demonstrable hardship as to warrant a variance from the official city plan as established by Ordinance No. 381 of the city, and at the same time the surrounding property will be reasonably protected.
- (d) That by granting the request for a variance substantial justice shall be done.

Request variance to allow for 6ft Privacy Fence in backyard. Devils Glen is very busy and noisy. There are also a lot of runners/bikers that pass my home daily. Sound is an issue but safety is my primary concern. I have an 18 month old child and due to the location of our back yard parallel to Devils Glen a 4ft fence does not provide adequate privacy/safety for my son. Especially with the large amount of pedestrian/bike traffic.

Part 6. Attachments. The following items are attached and are a part of this application.

- () 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street, property line, building location of existing and proposed buildings and other important features of the property. Required with all applications.
- () 2. Legal Description. (If not shown on page 1.)
- () 3. Floor plan if internal design of building is part of application.
- () 4. List additional attachments.

Part 7. Signature.

I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 31 day of MARCH 20 11.

Signature of Applicant [Signature] Signature of Owner [Signature]
 (The owner **MUST** indicate his consent to this application by signing above. Application without the signature of the owner will not be processed)

State of Iowa)
) SS
 County of Scott)

Before me the undersigned Notary Public, in and for the County and State, personally appeared applicant(s) and separately and severally acknowledge the execution of the foregoing application is his/her voluntary act and deed, for the purposes therein expressed.

Witness my Hand and Notarial Seal this 1st day of April, 20 11.
[Signature]
 Notary Public in and for Scott County, Iowa

Part 10. Filing Fee.

\$ 50.00 Single Family/Two-Family Residential Variance
 \$100.00 All Other Applications

Received by [Signature]
 Amount 850 Date 4/1/11



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

April 14, 2011

Staff Report

Case No. 11-018

Location: 4000 Middle Road

Applicant: Duck Creek Tire & Service

Zoning Designation: C-4, Automotive Service District

Request: variance to allow an additional on-premises identification sign on a non-street frontage and to increase the allowable signage square footage from 300 square feet to 330 square feet.

Background Information and Facts

This site involved is the Duck Creek Tire & Service next to Lindquist Ford on Middle Road (see Attachment A – Location Map). The applicant would like to place an additional sign on the east side of the building (see Attachment B – Sign Illustration).

Staff Analysis

This request involves two variance requests:

1. A variance to allow a sign on the non-street frontage side of the building.
2. A variance to exceed the maximum allowed signage from 300 square feet to 330 square feet.

The applicant believes that there is not enough signage exposure to vehicles on Middle Road traveling westbound because the east side of the building has no building-mounted sign. The business does have a monument sign in front of the building that offers exposure to vehicles traveling in both directions on Middle Road (see Attachment C – Monument Sign Photo).

If allowed, the sign will not be illuminated because the sign would face residential properties on Woodfield Place.

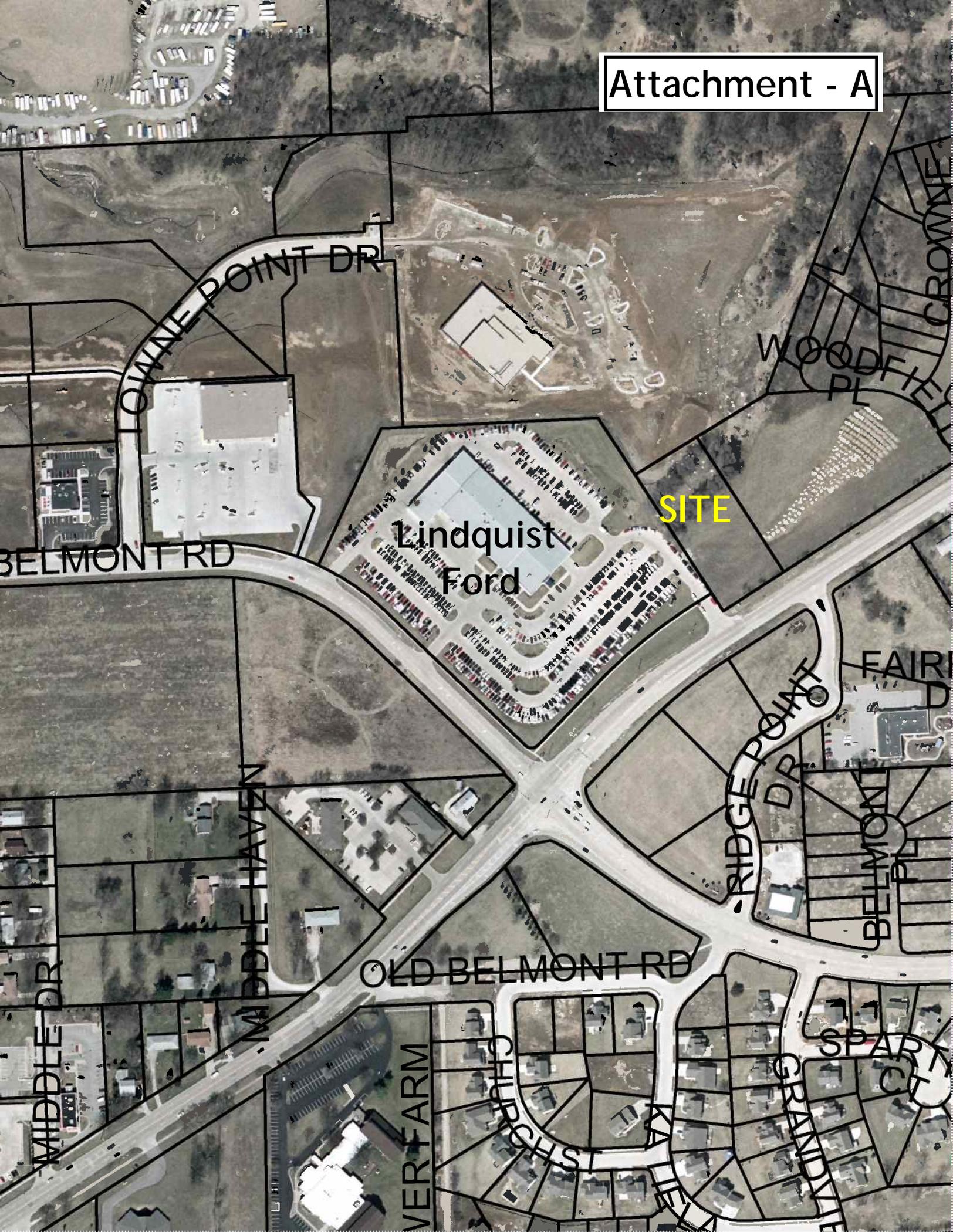
Staff Recommendation

The increase in overall signage by 30 square feet is not a significant issue. The applicant feels that, from a marketing standpoint, the lack of a sign on the east side of the building is a hardship. The applicant has been informed that he must make the case to the Board that a hardship indeed exists and that the request will not adversely impact the adjacent residential properties. At the time of this report, staff does not have sufficient evidence to support the establishment of a hardship for the sign on the non-street side of the building.

Respectfully submitted,

John Soenksen
City Planner

Attachment - A



Lindquist
Ford

SITE

O'NEIL POINT DR

BELMONT RD

WOOD PLATTE

RIDGE POINT DR

FAIR

BELMONT PL

OLD BELMONT RD

MIDDLE DR

MIDDLE HAVEN

VER FARM

CHURCH ST

SPARTA CT

GRAND

**15" LETTERS
24' IN LENGTH**

DUCK CREEK TIRE & SERVICE



Attachment - B

Attachment - C



Case No. 11-018

**APPEAL AND APPLICATION TO THE ZONING BOARD OF ADJUSTMENT
OF BETTENDORF, IOWA**

Part 1. Property Involved.

Street Address 4000 Middle Rd.
Legal Description of the property. _____

Part 2.

Applicant Name Duck Creek Tire & Service Inc. Phone 563-355-1464
Address 4000 Middle Rd. FAX 563-355-2114

Owner Name Ron Crist Phone 563-332-7852
Address 35 County Club Ct., LeClaire, IA 52753 FAX _____

Agent _____ Phone _____
Address _____ FAX _____

Part 3. This application is for the following: (check at least one)

1. **Variance/Exception.** Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:
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 - (d) That it will not increase the danger of fire or of the public safety.
 - (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
 - (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.
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 - (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
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____ 3. Other. _____
(Attach a separate sheet and explain in detail.)

