

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 (344-4055).

**MEETING NOTICE
BOARD OF ADJUSTMENT
FEBRUARY 14, 2008
5:00 P.M.**

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

1. Roll Call: Eikenberry _____, Howe _____, Koos _____, McElhiney _____, Stelk _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of January 10, 2008.
4. The Board to hold a public hearing on the following items:
 - a. Case 08-005; 1910 State Street (C-2/C-3) - A request for a variance from the requirements of the Downtown Riverfront Corridor Overlay District regarding signage (Code Section 18.12), submitted by Gray Family Investments.
 - b. Case 08-006; 1910 State Street (C-2/C-3) - A request for a variance to reduce the front yard setback requirements regarding signage, driveway placement, and parking, submitted by Gray Family Investments.
 - c. Case 08-007; 1910 State Street (C-2/C-3) - A request for a special use permit to allow a drive-up window, submitted by Gray Family Investments.
5. Other.
 - a. Case 07-116; 1838 State Street (C-3) - An appeal of the Zoning Administrator's decision to prohibit an expansion of a non-conforming use, submitted by Ed Veit. **(Reconsideration)**

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
JANUARY 10, 2008
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Eikenberry, McElhiney, Stelk
ABSENT: Howe, Koos
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 20, 2007.

On motion by McElhiney, seconded by Eikenberry, that the minutes of the meeting of December 20, 2007 be approved as submitted.

ALL AYES

Motion carried.

Item 4. The Board to review and approve the 2007 Board of Adjustment Annual Report.

On motion by Eikenberry, seconded by McElhiney, that the 2007 Board of Adjustment Annual Report be approved as submitted.

ALL AYES

Motion carried.

Item 5. Election of officers.

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

ALL AYES

Motion carried.

Item 4. The Board to hold a public hearing on the following items:

- a. Case 08-001; 2304 Spruce Hills Drive (C-2) - A request for a special use permit to allow a bakery wholesale/retail mixed use, submitted by Mel Foster Mortgage Co.

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 #2 to these minutes.

Soenksen reviewed the staff report. Staff report is Annex #3 to these minutes.

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

Mel Foster III, representing the applicant, expressed support for the request and indicated that the business owner involved is a tenant in good standing.

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

On motion by Eikenberry, seconded by McElhiney, that the request for a special use permit to allow a bakery wholesale/retail mixed use be approved in accordance with the Decision and Order.

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 08-002; 2124 State Street (C-3) - A request for a special use permit to allow a temporary seasonal outdoor sales area, submitted by Scrub Pub of Bettendorf.

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 #2 to these minutes.

Stelk opened the public hearing.

Soenksen reviewed the staff report. Staff report is Annex #5 to these minutes.

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

June Miller, the applicant, explained that the Scott County Health Department requires that there be some sort of covering over the proposed outdoor sales area. She indicated that initially she had planned to install a metal enclosure, but that staff had indicated that it would not be allowed by ordinance. Miller explained that she has waited to make a final choice with regard to the type of canopy in order to allow the Board the opportunity to offer their input.

Stelk asked if the canopy would have to be custom made to fit the specific area involved. Miller confirmed this, adding that she may place a picnic table under the covering but anticipates that most customers will pick up their food and move out of the area.

Stelk asked for clarification regarding the time period during which food would be served. Miller stated that she plans to serve between 10:00 a.m. and 2:00 p.m. and would likely have a grill and possibly a deep fat fryer.

Eikenberry commented that it seems as though it would be similar to the food service operation at Weber's in Cumberland Square.

Soenksen commented that the structure that had originally been proposed by the applicant would be considered a permanent one which would be subject to the requirements of the Downtown Riverfront Overlay Corridor District (DRCOD).

McElhiney asked if the structure would be designed such that it could be put up and down easily or if it would be relatively permanent. Eikenberry suggested that the applicant consider an awning that could be attached to the building. Miller explained that she had considered a retractable awning, but that the placement of the electrical service and landscaping make it infeasible. She added that she feels that a metal carport would be more aesthetically-pleasing. McElhiney stated that she does not feel that a metal carport would be complementary to the city's vision for the downtown, nor does she believe it would be appropriate for the applicant to install a transitory tent-like structure that might not last through severe weather.

Eikenberry suggested that staff work with the applicant to determine what type of structure would be appropriate for the proposed use.

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

On motion by Eikenberry, seconded by McElhiney, that a special use permit to allow a temporary seasonal outdoor sales area be approved in accordance with the Decision and Order.

ALL AYES

Motion carried. Decision and Order is Annex #6 to these minutes.

Connors stated that at the December 20, 2007 meeting an appeal of his decision to prohibit an expansion of a non-conforming use was approved subject to the restrictions detailed in the DRCOD ordinance. He reviewed the DRCOD performance standards with regard to used car lots, adding that staff wanted to ensure that the requirements are indeed what the Board had in mind when making their decision.

Eikenberry expressed concern about shrubbery being placed adjacent to State Street and asked whether staff believes that it is feasible. Connors confirmed this, explaining that all plantings would be installed on the applicant's property.

Stelk stated that he does not necessarily believe that the requirements of the DRCOD ordinance are practical in this instance. Connors stated that it would be very burdensome for the applicant to adhere to all of the standards in the ordinance. Eikenberry concurred.

Connors explained that if the Board wishes to modify the requirements imposed on the applicant at the last meeting, a member make a motion to reconsider the case at the next meeting.

Stelk asked if the applicant has contacted staff with regard to the requirements listed in the DRCOD ordinance. Soenksen explained that he has not received any communication from the applicant, adding that he mailed a copy of the requirements to him the day after the public hearing.

McElhiney asked if the standards reviewed by staff are part of the DRCOD ordinance or if they had been created after the previous Board meeting. Connors stated that the performance standards for the downtown corridor have been in place since 2005.

On motion by McElhiney, seconded by Stelk, that the Board reconsider Case 07-116 at its next regularly-scheduled meeting.

ALL AYES

Motion carried.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:25 p.m.

These minutes and annexes approved

John Soenksen, City Planner



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4055

February 14, 2008

Staff Report

Case No. 08-005, 08-006, and 08-007

Location: 1910 State Street

Applicant: Gray Family Investments

Zoning Designation: C-2 (Community Shopping District) and C-3 (General Business District)

Request: Variance from the requirements of the Downtown Riverfront Corridor Overlay District regarding signage (Code Section 18.12), variance to reduce the front yard setback requirements regarding signage, driveway placement, and parking, and a request for a special use permit to allow a drive-up window.

Background Information and Facts

The site is located on the west side of 20th Street between State and Grant Streets (see Attachment A – Location Map). This site involves the eastern 1/3 of the block (see Attachment B – Plat). All of the requests involve a new Hardee's Restaurant and issues related to the site surrounding the restaurant. Therefore, this single report will address all of the related issues; however, each individual issue must be acted upon separately.

Staff Analysis

The site plan illustrates each issue in different colors (see Attachment C – Site Plan):

- The sign placement in purple at the corners of 20th Street & State Street and at 20th Street & Grant Street.
- The driveway parallel to State Street in the required front yard setback in dark pink at the bottom of the site plan.
- The parking spaces in the required front yard setback along 20th Street in yellow.
- The drive-up window toward the rear of the west side of the building next to the shaded line.

Special Use Permit for a drive-up window

The drive-up window on the west side of the building would allow access from both State Street and Grant Street (follow arrows on site plan). The proposed location of the drive-up window would allow for the maximum vehicular stacking from both directions and provides a stacking area for nine vehicle separated from the parking lot area of the site. This appears to be the best and safest possible location given the configuration of the site plan. It is very similar in location and design to the drive-up facility for the McDonalds restaurant in the 2400 block of State Street. That location (McDonalds) has

proven to be safe, and stacking of vehicles does not interfere with traffic on either Grant Street or State Street. Therefore, staff recommends approval of the special use permit to allow a drive-up window as shown on the attached site plan.

Driveway in the required front yard setback parallel to State Street

When the Quad City Area Realtor Association located on the property adjacent to and west of this site, the City acquired 3 additional feet of right-of-way for sidewalk-related issues. As a result of the proposed project, the City will require an additional 7 feet of right-of-way or a total of 10 feet of additional space along State Street for sidewalk-related issues (see Attachment D – Right-of-way Illustration). The City would like to preserve the well-established trees in the area as part of an overall streetscape project for the downtown district. There is also a fire hydrant in this area that further complicates the sidewalk placement. Consequently, approximately one-half of the driveway must be located in the required front yard because of the City's acquisition of additional right-of-way. Staff therefore recognizes that half of the variance request relative to the driveway placement is due to a legitimate hardship.

Parking in the required front setback along 20th Street

Staff has identified 19 parking spaces in the required front yard setback adjacent to 20th Street (highlighted in yellow on Attachment C). Due to the fact that this site spans from State Street to Grant Street and borders 20th Street, the ordinance requires three front yard setbacks - one along each roadway. The applicant would argue that having three front yard setbacks is overly restrictive for parking lot placement on this site. This front yard setback requirement is not related to the City's acquisition of additional right-of-way and cannot be identified by staff as a legitimate hardship in the same manner as the driveway. The intent of the additional setback is to provide sufficient line-of-sight for vehicles at the intersections. This is particularly true at streets intersecting state highways. Both Grant Street and State Street are U.S. Highway 67.

Sign issues related to the Downtown Riverfront Corridor Overlay District (DRCOD)

The applicant would like to place two 15-foot high monument signs near the intersections of State Street & 20th Street and Grant Street & 20th Street (shown in purple on Attachment C). The requested signs are each 150 square feet in size and have the following components (see Attachment E – Sign Illustration):

- 8-foot 3-inch stone bases.
- Approximately 27 square feet of LED digital signage.
- A 40 square foot standard Hardee's sign on top.

The requested signs vary from the standards of the DRCOD in the following ways:

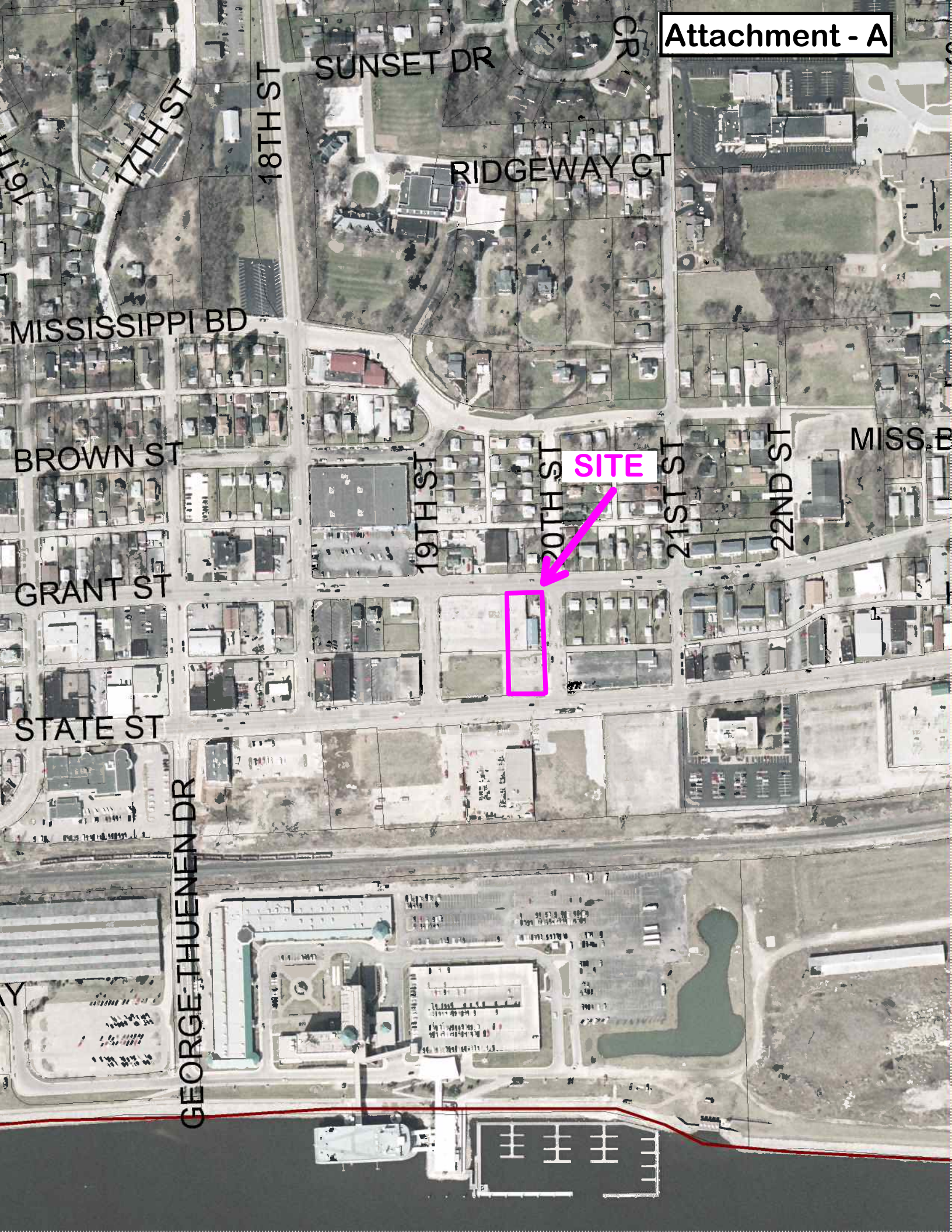
- The signs are 15 feet high instead of the 6-foot height restriction in DRCOD.
- The signs incorporate LED message centers (digital signage) that is not an allowed illumination method for signs in the DRCOD.
- The sign adjacent to State Street is proposed to be located within the required front yard setback. Although staff has identified the right-of-way issue adjacent to State Street as a legitimate hardship for a portion of the driveway issue, the placement of the sign closest to State Street would be in the required front yard setback even if the additional right-of-way had not been acquired.

Staff would make the observation that the proposed signs with stone bases in excess of eight feet and the 15-foot overall height of the signs more closely resemble pole signs than monument signs. Pole signs are not allowed in the DRCOD.

There are obviously numerous issues related to these requests. Although the issues are all related to a single project, the Board must act on each issue approving or denying each issue on its own merit.

Respectfully submitted,

John Soenksen
City Planner



SUNSET DR

RIDGEWAY CT

17TH ST

18TH ST

MISSISSIPPI BD

BROWN ST

GRANT ST

STATE ST

19TH ST

20TH ST

21ST ST

22ND ST

MISS B

GEORGE THUENEN DR

SITE



EX. SAN. MH
TOP = 574.48
INV. = 567.84 S
INV. = 567.60 N
INV. = 567.54 E
INV. = 567.49 W

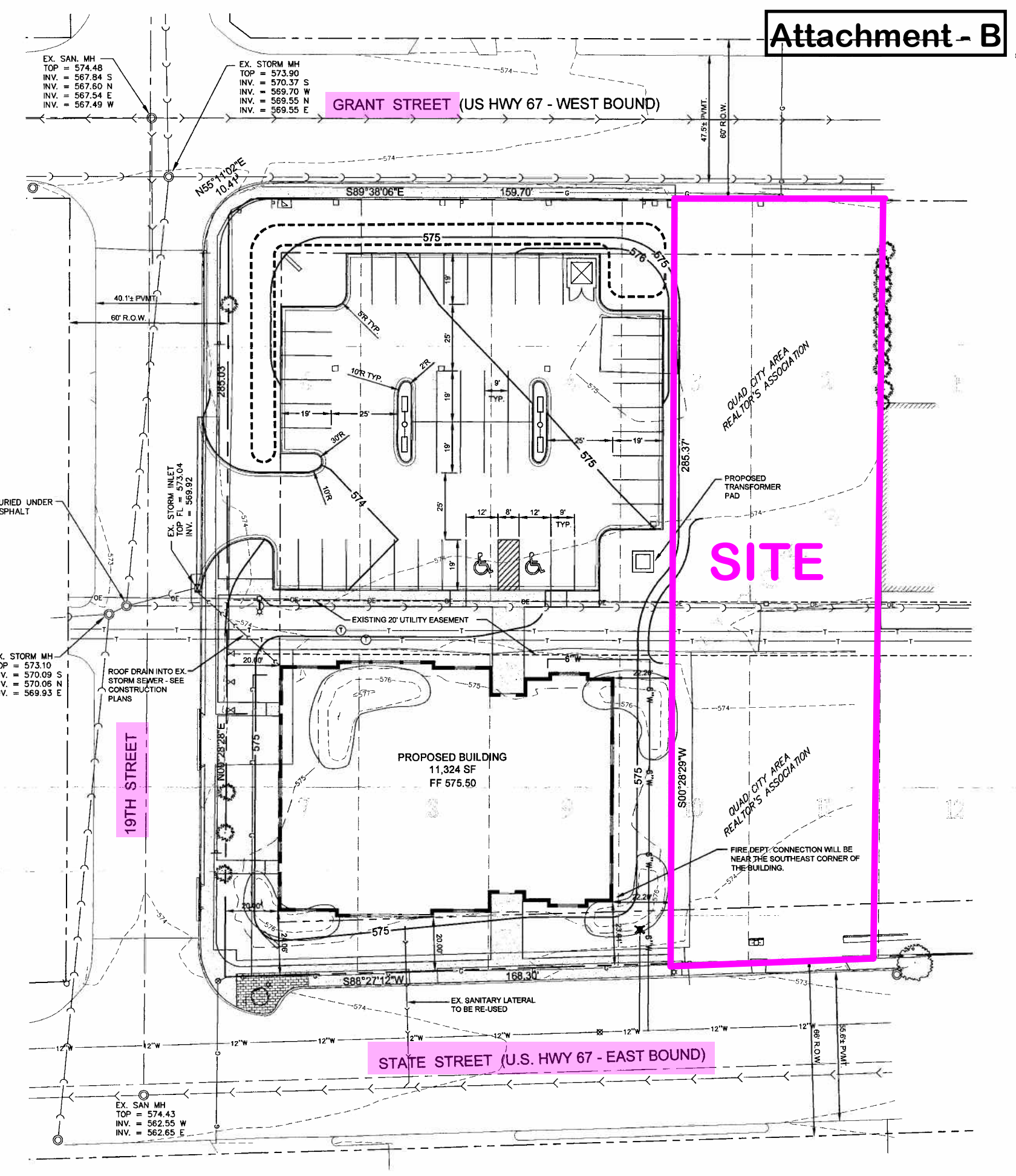
EX. STORM MH
TOP = 573.90
INV. = 570.37 S
INV. = 569.70 W
INV. = 569.55 N
INV. = 569.55 E

GRANT STREET (US HWY 67 - WEST BOUND)

19TH STREET

STATE STREET (U.S. HWY 67 - EAST BOUND)

SITE



RIED UNDER ASPHALT

ROOF DRAIN INTO EX. STORM SEWER - SEE CONSTRUCTION PLANS

EX. STORM INLET
TOP FL = 573.04
INV. = 569.92

PROPOSED BUILDING
11,324 SF
FF 575.50

QUAD CITY AREA REALTOR'S ASSOCIATION

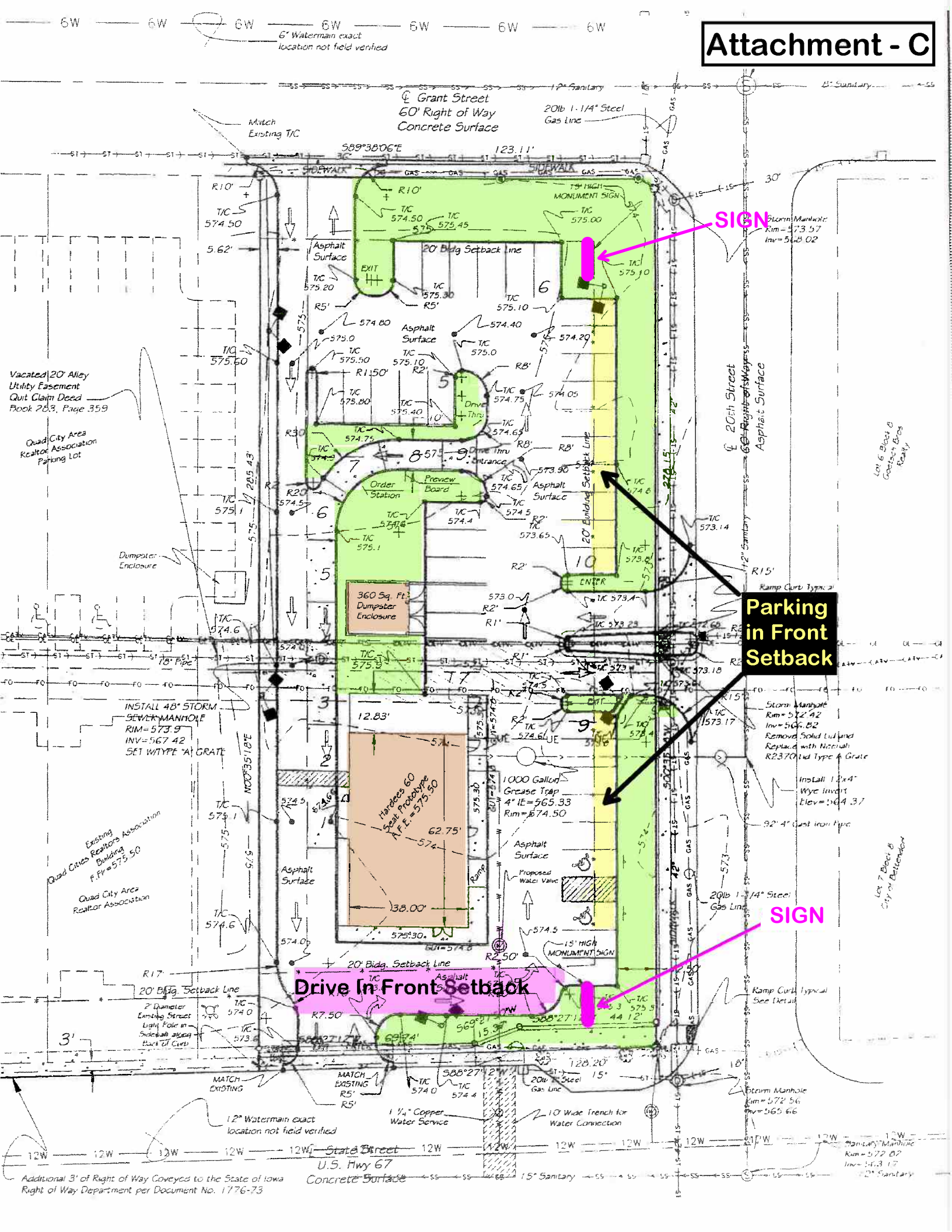
QUAD CITY AREA REALTOR'S ASSOCIATION

FIRE DEPT. CONNECTION WILL BE NEAR THE SOUTHEAST CORNER OF THE BUILDING.

EX. SANITARY LATERAL TO BE RE-USED

EX. SAN. MH
TOP = 574.43
INV. = 562.55 W
INV. = 562.65 E

Attachment - C

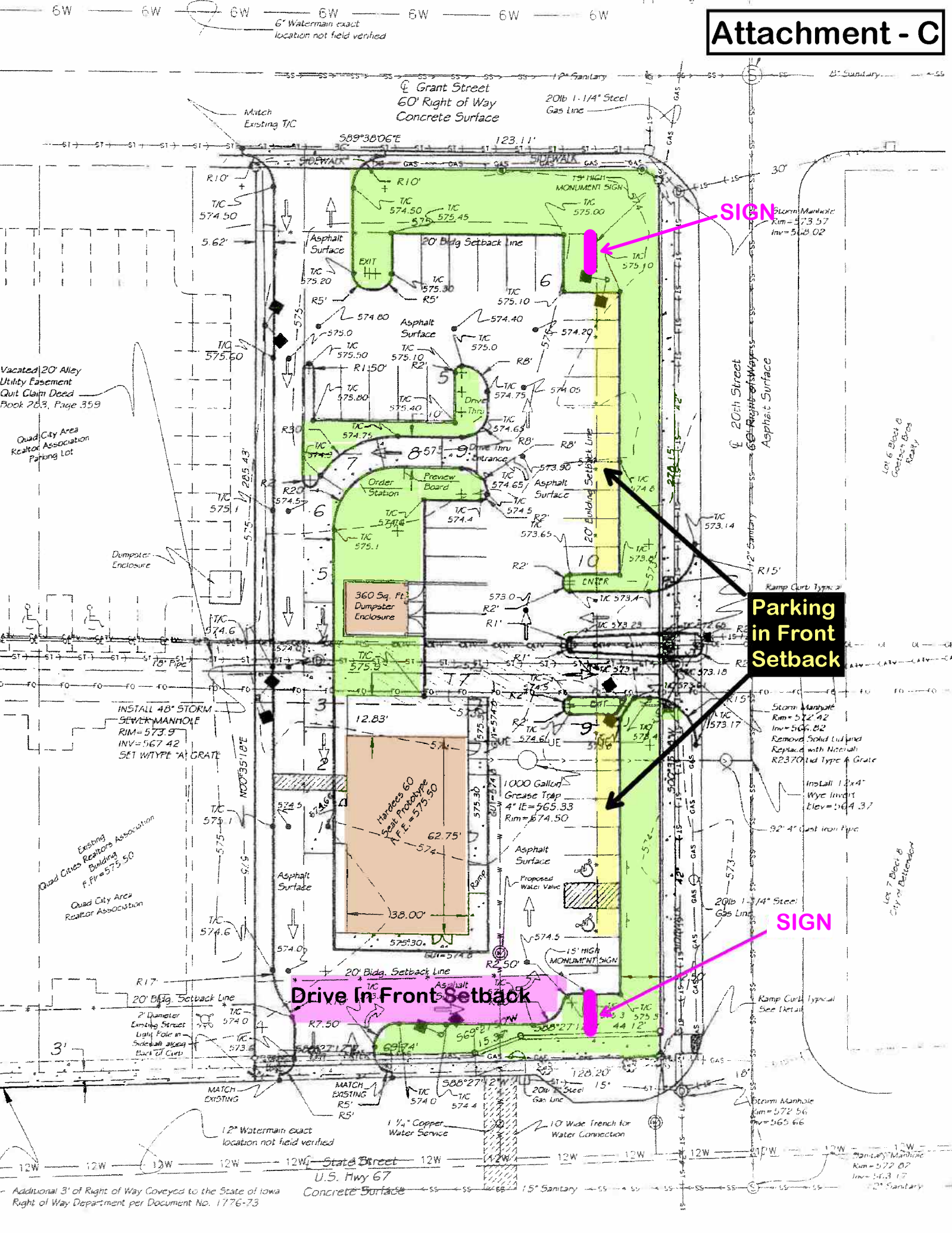


SIGN

Parking in Front Setback

SIGN

Drive In Front Setback



Additional 3' of Right of Way Covered to the State of Iowa Right of Way Department per Document No. 1776-73



AKK	SCALE	CLIENT	DATE	FILE NAME	DRAWN BY	SALES PERSON	W.O. #
AKK	.8"=1'	HARDEE'S	1/8/08	HARDEES.PLT	CHAD BOOCH	DOUG JARVIS	----BX

Case No. 080-0005

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

Part 1.

Applicant Name Gray Family Investments Phone 507-332-7461 x214
Address 205 Western Ave. Fairbault, MN 55021 FAX 507-332-6867

Owner Name Paul Gray Phone _____
Address _____ FAX _____

Agent _____ Phone _____
Address _____ FAX _____

Part 2. Property Involved.

Street Address 1910 State Street
Legal Description of the property. SEE ATTACHED

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 18.12 DR.COD Existing Zoning C-3

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.

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.

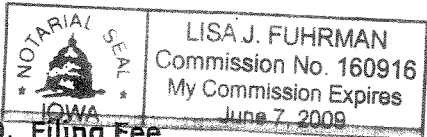
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this _____ day of _____, 20____.

Signature of Applicant *Paul H. Gray* Signature of Owner *James L. Egger*
(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 *etn* day of February, 2008.



Lisa J. Fuhrman
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 _____
Amount _____ Date _____

Case No. 006-006

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

Part 1.

Applicant Name Gray Family Investments Phone 507-332-7461 x214
Address 205 Western Ave. Fairbault, MN 55021 FAX 507-332-6867

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 - (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.
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 - (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.)

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Section(s) of Zoning Ordinance Involved 18.12 DR.COD Existing Zoning C-3

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- 3. Floor plan if internal design of building is part of application.
- 4. List additional attachments.

Part 7. Signature.

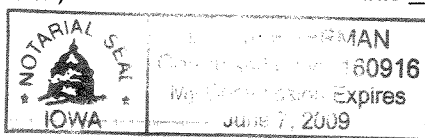
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Signature of Applicant *Paul S. Gray* Signature of Owner *James L. Egger*
(The owner **MUST** indicate his consent to this application by signing above. Application without the signature of the owner will not be processed)

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 8th day of February, 2008.



Leslie J. Herman
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 _____
Amount _____ Date _____

Case No. 08-007

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

Part 1.

Applicant Name Gray Family Investments Phone 507-332-7461 x214
Address 205 Western Ave. Faribault, MN 55021 FAX 507-332-6867

Owner Name Paul Gray Phone _____
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Legal Description of the property. SEE ATTACHED

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 - (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 18.12 DR. COD Existing Zoning C-3

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.

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 _____ day of _____, 20 _____.

Signature of Applicant Dwight Roy Signature of Owner James L. Egger
(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 8th day of February, 20 08.
Lesaf Johnson
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 Lesaf Johnson
Amount \$100. Date 1/29/08



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4055

February 14, 2008

Staff Report

Case No. 07-116

Location: 1838 State Street

Applicant: Ed Veit

Zoning Designation: C-3, General Business District

Request: Reconsideration of the decision and order regarding an appeal of the Zoning Administrator's decision to prohibit expansion of a non-conforming use.

Background Information and Facts

On December 13, 2007 the Board determined that the outdoor sale of used vehicles by Veit's Vettes and Collector Cars is not an expansion of a nonconforming use as long as no more than 12 vehicles are left on the lot on a permanent (overnight) basis and if the business adheres to the standards of the Downtown-Riverfront Corridor Overlay District (DRCOD).

At the January 10, 2008 meeting of the Board, Director Connors reviewed the DRCOD standards relating to used car sales. At that time, members of the Board indicated that it might not be practical to expect the applicant to meet all of the DRCOD standards because of the size of this lot. Therefore, the Board voted to reconsider their December 13, 2007 decision. Staff was instructed to meet with representative(s) of the business and present a recommendation for reconsideration on February 14, 2008.

Staff has met with Mr. Veit and made recommendations regarding this issue. Edgar Veit sent a letter indicating some concerns about staff suggestions and asking that the matter be tabled until his return to the area some time in the next few weeks. Subsequently, further discussions have occurred and a compromise has been reached between staff and the business owner/operator.

Staff has always been of the opinion that the requirement for 18-inch high berms along the front of parking lots is a key component of the DRCOD standards. Due to the size and configuration of this site, installing an 18-inch berm having a 3:1 slope on each side became a problematic issue for the owner. Therefore, staff is recommending that the applicant be required to install a planter having the capacity for an 18-inch deep, 24-inch wide soil area constructed of decorative landscaping blocks as a substitute for the berm. The planter would be required to extend along the entire front of the parking lot except for the driveway entrance. The planter shall be continuously maintained with a mixture of annual and perennial live plants throughout each growing season. Staff

further recommends that banners, flags, streamers, and related items continue to be prohibited in the outdoor sales area as previously indicated by the Board.

Staff feels that this compromise will be in keeping with the planned streetscape project for the entire downtown corridor and will complement the Veit's business and other surrounding businesses.

Respectfully submitted,

John Soenksen
City Planner