

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
JULY 9, 2009
5:00 P.M.

CANCELLED

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

1. Roll Call: Eikenberry _____, Howe _____, McElhiney _____, Stelk _____, Voelliger _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of June 23, 2009.
4. The Board to hold a public hearing on the following items:
 - a. Case 09-044; 6517 Ocean Boulevard (R-1) – A request for a variance to reduce the required rear yard setback from 40 feet to 35 feet to allow for an 18-foot by 18-foot deck, submitted by Lovewell Fencing, Inc. (Withdrawn)
 - b. Case 09-056; 3346 Towne Pointe Drive, 3363 Devils Glen Road, and 3365 Devils Glen Road (R-1) – A request for approval of a special location plan for off-site parking, submitted by Oxbow Development, LLC. (Withdrawn)

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
JUNE 23, 2009
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Howe, Stelk, Voelliger
ABSENT: Eikenberry, 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 May 14, 2009.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of May 14, 2009 be approved as submitted.

ALL AYES

Motion carried.

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

Stelk announced that Case 09-044 would be postponed until later in the meeting.

- b. Case 09-045; 1227 Broadlawn Avenue (R-1) - A request for a variance to allow a swimming pool in the required front yard, submitted by Nathan Durick. **(Withdrawn)**
- c. Case 09-046; 717 Brown Street (C-1) - A request for a variance to increase the allowable living area to garage ratio from 40% to 44%, submitted by William Frazier.

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.

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

Voelliger commented that he feels that the request is fair. Howe concurred.

On motion by Howe, seconded by Voelliger, that the request for a variance to increase the allowable living area to garage ratio from 40% to 44% be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- d. Case 09-047; 1414 - 25th Street (R-2) – A request for a variance to increase the allowable fence height from 6 feet to 7 ½ feet, submitted by William Grothusen.

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 #5 to these minutes.

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

William Grothusen, the applicant, stated that his neighbor has no objections to the fence installation. He indicated that the fence section would likely be less than 16 feet long.

Howe asked if the applicant had given any consideration to landscaping the area rather than installing a fence. Grothusen stated that he had considered that option, but had chosen a fence because of the maintenance that would be involved with shrubbery. He added that a fence is more desirable as plantings would take a substantial amount of time to grow before they could provide the same amount of privacy as would the fence.

Howe asked what type of fence the applicant plans to install. Grothusen explained that it would be a decorative staggered-board, wooden fence. He indicated that the fence on the other side of the property has a lattice on top.

Howe expressed concern about the negative precedent that might be set if the Board approves the request. He indicated that he believes that the current case is different than the request for an 8-foot high fence at 1322 Highland Park Drive. He stated that there were severe topographical issues involved in that case.

Voelliger commented that he believes a fence is the better option to provide the desired privacy as it will take less space than bushes would. He added that he is supportive of the request. Stelk concurred, reiterating that the maintenance of plantings might become an issue in the future.

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

Howe stated that because of the short length, he believes that the proposed fence is similar to a lawn ornament and therefore is not a precedent-setting request. He requested that the applicant's fence be as short a length as possible.

On motion by Voelliger, seconded by Howe, that the request for a variance to increase the allowable fence height from 6 feet to 7 ½ feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- e. Case 09-048; 3590 East Harbor Drive (R-1) – A request for an appeal of the Zoning Administrator's determination that a generator is not considered a building structure and therefore is not subject to side yard setback requirements, submitted by Stephen Chlebowski.

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 #7 to these minutes.

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

Steve Chlebowski, the applicant, stated that he never suggested that the generator itself is a structure, merely that it is attached to a structure and adds an additional 4 feet to it. He indicated that the generator is a part of the existing structure now. He stated that the generator in question emits enough noise that it would violate Bettendorf's noise ordinance when it is running. Chlebowski stated that while he has never experienced a long-term power outage in the approximately 5 years he has lived in the neighborhood, if this would occur, he would be forced to listen to his neighbor's generator and it is possible that the exhaust could go into his house.

Stelk asked if the generator is run by natural gas. Soenksen confirmed this, adding that the accessibility of the gas line and service panel were contributing factors when the location for the generator was chosen.

Chlebowski stated that he does not believe that he would be able to sleep if the generator had to run constantly. He added that his and his other adjacent neighbor's air conditioning condensers are at ground level.

Stelk asked if there are any type of sound dampening technologies available. Connors explained that there might be, but that the issue for the Board's consideration is whether or not any type of utility apparatus installed in a side yard or on the side of a house is considered an encroachment. He indicated that there are nuisance ordinances already in place to deal with the applicant's other issues.

Mel Foster III, 3590 East Harbor Drive, explained that it is his generator that is at issue. He indicated that at additional expense, he endeavored to make the generator itself, the trim, and the supports match the house as closely as possible. He added that during the installation when it became apparent that Chlebowski was unhappy, he instructed the contractor to install the switch panel and the conduit inside so that it would be less obtrusive. He reiterated that the location of the generator was chosen based on accessibility to the gas meter and service panel. Foster explained that the generator was installed aboveground in order to prevent flotsam from damaging it during flooding and thus disabling his sump pumps. He stated that during flooding approximately 2 years ago, his neighbor ran a generator to power the pumps surrounding his home. He indicated that the generator is sufficient to power his entire home during a power outage, including all of the necessary sump pumps. Foster stated that he has made a substantial investment in the generator to be used to provide a backup during flooding. He commented that the applicant's power boat emits exhaust and noise much louder than his generator would.

Chlebowski stated that his most pressing complaint is that of the location of the generator. He indicated that the applicant could have installed it in another location, adding that the applicant had taken no one else into consideration when the site was chosen. He explained that there is an empty lot on the other side of the house. Chlebowski stated that it would not be difficult or expensive merely to run more conduit and a gas line to a different location.

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

Howe stated that he concurs with staff with regard to the fact that the noise emitted by the generator is not in the Board's purview. He commented that there are likely several sound-deadening materials that could be utilized by either property owner. Howe stated that the frequency of use will likely be minimal, adding that he is not supportive of the applicant's appeal. Stelk and Voelliger concurred.

On motion by Howe, seconded by Voelliger, that the request for an appeal of the Zoning Administrator's determination that a generator is not considered a building structure and therefore is not subject to side yard setback requirements be denied in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- a. Case 09-044; 6517 Ocean Boulevard (R-1) - A request for a variance to reduce the required rear yard setback from 40 feet to 35 feet to allow for a 18-foot by 18-foot deck, submitted by Lovewell Fencing, Inc.

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 #9 to these minutes.

Howe asked if all of the homes in the subdivision were built at a 30-foot front yard setback and if the developer has already taken advantage of a new ordinance intended to address the difficulties posed by requiring staggered setbacks as is typical in R-1 subdivisions. Soenksen confirmed this. Connors added that the developer had platted the first two subdivisions in the area using the staggered setback. He indicated that subsequent to that platting, the developer approached the city to request some type of relief from those requirements. Soenksen explained that currently developers have the option to use the staggered setback requirement or to use a 30-foot front yard setback and incorporate some sort of offset architectural feature to the home which would give the same aesthetic impression. Howe commented that the developer already maximized the amount of rear yard available for a deck when the subdivision was platted with 30-foot front yard setbacks rather than the more generous staggered ones. Connors concurred.

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

Mary Meehan, 6517 Ocean Boulevard, stated that she had been under the impression that only a 2 ½ variance was actually required. Soenksen explained that as long as the request is for a smaller encroachment, the case could still be heard. He commented that according to the information he received, the variance required would be 5 feet.

Howe asked how far the deck would extend from the rear of the home. Soenksen stated that it would be 18 feet deep.

Mike Lovewell, the applicant, stated that the deck would extend 11 feet from the house, adding that there is only 8 ½ feet of available rear yard setback. He indicated that he had double-checked the measurements, and the variance request is for a 2 ½-foot encroachment.

Meehan stated that her 94 year old mother who uses a walker visits frequently and she would like her to have enough room to move around. She added that she has 10 grandchildren who are often at her home who need room to play. She stated that the deck is for her family's enjoyment and her convenience.

Howe asked why the applicant had not chosen to extend the deck further into the buildable area of the lot rather than encroach into the setback. Meehan explained that

she does not believe that her next door neighbor, who also has a deck, would like her to place the deck so close to the existing one.

Voelliger commented that he is in favor of the request.

Howe stated that he does not believe that a hardship has been established and that a negative precedent would be set by approving the request. He stated that if the case is approved, other neighbors will likely make similar variance requests. He indicated that the applicant could choose to place the deck to the left in the buildable area of the lot, adding that the 8 ½-foot depth of the deck that would be allowed is sufficient to allow maneuverability. He reiterated that the applicant's situation is a direct result of the developer's attempt to maximize the number of lots in the subdivision by building all of the houses at a 30-foot front yard setback.

Stelk commented that a unanimous vote would be required to approve the variance. Howe suggested that the applicant may wish to defer the request until such time as there are more Board members present.

Meehan stated that the water spigot would interfere with the deck's being placed to the left. Howe stated that there are still other options, adding that the placement of the faucet is not a legitimate hardship.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 6:00 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

June 11, 2009

Staff Report

Case No. 09-044

Location: 6517 Ocean Boulevard

Applicant: Lovewell Fencing, Inc.

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

Request: Variance to reduce the required rear yard setback from 40 feet to 35 feet to allow construction of an 18-foot by 18-foot deck.

Background Information and Facts

The site is located west of Middle Road and south of Forest Grove Drive on the east side of Ocean Boulevard (see Attachment A – Location Map, and Attachment B – House Photo). The applicant is seeking a variance to reduce the rear yard setback by 5 feet to allow construction of a deck (see Attachment C – Plot Plan).

Staff Analysis

Although the lots in this subdivision meet the minimum standards for an R-1 District (75-foot wide lots at least 10,000 square feet in size) the subdivision is much more similar to one that might be located in an R-2 District (see Attachment D – Beaver Crossing Third Addition Plat). The description of the R-1 District states that it is “the most restrictive district and is composed of low-density residential areas”. The final plat, Attachment D, demonstrates that this area is not typical of other R-1 districts in the city that have larger lots and structures. The developer purposely chose to plat this subdivision more densely to offer an alternative to the many new areas with very large homes. This development is somewhat unique in that it offers new homes with smaller square footages at a reduced price. This development fulfilled a niche in the Bettendorf market which for many years had not been met.

The description of the R-2 District states that it “provides for protection of certain older areas of the city”. Therefore, a fair interpretation of the code would assume that newer subdivisions should be limited to the R-1 zoning district since they are not located in older areas of the city. This was the dilemma faced by the developer of this subdivision - how to offer more affordable houses on smaller lots to the public while adhering to the code. As a result of the above, the following facts pertain to the lot involved in this case:

1. The lot measures 141 feet deep.
2. The front setback measures 30 feet.
3. The rear setback measures 40 feet.
4. Approximately ½ of the depth of the lot is considered setback space.
5. The lot contains 10,575 square feet.
6. Setbacks occupy 6,670 square feet of this lot (2,250=front, 3,000=rear, and 1,420=sides)
7. Over 63% of this lot is devoted to setback space.

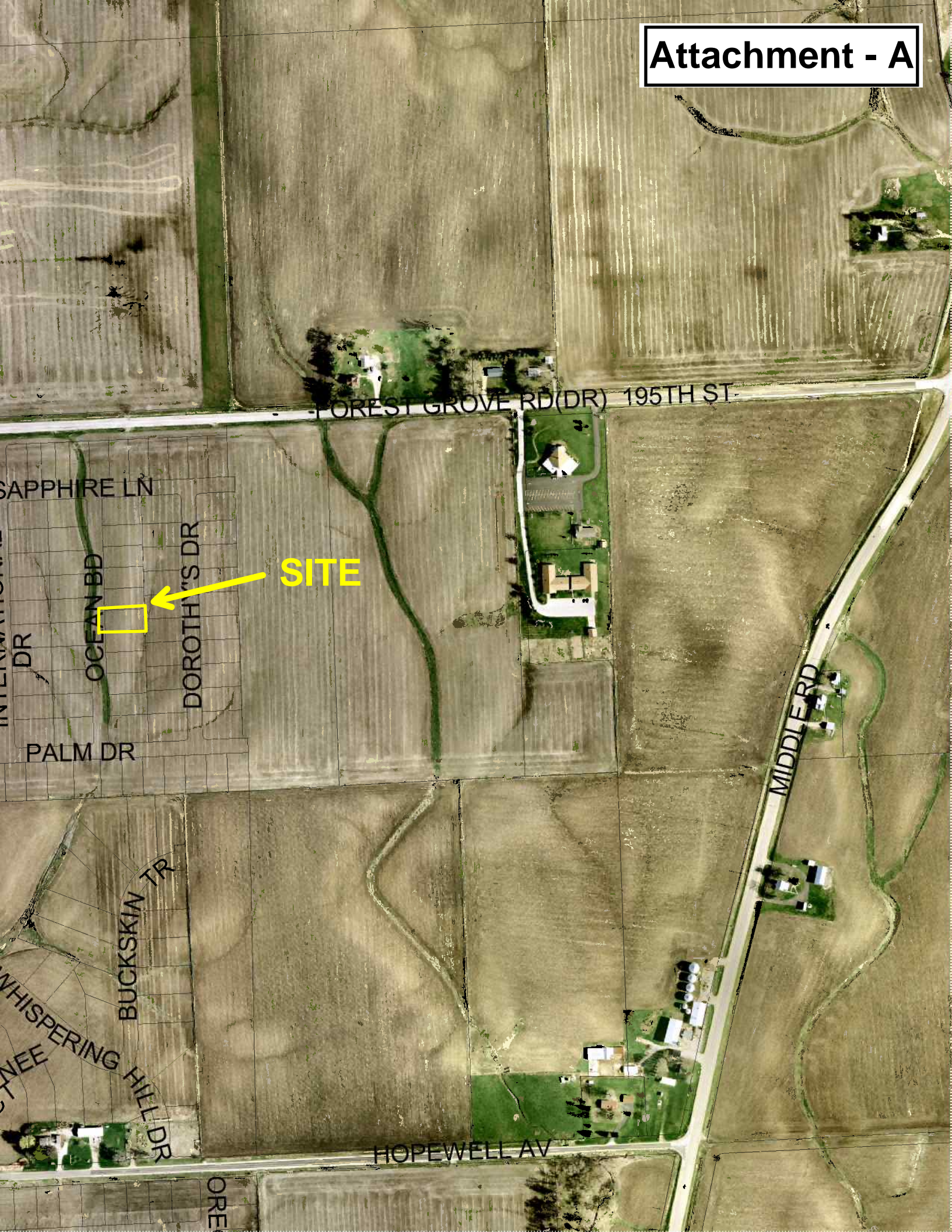
While recognizing the above facts, it should also be noted that staff proposed an ordinance change to address these items which was adopted by the City Council and passed into law. The ordinance allowed this developer to place all houses at the minimum front yard setback (rather than observing a staggered 30-foot, 35-foot, and 40-foot front yard setback that would otherwise have been required) if the houses were built to incorporate some staggered features to the fronts of the houses.

Approximately 72 square feet of the proposed deck would encroach into the required setback. If allowed, the deck would still be set back 35 feet from the rear property line. The applicant is asking the Board to consider the above facts as a legitimate hardship.

Respectfully submitted,

John Soenksen
City Planner

Attachment - A



FOREST GROVE RD(DR) 195TH ST

SAPPHIRE LN

DR

OCEAN BD

DOROTHY'S DR

SITE

PALM DR

MIDDLE RD

BUCKSKIN TR

WHISPERING HILL DR

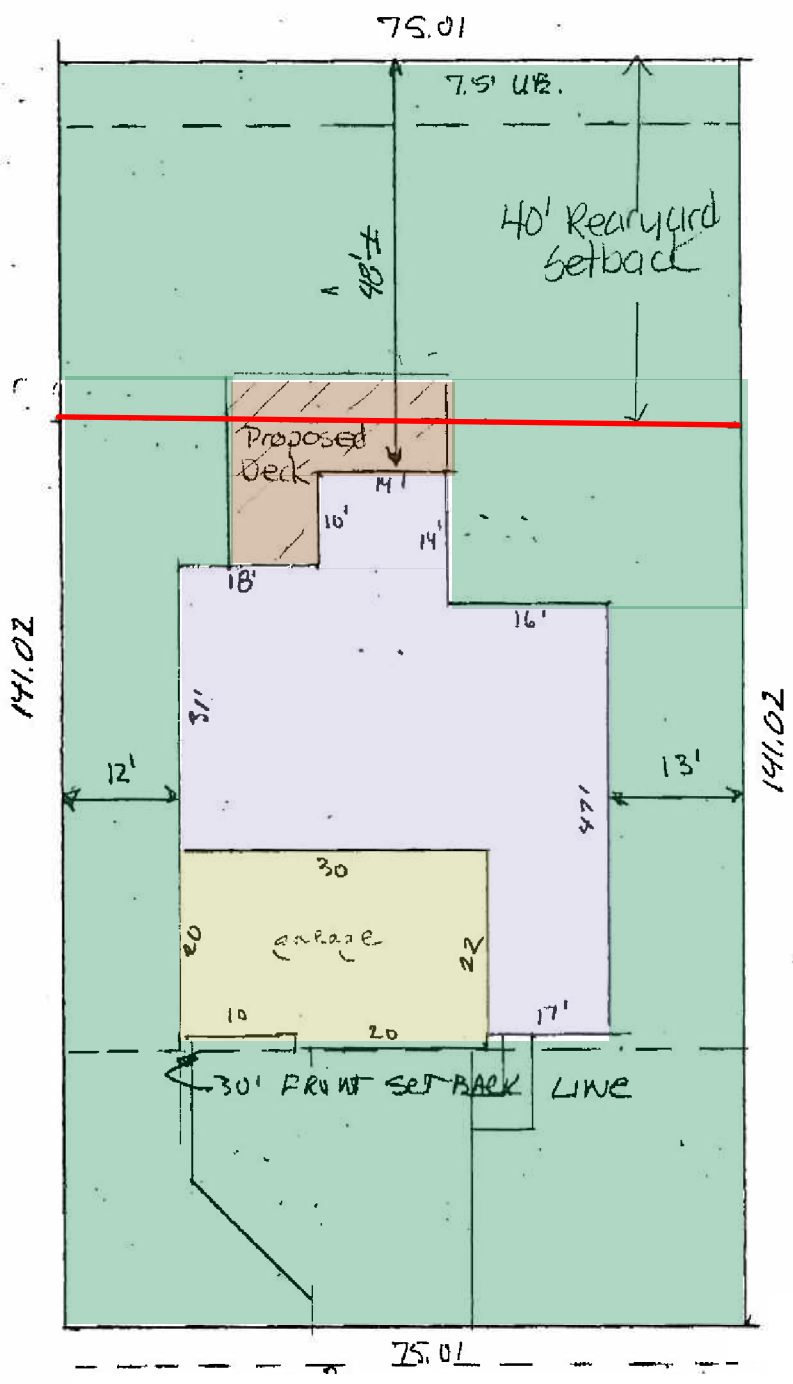
HOPEWELL AV

ORE

Attachment - B



Attachment - C



Case No. 09-044

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

Part 1. Property Involved.

Street Address 6517 Ocean Blvd.
Legal Description of the property. lot 14 Beaver Crossing Third Add

Part 2.

Applicant Name Lovewell Fencing, Inc. Phone 563-528-5140
Address 21060 Holden Drive Dodge FAX 563-345-6730

Owner Name Vaughn + Mary Meehan Phone 563-332-4810
Address 6517 Ocean Blvd. 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.

 see attached

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.

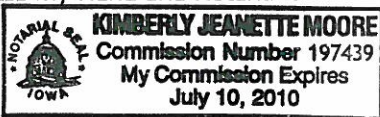
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 13 day of May, 20 09.

Signature of Applicant LOUWELL FENCING INC Signature of Owner [Signature]
[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 13 day of May, 20 09.



[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 \$50. Date 5/14/09



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

July 9, 2009

Staff Report

Case No. 09-056

Location: 3346 Towne Pointe Drive, 3363 Devils Glen Road, and 3365 Devils Glen Road

Applicant: Oxbow Development, LLC

Zoning Designation: C-2, Community Shopping District

Request: Approval of a special location parking plan

Background Information and Facts

The site is located in the Towne Pointe Drive shopping/business park northwest of the Bettendorf Fareway Store (see Attachment A - Location Map). The applicant is proposing to build a 4-story, 129-unit apartment complex and needs an additional off-premises parking lot in order to meet Code requirements. Since the additional parking lot is not on the same parcel as the apartment complex, the Code requires the Board to review the proposed plan and determine if it meets the Code's standards. If approved, the additional parking lot will allow the developer to exceed the required parking for this project.

Staff Analysis

The off-site parking lot is located south of the proposed apartment complex and is separated from the site by two existing buildings (see Attachment B – Site Plan). The Code states that an off-site parking lot for this district is considered “walkable” if:

The walking distance from the nearest portion of the parking facility to the nearest portion of the building is within 300 feet.

Therefore, the distance must be measured along the designated walking route and not measured in a straight line between the two facilities. The designated walking route will be on a public sidewalk (not yet installed) along the west side of Towne Pointe Drive shown in red on Attachment B. Staff walked the route and measured the distance using a measuring wheel which revealed a distance of 275-280 feet between the nearest portion of the parking lot and the proposed apartment complex. Therefore, the plan meets the standard set forth in the Code.

In previous special location plan cases much consideration was given to traffic counts along the route used to connect the parking facility and the related building. This was a particular concern for a parking lot in the 600 block of State Street. In this case, the designated route is along Towne Pointe Drive which has minimal usage throughout the day with the exception of certain times on Saturday and Sunday when traffic is entering

and exiting Bettendorf Christian Church. In fact, the usage of Towne Pointe Drive is so low that the city has never conducted a traffic count and, to this date, has no traffic counts scheduled for that street.

In previous cases the Board has also considered topographical issues when determining the “walkability” of a route. In this case there are no adverse topographical issues as the designated route is completely level.

There is a greenspace between the two existing buildings north of the proposed off-site parking lot (see Attachment B). The developer has indicated that he is attempting to negotiate an access easement through this greenspace and would like to place a sidewalk connecting the apartment and the parking lot in a more direct fashion (see Attachment C – Alternate Route). If this can be accomplished, staff feels that it would be a better alternative; however, at this time the developer does not have any ownership rights for that route and therefore it would not be appropriate for staff to require or recommend this option.

The proposed site plan was initially presented to the Planning and Zoning Commission at the June 2009 meeting. The Commission members, as well as the owner of one of the existing buildings in this area, expressed concern that apartment tenants would opt to walk through the parking lot between the existing buildings rather than using the designated walking route. A letter from Mr. Steve Swanson is attached to this report expressing these concerns. Therefore, staff is pleased that the developer has approached the owner to the north in an effort to install an alternative or additional sidewalk.

Staff Recommendation

While the plan meets the standards set forth in the Code, some concerns were expressed by Planning and Zoning Commissioners and neighbors. At the time of this report, the developer is attempting to address those concerns and acquire an additional or alternate route between the off-site lot and the apartment complex. The developer will report on the progress, if any, of those efforts at the Board meeting. Since the designated walking route is along and adjacent to land that is not owned by the developer, an agreement specifying who will pay to install the sidewalk and the timing of the installation of the sidewalk should be presented to the Board at the meeting.

Respectfully submitted,

John Soenksen
City Planner

DEVILS GLEN RD

N DR

SITE

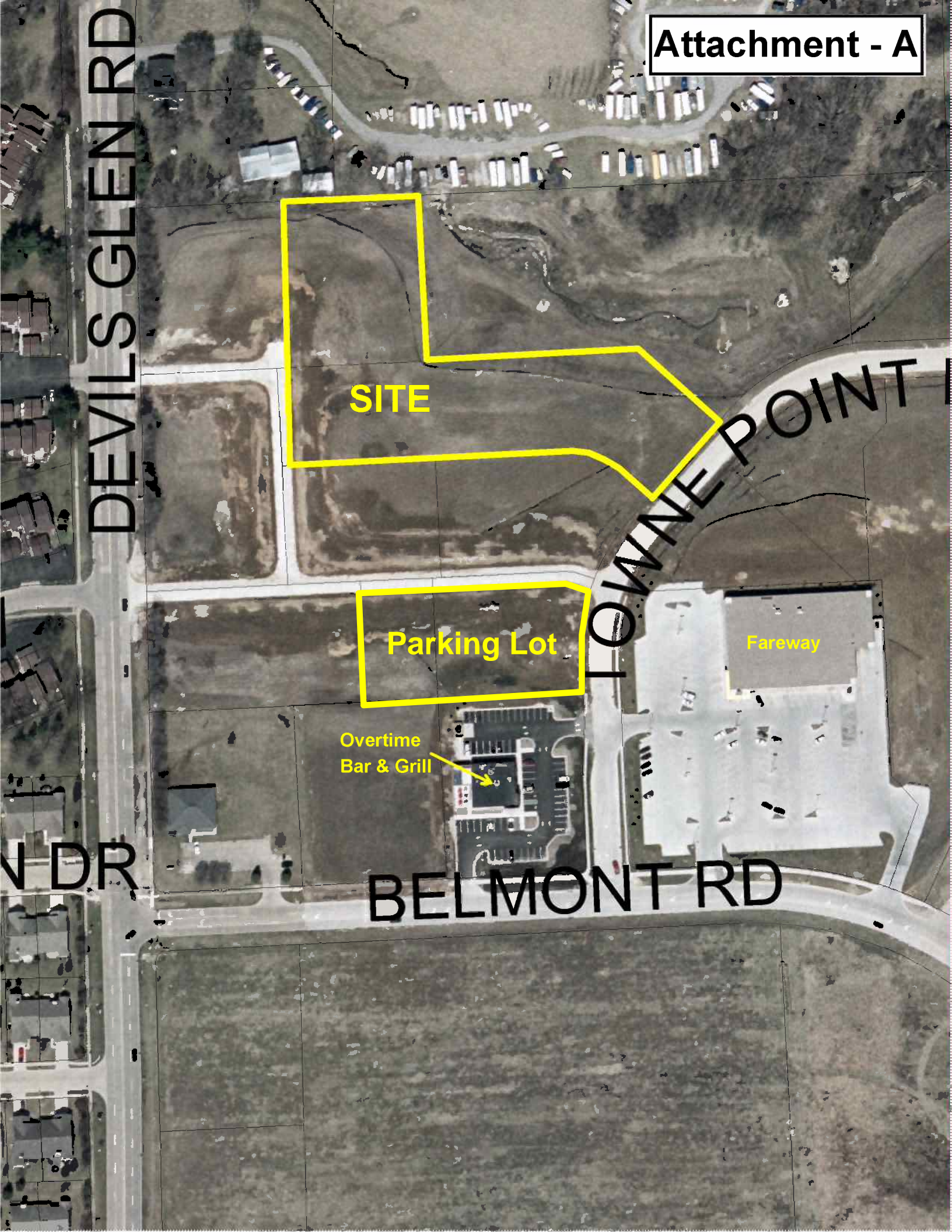
Parking Lot

Overtime Bar & Grill

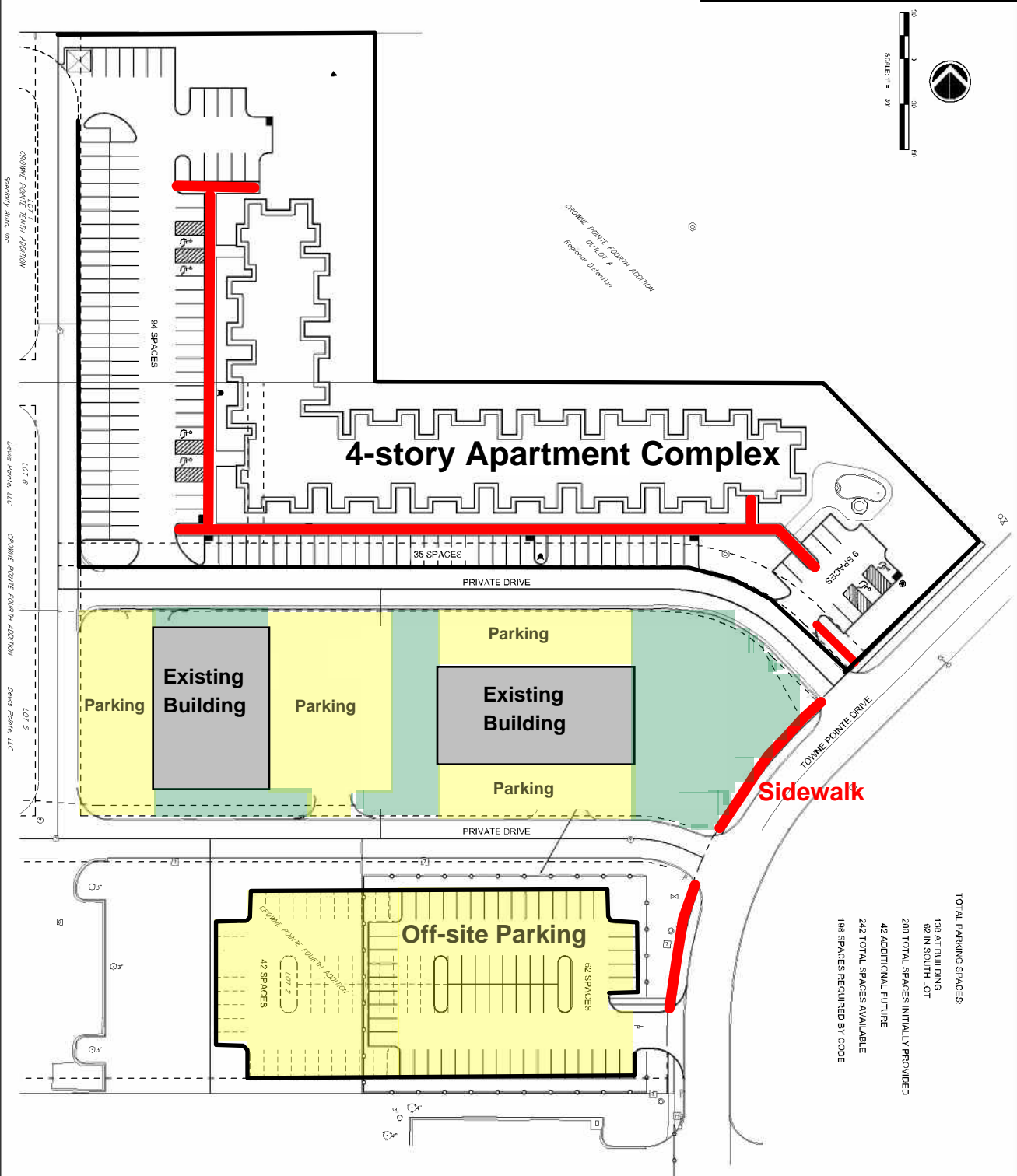
LOWNE POINT

Fareway

BELMONT RD



Attachment - B



TOTAL PARKING SPACES:
 138 AT BUILDING
 62 IN SOUTH LOT
 200 TOTAL SPACES INITIALLY PROVIDED
 42 ADDITIONAL FUTURE
 242 TOTAL SPACES AVAILABLE
 198 SPACES REQUIRED BY CODE

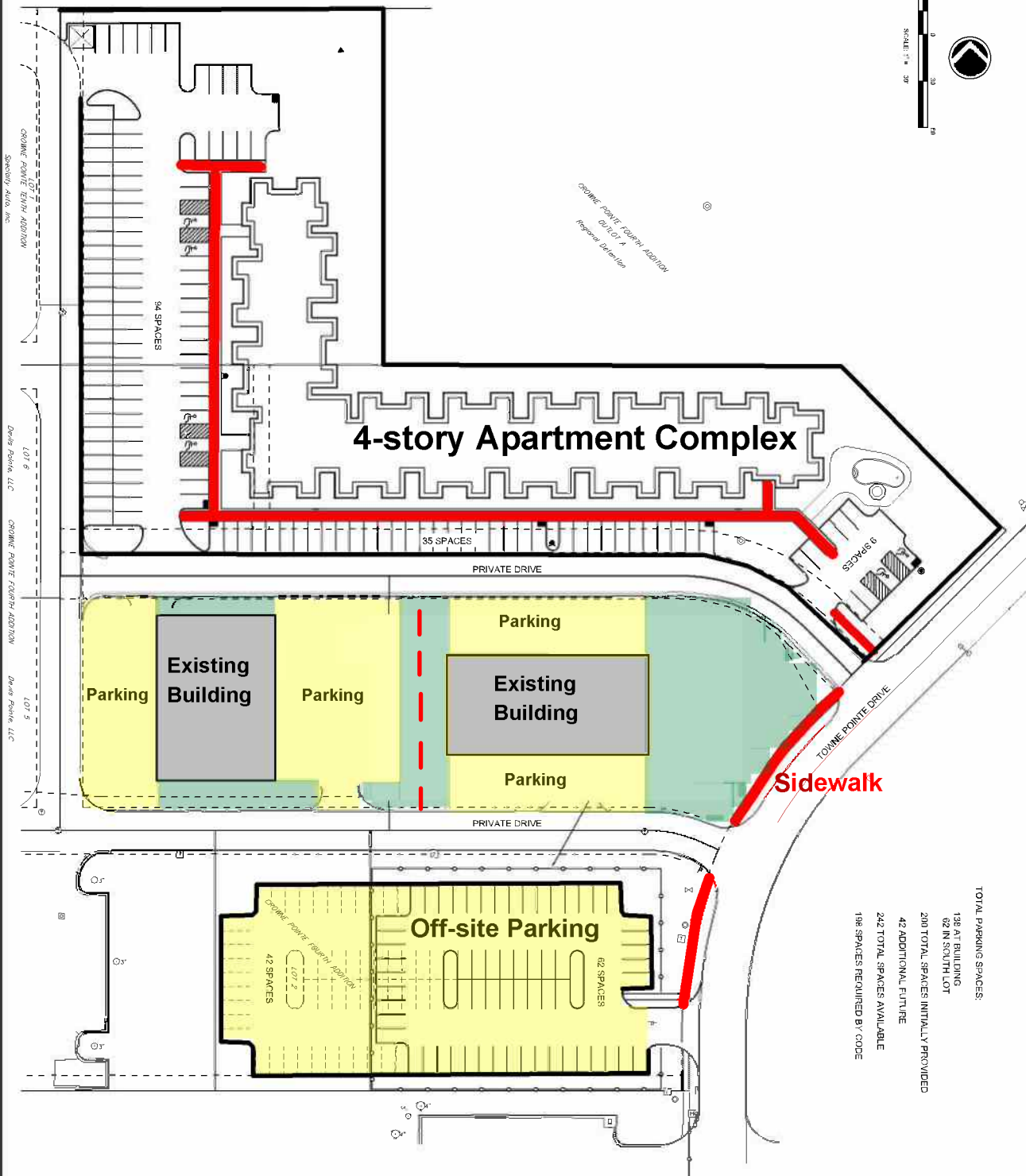
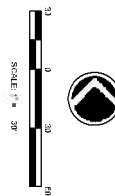
Missman Project No:
 C201.016
 File Name:
 C:\PROJECTS\2009\BETTENDORF APARTMENTS\BETTENDORF.dwg
 Drawn By: CAM
 Checked By:
 Date: 06-17-09
C-2

BETTENDORF APARTMENTS
 BETTENDORF, IOWA
 ADDITIONAL PARKING LOCATION

Missman
 STANLEY & ASSOCIATES, P.C.
 Civil Engineering-Environmental Services-Structural Engineering-Surveying
 1717 State Street, Suite 201 Bettendorf, Iowa 52722
 Phone (563) 344-0260 Fax (563) 344-0563

REVISIONS		
No.	DESCRIPTION	DATE
1	REV. SOUTH PARKING AND ADDED FUTURE SPACES	06-24-09

Attachment - C



TOTAL PARKING SPACES:
 138 AT BUILDING
 62 IN SOUTH LOT
 200 TOTAL SPACES INITIALLY PROVIDED
 42 ADDITIONAL FUTURE
 242 TOTAL SPACES AVAILABLE
 198 SPACES REQUIRED BY CODE

Master Plan No: C0810716
 File Name: C:\PROJECTS\2009\BETTENDORF APARTMENTS\DWG\01-01.DWG
 Date: 08-17-09
 Checked By: CAN
 Drawn By: CAN

BETTENDORF APARTMENTS
 BETTENDORF, IOWA
 ADDITIONAL PARKING LOCATION

Missman
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 Phone (563)344-0260 Fax (563)344-0263

REVISIONS		
No.	DESCRIPTION	DATE
1	REV. SOUTH PARKING AND ADDED FUTURE SPACES	06-24-09

Case No. 09-056

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

Part 1. Property Involved.

Street Address 3539 Devils Glen Road
Legal Description of the property. Lot 2, Crown Pointe Town Addition
and Lot 1, Devils Glen Center Addition

Part 2.

Applicant Name Oxbow Development, LLC Phone (563) 441-3055
Address 1805 State Street, Suite 103 Bettendorf FAX (563) 441-3045

Owner Name Belmont Place LLC Phone (563) 355-2022
Address 1805 State Street Bettendorf FAX (563) 355-7806

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.)

