

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  
NOVEMBER 10, 2022  
5:00 P.M.**

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

1. Roll Call: Gallagher \_\_\_\_, Spranger \_\_\_\_, Tansey \_\_\_\_, Tombergs \_\_\_\_, Vermillion \_\_\_\_
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of September 8, 2022.
4. The Board to hold a public hearing on the following items:
  - a. Case 22-077; 1591 Grant Street (C-2) – Special use permit to allow an outdoor service area with alcohol, submitted by ELD Holdings, LLC/Michael Dewitte. (Staff: Beswick)
  - b. Case 22-079; 1820 Bellevue Avenue (R-2) – Variance to reduce the required front yard setback from 25 feet to 17 feet to allow for construction of an 8-foot by 16-foot deck. (Staff: Beswick)
  - c. Case 22-080; 2211 Grant Street (C-1) – Special use permit to allow a bar in a C-1 district, submitted by Ben Earwood. (Staff: Beck) **(Deferred to meeting of December 8, 2022)**
  - d. Case 22-081; 2211 Grant Street (C-1) – Special use permit to allow an outdoor service area with alcohol in a C-1 district, submitted by Ben Earwood. (Staff: Beck) **(Deferred to meeting of December 8, 2022)**



The materials for the Board of Adjustment meeting can be accessed by scanning the QR Code.

**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.**

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  
SEPTEMBER 8, 2022  
5:00 P.M.**

Gallagher called the meeting to order at approximately 5:00 p.m.

Item 1. Roll Call

PRESENT: Gallagher, Spranger, Tansey, Vermillion

ABSENT: Tombergs

STAFF: Beswick, Fuhrman, Hunt

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of July 14, 2022.

On motion by Spranger, seconded by Tansey, that the minutes of the meeting of July 14, 2022 be approved as submitted.

ALL AYES

Motion carried.

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

- a. **Case 22-060; 5117 Competition Drive (C-7)** – Special use permit to allow an outdoor service area with alcohol, submitted by Jason Stewart. (Staff: Beswick)

Beswick reviewed the staff report. Staff report is Annex #2 to these minutes.

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

On motion by Spranger, seconded by Vermillion, that a special use permit to allow an outdoor service area with alcohol be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #3 to these minutes.

- b. **Case 22-061; 4808 Forest Grove Drive (C-3)** – Special use permit to allow an outdoor service area with alcohol, submitted by Focus Real Estate Development/Kevin Koellner. (Staff: Beswick)

Beswick reviewed the staff report. Staff report is Annex #4 to these minutes.

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

On motion by Tansey, seconded by Spranger, that a special use permit to allow an outdoor service area with alcohol be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #5 to these minutes.

- c. **Case 22-062; 4832 Forest Grove Drive (C-3)** – Special use permit to allow a bar with an outdoor service area with alcohol, submitted by Focus Real Estate Development/Kevin Koellner. (Staff: Beswick)

Beck reviewed the staff report. Staff report is Annex #6 to these minutes.

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

On motion by Vermillion, seconded by Spranger, that a special use permit to allow a bar with an outdoor service area with alcohol be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #7 to these minutes.

- d. **Case 22-065; Lot 5, FG 80 Holdings First Addition (C-3)** – Exception to the off-street parking requirements for a high impact commercial recreational use (golf venue and multi-sport field complex), submitted by Focus Real Estate Development/Kevin Koellner. (Staff: Beswick)

Beswick reviewed the staff report. Staff report is Annex #8 to these minutes.

Spranger asked why some of the lots are zoned C-7 and others C-3. Beswick explained that the TBK sports complex itself is zoned C-7 but that some of the uses on the surrounding lots are not allowed in that district and so were rezoned. He stated that C-7 is used in only two locations in the city which are the TBK complex and the casino. He added that staff feels that the most efficient way to accomplish the developer's goals would be to request special use permits for the two major uses on the site. Hunt commented that the other uses for the site are allowed in the C-3 district and thus would not require special use permits.

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

On motion by Spranger, seconded by Tansey, that an exception to the off-street parking requirements for a high impact commercial recreational use (golf venue and multi-sport field complex) be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #9 to these minutes.

- e. **Case 22-063; Lot 5, FG 80 Holdings First Addition (C-3)** – Special use permit to allow a high impact commercial recreational use (golf venue), submitted by Focus Real Estate Development/Kevin Koellner. (Staff: Beswick)
- f. **Case 22-064; Lot 5, FG 80 Holdings First Addition (C-3)** – Special use permit to allow a high impact commercial recreational use (multi-sport field complex), submitted by Focus Real Estate Development/Kevin Koellner. (Staff: Beswick)

Beswick reviewed the staff reports. Staff reports are Annex #10 and Annex #11 to these minutes.

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

On motion by Tansey, seconded by Spranger, that a special use permit to allow a high impact commercial recreational use (golf venue) be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

On motion by Spranger, seconded by Vermillion, that special use permit to allow a high impact commercial recreational use (multi-sport field complex) be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #13 to these minutes.

- g. **Case 22-066; NW corner of 53<sup>rd</sup> Avenue and Middle Road (C-2)** – Special use permit to allow a car wash associated with a convenience store, submitted by Townsend Engineering. (Staff: Beswick)
- h. **Case 22-067; NW corner of 53<sup>rd</sup> Avenue and Middle Road (C-2)** – Special use permit to allow unlimited gas sales associated with a convenience store, submitted by Townsend Engineering. (Staff: Beswick)

Beswick reviewed the staff reports. Staff reports are Annex #14 and Annex #15 to these minutes.

Gallagher commented that the proposed special use permits pertain only to one lot. Beswick confirmed this, adding that when the property is subdivided the special use permits would be applicable only to the lot shown on the concept plan as submitted.

Hunt added that the special use permits for the car wash and unlimited gas sales would only be valid for the development shown which must materially match the concept plan.

Spranger asked how many pumps are located at the Kwik Star on Devils Glen Road and if the layout of the proposed gas station would be similar. Beswick stated that there are 20 spaces for fueling of vehicles at that location. He commented that pump islands are laid out differently at various gas stations. Hunt explained that the regardless of the design of the pumps, the code distinguishes between the number of vehicles that can be fueled at one time. He stated that in the C-2 district the code allows 8 vehicles to be fueled at one time and that the applicant is requesting the special use permit to allow up to 20.

Tansey asked when the limit of 8 vehicles being fueled at one time was adopted. Beswick explained that a similar case was found for the gas station located southwest of Middle Road and Devils Glen Road that was approved in 1987. Vermillion asked if that gas station is zoned C-2. Beswick confirmed this.

Vermillion asked if the applicant would be limited to the ability for 20 vehicles to fuel at one time even though the request is for unlimited gas. Hunt confirmed this, adding that if the Board grants the special use permit it would be for no more than 20 spaces for fueling because that is what was requested. Gallagher commented that if at some point in the future the site was reconfigured to include more pumps, a new special use permit would be required.

Gallagher stated that the Board has received 17 emails from residents regarding these cases and entered them into the record.

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

Ryan Fick, representing the applicant, stated that the northwest corner of the roundabout was rezoned to C-2 in 1996. He added that the covenants for Haley Heights Third Addition platted in 2014 include verbiage disclosing that the property southeast of the subdivision shall contain higher density single-family residential as well as commercial ground. He stated that the covenants for Haley Heights Fourth Addition platted in 2016, which is closest in proximity to the property involved, state that each owner should understand that the real estate generally located south and east of the subdivision is zoned C-2 and that the owners should familiarize themselves with the permitted uses in that district. Fick added that there are signs on each of the available corners on the roundabout advertising the property as prime commercial ground.

Fick stated that he believes that there is a need for a gas station in this location given the traffic patterns and the population growth in the area and that it will be a good addition to the community. He commented that gas stations are located where traffic already exists and are not built to attract traffic.

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

Tiffany Bingham, 4806 – 55<sup>th</sup> Avenue Court, expressed concern about safety, resale value of her home, lights, odor, trash, traffic, crime, and negative health effects.

Brad Panfil, 4697 Mason Run, expressed concern about safety and crime.

Dan Corray, 5056 – 55<sup>th</sup> Avenue, commented that he does not believe that the proposed gas station meets the required code standards and expressed concern about accidents being caused by increased traffic and reduction of property values.

Patrick Hintz, 4711 Mason Run, expressed concern about possible emissions from underground storage tanks, air quality, and negative health effects.

Keith Berthel, 4658 Mason Run, asked if the pumps would accommodate semi-trucks. Hunt explained that truck stops and travel centers are classified differently and would not be allowed at this location. He added that diesel pumps would be allowed and that it is likely that box trucks and fuel delivery vehicles would be on-site at times.

Berthel asked if the store would be open 24 hours per day. Gallagher stated that the hours of operation are unknown at this time. Berthel expressed concern about noise, traffic, and reduced property values.

Colin Ryder, 4809 Mason Run, commented that he is in agreement with all of the issues that have been raised. He stated that his realtor had told him that while the property is zoned commercial, there would not be a gas station on the property involved and that building height is limited to 35 feet. He expressed concern about lighting, hours of operation, crime, aesthetics, and increased traffic.

Gallagher explained that issues such as lighting and hours of operation will be discussed during a later phase of development, not during the special use permit review. He stated that the neighbors will have an opportunity to comment at that time.

Jody Saelens, 4786 – 55<sup>th</sup> Avenue Court, stated that her husband had been told by city staff that there would never be a gas station or a high rise at this location.

Tim McIntosh, 4876 Mason Run, commented that it appears as though Neighborhood Commercial is a C-1 zoning district and that the trend should be away from heavy commercial toward the residential homes. Hunt explained that the initial level of planning is the Comprehensive Plan which shows the future land uses. He added that property is specifically zoned based off those recommendations. He reiterated that from 1984 the corners in question were shown as Commercial future land use and that in 1996 they were zoned to C-2.

Catherine Hamling, 5821 Vanderginst Court, expressed concern about the changes in the neighborhood caused by commercial development along the corridor and decreased property values.

Ofelia Slings, 4781 Mason Run, expressed concern about crime, decreased bike path safety caused by traffic, and negative health effects.

A resident from 57<sup>th</sup> Avenue expressed concern about bike path safety and the fact that there are so many gas stations in the area.

Leslie Harrison, 4676 - 55<sup>th</sup> Avenue Court, expressed concern about the size of the proposed gas station as the negative impacts increase the larger it becomes.

Becky Smith, 5024 – 55<sup>th</sup> Avenue, asked if runoff from the site would enter the detention pond in her neighborhood. Beswick explained that the concept plan shows underground water detention, adding that engineering plans and storm water detention calculations will be required as a part of the site development plan review. He added that the site will be required to meet all storm water detention ordinance requirements. Hunt commented that the water that is used in a car wash is typically recycled and eventually released into the sanitary sewer system.

Corray suggested that the city find a way to better communicate with residents regarding upcoming projects.

Nathan Kramer, 5515 Emily Road, asked if access to the gas station would require connection to 55<sup>th</sup> Avenue. Hunt stated that it would not. Kramer expressed concern about accidents occurring as a result of increased traffic. He asked if the DNR is required to approve development on wetlands. Hunt explained that the developer will be required to obtain all necessary federal, state, and local permits. He reiterated that the site development plan must materially match the concept plan which would not include access to 55<sup>th</sup> Avenue.

Kevin Holden commented that he believes that the proposed development opens the door for more detrimental actions for future projects.

Nicole Ryder, 4809 Mason Run, expressed concern about decreased bike and pedestrian safety for children going to Hopewell Elementary School caused by motorists using the neighborhood as a cut through.

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

Spranger expressed appreciation for the comments that have been made, clarifying that the Board members are Bettendorf residents and are volunteers who are not paid. She stated that all members are well aware of how future development occurs in neighborhoods as it relates to the city's ordinances. She commented that while she understands that the proposed increase in gas pumps is significant, there are other neighborhoods which have gas stations near residential neighborhoods. She stated that traffic is increasing all over the city and that because there are so many bike trails, residents must be vigilant and take responsibility for their safety. Spranger reiterated that the property in question has been zoned commercial for a long time, adding that there is a similar mixed development at 53<sup>rd</sup> Avenue and 18<sup>th</sup> Street. She stated that the residential properties south of that area have not decreased in value because of the adjacent commercial development.

Chetan Prasad, 4795 Mason Run, stated that he does not believe that the proximity and characteristics of the neighborhood in relation to the proposed gas station is similar to the development at 18<sup>th</sup> Street and 53<sup>rd</sup> Avenue. Hunt explained that city code does not require that a development be exactly like another for a special use permit to be granted. He stated that staff analyzes each case individually for code compliance.

On motion by Vermillion, seconded by Spranger, that a special use permit to allow a car wash associated with a convenience store be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #16 to these minutes.

On motion by Spranger, seconded by Tansey, that a special use permit to allow unlimited gas sales associated with a convenience store be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #17 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 6:55 p.m.

These minutes and annexes approved \_\_\_\_\_

\_\_\_\_\_  
Taylor Beswick, City Planner



## COMMUNITY DEVELOPMENT

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

November 10, 2022 Board of Adjustment Meeting

Staff Report

### **Case No. 22-077**

**Request:** Special Use Permit for an outdoor service area with alcohol.

**Location:** 1591 Grant Street

**Legal Description:** Lot 1, DT Bettendorf First Addition (Parcel #: [8428642011](#))

**Applicant:** Michael Dewitte

**Zoning Designation:** C-2, Community Commercial District

### **Background Information and Facts**

Michael Dewitte is seeking a special use permit to allow an outdoor service area located on a patio at a future restaurant located on Lot 1, DT Bettendorf First Addition (see [Attachment A - Location Map](#)). The lot is located in the Community Commercial District (C-2), and the adjacent parcels are zoned C-2 and General Business District (C-3) (see [Attachment B - Zoning Map](#)). The Future Land Use map contemplates future development in the vicinity to be commercial. The existing patio is located on the east side of the building (see [Attachment C - Floor Plan](#) and [Attachment D - Outdoor Service Area Rendering](#)). The proposed restaurant is YOSO Modern Japanese Steakhouse.

### **Staff Analysis**

This overall type of development, including outdoor service areas, is expected to occur within the downtown area. Interconnectivity between businesses with outdoor facilities is encouraged within this area.

Additional parking requirements for the patio are met through cross parking easements and on-street parking calculations which are allowed in the Downtown Master Plan Overlay District. Staff contends any potential negative externalities or incompatibilities with surrounding uses do not meet the threshold to deny an outdoor service area at this location.

Section 11-5-9 of the City Code stipulates nine required standards that must be met for any special use permit to be granted. Staff has abbreviated those standards with the following list and indicated its position on each.

1. **Is the special use allowed in the targeted district?** Yes, per Section 11-4-5.
2. **Does the special use appear to comply will all applicable zoning regulations?** Yes.
3. **Is the location, size and character of the use in harmony with the targeted district?** Yes, the proposed patio would be consistent with the dining and hospitality character of the area.
4. **Does the special use unreasonably hinder or discourage development in the target district?** No, the proposed patio may be seen as an attractive amenity for visitors, residents, and nearby businesses located downtown.
5. **Is parking adequate and are the entrances and exits sufficient for the traffic flow to be generated.** Yes, sufficient parking exists onsite combined with cross easement parking agreements with adjacent lots.
6. **Will the special use devalue surrounding properties?** No, the applicant is making an investment into the area. The use will likely attract more visitors to the downtown area.
7. **Has this case been reviewed and denied by the Board of Adjustment within the past year?** No.
8. **Are there any conditions the Board should impose to ensure the special use is in compliance with the standards above, or to minimize negative externalities of the special use?** No.
9. **Is the proposed use consistent with the Comprehensive Plan?** Yes, the development supports the following Comprehensive Plan Goals: "Goal C Attract and Retain Business and Industry."

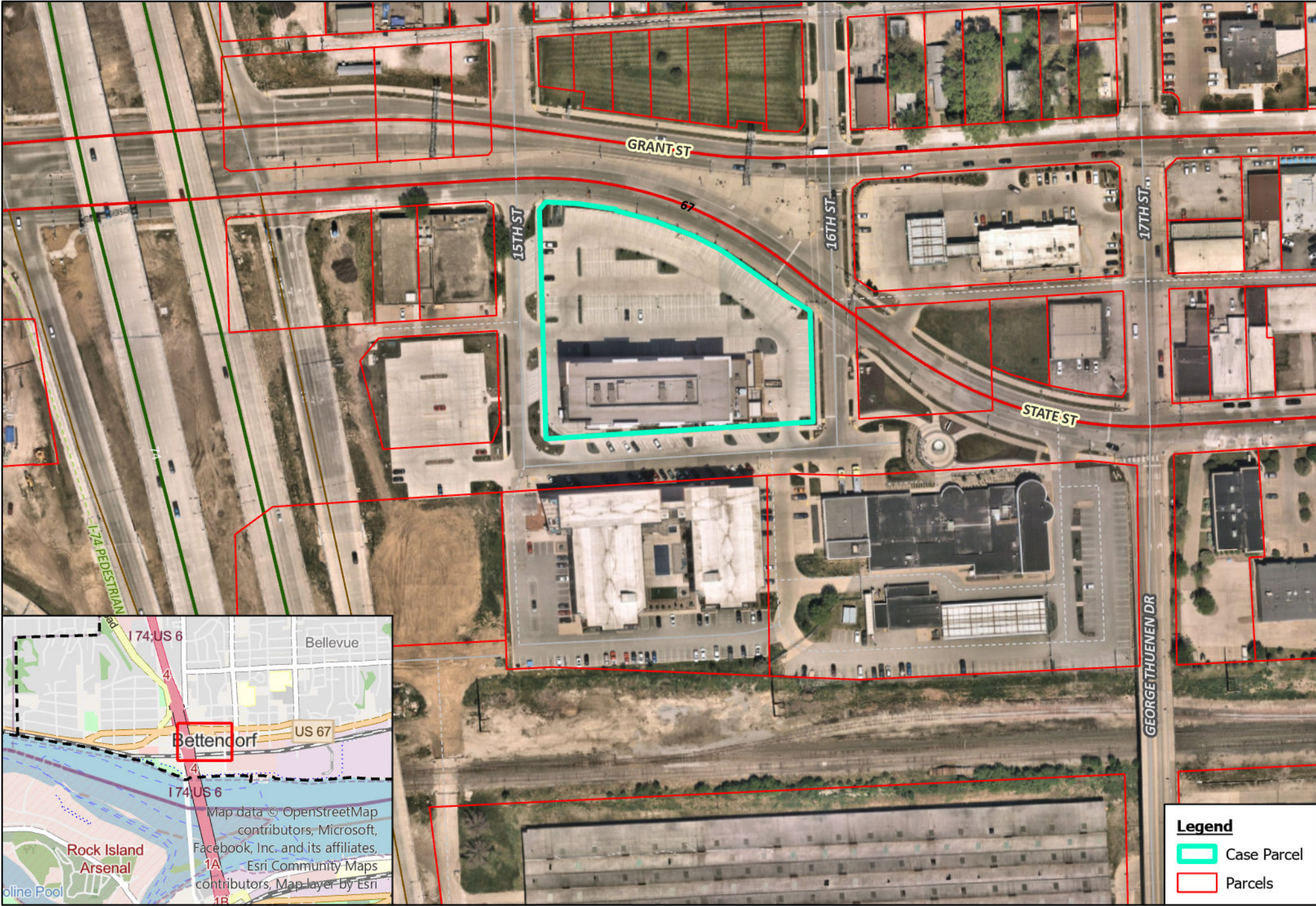
**Staff Recommendation**

Staff recommends approval of the special use permit.



Respectfully submitted,

Taylor Beswick  
City Planner

# Case 22-077: 1591 Grant Street Special Use Permit - Outdoor Service Area with Alcohol Aerial



**Legend**

-  Case Parcel
-  Parcels

Map data © OpenStreetMap contributors, Microsoft, Facebook, Inc. and its affiliates, Esri Community Maps contributors, Map layer by Esri

Bellevue

Bettendorf

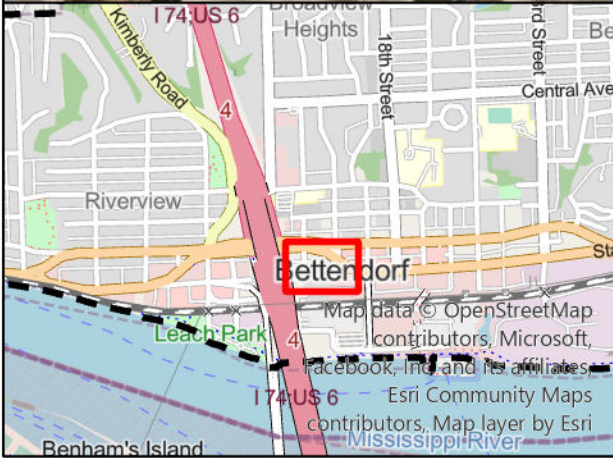
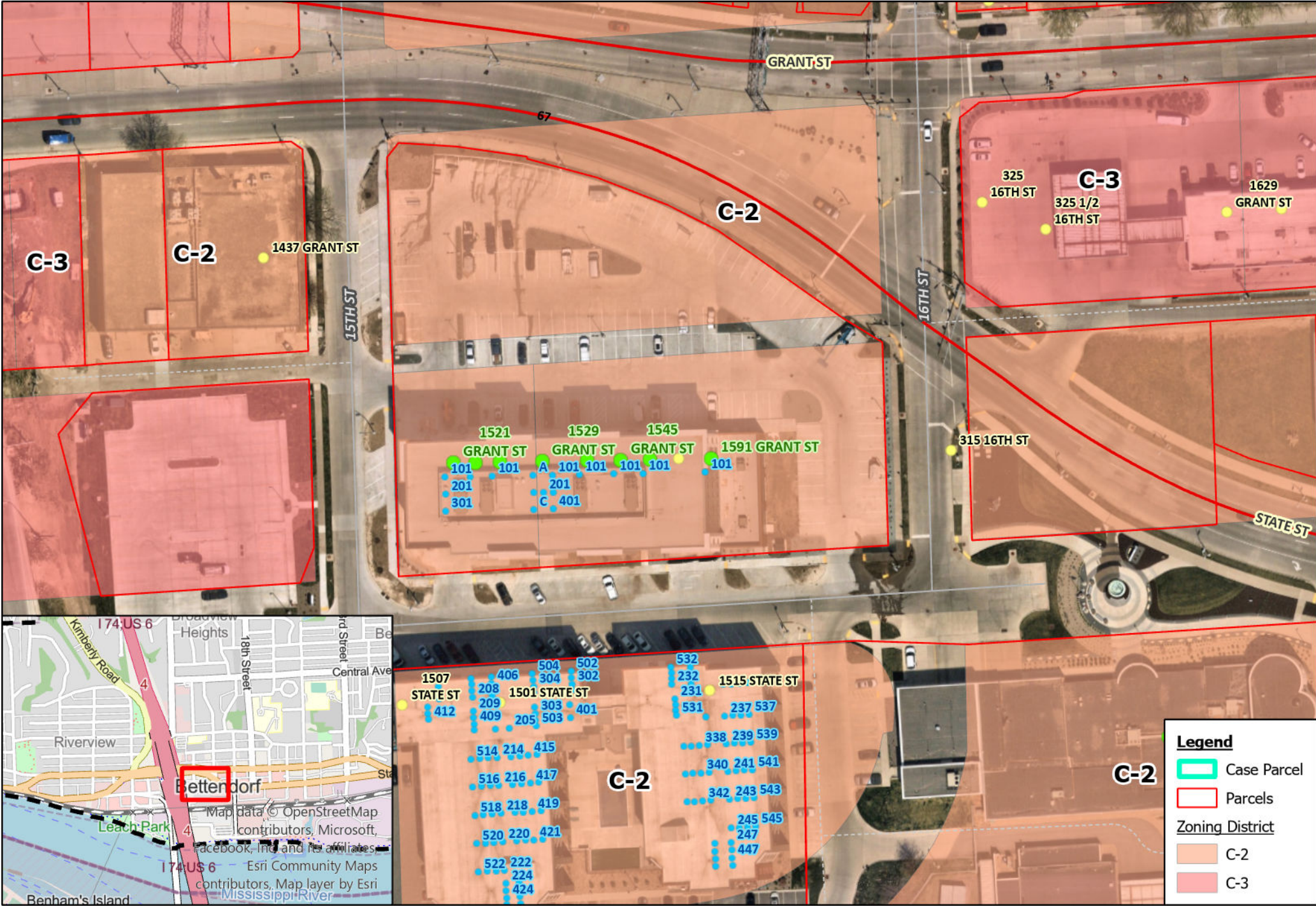
US 67

174 US 6

174 PEDESTRIAN

Rock Island Arsenal

Bellevue Pool











SIGNAGE

SIGNAGE

SIGNAGE



SIGN

SIGNAGE

SIGNAGE

SEGNAGE





Case No. 22-077

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

**Part 1. Property Involved.**

Street Address 1591 Grant Street, Suite 101, Bettendorf IA 52722  
Legal Description of the property: Lot 1 DT Bettendorf First Addition

**Part 2. Contact Information.**

Applicant/Contact Name ELD Holdings LLC / Michael Demitte Phone 309-337-4267  
Address 1424 N Harrison Street, Davenport IA 52803  
E-mail Address: lara.f.platinum@gmail.com

Owner Name Michael Demitte Phone 563-564-9623  
Address 3251 Palmer Hills Court, Bettendorf IA 52722  
E-mail Address: Michael.demitte.md@gmail.com

**Part 3. Type of Application. (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. \_\_\_\_\_

**Part 4. General Information.**

Section(s) of Zoning Ordinance Involved 11-4-5B Existing Zoning C-2

**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.

Outdoor alcohol service in patio area.

**Part 6. Attachments.** The following items are attached and are a part of this application. **Required materials should be submitted electronically via e-mail: [planning@bettendorf.org](mailto:planning@bettendorf.org).**

- ( ) 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street(s), 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 20th day of October, 20 22.

Signature of Applicant [Signature] Signature of Owner \_\_\_\_\_

(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 20th day of October, 20 22

[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 \$ 100. Date 10/20/22  
4# 2018



## COMMUNITY DEVELOPMENT

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

November 10, 2022 Board of Adjustment Meeting

Staff Report

### **Case No. 22-079**

**Request:** Variance to reduce the required front yard setback from 25 feet to 17 feet to allow for construction of an 8-foot by 16-foot deck.

**Location:** 1820 Bellevue Avenue

**Legal Description:** Associates Addition, Lot 56 & 57 (Parcel #: [8428301571](#))

**Applicant:** Savio Aguilar

**Zoning Designation:** R-2, Single-Family Residence District

### **Background Information and Facts**

The lot is located east of 18<sup>th</sup> Street on the north side of Bellevue Avenue in the Associates Addition ([see Attachment A – Aerial Map](#)). The property is located in the R-2, Single Family Residence District ([see Attachment B – Zoning Map](#)). The applicant would like to reduce the required 25-foot front yard setback to 17 feet so that he can build an 8-foot by 16-foot front porch deck. The front door is located at the 25-foot front yard setback and is elevated five stair rises above the front yard grade level (roughly 3 feet in height). A 4-foot by 4-foot concrete stoop existed prior to needing replacement ([see Attachment C – Concrete Stoop](#)).

The house was constructed in 1939. Most houses in the neighborhood were built in the same time period and are located at or are encroaching the 25-foot front yard setback line.

The applicant is citing the requirement of access to his front door as a hardship for granting the variance.

### **Staff Analysis**

Per Building Code, a minimum of 36 inches (3 feet) by 36 inches (3 feet) is required for a landing in this situation. The applicant's previous concrete stoop was 4 feet

by 4 feet. Given the requirements and previously-existing stoop, staff contends a 4-foot deep deck would be acceptable. The applicant's 8-foot-deep deck would not be consistent with the character of the neighborhood and staff cannot support a deck of that size.

**Staff Recommendation**

Staff recommends amending the applicant's request and approving a 21-foot front yard setback in lieu of the required 25-foot front yard setback as prescribed in City Code for the R-2 Zoning District. This would allow the construction of a front porch stoop deck that would encroach the front yard by 4 feet. Staff contends a hardship exists on the applicant's property due the unique lot configuration and lack of access to the front door without a variance.

Respectfully submitted,

Taylor Beswick  
City Planner

# Case 22-079: 1820 Bellevue Avenue

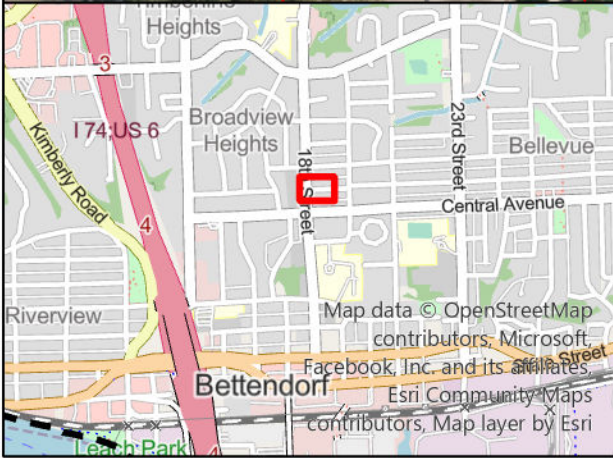
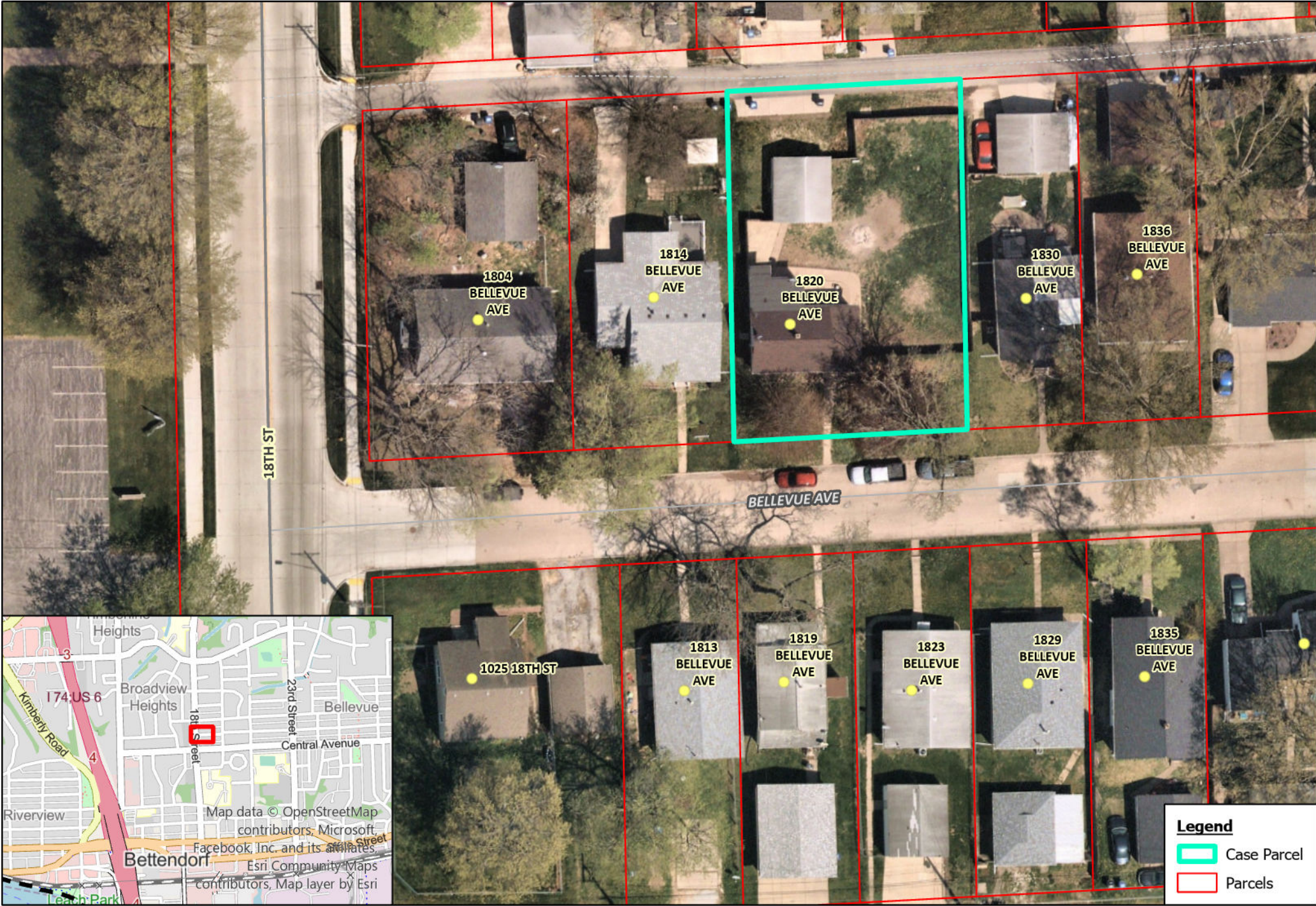
## Variance - Reduce Front Yard Setback for Stoop/Deck

### Aerial



1 Inch = 42 Feet



N



**Legend**

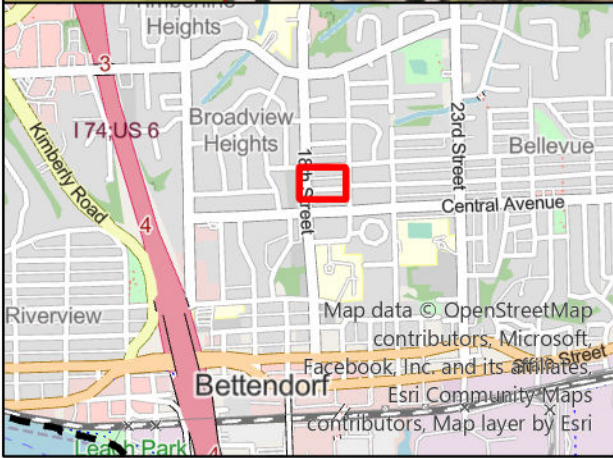
-  Case Parcel
-  Parcels

# Case 22-079: 1820 Bellevue Avenue

## Variance - Reduce Front Yard Setback for Stoop/Deck

### Zoning

1 Inch = 56 Feet



**Legend**

- Case Parcel
- Parcels
- Zoning District**
- R-2

Google Maps

1820 Bellevue Ave

Attachment C

Bettendorf, Iowa

Google

Street View - Jun 2021



Due 10/25  
Mtg. 11/09 @ 5 PM



Case No. 22-079

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

**Part 1. Property Involved.**

Street Address 1820 Bellevue Avenue Bettendorf, IA. 52722  
Legal Description of the property: Lot S6 & S7, Associates Addition

**Part 2. Contact Information.**

Applicant/Contact Name Savia Carlos Aguilar Phone 219-407-2811  
Address 1820 Bellevue Ave. Bettendorf, IA. 52722  
E-mail Address: \_\_\_\_\_

Owner Name Savia Carlos Aguilar Phone 219-407-2811  
Address 1820 Bellevue Ave. Bettendorf, IA. 52722  
E-mail Address: savial1990@yahoo.com

**Part 3. Type of Application. (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. \_\_\_\_\_

**Part 4. General Information.**

Section(s) of Zoning Ordinance Involved \_\_\_\_\_ Existing Zoning R-2

**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.

"Why a porch is needed at 8 feet"

My request for a variance, is for a porch/deck 8 feet from the front of my house. I have a large family, that visits quiet often. 4 feet just isn't enough room, to lounge and enjoy outdoors. Also, will make my house and the neighborhood look better. Thank you for your consideration.

**Part 6. Attachments.** The following items are attached and are a part of this application. **Required materials should be submitted electronically via e-mail: [planning@bettendorf.org](mailto:planning@bettendorf.org).**

- ( ) 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street(s), 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.**

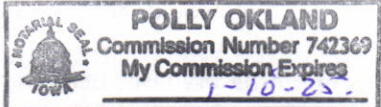
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 23 day of October, 20 22.

Signature of Applicant Dario Carlos Aguilera Signature of Owner Dario Carlos Aguilera  
(The owner **MUST** indicate his consent to this application by signing above. Application without the signature of the owner will not be processed)  
10-24-22 Ramiro Alberto Aguilera

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 24th day of October, 20 22



[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 Polly Okland  
Amount \$ 50.00 Date 10-24-22