

**CITY OF WEST DES MOINES  
BOARD OF ADJUSTMENT COMMUNICATION**

**Meeting Date:** May 18, 2016

**Item:** 904 9<sup>th</sup> Street and 905 Grand Avenue – Approval of a 3,200 sf drinking establishment with food service and outdoor patio and approval of a variance of the front yard building setback requirement along Grand Avenue, a variance of the front yard building setback requirement along 9<sup>th</sup> Street, a waiver and deferral from minimum parking required, and an allowance to install a fence in lieu of providing a buffer – Boggs Properties, LLC – PC-003068-2016

**Requested Action:** Approval of a Permitted Conditional Use Permit including waiver of five (5) parking stalls, deferral of fourteen (14) parking stalls, and allow fence in lieu of buffer  
Approval of Setback Variances

**Case Advisor:** Brian Portz *BP*

**Applicant's Request:** The applicant, Boggs Properties, LLC is requesting approval to allow construction of a 3,200 sf drinking establishment with food service and outdoor patio on that property located at the northwest corner of Grand Avenue and 9<sup>th</sup> Street (904 9<sup>th</sup> Street & 905 Grand Avenue). In order to accommodate development on the parcel, the applicant is also requesting the following variances or allowances:

- 40' variance of the required 45' setback from the ultimate right-of-way line of Grand Avenue (south property boundary).
- 20' variance of the required 45' setback from the ultimate right-of-way line of 9<sup>th</sup> Street (east property boundary).
- Waiver of 19 of the 46 parking stalls required for the proposed drinking establishment/restaurant.
- Allowance to install a 6' solid fence along the north property boundary in lieu of providing a 30' wide landscaped buffer.

The applicant has provided communication of their findings for the proposed variances, allowances, and waivers (see attachment C). Staff comments regarding each is provided below.

**History:** The subject properties, 904 9<sup>th</sup> Street and 905 Grand Avenue, are currently vacant. The Polk County Assessor site indicates there was a residence on the property at 904 9<sup>th</sup> Street until 1999, even though since at least 1995 it has had a commercial zoning designation. According to the Polk County Assessor a commercial building was removed from the property at 905 Grand Avenue in 1999. The subject properties are both zoned Neighborhood Commercial (NC) along with the properties immediately to the east. Adjacent to the west is an Office (OF) designated parcel which per the Fire Department's FireHouse occupancy data is home to Bernau Capitol Partners. Immediately to the north of the subject properties is 910 9<sup>th</sup> Apartments: this property is zoned Residential High Density (RH-25).

**City Council Subcommittee:** This item is scheduled to be presented to the Development and Planning City Council Subcommittee on May 16, 2016 as an informational item only.

**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. Staff notes the following:

1. ***Further Site Development Review is required:*** While the applicant has submitted basic illustrations for the development of the site, this is not a full Site Plan submittal. The applicant choose to first determine whether the Drinking Places (SIC 5813) use would be allowed on this parcel and whether the variances necessary to accommodate development would be approved prior to spending monies hiring the appropriate professional individual to complete a detailed site plan. A complete site plan package with full development details, including architecture will need to be submitted for review and approval prior to development of the site.

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- Waiver of 19 of the 46 parking stalls required for the proposed drinking establishment/restaurant.
- Allowance to install a 6' solid fence along the north property boundary in lieu of providing a 30' wide landscaped buffer.

The applicant has provided communication of their findings for the proposed variances, allowances, and waivers (see attachment C). Staff comments regarding each is provided below.

**History:** The subject properties, 904 9<sup>th</sup> Street and 905 Grand Avenue, are currently vacant. The Polk County Assessor site indicates there was a residence on the property at 904 9<sup>th</sup> Street until 1999, even though since at least 1995 it has had a commercial zoning designation. According to the Polk County Assessor a commercial building was removed from the property at 905 Grand Avenue in 1999. The subject properties are both zoned Neighborhood Commercial (NC) along with the properties immediately to the east. Adjacent to the west is an Office (OF) designated parcel which per the Fire Department's FireHouse occupancy data is home to Bernau Capitol Partners. Immediately to the north of the subject properties is 910 9<sup>th</sup> Apartments: this property is zoned Residential High Density (RH-25).

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**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. Staff notes the following:

1. **Further Site Development Review is required:** While the applicant has submitted basic illustrations for the development of the site, this is not a full Site Plan submittal. The applicant choose to first determine whether the Drinking Places (SIC 5813) use would be allowed on this parcel and whether the variances necessary to accommodate development would be approved prior to spending monies hiring the appropriate professional individual to complete a detailed site plan. A complete site plan package with full development details, including architecture will need to be submitted for review and approval prior to development of the site.

The site plan will be considered by the Board of Adjustment at a later date. Staff has recommended a Condition of Approval requiring the applicant receive approval of a detailed site plan prior to initiating any development activities within the parcels.

2. Approval of a 40' variance of the 45' required front yard setback along Grand Ave: Building setbacks are measured from the ultimate right-of-way line of adjoining roadways. Grand Avenue is classified as a Major Arterial roadway which requires a total of 120 feet of right-of-way or 60' from the centerline of the road. The existing half right-of-way is 50 feet therefore at some point in the future the dedication of an additional 10' of right-of-way may be necessary. The half right-of-way width along properties to either side of this subject property also appear to currently be 50'.

The applicant is requesting a 40' variance of the required 45' front yard setback. The two buildings immediately to the east both appear to be approximately 10' from the current right of way line which, if additional right-of-way were acquired, the buildings would have 0' setback. The property to the west currently provides more setback (50') than the 30' front yard setback required of the Office zoning district, and will still be compliant even if the additional 10' of right-of-way is someday acquired. With the approval of the applicant's variance request, the building will be located generally in line with the two buildings to the east and due to the curve in Grand Avenue, generally in alignment with the southernmost portion of the office building.

It should be noted, the 905 Grand Avenue parcel at its narrowest depth is approximately 80': with a future dedication of right-of-way, the parcel will have 70' of depth. The applicant is also acquiring the parcel immediately to the north which increase the depth to approximately 125'. The 45' required front yard setback in combination with the required 35' rear yard building setback, leaves 45' of buildable area, but situating the building at the required setbacks makes circulation within the site and parking lot layouts difficult.

3. Approval of 20' variance of the 45' required front yard setback along 9<sup>th</sup> Street: Building setbacks are measured from the ultimate right-of-way line of adjoining roadways. 9<sup>th</sup> Street is classified as a local street which requires a total of 60 feet of right-of-way or 30' from the centerline of the road. The existing half right-of-way is 25 feet therefore at some point in the future the dedication of an additional 5' of right-of-way may be necessary.

The applicant is requesting a 20' variance of the required 45' front yard setback. The buildings to the north and south of the subject property appear to both meet the required 45' setback; however, the building to the east across the street appears to be sitting at the current right-of-way line and the building immediately north of that is setback approximately 30' from the current right-of-way line.

Staff is in support of both front yard setback variance requests. Staff recognizes that this is an infill/redevelopment area. The application of today's bulk regulations geared towards larger parcels and greenfield development makes redevelopment extremely difficult. Additionally, staff is supportive of the variance requests as the location of the building with the variances granted will be in keeping with the location of other buildings within the area. It could possibly be argued that not granting the variances results in other properties in the area being granted rights that this property is being denied.

4. Waiver and Deferral of parking: Based on the proposed size and use of the building as a drinking establishment/restaurant, 46 parking spaces are required by City Code. Due to the size of the subject property, the applicant is only able to get 27 parking spaces on the site. The applicant is requesting a waiver of 19 of the required 46 parking spaces. The applicant does not feel all 46 spaces are necessary as their current operation, although slightly smaller, does not generate a need for more than 20-25 spaces.

An off-site parking option that the applicant is exploring is possibly constructing a second, new parking lot on a vacant lot north of the apartment building immediately adjacent to the subject property. The size of this parcel would allow for 14 parking spaces.

Staff is opposed to the waiver of 46 parking spaces required of the site. A future user may need more parking than the current user; however, the waiver forever reduces the parking required of the site and the City would have no way to require the future user to add more parking to accommodate their patrons. Staff would support the waiver of the five (5) parking spaces the site is short (46 minus 27 on-site stalls minus 14 stalls north of the apartment = 5). Staff would also support a deferral of the construction of the 14 spaces on the parcel to

the north until such time that a need for parking is demonstrated (patrons parking on grass or off-site due to lack of available stalls).

5. 6' solid fence in lieu of a 30' wide buffer: The applicant is requesting to allow a 6' solid fence along the north property line in lieu of the required 30' wide landscape buffer. There is an existing 6' solid wood fence with large trees along this property line. The applicant proposes to keep the fence and trees to provide for screening/buffering of their site from the adjacent property owner to the north (an apartment building). The currently anticipated layout has the proposed parking lot around the north side of the building located 15' from the north property line. The applicant has indicated they will add additional trees and shrubs within the 15' area to further screen/buffer the parking lot.

Staff is supportive of the allowance of a fence in lieu of the buffer, as well as a deferral on the installation of the fence given a fence already exists on the property boundary. Staff would however recommend a condition of approval that requires the developer/property owner of current 905 Grand Avenue and 904 9<sup>th</sup> Street to install a new, 6' solid wood fence, should the condition of the existing fence deteriorate and become structurally unstable or otherwise no longer achieve the purpose of providing a solid barrier between the two properties.

6. Distance to First Church of Christ: The First Church of Christ is located at 801 Grand Avenue, east of the subject property. City Code Title 2: Business and Licensing, Chapter 2: Beer and Liquor Control, Section 6: Location of Premises requires that establishments with a class A, B, C, or D liquor control license, or a class B beer permit, or a class C native wine permit be located no less than 200 feet of a church, school, preschool, or childcare center building. The measurement is taken on a direct line between the nearest points of each building. The applicant has provided documentation indicating that they exceed the minimum required 200' from the First Church of Christ building.

**Noticing Information:** On May 6, 2016, a notice of the May 18, 2016, Board of Adjustment public hearing was published in the *Des Moines Register*. Notice of this public hearing was mailed to all surrounding property owners within 370 feet of the subject property on May 3, 2016.

**Variance Findings.** Title II of the City Codes discusses the variance procedure. All five (5) of the following conditions must be met in order to grant a variance. Based upon a review of the submitted variance request, staff has made the following findings on the proposed project:

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan. *The Comprehensive Plan identifies a land use of Neighborhood Commercial for these two properties. The properties are zoned Neighborhood Commercial (NC). The proposed use of the property as a drinking establishment with food service is allowed under a Permitted Conditional Use Permit within the Neighborhood Commercial zoning districts.*
2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones. *The future right-of-way needs along Grand Avenue and 9<sup>th</sup> Street impact the buildable area of the site and the size of the property is such that locating the building within the south and east setbacks will allow for the best circulation on the site and allow for the maximum number of parking spaces that the site can hold. While the lot sizes are not necessarily vastly different from surrounding properties, it would appear the development bulk regulations required of today are larger than that required when many of the surrounding properties developed.*
3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest. *A hardship is partly created by the future right-of-way needs of Grand Avenue and 9<sup>th</sup> Street, which require the future dedication of 10' along Grand Avenue and 5' along 9<sup>th</sup> Street. The setbacks are measured from the ultimate street right-of-way and therefore take up even more of the property. If the required setbacks were applied to this site (45' along Grand Avenue and 9<sup>th</sup> Street and 35' north and west) the building would have to be placed*

*in the middle of the property which wouldn't allow for proper site circulation nor would there be adequate room for parking spaces around the building or the required open space on the site. Additionally, it could be argued that the lots sizes within this Neighborhood Commercial area are smaller than would typically be platted today. Application of today's Neighborhood Commercial bulk regulations (setbacks, open space, minimum parking, etc.) do not appear to be suitable to these smaller lots.*

4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment. *No changes to the area have occurred. The proposed development will not detrimentally affect the environment. The proposed development with the building closer to Grand Avenue is in keeping with the location and character of other buildings within the City's older areas of town.*
5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements. *The granting of the variance would not adversely affect the health or safety of persons, would not be materially detrimental to the public welfare and would not be injurious to nearby properties or improvements.*

**Staff Recommendations and Conditions of Approval for the Permitted Conditional Use Permit:** Based upon the review of the proposal, a finding of consistency with the goals and policies of the Comprehensive Plan, and compliance with the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution approving the Permitted Conditional Use (Pc) Permit to allow the construction of a 3,200 sf Drinking Place (SIC 5813), including the waiver of five (5) parking stalls, deferral of installation of 14 parking stalls, and allowing a fence in lieu of a buffer for those properties located at 904 9<sup>th</sup> Street and 905 Grand Avenue, subject to meeting all City Code requirements and the following:

1. The Board of Adjustment waiving five (5) of the 46 parking stalls required for a 3,200 sf Drinking Place;
2. The Board of Adjustment accepting the placement of 14 of the required parking stalls on the property located at 916 9<sup>th</sup> Street (Lot 45, Clover Hills Place Subdivision) and deferring the installation of the 14 parking spaces until such time that on-site events in which parking on the grass or other non-designated parking areas occurs or parking off-site within other private businesses parking lots is occurring due to the lack of available parking stalls. At the time when the existing parking is not sufficient to accommodate the events held on-site, the City reserves the right to provide the applicant notice to increase the number of parking stalls. The applicant will be required to provide the additional parking spaces in accordance with City regulations within the first available construction season. Prior to implementation of additional parking to satisfy the deferred parking stalls, the applicant shall submit for approval a Site Plan to the City identifying the location and engineering details for the stalls to be constructed.
3. The Board of Adjustment approving the installation of a 6' solid fence in lieu of provision of a 30' wide landscape buffer along the northern property boundary, and approving the deferral of installation of the fence until such time that repairs to the existing fence are necessary.
4. The properties (904 9<sup>th</sup> Street and 905 Grand Avenue) shall be 'lot tied' together with a lot tie agreement prepared by the City of West Des Moines. The lot tie agreement will be signed by the property owner and recorded by the City of West Des Moines prior to issuance of a building permit for any construction activities, including installation of footing and foundation permits.
5. The applicant submitting and receiving approval of a Site Plan prior to initiating development of the site.
6. The applicant working with the City for the review and approval of any special events to be held on this site.

**Staff Recommendations and Conditions of Approval for the Variances:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan and the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution for approval of a request for a 40' front yard variance along Grand Avenue and a 20' front yard variance along 9<sup>th</sup> Street to construct a building on the property, subject to the applicant meeting all City Code requirements.

**Property Owner:** Iowa Medical Society  
515 E. Locust Street, Suite 400  
Des Moines, Iowa 50309  
Clare Kelly

**Applicant:** Boggs Properties, LLC  
Bill and Amy Boggs  
1609 Buffalo Road  
West Des Moines, IA 50265  
[Amy.boggs@hotmail.com](mailto:Amy.boggs@hotmail.com)

**Attachments:**

- Attachment A - Permitted Conditional Use Resolution
- Exhibit A - Conditions of Approval
- Attachment B - Variance Resolution
- Exhibit A - Conditions of Approval
- Attachment C - Information Submitted by the Applicant
- Attachment D - Location Map
- Attachment E - Potential site layout plan
- Attachment F - Aerial Map showing potential off-site parking

Prepared by: B. Portz, Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

**RESOLUTION**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING A PERMITTED CONDITIONAL USE PERMIT (PC-003068-2016) TO ALLOW SIC 5813: DRINKING PLACE WITH FOOD SERVICE AT 904 9<sup>TH</sup> STREET AND 905 GRAND AVENUE**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Boggs Properties, LLC, has requested approval of a Permitted Conditional Use permit to allow a 3,200 sf drinking place (SIC 5813) with food service and patio at 904 9<sup>th</sup> Street and 905 Grand Avenue, and legally described as follows:

Legal Description of Property

LOT 48, CLOVER HILLS PLACE, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, POLK COUNTY, IOWA.

AND

THAT PART OF LOT A LYING NORTH OF A LINE 50 FEET NORTH OF THE CENTER LINE OF GRAND AVENUE AND LOT 49, CLOVER HILLS PLACE, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, POLK COUNTY, IOWA.

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on May 18, 2016, the Board of Adjustment held a duly-noticed public hearing to consider the application for Permitted Conditional Use Permit (PC-003068-2016);

**NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The findings, for approval, in the staff report, dated May 18, 2016, or as amended orally at the Board of Adjustment hearing of May 18, 2016, are adopted.

**SECTION 2.** PERMITTED CONDITIONAL USE PERMIT (PC-003068-2016) to allow a 3,200 sf drinking place (SIC 5813) with food service and patio at 904 9<sup>th</sup> Street and 905 Grand Avenue is approved, subject to compliance with all the conditions in the staff report, dated May 18, 2016, including conditions added at the Hearing, and attached hereto as Exhibit "A", if any. Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on May 18, 2016.

\_\_\_\_\_  
Erik P. Christiansen, Board of Adjustment Chairperson

ATTEST:

\_\_\_\_\_  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on May 18, 2016, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Recording Secretary



## EXHIBIT A

### CONDITIONS OF APPROVAL

1. The Board of Adjustment waiving five (5) of the 46 parking stalls required for a 3,200sf Drinking Place;
2. The Board of Adjustment accepting the placement of 14 of the required parking stalls on the property located at 916 9<sup>th</sup> Street (Lot 45, Clover Hills Place Subdivision) and deferring the installation of the 14 parking spaces until such time that on-site events in which parking on the grass or other non-designated parking areas occurs or parking off-site within other private businesses parking lots is occurring due to the lack of available parking stalls. At the time when the existing parking is not sufficient to accommodate the events held on-site, the City reserves the right to provide the applicant notice to increase the number of parking stalls by. The applicant will be required to provide the additional parking spaces in accordance with City regulations within the first available construction season. Prior to implementation of additional parking to satisfy the deferred parking stalls, the applicant shall submit for approval a Site Plan to the City identifying the location and engineering details for the stalls to be constructed.
3. The Board of Adjustment approving the installation of a 6' solid fence in lieu of provision of a 30' wide landscape buffer along the northern property boundary, and approving the deferral of installation of the fence until such time that repairs to the existing fence are necessary.
4. The properties (904 9<sup>th</sup> Street and 905 Grand Avenue) shall be 'lot tied' together with a lot tie agreement prepared by the City of West Des Moines. The lot tie agreement will be signed by the property owner and recorded by the City of West Des Moines prior to issuance of a building permit for any construction activities, including installation of footing and foundation permits.
5. The applicant submitting and receiving approval of a Site Plan prior to initiating development of the site.
6. The applicant working with the City for the review and approval of any special events to be held on this site.

Prepared by: B. Portz, West Des Moines Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3630  
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

**RESOLUTION**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING THE VARIANCE REQUEST (PC-003068-2016) FOR A 40 FOOT VARIANCE OF THE REQUIRED 45 FOOT FRONT YARD SETBACK ALONG GRAND AVENUE AND A 20 FOOT VARIANCE OF THE REQUIRED 45 FOOT FRONT YARD SETBACK ALONG 9<sup>TH</sup> STREET FOR THE CONSTRUCTION OF AN APPROXIMATELY 3,200 SQUARE FOOT DRINKING ESTABLISHMENT/RESTAURANT BUILDING AT 904 9<sup>TH</sup> STREET AND 905 GRAND AVENUE.**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Boggs Properties, LLC, has requested approval of a variance from Title 9, *Zoning*, Chapter 7, *Setback and Bulk Density Regulations*, Subsection 4, *Setback and Bulk Density Regulations*, Table 7.8 *Bulk Regulations for Principal and Accessory Structures in Commercial Districts* for a 40 foot variance of the required 45 foot front yard setback along Grand Avenue and a 20' variance of the required 45 foot front yard setback along 9<sup>th</sup> Street to allow for the construction of an approximately 3,200 square foot drinking establishment/restaurant building at 904 9<sup>th</sup> Street and 905 Grand Avenue, which is legally described as:

**Legal Description of Property**

LOT 48, CLOVER HILLS PLACE, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, POLK COUNTY, IOWA.

AND

THAT PART OF LOT A LYING NORTH OF A LINE 50 FEET NORTH OF THE CENTER LINE OF GRAND AVENUE AND LOT 49, CLOVER HILLS PLACE, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, POLK COUNTY, IOWA.

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on May 18, 2018, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance (PC-003068-2016);

**WHEREAS**, on May 18, 2016, the Board of Adjustment stated that it is their opinion that this is a unique application with special circumstances related to the property, its use, and the relationship to the neighborhood that make it different than other properties that may be reviewed by the Board. The Board indicated that the strict application of the zoning regulations as to this particular property would create practical difficulties for the applicant's business and for the development of the site.

**NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The findings, amended orally at the Board of Adjustment May 18, 2018 hearing, including conditions of approval as provided in Exhibit A are adopted.

**SECTION 2.** The Variance Request (PC-003068-2016), of a forty (40) foot variance from the forty five (45) foot front yard setback along Grand Avenue and a twenty (20) foot variance from the forty five (45) foot front yard setback along 9<sup>th</sup> Street to allow for the construction of an approximately 3,200 square foot drinking establishment/restaurant building at 904 9<sup>th</sup> Street and 905 Grand Avenue is hereby granted.

PASSED AND ADOPTED on May 18, 2016.

\_\_\_\_\_  
Erik P. Christiansen, Board of Adjustment Chairperson

ATTEST:

\_\_\_\_\_  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on May 18, 2016, by the following vote:

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:

ATTEST:

\_\_\_\_\_  
Recording Secretary

**EXHIBIT A**  
**CONDITIONS OF APPROVAL**

1. No conditions of approval.

CITY OF WEST DES MOINES  
VARIANCE APPLICATION FINDINGS

Please address each required finding in the space provided or attach more sheets if necessary to prove to the Board of Adjustment that the finding can be made.

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.

The proposed use is classified as a Permitted Conditional use within the current zoning.

2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.

The physical size of the individual properties as well as the properties together makes development particularly difficult considering required setbacks and ultimate ROW requested by the City. Locating an entrance as far as possible away from the existing intersection of 9<sup>th</sup> and Grand makes parking and site maneuvering particularly challenging.

3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest.

The setbacks required with consideration of the ultimate ROW proposed at 905 Grand make development of the lot as a single property very challenging. While the proposed development is utilizing both 905 Grand and 904 9<sup>th</sup> Street, developing a building of minimal size and providing the required parking is particularly difficult without placement of the parking and drive aisles in front of the building. Parking and drive aisles in the front of the building are particularly difficult considering the access proximity from 9<sup>th</sup> and Grand intersection.

4. That there have been no changes in the character of the site or its surrounding which detrimentally affect the environment.

Not applicable or not that we are aware of.

5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

The physical placement of the proposed development is consistent with the existing commercial development immediately to the east, and locating the parking and drive access aisles behind the building is consistent with City of West Des Moines urban infill planning strategies. Physical placement of the proposed development will be farther away from the adjacent residential than would be permitted otherwise by zoning. Hours of the proposed use will be primarily alternate of the adjacent properties so as not to present any detriment to the nearby commercial properties in regards to traffic or parking.

## Jamie Malloy

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**From:** Jamie Malloy  
**Sent:** Monday, May 2, 2016 2:08 PM  
**To:** Portz, Brian; 'Twedt, Lynne'; 'Amy Boggs'; Bill Boggs; Pylar Eaton  
**Subject:** Variance Request

Brian-

Our Board of Adjustment Requests for 905 Grand are as follows:

Conditional Use Permit; Applicant will be submitting Conditional Use Permit and applicable fees.

Front Yard Setback; Applicant is requesting 5' setback from Ultimate ROW in lieu of 45' currently required. Applicant site will be reduced by 10' for Ultimate Grand ROW adjustment and considering 45' setback requirement will only be left with approximately 27' for buildable depth at east corner which would make the single parcel virtually unbuildable. Considering both parcels, even if proposed building were to conform with front setback, there would not be room for parking and drive aisle on the north requiring parking to be located in front of building which would be less desirable. Positioning of the building with the proposed 5' setback would be consistent with the adjacent buildings at 817 & 835 Grand.

Side Yard (East) Setback; Applicant is requesting 25' setback from Ultimate ROW in lieu of 45' currently required. Applicant site will be reduced by 5' for Ultimate 9<sup>th</sup> Street ROW adjustment and considering 45' east setback requirement and the 35' west setback the buildable width of the lot is only approximately 76'. If the building were to conform with the East setback, there would not be room for parking and drive aisle on the west side which would also require parking to be located in front of the building. Locating the parking on the front of the building would be less desirable and significantly limit the available parking.

The South and East Setback variances allow for greater open area than is required by zoning. Proposed layout provides approximately 30% open space rather than 25% required. This also allows for compact and efficient parking and drive area rather than paving all the way around the building which would be necessary without the variances.

North Parking Buffer; Applicant is requesting a 6' solid fence and 15' buffer from the apartment building to the north in lieu of the 30' required buffer. Landscaping will be provided in accordance with zoning requirements for buffer yard.

Off Street Parking; Applicant is requesting a variance in required parking from 46 spaces required (3045sf/100 x 1.5) to 27 spaces provided on site. Applicant currently has only 23 parking spaces between their current site and adjacent leased parking area. Applicant is currently looking at options for overflow parking at 916 9<sup>th</sup> Street which is a currently vacant lot.

Let me know if there are any questions or concerns with the above request.

Thanks.

Jamie

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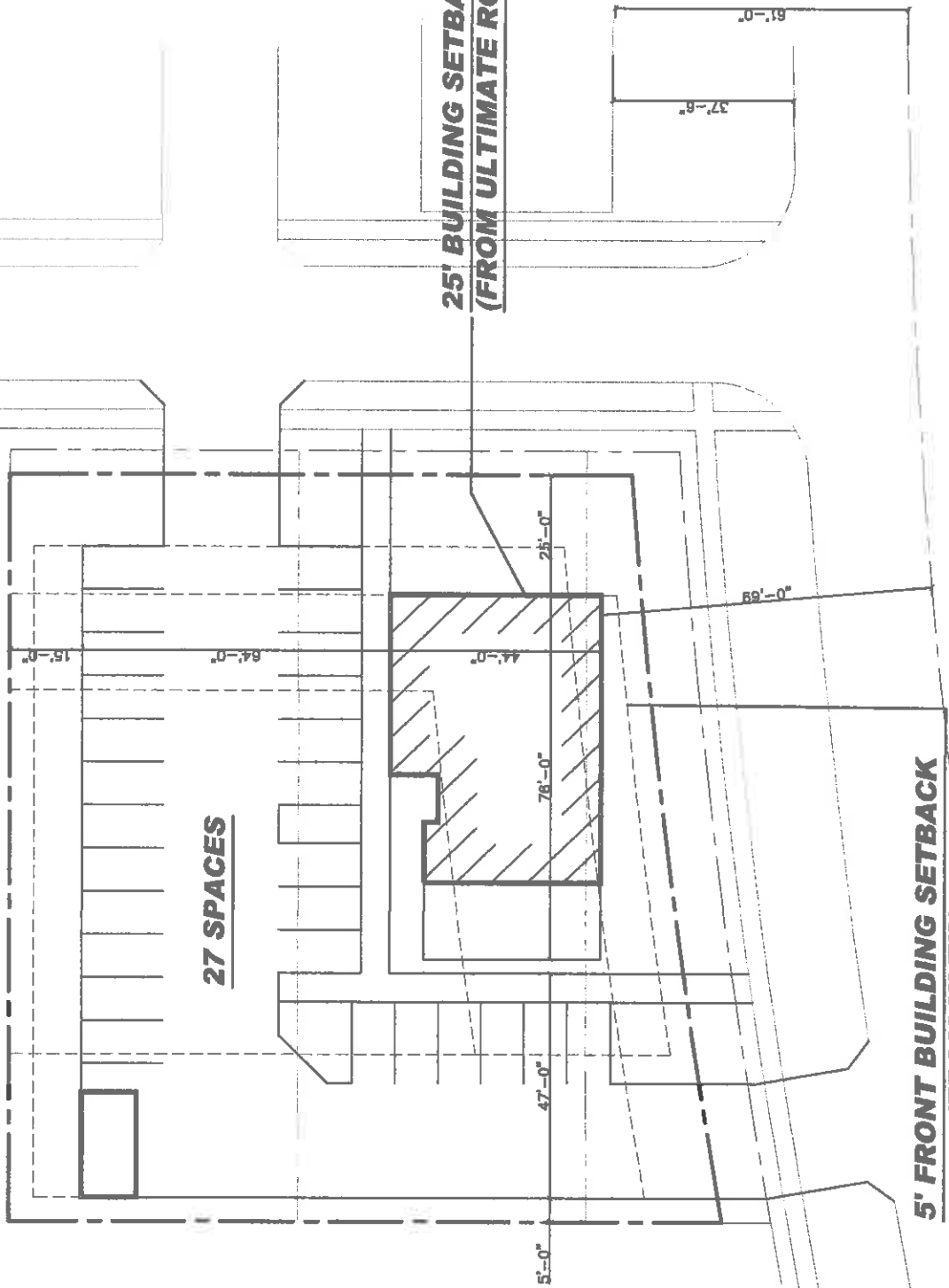






**PROPOSED BUILDING LOCATION ALLOWS  
FOR PARKING ON NORTH AND WEST**

**ADJUSTED SITE AREA: 21,430SF  
OPEN SPACE: 6,283SF (29%)**



**5' FRONT BUILDING SETBACK  
(FROM ULTIMATE ROW)**

**25' BUILDING SETBACK  
(FROM ULTIMATE ROW)**

**EXHIBIT C 05-02-2016**

