

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

**Meeting Date:** December 18, 2019

**Item:** Height Variance, 329 5th Street – Vary the maximum building height from thirty-six feet (36') to forty feet (40') for the elevator shaft of a proposed mixed use building – Junction House 329, LLC (VAR-004570-2019)

**Requested Action:** Request approval of a Building Height Variance

**Lead Staff Member:** J. Bradley Munford 

**Applicant's Request:** The applicant, Junction House 329, LLC, with permission of the owners, Richard and Andrea Doggett, is requesting a four-foot variance to the maximum allowable building height for property located at 329 5th Street. The variance would increase the allowed height of a portion of the building from the maximum thirty-six feet (36') currently allowed in the Valley Junction Historic Business (VJHB) district to up to forty feet (40'). A developer is proposing to demolish the existing building and construct a three-story mixed-use building consisting of commercial on the first floor and apartments on the second and third floors. Because the residential is on the upper floors, per accessibility requirements an elevator is required. (City code does not allow residential uses on the first floor of a commercial building in VJHB.) Without the variance, the elevator to the third floor would not be possible. The additional height would apply only to that portion of the building for the elevator overrun.

**History:** The property which is zoned Valley Junction Historic Business District (VJHB). The applicant intends to demolish the existing structure and construct a new mixed use building.

**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. There are no outstanding issues. Staff would note the following:

- **Determining building height:** City code provides the method of measuring building height as follows;

*"The vertical distance from the average finished ground grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs".*

Roof mounted mechanical equipment is not included in the height calculation as the dimension is taken from the parapet (edge of the building, which could be higher or lower than any roof mounted equipment) and mechanical equipment is not considered a permanent element of the building. An elevator overrun is the mechanical equipment above the highest stop of the elevator car and is a functional requirement for the operation of the elevator. The elevator shaft that encloses the overrun is the subject of the request as it is located along the edge of the building rather than setback onto the middle of the roof where it could be treated as equipment. Because of its location at the edge of the building, the shaft enclosure becomes an element of the building facade and in this case, is a higher parapet than the remainder of a building due to the additional height needed for the elevator overrun.

- **Allowance for building elements to exceed the building height:** In other situations within the City, especially within the Town Center Overlay District vertical components such as clock or bell towers and roof-top accesses have been allowed to exceed the maximum building height for the zoning district to break up the roof line and encourage visual interest. These situations have traditionally been handled as part of the drafting of a Planned Unit Development (PUD) ordinance. Staff is considering a future code amendment that would allow this kind of exception to building heights within the community. The proposed code amendment could also clarify

exceptions for the accommodation of mechanical equipment necessary for the functioning of the building to negate the need for variances in instances such as this.

**Noticing Information:** On December 11, 2019, notice of the December 18, 2019 Board of Adjustment Public Hearing on this project was published in the Des Moines Register. Notice of this public hearing was also mailed to all surrounding property owners within 370 feet of the subject property on December 11, 2019.

**Property Owner:** Richard and Andrea Doggett  
8804 New York, Avenue  
Urbandale, Iowa 50322

**Applicant(s):** Junction House 329, LLC  
Scott Cutler  
1307 50<sup>th</sup> Street  
West Des Moines, Iowa 50266

**Applicant's Representatives:**  
Substance Architecture  
Cody Knop & Tim Hickman  
1300 Walnut St # 201  
Des Moines, Iowa 50309

**ATTACHMENTS:**

Attachment A-Board of Adjustment Resolutions (Approval and Denial)  
Exhibit A- Conditions of Approval  
Attachment B-Location Map  
Attachment C- Site Plans (For illustrative purposes only)  
Attachment D-Applicant Reason for Variance  
Attachment E-Findings from Staff

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

**RESOLUTION BOA- 2019-17**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES,  
(APPROVING OR DENYING) THE VARIANCE REQUEST (VAR-004570-2019) OF A FOUR FOOT  
VARIANCE TO THE MAXIMUM THIRTY-SIX FOOT BUILDING HEIGHT RESTRICTION FOR PROPERTY  
LOCATED AT 329 5TH STREET**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Junction House 329, LLC, in cooperation with the property owners, Richard and Andrea Doggett, has requested approval of a variance from Title 9, Zoning, Chapter 7 (Setback and Bulk Density Regulations), Section 4 (Setback and Bulk Density Regulations), Table 7.6. The variance request is to allow up to an additional four feet (4') of building height above the maximum allowed thirty-six foot (36') height for the zoning district resulting in up to a forty foot (40') tall building for that portion of the building containing the elevator overrun, on property located at 329 5th Street and legally described as:

Legal Description of Property

ALL OF LOT 17, BLOCK 18, VALLEY JUNCTION. NOW IN AND FORMING A PART OF  
THE 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 December 18, 2019, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance (VAR-004570-2019);

**WHEREAS**, based upon a review of the submitted variance request, the Board of Adjustment finds **(In Favor of Applicant's Findings, In Favor of Staff Findings, or in Favor of the Board's Findings)** \_\_\_\_\_ as attached at Exhibit B;

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

**SECTION 1.** A Variance Request (VAR-004570-2019), for up to an additional four feet (4') of building height above the maximum thirty-six feet (36') building height allowed for the zoning district for that portion of the building necessary to accommodate the elevator equipment is **(approved or denied)**.

**PASSED AND ADOPTED** on December 18, 2019

\_\_\_\_\_  
Angie Pfankuch, Chair

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 December 18, 2019, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

**EXHIBIT A**

**Exhibit A  
Conditions of Approval**

1. None

Attachment B  
Location Map

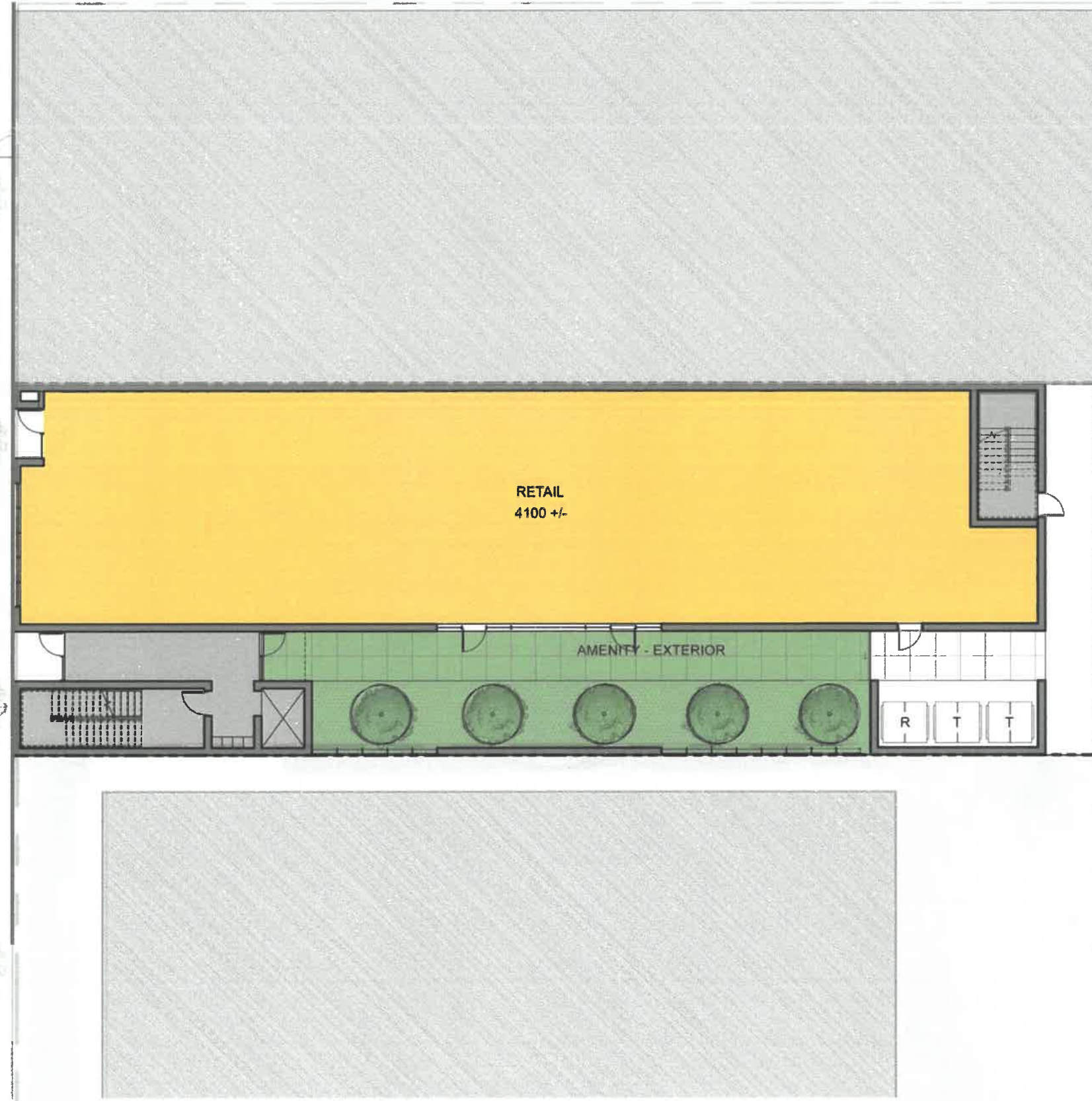




WALNUT ST.

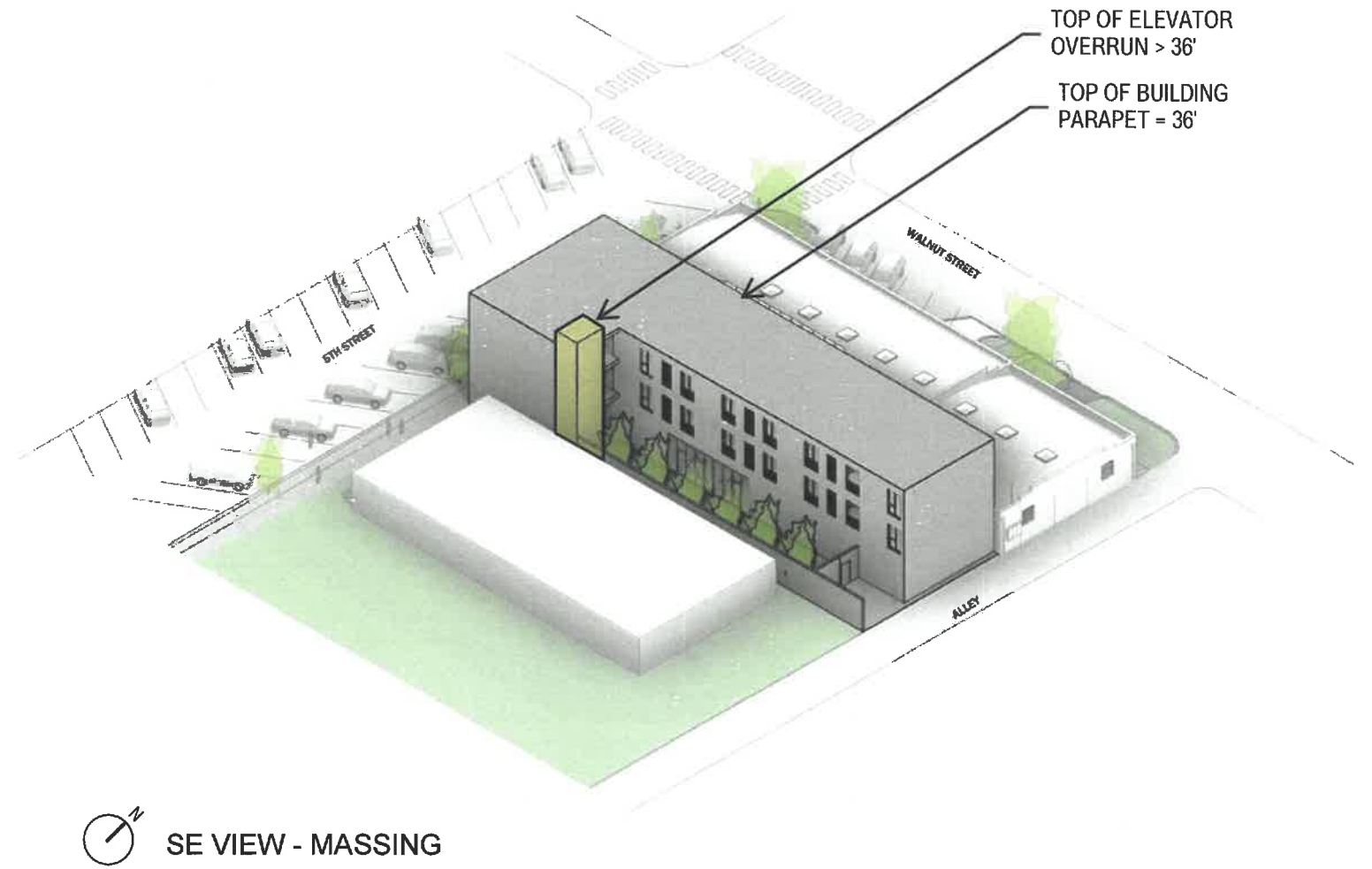
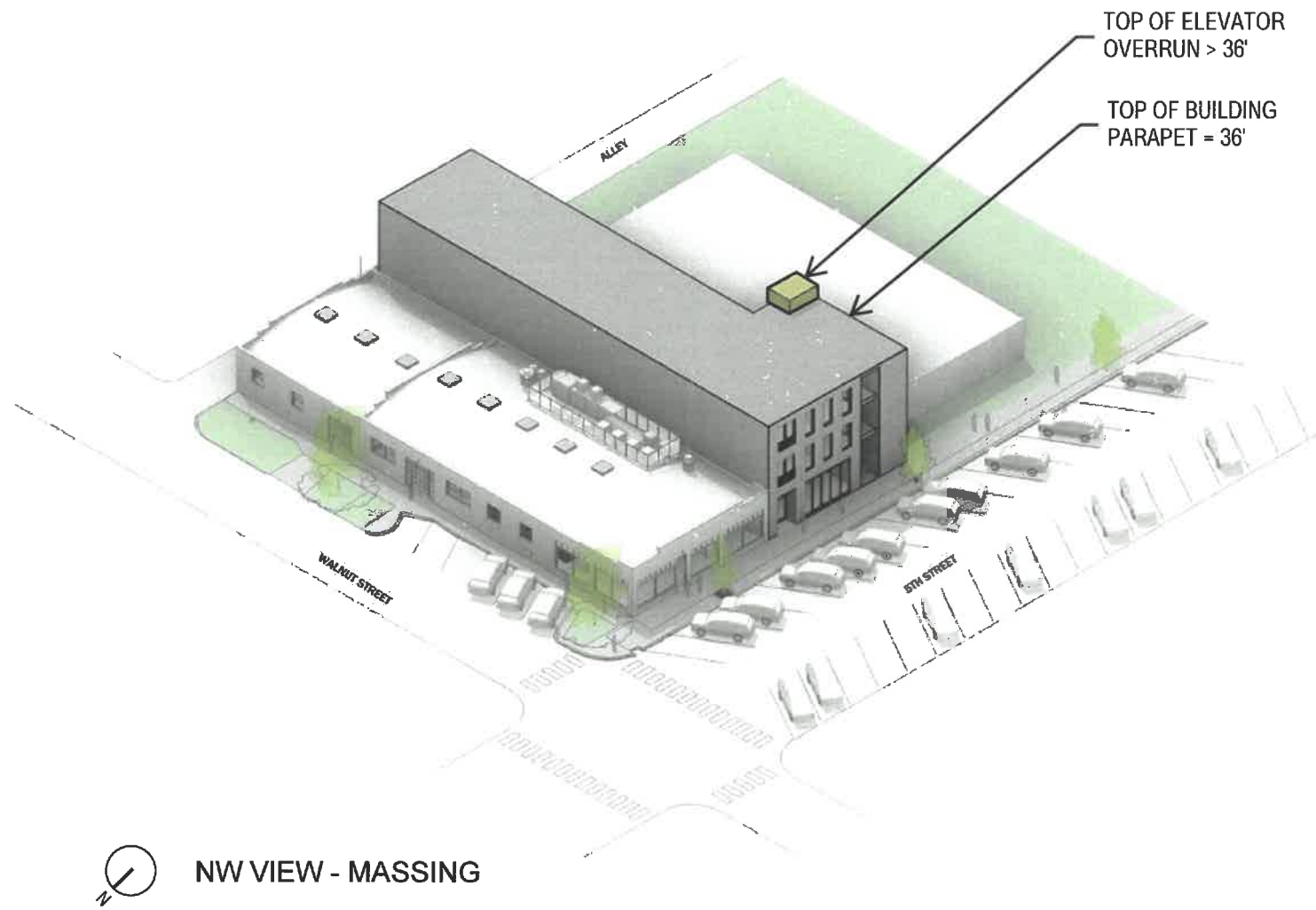
5TH STREET

ALLEY



- RETAIL
  - AMENITY - EXTERIOR
- 5,200 +/- GROSS SF

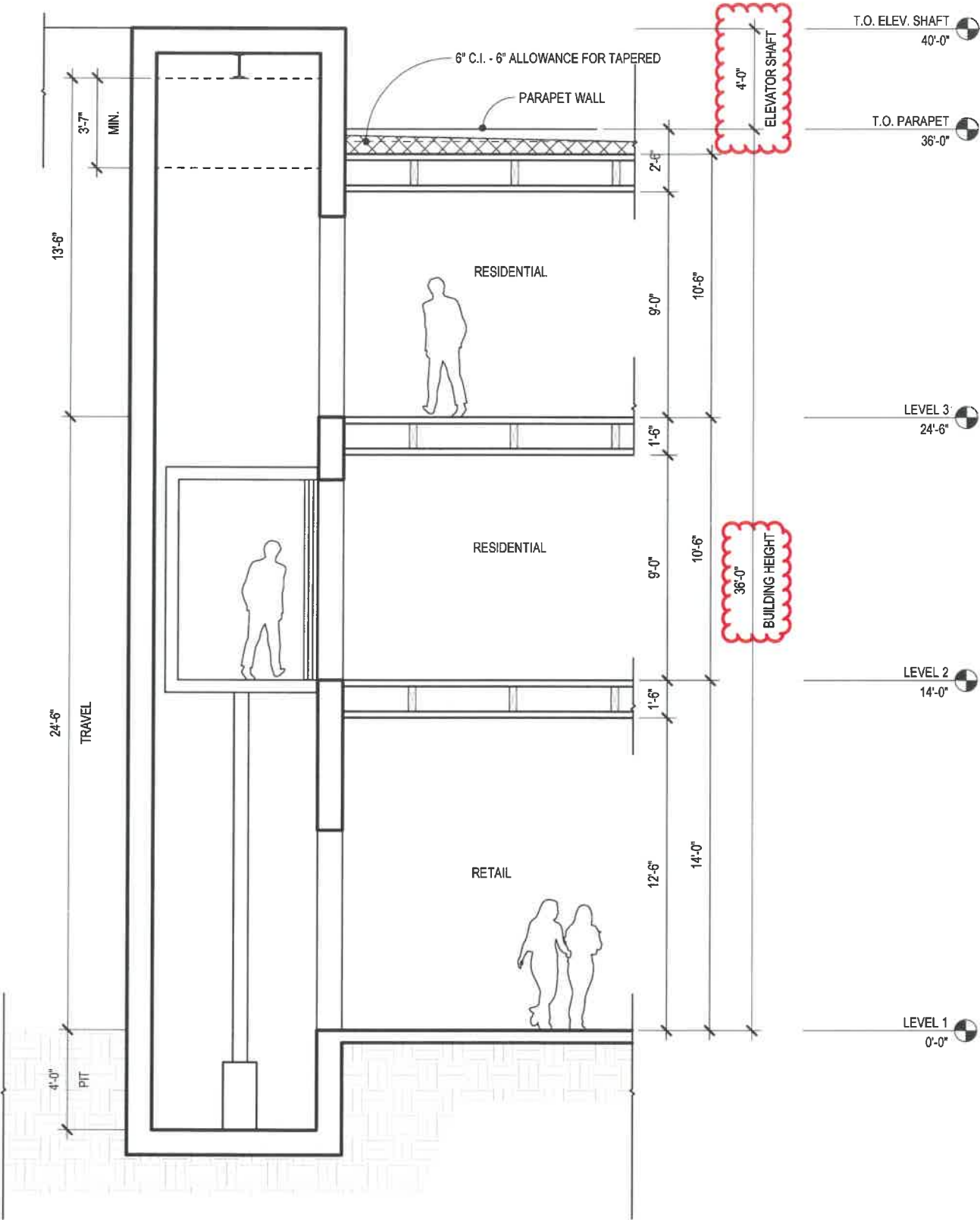




**TABLE 7.8 TAKEN FROM CITY OF WEST DES MOINES CODE, CHAPTER 7:**

**TABLE 7.8  
BULK REGULATIONS FOR PRINCIPAL AND  
ACCESSORY STRUCTURES IN COMMERCIAL DISTRICTS**

Required Standards	RC	CMC	NC	CVC	SC	VJC	VJHB	WR
Minimum lot area <sup>1</sup>	60,000 sq. ft.	60,000 sq. ft.	60,000 sq. ft.	40,000 sq. ft.	60,000 sq. ft.	20,000 sq. ft.	6,250 sq. ft.	20,000 sq. ft.
Minimum setback <sup>2</sup> :								
Front yard	100'	100'	45'	45'	100'	35'	0'	50'
Rear yard	50'	50'	35'	35'	50'	35'	0'	50'
If abuts like zoning district	0'	0'	0'	0'	0'	0'		0'
Side yard	50'	50'	35'	50'	50'	35'	0'	50'
If abuts like zoning district	0'	0'	0'	0'	0'	0'		0'
Minimum lot width	50'	50'	50'	50'	50'	50'	50'	50'
Maximum height	36' <sup>3</sup>	36' <sup>3</sup>	30'	30'	36' <sup>3</sup>	30'	36'	60' <sup>3</sup>
Open space (minimum percentage)	25%	25%	25%	25%	25%	25%	0%	25%



**Building Height Diagram 36'-0"**



Attachment D  
Applicant Reason for Variance  
(Please reference site plan in Attachment C)

substancearchitecture

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December 3, 2019

Development Services Department  
4200 Mills Civic Parkway, Suite 2D  
West Des Moines, IA 50265

Re: 329 5<sup>th</sup> Street Building Height Variance

To Whom It May Concern:

Please accept this letter to be included as part of the City of West Des Moines Variance Application form to grant a building height variance for the elevator shaft of the proposed three-story mixed-use development located at 329 5<sup>th</sup> Street in West Des Moines, Iowa.

The following is Substance Architecture's response to demonstrate that the proposed project complies with the intent of the City of West Des Moines City Code and the five findings outlined on the first page of the City of West Des Moines Variance Application form.

**FINDING #1:**

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

- The proposed project site is located in the Valley Junction Historic Business (VJHB) district. Per the City of West Des Moines comprehensive plan, the VJHB district shall include professional offices, restaurants, specialty retail stores, upper floor residential, and other professional services. The proposed mixed-use project consists of lower level retail space and upper level housing, both of which are consistent with the City of West Des Moines comprehensive plan.

**Valley Junction Historic Business - VJHB**

Purpose: The Historic Business District designation shall be utilized to denote the old downtown area of Valley Junction. Uses within this area shall include professional offices, restaurants, specialty retail stores, upper floor residential, and other personal services.



5<sup>th</sup> Street in Valley Junction

**FINDING #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.***

- Per Table 7.8 in the City of West Des Moines code, buildings zoned in the Valley Junction Business (VJHB) district shall have a height limitation of 36'. It is our understanding that allowable height of 36' in the VJHB district was set at that height to allow construction of up to three-story buildings. The proposed mixed-use project is the first three-story new construction building in the VJHB, which is a special circumstance related to size of the building which do not apply generally to comparable properties in the same zone. The entire proposed three-story mixed-use building development at 329 5<sup>th</sup> Street complies with the 36' height requirement with exception of the elevator shaft. Per the 2015 International Building Code, an elevator is required for the proposed mixed-use project and all elevator manufacturers require additional height at the top of the elevator shaft for elevator overrun, which is a functional, maintenance and safety requirement. The footprint of the elevator shaft (75 +/- sf) represents 1.5% of the entire building footprint (5,200 +/- sf). Which means that 98.5% of the building footprint complies with the 36' height requirement with the only reason the elevator shaft is taller than 36' is due to functional, maintenance and safety requirements enforced by all commercial elevator manufactures. Refer to attached site plan and 3-dimensional aerial views for location and extents of elevator shaft.

**FINDING #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.***

- Per Table 7.8 in the City of West Des Moines code, buildings zoned in the Valley Junction Business (VJHB) district shall have a height limitation of 36'. The entire proposed three-story mixed-use building development at 329 5<sup>th</sup> Street complies with this requirement with exception of the elevator shaft. Per the 2015 International Building Code, an elevator is required for the proposed mixed-use project and all elevator manufacturers require additional height at the top of the elevator shaft for elevator overrun, which is a functional, maintenance and safety requirement. The footprint of the elevator shaft (75 +/- sf) represents 1.5% of the entire building footprint (5,200 +/- sf). Which means that 98.5% of the building footprint complies with the 36' height requirement with the only reason the elevator shaft is taller than 36' is due to functional, maintenance and safety requirements enforced by all commercial elevator manufactures. Refer to attached site plan and 3-dimensional aerial views for location and extents of elevator shaft.

**FINDING #4:**

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

- There are no changes in the character of the site or its surround which detrimentally affect the environment. The footprint of the elevator shaft (75 +/- sf) represents 1.5% of the entire building footprint (5,200 +/- sf). Which means that 98.5% of the building footprint complies with the 36' height requirement with the only reason the elevator

shaft is taller than 36' is due to functional, maintenance and safety requirements enforced by all commercial elevator manufactures. Additionally, the elevator shaft has been setback approximately 30' from the west property line, which is the primary public façade on 5<sup>th</sup> Street, to mitigate the visibility of the small portion of the building that would be taller than 36' (elevator shaft only). Refer to attached site plan and 3-dimensional aerial views for location and extents of elevator shaft.

***FINDING #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.***

- Granting a variance to allow for additional building height at the elevator shaft for standard elevator manufacturer overrun requirements does not adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements. The elevator overrun distance at the top of the elevator shaft is a functional, maintenance and, most importantly, safety requirement by all commercial elevator manufacturers.

Sincerely,



Cody Knop, AIA  
Architect | Substance Architecture

**Attachment E  
Staff Findings**

1. That the proposed development or use is consistent with the West Des Moines Comprehensive Plan and any applicable subarea plans.  
*The mixed-use building consisting of commercial and upper-story apartments is consistent with the West Des Moines Comprehensive Plan and Valley Junction Historic Business designation on the Comprehensive Plan Land Use Map.*
2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or locations, which do not generally apply to comparable properties in the same vicinity and zones.  
*The project site is a typical narrow and reasonably flat commercial lot in Valley Junction. It does not appear that there are any physical constraints of the site that would differentiate the code compliant potential of this property from any other in Valley Junction. The current bulk regulations for the district stated in city code reflect existing context of buildings in Valley Junction, and the existing building heights are products of the construction techniques and technology of the turn of the century. Elevators were rare and buildings were limited in height because access to upper floors was only by stair. Building and accessibility codes today require accessible units on at least the lowest level of living. City code does not allow living units on the first floor of buildings in the Valley Junction Historic Business (VJHB) District. To provide accessibility for the dwellings that must be located on the upper stories, an elevator is required. The mechanical equipment necessary for the elevator to operate requires a projection above the roof.*
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 applicant is proposing to demolish the existing structure and construct a 3-story (36') mixed use building. in which is the maximum height specified by right in the zoning code. Under the building code a building of this size requires an elevator for accessibility. Some of the mechanics of an elevator is located above the elevator car. In this particular case, the equipment above the car would require an additional 4 feet in height. Staff has worked with the applicant to modify the building design so that the main bulk of the building is in compliance with the maximum building height allowed. Staff and the applicant have also worked to reduce the height needed for the elevator shaft, but have reached the point that any additional reduction in height will jeopardize the ability for the elevator to serve the third floor. Staff believes an argument can be made that the general purpose of height restrictions stated in code is being met as the bulk of the building complies and allowance of the additional height to accommodate code required technology that provides accessibly for the building was not considered when the intent of height requirements were established.*
4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment.  
*The proposed development will not detrimentally affect the environment; however, a three-story modern mixed-use building will be unique to the existing context of Valley Junction. Staff has reason to believe that this trend in multi-story mixed use buildings will continue in other locations within Valley Junction.*
5. That the granting of such variance does not, under the circumstances and conditions applied in this 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. The Applicant has proactively worked to locate the elevator shaft away from the adjacent properties to mitigate the impact of the additional height.*