



CLIVE PLANNING & ZONING COMMISSION

AGENDA, REGULAR MEETING

8800 Hickman Road

August 5, 2025 5:30 PM

This meeting will be conducted in-person in the Public Safety Facility Training Room and virtually via Zoom platform. To participate virtually use the following link: <https://us06web.zoom.us/j/81194871820>

Call to Order

Roll Call

Approval of Meeting Minutes

1. Approve Meeting Minutes 07/01/2025

Action Items

1. Final Plat - Emerald Isle Townhomes Plat 1
2. Amendment to Zoning Ordinance - Variances

Staff Report

Adjournment

CLIVE PLANNING AND ZONING COMMISSION MEETING MINUTES

Regular Session
July 1, 2025

This meeting was held in the Clive Public Safety Training Room and public access was provided in-person at City Hall and via Zoom. Information on how to access via Zoom was provided on the city's website and on the agenda. The recording of the meeting is available on the city's website at:

https://www.cityofclive.com/connect/boards_and_commissions/planning_and_zoning_commission.php

Call to Order/Roll Call

ALOWITZ CALLED THE MEETING TO ORDER AT 5:30 p.m.

PRESENT: LINDSAY BRANDON, MILLY ORTIZ-PAGAN, JULIE CORREA, MARCIA HUNTER, CHRIS PANZI, MICHAEL ALOWITZ

ABSENT: JEFFREY ANDERZHON

STAFF: AMANDA GRUTZMACHER, KATHRYN PURVIS, KELLY RIVERA

Action Items

1. Approve Meeting Minutes – June 3, 2025

Hunter motioned to approve the June 3, 2025 meeting minutes, seconded by Brandon.

Roll Call: Ayes: Hunter, Brandon, Ortiz, Panzi, Alowitz.

Abstain: Correa

Motion carried.

2. Dehner Distillery – 1480 NW 86th ST, Site Plan & Final Plat

a. Site Plan

Chris Panzi stated Dehner Distillery, the applicant, is a tenant in a property Panzi manages; however, Panzi has no financial interest in the subject property or business.

Staff stated due to the inherent warehouse/distribution nature of the proposed business, staff presented the project to Council early on in the process to confirm a distillery use was desirable in the TC-4 District. Council determined that a distillery with public hours and direct retail sales is in keeping with the entertainment aspect of the TC-4 district.

Dehner Distillery was established in Clive approximately 12 years ago by Joe Dehner and he is requesting site plan approval for a new facility that will allow for expansion of their contract bottling sales and production and provide for a new business component - public tasting room and retail sales.

The proposed building is 20,060 sf and will include a tasting room, office, storage, and the distillery and bottling areas. An additional 730 sf of outdoor patio space will be provided on the west side of the building, adjacent to the Greenbelt Park.

The property is within the floodplain and a small portion is within the floodway. The building will be in the floodway fringe and will comply with the City's flood control ordinance.

Many of the requirements of the NW 86th Street Design Guidelines for building materials and Design Standards Manual have not been incorporated into this project due to site limitations, cost considerations and the proximity to the tank farm across the street. The applicant has made many modifications to the original plan in an effort to meet the ideals of the guidelines and to make the building inviting.

The proposed exposed fastener metal panels exterior cladding is not in keeping with either the 86th Street Design Standards or the Development Standards Manual. The architect for the project stated the adjacent building to the north has similar material and the areas on both buildings are screened from public view.

The proposed architectural metal paneling is not allowed as a primary material under the 86th Street Standards; however, if the commissioners and council are amenable, staff would bring back an amendment to the standards to clarify where metal panels may be an acceptable exterior material.

There will be a connection to the Greenbelt Trail into the site. Bike parking is in a designated area which will limit bicycles blocking the trail connection and internal sidewalks. Due to grade changes on the site to comply with floodplain development requirements, the internal sidewalks to the building have stairs on a direct route and an accessible switchback-style ramp. An easement will be granted from the City to allow for the trail connection.

The City is in process of adopting an updated Post-Construction Stormwater Management Manual, which includes a Floodplain Property Stormwater Management Payment In-Lieu program. Staff advised the detention related stormwater management requirements are more appropriately addressed outside of the floodplain and the subject property would be the first project considered for the program. Water quality volume and recharge volume stormwater management is in compliance as proposed; however, staff has recognized the opportunity for a neighborhood scale solution that was recently presented to the developer for consideration. Staff did not believe the alternative design would significantly change the site plan and recommended administrative approval of a site plan amendment if the alternative is agreeable.

The site is bisected by a large trunk sanitary sewer. The City anticipates this trunk sewer will be eliminated and tie into the future WRA trunk sewer; however, the sewer cannot be abandoned at this time and the site must be designed around the facility. The WRA trunk sewer project will be constructed within the adjacent city park property in the next few years and have some impacts to the property during construction. When the existing city sanitary sewer is abandoned, it will not require removal of the pipe.

Correa motioned to recommend approval of Dehner Distillery Site Plan, seconded by Panzi subject to resolution of all staff comments.

A friendly amendment was made by Hunter to allow staff to administratively approve modifications for storm water management, landscaping and parking, seconded by Ortiz.

Roll Call: Ayes: Hunter, Ortiz, Brandon, Correa, Panzi, Alowitz.
Motion carried.

A friendly amendment was made by Brandon, subject to changing the north wall to style paneling, seconded by Correa. After discussion, Brandon withdrew the motion.

The following vote is for the original motion and the first friendly amendment:

Roll Call: Ayes: Correa, Panzi, Brandon, Ortiz, Hunter, Alowitz.
Motion carried.

b. Final Plat

The applicant requested final plat approval to create a single lot to support the redevelopment of the subject property.

Brandon motioned to recommend approval of Dehner Distillery Final Plat, seconded by Hunter.

Roll Call: Ayes: Brandon, Hunter, Ortiz, Correa, Panzi, Alowitz.
Motion carried.

Adjourned at 7:04



Staff Report

TO: Planning and Zoning Commission members

FROM:

Amanda Grutzmacher, Senior Planner

DATE: August 5, 2025

RE: Final Plat - Emerald Isle Townhomes Plat 1

GENERAL INFORMATION

Applicant: Arun Kalra, on behalf of Emerald Isle Land, LLC

Requested Action: Approval of Final Plat

Location: north of Emerald Isle Drive and east of NW 156th Street

LAND USES & ZONING			
Location	Existing Land Use	Land Use Plan Designation	Current Zoning
Subject Property	Residential - Medium Density	Residential - High Density	PUD
North	Vacant	Open Space Institutional Commercial - Retail/Services	R1
East	Residential - Low Density	Residential - High Density	R1
South	Commercial - Retail/Services	Commercial - Retail/Services	C4
West	Commercial - Retail/Services	Commercial - Retail/Services Residential - Medium Density	C4, R4

CASE HISTORY

1957 - Final Plat (County subdivision)

1961 - Single-family home built

1994 - Annexed into Clive

2021 - Single-family home demolished

2022 - Rezoned from R-1 to PUD, Site Plan and Preliminary Plat approved

BACKGROUND

Emerald Isle Place was platted as a county subdivision and later annexed into Clive in 1994 as part of a larger annexation. The 2016 Comprehensive Plan evaluated the Emerald Isle area as underutilized and recommended redevelopment; a future land use classification of Residential — High Density was assigned. The development and improvements for Emerald Isle Townhomes Plat 1 is consistent with the site plan and preliminary plat approved August 11, 2022. The final plat will create 41 attached townhome lots and a common area outlot to be managed by the Homeowners Association.

PUBLIC COMMENT

Public notice is not required for final plat approval.

STAFF RECOMMENDATION

Staff recommends approval subject to resolution of all of items outlined in the staff comment letter originally dated June 10, 2025, and receipt of the declaration of covenants, conditions, and restrictions.

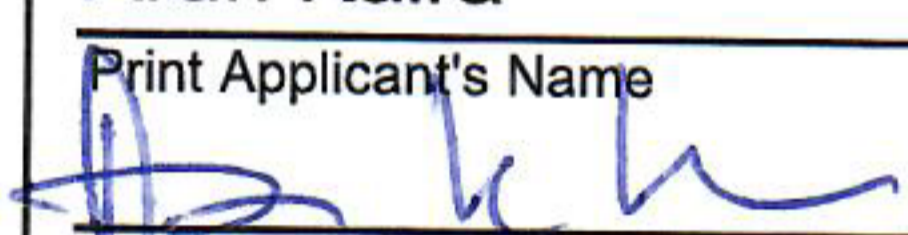
Attachments:

1. Application
2. Comment Letter
3. Final Plat



CITY OF CLIVE
 1900 NW 114th Street
 Clive, IA 50325-7077
 Phone (515)223-6221
 Fax (515) 457-3091
 www.cityofclive.com

**APPLICATION FOR
 DEVELOPMENT REVIEW
 FINAL PLAT**

APPLICANT INFORMATION		DATE SUBMITTED																														
APPLICANT NAME Arun Kalra	ADDRESS 1705 South 42nd Street	PROJECT TITLE Emerald Isle Townhomes Plat 1																														
CITY, STATE, ZIP West Des Moines, Iowa 50265	PHONE 515-779-1107	Submit 1 print copy (24"x36" maximum) of all plan sheets; 1 print copy of Stormwater Management Plan; PDF copy of all plan sheets, Stormwater Management Plan, and draft legal documents; and CAD data showing grading, lot lines, streets, sidewalks, utilities, etc.																														
FAX	E-MAIL ADDRESS arunkalra1@gmail.com																															
<p>Acceptance of Applicant</p> <p>I, the undersigned, certify that the information on this application to the best of my knowledge, is true and correct. I further certify that I have a legal interest in the property in question, and/or that I am legally able to represent all other persons or entities with interest in this property.</p> <p>In addition to the application fee, I understand I am responsible for all development review costs invoiced on a Monthly basis for services performed by City staff or City consultants on my behalf.</p> <p>Arun Kalra <small>Print Applicant's Name</small></p> <p> <small>Applicant's Signature</small></p> <p>8-16-22 <small>Date</small></p>		<p>For a complete submittal, the following information should be provided:</p> <table border="0"> <tr> <td></td> <td style="text-align: right;"><i>Received</i></td> </tr> <tr> <td>Final Plat Drawing</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Attorney's Title Opinion</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Owner's Consent to Plat</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Mortgagee's Consent to Plat, if applicable</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>County Treasurer's Certificate (Dallas)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Country Auditor's Certificate (Polk)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>County Subdivision Name Approval</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Easement Documents</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Declaration of Covenants</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Warranty Deeds</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Groundwater Hazard Statement</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>CAD files in State Plane</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>4-Year Maintenance Bond for Public Improvements, if applicable</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Application Fee</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> </table> <p>Contact the Community Development Department with questions or for additional information.</p>		<i>Received</i>	Final Plat Drawing	<input type="checkbox"/>	Attorney's Title Opinion	<input type="checkbox"/>	Owner's Consent to Plat	<input type="checkbox"/>	Mortgagee's Consent to Plat, if applicable	<input type="checkbox"/>	County Treasurer's Certificate (Dallas)	<input type="checkbox"/>	Country Auditor's Certificate (Polk)	<input type="checkbox"/>	County Subdivision Name Approval	<input type="checkbox"/>	Easement Documents	<input type="checkbox"/>	Declaration of Covenants	<input type="checkbox"/>	Warranty Deeds	<input type="checkbox"/>	Groundwater Hazard Statement	<input type="checkbox"/>	CAD files in State Plane	<input type="checkbox"/>	4-Year Maintenance Bond for Public Improvements, if applicable	<input type="checkbox"/>	Application Fee	<input type="checkbox"/>
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DEVELOPMENT TEAM																																
Project Manager Brad Kuehl, Bishop Engineering																																
Address 3501 104th Street, Des Moines, Iowa 50322																																
Phone 515-276-0467	Fax																															
E-Mail Address bkuehl@bishopengr. com																																
Attorney/Other																																
Address																																
Phone	Fax																															
E-Mail Address																																



June 10, 2025

Arun Kalra
1705 S. 42nd Street
West Des Moines , IA 50265

Re: Emerald Isle Townhomes Plat 1 - Final Plat

The Community Development Department is in receipt of an application for Final Plat for the proposed Emerald Isle Townhomes Plat 1 located east of NW 156th Street and north of Emerald Isle Drive. Based on the review of the provided submittal materials, staff have the following comments:

- The following legal documents need to be provided for review:
 - ~~Title Opinion~~
 - ~~Owner's Consent to Plat~~
 - ~~Mortgagees' Consent to Plat~~
 - ~~County Treasurer's Certificate~~
 - ~~County Subdivision Name Approval~~
- The following fees are required to be paid at the time of Final Plat approval:
 - Emerald Isle Drive utility connection stubs - \$29,332
 - Clive Joint Trunk Sanitary Sewer - \$7,398 (\$1,800 * 4.11 acres)
- ~~Provide a legal description in copyable text (word doc or similar) and show the boundary on the Final Plat drawing for:~~
 - ~~the on-site stormwater facilities to be included in the Stormwater Management Facility Maintenance Agreement and Permanent Easement,~~
 - ~~the area encompassing Sheridan Avenue extension and the linear park and stormwater improvements to be included in the forthcoming maintenance agreement.~~
 - ~~20' water main easement between Lots 29 and 30.~~
 - ~~10' city improvement easement. For simplicity, staff suggests combining the 10' public sidewalk easement and the 10' city improvement easement to all be labeled as a city improvement easement and included in one easement document.~~
 - ~~30' public ingress/egress, water, and sanitary sewer easement. This easement is shown on the drawing.~~
 - ~~40' public ingress/egress, water, and sanitary sewer easement. This easement is shown on the drawing.~~

- ~~Staff is preparing a maintenance agreement for obligations related to Sheridan Avenue and the linear park. A draft will be provided for review.~~
- ~~A detailed maintenance plan which outlines inspection and maintenance procedures to ensure the long term function of site BMPs is required. It is recommended that the maintenance consider the following (abridged from ISWEP's maintenance guide): debris accumulation, entry points and pretreatment, subdrains, overflows, newly established plants, mature plants, and erosion. It is strongly recommended that photos be included for the plantings specified in the plan set for identification during early growth, blooming, and dormancy. (1) This should be a standalone document prepared by the engineer. (2) The plan will identify the components of the BMPs that need to be maintained, the equipment and skills necessary to maintain the components, and the frequency of the inspection/maintenance. (3) A map showing the location of the BMPs is also required. (4) The maintenance plan must be provided to the BMP owner.~~
- ~~Please provide the MPE list.~~
- ~~Correct the vicinity map site label location.~~
- ~~Remove the color background from the vicinity map; the current background will not be legible on the recorded final plat.~~
- ~~Correct the property owner information. The owner of record is Emerald Isle Land, LLC, mailing address is 1705 S 42nd Street, and ZIP is 50265.~~
- ~~Remove the note "Lot 'A' is a street lot...". Note is not applicable.~~
- ~~Remove the proposed zoning information. Update the existing zoning information to "PUD Ordinance #1118 adopted 4/25/2022."~~
- ~~The adjacent owner is either incorrect or the label visibility needs adjusted. The property owner is Church at Deerfield Pointe, LLC.~~
- ~~Update the "Future Sheridan Ave Alignment" label to "Sheridan Avenue (Private Drive)". During site plan review, Sheridan Ave was not able to meet design requirements for a public street, so it was determined it would be a shared drive and not included on the public improvements construction drawings. A maintenance agreement is forthcoming.~~
- ~~Include the address of each lot on the Final Plat drawing. Address list is attached.~~
- ~~Adjust the city improvement easement label so the entire label is visible.~~

Based on the satisfactory resolution of the above items and resubmittal of the Final Plat prior to 06/22/2025, it is anticipated that the project would be placed on the 07/01/2025, Planning and Zoning Commission agenda. Please feel free to contact me on the portal or at 515-223-6221 if you have questions or need additional information.

Sincerely,

Amanda Grutzmacher

Senior Planner

EMERALD ISLE TOWNHOMES PLAT 1 FINAL PLAT

INDEX LEGEND

LOCATION:
SW 1/4 SECTION 25-79-26
LOTS 5, 6, 7, 8 EMERALD ISLE PLACE

OWNER/PREPARED FOR:
EMERALD ISLE LAND, LLC
1705 S. 42ND STREET
WEST DES MOINES, IA 50265

PREPARED BY:
LARRY HYLER PLS
BISHOP ENGINEERING
3501 104TH ST
URBANDALE, IA 50322

PROPERTY DESCRIPTION:

COMPILATION OF:
WARRANTY DEED IN BOOK 627 AT PAGE 84
AFFIDAVIT IN BOOK 2008 AT PAGE 15556
WARRANTY DEED IN BOOK 2002 AT PAGE 4415
ACQUISITION PLAT IN DEED IN BOOK 2004 AT PAGE 3713

LOTS 5, 6, 7, AND A PART OF LOT 8, EMERALD ISLE PLACE, AN OFFICIAL PLAT, CLIVE, DALLAS COUNTY, IOWA; THE SOUTH 50.00 FEET OF ABANDONED RAILROAD RIGHT OF WAY NORTH OF AND ADJACENT TO SAID LOTS 5 THROUGH 8; AND A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 79 NORTH, RANGE 26 WEST OF THE 5TH P.M., DALLAS COUNTY, IOWA, ALL DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 5 OF SAID EMERALD ISLE PLACE; THENCE N89°52'35"W ALONG THE SOUTH LINE OF SAID LOTS 5, 6, 7, AND 8, A DISTANCE OF 359.83 FEET TO THE EAST RIGHT OF WAY LINE OF NW 156TH STREET AS IT IS PRESENTLY ESTABLISHED; THENCE N00°16'58"E ALONG THE EAST RIGHT OF WAY LINE OF SAID NW 156TH STREET, A DISTANCE OF 178.19 FEET; THENCE N05°48'13"E ALONG THE EAST RIGHT OF WAY LINE OF SAID NW 156TH STREET, A DISTANCE OF 176.67 FEET; THENCE N00°15'20"E ALONG THE EAST RIGHT OF WAY LINE OF SAID NW 156TH STREET, A DISTANCE OF 153.13 FEET; THENCE S00°15'25"W ALONG THE EAST LINE OF SAID LOT 5 AND ITS NORTHERLY EXTENSION, A DISTANCE OF 499.22 FEET TO THE POINT OF BEGINNING. SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD. SAID TRACT CONTAINS 4.12 ACRES (179,250 SQUARE FEET)

SURVEY NOTES:

THIS PLAT HAS AN ERROR OR CLOSURE OF LESS THAN 1.0 FEET IN 10,000.0 FEET. EACH LOT WITHIN THIS PLAT HAS AN ERROR OF CLOSURE OF LESS THAN 1.0 FEET IN 5,000.0 FEET.

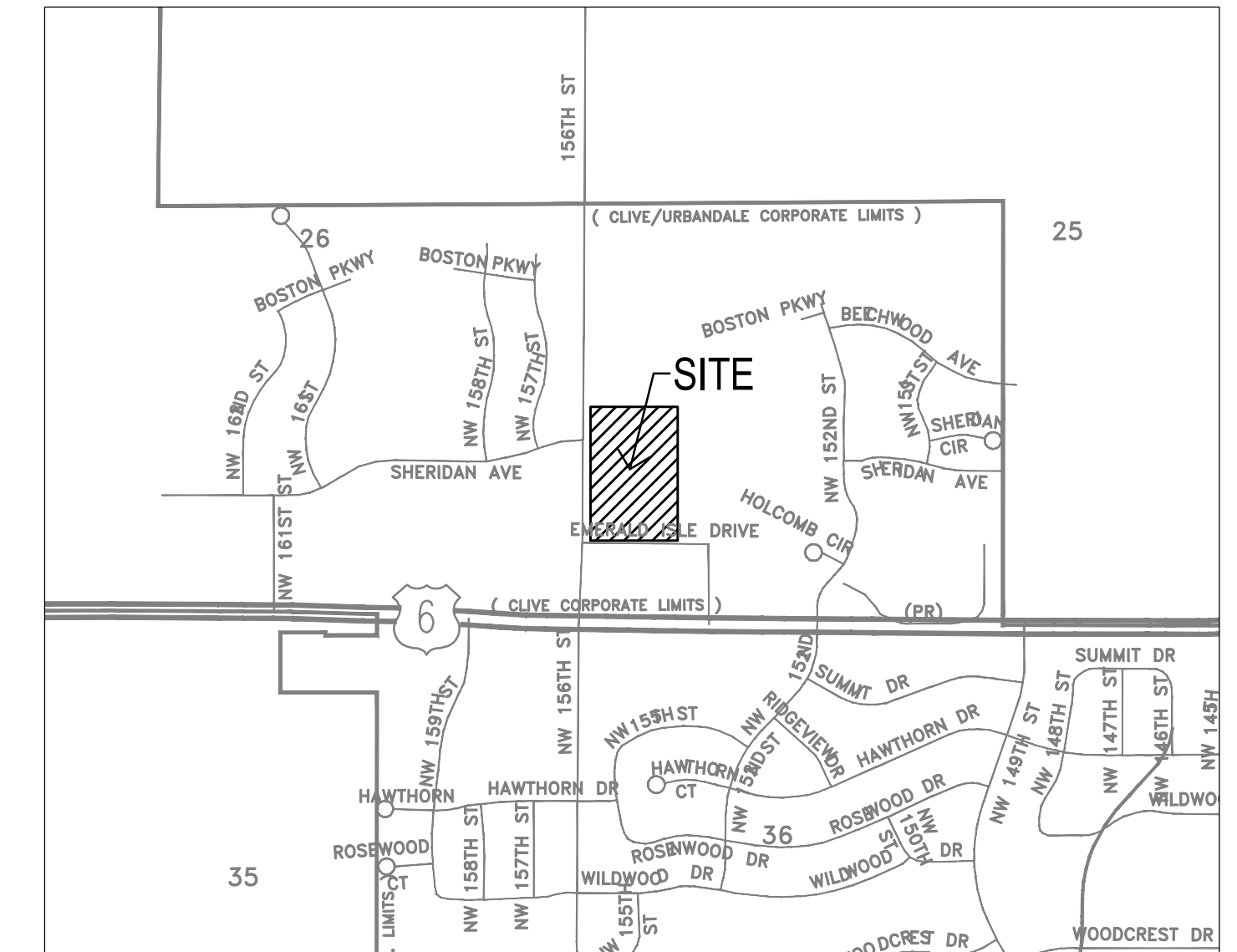
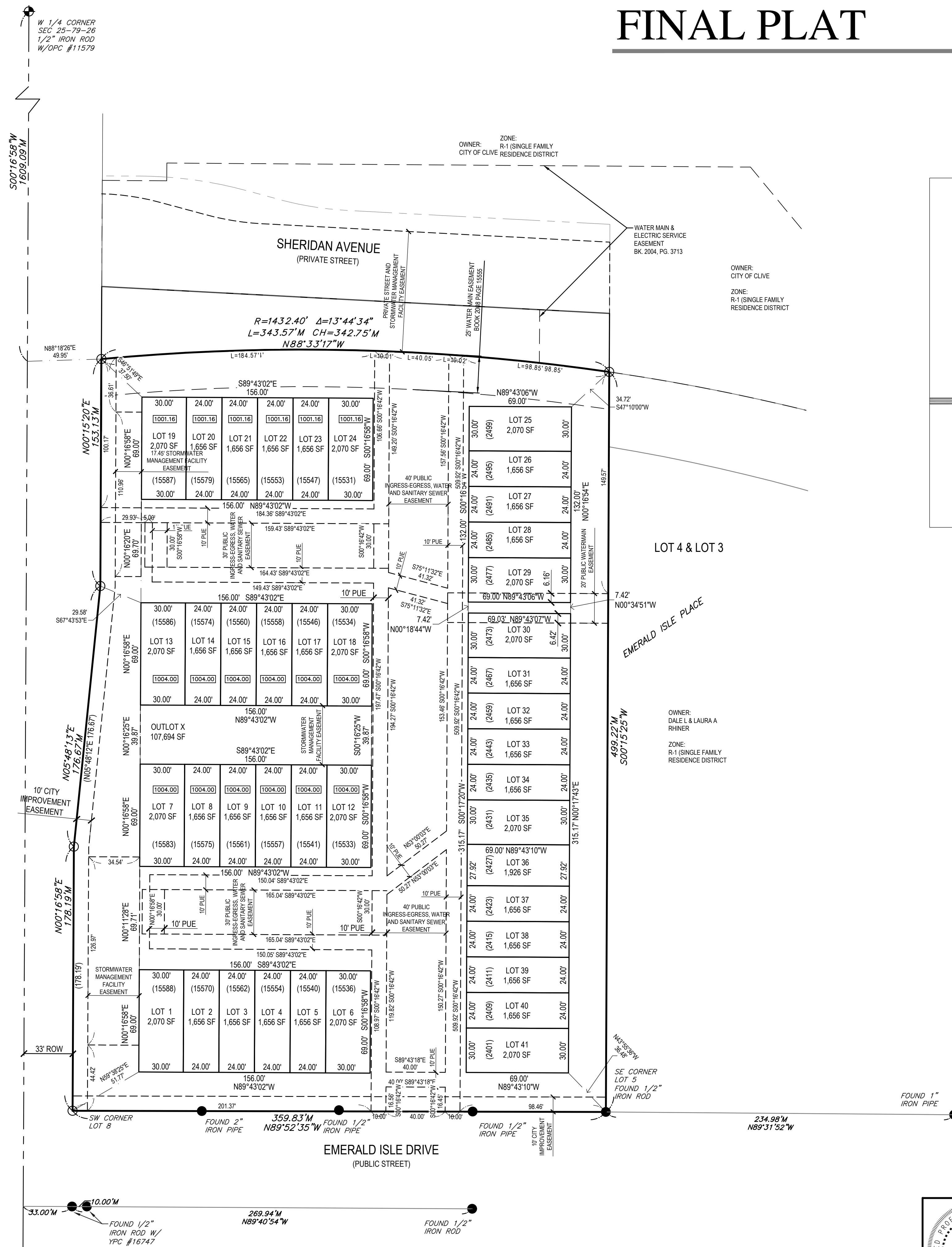
ALL CORNERS HAVE BEEN PLACED WITH A 3/4 INCH IRON PIPE UNLESS NOTED OTHERWISE. ALL CORNERS PLACED HAVE A YELLOW PLASTIC IDENTIFICATION CAP NO. 14775.

ALL BEARINGS ARE BASED ON AN ASSUMED MERIDIAN FOR COMPUTATION PURPOSES

ZONING:

INFORMATION OBTAINED FROM CITY OF CLIVE ZONING MAP
EXISTING: PUD ORDINANCE #1118 ADOPTED 4/25/2022

FOR AN OFFICIAL ZONING REPORT PLEASE CALL CITY OF CLIVE AT 515-223-6231

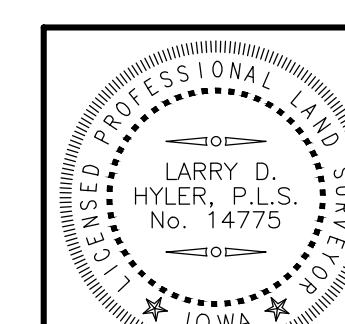
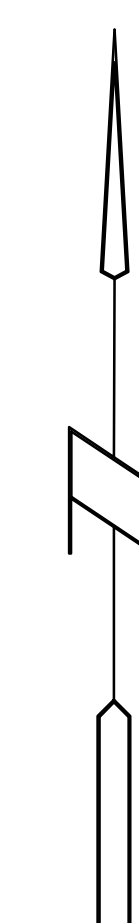
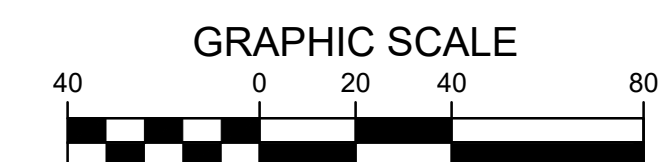


ABBREVIATIONS:

- AC ACRES
- PUE PUBLIC UTILITY EASEMENT
- TYP TYPICAL
- N NORTH
- S SOUTH
- E EAST
- W WEST
- OPC ORANGE PLASTIC CAP
- YPC YELLOW PLASTIC CAP
- MPE MINIMUM PROTECTION ELEVATION
- SF SQUARE FOOTAGE
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT

LEGEND:

- PROPERTY CORNER - FOUND AS NOTED
- PROPERTY CORNER - PLACED 3/4" IRON PIPE WITH YELLOW PLASTIC CAP ID #14775
- ⊗ SECTION CORNER - FOUND AS NOTED
- ⊗ CUT "X" IN PAVEMENT
- ADDRESS
- 1000.00 MINIMUM PROTECTION ELEVATION (MPE)



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

SIGNED: PRELIMINARY DATE: 6-16-2025
LARRY D. HYLER, P.L.S. 14775
LICENSE RENEWAL DATE: DEC. 31, 2026 PAGES OR SHEETS COVERED BY THIS SEAL: 1 OF 1

Bishop Engineering
"Planning Your Successful Development"
3501 104th Street
Des Moines, Iowa 50322-3825
Phone: (515)276-0467 Fax: (515)276-0217
Civil Engineering & Land Surveying
Established 1959

EMERALD ISLE TOWNHOMES
CLIVE IOWA

REFERENCE NUMBER:

DRAWN BY:
LH, BK

CHECKED BY:
LH

REVISION DATE:
07/22/2022
08/14/2024
06/19/2025
07/03/2025

PROJECT NUMBER:
200444

SHEET NUMBER:
1 OF 1

FINAL PLAT

7/3/2025 10:05:01 AM L:\LAND PROJECTS 2020\200444 - CLIVE TOWNHOMES\DWG\FINAL PLAT.DWG



Staff Report

TO: Planning and Zoning Commission members

FROM:

Amanda Grutzmacher, Senior Planner

DATE: August 5, 2025

RE: Amendment to Zoning Ordinance - Variances

On April 25, 2025, Governor Reynolds signed into law House File 652, an Act concerning county and city regulation of real property and the powers granted to a board of adjustment. The state legislation requires the Board of Adjustment to utilize a "practical difficulties" standard for considering dimensional variances instead of the current "unnecessary hardship" standard. The proposed ordinance separates the requirements related to use variances, which are uncommon and may still utilize the unnecessary hardship standard, and dimensional variances. Dimensional variances generally cover any numeric requirements within the zoning ordinance, e.g. number of parking stalls, percent of minimum open space, property line setbacks, sign display area, etc.

In conjunction with approval of the proposed ordinance, the variance application will be updated consistent with the "practical difficulties" standard for dimensional variances. Staff contacted ISU Extension's Community and Economic Development program and received their updated Planning & Zoning Fact Sheet related to variances, which is attached. Staff is also working on identifying appropriate training for Board of Adjustment members.

Staff recommends approval of the zoning ordinance amendment related to variances.

Attachments:

1. Ordinance 1165 - BOA Practical Difficulties
2. HF652
3. ISU Extension Variances updated guidance

ORDINANCE NO. 1165

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CLIVE, IOWA, 2024, BY AMENDING PROVISIONS OF THE ZONING ORDINANCE REGARDING REGULATIONS ASSOCIATED WITH VARIANCES

Be It Enacted by the City Council of the City of Clive, Iowa:

SECTION 1. INTERNAL REFERENCES. All references to section numbers in this ordinance shall be to sections contained with Title 11 in the Zoning Ordinance, unless otherwise specified.

SECTION 2. AMENDMENT – VARIANCES. In title 11, Chapter 11-3-7 (entitled “VARIANCES”) shall be deleted in its entirety and replaced as in Exhibit “A” attached hereto.

SECTION 3. REPEALER. All parts of the "CODE OF ORDINANCES OF THE CITY OF CLIVE, IOWA, 2024" in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY CLAUSE. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this Ordinance as a whole or any section, subsection, provision, sentence, clause, phrase or part thereof not adjudged invalid or unconstitutional.

SECTION 5. WHEN EFFECTIVE. This Ordinance shall be in effect from and after its final passage, approval and notice of its passage is given as provided by law.

PASSED AND APPROVED by the City Council on the ____ day of _____, 2025.

Matthew Graham, City Clerk

John Edwards, Mayor

Ordinance No. _____ authenticated this ____ day of _____, 2025.

Matthew Graham, City Clerk

John Edwards, Mayor

Officially published on the _____ day of _____, 2025.

CERTIFIED BY:

Matthew Graham, City Clerk

Exhibit "A"

11-3-7 Variances.

1. Variance Related to Use.

A. Application Requirements. Application for variance from the terms of this chapter will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. No nonconforming use of neighboring lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Conditions for Granting. Variances related to use shall only be granted upon:

- (1) A showing of good and sufficient cause; and
- (2) A determination that failure to grant the variance would result in a substantial hardship to the applicant; and
- (3) A determination that the substantial hardship is not self-imposed; and
- (4) A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
- (5) A determination that the granting of a variance is the minimum necessary to afford relief from this chapter while preserving the spirit of the zoning ordinance.

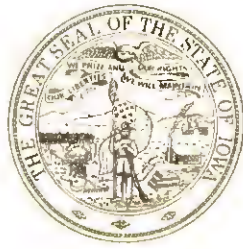
2. Variance related to Dimensional Requirements.

A. Application Requirements. Application for variance from the terms of this chapter with respect to the area, dimensional, or other numerical limitations, will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in practical difficulties to the property owner in making a beneficial use of the property allowed by the zoning ordinance, and so that the spirit of this chapter shall be observed and substantial justice done. No nonconforming use of neighboring lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Conditions for Granting. Variances related to dimensional requirements shall only be granted upon:

- (1) A showing of good and sufficient cause; and
- (2) A determination that failure to grant the variance would result in practical difficulties to the applicant; and
- (3) A determination that the practical difficulties faced are unique to the property; and
- (4) A determination that the practical difficulties faced are not self-imposed; and

- (5) A determination that the practical difficulties cannot be alleviated by a feasible method other than a variance; and
 - (6) A determination that the granting of a variance will not significantly alter the essential character of the surrounding neighborhood.
- 3. Resubmittal After Changes. In the event a variance is granted under the terms of this chapter, any changes thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal. Before granting a variance, the Board of Adjustment shall make findings that the applicant has met the requirements of this chapter, and the Board of Adjustment shall further find that the reasons set forth in the application justify the granting of variance. The burden shall be upon those seeking the variance to establish their entitlement to the requested variance.
- 4. Conditions and Safeguards. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 11-1-7 of this title.



STATE OF IOWA
KIM REYNOLDS
GOVERNOR

April 25, 2025

The Honorable Paul Pate
Secretary of State of Iowa
State Capitol
Des Moines, Iowa 50319

Dear Mr. Secretary,

I hereby transmit:

House File 652, an Act concerning county and city regulation of real property and the powers granted to a board of adjustment.

The above House File is hereby approved on this date.

Sincerely,

Kim Reynolds
Governor of Iowa

cc: Secretary of the Senate
Clerk of the House



House File 652

AN ACT

CONCERNING COUNTY AND CITY REGULATION OF REAL PROPERTY AND THE
POWERS GRANTED TO A BOARD OF ADJUSTMENT.

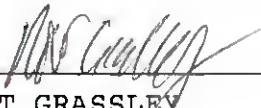
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 335.15, Code 2025, is amended by adding the following new subsection:

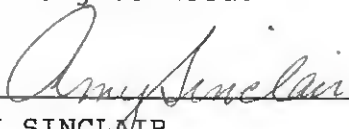
NEW SUBSECTION. 4. To authorize on appeal, in specific cases, such variance from the terms of the ordinance with respect to the area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the zoning ordinance, and so that the spirit of the ordinance shall be observed and substantial justice done. Area, dimensional, or other numerical limitations subject to variances include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking. To receive the requested area, dimensional, or other numerical variance, the property owner must prove that the practical difficulties faced are unique to the property at issue and not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.

Sec. 2. Section 414.12, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To authorize on appeal, in specific cases, such variance from the terms of the ordinance with respect to the area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the zoning ordinance, and so that the spirit of the ordinance shall be observed and substantial justice done. Area, dimensional, or other numerical limitations subject to variances include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking. To receive the requested area, dimensional, or other numerical variance, the property owner must prove that the practical difficulties faced are unique to the property at issue and not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.

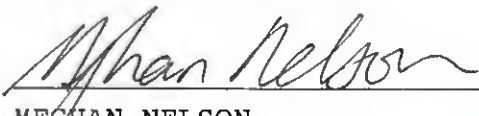


PAT GRASSLEY
Speaker of the House



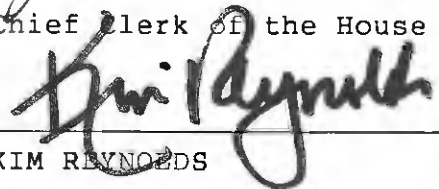
AMY SINCLAIR
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 652, Ninety-first General Assembly.



MEGHAN NELSON
Chief Clerk of the House

Approved April 25th, 2025



KIM REYNOLDS
Governor

VARIANCES GENERALLY

A variance is an authorization to allow a landowner to do something that is generally forbidden by the ordinance. State law sets out the circumstances under which a board of adjustment is authorized to grant variances. The language is identical for county boards of adjustment (found at Iowa Code 335.15) and city boards of adjustment (found at Iowa Code 414.12): With regard to variances, a board of adjustment has the power to:

Authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. (Iowa Code 335.15(3) for counties; Iowa Code 414.12(3) for cities)

Authorize on appeal, in specific cases, such variance from the terms of the ordinance with respect to the area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the zoning ordinance, and so that the spirit of the ordinance shall be observed and substantial justice done. (Iowa Code 335.15(4) for counties; Iowa Code 414.12(4) for cities)

USE VARIANCES

The first paragraph above, referencing Iowa Code 335.15(3) and Iowa Code 414.12(3), is intended to place strict limits on a board of adjustment's ability to grant variances from the uses allowed in a zoning district; for example, to limit a board's ability to allow a commercial or industrial use in a district that permits only residential uses. The standards are intentionally strict to prevent boards from granting variances that, in practical application, amount to rezonings. The appropriate avenue for a landowner to seek a use not allowed in the zoning district is to request the property be rezoned to a district that does allow the desired use.

The key phrase in that paragraph that limits the circumstances under which a board of adjustment may grant use variances is unnecessary hardship. Iowa courts have set out specific criteria that must be satisfied before a board is allowed to find that an unnecessary hardship exists sufficient to grant a landowner a use variance. The landowner must demonstrate that their application meets all of the following criteria to be granted a use variance:

1. The land in question cannot yield reasonable return if used only for purpose allowed in that zone,
2. The plight of the landowner is due to unique circumstances and not to general conditions in neighborhood, and
3. The use to be authorized by variance will not alter essential character of locality.





The Iowa courts have established several guidelines for assessing whether the above-listed criteria have been met:

- Lack of a “reasonable return” may be shown only by proof that the owner has been deprived of all beneficial use of his land. All beneficial use is said to have been lost where the land is not suitable for any use permitted by the zoning ordinance. This standard is extremely difficult to prove and is where the vast majority of applications for use variances will fail.
 - It is not sufficient to show that the value of land merely has been depreciated by the zoning regulations, or that a variance would permit a landowner to maintain a more profitable use.
 - It is not sufficient to show that the applicant has incurred substantial expenses in developing the property in anticipation of receiving a variance.
 - It is not sufficient to show mere inconvenience to the applicant.
- Problems common to several properties do not constitute “unique circumstances.” The appropriate response is through a zoning amendment, not wholesale application of the discretionary power of the board of adjustment.
- The “unique circumstances” must not be created by the landowner’s own actions. For example, a landowner cannot build a house to fill the building envelope of a lot (i.e., so that the walls are built to the minimum front, side and rear setback lines), then seek a variance to put a porch or deck on that house that will violate a setback. The key is whether the landowner’s actions after the enactment of the zoning ordinance created the unique circumstances (in which case the variance should not be granted) or whether the adoption or amendment of the ordinance itself created the unique circumstances for the landowner’s property (in which case a variance may be an appropriate remedy).
 - Likewise, the “unique circumstances” must not have been created by the actions of the landowner’s predecessor in title. In other words, when a landowner purchases property they assume the circumstances created by the previous landowner.
- A variance that alters the “essential character of the area” is beyond the authority of the board of adjustment to grant. Factors to consider in determining whether a variance will alter the “essential character of the neighborhood” include the degree of variation from district regulations, the size of the parcel, and the parcel’s size and character in relation to the size of the district.

DIMENSIONAL VARIANCES (AKA, NUMERICAL OR AREA VARIANCES)

In 2025, the Iowa legislature added the second paragraph in the quoted text above (referencing Iowa Code 335.15(4) and Iowa Code 414.12(4)). The intent was to create a more permissive standard than unnecessary hardship for a landowner to be granted a variance from “area, dimensional, or other numerical limitations” imposed in a zoning district. The legislature attempted to clarify what it meant by area, dimensional or numerical limitations by stating they “include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking,” although situations can conceivably arise that raise questions about whether a landowner’s request constitutes a dimensional variance or a use variance.

The more permissive standard for dimensional variances does not mean that they should be granted automatically. The added language states that, to receive a dimensional variance, the property owner still must prove “that the practical difficulties faced are unique to the property at issue and not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.” In effect, the new language removed the requirement to prove a “lack of reasonable return” standard that causes most use variance applications to fail, but kept the “unique circumstances” and “essential character” standards in place for dimensional variances.



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