



# *CITY OF LECLAIRE, IOWA*

325 WISCONSIN STREET  
LECLAIRE, IOWA 52753

TEL: (563)-289-4242      FAX: (563)-289-6016  
[WWW.LECLAIREIOWA.GOV](http://WWW.LECLAIREIOWA.GOV)

## **NOTICE OF PUBLIC HEARING**

Notice is hereby given that the LeClaire Board of Adjustment will hold a Public Hearing on Thursday, June 1, 2023, at 7:00 p.m., in the LeClaire City Council Chambers located at 325 Wisconsin Street, LeClaire. The purpose of the Public Hearing is to receive comments on and consider taking action on the following item(s):

### **CASE #23-02: 1) THE REVIEW AND CONSIDERATION OF A COMMERCIAL DISTRICT**

#### **(C-3) FRONT YARD SET-BACK MODIFICATION VARIANCE REQUEST** – A

front yard set-back width variance request has been submitted by the owner/applicant, Mr. Steve Geifman of GRT QC Property LLC, 2172 56<sup>th</sup> Avenue West, Bettendorf, Iowa, for a reduction of the front yard set-back from 50' to 40' for the single lot in the proposed Rodgers Third Addition located on Eagle Ridge Road. Additional detailed information and layouts are available at City Hall during regular business hours.

Any and all residents and interested adjoining property owners, (particularly those who own property and/or reside within two hundred feet, (200'), of the area(s) under consideration), are invited and encouraged to attend this hearing at the time and place mentioned above and to submit comments either orally, in writing, or both.

You are also hereby further notified that the Board of Adjustment may hold a second meeting on Thursday, June 15, 2023, at 7:00 p.m., in the LeClaire City Council Chambers, (unless otherwise suspended by a majority vote of the board at the first meeting mentioned above). This second meeting may be held to consider further action on or to render a final decision on the matters discussed on June 1, 2023. (There will be no public input received at the June 15, 2023 meeting.) This meeting is only for the purpose of the Board of Adjustment members to discuss, consider, and render their decision(s) on the matter(s) at hand. For further information, please feel free to contact City Hall at any time.

Dennis Bockenstedt  
City Administrator

**PETITION TO THE BOARD OF ADJUSTMENT  
FOR HEARING AND CONSIDERATION OF A  
REQUEST FOR A VARIANCE**

**PROPERTY ADDRESS:** 1281 Eagle Ridge Road

**CURRENT ZONING:** C-3 **PROPERTY LENGTH AND WIDTH OR AREA** 0.65 Acres  
(28,314 square feet)

**APPLICANT: Name:** Steve Geifman

**Address:** 2172 56<sup>th</sup> Avenue West

**Phone:** 563-323-2626

**FAX #:** N/A

**e-mail:** steve@geifmanfirstequity.com

**CONTACT: Name:** Same as applicant

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**FAX #** \_\_\_\_\_ **e-mail** \_\_\_\_\_

**OWNER: Name:** Same as applicant

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**FAX#** \_\_\_\_\_ **e-mail** \_\_\_\_\_

**Specific requested variance; List applicable section(s) of the Zoning Code:**

Variance to the 50 feet Front Yard Depth (Building Setback) for C-3 (Zoning Code: Chapter 165; Article XII.5-2.2)

**Reason for variance request:**

Construction of Starbucks building to allow site parking to meet code requirements and avoid private sanitary sewer conflict

**Dates of prior application or appeal filed for this property, if any:** N/A

**INFORMATION TO BE PROVIDED BY APPLICANT: Please attach electronically or by hand Items A through C below:**

**A. Legal description of property:**

**B. \*Plot plan drawn to scale showing:**

1. Lot with dimensions;
2. North point and scale;
3. Existing and proposed structures with distances from property lines;
4. Abutting streets and alleys;
5. Land uses on and property owners of abutting lots; and
6. Parking spaces and trees - existing and proposed.

*[\*Submission of an 8" x 11" or larger bold print plot plan is preferred.]*

**C. A list of all property owners within 200 feet of the exterior limits of the property involved. Include addresses.**

**NAME**

**ADDRESS**

See Attachment

## APPLICANT'S JUSTIFICATION OF REQUEST FOR VARIANCE

Chapter 414 of the Iowa Code and Article III. 3 of the LeClaire Zoning Ordinance give the Board of Adjustment power to authorize upon appeal in specific cases such variances from the terms of the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship and so the spirit of the ordinance shall be observed and substantial justice done. Applicants should be aware that under Iowa law,

- They, not the City, are responsible for demonstrating that they are entitled to the variance.
- To qualify as a hardship the owner must prove that he/she would be *denied all beneficial use* of his property unless the variance is granted. (See General Explanations of Variances in the applicant information packet.)

**III.3-6.6 Standards for Variances.** The Board of Adjustment will not vary the regulations of this Ordinance, as authorized in this section, unless there is evidence presented to it in each specific case that: (Please provide evidence in the space provided or on additional pages.)

**1. If particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a hardship on the property (loss of all beneficial use), rather than a mere inconvenience, please describe the conditions and what if any action has been taken to reduce or eliminate the problem. How will a variance reduce the hardship?**

The combined parking lot is meant to serve the proposed Starbucks, Fareway, Breakfast at Berries, Nail Salon, and First Central State Bank. Each business has a parking requirement per City code (80 stalls for Fareway + 19 stalls for Breakfast at Berries + 19 stalls for Nail Salon + 10 stalls for First Central State Bank + 19 stalls for proposed Starbucks) for a total of 147 required parking stalls. The existing parking lot is proposed to be restriped to provide 148 parking stalls, which meets city code requirements.

The physical restraints of the site and topography limit the ability for the parking to be expanded any further. The variance would reduce the hardship by allowing the property to meet the parking code requirements for not only Starbucks but the other businesses of the site as well.

The physical restraints of the site also create a hardship due to the existing private sanitary sewer line that serves the businesses in the Fareway building. Providing a setback variance allows the proposed Starbucks to be positioned to avoid a conflict with the private sanitary sewer. Requiring Starbucks to relocate the building outside of the setback would bring the building within a distance of approximately 6' from the proposed Starbucks building. This would be within both the proposed sewer easement and the 45 degree bearing area where it is recommended not to have any proposed utility pipes due to potential added stresses from the building foundation. This would also cause potential future maintenance issues if the sewer line must ever be serviced in the area of the proposed Starbucks building.

**2. Do other properties within the same zoning classification share any similar physical characteristics? Please specify and describe/compare.**

Within the C-3 zoning district there are other commercial buildings such as the McDonald's and gas station at 1403 Eagle Ridge Rd, and the new Kwik Star at 1201 Eagle Ridge Rd. The proposed Starbucks will be (2200 square feet) which is about 1/2 to 1/3 the size of those buildings. From Google Earth, the Kwik Star is approximately 6500 sf and the McDonald's/Gas Station is approximately 5500 sf.

There appears to be precedent for the setback in the C-3 zoning district to be less than 50'. The property located directly east of the proposed Starbucks at 1000 Stagecoach Trail is also in the C-3 zoning district. This building is only setback approximately 30'-35' from the front property line, which is less than the proposed 40'+ setback variance that Starbucks is applying for.

**3. What purposes other than financial gain will the variance, if granted, serve? Describe anticipated gain and other expected benefits.**

Providing the variance will also benefit the other business owners of the property as it will allow adequate parking to be provided for all businesses.

There is also an existing sanitary sewer service that is located on the site that serves Fareway, Breakfast at Berries, Nail Salon, and First Central State Bank. This sanitary sewer line runs through the proposed Starbucks site. The property is being re-platted to provide Lot 2 for the proposed Starbucks. A 15' sewer easement is being provided as part of the re-plat as it is a private sewer pipe. Requiring Starbucks to relocate the building outside of the setback would place the building inside of that easement. This would bring the sewer pipe too close to the proposed building foundations and cause potential issues for future maintenance of the sewer line for the other businesses. Providing the variance would avoid current and potential future conflicts between the businesses and the sewer line.

**4. What is the cause of the alleged difficulty or hardship?**

The existing sanitary sewer pipe runs directly through the parking lot. It is not feasible realistic to relocate the sewer pipe as it will adversely affect the businesses that are currently utilizing it. The proposed Starbucks building was positioned in a way to avoid the conflict with the existing sanitary sewer while also maximizing the available parking on the property.

The existing parking lot is already taking up the majority of the parking lot. Due to surrounding topography it is not feasible to expand the parking lot further. The existing parking lot is being restriped to maximize the amount of parking stalls available to the businesses. The proposed Starbucks was positioned to maximize the parking available while maintaining traffic flow throughout the parking lot. The setback requirement causes the hardship of the site not providing parking per city code.

**5. Describe how the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

The existing parking lot at the location of the proposed Starbucks sits approximately 8 feet to 10 feet above the roadway grade of Eagle Ridge Road and approximately 6 feet to 8 feet above the roadway grade of Stagecoach Trail. There will be no sight distance issues for drivers along with Eagle Ridge Road or Stagecoach Trail as the site sits well above the roadway.

The proposed Starbucks will be approximately 20 feet tall. The existing Fareway (Slagle's) building also sits 20 feet tall, and the building east of the site at 1000 Stagecoach Trail is a two-story building. The proposed Starbucks will fit into the layout of the surrounding buildings and zoning area.

**6. Describe how and why the proposed variance will impact each of the following: the supply of light and air to adjacent properties, traffic flow on public streets, the danger of fire, public safety, and property values within the neighborhood.**

The variance will not affect the supply of air to adjacent properties. There is existing parking lot lighting already on the site. Proposed Starbucks lighting will meet city requirements and is not expected to affect adjacent properties.

The variance will not have an impact on traffic flow on the surrounding public streets of Eagle Ridge Rd and Stagecoach Trail as the existing parking lot entrances will be utilized and no additional public access is being added.

The variance is not expected to hinder fire access to the proposed Starbucks or surrounding property. Fire protection will meet city and state code requirements.

Public safety will remain unchanged. Typical Starbucks operating hours are approximately 5 a.m. to 9 p.m. The building is not anticipated to be operated outside of these hours.

The variance is not expected to have a negative impact on property values as the property is currently zoned C-3, which allows for this type of establishment.

**7. How will you use the property if the variance is grant? Is a future special exception planned or has one already been granted?**

If the variance is granted, the property will be used to construct a 2200 sf Starbucks coffee shop with drive-thru that will provide another restaurant option for patrons. No future special exception is planned.

**Questions for the Board Only:**

**8. The requested variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance will be observed, and substantial justice done.**

**9. What, if any conditions, are required to grant this variance?**



**APPLICANTS SHOULD ALSO BE AWARE OF THE FOLLOWING:**

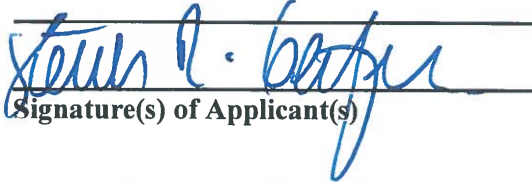
**Conditions.** In permitting a variance, the Board may impose appropriate conditions and safeguards, including but not limited to planting screens, fencing, construction commencement and completion deadlines, lighting, operational controls, improved traffic circulation requirements, highway access restrictions, increased minimum yard requirements, parking requirements, limitations on the duration of a use or ownership or any other requirement which the Board deems appropriate under the circumstances, upon a finding that the conditions are necessary to fulfill the purpose and intent of the Zoning Ordinance Chapter III.3

**Orders.** Unless otherwise determined by the Board, all orders (variances granted) of the Board shall expire six (6) months from the date the written decision is filed with the City Clerk, unless the applicant shall have taken action within the six (6) month period to establish the use or construct the building permitted under the terms of the Board's decision, such as by obtaining a building permit and proceeding to completion in accordance with the terms of the permit. Upon written request, and for good cause shown, the Board may extend the expiration date of any order without further public hearing on the merits of the original appeal or application. (Ordinance Article III.3-6.9)

**Petition for writ of certiorari.** Any person or persons, jointly or severally, aggrieved by any decision of the Board under the provisions of the Zoning Ordinance or any taxpayer or any officer, department or board of the City may present to a court of record a petition for writ of certiorari duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. (Ch. 414.15 Iowa Code.) Such petition shall be presented to the court within thirty (30) days after the filing of the BOA's decision in the office of the City Clerk.

*FINALLY, THE APPLICANT FURTHER ACKNOWLEDGES THAT THE APPLICANT AND/OR A DULY AUTHORIZED AND KNOWLEDGEABLE REPRESENTATIVE OF THE APPLICANT WILL BE PRESENT AT THE REQUESTED HEARING AT THE SPECIFIED DATE(S) AND TIME(S) TO FULLY AND PROPERLY REPRESENT THE APPLICANT'S INTEREST(S) IN THIS REQUEST. FAILURE TO DO SO WILL RESULT IN THE AUTOMATIC DISMISSAL OF CONSIDERATION OF THE REQUEST AND FORFEITURE OF THE APPLICATION FEE(S), UNLESS OTHERWISE DETERMINED BY THE BOARD(S).*

Date: MAY 15, 2023  
Month Day

  
Signature(s) of Applicant(s)

Date: \_\_\_\_\_, 20\_\_\_\_  
Month Day

\_\_\_\_\_  
Signature(s) of Property Owner(s)  
if other than Applicant(s)



## GENERAL EXPLANATION OF VARIANCES

A variance is a legal right granted to a property owner to use property in a manner prohibited by the Zoning Code. It has been said that a variance is an “escape valve” from the literal terms of the ordinance which, if strictly applied to a property owner, would deny *all* beneficial use of his land and thus amount to a confiscation.

A variance is not a personal license to the property owner. A variance runs with the land.

Under Iowa law, the Board of Adjustment [BOA], which has power to grant variances, is an independent, quasi-judicial body, meaning that, while the Board members are appointed by the City Council, they are not subordinate to the Council. Their actions are reviewable only by the Iowa District Court. The BOA conducts a hearing with respect to each variance application after notices are posted on the property and mailed to owners of other properties within 200 feet of the property for which the variance is sought. That hearing will normally be relatively informal, but the Board will hear testimony and review documentary evidence in a manner similar to a court of law.

LeClaire’s Building and Zoning Enforcement Officer assists the BOA by reviewing variance applications and preparing a report to send with the application to the Board before the hearing. The primary purpose of that report is to provide background information to the BOA, and to inform them generally of the nature of the request for a variance. In preparing the report, the Zoning Officer will use information provided in the application for a variance, and may contact the applicant for further details. *However, applicants should be aware that under Iowa law, they, not the City, are responsible for demonstrating that they are entitled to the variance.*

The Iowa Supreme Court has rendered several decisions involving variances, including:

Deardorf v. Board of Adjustment of Fort Dodge, 254 Iowa 380, 8 N.W.2d 78 (1962).  
Board of Adjustment v. Ruble, 193 N.W.2d 497 (Iowa 1974).  
Graziano v. Board of Adjustment, City of Des Moines, 323 N.W.2d 233 (Iowa 1982).  
Greenwalt v. Board of Adjustment, City of Davenport, 345 N.W.2d 537 (Iowa 1984).

Those cases give meaning to the requirement of the Iowa statute (Code Sec. 414.12.3 that variances be granted *only where unnecessary hardship will result*. The Court has said unnecessary hardship is shown by establishing all of the following elements:

1. The land in question cannot yield a reasonable return if used only as allowed in the zone in which it is located.
2. The plight of the owner is not due to general conditions in the neighborhood which may reflect the unreasonableness of the zoning ordinance itself, and
3. The use to be authorized by the variance will not alter the essential character of the locality.

# FINAL MINOR PLAT RODGER'S THIRD ADDITION

A REPLAT OF LOT 2 OF THE FINAL PLAT OF RODGER'S FIRST ADDITION  
TO THE CITY OF LECLAIRE, SCOTT COUNTY, IOWA

Index Legend	
City	LECLAIRE
County	SCOTT
Document ID	86339393
Description	LOT 2 OF RODGER'S FIRST ADDITION
Preparer	GRT QC PROPERTY, LLC
Surveyor	JONATHAN BAILEY
Company	SHIVE-HATTERY INC.
Return To	2144 56TH AVENUE WEST BETTENDORF, IOWA 52722, PH: 563.635.7300

**OWNER**  
GRT QC PROPERTY LLC  
2172 56TH AVE W  
BETTENDORF, IA 52722

**DEVELOPER**  
TWIN-SHORES, INC.  
1333 13TH STREET,  
EAST MOLINE, IL 61244

**ATTORNEY**  
JEAN FRIEMEL  
STENGEL, BAILEY, & ROBERTSON, P.C.  
1617 2ND AVE, SUITE 200  
ROCK ISLAND, IL 61201

- LEGEND**
- IRON ROD - FOUND
  - IRON ROD - SET WITH YELLOW PLASTIC CAP 12531
  - ⊙ NAIL SET
  - (R) RECORD BEARING/DISTANCE
  - (M) MEASURED BEARING/DISTANCE

**LAND DESCRIPTION**

As described in Warranty Deed from AKN LeClaire, LLC to GRT QC PROPERTY, LLC, recorded as Document No. 2022-00004617 at the Scott County Recorder's Office, Scott County, Iowa:

Lot Two (2) of Rodgers First Addition to the City of LeClaire, Iowa, being part of the Southeast Quarter of Section 3, in Township 78 North, Range 5 East of the 5th Principal Meridian, situated in the County of Scott and State of Iowa

**SURVEYOR'S NOTES**

- A blanket easement over Lots 1 & 2 is hereby created for the purpose of cross-parking and access to the Public right-of-way.
- If the owner of Lot 2 connects to the existing private sanitary sewer service line running across Lot 2, then an agreement shall be recorded with the Scott County Recorder providing for maintenance of the shared sanitary sewer line.
- The existing building was built according to a 25' front setback along Stagecoach Trail (formerly 13th Street), per the plat of Rodgers First Addition (Doc. No. 02570-92). The easterly corner of the existing building will be non-conforming in this Replat. Any new buildings shall meet the setback requirements shown hereon unless otherwise approved by the City of LeClaire.

**UTILITY CERTIFICATIONS**

THE FOLLOWING AS LISTED HAVE REVIEWED AND APPROVED THIS FINAL PLAT AND FOUND THAT SAID PLAT DOES MEET ALL THE MINIMUM UTILITY REQUIREMENTS:

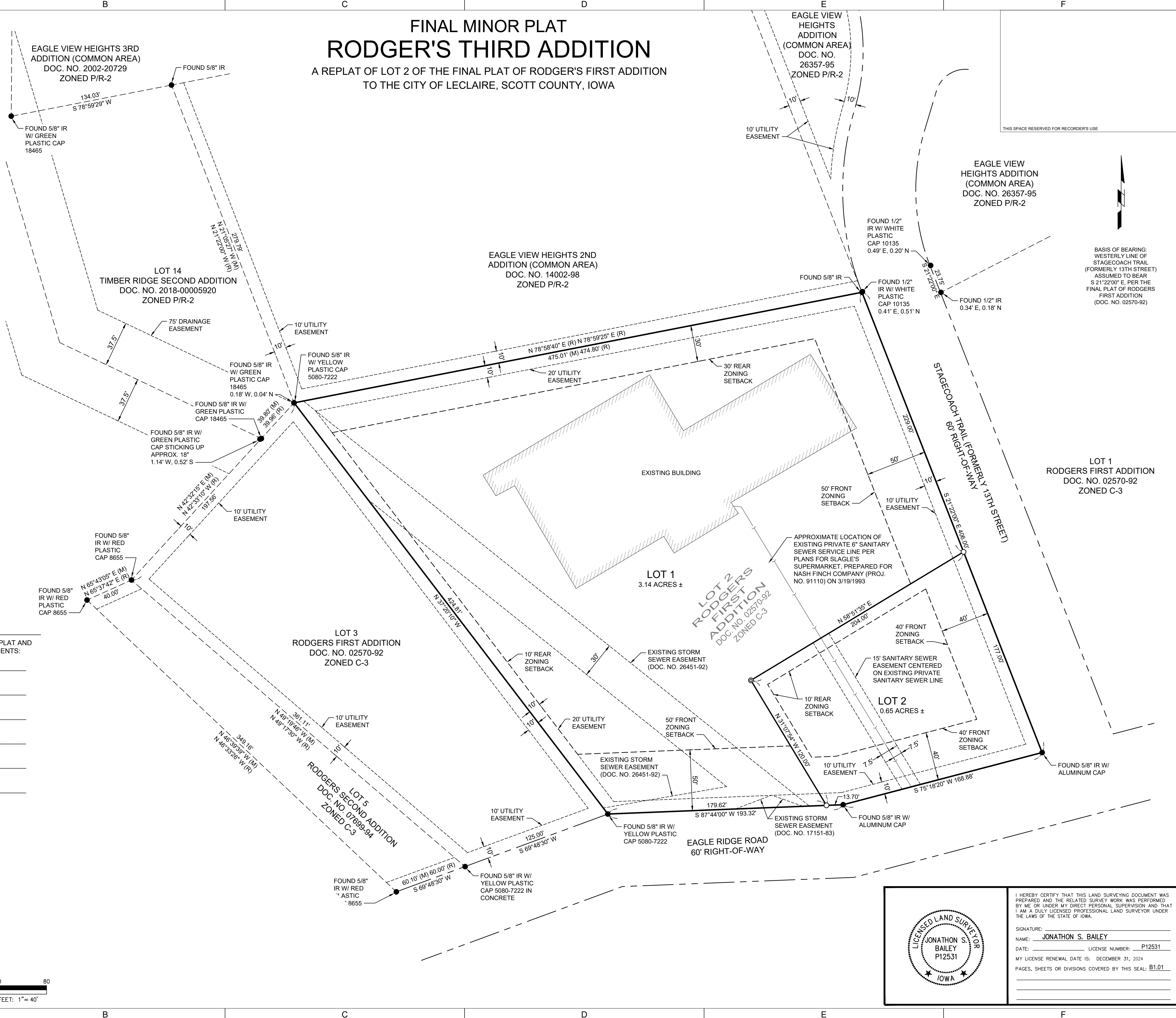
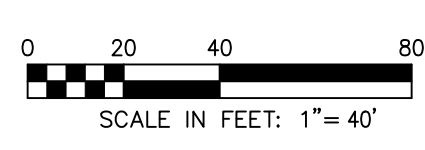
BY: _____	DATE: _____
IOWA-AMERICAN WATER COMPANY (WATER)	
BY: _____	DATE: _____
MIDAMERICAN ENERGY COMPANY (GAS & ELECTRIC)	
BY: _____	DATE: _____
MEDIACOM (TELECOMMUNICATIONS)	
BY: _____	DATE: _____
LUMEN (TELECOMMUNICATIONS)	
BY: _____	DATE: _____
METRONET (TELECOMMUNICATIONS)	
BY: _____	DATE: _____
WINDSTREAM (TELECOMMUNICATIONS)	

APPROVED BY THE LECLAIRE PLANNING AND ZONING COMMISSION OF LECLAIRE, IOWA: RECOMMENDATION # \_\_\_\_\_ DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

ATTEST: \_\_\_\_\_  
PLANNING AND ZONING CHAIRPERSON

**DEPUTY CLERK**  
APPROVED BY THE CITY COUNCIL OF LECLAIRE, IOWA: RESOLUTION # \_\_\_\_\_ DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.  
(BE IT FURTHER NOTED THAT THIS APPROVAL EXPIRES FORTY-FIVE (45) DAYS FROM THIS DATE, UNLESS RECORDED PRIOR TO THAT TIME WITH THE SCOTT COUNTY RECORDER'S OFFICE).

ATTEST: \_\_\_\_\_  
MAYOR  
\_\_\_\_\_  
CITY CLERK



THIS SPACE RESERVED FOR RECORDER'S USE

BASIS OF BEARING:  
WESTERLY LINE OF  
STAGECOACH TRAIL  
(FORMERLY 13TH STREET)  
ASSUMED TO BEAR  
S 21° 22' 00" E, PER THE  
FINAL PLAT OF RODGER'S  
FIRST ADDITION  
(DOC. NO. 02570-92)

**SHIVE-HATTERY**  
ARCHITECTURE+ENGINEERING  
SEAL

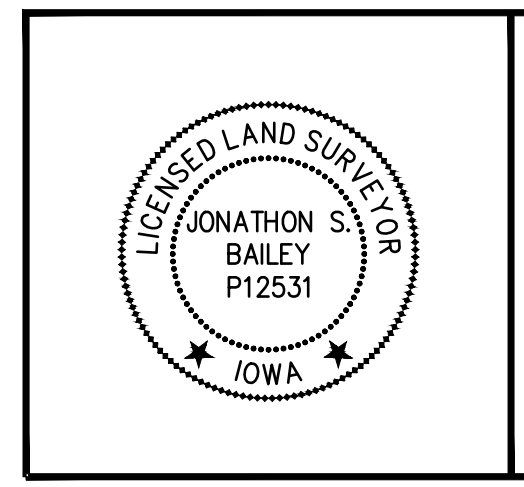
2144 56TH AVENUE WEST  
BETTENDORF, IOWA 52722  
563.635.7300 | SHIVE-HATTERY.COM

**RODGER'S THIRD ADDITION**  
GRT QC PROPERTY LLC  
1281 & 1301 EAGLE RIDGE ROAD

SSP	JSB	REVIEW	5/15/2023	2132205580	644
DRAWN BY	APPROVED BY	ISSUED FOR	ISSUE DATE	PROJECT NUMBER	FIELD BOOK

SSP	JSB	REVIEW	5/15/2023	2132205580	644
DRAWN BY	APPROVED BY	ISSUED FOR	ISSUE DATE	PROJECT NUMBER	FIELD BOOK

**FINAL MINOR PLAT**  
B1.01



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.

SIGNATURE: \_\_\_\_\_  
NAME: **JONATHAN S. BAILEY**  
DATE: \_\_\_\_\_ LICENSE NUMBER: **P12531**  
MY LICENSE RENEWAL DATE IS: **DECEMBER 31, 2024**  
PAGES, SHEETS OR DIVISIONS COVERED BY THIS SEAL: **B1.01**

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