



AGENDA
MANDAN PLANNING & ZONING COMMISSION
COMMISSION ROOM 5:30 P.M.
MONDAY, JUNE 24, 2019

Roll Call, Reading and Approval of the May 29, 2019 minutes.

The commission has an at large seat open. Letters of interest will be accepted until July 31, 2019. Appointee will fill the remainder of the term, ending in December 2022.

PUBLIC HEARINGS

1. A request from Joe Hillerson, Boulder Homes, for a front setback variance. Said property is the south half of Lot 17 and all of Lots 18 and 19, Block 3, Heart View Addition in Section 28, Township 139N, Range 81W, in the City of Mandan, Morton County, North Dakota. The property is located on 14th Street NW.

A. Staff report B. Open public hearing C. Close public hearing D. Commission action

2. A request from the Mandan Union Cemetery for a columbarium special use permit. The cemetery lies in Section 23, Township 139N, Range 81W, in the City of Mandan, Morton County, North Dakota. The property is located at 1600 Mandan Avenue.

A. Staff report B. Open public hearing C. Close public hearing D. Commission action

OTHER BUSINESS

1. A presentation of McCreary Masterplan Subdivision by Scott Harmstead, SRF Consulting Group.

ADJOURN

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
May 29, 2019

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on May 29, 2019, at 5:30 p.m. CDT.

ROLL CALL

Commissioners Present: Klemisch, Klein, Knoll, Helbling, Liepitz, Renner, Camisa, Robinson

Commissioners Absent: Boehm, Leingang, Laber, Frank

Commissioner Camisa motions to approve the April 22, 2019 minutes. Commissioner Knoll seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. A request from Cody Stern, Old Ten Bar & Grill, for approval of a parking lot variance. Said parking lot is on Lot 1, Block 1, BNSF Commercial Park 2nd Addition in Section 24, Township 139N, Range 81W located at 417 E. Main Street.

A. Staff report.

John Van Dyke, City Planner, describes the request. Old Ten Bar & Grill are requesting a variance to change their parking requirements from 45 to 34 spaces. The building they are remodeling is in the downtown revitalization area. They are not expanding the existing building or lot. The change in use of the building changes the parking requirements. They have already qualified for business incentives. Renovations are under way. There are pictures in the packet of how it looked before and a rendering of how the facade will look when completed. The granting of the variance seems to be in harmony with the guidelines for granting a variance. When they are busy, adjacent businesses will more than likely be closed and will have opposite peak times. They have been in discussion with Auto Value (Hedahls) to utilize some of their parking as overflow. The manager said the formal agreement has to come from corporate. He suggests an agreement with Auto Value for overflow parking be required for the variance.

Exhibit 3 lists reasons why we would grant the variance:

- The parking requirements are a product of redevelopment and reuse.
- No expansion of the building footprint is being conducted.
- Property line adjustments to expand the parking area is not possible to accommodate the required parking.
- Varying the parking requirements to approximately 75% of what is required in order to facilitate downtown redevelopment is appropriate.
- The demand for parking will generally peak in the evenings/weekends, outside of Business hours of many adjacent businesses.

Mayor Helbling suggests changing the agreement with Auto Value/Hedahls to an agreement with an adjacent property owner. All possible neighbors should be considered. Maybe they can go to the west. Employee parking is a real issue as well. That adds to the number of parking spaces used. Employees may have to park off site. With the Main Street reconstruction there will not be parking on the south side of Main Street.

Chair Robinson says he agrees with a parking agreement. He works in a building next to Buffalo Wild Wings and they had to collaborate on a parking agreement as well in order for the restaurant to be able to go in there. It was an after 5 o'clock agreement. They are a long way into the process already, why did Old Ten Bar & Grill take so long into the process to bring the parking issue forward?

John says the applicant made changes to how much seating there will be at the tables. The seating was changed from 4 to 6 seats per table and the bar area was reconfigured. This changed the parking requirements.

Commissioner Liepitz asks John what his recommendation is for a parking agreement. John thinks a goal of 11 additional spaces from an adjacent business would meet the minimum requirements. He is open to what the commission thinks.

Commissioner Camisa asks what the seating capacity might be in the bar area.

Cody Stern, Any Leaks & Old Ten Bar & Grill, "We are looking at about 180 seats during...the party rooms got about 10 seats and our patio has about 10. So on a warm day and the party room rented we'd be at max capacity of 180. Patio being seasonal and party room being a Friday night/Saturday night, off and on. Typically, around 160 on average. If we're maxed out, it's 180 seats we'll have."

B. Open public discussion.

Kurt Miller, Old Ten Bar & Grill, "As for the employee parking, obviously, we'll need those people to be there. We'll make that a requirement of our policy that they won't be allowed to park in that lot and they will have to go to street parking, could be the spots that are along Hardees there or the adjacent road. We'll leave that open and not have staff park there so we can provide the most parking possible for guests and the employees will be more respectful of street parking and using neighbor's spots."

Commissioner Renner asks if additional spots can't be secured, are the commissioner's motioning for a variance with the existing parking? Or does the commission limit the number of seating to handle the amount of parking there? Can a motion be made contingent on whether or not an agreement can be reached for additional parking?

John says the variance would be for the number of parking spaces required. City Commission would still have to ratify any suggestions by Planning & Zoning.

Commissioner Liepitz asks the applicant how many employees do they think will be employed at all times. The number of employees working will take that many parking spaces away from the minimum required.

Mayor Helbling thinks they should try to get up to the minimum of 45 parking spaces. They may be short of parking even at 45 spots. He suggests securing an additional 11 spaces with an adjacent property owner.

Chair Robinson asks if the agreement would go into effect at 5 p.m. would they be o.k. for lunch hour.

Mayor Helbling thinks that is a question for Attorney Brown. He points out what planning said about there being no parking requirements to the west of this building, on Main Street. But there are more traffic lights and pedestrian safety crossings on the west end of Main St.

If the business cannot secure an agreement for additional parking, the occupancy would automatically be reduced.

Commissioner Camisa thinks there should be a target number of spaces, so they know what the goal is.

C. Close public discussion.

D. Commission's action.

Commissioner Liepitz motions to approve the variance of the parking requirement from 45 to 34 spaces for reasons specified in Exhibit 3: the parking requirements are a product of redevelopment and reuse, no expansion of the building footprint is being conducted, property line adjustments to expand the parking area is not possible to accommodate the required parking, varying the parking requirements to approximately 75% of what is required in order to facilitate downtown redevelopment is appropriate, the demand for parking will generally peak in the evenings/weekends, outside of business hours of many adjacent businesses; and subject to a parking agreement with an adjacent property owner for a minimum of 11 spaces. Commissioner Renner seconds. Upon vote, the motion passes unanimously.

2. A public hearing for a Columbarium special use permit has been rescheduled to the June 24, 2019, Planning & Zoning Commission meeting.

3. An ordinance of the Mandan Municipal Code regarding murals has been postponed due to litigation.

There are no public comments.

OTHER BUSINESS

1. Special Use Permit education.

John Van Dyke, City Planner, says the purpose of a conditional use permit is for uses that are not permitted in a zoning district, but they are not omitted either. Example: CA zoning district permits a lot, but at times it needs to be looked at further in depth. It is a case by case basis and allows the city to delve deeper into a particular request and mitigate the use and how it will impact the area. It gives the city flexibility to place conditions on the use. Instead of looking at a conditional use permit as restricting a business, it is a way to make sure it is a proper use.

John says he will be out of town for the June 24, 2019 Planning & Zoning meeting. Justin Froseth, City Engineer, will present.

Commissioner Renner motions to adjourn. Commissioner Klemisch seconds. Motion passes unanimously.

Meeting adjourns at 6:15 p.m.

PUBLIC HEARING # 1

PUBLIC HEARING # 1

Mandan Planning and Zoning Commission Agenda Item PH1 For Meeting on June 24, 2019
Mandan Engineering and Planning Office Report
Lots 17-19 Heart View Addition
Requested Action
Front Setback Variance

| Application Details | | | | |
|---|---------------------------------------|----------------------------------|--|---|
| Applicant | Owner | Subdivision | Legal Description | |
| Joe Hillerson | Joe Hillerson | Heart View Addition | South half of Lot 17 and all of Lots 18 and 19 | |
| Location 14 th Ave NW | | Proposed Land Use Residential | Parcel Size 0.55 acres | Number of Lots 2.5 currently; 1 upon replat |
| Existing Land Use Vacant – Previously City Owned | Adjacent Land Uses Residential | | Current Zoning RM – Multi- family | Proposed Zoning RM – Multi- family |
| Adjacent Zoning RM – Multi-family | Fees \$400 | Date Paid 06/14/2019 | Adjacent Property Notification Sent None Required | Legal Notices Published None Required |

Project Description

Joe Hillerson recently acquired the property from the City of Mandan with the intention of constructing a single-family residence. He is requesting a front setback variance from 25ft to 6.5ft. (See Application Documents in Exhibit 1).

Several of the properties along 14th Ave NW abut the Lower Heart River. The subject property was brought into possession by the City when in the late 80s and early 90s several homes along 14th Ave. NW suffered damage due to soil erosion. The property was subsequently posted with warning signs (See Aerial and Site Visit Pictures in Exhibit 2).

Much of the property is affected by sloping topography and unstable soils.

Variance may be granted under the following circumstances (See Sec. 105-1-12):

1. There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, or not;

The sloping topography in the rear of the property is unique to this area. Soil erosion due to adjacency to the Lower Heart River has created unsafe conditions if the full 20ft setback is enforced.

In addition, neighboring residential structures are already located closer (approx. 9 ft.) to the front property line than 20 ft. and the granting of a variance would ensure consistency with the character of the area.

Finally, the right-of-way width for 14th Ave. NW is 80ft. This is larger than the 66 ft. typically required for a local road. The street is no larger than a standard local street. This results in a larger boulevard than normal. Problems with off-street parking encroaching into the street or sidewalk are mitigated by the larger boulevard.

2. For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant;

The strict standards applied to this particular property would deprive the applicant of the reasonable use of the property. Properties along the west side of 14th Ave. NW experience unique issues stemming from soil erosion that others in the neighborhood are not subject to.

3. The grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The granting of the variance is in harmony with the general purposes and intent of this chapter.

Agency & Other Department Comments

N/a

Engineering & Planning Recommendation

Engineering and Planning recommend approval of the front setback variance from 25ft. to 6.5 ft. based on the findings specified in Exhibit 3.

Proposed Motion

I move to recommend approval of the front setback variance from 25ft. to 6.5 ft. based on the findings specified in Exhibit 3.

List of Exhibits:

Exhibit 1 – Application, Letter of Intent, and Site Drawing

Exhibit 2 – Aerial and Site Visit

Exhibit 3 – Findings of Support to Grant Variance

| CITY OF MANDAN | | | |
|---|---|-------------------------------------|--|
| Development Review Application | | | |
| <input checked="" type="checkbox"/> | Minor Plat (\$300) | | Zone Change (\$600) <input type="checkbox"/> |
| | Preliminary Plat up to 20 acres (\$350) | | Planned Unit Development (\$700) |
| | Preliminary Plat more than 20 acres (\$400) | | Zone Change with Minor Plat (\$400) |
| | Final Plat up to 20 lots (\$350) | | Vacation (\$500) |
| | Final Plat 21 to 40 lots (\$475) | <input checked="" type="checkbox"/> | Variance (\$400) |
| | Final Plat more than 40 lots (\$700) | | Special Use Permit (\$450) |
| | Annexation (\$450) | | Stormwater submittal (\$300) |
| | Annexation with Minor Plat (\$200) | | Stormwater 2 nd & subsequent resubmittal (\$50) |
| Summary of Request Minor Plat - combining 3 lots to one lot. Variance - requesting a 6.5 feet front yard setback, due to topography of the property. | | | |

| Engineer/Surveyor | | | Property Owner or Applicant | | |
|---|-------------|--------------|---|---------------------|--------------|
| Name Toman Engineering Company | | | Name Boulder Homes LLC, Joe Hillerson-Owner | | |
| Address 501 1st Street NW | | | Address 301 Baker Place, P.O. Box 1421 - 58502 | | |
| City Mandan | State ND | Zip 58554 | City Bismarck | State ND | Zip 58504 |
| email mark@tomanengineering.com | | | email joe.hillerson@investcore.com | | |
| Phone 701-663-6483 | Fax | | Phone 701-400-5554 | Fax 701-255-7777 | |
| If the applicant is not the current owner, the current owner must submit a notarized statement authorizing the applicant to proceed with the request. | | | | | |

| Location | | Type | | Existing Zone | Proposed Zone | Project Name | | | | |
|-------------------------------------|--------------------|--------------------------|-------------|-------------------------------------|---|-------------------------------------|----------|----|--|------------------------------------|
| <input checked="" type="checkbox"/> | City | <input type="checkbox"/> | ETA | <input checked="" type="checkbox"/> | New | <input checked="" type="checkbox"/> | Addition | RM | | Replat Lots 17-19, Heart View Add. |
| Property Address | | | | | Legal Description | | | | | |
| 109 4th Street, Mandan | | | | | South Half of Lot 17 and all of Lots 18 and 19 in | | | | | |
| Current Use | | | | | | | | | | |
| Vacant Residential Lot | | | | | Heart View Addition to the City of Mandan | | | | | |
| Proposed Use | | | | | | | | | | |
| New House Construction | | | | | Section 28 | Township 139 | Range 81 | | | |
| Parcel Size | Building Footprint | Stories | Building SF | Required Parking | | Provided Parking | | | | |
| 21,0006 SF | 41 x 62 | 1 | 2,423 | | | | | | | |

| | | |
|-----------------------------|---|-------------------|
| Print Name Joe Hillerson | Signature  | Date 6-14-2019 |
|-----------------------------|---|-------------------|

| Office Use Only | | | |
|--------------------------|---------------------|---------------------------|-----------------------|
| Date Received: | Initials: nm | Fees Paid: \$ 700 | Date 6-14-2019 |
| Notice in paper | Mailed to neighbors | P&Z meeting | |
| <input type="checkbox"/> | Approved | Approved with conditions: | |
| <input type="checkbox"/> | Denied | | |

Updated 1/1/2019

N:\PLANNING & ZONING\Development Application - January 2019.docx

June 14, 2019

Planning & Zoning City of Mandan
Attn: John Van Dyke, Principal Planner

Subject Property: The South Half of Lot 17 and all of Lots 18 and 19, Block 3 in Heart View Addition to the City of Mandan.

Note: This Property was recently purchased from the City of Mandan.
The current property is zoned RM.

I am requesting a Variance for the front yard building setback for the subject property. The current front yard setback required in the RM zoning is 15 feet, and I am requesting a front yard setback of 6.5 feet. The current property is bound on the east by 14th Avenue NW and the west by the Heart River. The hardship I am having with this property is the buildable area is too small. The western 2/3 of this property is non-buildable, which leaves only a small buildable area due to the existing terrane, change in elevation, and the location of the Heart River.

The two existing houses located to the south of this property are setback approximately 9 feet from the 80 foot right of way line on 14th Avenue NW and the house located at street address 106, which is immediately south of the subject property, has a deck that extends 6 feet farther towards the street leaving a setback of 3 feet from the right of way line. The three existing houses located to the north of this property are setback approximately 17 feet from the 80 foot right of way of 14th Avenue NW.

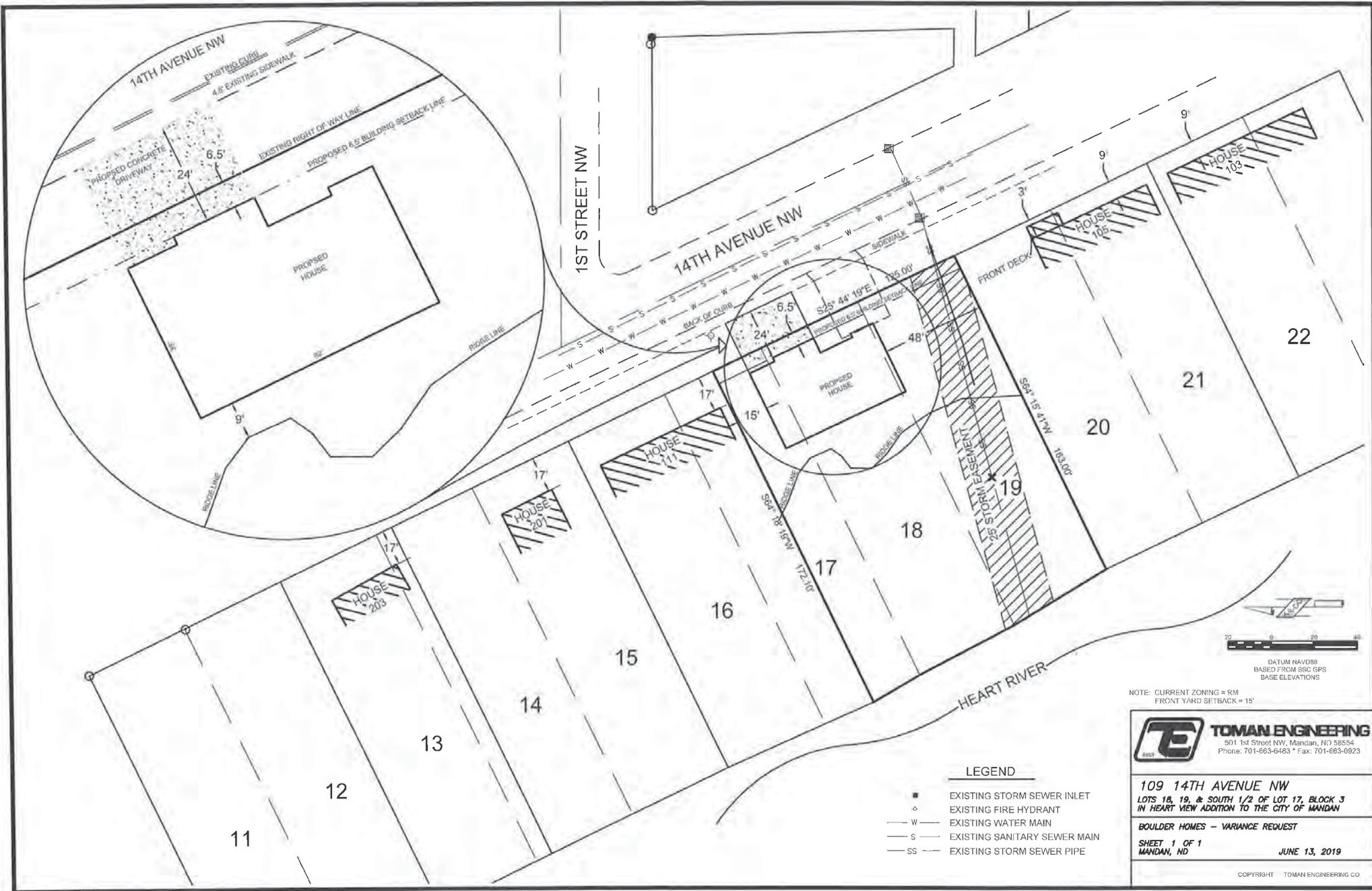
The right of way width for 14th Avenue NW is 80 feet, which is wider than a typical right of way is for a local street in a new subdivision today. This allows for a wider boulevard area between the back of curb and the right of way line. The existing sidewalk is situated at the back of curb and is approximately 4.5 feet wide. The distance from the back of sidewalk to the right of way line is 17.5 feet. If the variance was granted for the 6.5 foot front yard setback, the total distance from the front of the garage to the back of the sidewalk would be 24 feet. This would leave plenty of room to park a vehicle in front of the garage and not block the sidewalk.

Thank you for your consideration.



Boulder Homes,
Joe Hillerson, owner

ENC: Site Survey
Cc: Mark Isaacs



NOTE: CURRENT ZONING = RM
 FRONT YARD SETBACK = 15'

TOMAN ENGINEERING
 501 1st Street NW, Mandan, ND 58554
 Phone: 701-663-6483 * Fax: 701-663-0923

109 14TH AVENUE NW
LOTS 18, 19, & SOUTH 1/2 OF LOT 17, BLOCK 3
IN HEART VIEW ADDITION TO THE CITY OF MANDAN

BOULDER HOMES - VARIANCE REQUEST
SHEET 1 OF 1
MANDAN, ND **JUNE 13, 2019**

- LEGEND**
- EXISTING STORM SEWER INLET
 - ◇ EXISTING FIRE HYDRANT
 - W — EXISTING WATER MAIN
 - S — EXISTING SANITARY SEWER MAIN
 - SS — EXISTING STORM SEWER PIPE

Exhibit 2
Aerial and Site Pictures





Exhibit 3 – Findings of Support to Grant Variance

- The property has unique topographical issues relating to steep slopes and soil erosion
- When the City owned the property warning signs related to the unstable soils were posted near the rear of the property
- Other homes along 14th Ave. NW are as close as 9 ft. to the front property line
- The right-of-way width is 80' and the street is a standard size, resulting in larger-than-normal boulevards that will mitigate encroachment into the sidewalk or street

PUBLIC HEARING #2

PUBLIC HEARING #2

Mandan Planning and Zoning Commission Agenda Item PH2
 For Meeting on June 24, 2019
 Mandan Engineering and Planning Office Report
Mandan Union Cemetery
 Requested Action
Special Use Permit - Columbarium

| Application Details | | | | |
|--|--|-------------------------------|---|---|
| Applicant | Owner | Subdivision | Legal Description | |
| Mitch Bitz, City of Mandan Public Works Director | City of Mandan | Mandan Lands | NE ¼ of the SW ¼ of Section 23, Township 139 North, Range 81 West of the Fifth Principal Meridian, in the City of Mandan, Morton County, North Dakota | |
| Location 1600 MANDAN AVE NE | | Proposed Land Use Cemetery | Parcel Size 38.25 acres | Number of Lots 1 |
| Existing Land Use Cemetery | Adjacent Land Uses Industrial, Interstate 94, Residential to the east | | Current Zoning A – Agriculture District | Proposed Zoning A – Agriculture District |
| Adjacent Zoning MA/MB – Industrial, R-7 Residential | Fees - | Date Paid 04/02/2019 | Adjacent Property Notification Sent 06/04/2019 | Legal Notices Published 06/14/2019 |

| Project Description |
|---|
| <p>The City of Mandan, which owns and operates the Mandan Union Cemetery, is seeking a special use permit to establish a columbarium park in the green space area (See Exhibit 1 for Application Docs).</p> <p>Currently, there is green space that is located within the Mandan Union Cemetery. The Mandan Union Cemetery Committee recommended the reuse of the park for the purposes of a columbarium. A columbarium is a location to store urns from loved ones who have been cremated. Currently, the Mandan Union Cemetery only has space available for burial of urns and a columbarium is an alternative placement for those who choose cremation.</p> <p>The proposed columbarium has 40 “niches”, or areas to place urns. Subsequent columbariums will be installed in a similar manner to the site plan submitted upon reaching the 40-niche capacity.</p> |
| Agency & Other Department Comments |
| <p style="text-align: center;">Engineering & Planning Recommendation</p> <p>Engineering and Planning recommend approval of the Special Use Permit to add a Columbarium area to the Mandan Union Cemetery.</p> |
| Proposed Motion |
| <p>I move to recommend approval of the Special Use Permit to add a Columbarium area to the Mandan Union Cemetery.</p> |

List of Exhibits:
 Exhibit 1 – Application Docs, Site Plan, and Images of Columbarium

EXHIBIT 1

| CITY OF MANDAN | |
|---|--|
| Development Review Application | |
| Minor Plat (\$300) | Zone Change (\$600) <input type="checkbox"/> |
| Preliminary Plat up to 20 acres (\$350) | Planned Unit Development (\$700) |
| Preliminary Plat more than 20 acres (\$400) | Zone Change with Minor Plat (\$400) |
| Final Plat up to 20 lots (\$350) | Vacation (\$500) |
| Final Plat 21 to 40 lots (\$475) | Variance (\$400) |
| Final Plat more than 40 lots (\$700) | Special Use Permit (\$450) <input checked="" type="checkbox"/> |
| Annexation (\$450) | Stormwater submittal (\$300) |
| Annexation with Minor Plat. (\$200) | Stormwater 2 nd & subsequent resubmittal (\$50) |

Summary of Request The Mandan Union Cemetery would like to convert the Park into a columbarium area. The park has been divided into 28 lots to place columbariums. ~~There is also~~ There is also space set aside to install a circular columbarium around the scatter garden. The project will start w/ one 40 niche columbarium. Future columbariums will be added as needed.

| Engineer/Surveyor | | | Property Owner or Applicant | | |
|-------------------|-------|-----|--------------------------------------|-------|-------|
| Name | | | Name Chad Boehm | | |
| Address | | | Address 1600 Mandan Ave | | |
| City | State | Zip | City | State | Zip |
| | | | Mandan | ND | 58554 |
| email | | | email chad.boehm@CityofMandan.com | | |
| Phone | Fax | | Phone | Fax | |
| | | | 701 425 1321 | | |

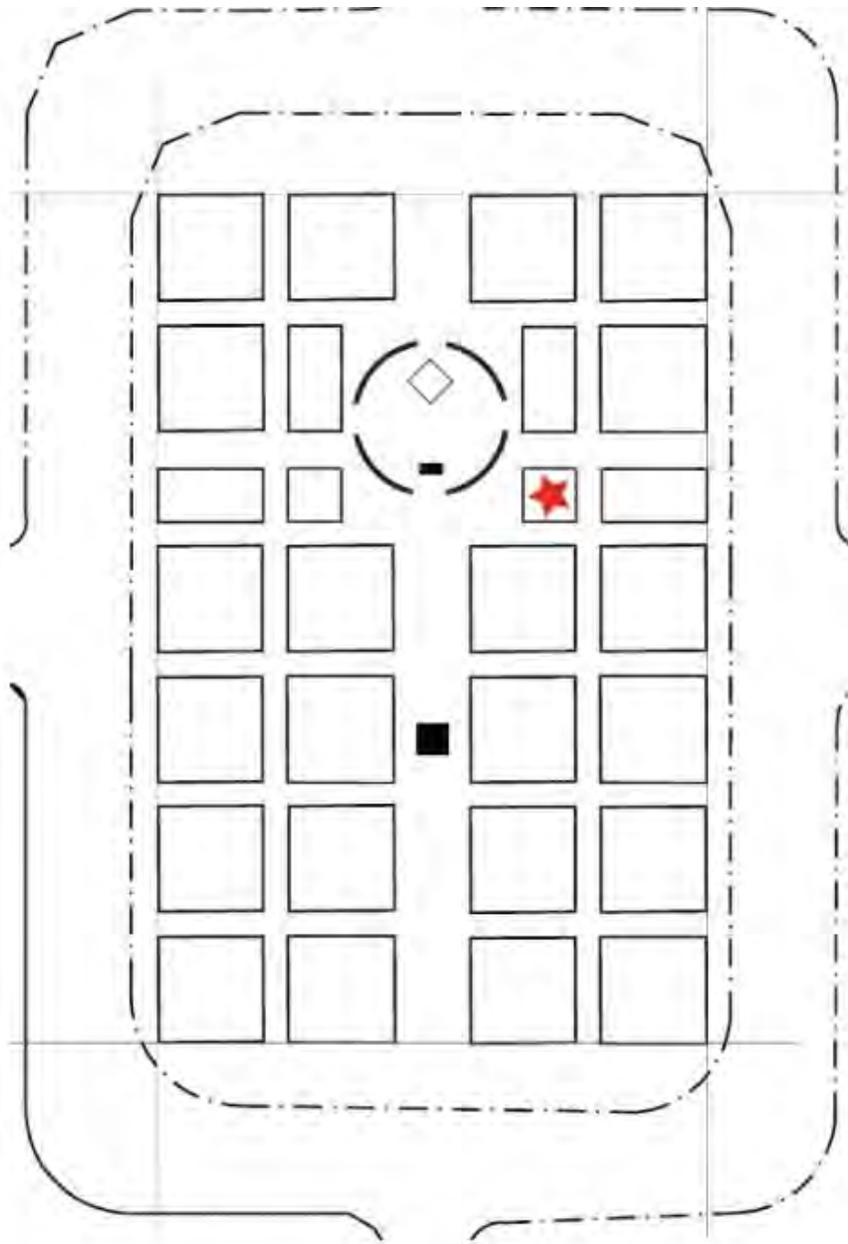
If the applicant is not the current owner, the current owner must submit a notarized statement authorizing the applicant to proceed with the request.

| Location | | Type | | Existing Zone | Proposed Zone | Project Name |
|----------------------------|--------------------|---------|---------------------|-------------------|---------------|------------------|
| City | FTA | New | Addition | | | |
| | | | | | | Columbarium Park |
| Property Address | | | | Legal Description | | |
| 1600 Mandan Ave Mandan, ND | | | | | | |
| Current Use | | | | | | |
| Park / Green space | | | | | | |
| Proposed Use | | | | | | |
| Columbarium Park | | | | Section | Township | Range |
| Parcel Size | Building Footprint | Stories | Building SF | Required Parking | | Provided Parking |
| 34,500 ft ² | 30 ft ² | 1 | 106 ft ² | | | |

| | | |
|--------------------------|---------------|----------------|
| Print Name Chad Boehm | Signature | Date 4/2/19 |
|--------------------------|---------------|----------------|

| Office Use Only | | | |
|-----------------|---------------------------|---------------|------|
| Date Received: | Initials: | Fees Paid: \$ | Date |
| Notice in paper | Mailed to neighbors | P&Z meeting | |
| Approved | Approved with conditions: | | |
| Denied | | | |

Columbarium Area Zoomed – Red Star is First Columbarium to be Constructed



Columbarium to be Installed



Image of Inside of "Niche"

