

BOARD OF ADJUSTMENT

1508 14th Street Southwest

November 3, 2011

Case Number

BOA2011-3

Applicant

Aaron M. Bailey, DMD,
MS, PC

Owner

Eric & Lori Ellingson

Property Location

1508 14th Street South-
west, Mark J-1, University
Addition

Property Information

Zoning of property: C-2
General Commercial Dis-
trict

Area of property: 14,545
S. F.

Existing lot coverage:

2,750 S. F. Warehouse.

Proposed: 4,000 S.F. pro-
fessional office building.

Requested Action

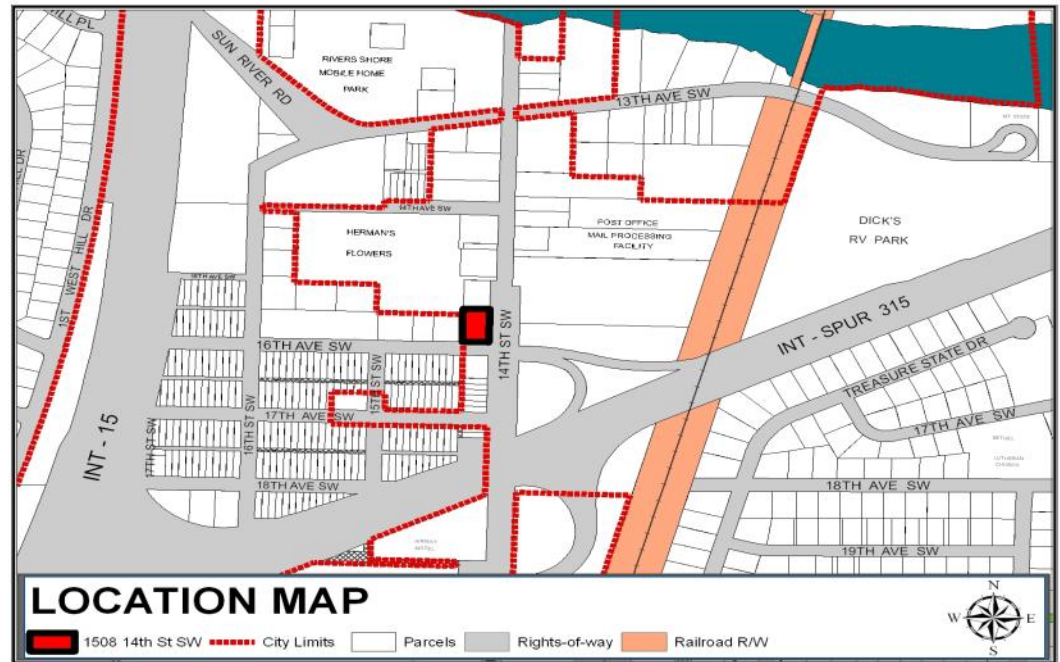
Variance to Section
17.44.3.030 (G) Buffer
and screening between
uses.

Recommendation

Approve requested vari-
ance.

Project Planner

Charles Sheets



Synopsis

The applicant is requesting a variance to City Code Title 17, Chapter 44, Article 3, Section 030, (G), Buffer and screening between uses.

Where a commercial or non-residential use abuts a residential use, a minimum 15-foot landscape buffer shall be provided along the shared property line. Where vehicular use areas abut adjacent residential property, the lot shall be screened with a decorative masonry or concrete wall at least four (4) feet in height, or with evergreen and deciduous trees and shrubs in combination with low soil berms that will provide ample screening within three (3) growing seasons to protect the residential property.

The applicant is requesting consideration for a 10-foot buffer between the proposed health-care clinic and the existing single-family residence located immediately west of the subject property.

17.16.32.040 Basis of decision for a dimensional variance.

A dimensional variance shall only be granted when the evidence shows and a finding can be made that each of the following conditions exist:

- The variance is not contrary to the public interest.
- A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.
- The spirit of the Title would be observed and substantial justice done by granting the variance.

Background Information:

The subject property is 97 FT. x 150 FT., 14,550 S.F. and located on the NW corner of 16th Avenue and 14th Street Southwest. In 2005, as a part of the adoption of the new City-wide rezoning, this property and the abutting property to the north were both zoned C-2 General Commercial District. The properties are located adjacent to Interstate Exit 0, in a high traffic area. The abutting property to the west are unincorporated, zoned SR1-Suburban Residential 1 in the County and the existing land use is a single-family residence.

The subject property is currently being used as a warehouse for A & A Carriers. Between the warehouse and the single-family residence is a mature Caragana hedge that is over 8-feet tall. The hedge appears to be on the abutting property. The owner intends to remove the existing warehouse and develop a new 4,000 S.F. Professional Office Building. Development standards for the primary structure in a C-2 Zoning District are:

- Front Setback: 0
- Side Setback: 10 feet
- Rear Setback: 15 feet
- Parking: 16 parking spaces
- Landscaping: 2,183-square feet
- Trees: 6
- Shrub: 42

The applicant and the owner are requesting a variance from the required 15-foot buffer to a 10-foot buffer between the proposed new Professional Office Building and the existing single-family residence located west of the subject property.

In support of the request, the applicant and owner provided the attached plans and photographs of the property. (See Exhibits C, D and E)

The Notice of Public Hearing was mailed to the neighboring property owners and published in the Great Falls Tribune on 10/23/11.

To date Staff has not received any comments from the public or interdepartmental/agency reviewers.

Applicant Statement:

Aaron M. Bailey, DMD, MS, PC. states, “Our proposed site development has the new building set back 10-feet from the West property line as required by Exhibit 20-4 of the Zoning Code. Beyond the building walls, the 15-foot buffer is maintained, but we are requesting maintaining only a 10-foot buffer along the building wall to the West property line (which is also the City Limits). This commercial property got pretty narrow for development when the State of Montana took part of it to widen 14th St SW. To develop the required 4,000 S.F., we need to narrow the buffer by 10 feet.

“The Applicant desires to build an Orthodontic and Dentist office building. This variance request is for elimination of the 15-foot landscape buffer along the WEST property line only. The building would be 15 feet off the North property line. The Applicant would like to eventually acquire Lot J immediately to the North and then expand the building and parking lot on Lot J-1 into Lot J. The Applicant needs 4,000 gsf of building and the Architect has evaluated several scenarios but can come up with only one Site Plan that provides 4,000 gsf of building, the required parking and garbage areas, and also allows for the future expansion into Lot J. Lot J-1 has a limited size and access from 16th Ave SW, which are development obstacles. Without the variance, the site is not feasible.”

Owners Response:

Eric & Lori Ellingson state, "I am the owner of Lots J and J1, University Addition. During the rezone process several years ago we insisted on Lots J and J1 being zoned commercial. Even though Lot J1 has a single-family residence on it, I felt that the appropriate use for this lot was commercial since it is surrounded by commercial uses and is on a busy street near a very busy intersection. I still anticipate that Lot J will become a commercial use in the future and fully support the Variance Request for Lot J1."

Variance Issues:

Landscape buffers are required between commercial and residential land uses to minimize negative effects that may create conflict between properties. The existing hedge does provide a mature screen between the existing warehouse and the single-family residence. As long as it is allowed to continue, it would appear the intent of the code is met.

Staff Findings:

Staff provides the following responses to the Basis of Decision for a dimensional variance:

1. The variance is not contrary to the public interest.

The requested variance is not contrary to the public interest because the subject property and surrounding neighborhood were developed in compliance with the codes in effect when the warehouse and the single-family residence were built. The redevelopment of the property replacing the warehouse (Industrial land use) to the professional office building (Light Commercial land use) would be more compatible with the adjacent single-family residence. The existing hedge provides screening between uses. The proposed parking plan for the office building is on the opposite side of the adjacent residence. Limited activities will be conducted between the office building and the adjacent single-family residence. Staff believes the reduction of the buffer to 10 feet is not contrary to the public interest, in this case.

2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

The existing parcel was narrowed from its original width of 120 feet to 97 feet when 14th Street Southwest was widened. This reduction in width reduced the buildable area within the property boundaries, creating the condition that is unique to this property. Literal enforcement would limit building size and reduce the area for required development standards (Parking and Landscaping).

3. The spirit of this Title (Land Development Code) would be observed and substantial justice done by granting the variance.

The orientation of the entrance of the building, coupled with the existing hedge and the proposed 10-foot side yard, provides an adequate buffer between the light commercial and single-family property.

Staff finds adequate basis and hardship and supports the granting of the reduction of a 15-foot buffer to a 10-foot buffer.

EXHIBIT A - AERIAL PHOTO

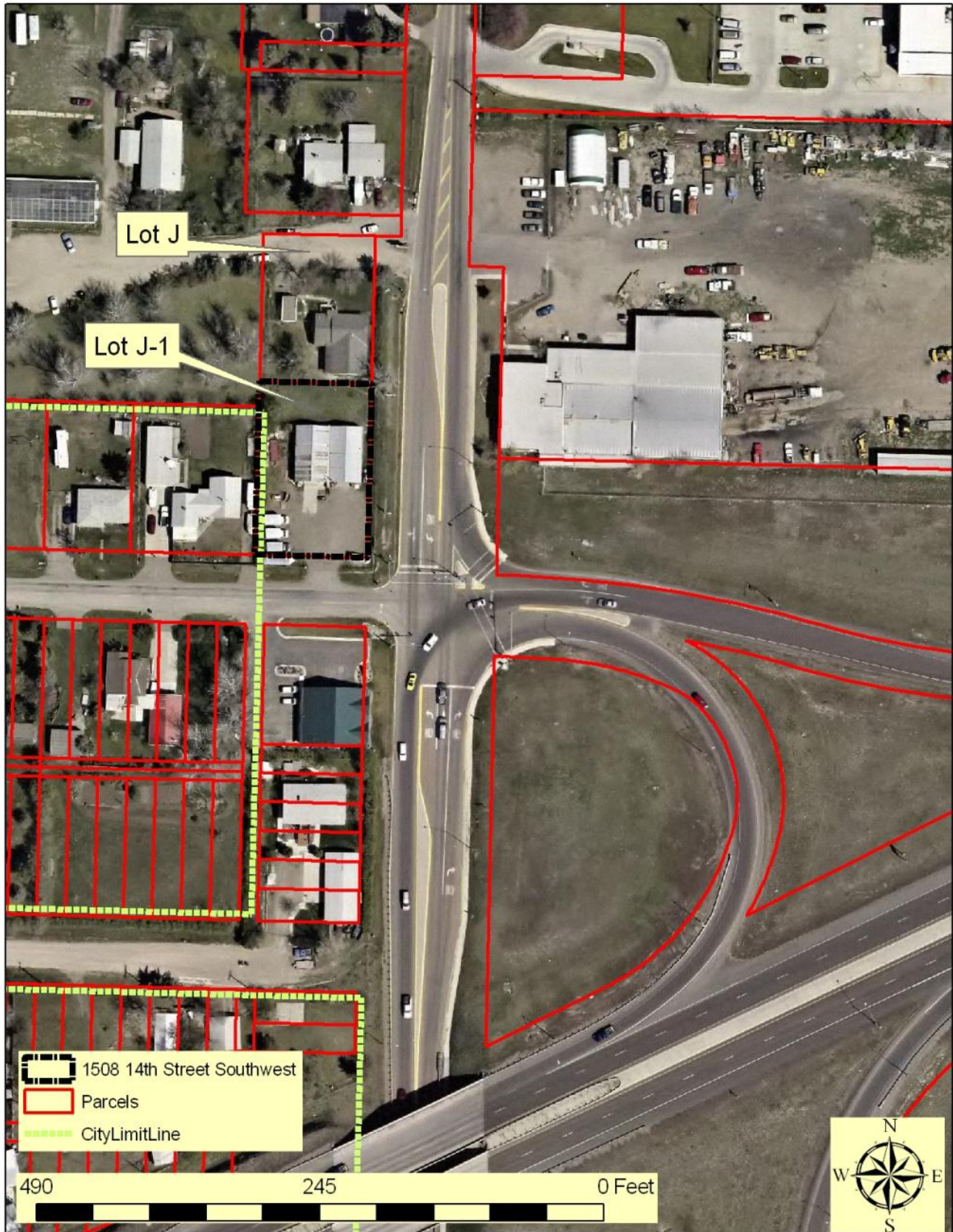


EXHIBIT B - APPLICATION

**CITY OF GREAT FALLS
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
BOARD OF ADJUSTMENT HEARING REQUEST**

Instructions for Completing Application: PLEASE TYPE OR PRINT IN INK. Additional information may be attached on plain or lined sheets of paper. You will be advised by mail of the hearing date.

Condition for Variance: Montana Statutes mention "unnecessary hardship" as a condition for a variance.

Variance Fee: A non-refundable processing fee of \$200.00 is required. All checks or money orders should be made payable to the City of Great Falls. Applications may be addressed to the City of Great Falls, Department of Planning and Community Development, P. O. Box 5021, Great Falls, MT 59403.

The following information shall accompany this form:

- (1) Site plan in duplicate, drawn to scale (minimum scale 1"=20') showing the nature, location, and dimension of lot, existing and proposed structures, easements and obstructions on the lot and also, all structures on adjacent lots.

NAME OF APPLICANT: Aaron M. Bailey DMD, MS, PC TELEPHONE: 750-4750 (Home)
452-1220 (Work)

ADDRESS: 2511 6th Avenue South Great Falls Montana 59405
Street City State Zip Code

NAME OF LANDOWNER(s) if different from applicant: Ellingson, Eric J & Lori J

ADDRESS: 1508 14th ST SW, Great Falls, MT 59404

LEGAL DESCRIPTION: Lot J-1 Block Subdivision University Addition, S15, T20N, R03E
ZONING: Area C-2 Use Commercial

REQUESTED ACTION: Request a variance from Title 17 Section 44.3.030 G

of the Great Falls Municipal Code which states:

Buffer between uses: Where a commercial or non-residential use abuts a residential use, a minimum 15-foot landscaped buffer shall be provided along the shared property line.

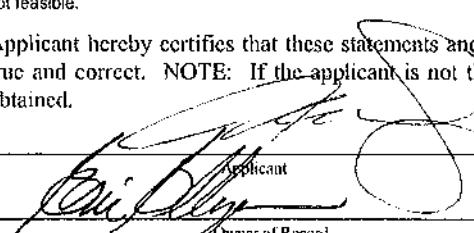
Our proposed site development has the new building set back ten feet from the West property line as required by Exhibit 20-4 of the Zoning Code. Beyond the building walls the 15 foot buffer is maintained, but we are requesting maintaining only a ten foot buffer along the building wall to the West property line (which is also the City Limits). This commercial property got pretty narrow for development when the State of Montana took part of it to widen 14th St SW. To develop the required 4,000sf we need to narrow the buffer by 5ft.

BASIS FOR REQUEST: A dimensional variance shall only be granted when the evidence shows and a finding can be made that each of the following conditions exists:

1. The variance is not contrary to the public interest.
2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.
3. The spirit of this Title would be observed and substantial justice done by granting the variance.

The Applicant desires to build an Orthodontic and Dentist office building. This variance request is for elimination of the 15-foot landscaped buffer along the NORTH property line only to allow the parking lot to extend to the North property line (the 4 feet high screen wall would still be installed per the above Section). The building would be 15 feet off the North property line. The Applicant would like to eventually acquire Lot J immediately to the North and then expand the building and parking lot on Lot J-1 into Lot J. The Applicant needs 4,000gsf of building and the Architect has evaluated several scenarios but can come up with only one Site Plan that provides 4,000gsf of building, the required parking and garbage areas and also allows for the future expansion into Lot J. Lot J-1 has a limited size and access from 16th Ave SW which are development obstacles. Without the variance, the site is not feasible.

Applicant hereby certifies that these statements and the information submitted herewith are, to the best of his knowledge, true and correct. NOTE: If the applicant is not the owner of record, the signature of the owner of record must also be obtained.


Applicant

10 5 2011
Date

Owner of Record

EXHIBIT C - APPLICATION

Planning & Community Development.

Civic Center, P.O. Box 5021

Great Falls, Mt 59403-5021

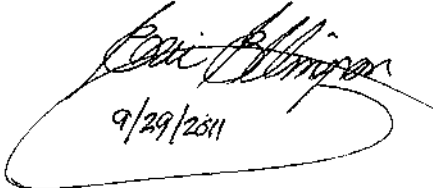
RE: Variance Request

Lot J1, University Addition

Dear Charlie:

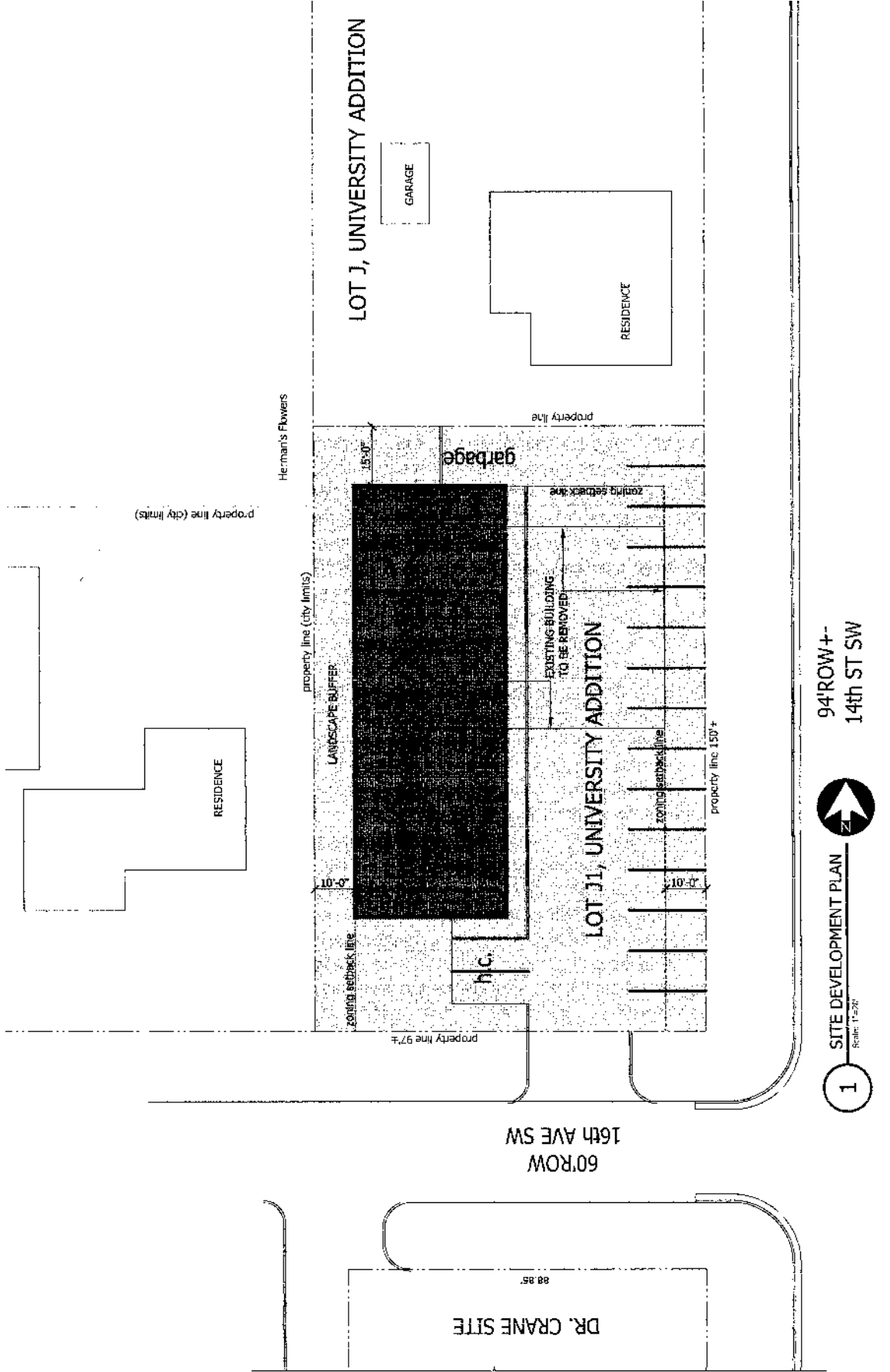
I am the owner of Lots J and J1, University Addition. During the rezoning process several years ago we insisted on Lots J and J1 being zoned commercial. Even though Lot J has a single family residence on it, I felt that the appropriate use for this lot was commercial since it is surrounded by commercial uses and is on a busy street near a very busy intersection. I still anticipate that Lot J will become a commercial use in the future and fully support the Variance Request for Lot J1.

Sincerely yours,



9/29/2011

EXHIBIT D - SITE PLAN



1 SITE DEVELOPMENT PLAN
Scale: 1" = 20'



94' ROW +-
14th ST SW

60' ROW
16th AVE SW

DR. CRANE SITE
88.85'

EXHIBIT E - PHOTOS



EXHIBIT F - PHOTOS



View looking north from 16th Avenue Southwest of the existing hedge from the single-family residence.



View looking north along 14th Street Southwest.

Recommendation

Suggested Motions:

Board Member moves:

“I move that the Board of Adjustment deny the application for the requested variance of City Code Title 17, Chapter 44, Article 3, Section 030, (G), Buffer and screening between uses” based on the following findings that the request and supporting exhibits fail to meet the criteria of Title 17, Chapter 16, Article 32, Section 050, Basis of decision for dimensional variance:

1. The variance is contrary to the public interest.
2. A literal enforcement would not result in unnecessary hardship, owing to conditions unique to the property.
3. The spirit of this Title would not be observed and substantial justice done by granting the variance.
4. _____
5. _____
6. _____
7. _____

Or:

“I move that the Board of Adjustment approve with conditions the application for the requested variance of City Code Title 17, Chapter 44, Article 3, Section 030, (G), Buffer and screening between uses and grant a reduction of the required 15-foot buffer to a 10-foot buffer between uses subject to the following conditions and the findings as stated in the Staff Report.”

1. The proposed project shall be developed consistent with the conditions in this agenda report, all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. If after the approval of the concept development plan as amended by this Board, the owner proposes to expand or modify the conceptual development plans, the Director of the Planning and Community Development Department shall determine in writing if such proposed change would alter the concept for one or more review criteria. If such proposed change would alter the plan, the proposal shall be resubmitted for review as a new application.
3. _____
4. _____
5. _____
6. _____

Chairman calls for a second, discussion, inquiries from the public, and calls the vote.

Cc: Aaron M. Bailey, DMD, MS, PC, 2511 6th Avenue South, Great Falls MT 59405
Eric & Lori Ellingson, 2713 Evergreen Dr, Great Falls MT 59404
Hessler Architects, Marvin Hessler, A.I.A., 12 6th Street South, Great Falls, MT