

# MCCOOK CITY COUNCIL

## REGULAR MEETING

**Wednesday, February 21, 2024  
12:00 PM - City Council Chambers**

Call to Order and Roll Call.

Open Meetings Act Announcement.

Items

1. Approve the minutes of the October 23, 2023 regular Board of Zoning Adjustment meeting.
2. Public Hearings and Regular Agenda.
  - A. Public Hearing - request for a variance of the front yard setback requirement in the Central Business (CB) District (409 West 1st Street), from 20'0" to 10'0"; applicant: The Community Hospital.
    1. Close Public Hearing.
  - B. Public Hearing - request for a variance of the off-street parking requirements per Zoning Ordinance 2111: Minimum Off-Street Parking, in particular seeking permission to use on-street parking and the City of McCook's public parking lot directly adjacent to the property to fulfill the required parking; applicant: The Community Hospital Association; property location: 409 West 1st Street.
    1. Close Public Hearing.
  - C. Consider request for a variance of the front yard setback requirements in the Central Business (CB) District (409 West 1st Street), from 20'0" to 10'0" and a variance of the off-street parking requirements per Zoning Ordinance 2111: Minimum Off-Street Parking, in particular seeking permission to use on-street parking and the City of McCook's public parking lot directly adjacent to the property to fulfill the required parking.

Adjournment.

**CITY MANAGER'S REPORT  
FEBRUARY 21, 2024 BOARD OF ZONING ADJUSTMENT MEETING**

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**ITEM:**        1.

Approve the minutes of the October 23, 2023 Board of Zoning Adjustment meeting.

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**BACKGROUND:**

Receive and approve the minutes.

**FISCAL  
IMPACT:**    None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

February 16, 2024

Board of Zoning Adjustment  
Monday, October 23, 2023  
5:30 PM Central

A MEETING OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:30 o'clock P.M. in the City Council Chambers.

Present: Chair Reitz; Vice Chair Hilker; Board members Haney, Larson, Moore, Weber.

Absent: City Manager Schneider.

City Officials present: City Attorney Mustion, City Clerk Doak, Assistant City Manager Koetter.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on October 19, 2023, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Board of Zoning Adjustment. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Chair Reitz announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Elect new officers - Chairperson, Vice-Chairperson, and Secretary.

I nominate Jerry Reitz as Chairperson of the Board. This motion, made by Moore and seconded by Larson, passed.

Haney: YEA, Hilker: YEA, Larson: YEA, Moore: YEA, Reitz: YEA, Weber: YEA  
YEA: 6, NAY: 0

I nominate Tammie Hilker as Vice-Chairperson of the Board. This motion, made by Reitz and seconded by Moore, passed.

Haney: YEA, Hilker: YEA, Larson: YEA, Moore: YEA, Reitz: YEA, Weber: YEA  
YEA: 6, NAY: 0

I move to have the city provide a secretary for the meetings. This motion, made by Reitz and seconded by Haney, passed.

Haney: YEA, Hilker: YEA, Larson: YEA, Moore: YEA, Reitz: YEA, Weber: YEA  
YEA: 6, NAY: 0

2. Approve the minutes of the September 28, 2021 regular Board of Zoning Adjustment meeting.

I move to approve the minutes of the September 28, 2021 regular Board of Zoning Adjustment meeting. This motion, made by Reitz and seconded by Larson, passed.

Haney: YEA, Hilker: YEA, Larson: YEA, Moore: YEA, Reitz: YEA, Weber: YEA

YEA: 6, NAY: 0

3. Public Hearings and Regular Agenda.

- 3.A. Public Hearing - request for a variance of the sign height requirement for a commercial business, from 20 feet to 30 feet; and a request for a variance of the sign size requirement for a commercial business, from 80 square feet to 250 square feet, property located at 202 Coppermill Street.

I move to recess and convene a public hearing for the purpose of receiving public comment on the request for a variance of the sign height requirement for a commercial business, from 20 feet to 30 feet; and a request for a variance of the sign size requirement for a commercial business, from 80 square feet to 250 square feet, property located at 202 Coppermill Street, with the City Attorney to acting as hearing officer. This motion, made by Reitz and seconded by Hilker, passed.

Haney: YEA, Hilker: YEA, Larson: YEA, Moore: YEA, Reitz: YEA, Weber: YEA

YEA: 6, NAY: 0

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the October 23, 2023 Board of Zoning Adjustment meeting (1 page); Exhibit #2 - Notice of Public Hearing (1 page); Exhibit #3 - Variance Application and attachments (8 pages); Exhibit #4 - Findings and Determinations of the Board of Zoning Adjustment (4 pages); and Exhibit #5 - copy of Article 25 - Board of Zoning Adjustment of the McCook Zoning Ordinance (3 pages).

Assistant City Manager Koetter and Building Inspector Mooney reviewed the information presented in Exhibit #1 and addressed questions from the Board.

Discussion was held by the board.

Adam Siegfried, applicant was present to address questions from the Board.

There being no one else present to comment, I move to adjourn the public hearing and to reconvene as the Board of Zoning Adjustment. This motion, made by Reitz and seconded by Hilker, passed.

Haney: YEA, Hilker: YEA, Larson: YEA, Moore: YEA, Reitz: YEA, Weber: YEA

YEA: 6, NAY: 0

- 3.B. Consider request for a variance of the sign height requirement for a commercial business, from 20 feet to 30 feet; and a request for a variance of the sign size requirement for a commercial business, from 80 square feet to 250 square feet, property located at 202 Coppermill Street.

Motion to approve the request for a variance of the sign height requirement for a commercial business, from 20 feet to 30 feet; and a request for a variance of the sign size requirement for a

commercial business, from 80 square feet to 250 square feet, property located at 202 Coppermill Street; and that the applicant has satisfactorily demonstrated that the variance criteria have been met. This motion, made by Reitz and seconded by Haney, passed.

Haney: YEA, Hilker: YEA, Larson: YEA, Moore: YEA, Reitz: YEA, Weber: YEA  
YEA: 6, NAY: 0

Chair Reitz informed the applicant that there is a fifteen day period in which any decision of the Board of Adjustment may be appealed to the District Court. Building permits will not be issued before the end of the fifteen day period.

Adjournment.

There being no further business to come before the Board, Chair Reitz declared the meeting adjourned at 5:53 P.M.

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Lea Ann Doak, City Clerk-Treasurer  
Recording Secretary

**CITY MANAGER'S REPORT**  
**FEBRUARY 21, 2024 BOARD OF ZONING ADJUSTMENT MEETING**

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Item A: Public Hearing - request for a variance of the front yard setback requirements in the Central Business District (CB) District (409 West 1st Street), from 20'0" to 10'0"; applicant: The Community Hospital Association.

Item B: Public Hearing - request for a variance of the off-street parking requirements per Zoning Ordinance 2111: Minimum Off-Street parking, in particular seeking permission to use on-street parking and the City of McCook's public parking lot directly adjacent to the property to fulfill the required parking.

Item C: Consider request for a variance of the front yard setback requirements in the Central Business District (CB) District (409 West 1st Street), from 20'0" to 10'0" and a variance of the off-street parking requirements per Zoning Ordinance 2111: Minimum Off-Street parking, in particular seeking permission to use on-street parking and the City of McCook's public parking lot directly adjacent to the property to fulfill the required parking.

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**BACKGROUND:**

A variance application has been submitted by the Community Hospital Association. The applicant requests a variance of the front yard setback requirement from 20 feet to 10 feet in a Central Business (CB) District and a variance of the off-street parking requirements per Zoning Ordinance 2111. The Community Hospital Association would like to build a multifamily residential structure at 409 West 1<sup>st</sup> Street. There is currently a single family residence occupying the lot. The front of the apartment complex would face West 1<sup>st</sup> Street. The lot sits north of the accounting firm, Skiles, Loop, Bremer, and White. The lot sits south of a public parking lot. To the east of the lot is an alley. Norris Alley and the Fox Theater rest on the east side of the alleyway.

The applicant requests a setback of 10 feet to allow the proposed building additional space in the rear yard which will allow additional room for loading and unloading and other needs in the alley for the use of the rear yard neighbors, namely the Norris Alley and Fox Theater. This variance would keep the building in line with the office space to the south and other central business structures that have narrower setbacks. The additional rear yard space will be more valuable and useful for the residents given its proximity to Norris Alley. The applicant has received approval from the adjacent property owners with respect to their variance request.

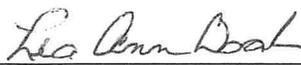
Additionally, the applicant requests a variance of off-street parking requirements per Zoning Ordinance 2111, specifically seeking permission to use on-street parking and the City of McCook's public parking lot directly to the north to fulfill the required parking requirements. The applicant intends to create 12 living units as part of the apartment complex. Per McCook's zoning ordinance, 13 parking spaces is required. There is insufficient space on the Hospital's lot to accommodate the parking requirements. McCook's rules permit the use of other parking options if a variance is granted by the Board of Zoning Adjustment.

The application includes a review of the City of McCook's variance criteria. From staff's review, the parcel of property has exceptional conditions. Due to the nature of the structure, the adjacent alley and street, and the surrounding lots, space is at a premium. In order to fit in with the adjacent properties, it is necessary to adjust the setback

in order to provide access to the alleyway. Without the variance, the owner and neighboring properties would experience undue hardship.

With respect to the parking variance, City staff has conducted a review of the existing parking lot and on-street parking stalls. Based on the review, staff is comfortable that the existing public parking lot and on-street parking stalls will provide sufficient parking spaces for residents of the apartment complex. To this end, the McCook Planning Commission and McCook City Council heard a special exception application from the Community Hospital Association relative to the parking variance request. The McCook City Council has approved the special exception request conditioned on the granting of two variances.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

February 16, 2024

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

February 16, 2024

**NOTICE OF HEARING**

**REQUEST FOR  
VARIANCE**

NOTICE IS HEREBY GIVEN that the duly appointed Board of Zoning Adjustment of the City of McCook, Nebraska, will hold a public hearing in the McCook City Council Chambers, 505 West "C" Street, at 12:00 NOON on February 21, 2024.

Said hearing is for the purpose of presenting a request for a variance of the front yard set back requirement from 20'0" to 10'0", in the Central Business district (CB). APPLICANT: The Community Hospital Association. LAND OWNER: Michael and Linda Nielsen. LEGAL: Lots 16, 17, 18, & S 5' Lot 19, Block 9, Original McCook Addition to the City of McCook, Red Willow County, Nebraska. ADDRESS: 409 West 1<sup>st</sup> Street, McCook

ANY AND ALL PERSONS desiring to comment on the above-described request will be given an opportunity to be heard. Please direct all inquiries to Nate Schneider, McCook City Manager at 308-345-2022 ext. 225.

-s- Lea Ann Doak  
City Clerk

Publish: February 16, 2024.

**EXHIBIT #2**

**PAGE(S) - 1**

## VARIANCE APPLICATION

APPLICATION NO. \_\_\_\_\_ DATE: \_\_\_\_\_

FEE ATTACHED: \_\_\_\_\_

APPLICATION COMPLETE: \_\_\_\_\_ SIGNED: \_\_\_\_\_

Applicant

1. Applicant's Name: The Community Hospital Association
2. Applicant's Address: 1301 East H St; PO Box 1328; McCook NE Phone: 308-344-2650  
Email Address: swolfe@chmccook.org
3. Address of Property Affected: 409 West 1st Street, McCook NE 69001
4. Legal Description of Property: 0 3 29 ORIGINAL MCCOOK BLK 9 LOTS 16, 17, 18 & S 5' LOT 19  
\_\_\_\_\_  
\_\_\_\_\_
5. Zoning Central Business District Corner Lot? Yes \_\_\_\_\_ No X
6. Applicant's interest in the Property (i.e. owner, tenant), attached proof of ownership:  
Signed purchase agreement from Michael and Linda Nielsen with an anticipated closing date of March 1, 2024  
\_\_\_\_\_
7. Description of variance requested: (Example: Variance of side lot set back requirement from 5 feet to 3 feet). Variance of the property's front yard set back requirement from 20 feet to 10 feet.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Sections of Zoning Ordinance No. 2016-2929 which are affected (to be completed by staff)  
ARTICLE: \_\_\_\_\_  
SECTION: \_\_\_\_\_

**EXHIBIT #3**

**PAGE(S) - 15**

9. Draw the general area of your property and structure (existing and proposed) and adjacent properties and structures. (Not to scale).  
Please see attached site plan

N  
W     E  
S

The Applicant must provide proof that the following criteria are met regarding the parcel of property for which the variance is being requested:

1. Referring to the specific parcel of property,
  - a) the parcel of property is exceptionally narrow;
  - b) the parcel of property is exceptionally shallow; or
  - c) the shape of the parcel of property is exceptional.

OR

- YES d) the parcel of property has exceptional topographic conditions; or
  - YES e) the parcel of property has other exceptional or extraordinary conditions.  
The benefit to the surrounding neighbors, as well as the apartment tenants, is important. This includes more room for events at the Fox Theatre and Norris Alley, especially with loading and unloading during events.
2. Strict application of the zoning ordinance would result in:

- YES a. peculiar and exceptional practicable difficulties to the owner; OR
- b. exceptional and undue hardships on the owner of such property.

3. Such relief may be granted without:

- YES a. substantial detriment to the public good; AND
- YES b. without substantially impairing the intent and purpose of the ordinance.

4. No variance shall be authorized unless the Board finds:

- YES a. strict application of the zoning ordinance would produce undue hardship;
- YES b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- YES c. authorization of such variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting the variance;
- YES d. granting the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit, or caprice.

5. No variance shall be authorized if request is:

- a. of a general and recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

Please provide documentation of the above, such as maps, photographs, or other evidence to substantiate your application.

THE BOARD MUST FIND THAT ALL OF THE ABOVE REQUIREMENTS ARE MET BY THE APPLICANT BY A CONCURRING VOTE OF FOUR MEMBERS OF THE BOARD.

## APPLICANT DECLARATIONS

1. The following special conditions or circumstances exist on the land which pose an undue hardship on the applicant: (Describe conditions and circumstances.)

A front yard setback of 10 feet will allow the proposed building additional space in the rear yard which will allow additional room for loading and unloading and other needs in the alley for the use of rear yard neighbors, namely the Norris Alley and Fox Theater.

This exception will keep the building in line with the office space to the south and other central business structures that have narrower setbacks. Residents of this of this property have access to nearby parks and other outdoor areas, similarly to other residents living in the central business district. The additional rear yard space will be more valuable and useful for the residents given it's proximity to Norris Alley.

2. Please state the minimum variance necessary to permit the proposed construction

This building can be constructed without a variance, it is just less ideal to have a larger front yard than rear yard.

3. Without the granting of this variance the applicant would suffer a hardship not suffered by other properties located in the same zoning district and same vicinity.

X Yes                      \_\_\_\_\_ No

4. The granting of the variance will not adversely affect the rights of the adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by the Zoning Ordinance. X Yes                      \_\_\_\_\_ No  
(Attach approval certifications from adjacent property owners.)

5. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare. X Yes                      \_\_\_\_\_ No

ADJACENT PROPERTY OWNER CERTIFICATION

I, Charlie McPherson/MEDC, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: Charlie McPherson

ADDRESS: 402 Abrams Ave.

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ADJACENT PROPERTY OWNER CERTIFICATION

I, Margaret Repass/Norris Institute own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: Margaret Repass

ADDRESS: 402 Norris Ave

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ADJACENT PROPERTY OWNER CERTIFICATION

I, Jason Loop/On the Bikes, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: Jason Loop

ADDRESS: 111 West D

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## RESIDENTIAL PURCHASE AGREEMENT

The undersigned, as Buyer, agrees to purchase the following:

Property Address: 409 West 1st Street, McCook NE 69001

Legal Description: 0 3 29 ORIGINAL MCCOOK BLK 9 LOTS 16, 17, 18 & S 5' LOT 19

**The seller has the right to remove any and all Real and Personal property prior to the date of closing.**

**If still occupied by tenant:**

In the event that the property is still occupied by a tenant upon the closing date, the seller agrees to leave Real and Personal Property as currently supplied for tenant to use property. Seller represents that there are no latent defects in the Property of which the Seller is aware in its current use and it is equipped with smoke detectors as required by law.

Buyer will notify the Seller upon the tenant vacating the property and the Seller will retain the right to a 45 day period to remove any and all remaining Real and Personal Property the Seller wishes; with the exception of any property added or installed by the Buyer.

**Date:**

The date of this purchase shall be Friday, March 1<sup>st</sup>, 2024 unless a change is agreed to by both parties.

**Title:**

Seller agrees to furnish a title insurance commitment insuring marketability and Buyer shall be furnished a current title insurance commitment by Seller at least 5 days before closing. The cost of title insurance issued for this sale shall be equally divided. Should a valid title defect exist, Seller has a reasonable time to correct said defect. If the title defects are not cured within a reasonable time period, the Buyer may declare this Agreement null and void. Seller agrees to convey to Buyer by warranty deed or free and clear of all liens, encumbrances, special assessments levied or assessed, and subject to all easements and restrictions or covenants new of record.

The documentary stamp tax shall be paid by the Seller.

**Consideration:**

Buyer agrees to pay \$120,000.00 at the time of delivery of deed.

All consolidated real estate taxes for the year in which closing takes place shall be prorated, based on Current assessment and tax rate, as of date of closing. All real estate taxes for prior years shall be paid by Seller.

**Offer:**

This offer is based upon Buyer's personal inspection or investigation of the Property. Buyer agrees to accept the property in its present condition; and acknowledges and agrees that Seller can remove any and all Real and Personal property as described above.

This agreement shall in no manner be construed to convey the Property or to give any right of possession. Risk of loss or damage Property, prior to closing date, shall be the responsibility of Seller.

This RESIDENTIAL PURCHASE AGREEMENT is hereby agreed to by the Buyer and Seller:

**Buyer: The Community Hospital Association**

Address: 1301 East H Street, PO Box 1328; McCook NE 69001

Buyer Sean Wolfe, CFO

Date 10/2/2023

By Sean Wolfe, CFO

E-mail: [swolfe@chmccook.org](mailto:swolfe@chmccook.org) Phone: 308-344-8306

**Sellers: Michael R and Linda C Nielsen**

Address: 909 W. K St, McCook, NE 69001

Seller Michael R. Nielsen

Date 10/6/23

Seller Linda C. Nielsen

Date 10/6/23

E-mail: [niechira@guestoffice.net](mailto:niechira@guestoffice.net) Phone: 308-345-1755

# HOUSING PROJECT - PRELIMINARY

## COMMUNITY HOSPITAL

### MCCOOK, NEBRASKA

DESIGN ASSOCIATES  
 1000 S. 10TH STREET, SUITE 100  
 LINCOLN, NE 68502  
 TEL: 402.476.1234  
 WWW.DESIGNASSOCIATES.COM

PRELIMINARY  
 NOT FOR CONSTRUCTION

DATE:	10/23/2023
DRAWN:	MS
CHECKED:	MS
REVISIONS:	

C-1

DATE: OCTOBER 2023

#### BUILDING DATA

COMMUNITY HOSPITAL ASSOCIATION DEVELOPMENT	CD (CENTRAL BUSINESS DISTRICT)
ZONING CLASSIFICATION	CD-2 (CENTRAL BUSINESS DISTRICT)
PERMITTED HEIGHT	100' (REQUIREMENT IS 125' BEHIND)
PERMITTED FLOOR AREA	100,000 SQ FT (REQUIREMENT IS 125,000 SQ FT)
PERMITTED VOLUME	1,000,000 CU FT (REQUIREMENT IS 1,250,000 CU FT)
PERMITTED SIGNAGE	100% (REQUIREMENT IS 100%)
PERMITTED USE	RESIDENTIAL (REQUIREMENT IS RESIDENTIAL)
PERMITTED PARKING	100% (REQUIREMENT IS 100%)
PERMITTED LOT AREA	72,377 SQ FT
PERMITTED LOT WIDTH	50'

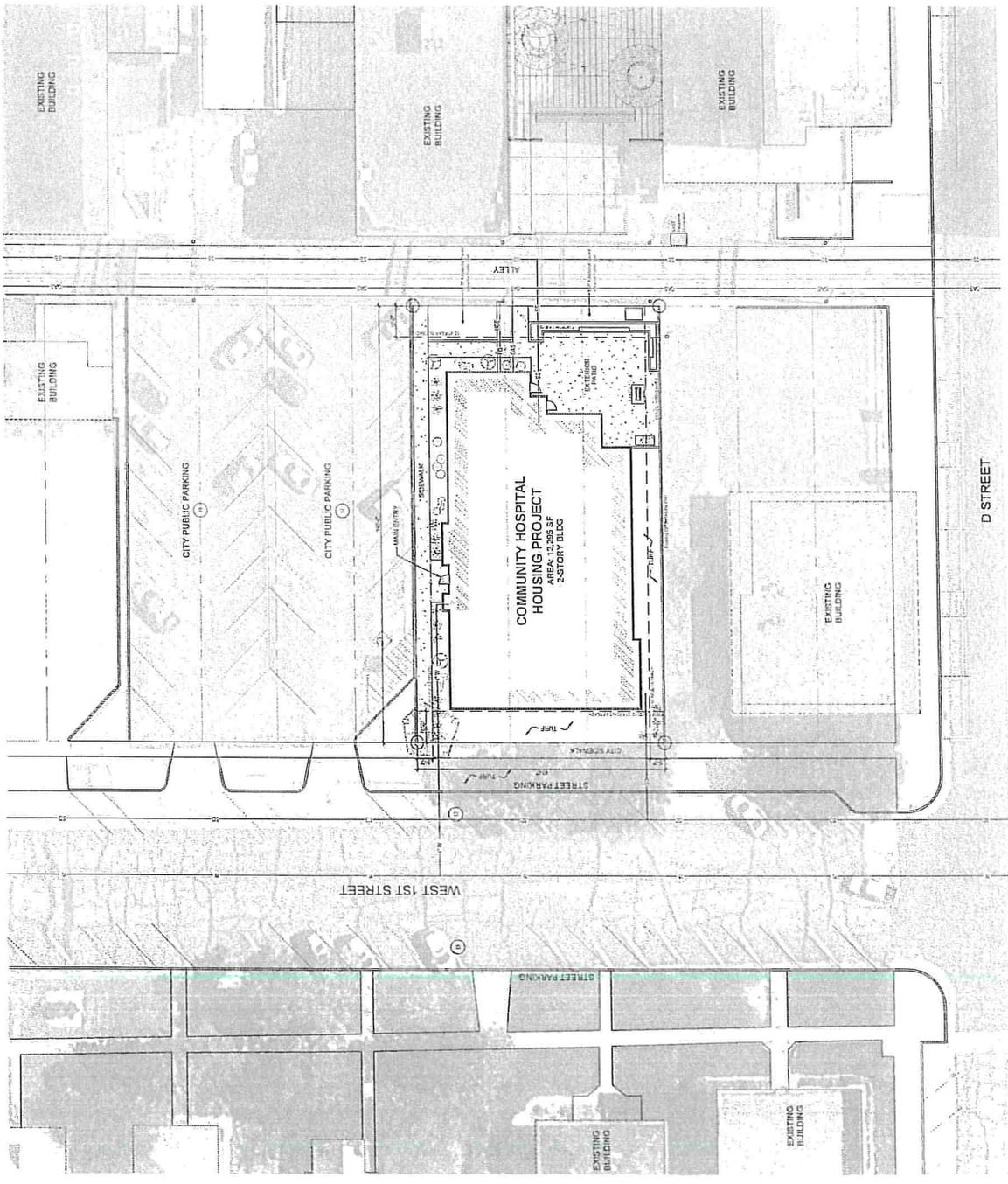
#### PARKING DATA

EXISTING PUBLIC PARKING	100' (REQUIREMENT IS 100%)
NEW PUBLIC PARKING	100' (REQUIREMENT IS 100%)
TOTAL PUBLIC PARKING	200' (REQUIREMENT IS 200%)
PERMITTED PUBLIC PARKING	100' (REQUIREMENT IS 100%)
PERMITTED PRIVATE PARKING	100' (REQUIREMENT IS 100%)
PERMITTED TOTAL PARKING	200' (REQUIREMENT IS 200%)

REQUIRED 100' OF PUBLIC PARKING TO BE PROVIDED BY THE DEVELOPER. THIS PARKING SHALL BE PROVIDED WITHIN THE DEVELOPMENT. ONE (1) OF WHICH ARE VAN ACCESSIBLE STALLS.

#### EXISTING PUBLIC PARKING USAGE

PERMITTED PUBLIC PARKING STALLS AVAILABLE	10 VEHICLES
MORNING	2 VEHICLES
AFTERNOON	2 VEHICLES
NIGHT	6 VEHICLES
PERMITTED PRIVATE PARKING STALLS AVAILABLE	4 VEHICLES
MORNING	2 VEHICLES
AFTERNOON	2 VEHICLES
NIGHT	0 VEHICLES
PERMITTED TOTAL PARKING STALLS AVAILABLE	14 VEHICLES
MORNING	4 VEHICLES
AFTERNOON	4 VEHICLES
NIGHT	6 VEHICLES



ARCHITECTURAL SITE PLAN  
 SCALE: 1/8" = 1'-0"

DATE: OCTOBER 2023

HOUSING PROJECT - PRELIMINARY  
 COMMUNITY HOSPITAL  
 MCCOOK, NEBRASKA

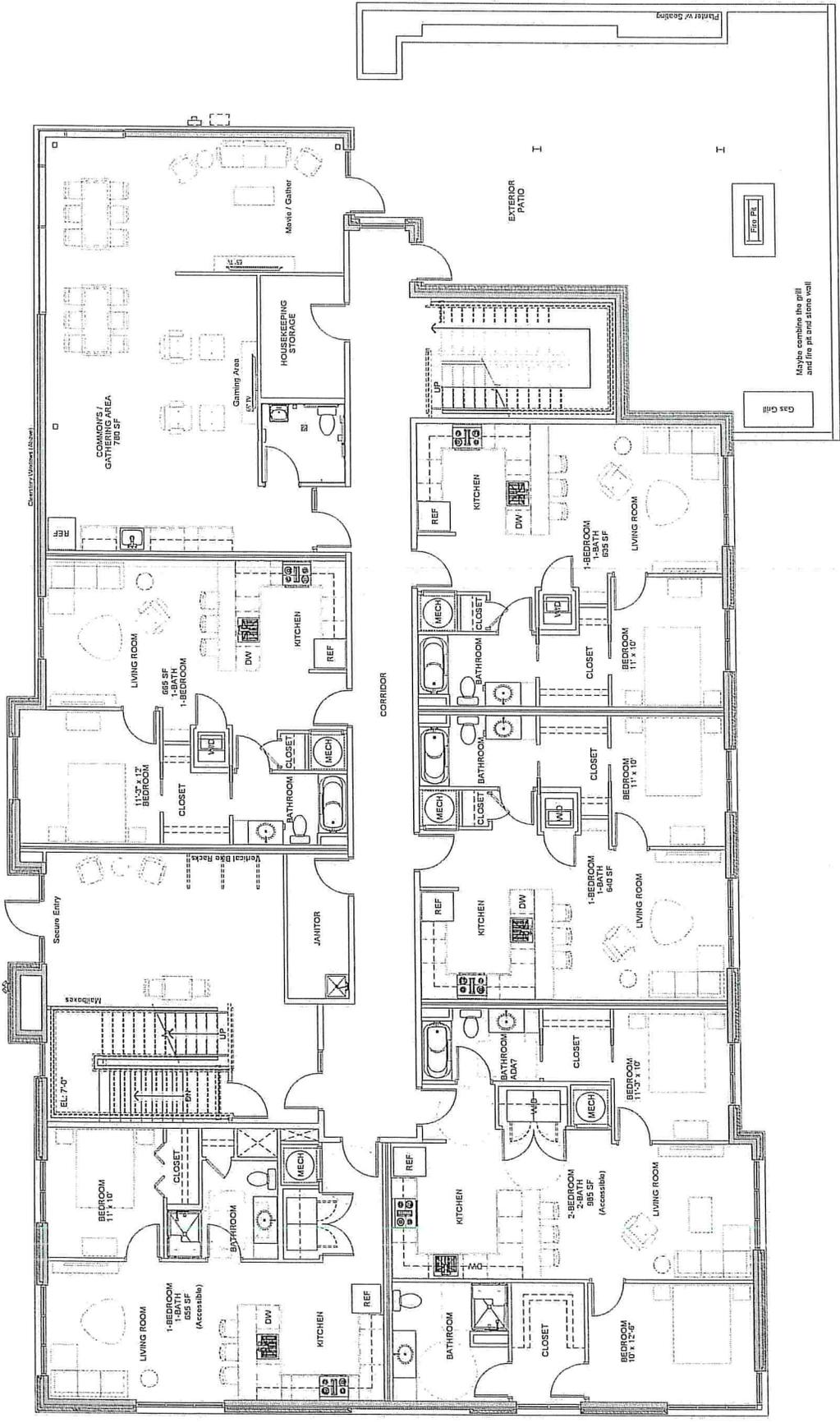
DESIGN ASSOCIATES  
 1000 S. 10th Street, Suite 100  
 Lincoln, NE 68502  
 TEL: 402.476.1111  
 WWW.DESIGNASSOCIATES.COM

PRELIMINARY  
 NOT FOR CONSTRUCTION

NO.	DATE	BY	REVISIONS
1	10/23/23	MAC	DRAWN
2			CHECKED

A-1b

DATE: OCTOBER 2023



MAIN LEVEL - FLOOR PLAN v2 (6,075 SF)  
 12 APARTMENT OPTION  
 NORTH

1. Utility room, gas grill, and fire pit are shown for informational purposes only. Final placement and specifications to be determined during construction.

Maybe combine the grill and fire pit and stone wall

HOUSING PROJECT - PRELIMINARY  
 COMMUNITY HOSPITAL  
 MCCOOK, NEBRASKA

DESIGN ASSOCIATES  
 1000 S. 10th Street, Suite 100  
 Lincoln, NE 68502  
 TEL: 402.426.1234  
 FAX: 402.426.1235  
 WWW: DESIGNASSOCIATES.COM

PRELIMINARY  
 NOT FOR CONSTRUCTION

NO.	DATE	DESCRIPTION
1	10/21/10	ISSUED FOR PERMIT
2	11/15/10	REVISIONS
3	12/15/10	REVISIONS
4	01/15/11	REVISIONS
5	02/15/11	REVISIONS
6	03/15/11	REVISIONS
7	04/15/11	REVISIONS
8	05/15/11	REVISIONS
9	06/15/11	REVISIONS
10	07/15/11	REVISIONS
11	08/15/11	REVISIONS
12	09/15/11	REVISIONS
13	10/15/11	REVISIONS
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89	02/15/18	REVISIONS
90	03/15/18	REVISIONS
91	04/15/18	REVISIONS
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HOUSING PROJECT - PRELIMINARY  
 COMMUNITY HOSPITAL  
 MCCOOK, NEBRASKA

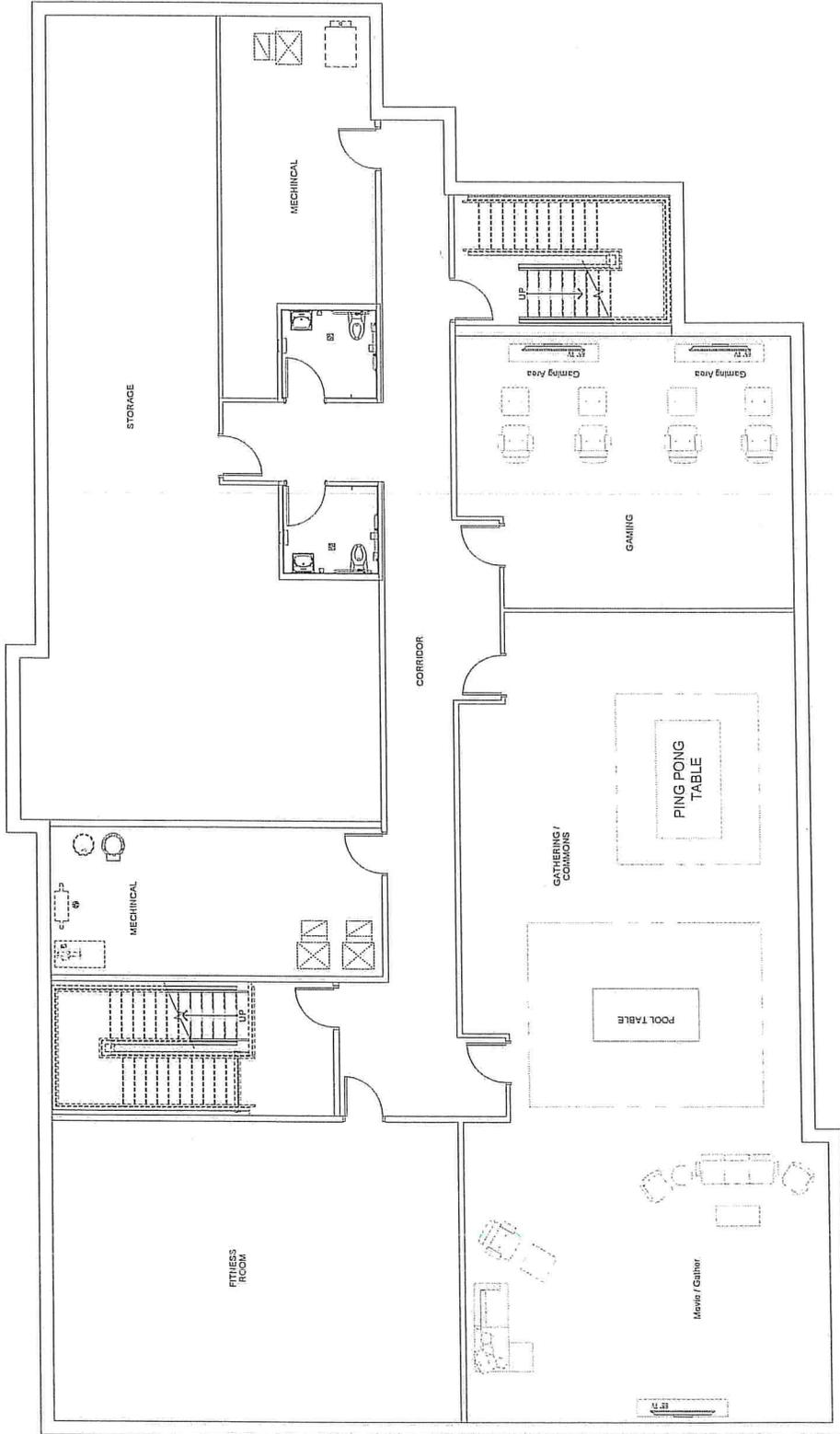
DESIGN ASSOCIATES  
 1000 S. 10th Street, Suite 100  
 Lincoln, NE 68502  
 TEL: 402.476.1234  
 FAX: 402.476.1235  
 WWW: DESIGNASSOCIATES.COM

PRELIMINARY  
 NOT FOR CONSTRUCTION

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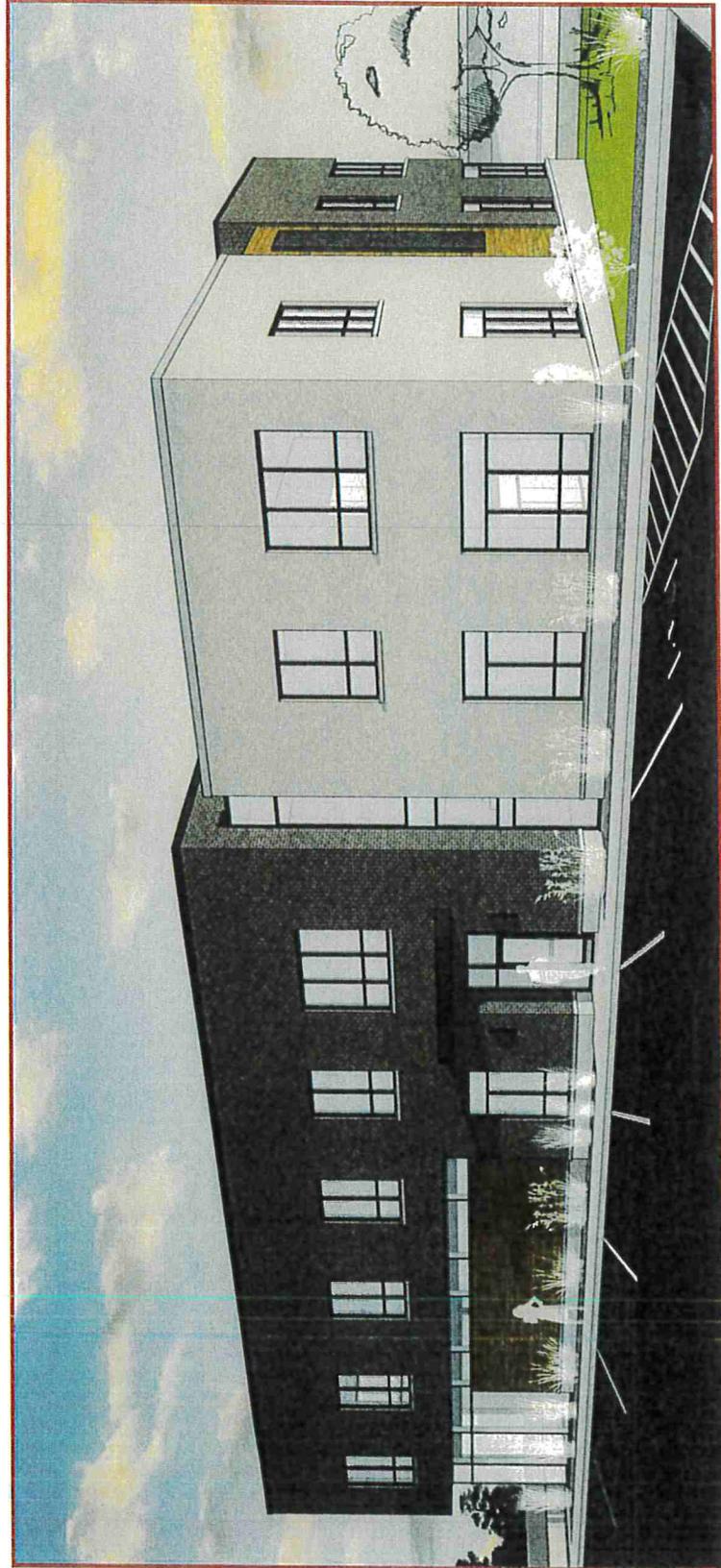
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DATE: OCTOBER 2023



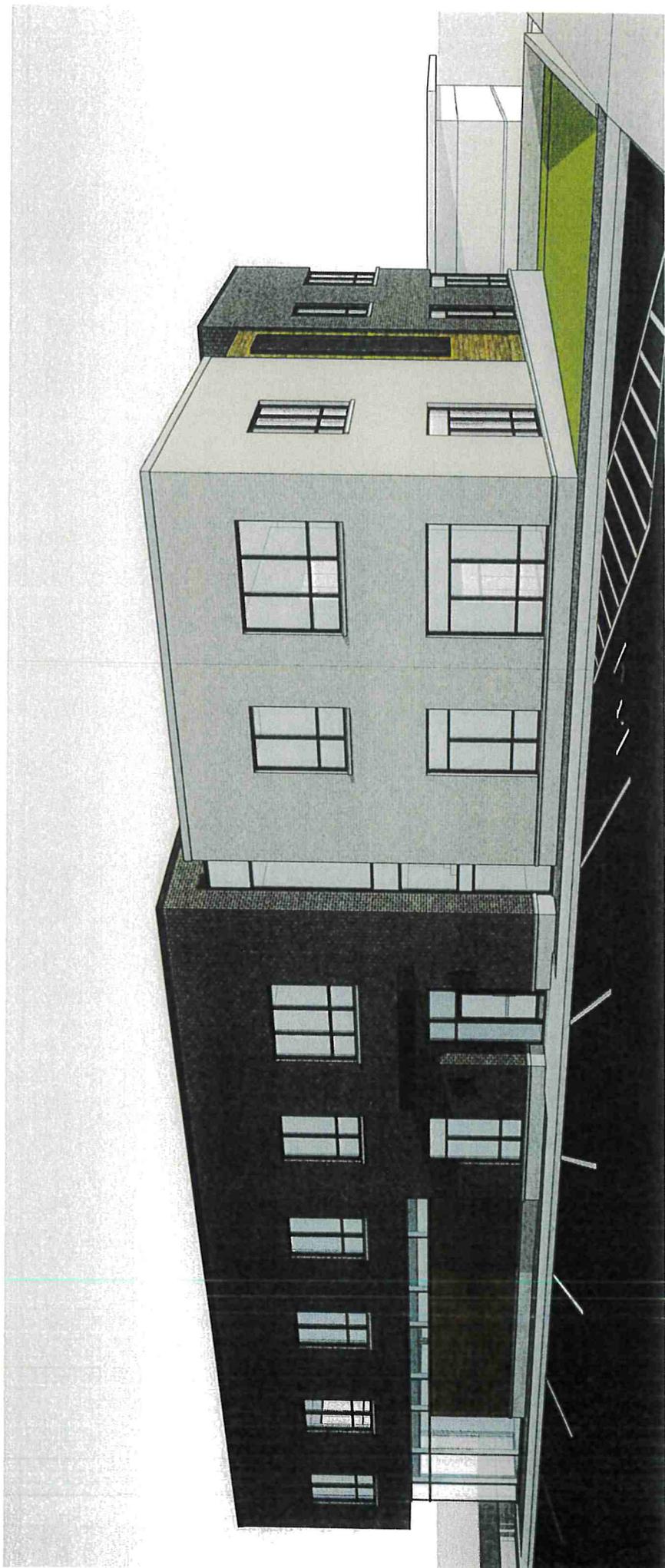
BASEMENT LEVEL - FLOOR PLAN -v2 16,000 SF  
 SCALE: 1/4" = 1'-0"

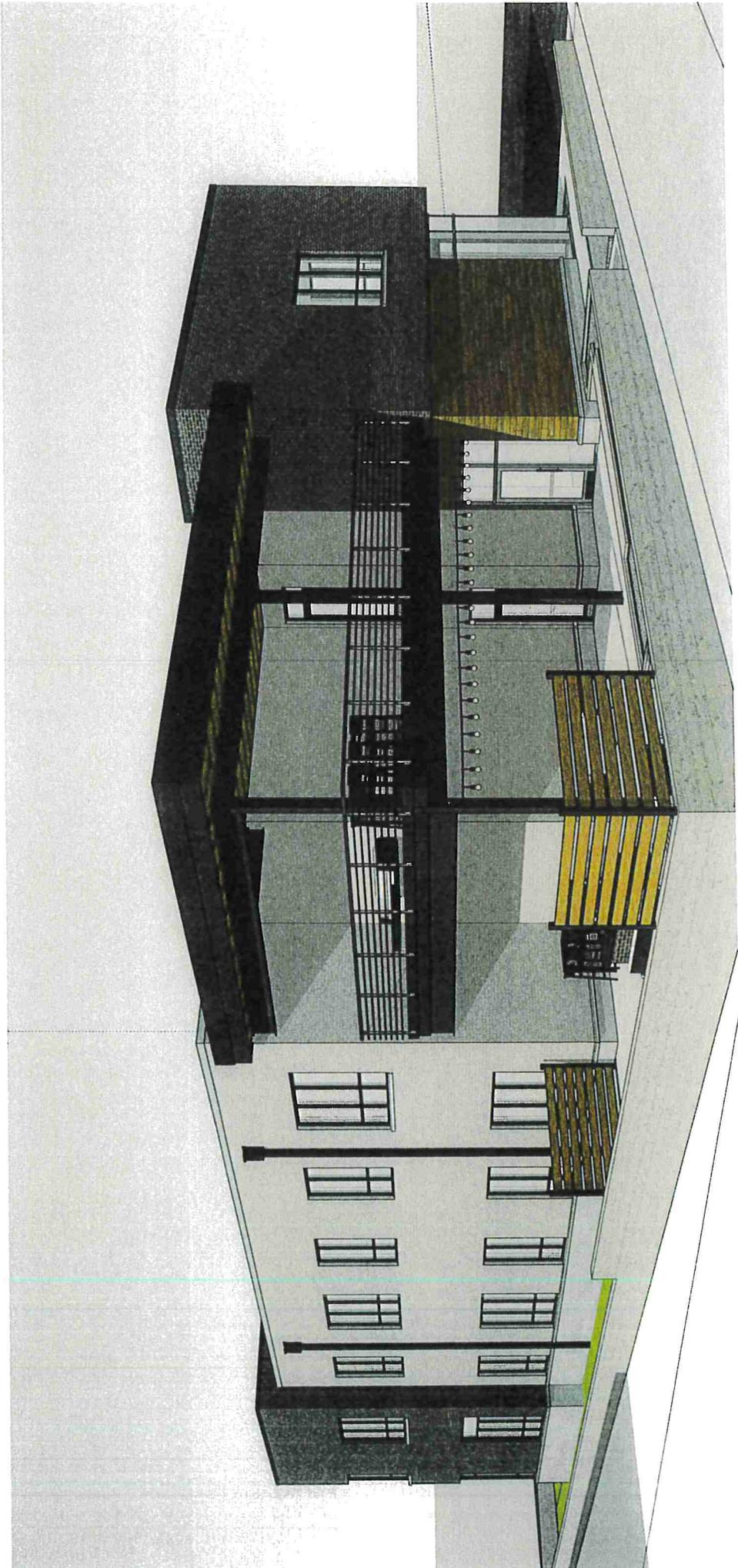
1. This drawing is a preliminary drawing and is not to be used for construction purposes.  
 2. All dimensions are to be confirmed in the field.  
 3. The owner is responsible for obtaining all necessary permits and approvals.



SCHMATIC DESIGN CONCEPT  
Document for Design Intent Only.

3D VISUALIZATION - NORTH FACADE  
NOT TO SCALE







**FINDINGS AND DETERMINATIONS OF  
MCCOOK BOARD OF ZONING ADJUSTMENT**

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Chairman

**VARIANCE CRITERIA**

**JUSTIFIES VARIANCE**

	<u>YES</u>	<u>NO</u>
1. Referring to the specific parcel of property,		
a) the parcel of property is exceptionally narrow;	_____	_____
b) the parcel of property is exceptionally shallow; <u>or</u>	_____	_____
c) the shape of the parcel of property is exceptional.	_____	_____
OR		
d) the parcel of property has exceptional topographic conditions; <u>or</u>		
e) the parcel of property has other exceptional or extraordinary conditions.	_____	_____
	_____	_____
2. Strict application of the zoning ordinance would result in:		
a) peculiar and exceptional practicable difficulties to the owner; OR		
b) exceptional and undue hardships on the owner of such property.	_____	_____
	_____	_____
3. Such relief may be granted without:		
a) substantial detriment to the public good; AND		
b) without substantially impairing the intent and purpose of the ordinance.	_____	_____
	_____	_____
4. No variance shall be authorized unless the Board finds:		
a) The strict application of the provisions of the Zoning Ordinance would produce an undue hardship on the applicant.	_____	_____

**EXHIBIT #4**

- b) Such hardship is not generally shared by other properties in the same zoning district and in the same vicinity. \_\_\_\_\_
- c) The granting of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed. \_\_\_\_\_
- d) The variance request is based upon reasons of demonstrable and exceptional hardship as distinguished from convenience, profit or caprice. \_\_\_\_\_
- 5. The variance requested is not so general or of re-occurring nature that it might more reasonably be addressed through a change in the Zoning Regulations. \_\_\_\_\_
- 6. The applicant has filed a proper and complete application. \_\_\_\_\_
- 7. Application for a variance submitted must demonstrate the following:
  - A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not found in the same zoning district and which were not created by an action of the property owner or the applicant; \_\_\_\_\_
  - B. The reduction of the minimum requirements of this Ordinance which would be necessary to permit the proposed use or construction; \_\_\_\_\_
  - C. The literal interpretation of the provision of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; \_\_\_\_\_
  - D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by this Ordinance to other land or structures in the same district; \_\_\_\_\_
  - E. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare; \_\_\_\_\_
  - F. The variance requested is the minimum variance that will make possible the reasonable use of the land or structure; \_\_\_\_\_
  - G. Granting the variance requested will not be opposed to the general spirit and intent of this Ordinance. \_\_\_\_\_
- 8. The notice of meeting appeared in the paper and applicants and other parties of interest have been sent written notice of the meeting at which a hearing on the variance request is being considered. \_\_\_\_\_

9. The variance requested does not allow a use not permissible under the Zoning Ordinance in the district in which it is presently located.

\_\_\_\_\_

## BOARD OF ZONING ADJUSTMENT DECISION

The McCook Board of Zoning Adjustment hereby determines that the variance should \_\_\_\_\_ be granted, \_\_\_\_\_ not be granted, \_\_\_\_\_ be granted with conditions. Conditions, modifications or safeguards prescribed as a part of the variance approval are as follows: \_\_\_\_\_

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Variance criteria not met are as follows: \_\_\_\_\_

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Dated this \_\_\_\_\_ day of, \_\_\_\_\_, 20 \_\_\_\_.

## ARTICLE 25

### BOARD OF ZONING ADJUSTMENT

#### Article 25 - Board of Zoning Adjustment

**Section 2501. Creation, Members, Meetings, Rules.**<sup>1</sup> There is hereby established a Board of Zoning Adjustment. The word BOARD, when used in this Zoning Ordinance, shall be construed to mean the Board of Zoning Adjustment. The Board of Zoning Adjustment is appointed by the City Council and shall consist of five (5) regular members, plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason.

One (1) member only of the City Board of Zoning Adjustment shall be appointed by the City Council from membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the Board of Zoning Adjustment and the appointment of another Planning Commissioner to the Board of Zoning Adjustment. One (1) member of the board of adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction.

The members appointed shall serve for terms of three (3) years and be removable for cause by the City Council upon written charges and after public hearing. Vacancies shall be filled by appointment for the unexpired term.

The Board of Zoning Adjustment shall annually in October elect one of its members as Chairperson, another as Vice-Chairperson, who shall act as Chairperson in the Chairperson's absence, and appoint a Secretary, who may be an officer or an employee of the City. Each shall serve until his or her successor has been selected. The presence of four (4) members of the Board shall be necessary to constitute a quorum.

All meetings of the Board shall be open to the public. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time any rules and regulations as it may deem necessary, to carry the appropriate provisions of this Zoning Ordinance into effect and all of its resolutions and order shall be in accordance therewith.

**Section 2502. Appeals to Board, Record of Appeal, Hearing and Stays.** Appeals to the Board of Zoning Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Adjustment or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

**EXHIBIT #5**

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<sup>1</sup>Revised September 18, 2017 - Ordinance No. 2017-2951

The Board of Zoning Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

**Section 2503. Powers and Jurisdiction Relating to Administrative Review.** The Board of Zoning Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map, except that the authority to hear and decide appeals shall not apply to decisions made under Article 24 of this Ordinance.

**Section 2504. Powers and Jurisdiction Relating to Variances.** The Board of Zoning Adjustment shall have the power, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

1. No such variance shall be authorized by the Board unless it finds that the strict application of the Ordinance would product undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice;
2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
3. A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Adjustment unless and until a written application for a variance is submitted demonstrating the following:
  - A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not found in the same zoning district and which were not created by an action of the property owner or the applicant;
  - B. The reduction of the minimum requirements of this Ordinance which would be necessary to permit the proposed use or construction;
  - C. The literal interpretation of the provision of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
  - D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by this Ordinance to other land or structures in the same district;
  - E. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare;

- F. The variance requested is the minimum variance that will make possible the reasonable use of the land or structure;
  - G. Granting the variance requested will not be opposed to the general spirit and intent of this Ordinance.
4. No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted structures or buildings in other districts shall be considered grounds for the issuance of variance;
  5. Notice of public hearing shall be given as in Section 2502 above; the public hearing shall be held; any party may appear in person, or by agent or by attorney; the Board of Zoning Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance; and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
  6. In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. 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 Ordinance and punishable under Section 2702 of this Ordinance;
  7. Under no circumstance shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

**Section 2505. Board has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer.** In exercising the above-mentioned powers, the Board of Zoning Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation in this Ordinance.

**Section 2506. Appeals to District Court.** Any person or person, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment, may appeal as provided by Section 19-912 Neb. Rev. Stat., 1943.

**CITY MANAGER'S REPORT**  
**FEBRUARY 21, 2024 BOARD OF ZONING ADJUSTMENT MEETING**

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Item A: Public Hearing - request for a variance of the front yard setback requirements in the Central Business District (CB) District (409 West 1st Street), from 20'0" to 10'0"; applicant: The Community Hospital Association.

Item B: Public Hearing - request for a variance of the off-street parking requirements per Zoning Ordinance 2111: Minimum Off-Street parking, in particular seeking permission to use on-street parking and the City of McCook's public parking lot directly adjacent to the property to fulfill the required parking.

Item C: Consider request for a variance of the front yard setback requirements in the Central Business District (CB) District (409 West 1st Street), from 20'0" to 10'0" and a variance of the off-street parking requirements per Zoning Ordinance 2111: Minimum Off-Street parking, in particular seeking permission to use on-street parking and the City of McCook's public parking lot directly adjacent to the property to fulfill the required parking.

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**BACKGROUND:**

A variance application has been submitted by the Community Hospital Association. The applicant requests a variance of the front yard setback requirement from 20 feet to 10 feet in a Central Business (CB) District and a variance of the off-street parking requirements per Zoning Ordinance 2111. The Community Hospital Association would like to build a multifamily residential structure at 409 West 1<sup>st</sup> Street. There is currently a single family residence occupying the lot. The front of the apartment complex would face West 1<sup>st</sup> Street. The lot sits north of the accounting firm, Skiles, Loop, Bremer, and White. The lot sits south of a public parking lot. To the east of the lot is an alley. Norris Alley and the Fox Theater rest on the east side of the alleyway.

The applicant requests a setback of 10 feet to allow the proposed building additional space in the rear yard which will allow additional room for loading and unloading and other needs in the alley for the use of the rear yard neighbors, namely the Norris Alley and Fox Theater. This variance would keep the building in line with the office space to the south and other central business structures that have narrower setbacks. The additional rear yard space will be more valuable and useful for the residents given its proximity to Norris Alley. The applicant has received approval from the adjacent property owners with respect to their variance request.

Additionally, the applicant requests a variance of off-street parking requirements per Zoning Ordinance 2111, specifically seeking permission to use on-street parking and the City of McCook's public parking lot directly to the north to fulfill the required parking requirements. The applicant intends to create 12 living units as part of the apartment complex. Per McCook's zoning ordinance, 13 parking spaces is required. There is insufficient space on the Hospital's lot to accommodate the parking requirements. McCook's rules permit the use of other parking options if a variance is granted by the Board of Zoning Adjustment.

The application includes a review of the City of McCook's variance criteria. From staff's review, the parcel of property has exceptional conditions. Due to the nature of the structure, the adjacent alley and street, and the surrounding lots, space is at a premium. In order to fit in with the adjacent properties, it is necessary to adjust the setback

**EXHIBIT #1**

**PAGE(S) - 2**

in order to provide access to the alleyway. Without the variance, the owner and neighboring properties would experience undue hardship.

With respect to the parking variance, City staff has conducted a review of the existing parking lot and on-street parking stalls. Based on the review, staff is comfortable that the existing public parking lot and on-street parking stalls will provide sufficient parking spaces for residents of the apartment complex. To this end, the McCook Planning Commission and McCook City Council heard a special exception application from the Community Hospital Association relative to the parking variance request. The McCook City Council has approved the special exception request conditioned on the granting of two variances.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

February 16, 2024

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

February 16, 2024

## NOTICE OF HEARING

### REQUEST FOR VARIANCE

NOTICE IS HEREBY GIVEN that the duly appointed Board of Zoning Adjustment of the City of McCook, Nebraska, will hold a public hearing in the McCook City Council Chambers, 505 West "C" Street, at 12:00 NOON on February 21, 2024.

Said hearing is for the purpose of presenting a request for a variance of the minimum off-street parking requirements, in the Central Business district (CB). APPLICANT: The Community Hospital Association. LAND OWNER: Michael and Linda Nielsen. LEGAL: Lots 16, 17, 18, & S 5' Lot 19, Block 9, Original McCook Addition to the City of McCook, Red Willow County, Nebraska. ADDRESS: 409 West 1<sup>st</sup> Street, McCook

ANY AND ALL PERSONS desiring to comment on the above-described request will be given an opportunity to be heard. Please direct all inquiries to Nate Schneider, McCook City Manager at 308-345-2022 ext. 225.

-s- Lea Ann Doak  
City Clerk

Publish: February 16, 2024.

**EXHIBIT #2**

**PAGE(S) - 1**

## VARIANCE APPLICATION

APPLICATION NO. \_\_\_\_\_ DATE: \_\_\_\_\_

FEE ATTACHED: \_\_\_\_\_

APPLICATION COMPLETE: \_\_\_\_\_ SIGNED: \_\_\_\_\_

Applicant

1. Applicant's Name: The Community Hospital Association

2. Applicant's Address: 1301 East H St; PO Box 1328; McCook NE Phone: 308-344-2650

Email Address: swolfe@chmccook.org

3. Address of Property Affected: 409 West 1st Street, McCook NE 69001

4. Legal Description of Property: 0 3 29 ORIGINAL MCCOOK BLK 9 LOTS 16, 17, 18 & S 5' LOT 19

5. Zoning Central Business District Corner Lot? Yes \_\_\_\_\_ No X

6. Applicant's interest in the Property (i.e. owner, tenant), attached proof of ownership:  
Signed purchase agreement from Michael and Linda Nielsen with an anticipated closing date of March 1, 2024

7. Description of variance requested: (Example: Variance of side lot set back requirement from 5 feet to 3 feet). Variance of off-street parking requirements per Zoning Ordinance 2111: Minimum Off-Street parking, exception for Central Business District (CB). Seeking permission to use on-street parking and the City of McCook's public parking lot directly adjacent to the property to fulfill the required parking per the zoning ordinance.

8. Sections of Zoning Ordinance No. 2016-2929 which are affected (to be completed by staff)  
ARTICLE: \_\_\_\_\_  
SECTION: \_\_\_\_\_

**EXHIBIT #3**

**PAGE(S) - 8**

9. Draw the general area of your property and structure (existing and proposed) and adjacent properties and structures. (Not to scale).

**Please see attached site plan with required parking stalls and statistics of current use of existing public parking.**

N

W      E

S

The Applicant must provide proof that the following criteria are met regarding the parcel of property for which the variance is being requested:

1. Referring to the specific parcel of property,

- a) the parcel of property is exceptionally narrow;
- b) the parcel of property is exceptionally shallow; or
- c) the shape of the parcel of property is exceptional.

OR

- YES d) the parcel of property has exceptional topographic conditions; or
- YES e) the parcel of property has other exceptional or extraordinary conditions.

2. Strict application of the zoning ordinance would result in:

- a. peculiar and exceptional practicable difficulties to the owner; OR
- YES b. exceptional and undue hardships on the owner of such property.

3. Such relief may be granted without:

- YES a. substantial detriment to the public good; AND
- YES b. without substantially impairing the intent and purpose of the ordinance.

4. No variance shall be authorized unless the Board finds:

- YES a. strict application of the zoning ordinance would produce undue hardship;
- YES b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- YES c. authorization of such variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting the variance;
- YES d. granting the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit, or caprice.

5. No variance shall be authorized if request is:

- a. of a general and recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

Please provide documentation of the above, such as maps, photographs, or other evidence to substantiate your application.

THE BOARD MUST FIND THAT ALL OF THE ABOVE REQUIREMENTS ARE MET BY THE APPLICANT BY A CONCURRING VOTE OF FOUR MEMBERS OF THE BOARD.

## APPLICANT DECLARATIONS

1. The following special conditions or circumstances exist on the land which pose an undue hardship on the applicant: (Describe conditions and circumstances.)

The limited size of the lot and proposed multi-family housing project planned for the site in the Central Business District (CB) makes it prohibitive to include off-street parking for the tenants. Per Section 2111 of the Zoning Ordinance, the multi-family housing is required to have 13 parking stalls (see attached Civil Drawing). The existing parking utilization (as shown on the site plan), shows that there is enough on-street parking on W. 1st St. & public parking in the lot adjacent to the property available within 400ft of the entry to accommodate the needs of this project. It is requested that the Board of Zoning Adjustment grants the Community Hospital Association the use this public parking to meet the requirements set forth in section 2111 of the zoning ordinance.

2. Please state the minimum variance necessary to permit the proposed construction

Due to the lot being in the Central Business District (CB) and the lot size and planned use, the minimum variance is to be allowed to use street and public parking to fulfill all of the parking requirements of Section 2111.

3. Without the granting of this variance the applicant would suffer a hardship not suffered by other properties located in the same zoning district and same vicinity.

Yes                       No

4. The granting of the variance will not adversely affect the rights of the adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by the Zoning Ordinance.  Yes                       No  
(Attach approval certifications from adjacent property owners.)

5. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare.  Yes                       No

ADJACENT PROPERTY OWNER CERTIFICATION

I, Charlie McPherson/MEDC, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

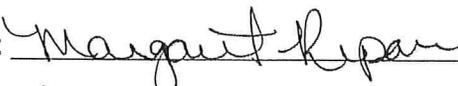
SIGNED: 

ADDRESS: 402 Norris Ave.

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ADJACENT PROPERTY OWNER CERTIFICATION

I, Margaret Repass/Norris Institute, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: 

ADDRESS: 402 Norris Ave

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ADJACENT PROPERTY OWNER CERTIFICATION

I, Jason Loop / On the Bricks, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: 

ADDRESS: 111 West D

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## RESIDENTIAL PURCHASE AGREEMENT

The undersigned, as Buyer, agrees to purchase the following:

Property Address: 409 West 1st Street, McCook NE 69001

Legal Description: 0 3 29 ORIGINAL MCCOOK BLK 9 LOTS 16, 17, 18 & S 5' LOT 19

**The seller has the right to remove any and all Real and Personal property prior to the date of closing.**

**If still occupied by tenant:**

In the event that the property is still occupied by a tenant upon the closing date, the seller agrees to leave Real and Personal Property as currently supplied for tenant to use property. Seller represents that there are no latent defects in the Property of which the Seller is aware in its current use and it is equipped with smoke detectors as required by law.

Buyer will notify the Seller upon the tenant vacating the property and the Seller will retain the right to a 45 day period to remove any and all remaining Real and Personal Property the Seller wishes; with the exception of any property added or installed by the Buyer.

**Date:**

The date of this purchase shall be Friday, March 1<sup>st</sup>, 2024 unless a change is agreed to by both parties.

**Title:**

Seller agrees to furnish a title insurance commitment insuring marketability and Buyer shall be furnished a current title insurance commitment by Seller at least 5 days before closing. The cost of title insurance issued for this sale shall be equally divided. Should a valid title defect exist, Seller has a reasonable time to correct said defect. If the title defects are not cured within a reasonable time period, the Buyer may declare this Agreement null and void. Seller agrees to convey to Buyer by warranty deed or free and clear of all liens, encumbrances, special assessments levied or assessed, and subject to all easements and restrictions or covenants new of record.

The documentary stamp tax shall be paid by the Seller.

**Consideration:**

Buyer agrees to pay \$120,000.00 at the time of delivery of deed.

All consolidated real estate taxes for the year in which closing takes place shall be prorated, based on Current assessment and tax rate, as of date of closing. All real estate taxes for prior years shall be paid by Seller.

**Offer:**

This offer is based upon Buyer's personal inspection or investigation of the Property. Buyer agrees to accept the property in its present condition; and acknowledges and agrees that Seller can remove any and all Real and Personal property as described above.

This agreement shall in no manner be construed to convey the Property or to give any right of possession. Risk of loss or damage Property, prior to closing date, shall be the responsibility of Seller.

This RESIDENTIAL PURCHASE AGREEMENT is hereby agreed to by the Buyer and Seller:

**Buyer: The Community Hospital Association**

Address: 1301 East H Street, PO Box 1328; McCook NE 69001

Buyer Sean Wolfe, CFO

Date 10/2/2023

By Sean Wolfe, CFO

E-mail: [swolfe@chmccook.org](mailto:swolfe@chmccook.org) Phone: 308-344-8306

**Sellers: Michael R and Linda C Nielsen**

Address: 909 W. K St, McCook, NE 69001

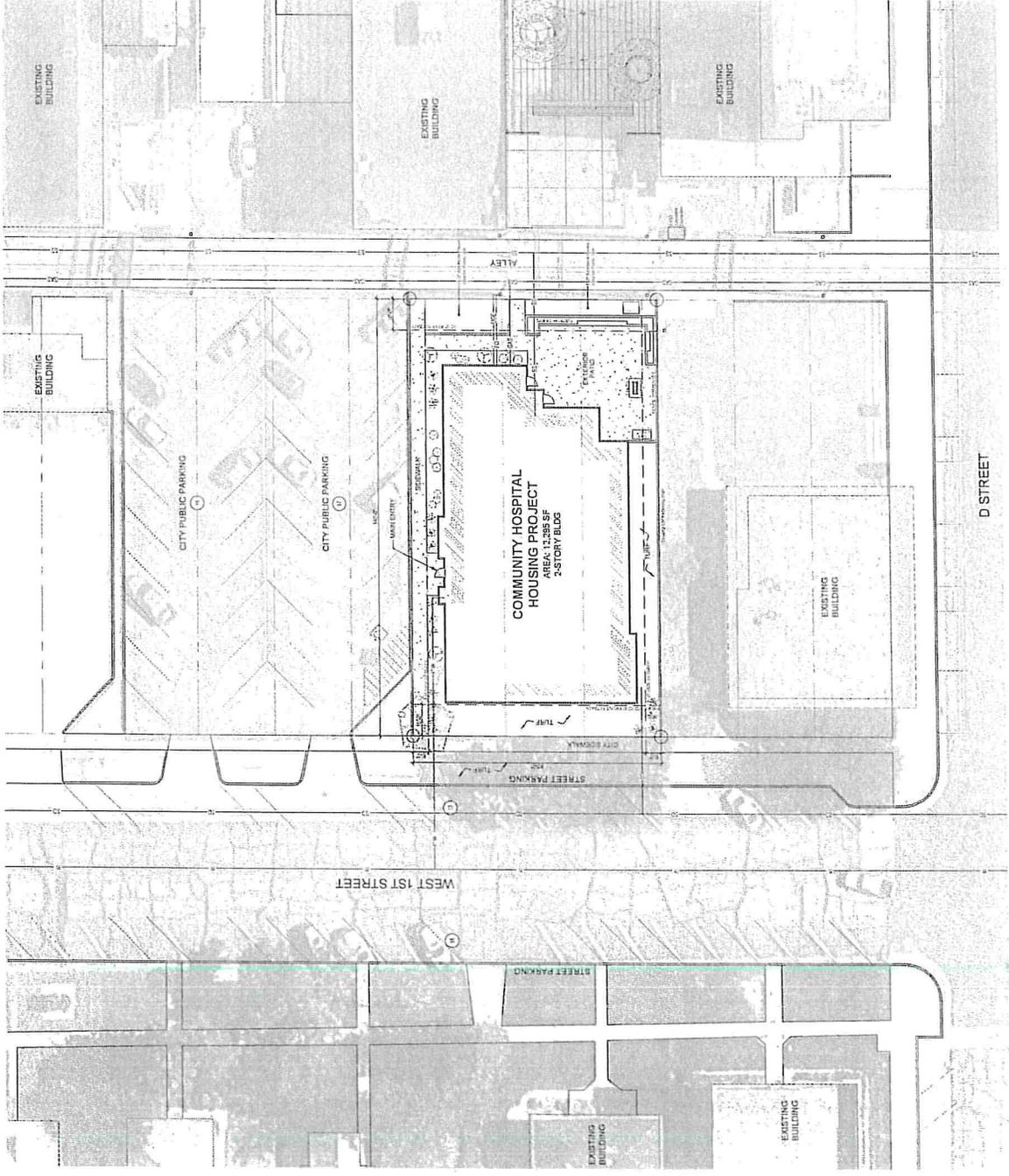
Seller Michael R. Nielsen

Date 10/6/23

Seller Linda C. Nielsen

Date 10/6/23

E-mail: [niec@chmccook.org](mailto:niec@chmccook.org) Phone: 308-345-1755



**BUILDING DATA**

COMMUNITY HOSPITAL ASSOCIATION EXTENDED LICENSE

ZONING CLASSIFICATION: CB (CENTRAL BUSINESS DISTRICT)

USE GROUP: 12 (APARTMENT COMPLEX)

OCCUPANCY COUNT: 120 (BEDROOMS) + (2) (BEDROOM WITH FULLY SPRINKLED)

TYPE OF CONSTRUCTION: 2

NUMBER OF STORIES: 2

BUILDING FOOTPRINT AREA: 22,254 SQ FT

CLIMATE ZONE: 5A

**PARKING DATA**

EXISTING PUBLIC PARKING: ONE (1) PARKING STALL PER BEDROOM + ONE AND A HALF (1.5) STALL PER 100 SQ FT (TYPICAL) PER 200 BEDROOM

TOTAL BEDROOMS: 120

TOTAL STALLS: 150

REQUIRED BY CITY: 150

FOR PUBLIC STALLS: 150

FOR PRIVATE STALLS: 0

FOR PUBLIC STALLS WITH THE FOLLOWING: ONE (1) ADA STALL REQUIRED (SEE 11.05.00 (MANUAL ACCESSIBLE))

ADA STALLS REQUIRED: ONE (1)

ONE (1) OF WHICH ARE VAN ACCESSIBLE STALL

**EXISTING PUBLIC PARKING USAGE**

PUBLIC PARKING (TOTAL STALLS AVAILABLE):

- NORMAL: 10 VEHICLES
- BOAT: 10 VEHICLES
- TRUCK: 10 VEHICLES
- TRAILER: 10 VEHICLES
- VEHICLE STREET PARKING: 10 VEHICLES (ALL STALLS AVAILABLE)

VEHICLE STREET PARKING: 10 VEHICLES

VEHICLES: 4

BOAT: 1

TRUCK: 1

TRAILER: 1

SPECIAL STREET PARKING: 10 VEHICLES AVAILABLE

VEHICLES: 10

BOAT: 0

TRUCK: 0

TRAILER: 0

\* AVERAGE VEHICLE COUNT TAKEN OVER SEVERAL DAYS IN DECEMBER 2017 AND JANUARY 2018

HOUSING PROJECT - PRELIMINARY  
COMMUNITY HOSPITAL  
MCCOOK, NEBRASKA

DESIGN ASSOCIATES  
1000 WEST 10TH STREET, SUITE 100  
MCCOOK, NEBRASKA 68801  
PH: 402.873.1111  
WWW.DESIGNASSOCIATES.COM

PRELIMINARY  
NOT FOR CONSTRUCTION

REVISIONS

NO.	DATE	DESCRIPTION

C-1

DATE: OCTOBER 2023

**FINDINGS AND DETERMINATIONS OF  
MCCOOK BOARD OF ZONING ADJUSTMENT**

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Chairman

**VARIANCE CRITERIA**

**JUSTIFIES VARIANCE**

	<u>YES</u>	<u>NO</u>
1. Referring to the specific parcel of property,		
a) the parcel of property is exceptionally narrow;	_____	_____
b) the parcel of property is exceptionally shallow; <u>or</u>	_____	_____
c) the shape of the parcel of property is exceptional.	_____	_____
OR		
d) the parcel of property has exceptional topographic conditions; <u>or</u>	_____	_____
e) the parcel of property has other exceptional or extraordinary conditions.	_____	_____
2. Strict application of the zoning ordinance would result in:		
a) peculiar and exceptional practicable difficulties to the owner; OR	_____	_____
b) exceptional and undue hardships on the owner of such property.	_____	_____
3. Such relief may be granted without:		
a) substantial detriment to the public good; AND	_____	_____
b) without substantially impairing the intent and purpose of the ordinance.	_____	_____
4. No variance shall be authorized unless the Board finds:		
a) The strict application of the provisions of the Zoning Ordinance would produce an undue hardship on the applicant.	_____	_____

- b) Such hardship is not generally shared by other properties in the same zoning district and in the same vicinity. \_\_\_\_\_
  - c) The granting of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed. \_\_\_\_\_
  - d) The variance request is based upon reasons of demonstrable and exceptional hardship as distinguished from convenience, profit or caprice. \_\_\_\_\_
5. The variance requested is not so general or of re-occurring nature that it might more reasonably be addressed through a change in the Zoning Regulations. \_\_\_\_\_
  6. The applicant has filed a proper and complete application. \_\_\_\_\_
  7. Application for a variance submitted must demonstrate the following:
    - A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not found in the same zoning district and which were not created by an action of the property owner or the applicant; \_\_\_\_\_
    - B. The reduction of the minimum requirements of this Ordinance which would be necessary to permit the proposed use or construction; \_\_\_\_\_
    - C. The literal interpretation of the provision of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; \_\_\_\_\_
    - D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by this Ordinance to other land or structures in the same district; \_\_\_\_\_
    - E. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare; \_\_\_\_\_
    - F. The variance requested is the minimum variance that will make possible the reasonable use of the land or structure; \_\_\_\_\_
    - G. Granting the variance requested will not be opposed to the general spirit and intent of this Ordinance. \_\_\_\_\_
  8. The notice of meeting appeared in the paper and applicants and other parties of interest have been sent written notice of the meeting at which a hearing on the variance request is being considered. \_\_\_\_\_

9. The variance requested does not allow a use not permissible under the Zoning Ordinance in the district in which it is presently located.

\_\_\_\_\_

**BOARD OF ZONING ADJUSTMENT DECISION**

The McCook Board of Zoning Adjustment hereby determines that the variance should \_\_\_\_\_ be granted, \_\_\_\_\_ not be granted, \_\_\_\_\_ be granted with conditions. Conditions, modifications or safeguards prescribed as a part of the variance approval are as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Variance criteria not met are as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

## ARTICLE 25

### BOARD OF ZONING ADJUSTMENT

#### Article 25 - Board of Zoning Adjustment

**Section 2501. Creation, Members, Meetings, Rules.**<sup>1</sup> There is hereby established a Board of Zoning Adjustment. The word BOARD, when used in this Zoning Ordinance, shall be construed to mean the Board of Zoning Adjustment. The Board of Zoning Adjustment is appointed by the City Council and shall consist of five (5) regular members, plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason.

One (1) member only of the City Board of Zoning Adjustment shall be appointed by the City Council from membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the Board of Zoning Adjustment and the appointment of another Planning Commissioner to the Board of Zoning Adjustment. One (1) member of the board of adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction.

The members appointed shall serve for terms of three (3) years and be removable for cause by the City Council upon written charges and after public hearing. Vacancies shall be filled by appointment for the unexpired term.

The Board of Zoning Adjustment shall annually in October elect one of its members as Chairperson, another as Vice-Chairperson, who shall act as Chairperson in the Chairperson's absence, and appoint a Secretary, who may be an officer or an employee of the City. Each shall serve until his or her successor has been selected. The presence of four (4) members of the Board shall be necessary to constitute a quorum.

All meetings of the Board shall be open to the public. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time any rules and regulations as it may deem necessary, to carry the appropriate provisions of this Zoning Ordinance into effect and all of its resolutions and order shall be in accordance therewith.

**Section 2502. Appeals to Board, Record of Appeal, Hearing and Stays.** Appeals to the Board of Zoning Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Adjustment or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

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<sup>1</sup>Revised September 18, 2017 - Ordinance No. 2017-2951

The Board of Zoning Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

**Section 2503. Powers and Jurisdiction Relating to Administrative Review.** The Board of Zoning Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map, except that the authority to hear and decide appeals shall not apply to decisions made under Article 24 of this Ordinance.

**Section 2504. Powers and Jurisdiction Relating to Variances.** The Board of Zoning Adjustment shall have the power, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

1. No such variance shall be authorized by the Board unless it finds that the strict application of the Ordinance would product undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice;
2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
3. A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Adjustment unless and until a written application for a variance is submitted demonstrating the following:
  - A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not found in the same zoning district and which were not created by an action of the property owner or the applicant;
  - B. The reduction of the minimum requirements of this Ordinance which would be necessary to permit the proposed use or construction;
  - C. The literal interpretation of the provision of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
  - D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by this Ordinance to other land or structures in the same district;
  - E. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare;

- F. The variance requested is the minimum variance that will make possible the reasonable use of the land or structure;
  - G. Granting the variance requested will not be opposed to the general spirit and intent of this Ordinance.
4. No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted structures or buildings in other districts shall be considered grounds for the issuance of variance;
  5. Notice of public hearing shall be given as in Section 2502 above; the public hearing shall be held; any party may appear in person, or by agent or by attorney; the Board of Zoning Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance; and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
  6. In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. 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 Ordinance and punishable under Section 2702 of this Ordinance;
  7. Under no circumstance shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

**Section 2505. Board has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer.** In exercising the above-mentioned powers, the Board of Zoning Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation in this Ordinance.

**Section 2506. Appeals to District Court.** Any person or person, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment, may appeal as provided by Section 19-912 Neb. Rev. Stat., 1943.

submitted by the proper officials to the City Council for its approval and no subdivision permit or special use permit may be issued without the approval of these documents by the City Council.

**Section 2111. Off-Street Parking.**<sup>1</sup> Off-street motor vehicle parking and loading space shall be provided on any lot on which any of the indicated structures and uses are hereafter established. Such space shall be provided with vehicular access to a street or any alley. For the purpose of computing the number of parking spaces available in a given area, the formula of one hundred sixty-two (162) square feet per parking space shall be required. Minimum off-street parking and loading requirements, which shall be applicable to the indicated structures and uses in all the zoned districts, except, in the Central Business District (CB) shall be in accordance with the regulations of this division. If minimum off-street parking and loading space cannot be reasonably provided on the same lot on which the principal structure or use is conducted in the opinion of the Board of Zoning Adjustment, the Board may permit such space to be provided on other off-street property, provided, that such space lies within four hundred (400) feet of the entrance to each principal structure or use.

**1. General provisions.**

- A. **Utilization.** Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such uses.
- B. **Area.** A required off-street parking space shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access drives or aisles, ramps, columns, office or work areas.
- C. **Access.** Each required off-street parking space shall open directly upon a driving aisle having a width in accordance with the angle of parking as follows:

<u>Aisle Width</u>	<u>Parking Angle</u>			
	<u>0°</u>	<u>45°</u>	<u>60</u>	<u>90°</u>
One-way traffic	12'	12'	18'	24'
Two-way traffic	20'	20'	20'	24'

Driveways connecting an off-street parking area to a street shall not be less than twelve (12) feet in width for one-way traffic and twenty (20) feet in width for two-way traffic except that ten (10) foot wide driveways are permissible for two-way traffic when the driveway is not longer than fifty (50) feet, it provides access to no more than 6 spaces, and sufficient turnaround space is provided so that vehicles will not back into a public street.

- D. **Measurements.** Each required off-street parking space shall be installed as follows:

<u>Parking Angle</u>	<u>Perpendicular To Base Line</u>	<u>Distance Along Curb</u>
90°	18'	9'
60°	16'	10.4'
45°	13'	12.7'

**EXHIBIT #6**

**PAGE(S) - 2**

<sup>1</sup>Revised September 18, 2017 - Ordinance No. 2017-2951

Schedule of Minimum Off-Street Parking and Loading Requirements		
	Minimum Number of Parking Spaces	Minimum Off-Street Loading Spaces
Residential: Single family, two-family dwellings Multifamily: Efficiency and one-bedroom Two-bedrooms Three or more bedrooms Mobile home park	2 per dwelling unit  1 per dwelling unit 1 ½ per dwelling unit 2 per dwelling unit 2 per mobile home	None required. " " " "
Hotel and motels	1 per rental unit plus 1 for every 4 employees.	1 space per establishment.
Hospitals, Nursing Homes, Rest Homes or similar Uses	1 for every 2½ patient beds and 1 for each staff and employee on the largest shift.	3 spaces per establishment.
Medical Clinics	5 spaces per staff doctor or dentist.	None required.
Educational: Nursery and Primary  All other types	Parking spaces = 30% of capacity in students. Parking spaces = 20% of capacity in students.	2 spaces per structure.
Funeral Homes and Chapels	8 spaces per reposeing room.	2 spaces per structure.
Eating and drinking establishments	Parking spaces = 30% of capacity in persons.	2 spaces per structure.
Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 for every 4 seats	None for churches, all other facilities shall have at least 1.
Bowling alley	4 spaces per alley.	1 space per establishment
Libraries	1 space per 500 square feet of floor area.	1 space per structure.
Private clubs and lodges	1 space per 500 square feet of floor area.	1 space per establishment.
Retail sales department stores, taverns, grocery stores, etc.	1 per 500 square feet of floor area as determined by exterior wall dimensions.	
Professional office establishments.	1 per 500 square feet of floor area as determined by exterior wall dimensions.	1 space per establishment.
Manufacturing, Industrial Uses.	1 space for every 2 employees on the largest shift.	2 spaces per establishment.
Veterinary Establishments	3 spaces per staff doctor.	None required.
Wholesale and Distributing Operations.	1 space per 2 employees on largest shift.	2 spaces per establishment.
Automobile Service Stations	1 space per 2 employees on largest shift.	1 space per establishment.
Manufacturing, Storage, Warehouse and Transportation Terminals	1 space per 1 employee on largest shift.	2 spaces per establishment.