Agenda Packet

BOARD OF ADJUSTMENT

Tuesday, August 24, 2021 6:00 p.m.

Created 8/18/2021 11:10 AM





NOTICE OF MEETING CITY OF NORFOLK, NEBRASKA

NOTICE IS HEREBY GIVEN that a meeting of the Board of Adjustment of the City of Norfolk, Nebraska, will be held at 6:00 p.m. on Tuesday, August 24, 2021, in the Council Chambers, 309 N. 5th Street, which meeting will be open to the public. An agenda for such meeting, kept continually current, is available at the City of Norfolk Administration Building, located at 309 N 5th Street, Norfolk, Nebraska during normal business hours.



309 N 5th St Norfolk, NE 68701 P402-844-2280 F402-844-2028 www.norfolkne.gov

AGENDA BOARD OF ADJUSTMENT

August 24, 2021

CALL TO ORDER

- 1. 6:00 p.m. Call meeting to order.
- 2. Inform the public about the location of the Open Meetings Act posted in the Council Chambers and accessible to members of the public
- 3. Roll call.

CURRENT BUSINESS

4. Election of Chairperson, Vice-Chairperson, and appointment of the Executive Secretary.

Motion

5. Approval of full agenda.

Motion

6. Consideration of approval of the minutes of the December 10, 2018 Board of Motion Adjustment meeting.

PUBLIC HEARINGS

- 7. Public hearing at the request of Heritage Communities on behalf of Heritage at Fountain Point, LLC, to consider a variance from the requirements that monument signage in R-3 zoning district shall not exceed 60 SF per lot and shall not exceed 10' in height or have a setback of less than 15', set forth in Section 27-331(6)b. of the Norfolk City Code.
- 8. Consideration of approval of the variance from the requirements that monument signage in R-3 zoning district shall not exceed 60 SF per lot and shall not exceed 10' in height or have a setback of less than 15', set forth in Section 27-331(6)b. of the Norfolk City Code.

Motion



MINUTES OF NORFOLK BOARD OF ADJUSTMENT MEETING December 10, 2018

The Norfolk Board of Adjustment of the City of Norfolk conducted a public meeting in the City Council Chambers, 309 N. 5th Street, on the 10th day of December, 2018, beginning at 5:00 p.m.

The Chairman, Jason Lammli, called the meeting to order and informed the public about the location of the current copy of the Open Meetings Act posted in the meeting room and accessible to members of the public.

Roll call found the following Board Members present: Jason Lammli, Brad Love, Dan Spray, Randy Wilcox, and Alternate Tom Skaff.

It was noted that a quorum was present with the alternate Tom Skaff in place as needed.

Staff members present were: City Planner Valerie Grimes, City Attorney Dani Myers-Noelle and Public Works Director Steve Rames.

Chairman Jason Lammli presided, and Executive Secretary Stacey Hansen digitally recorded the audio of the proceedings.

CURRENT BUSINESS

Chairman Lammli introduced the current business of electing Chairperson, Vice-Chairperson and appointment of Executive Secretary. Chairman Lammli called for discussion and nominations.

ELECTION OF CHAIRPERSON: Board Member Love nominated Jason Lammli as Chairperson; with no other nominations or discussion, all members present voted in favor of Jason Lammli as Chairperson.

ELECTION OF VICE-CHAIRPERSON: Board Member Love nominated Dan Spray as Vice-Chairperson; with no other nominations or discussion, all members present voted in favor of Dan Spray as Vice-Chairperson.

Chairman Lammli appointed Stacey Hansen as Executive Secretary.

Chairman Lammli asked for a motion to approve the full agenda with a correction to #6 changing Planning Commission to Board of Adjustment.

Board Member Love moved, seconded by Spray to approve the full agenda with the correction.

Roll Call: Members: Ayes: Lammli, Love, Spray, and Wilcox. Nays: None. Motion carried (4-0).

Board Member Spray moved, seconded by Love to approve the October 25, 2016 minutes.

Roll Call: Members: Ayes: Lammli, Love, Spray, and Wilcox. Nays: None. Motion carried (4-0).





Chairman Lammli stated at this time a conflict of interest with the Faith Regional Health Services application and turned the meeting over to Vice-Chairman Spray to run the meeting.

PUBLIC HEARING

(Request to consider a variance from the requirements in Section 27-283 (d); on the property zoned C-2A Special Business District.)

(Applicant: Faith Regional Health Services; Location: 2700 & 2701 W Norfolk Avenue)

Vice-Chairman Spray opened the hearing at 5:14 p.m. and introduced the request by Faith Regional Health Services to seek a variance from the requirement of every part of a required yard or court shall be open from its lowest point to the sky, unobstructed except for ordinary projections, set forth in Section 27-283(d) of the Norfolk City Code. Vice-Chairman Spray introduced Board Members participating in the public hearing as: Brad Love, Dan Spray, Sue Haase (arrived at 5:14 p.m.), Randy Wilcox and Alternate Tom Scaff.

Vice-Chairman Spray gave instructions regarding the hearing procedures and testimony.

Valerie Grimes, Norfolk City Planner, 309 N 5th Street, introduced Exhibits 1-10:

EXHIBITS	DESCRIPTION
1	City of Norfolk Code - Section 27: Zoning
2	Nebraska State Statute Sections 19-907 thru 19-910 & 19-912 relating to the Board of Adjustment
3	Faith Regional Health Services' Application, including any supporting documents as part of the application
4	Legal Description & 300 ft. Map - Approved by Engineering Division
5	Public Hearing Notice & Map
6	Affidavit regarding posting of notice of hearing
7	Proof of Publication - Public Hearing Notice - 11/30/2018
8	Public Meeting Notice & Proof of Publication - 12/7/2018
9	Abstractor's Certificate & List of Owners within 300'
10	Board of Adjustment Agenda Packet for the December 10, 2018 meeting

Exhibits were accepted into record by Vice-Chairman Spray.

City Planner Grimes explained that FRHS has requested variance due to the construction of the Skywalk covering the whole 25 ft. of required front yard setback, from the lowest point to the sky, where the Skywalk would be located.

Public Works Director Steven Rames provided information based on the planning process with FRHS and Avant Architects. The easement document for this airspace covers construction, maintenance, annual inspections, process of inspections, future safety concerns and is based upon same requirements used by DOT for similar structures such as the one built over I-80 in Kearney. The elevation document provided by the architects show a 21 ft. clearance, the structure will be built well above minimum height required by easement of 16'6". Mr. Rames has been in contact and working with the State of Nebraska as well.



309 N 5th St Norfolk, NE 68701 P402-844-2280 F402-844-2028 www.ci.norfolk.ne.us

Larry Smith, Avant Architects, Inc. Representative, introduced the project as it provides safety to the public, patients, employees and pedestrian traffic.

No one else appeared in support or opposition of the variance request.

Chairman Spray reviewed the findings of fact before entertaining a motion.

The Board Members discussed the following answers to the four conditions required to grant a variance:

- 1. True; The strict application of the zoning regulation would produce undue hardship because the increased vehicular and pedestrian traffic would create public safety concerns;
- 2. True; Such hardship is not shared generally by other properties in the same zoning district and the same vicinity because Faith Regional is the only hospital in the City of Norfolk and carries tremendous volume of traffic; there are also not many multi-level businesses in the area that crosses a highway, and the number of patients and staff utilizing Faith Regional on a daily basis will create an incomparable volume of traffic.
- 3. True; The authorization and granting of such variance will not be of substantial detriment to adjacent property nor will the character of the district be changed since the adjacent property is owned by Faith Regional and the hospital will continue to function as it currently does with an expansion across the highway; and
- 4. True; The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice because the number of patients and staff needing to cross regularly between the buildings would create a public safety issue.

Vice-Chairman Spray closed the public hearing at 5:30 p.m.

Board Member Love moved, seconded by Wilcox to grant the variance seeking relief from the requirements set forth in Section 27-283 (d).

Roll Call: Members: Ayes: Spray, Love, Haase, Wilcox and Skaff. Nays: None. Motion carried (5-0).

Vice-Chairman Spray declared the meeting adjourned at 5:37 p.m.

Stacey Hansen
Board of Adjustment Executive Secretary
Board of Adjustment

Variance Case No
Date Filed
BOARD OF ADJUSTMENT
APPLICATION
NAME OF APPLICANT: Farhan Khan
MAILING ADDRESS: 16934 Frances Street Omaha, NE 68130
E-MAIL ADDRESS: Fkhan@heritage-communities.com PHONE: 402-933-2561
NAME OF AUTHORIZED AGENT: Cody Meyer
MAILING ADDRESS: 16934 Frances Street Omaha, Ne 68130
E-MAIL ADDRESS: cmeyer@heritage-communities.com PHONE: 402-933-2561
Relationship of applicant to property:
The Board of Adjustment operates in accordance with Statutes of the State of Nebraska 19-907 through 19-910 and 19-912.
 The Board of Adjustment shall, subject to such conditions and safeguards as may be established by the legislative body, have only the following powers: 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; To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by any such regulation to pass; and Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or conditions of such piece of property, the strict application of any enacted regulation under this act 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 of hardship, if such relief may be granted without substantial detriment to the public good and without impairing the intent and purpose of any ordinance or resolution.
SECTION I. Item 1 and 2 are appeals based on an alleged administrative or agency error, or interpretation of a map.
If your application involved either #1 or #2, check the number:

Attach in written detail the exact problem as you see it. Please skip to **SECTION III**, signatures required.

Rev. 09-2016

SECTION II.

If you request authorization from the Board under #3, they can <u>hear</u> the matter if it falls under the outlined criteria in #3 of the State Statutes. No such variance shall be authorized by the board unless it finds that:

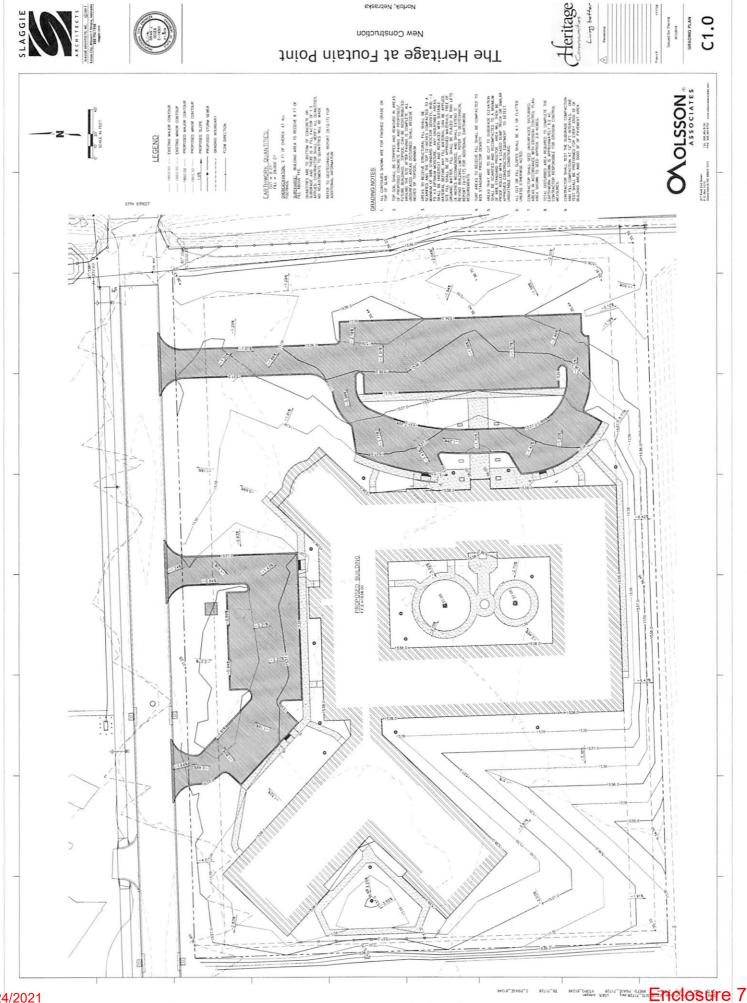
- a. The strict application of the zoning regulation would produce undue hardship;
- b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. 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 a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

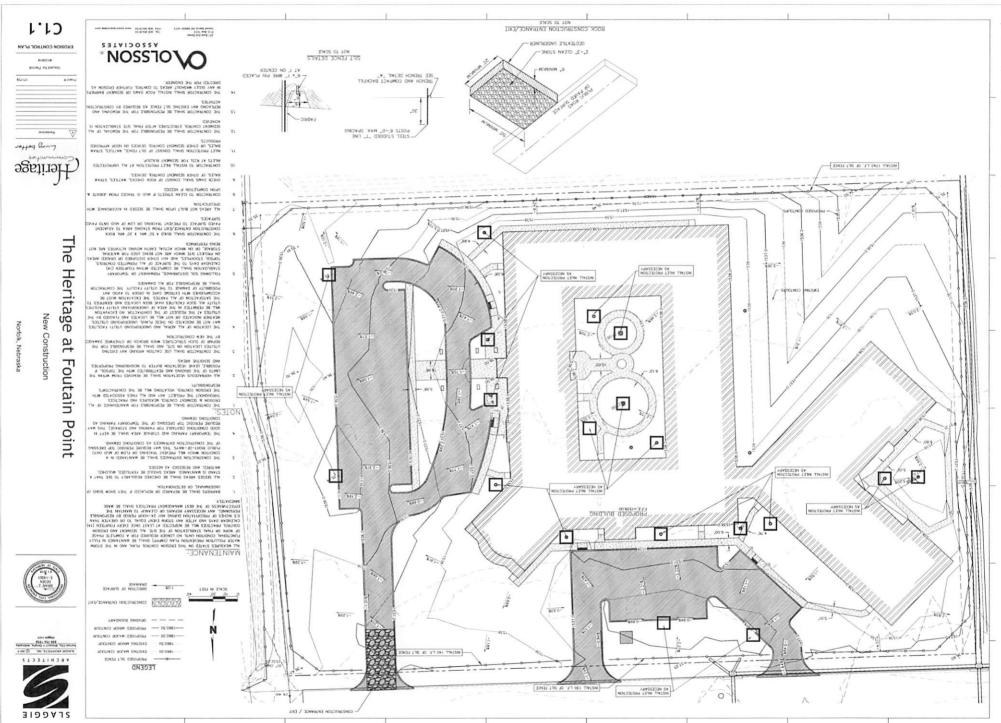
The variance is requested from the requirements set out in Section II of the Zoning Regulation		
Norfolk City Code for property addressed as 3725 W Madison Avenue Norfolk, Ne 68701		
and legally described as		
Lot 3, Fountain Point Addition, Norfolk, Ne 68701		
and which is presently zoned as R3		
(Give metes and bounds description below or on attached sheet) See Attached		
Provide a brief statement explaining the variance request. We are looking for a variance on our site sign at The Heritage at Fountain Point. The current sign is 8' from the sidewalk and		
11' 6" tall. We feel like the current location is not a detriment to the surrounding properties, nor a danger to the community		
The sign enhanced the aesthetic appeal of the neighborhood. We ask that the sign can remain in its current location.		
OUTLINE HARDSHIP AS EXPLAINED ABOVE IN ANSWERING THE FOLLOWING QUESTIONS		
A. Is the lot exceptionally narrow, shallow or shaped?		

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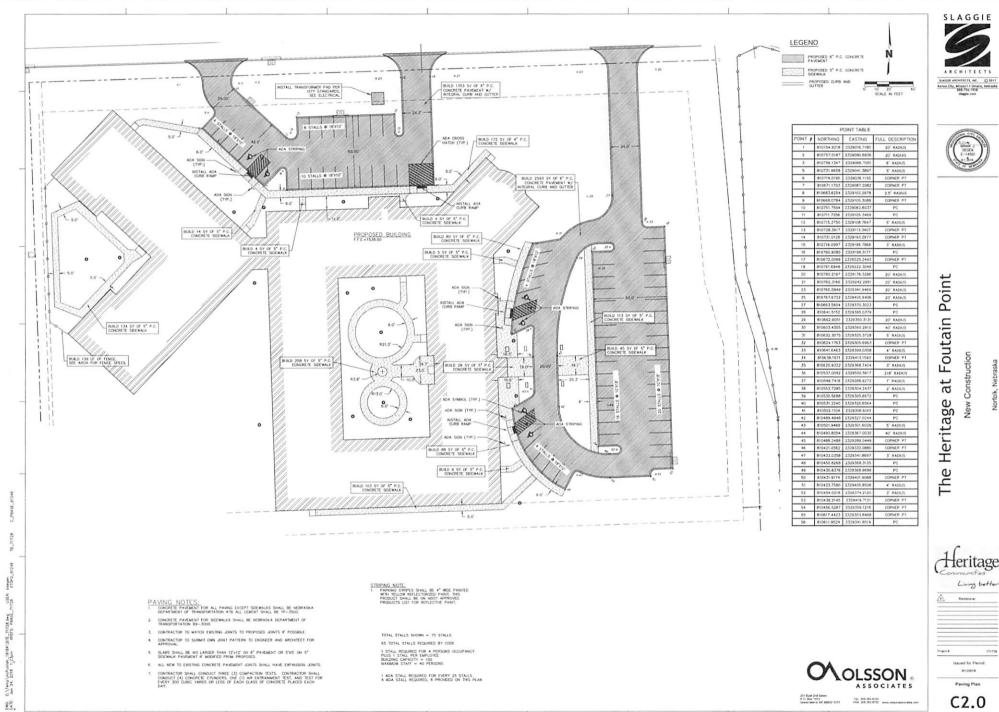
В.	Does the property have exceptional topographic conditions or other extraordinary and exceptional conditions wherein the strict application of the regulations would:		
	a.	Result in peculiar and exceptional practical difficulties: No	
	b.	Result In exceptional and undue hardship: No	
C.		the variance be a substantial detriment to the public good? No	
D. E.		the variance substantially impair the intent and purpose of the zoning ordinance? No ardship not shared generally by other properties in the same zoning district and the same	
L.	vicinity		
		Explain	
F.	Would authorization of variance be a substantial detriment to adjacent property and the character of		
	the dist		
_		Explain The location of this sign will not be a detriment to the adjacent property. It fits in beautifully.	
G.		how the request is based upon reason of demonstrable and exceptional hardship as	
		ished for purposes of convenience, profit or caprice. tely the sign was built per architectural plans with aesthetics in mind, vs seeking approval of the city. (The job superintendent was let go	
		or). The sign is beautiful and adds to the character of the neighborhood, furthermore it is easily visible to seniors that will be seeing in most.	
	res, app	n or graphic and include the property lines of the application area, existing and proposed opriate dimensions, and any other information that would be helpful to the Board in evaluating	
SECTIO	N III.		
The ap	plicant/a	gent hereby declares that all information submitted is true to the best of his knowledge and that	
all info	rmation	required for this request has been included.	
	- Mu		
APPLIC	ANA	AUTHORIZED AGENT	

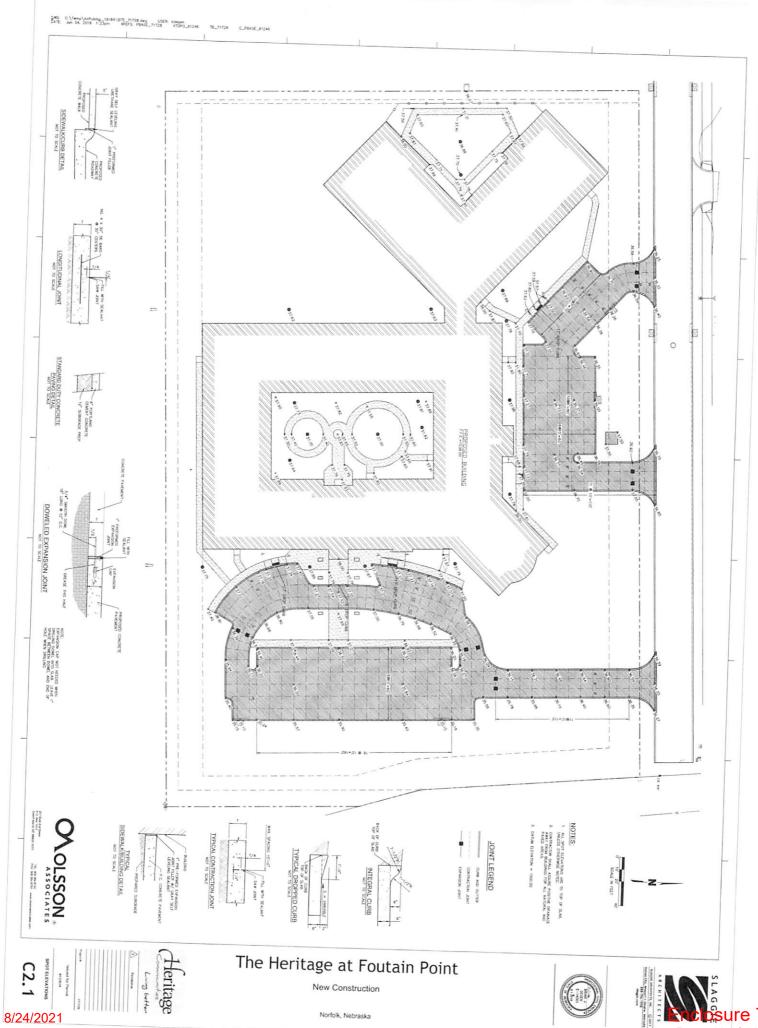
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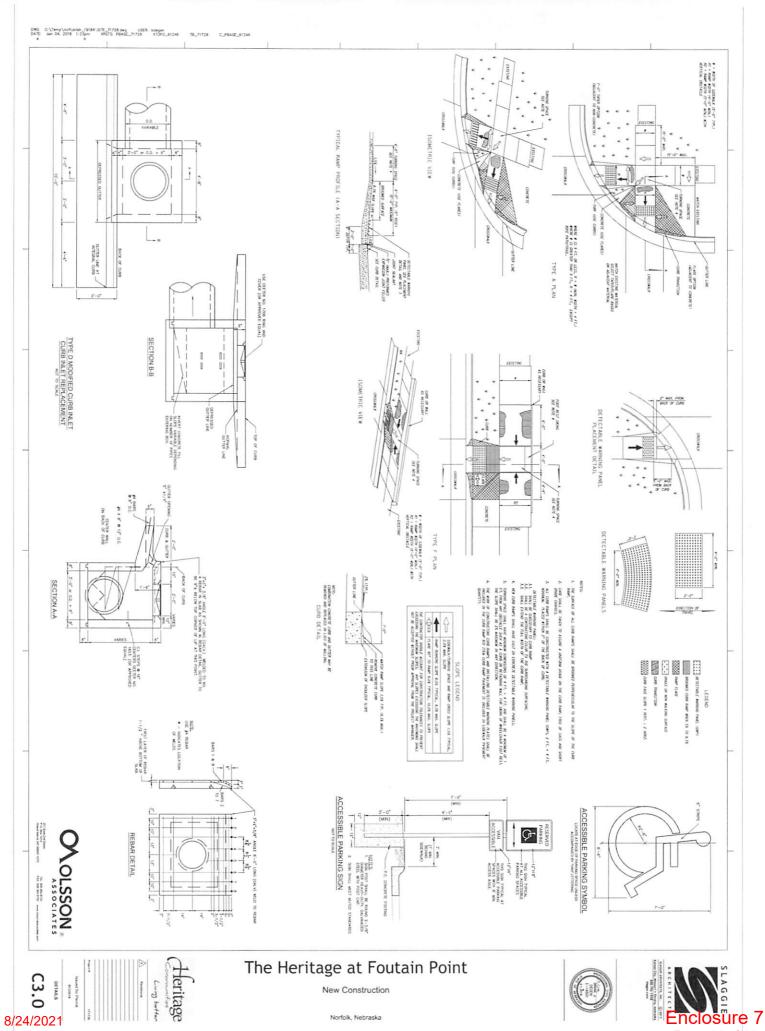


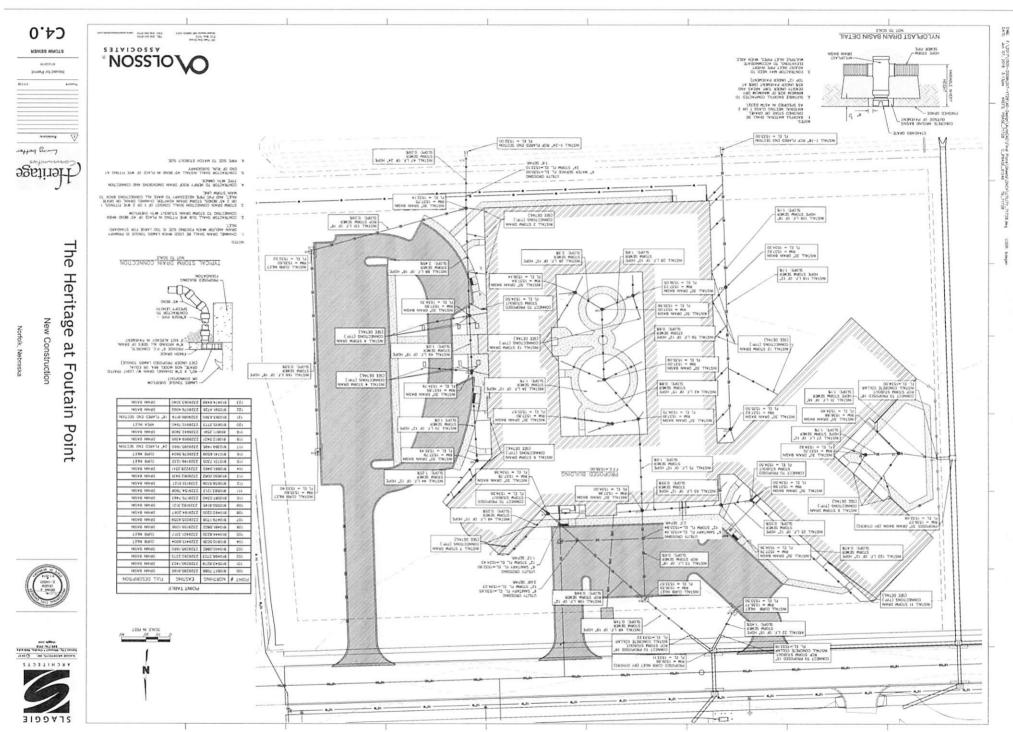
Enclosure 7
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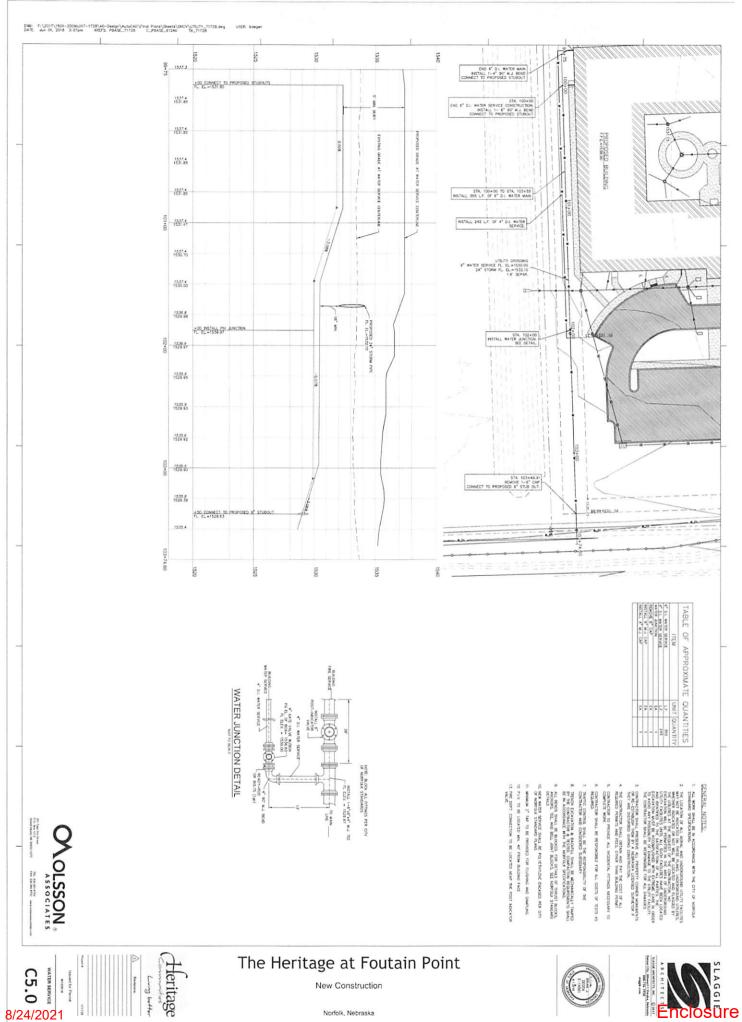




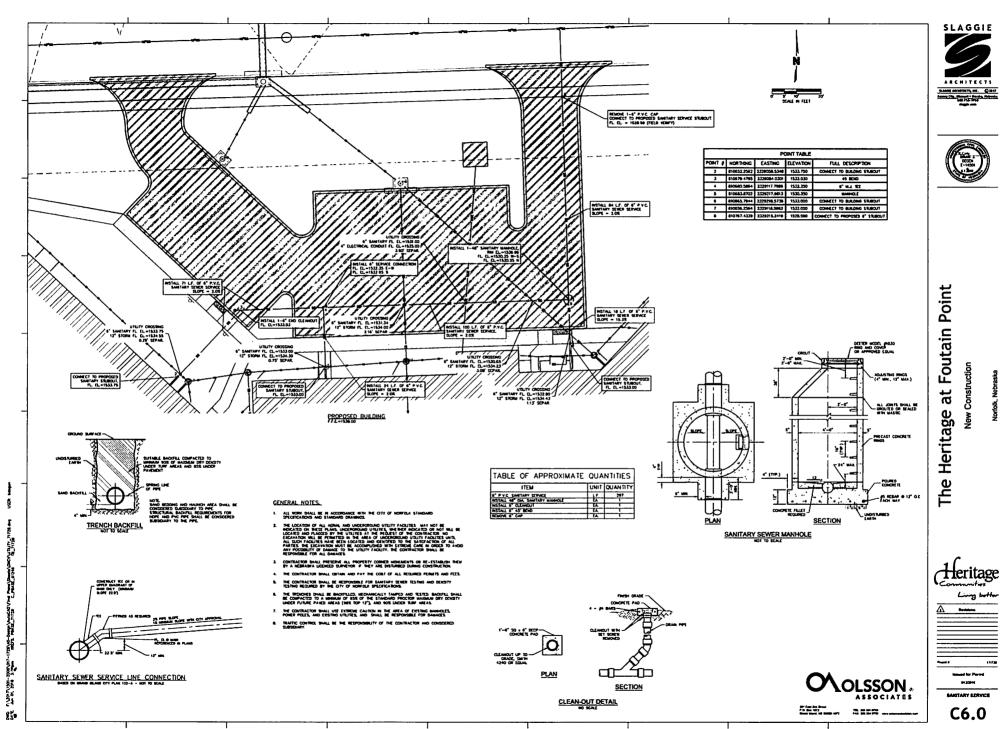








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Board of Zoning Adjustment Public Hearing Notice

The Board of Adjustment of the City of Norfolk, Nebraska will hold a public hearing on Tuesday, August 24, 2021 at 6:00 p.m. in the City Council Chambers, 309 N. 5th Street, Norfolk, Nebraska at the request of Heritage Communities on behalf of Heritage at Fountain Point, LLC, for a height, size, and setback sign variance at the following property addressed as 3725 W Madison Avenue, described as follows:

Lot 3, Fountain Point Addition, City of Norfolk, Madison County, Nebraska

Publish (August 13, 2021)

1 P.O.P.