



112 West Washington Avenue

Fergus Falls, MN 56537

Phone: 218-332-5434

e-mail: [building.zoning@ci.fergus-falls.mn.us](mailto:building.zoning@ci.fergus-falls.mn.us)

[www.ci.fergus-falls.mn.us](http://www.ci.fergus-falls.mn.us)

## Variance

Application fee should be made payable to The City of Fergus Falls upon submittal of completed application. Please complete the application by typing or printing in ink. Use additional paper if necessary.

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### 1. Property Owner Information:

Company name: City of Fergus Falls

Last name: Yavarow First name: Brian

Address: 112 West Washington Avenue City/State/Zip: Fergus Falls, MN 56537

Phone number: 218-332-5413 Email address: brian.yavarow@ci.fergus-falls.mn.us

### 2. Applicant Information: (if different from above)

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Company name: \_\_\_\_\_

Last name: \_\_\_\_\_ First name: \_\_\_\_\_

Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_ Email address: \_\_\_\_\_

### 3. Address(es) of Property Involved: (if different from above)

See Attached Sketch

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### 4. Zoning Designation: \_\_\_\_\_

### 5. Comprehensive Plan Designation: \_\_\_\_\_

**6. Statement of Intent:** Over the past couple of years the City of Fergus Falls has under took extensive planning and Design Development for improvements along the Ottetail River through Downtown Fergus Falls. The process has included numerous hours of public engagement, public meeting and stakeholder meetings. Through the planning process the City of Fergus Falls has put together a plan to construct several improvements along the Ottetail River. The improvements include the construction of Market Structure and Bike/Walking trail in the area between Union Avenue and Court Street. In the area between Court St and Mill

Street an extension of the bike/Walking trail along with Restrooms and an Amphitheater are planned to be constructed. A shade structure or pergola is also planned to be built near a splash pad/bubble jet feature. This feature will be design to mimic the river and river features. Due to the grades in this area a large river edge wall will also be constructed to support the structure to be built in this area. In this area a Bike/Pedestrian bridge will also be constructed to allow for users of the Bike/Walking path to cross to the South side of the river. From the landing of the Bike/Pedestrian Bridge the existing paver walkway will be up graded to wider Bike/Walking trail section along the existing alignment. This trail will be reconstructed in this block and continue being reconstructed easterly along the existing corridor through Veterans park. This includes areas east of Mill street north of Otter Tail Power along the River. In addition to the above improvements the parking lots in the western two block of the improvements will be reconstructed to allow for these improvements.

Many of these improvements fall within the 50 and 25' setbacks from the NHWL of the river. The elevation of the river is very stable and is controlled downstream by the **PISQUE Dam**. The improvements consist mostly of impervious surfaces, throughout the corridor additional construction measures will be included to mitigate some of the additional impervious surface. These mitigation efforts include riverbank stabilization, and riverbank restoration with native plantings. Additional stormwater treatment measures are also planned to be installed to promote infiltration and treatment prior to the surface water entering the River. Currently the parking lot surface water system discharges directly into the river without treatment. The addition of sump manholes and skimming devices will promote treated stormwater entering the river during events. In addition, the existing gravity sanitary sewer service pie crossing the river near the River Inn will be removed and converted into a pressure system thus elimination the aerial crossing of the river with the sewage pipe. Trails will be slopped away from the river and built with substantial filter aggregate under to provide treatment of the water prior to entering the river. This pressurized system will also allow for the disposal of water used to clean the facilities to be discharged into the City of Fergus Fall's sanitary sewer system instead of the river.

## **7. Additional Required Information:**

### **a. Legal Description and PIN:**

ORIGINAL PLAT-FERGUS FALLS LOTS 16, 17, 18 & 19 BLK 21 & RESERVE 69 **71003990305000**

ORIGINAL PLAT-FERGUS FALLS LOTS 16 & 17 BLK 20 & W 55' OF S 100' OF RES 67 & ALL OF RES 68  
**71003990290000**

AMENDED PLAT - CITY OF FF RESERVE 78 **71004990211001**

AMENDED PLAT - CITY OF FF RES 80 EX TRS, N 20' OF RES 81, RESERVES 82 & 83 EX TRS & ORIG PLAT  
LOTS 1, 2, 3 & 4 BLK 17 **71001990211000**

AMENDED PLAT - CITY OF FF E 187.5' OF P RES 80 S OF LN PARALLEL TO N LN RES 79 & 225' N OF N LINE OF  
RES 79 BLK 80 **71001990209000**

AMENDED PLAT - CITY OF FF ALL RES LOT 80 LYING N OF LN 225' N OF N LN OF RES 79 PT BLK 80 & ALL OF  
DAM WRIGHT HYDRO PLANT & SUB F7146 **71001990208000**

AMENDED PLAT - CITY OF FF RES 80 EX TRS, N 20' OF RES 81, RESERVES 82 & 83 EX TRS & ORIG PLAT  
LOTS 1, 2, 3 & 4 BLK 17 **71001990211000**

AMENDED PLAT - CITY OF FF RES 80 EX TRS, N 20' OF RES 81, RESERVES 82 & 83 EX TRS & ORIG PLAT  
LOTS 1, 2, 3 & 4 BLK 17 **71001990211000**

**b. Written Narrative:** As discussed previously the City of Fergus Falls has completed extension public engagement and stake holder meetings. Through this extensive information and opinion gathering it was determined that the elimination of any parking spaces in the adjacent parking lots need to be minimized to the greatest extent possible. The parking lots in these areas serve many businesses throughout the entire downtown. Throughout the design development process minimizing parking lot and parking space removal was driving force in the design and placement of the improvements. This design criteria has been meet by only removing the southernmost parking spaces in each of the parking lots. Just removing them was not an option for the project. The redesign of the parking lots required the parking lots to be redesigned and reconstructed to maximize the number of parking spaces in the reconstructed lots thus minimizing the amount of parking spaces that will be lost with the project. The reconstruction of the parking lots also allows us the opportunity to address the existing surface water drainage of the parking lots and allow us to design he drainage patterns for allow more water to be treated prior to discharging into the river.

Open space for constructing these improvements is a premium in the downtown riverfront area. We have maximized our use of the space to allow for public use of the spaces and opportunity to reconnect the downtown to the river. The spaces will allow for increased use and enjoyment of the river.

The trail that will be reconstructed will connect to other regional trail corridors which will attract additional visitors to the Fergus Falls downtown and allow for longer and better uses of the facilities. The additional width will allow for a safer biking/walking experience for the users, also the replacement of the existing paver brick surface will create a more uniform surface to allow for use of the trail by those users with disabilities, the bike and pedestrian trail has been design to be ADA compliant. These requirements require addition width and minimal cross slope longitudinal slopes and shoulders. The additional width will require some areas of the trail to be build up with material to provide for sufficient width to construct the trail. These areas area along the existing corridor between Mill and Cascade and from Cascade to Veterans park.

**c.** This narrative should fully explain the “practical difficulty” that justifies the departure from the strict application of the Code. Neither mere inconvenience nor reduction in value is sufficient on its own to justify a variance, and the inability to put property to its highest and best

use is not considered a practical difficulty. The problem that justifies the variance must be caused by conditions beyond the control of the applicant. The applicant cannot create the condition that requires the variance.

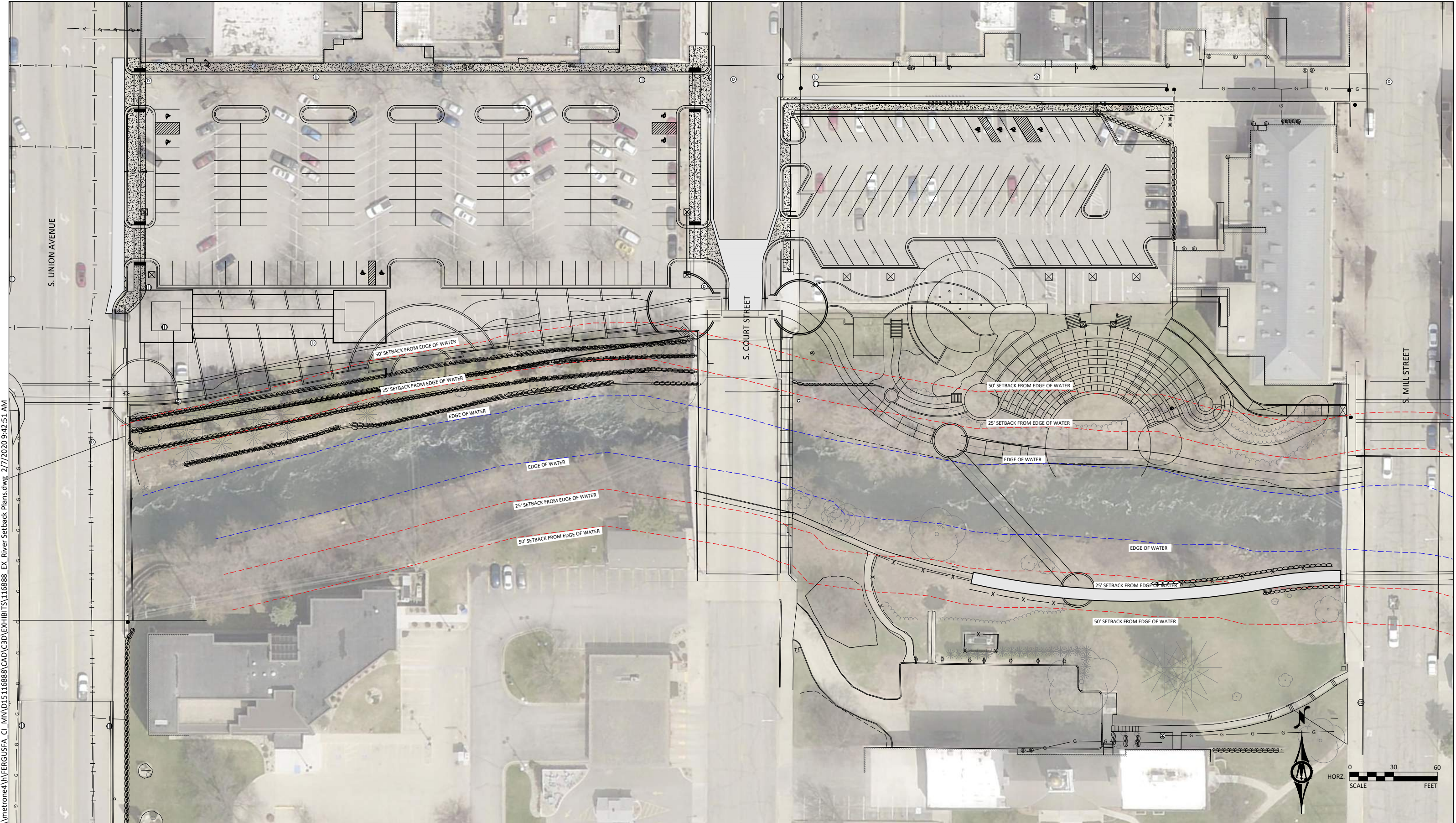
**d. Proposed Plans:** Including but not limited to a scaled site plan, a landscape plan, grading and drainage plan, and exterior building elevation drawings showing building materials may also be required if deemed necessary by the Building and Zoning Department. Such plans shall be on 8½"x 11" or 11"x 17" paper or in PDF digital format. In cases of multiple variances, the applicant may be required to submit a property boundary and building survey.

**8. Signature(s):** By signing below, you attest that the information above and attached is true and correct to the best of your knowledge.

*Property Owner:* \_\_\_\_\_ *Date:* \_\_\_\_\_

*Applicant:* \_\_\_\_\_ *Date:* \_\_\_\_\_

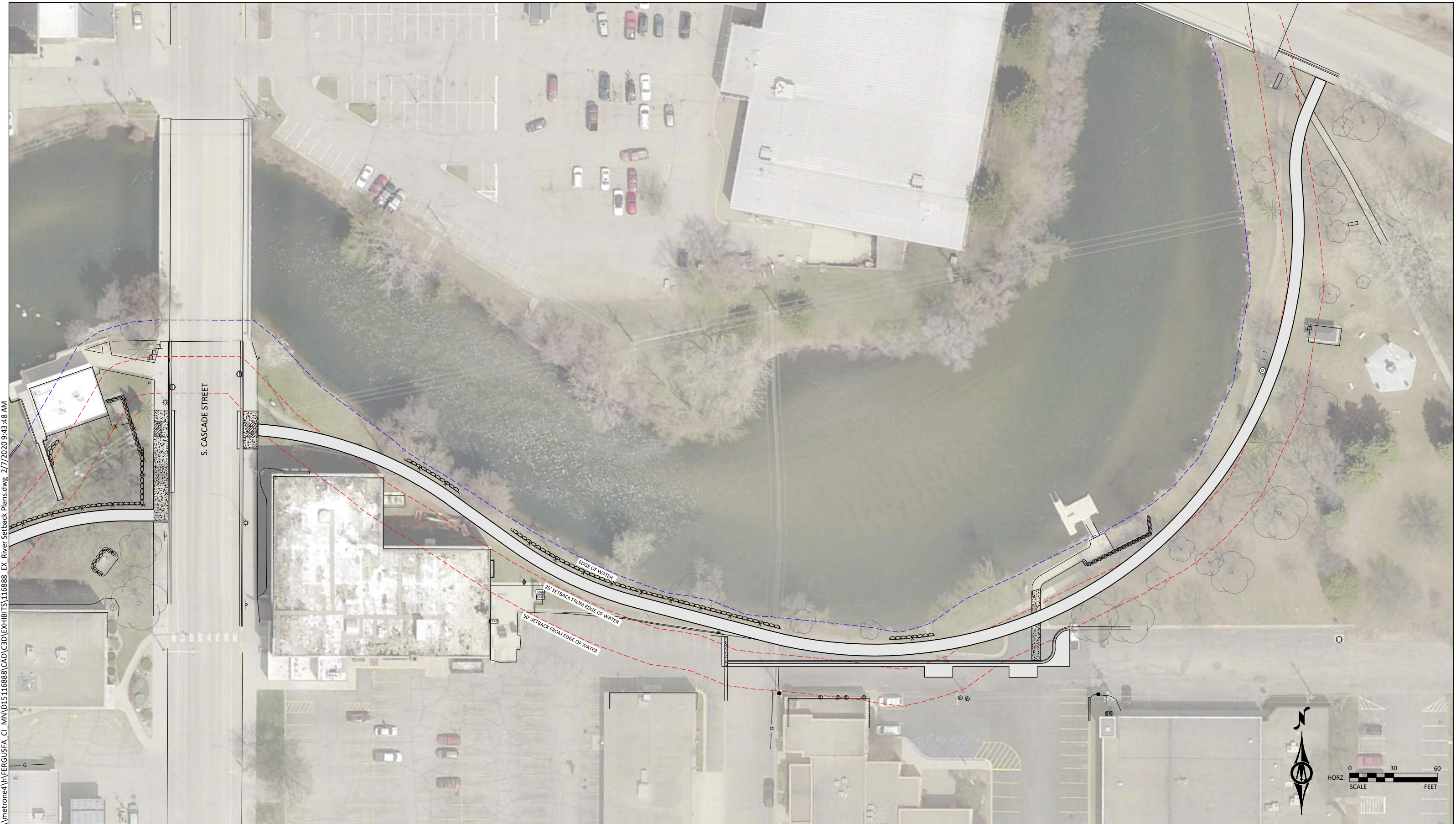
**Applications for Variance must be received by the close-of-business on the second and fourth Friday of each month; Applications received after this date will not be processed until the following deadline date.**



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# Planning Commission Staff Report

**Planning Commission Public Hearing Date:** February 24, 2020

**City Council Meeting:** March 2, 2020

**Subject:** Case# V-2020-01: City of Fergus Falls Downtown Improvements.

The City of Fergus Falls is asking for a variance to construct a bridge, walking paths, retaining walls/viewing platform, and an amphitheater within the 50' structure setback. These additions will also increase the impervious surface of these lots over the allowed 30% coverage.

	DATE
Application Received	January 24, 2020
Notices Published in Daily Journal	February 13, 2020
Notices Mailed to 350 foot area	February 11, 2020
PC Hearing to be held	February 24, 2020
60 Day Deadline	March 24, 2020

## **Standards of Evaluation**

- City of Fergus Falls Zoning and Subdividing Ordinance
  - 7.11 (E)(4)

The practical difficulties test, consists of the following criteria:

  - The property owner proposes to use the property in a reasonable manner, but one which is not allowed by the city's zoning ordinance
  - The land owner's situation is due to circumstances unique to the property not caused by the landowner. Uniqueness generally relates to the physical characteristics of the particular piece of property and economic considerations alone "do not constitute practical difficulties."
  - The variance, if granted, will not alter the essential character of the locality. This factor generally contemplates whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.
  - The request must also be consistent with the ordinance criteria and comprehensive plan.
- 7.35 Shoreland Management Overlay District
  - Requires impervious surface limits of 30% of the lot.
- Appendix D: Shoreland Overlay Setback Requirements
  - Building setback from ordinary high-water mark of 50 feet. The shore impact zone is then the first 25 feet from the OHWM.
- Minnesota Statute Section 462.357, SUBD. 6 provides:
  - a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
  - b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that (a) the property owner

proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

**Department Comments:**

Substantial work in designing these improvements as well as many hours of public engagement have led this project to where we are today. This project will create a public space for citizens to enjoy the riverfront area as well as be an improvement for stormwater retention and treatment. A large portion of the eastern portion of the park will be left in open space with the new development mostly being in the area around city hall and the county office buildings.

In reviewing the actual construction, most of the amphitheatre is outside of the 50' setback, only a portion of it is within. The stage area is mostly located within the shore impact area, but due to the area of the amphitheater, this location is only logical. The walking path's location varies throughout the project but is only located within the first 25' of the river when necessary to get around buildings or parking lots, cross the river on the bridge or due to being an upgrade to the existing path located there.

**Proposed Findings:**

**Setbacks**

1. The variance is in harmony with the general purposes and intent of the City's Zoning Ordinance, because most of the significant construction is outside of the structure setback. The structures located within the setback are for viewing the river, necessary paths for crossing the river, the stage area and part of the amphitheater that is needed due to the existing topography and provides the culture of the area the city is trying to showcase with the development. Some of the paths within the setback are existing paths that are being brought up to ADA compliance and are in this area due to existing structures or parking areas.
2. The city does not have a comprehensive plan; therefore, this criteria question is not applicable, but the downtown riverfront master plan the city has adopted supports these improvements. That plan went through a city planning and public engagement process and was the driving force behind these improvements.
3. The applicant proposes to use the property in a reasonable manner, because this area will be a hub for the community in providing a farmer's market, water feature, trail connections and public arts and music. The river's location within the community is put on display with these improvements all reasonable efforts are being done here to improve the use of this property for the general public.
4. The plight of the landowner is due to circumstances unique to the property, not created by the landowner, because the river's topography leads partially to the need and the desire to have the river featured part of the community. The topography provides for a natural amphitheater structure that can fit in this area well, but the stage area will need to be located within the structure setback to make the design work. The city provides for public parking

in this area, so the parking lot areas are trying to be maintained while still providing the new improvements in this area.

5. The variance, if granted, will not alter the essential character of the locality, because this area is already being used for public spaces with county and city buildings and parks. The existing paths will be improved to accomplish ADA requirements. This area is at the core of the city and will only be further enhanced for public use with all of these amenities. There will be a good amount of open space left on the park east of cascade street.
6. The need for the variance involves more than economic considerations, because many of these improvements are existing features, the improvement to the stormwater retention drives the need for the location of some of the structures and being this is a public improvement project, there are many factors that go into the design, such as maintaining as much parking for the downtown as possible as well.

#### Impervious Limits

1. The variance is in harmony with the general purposes and intent of the City's Zoning Ordinance, because most of the significant construction is outside of the structure setback. Significant improvements to the stormwater treatment will be accomplished will help offset the need for less setback for these structures. Currently the parking lots are not being treated before entering the river, with these improvements that will be changed.
2. The city does not have a comprehensive plan; therefore, this criteria question is not applicable, but the downtown riverfront master plan the city has adopted supports these improvements. That plan went through a city planning and public engagement process and was the driving force behind these improvements.
3. The applicant proposes to use the property in a reasonable manner, because this area will be a hub for the community in providing a farmer's market, water feature, trail connections and public arts and music. The river's location within the community is put on display with these improvements and all reasonable efforts are being done here to improve the use of this property for the general public. The downtown area does not have an impervious limit outside of the shoreland area, so it is consistent with other development.
4. The plight of the landowner is due to circumstances unique to the property, not created by the landowner, because the river is the main driver behind this project. The intent of the ordinance to limit impervious surface is to help manage stormwater. These improvements will improve stormwater management. Also, the city is trying to utilize areas and greenspace together for the public to use in the downtown core. Since this is a downtown area on a river side, this is a unique restriction.
5. The variance, if granted, will not alter the essential character of the locality, because this area is already being used for public spaces with county and city buildings and parks. Most of the development outside of the shoreland area is well over the limits of the shoreland area in the B-3 zone. Therefore, the character of the area is higher limits of impervious. This area is at the core of the city and will only be further enhanced for public use with all of these amenities. There will be a good amount of open space left on the park east of cascade street.
6. The need for the variance involves more than economic considerations, because many of these improvements are existing features, the improvement to the stormwater retention drives the need for the location of some of the structures and being this is a public

improvement project, there are many factors that go into the design, such as maintaining as much parking for the downtown as possible as well.

**Staff Recommendation:**

Based on the above findings, staff recommends approval of the variances based on the findings above and conditions below.

**Recommended Conditions:**

1. Must abide by all laws pertaining to stormwater management.

However, the Planning Commission should consider all facts and testimony after conducting the public hearing and render a decision accordingly.

**Alternative Courses of Action:**

**Motion to Approve:**

**Should the Planning Commission choose to recommend approval of the variance, a motion should be made to recommend approval of the variance based on findings of fact.**

**Motion to Deny:**

**Should the Planning Commission choose to recommend denial of the variance, a motion should be made to recommend denial of the variance, stating the reason(s) for denial.**

**Motion to Continue:**

**Should the Planning Commission need further information to make an informed decision on the variance request, a motion should be made to recommend continuing the item until the next Planning Commission meeting, stating the reason(s) for tabling, including the information requested.**

**Originating Department:** Community Development Department

**Respectfully Submitted:** Darrin Welle

**Attachments:**

- Location and Buffer Map
- Application
- Public Hearing Notice