



CITY ZONING COMMISSION
AGENDA-Tuesday, March 3, 2015, 4:30 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

Call the meeting to order.

Introduction of City Zoning Commission Members and Planning Department Staff.

Public Comment

Approval of Minutes

The City of Billings Zoning Commission met on **Tuesday, February 3, 2015** in the Miller Building 1st floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff

a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- a. Opening of public hearings.
 - b. Reading of rules for the procedure by which the public hearings will be conducted.
 - c. Reading of notices of the public hearings on the following items:
8. Public Hearings:

- a. **Zone Change #933 – 1229-1239 Poly Drive:** This is a zone change from Residential 9,600 (R-96) to Residential 6,000 (R-60) on Lots 15-19, Block 1, College Subdivision, 1st Filing, a 17,500 square foot parcel of land, for an existing 6-plex multi-family dwelling, generally located at 1229-1239 Poly Drive. The City Council initiated this zone change on January 12, 2015 at the request of the property owner.
- b. **City Special Review #923 – 960 S 24th St West:** This is a special review request to allow the location of an All Beverage Liquor License with gaming in Suites F & G (a 3,470 sf tenant space) in a Controlled Industrial (CI) zone, Lot 4A, Block 3, Midland Subdivision, 3rd Filing. The property is about 2 acres in size and is generally located at 960 S 24th Street West.
- c. **City Special Review #924 – Bench Boulevard:** This is a special review to allow four, nine-plex multi-family buildings (36 dwelling units) in a Residential 6,000 (R-60) zone on Lot 4, Block 1, Chalice Acres Subdivision, a 1.98 acres parcel of land, generally located west of 1442 Bench Boulevard. The property received previous special review approval for 7 four-plex multi-family dwellings (28 units) in 2008.
- d. **City Special Review #925 – 72 & 77 Lily Valley Circle – Retirement Center:** This is a special review to allow a retirement center with 15 units in a 16,438 square foot addition to an existing assisted living residence in a Residential 9,600 (R-96) zone on Lots 26 and 27, Block 2, Howard Heights Subdivision and additional land (13,151 square feet) from adjacent owners to the south and east, a 34,429 square foot parcel of land. The property received previous special review approval for an assisted living home in 2005. The owner is BLW Investments, LLC and the agent is AT Architecture, Inc.
- e. **Zone Change #934 – Text Amendment –** This is a City Council initiated amendment to the Unified Zoning Regulations Section 27-601(a) and 27-606 to allow the off-street parking and storage of Class A or Class D tow trucks in all residential zones. The City Council initiated this zone change on February 9, 2015 at the request of the Yellowstone Valley Tow Truck Association. There is a companion ordinance amendment to 24-406 that regulates on-street parking of similar vehicles. This is not part of the Zoning Regulations. The Zoning Commission may take comment on this item but will only forward a recommendation on the proposed amendments to the Zoning Regulations 27-601(a) and 27-606.

Other Business/Announcements

Adjournment

The City Council has designated **Monday, March 23, 2015 at 6:30 p.m.** in the City Council Chambers as the time and place to hear testimony for or against the special review use and zone changes.

Before taking any action on an application for a **special review use**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The City Council shall take one of the following actions on these Special Review requests: 1) approve the application; 2) conditionally approve the application; 3) deny the application; 4) allow withdrawal of the application; or 5) delay the application for a period not to exceed thirty (30) days.

Before taking any action on an application for a **zone change**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a zone change other than the one advertised. The City Council shall take one of the following actions on the zone change requests: 1) approve the application; 2) deny the application; 3) allow withdrawal of the application; or 4) delay the application for a period not to exceed thirty (30) days.

As provided in Montana Code Annotated, Section 76-2-305(2), in the event of a protest petition against such **zone change** signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, **one hundred fifty (150) feet from a lot included in a proposed change**, such proposed amendment shall not become effective except by the favorable vote of two-thirds ($2/3$) of the present and voting members of the city council. For purposes of this protest provision interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the Planning Division office by 5:00 p.m. on the Friday preceding (September 19, 2014) the first reading of the amendment by the City Council.

The Zoning Commission and City Council will hear all persons wishing to speak relative to the proposed special review use and zone changes. Testimony regarding the above mentioned items may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103. Additional information on any of these items is available in the Planning and Community Services Office. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at deinest@ci.billings.mt.us

City Zoning Commission

Meeting Date: 03/03/2015

Information

Subject

The City of Billings Zoning Commission met on **Tuesday, February 3, 2015** in the Miller Building 1st floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Attachments

BZC Minutes 2015 02 03

City of Billings Zoning Commission Meeting Minutes- February 3, 2015

The City of Billings Zoning Commission met on Tuesday, February 3, 2015 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Leonard Dailey called the meeting to order at 4:30 p.m. The City Council has designated **Monday, February 23, 2015**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/08/2015	10/06/2015	11/10/2015	12/01/2015
Leonard Dailey, Jr.	Chairman	1	1										
Barbara Hawkins	Commissioner	1	1										
Dan Wagner	Vice Chairman	1	1										
Dennis Ulvestad	Commissioner	1	E										
Mike Boyett	Commissioner	1	1										
Candi Millar	Director, Planning & Community Services	-	-	-	1	-	-	-	-	-	-	-	-
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1	1	1	1	1	1	-	-
Tammy Deines	Planning Clerk	1	1	1	1	-	1	1	-	1	1	-	-
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-	-	-	-
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Lora Mattox	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Karen Husman	Planning Assistant	-	-	-	-	1	-	-	1	-	-	-	-

Total Number of 2015 Applications	01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/08/2015	10/06/2015	11/10/2015	12/01/2015	TOTAL
Zone Change	2	2											4
Special Review	1	1											2

Chairman Dailey introduced the Planning Department Staff and Commission: Nicole Cromwell, Zoning Coordinator; and Tammy Deines, Planning Clerk

Others in Attendance: Yvonne Kelly; Riley Kelly; Tom Llewellyn; Marita Herold; Fred Pierce II; Jean Pierce; Bill Stene; John Robinson; David Mitchell; Max Griffin

Public Comment

Chairman Dailey called for public comments. There were no public comments. Chairman Dailey closed the public comment portion of the meeting.

Approval of Minutes: January 6, 2015

Chairman Dailey called for approval of the January 6, 2015 meeting minutes.

Motion

Mike Boyett made a motion and Dan Wagner seconded the motion to approve the January 6, 2015 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

Chairman Dailey called for disclosures of conflict of interest. There was none.

Disclosure of Outside Communication

Chairman Dailey called for disclosure of ex parte communication. Nicole Cromwell disclosed staff received a letter concerning Zone Change #932 from Cole Law Firm on the behalf of the applicant. Copies were distributed to the Commissioners prior to this meeting.

Public Hearings:

Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and asked Ms. Cromwell to open the next agenda item. Ms. Cromwell read aloud the legal notice and gave an overview of the application and staff's recommendation.

Item #1: Special Review #922: This is a special review request to allow a new 100 foot wireless communication tower and ground equipment within 1 mile of another communication tower over 50 feet and a special review to allow a new wireless communication tower over 50 feet in a Public (P) zoning district at the Billings Airport. The property is directly adjacent to an existing 100-foot wireless communication tower owned by Verizon Wireless. The tower is on a proposed lease parcel of 4,200 square feet within Tract 1 of C/S 2334 generally located at 284 Southview Drive just north of Highway 3. The intended lease holder is Network Information Systems and the agent for the City of Billings is Tom Binford, Aviation and Transit Director.

RECOMMENDATION

The Planning Division is recommending conditional approval and a waiver of the 1-mile separation requirement based of the findings of the 3 review criteria for Special Review #922.

The Planning Division recommends approval, subject to the following conditions:

1. The special review approval is for the construction of a 100-foot tall wireless communication facility and ground base equipment shelter.
2. The approval is limited to the proposed 4,200 square foot lease parcel as shown on the submitted site plan dated March 11, 2014, generally located at 284 Southview Drive in Tract 1, C/S 2334.
3. Minor modifications of the tower are allowed as follows: the addition of more antenna arrays, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
4. The site will be developed in substantial conformance with the submitted site plan dated March 11, 2014. Minor modification of the site plan are allowed within the proposed 4,200 square foot lease area.
5. The site is granted a waiver of the 1-mile separation distance to another wireless communication facility over 50-feet in height (BMCC 27-620(g) 11) since it is technically infeasible to place the required antennae on any existing tower within 1 mile or to re-locate the facility to another location 1 mile or more from the proposed location.
6. A building permit must be applied for within six (6) months of special review approval and the project shall be completed within one (1) year from the date the special review is granted by the City Council
7. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
8. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Mike Boyett asked for clarification on the purpose of this request. Nicole Cromwell stated this provider needs additional space to provide service and there is not enough room on the existing tower to accommodate additional antennae. Leonard Dailey asked about Staff's position on the waiver for the 1-mile separation distance. Nicole Cromwell referenced the City Code and explained if this request were not approved, the 100-foot facility would be required to move one mile away from the existing facility; this would be very difficult to do with the rim face and topography.

Public Hearing: Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #922

Proponents

Jonathan Robison, Network Information Systems, 8428 King Avenue West, Billings, Montana

Mr. Robison said he made a considerable effort to find a suitable site, and he pointed out the limitations of the airport and the rim face. He said there is limited capacity of building rooftops that can hold an antenna. Mr. Robison stated this location is preferred by the airport due to the existing utilities and the fact the new tower will be virtually invisible due to the existing tower. Network Information Systems is the intended lease holder for the 100-foot wireless communication tower. They intend to supply reliable data services to Billings businesses as an independent provider not associate with a large carrier. Dan Wagner asked about the longevity for capacity for this site. Mr. Robison said it is conceivable this could last indefinitely with tower replacements. The time frame for construction will include a portable temporary enclosure after the lease is approved and follow with the permanent structure once the weather permits.

Marita Herold, City of Billings Aviation and Transit Business Manager, 1901 Terminal Circle, Billings, Montana

Ms. Herold is attending on behalf of Tom Binford, Director of Aviation, and agent. Leonard Dailey asked about the overall Airport's position on this request. Ms. Herold stated they were contacted regarding a site in this vicinity over a year ago. They referred him to Verizon who has a collocation requirement but chose not do to so as they expanded for the 4G communications. Ms. Herold stated any changes require FAA approvals. She said the airport is supportive of locating this tower at this location as they prefer to cluster the towers. They plan to work with the applicant with the fencing and access. She said this is a 42,000 square foot parcel under a 10 year lease which is based on the square foot on the ground plus an antennae fee. Mike Boyett asked if this will be an "antenna park". Ms. Herold explained it has been quite some time since the last request but capacity is becoming an issue with the expansion of cellular use. In response to a question by Dan Wagner, Ms. Herold stated consideration of liability of environmental conditions is part of the lease. Mr. Robison stated FAA approval has been submitted and approved for this tower.

Opponents

There was none. Chairman Dailey closed the public hearing for City Special Review #922.

Motion

Commissioner Dan Wagner made a motion and Commissioner Hawkins seconded the motion to forward a recommendation to City Council of conditional approval of City Special Review #922 with the and Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Mike Boyett commented this is a “win” for all concerned. Dan Wagner pointed out the benefits to the community of more providing additional cell service and the revenue generated to the City.

The motion to approve City Special Review #922 carried with a unanimous voice vote, 4-0.

REQUEST

Zone Change #931: This is a zone change from Residential 7,000 (R-70) to residential 6,000 (R-60) on Parcel A of amended Tracts A-G of C/S 87 and an unplatted portion of Section 5, T1S, R26 E, for the proposed Midway Townhomes development. The property is located on Yellowstone Avenue between 10th St West and 11th St West. The parcel is about 3 acres in area. The applicant conducted a pre-application neighborhood meeting on December 17, 2014, at the Shrine Lodge Room, 1125 Broadwater Avenue.

RECOMMENDATION

The Planning Division is recommending approval of the zone change and adoption of the findings of the 10 criteria.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. In response to a question by Mike Boyett, Nicole Cromwell stated the City Engineer and the applicant have started on a development plan through a Master Site Plan Review and discussed Yellowstone Avenue. She said the alleyway will remain; she thought parts of Yellowstone Avenue may be open to the public. She noted the points of connection for the city services for water and sewer. Leonard Dailey commented this is an interesting property due to the street configuration. Nicole Cromwell said there will be further discussion as to what will be closed off on 10th Street and 11th Street. Dan Wagner asked if there will be legal issues with this reclamation as the public has used this for a “cut through” access for several years. Nicole Cromwell gave further explanation and said this should not be preventive easement onto this property.

Public Hearing

At 5:00 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #931.

Tom Llewellyn, 1925 Grand Avenue, Billings, Montana

Mr. Llewellyn is the agent for applicants Yvonne and Riley Kelly. He stated they have come to terms through the site plan review and pointed out the street configuration. The storm water management will be handled on site; the water will come into a water vault and distributed. The plan is to build fourteen duplexes and one single unit. There will be no alley loading garages. He said the neighborhood meeting had a good representation of attendees. He stated there will be one way in and one way out off of Lewis Avenue and 11th Street West and a gated emergency exit. He state the contractors will be ready to start this project within 30 days following City Council approval.

Chairman Dailey closed the public hearing at 5:18 p.m.

Motion

Commissioner Hawkins made a motion and Commissioner Boyett seconded the motion to forward a recommendation to City Council of approval of City Zone Change #931 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. It was the consensus of the Commission this project will be a positive addition to the City.

The motion to approve City Zone Change #931 carried with a unanimous voice vote, 4-0.

REQUEST

Zone Change #932: This is a zone change from Residential 7,000 (R-70) to Community Commercial (CC) on the north 36,000 square feet of Lots 2 & 3, Pierce Subdivision. The total area of the property includes lots 1 and 2 of Block 2, in Robbins Subdivision and is a total of 1.72 acres. Only the northern 36,000 square feet is proposed for this zone change. The property is located at 808 Grand Avenue. A pre-application neighborhood meeting was held at 805 Alderson Avenue on December 18, 2014.

RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the 10 criteria for this zone change.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission.

Public Hearing

At 5:30 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #932. Mike Boyett asked there has been an agreement between the parties since the original application submitted last fall. Nicole Cromwell said this application was delayed and withdrawn; and another pre-application meeting was held to address the neighborhood issues that were brought up originally. Per request of Leonard Dailey, Nicole Cromwell explained potential uses with

approved zoning and the design for traffic mitigation. She stated there will not be an access onto Grand Avenue from this property.

David Mitchell, 1010 Central Avenue, Billings, Montana

Mr. Mitchell is the agent for property owner, 808 Grand, LLC, and (Max Griffin). The applicant is proposing to retain the residential zoning on the south to prevent encroachment of intense commercial uses on the neighborhood on Alderson Avenue. He explained the circumstance around the delay of the application submittal. He said this request falls in line with the City's infield policy. At this time they do not have a proposal for the use but are looking toward retail or office space. They feel the Community Commercial zoning will make the best use of the property. He pointed out potential locations for a relocated access. He said they have been in communication with Bill Cole, who represents the Pierce family.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #932.

Fred Pierce III, 824 Grand Avenue, Billings, Montana

Mr. Pierce stated the letter submitted by his representative Mr. Bill Cole states his objections. Mr. Pierce said he would like to protect the spring and its outlet and their access which has been in place since 1939. He does not want a driveway through their yard. He voiced concern with the proposal for commercial zoning. He is in protest of this application.

Jean Pierce, 824 Grand Avenue, Billings, Montana

Mrs. Pierce said they have spent a lot of work, time, and money developing their back yard off of Alderson, and they would be disheartened if it were ruined by the driveway access. She stated they want the environment protected along with the spring. They understand the need for development but are concerned with several issues.

Rebuttal

David Mitchell, 1010 Central Avenue, Billings, Montana

Mr. Mitchell said they are working to locate the piping for the spring. He stated they will do all of the research necessary and the Building permit review will address the issues with the spring. Nicole Cromwell said the City Engineers said Van Bramer Drain originated north of Grand Avenue and was piped when Grand Avenue was rebuilt from 8th Street West to 13th Street West. Mr. Mitchell said they do not intend to remove water from the spring. He said if they proposed to redirect the driveway, they have expressed willingness to mitigate some of the cost of the landscaping.

Chairman Dailey asked if there was anyone else wishing to speak in favor of City Zone Change #932. There was none. Chairman Dailey closed the public hearing at 5:51 p.m.

Motion

Commissioner Boyett made a motion and Commissioner Hawkins seconded the motion to forward a recommendation to City Council of approval of City Zone Change #932.

Discussion

Chairman Dailey called for discussion on the motion. Dan Wagner expressed unease with this proposition with the potential driveway going through the other property. He suggested an access onto Alderson would be a better solution. Mike Boyett expressed a desire for the two parties to come up with an agreement for an attractive access onto Alderson and suggested a 30-day delay to negotiate an access easement. Leonard Dailey voiced consternation with the inability of the applicant's attorney to attend and asked the applicant for his input on a potential delay.

Max Griffin, Action Electric, (maxg@ctionelect.com)

Mr. Griffin stated the problem is the Pierces are under no obligation to do anything with their easement, and they have been reluctant to consider an alternate access. Mr. Griffin is not in favor of a delay, and said he would be more than happy to meet with the Pierces.

Jean Pierce, 824 Grand Avenue, Billings, Montana

Mrs. Pierce stated she feels that approval of the Community Commercial zoning leaves them with no options.

The motion to approve City Zone Change #932 is forwarded with not recommendation to CC with a 2-2 vote, with Commissioner Wagner and Commissioner Dailey opposing.

Other Business:

--The next meeting will be held on March 3, 2015

Adjournment: The meeting adjourned at 6:10 p.m.

ATTEST: DRAFT TO BE APPROVED ON MARCH 3, 2015

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk



City Zoning Commission

Meeting Date: 03/03/2015

SUBJECT: City Zone Change 933 - 1229/1239 Poly Drive

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Zone Change #933 – 1229-1239 Poly Drive: This is a zone change from Residential 9,600 (R-96) to Residential 6,000 (R-60) on Lots 15-19, Block 1, College Subdivision, 1st Filing, a 17,500 square foot parcel of land, for an existing 6-plex multi-family dwelling, generally located at 1229-1239 Poly Drive. The City Council initiated this zone change on January 12, 2015 at the request of the property owner.

RECOMMENDATION

The Planning Division has considered the request and is forwarding a recommendation of approval and adoption of the findings of the 10 criteria for this zone change.

APPLICATION DATA

OWNER: Wayne Gustafson

AGENT: None

LEGAL DESCRIPTION: Lots 15-19, Block 1, College Subdivision 1st Filing

ADDRESS: 1229 through 1239 Poly Drive

CURRENT ZONING: R-96

EXISTING LAND USE: 6-plex multi-family dwelling

PROPOSED USE: Same

SIZE OF PARCEL: 17,500 square feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Prior to 1972, the property was zoned R-1 but was granted special permission to construct a 6-unit multi-family building in 1966. The City adopted new city-wide zoning in 1972 and designated all of the property in the College Subdivision as R-96, a single family only zoning district. There was no provision in the 1972 code to allow multi-family dwelling by special review or permission of the City Council.

The City Council recently approved a similar zone change for property at 2707 13th St West (Zone Change 926) from R-96 to R-60 to allow a 6-unit multi-family dwelling to become conforming to the zoning. This property is similarly situated.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: R-96 Land Use: 2-family and single family dwellings
SOUTH:	Zoning: R-96 Land Use: 2-family and single family dwellings
EAST:	Zoning: R-96 Land Use: 2-family and single family dwellings
WEST:	Zoning: R-96 Land Use: Single family dwellings

BACKGROUND

The City has processed at least 7 zone changes in the general area of this property most from the R-96 zone to a zoning district that allows for two-family or multi-family dwellings. The Hiland Shadows Subdivision was re-zoned to Planned Development in the 1980s to allow for two-family and four-family dwellings. Further east, the city has approved zone changes on Parkhill Drive and Beverly Hill Boulevard for similar developments. The Pines Condominiums (three, two-family dwellings) at 910 Poly Drive were approved through a special review process in 1990, although the zoning remains R-96. The Sennet Condominiums at 918 – 928 Poly Drive (two, three-family dwellings) was approved through a variance in 1984. These two projects were approved through non-zone change processes that are no longer used. The special review and variance processes must be for allowed uses within the existing zoning district and cannot be used to allow prohibited uses.

The City Council recently approved Zone Change 926 (R-96 to R-60) for another 6-unit multi-family dwelling in the College Subdivision constructed just prior to the city-wide re-zoning in 1972. Mr. Gustafson, owner of this property, requested a zone change in 1966 from R1 (single family) to R3 (multi-family). That request was denied, however the City Council granted special permission to construct the 6-unit multi-family dwelling although the zoning was unchanged. This was allowed under the zoning regulations prior to 1972. The current zoning regulations do not allow multi-family by special review in the R-96 zoning district. The city-wide re-zoning resulted in placing Mr. Gustafson's property in a legal nonconforming use status. Section 27-400 of the zoning regulations allows legal nonconforming uses to continue, but does not allow those uses to be re-built or re-constructed if they are damaged by more than 50% of the replacement value at the time of destruction.

The Planning Division could not issue a "re-build" letter for this property except for 1 (one) single family residence. The owner wishes to secure his property investment to re-build a 6-unit multi-family dwelling if necessary in the future. The proposed zoning and lot area would allow this use to continue and to be re-built in the future. Although the zoning surrounding this property is all R-96, many of the lots were developed prior to the 1972 zoning. There are several 2-family dwellings as well as lots of less than 9,600 square feet within the immediate area. During the review of the previous City Council initiated zone change for property on 13th Street West, Planning staff research showed approximately 30% of the lots in the College Subdivision, 1st Filing were non-conforming for uses such as 2-family or multi-family dwellings. The College Subdivision consists of three filings that developed in 1945 and 1946. Many homes were built with "in-law" living quarters in the basement or developed with a front house and rear house to accommodate relatives. The post-war housing demand saw this type of development throughout the city.

The Planning Division has reviewed the zone change and is recommending approval based on the findings of the 10 criteria. The property is within an established neighborhood of mixed housing types and

choices. The current building is well maintained and has not caused traffic, parking, noise or other neighborhood challenges in the area. Poly Drive is a high volume minor arterial carrying approximately 10,000 vehicles per day in this area just east of the signal controlled intersection with 13th Street West, also a minor arterial street. Veteran's Park is 1 block to the west along with Rocky Mountain College just west of the park.

The 2008 Growth Policy encourages predictable land use decisions that are compatible within neighborhoods and to preserve the neighborhood integrity. The existing zoning is not compatible with the existing neighborhood since it does not allow an existing established apartment complex to be re-built if necessary. The mixture of housing types in the College Subdivision makes this area stable, affordable, and marketable. Disinvestment can occur in areas where a homogenous zoning district does not match the existing development. Legal nonconforming uses are difficult to finance, sell or insure. Most often these properties sell to a cash buyer who makes an offer based on their assumption of substantial risk since the property cannot be re-built if destroyed. Investment in the nonconforming use is diminished over time and disrepair and deferred maintenance becomes apparent. This situation also leads to diminishing market value for surrounding properties that may be conforming to the zoning but near the nonconforming use. The proposed zoning of R-60, will allow the use to become a conforming use so it will continue to be part of the neighborhood now and in the future. Any re-development of the property requires compliance with the new zoning and the ability to meet site development requirements and traffic safety standards.

RECOMMENDATION

The Planning Division recommends approval of Zone Change 933 based on the findings of the 10 review criteria.

APPROVED BY CITY ADMINISTRATOR

Attachments

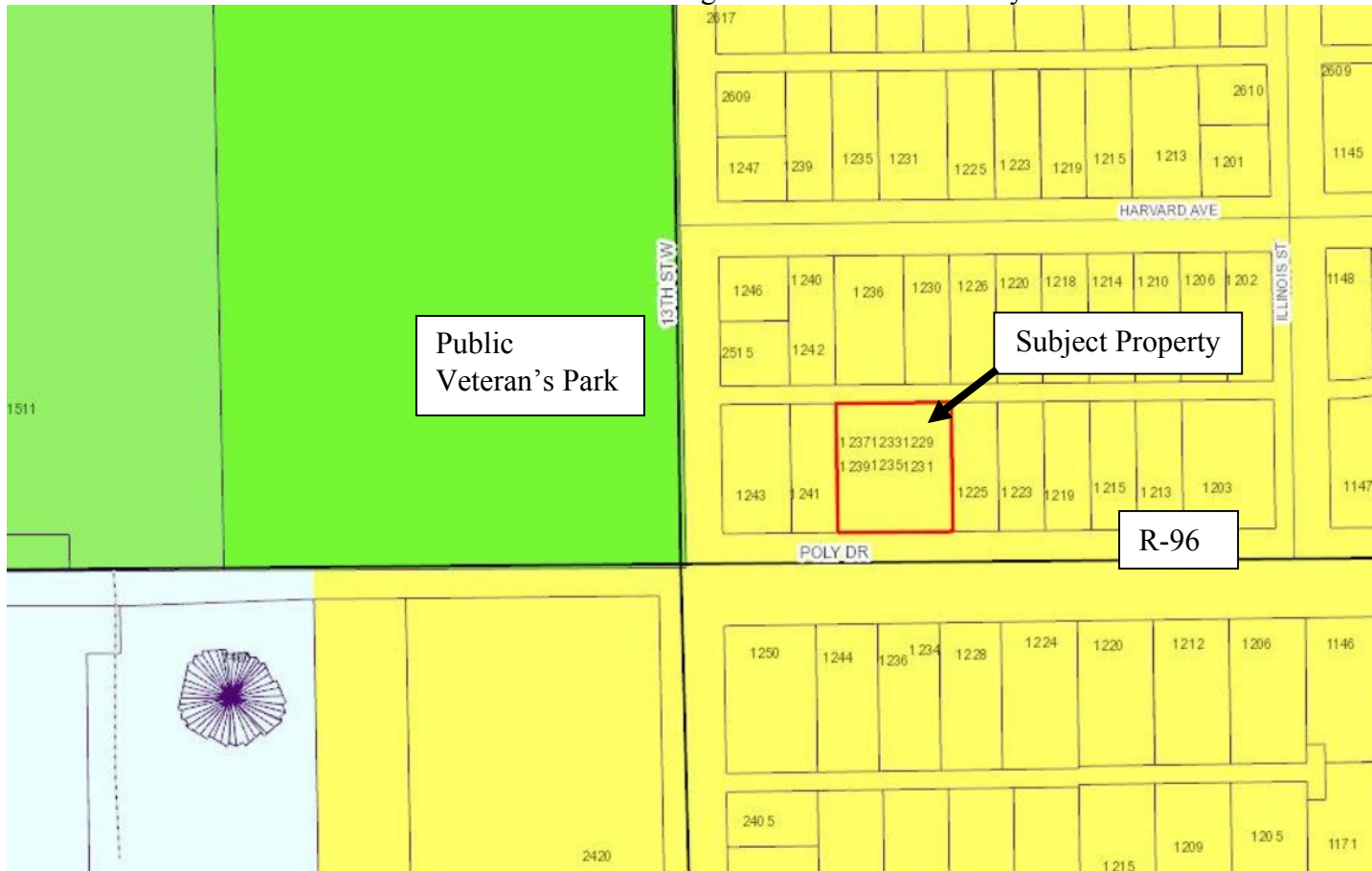
Zoning Map

Findings of the 10 Review Criteria

Site Photos

Applicant Letter and Documentation

Attachment A: Surrounding Zoning
Zone Change #933 – 1229/1239 Poly Drive



Attachment B

Zoning Commission Determinations Zone Change #933 – 1229/1239 Poly Drive

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is consistent with the following goals of the Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)*

The proposed zoning would permit the existing multi-family apartment to continue in conformity with the zoning. The development has fit in well with the existing neighborhood for more than 40 years and continued investment in the property will preserve the neighborhood integrity. The proposed zoning, R-60, is consistent with the neighborhood character and land use patterns on Poly Drive.

- *More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)*

The existing zoning is restricted to single-family only residential uses. The proposed zoning will allow the retention of the multi-family apartments on Poly Drive. This will allow the housing choice in this neighborhood to remain diverse.

2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health, safety and general welfare will be promoted by the proposed zoning. The nonconforming zoning discourages investment in the property.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning should have no impact on transportation.

Water and Sewer: The City provides water and sewer services to the property.

Schools and Parks: There should not be any impact to schools from the proposed zone change.

Fire and Police: The subject property is currently served by the city Public Safety Services.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning effect motorized and non-motorized transportation?*

Traffic generation from the apartments will not change since the maximum number of units on the lot has existed since 1967.

7. *Will the new zoning will promote compatible urban growth?*
The new zoning does promote compatibility with urban growth. The new zoning will allow investment in the property increasing property value over time.
8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*
The proposed zoning does consider the character of district and the suitability of the property for multi-family uses. The location of the property on a minor arterial street near a signal controlled intersection makes it suitable for this use.
9. *Will the new zoning conserve the value of buildings?*
The existing multi-family apartment value will be conserved by the new zoning.
10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*
The proposed zoning will permit an existing housing type in the neighborhood to continue and is the most appropriate use of the property.

Attachment C

Site Photographs, Zone Change #933 – 1229/1239 Poly Drive



Subject Property – view from Poly Drive



View from Poly Drive

Attachment C, continued
Site Photographs, , Zone Change #933 – 1229/1239 Poly Drive



View west along Poly Drive



View south across Poly Drive

Attachment C, continued
Site Photographs, , Zone Change #933 – 1229/1239 Poly Drive



View south and east across Poly Drive



Aerial View

Attachment C, continued
Site Photographs, Zone Change #933 – 1229/1239 Poly Drive



Aerial view

Attachment D

Applicant letter and documentation

December 29, 2014

Mr. Al Swanson
City Councilman, Ward 4
Billings, MT 59101

Reference: Zone change of existing property to conform to city regulations
Owner: F. Wayne Gustafson
Property: Existing six-plex located at 1229 – 1239 Poly Drive
College Subdivision 1st Filing Block 1, Lots 15-19

Dear Al,

Thank you for meeting with me recently regarding my concern that the above referenced property is not in conformance with current city zoning.

This issue occurred with a change in 1972 when the city adopted a city-wide re-zoning ordinance. This referenced property was originally properly re-zoned by the city council in 1966 to R-3-R, a designation which allowed multi-family dwellings. (attached copy of City Council meeting, November 23, 1966; William Reinhart was my partner on the construction of my apartment.)

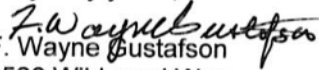
In accordance with the approved zone change, I constructed a six-unit garden type apartment on this property. I have owned and managed this apartment complex for forty-seven years, with the knowledge that it was in compliance with city zoning ordinance.

However, I recently learned that the 1972 ordinance changed all the existing zoning districts within the city. This neighborhood was changed to R-9600, resulting in a non-conforming use for my previously approved property.

It is my understanding that a similar zoning problem was reviewed by the city planning office last summer, in the same subdivision with a carefully documented report to the city council dated Oct. 14, 2014. In keeping with this historical review of the zoning process, I respectfully request that the previous approved designation of my property R-3R be granted to the present residential 6000, (R-60) zoning district.

I will appreciate any guidance you can provide to resolve this request. Recently, I have met with City-County planning staff who provided procedural suggestions which included beginning this effort through the City Council.

Very truly yours,


F. Wayne Gustafson
2520 Wildwood Way
Billings, Montana Fourth Ward
256-6220

cc: Tina Volek, City Manager
Nicole Cromwell, Zoning Coordinator
enc: minutes of City Council Nov. 23, 1966

REGULAR MEETING OF THE CITY COUNCIL MONDAY, NOVEMBER 28, 1966

The Council met in regular session in the Council Chambers of the City Hall, Monday, November 28, 1966 at 7:30 P. M. Mayor Fraser presided. The invocation was given by Alderman Glennen. Aldermen present on roll call, Hultgren, Stockton, Glennen, Wendte, Wharton, Leone, Riedl, Madson. Alderman Glenn and Smith were excused. The minutes were approved as transmitted by the City Clerk.

BIDS This being the time and place to open bids for a Van for the Fire Department, the following bids were submitted:

Frontier Chevrolet	2,291.00
Fitchner Chevrolet	2,249.55
Interstate Truck	2,350.00

The bids were referred by the Mayor to the Council as a Whole, Fire Chief.

REPORTS OF ZONING COMMISSION This meeting having been designated as the time and place to hear reports of the Zoning Commission, the following recommendations were presented: (1) That the petition to change the zone classification of the north 100 feet of Lot 3, Block 5, Sunnyside Subdivision, from "CL" to "CG" zone, be denied, but recommend that this property owner be granted a special use permit to continue the use of the property for motel purposes. This property is located at 1025 North 27th Street. (2) The petition to change the zone classification of Lots 15, 16, 17, 18 and 19, Block 1, College Subdivision from "R1R" to "R-3" zone be denied. The Zoning Commission recommends to the City Council that the owner be granted permission to construct a six unit garden apartment as provided in Article 22, of the Zoning Ordinance. This property is located at 1229 Poly Drive. (3) The petition to change the zone classification of Lots 3 thru 9, Block 1, Sanderson Subdivision from "R1" to "CL" zone be held over for further consideration. This property is located on the north side of the 1100 block of Central Avenue. There being no comments made for or against the proposed change in Sunnyside Subdivision, it was moved by alderman Wharton, seconded by alderman Leone that the recommendation of the Zoning Commission be approved. Passed on roll call.

Mr. William Reinhart appeared before the Council and presented an architects version of the structure to be constructed on the premises at 1229 Poly Drive. There being no other comments offered, it was moved by alderman Wharton, seconded by alderman Riedl that the recommendation of the Zoning Commission be approved. Motion carried.

PROPOSED ORDINANCE was presented changing the name of the Water Board to the Public Utilities Board, and changing the responsibility of operating the Sanitation Dept. to the Public Utilities Board. This was referred by the Mayor to the Public Works Committee.

COMMITTEE REPORT, RECOMMENDATION OF FIRE CHIEF for permission to send four members of the Fire Department to the Minneapolis Fire Department for instructional purposes from December 5 through 10, 1966. Funds have been provided in the 1966-67 budget. Moved by alderman Glennen, seconded by alderman Wendte that the request be granted. Motion carried.

MAYOR'S APPOINTMENT TO SANITATION DEPARTMENT This is to inform your honorable body that I this day appointed Mr. Roy Bennett to head the Sanitation Department, taking the place of Mr. Edwin Edwards who has resigned to go into business for himself. Mr. Bennett has been with the city for several years, and has proven to be a conscientious and reliable employee for the city of Billings, and is now deserving of additional responsibilities with the city. For your information, Mr. Bennett has taken the MMPI, and met other requirements. I am asking Mr. Bennett to immediately take steps to provide greater service in garbage collection in downtown Billings such as evening, or night collection. The necessity of this will be pointed up graphically during this Christmas shopping season. Your confirmation of this appointment is respectfully requested. This was referred by the Mayor to the Public Works Committee.

REQUEST OF DEAN BETZER, PATROLMAN to be granted military leave from 1 January, 1967 to 18 January 1967 inclusive for the purpose of attending active duty for training with the Armed Forces Police Detachment, pier 91, Seattle, Washington. Moved by alderman Glennen, seconded by alderman Wendte the request be granted. Motion carried.

REQUEST OF BOARD OF WATER COMMISSIONERS for authorization to install a 6" water main on Joan Lane, was presented. Moved by alderman Madson, seconded by alderman Wendte the request be granted. Motion carried.

CLAIMS FOR 1966 CITY TAXES amounting to \$22,186.57 were presented. Moved by alderman Hultgren, seconded by alderman Wendte the claims be allowed and the taxes paid. Passed on roll call.

DEPARTMENTAL CHARGES for the month of November totaling \$13,528.40 were presented for approval. Moved by alderman Hultgren, seconded by alderman Wendte the claims be allowed and paid. Passed on roll call.

RENEWAL OF LEASE between Humble Oil Company and the City for an antenna site at Billings Logan Field. Moved by alderman Stockton, seconded by alderman Wendte the lease be approved. Passed on roll call.

RESOLUTION NO. 10370 Creating S. I. D. 885 for construction of sanitary sewer to serve a portion of Heights View Subdivision was presented. Moved by alderman Wendte, seconded by alderman Wharton adoption of the Resolution. Passed on roll call.

SURETY BONDS having been approved as to form by the Assistant City Attorney were presented for Bradford Roofing, Roofers Bond, \$2,000, written by the General Insurance Company of America. Herman Neibauer, \$2,000, Excavation bond, written by the Western Surety Company. Montana Power Company, \$2,000, excavation bond, written by the Glens Falls Insurance Co. Moved by alderman Hultgren, seconded by alderman Wendte the bonds be accepted and placed on file. Motion carried.

EASEMENT FOR ROADWAY IN NICHOLSON SUBDIVISION. This item not appearing on the agenda it was moved by alderman Wendte, seconded by alderman Madson the item receive unanimous consent for consideration. Motion carried. Moved by alderman Wendte, seconded by alderman Madson that the Easement be granted subject to a provision in the easement for utilities. Motion carried.

RESOLUTION NO. 10371 Accepting the Plat of Nicholson Subdivision. This item not appearing on the agenda it was moved by alderman Wendte, seconded by alderman Madson the item receive unanimous consent for consideration. Motion carried. Moved by alderman Wendte, seconded by alderman Glennen adoption of the Resolution accepting the Plat of Nicholson Subdivision, situated in the SW 1/4, SE 1/4, Section 30, T 1N, R 26 E, MPM, Yellowstone County, Montana. Passed on roll call.

COMMITTEE REPORT, BIDS FOR FIRE DEPARTMENT VAN We find the bid for Fire Department Van of Fichtner Chevrolet in the total amount of \$2,281.55 is the lowest and best bid and recommend they be awarded the bid, and the Director of Finance authorized to issue purchase order when requisition is received. Moved by alderman Glennen, seconded by alderman Wendte approval of the Committee report. Motion carried.

There being no further business to come before the Council, the meeting adjourned.

APPROVED:

Wendell L. Thomas
Mayor

ATTEST:

Wendell L. Thomas
City Clerk



City Zoning Commission

Meeting Date: 03/03/2015

SUBJECT: Special Review 923 - 960 S 24th St West - All Beverage License with Gaming

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Special Review #923 – 960 S 24th St West: This is a special review request to allow the location of an All Beverage Liquor License with gaming in Suites F & G (a 3,470 sf tenant space) in a Controlled Industrial (CI) zone, Lot 4A, Block 3, Midland Subdivision, 3rd Filing. The property is about 2 acres in size and is generally located at 960 S 24th Street West.

RECOMMENDATION

The Planning Division is recommending conditional approval based on the findings of the 3 review criteria.

APPLICATION DATA

OWNER: Lazy DC, LLC - Grant Agnew

AGENT: Joel Kittelson - Century Gaming Technologies

LEGAL DESCRIPTION: Lot 4A, Block 3, Midland Subdivision 3rd Filing

ADDRESS: 960 S 24th St West - Suites F and G (3,470 square feet tenant space)

CURRENT ZONING: CI

EXISTING LAND USE: Multi-tenant retail building

PROPOSED USE: Same with casino and all beverage service

SIZE OF PARCEL: 2.05 acres

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

The City Council has conditionally approved 22 locations for on-premise service of alcohol in this area of King Avenue West since 1985. Most of these locations were for restaurants with just a few for bars with casinos, such as Montana Lil's at 2850 King Ave West approved in 2008. Some locations have a separate casino from the food and beverage service. Another bar and casino was approved in 2013 for a tenant space just north of the subject property at 900 S 24th Street West.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: CI
Land Use: Old Chicago Pizza and Speak Easy Casino

SOUTH: Zoning: CI
Land Use: Dos Machos Restaurant

EAST: Zoning: HC
Land Use: Retail

WEST: Zoning: CI
Land Use: Town Place Suites and other hotels

BACKGROUND

This is a special review to locate a CASH casino in 2 vacant tenant spaces (Suites F and G) in an existing multi-tenant building located at 960 S 24th Street West. The property is easily accessible from S 24th Street West through Grant Road that also provides access to several businesses and hotels in the area. The city has approved 22 locations in the area for alcoholic beverage service but most are restaurants and may or may not offer gaming. This would be a bar with a casino, a different type of venue than is currently available. Old Chicago Pizza to the north does advertise a Speak Easy Casino but it is attached to the restaurant. There are no churches, parks with playing fields or playgrounds or schools within 600 feet of this proposed location. The city recently approved another similar bar and casino, Dotty's Casino, for a tenant space at 900 S 24th St West just north of Old Chicago Pizza.

The Planning Division has reviewed the application and the 3 criteria for special review and is recommending conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria, and conforms to all parts of the Unified Zoning Regulations. The location is in one of the zoning districts that allows an all beverage license with gaming by special review approval. The application is conforming to the purposes of the regulations and the 2008 Growth Policy. The location of an additional license in this area should have no impact on the surrounding uses or neighbors.

The application also conforms to the second and third criteria. There will be remodeling to the interior of the tenant spaces but no exterior expansion of the building. Planning staff is recommending conditions for this special review based on the approval criteria for special review uses.

PROPOSED CONDITIONS

1. The special review approval shall be limited to Lot 4A, Block 3, Midland Subdivision, 3rd Filing.
2. The special review approval is for the location of an all beverage license with gaming and no other use is intended or implied.
3. Any expansion of the interior space greater than 347 square feet will require an additional special review approval. The addition of an outdoor seating area will require an additional special review approval.
4. There shall be no outdoor public address system or outside announcement system, whether permanent or temporary, of any kind.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
6. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and

ordinances that apply.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 923.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Commission Determinations

Zoning Map

Site Photos

Site Plan and Applicant Letter

Attachment A
Zoning Commission Action

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Attachment C
Site Photos – Special Review #923



Subject Property from Grant Road



View east along Grant Road to S 24th St West intersection

Attachment C, continued
Site Photos – Special Review #923



View south and east along Grant Road



View south across Grant Road

Attachment C, continued
Site Photos – Special Review #923

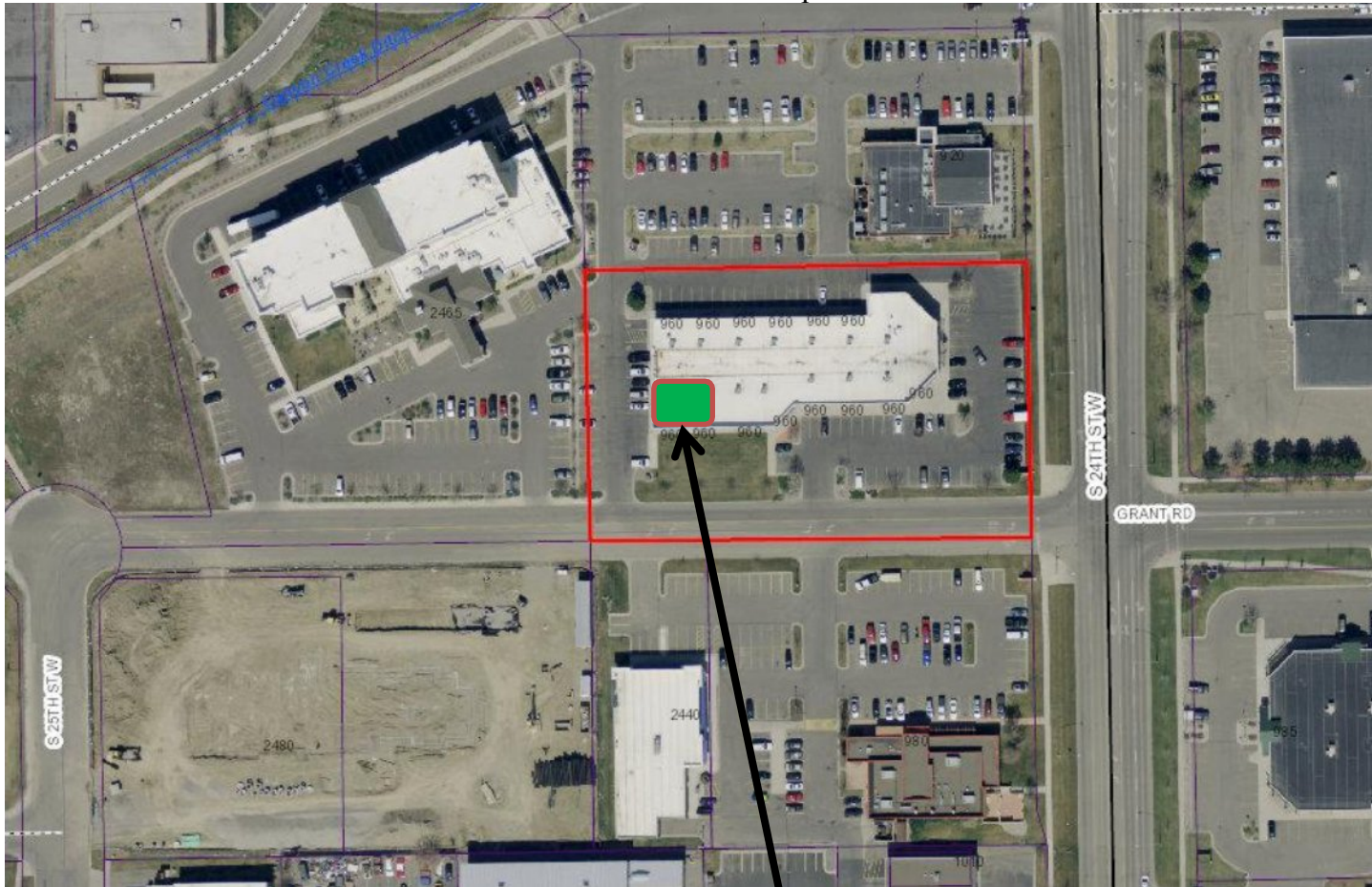


View south and west across Grant Road



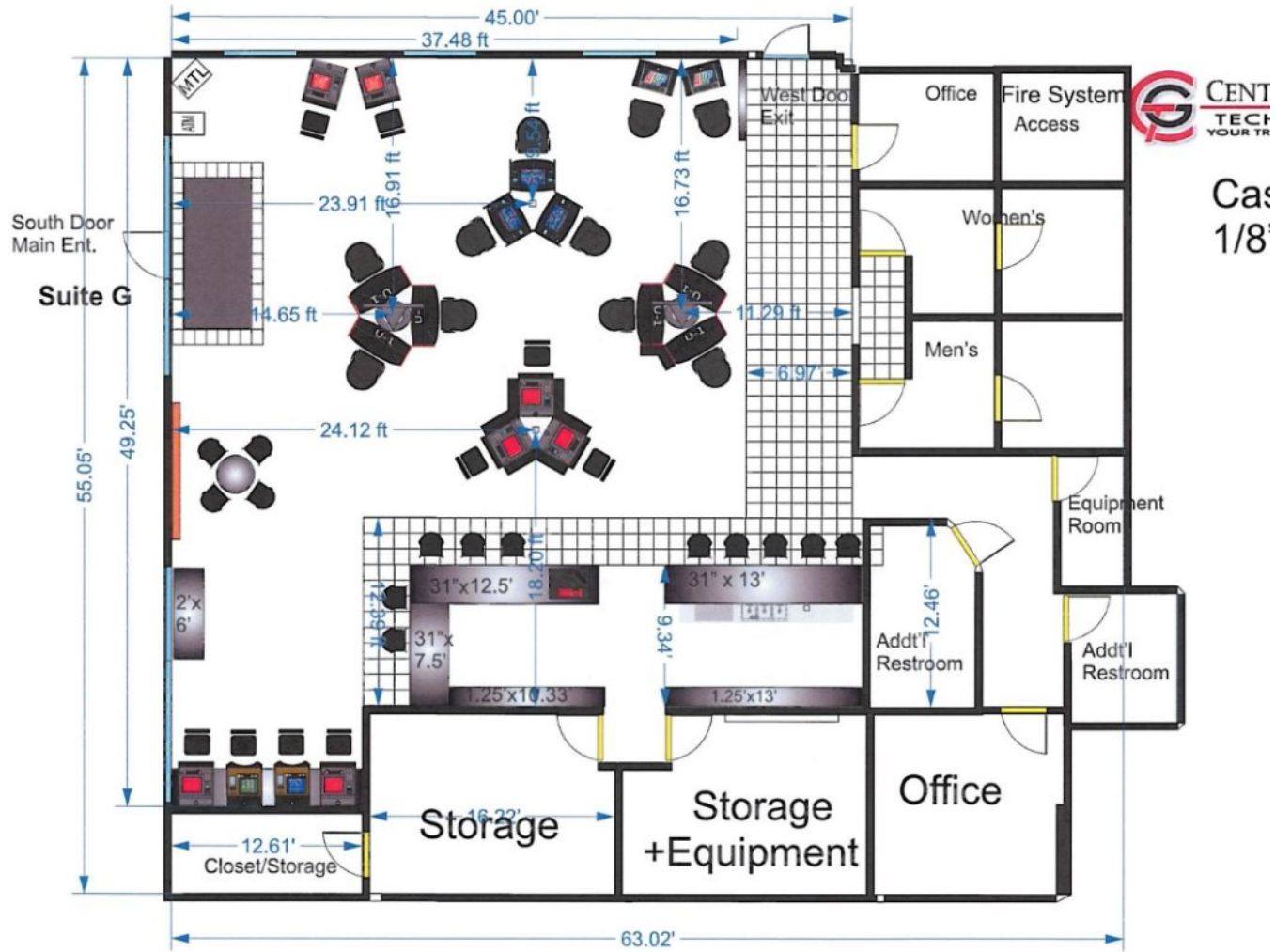
View north and west from Grant Road

Attachment C, continued
Site Photos – Special Review #923



Suites F and G

Attachment D - Special Review 923





Hilton Garden Inn

24 Spaces

G F

South

Image Landsat

45°45'09.36" N 108°34'37.59" W elev

SPECIAL REVIEW APPLICATION

CITY OF BILLINGS

INSTRUCTIONS

All questions must be answered fully. Please type or print. You may attach further pages if additional space is needed. All plans and other exhibits submitted with this application will be retained as a part of the permanent record.

1. Answer the following questions:
 - A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

Land Use Element

1. **ISSUE:** *Neighborhoods are experiencing pressures from new development and land use changes. This proposal places a casino and bar in an area that is already home to other restaurants and casinos, instead of mixing it into non-familiar industries or close to residential neighborhoods.*
2. **ISSUE:** *The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites. This proposal will place a high quality atmosphere and construction that is in keeping with the character of nearby restaurant and casino businesses.*
4. **ISSUE:** *Urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services, and threatens the vitality of the city core and downtown area. This proposal places a new business in an established retail mall space without being free standing separate from other establishments by large open areas and parking lots.*
6. **ISSUE:** *There is a desire for more mixed use neighborhoods. This proposal will place an alternative entertainment destination for the guests of the Hilton Garden Inn next door. In addition, The Marriott is planning on locating directly across the street from this proposed location, in April 2015. The Marriott is planning on 92 rooms for guests. This proposal will allow the instant service for those new guests in the retail trade area instead of adding to additional traffic flow throughout the City of Billings.*

Economic Development Element

1. **ISSUE:** *We need to continue a cohesive focus in economic development.*
2. **ISSUE:** *Lack of living-wage jobs*
This proposal will create living wage jobs for multiple employees and suppliers of the services.
3. **ISSUE:** *Entryways to our communities should be attractive and not present physical barriers discouraging economic development.*
This proposal will locate a viable business in an area that is heavily frequented by newcomers to Billings and those from surrounding communities. This will anchor customers into an area close

to the Interstate and thoroughfares of Billings so they do not have to drive through town.

8. **ISSUE:** *Billings needs to attract businesses that pay higher wages. This proposal will meet the objectives of improving the quality of life for residents, strengthening the local economy and creating living wage jobs.*

Aesthetics Element

This proposal will have no negative impact on the aesthetics elements addressed in the Growth Policy Statement.

Natural Resources Element

This proposal will have no negative impact on the natural resources elements addressed in the Growth Policy Statement.

Open Space and Recreation Element

This proposal will have no negative impact on the open space and recreation elements addressed in the Growth Policy Statement.

Transportation Element

2. **ISSUE:** *Safe and efficient traffic circulation around and through the City. This proposal will place the casino and bar on established thoroughfares and immediate interstate highway access.*

3. **ISSUE:** *Lack of adequate traffic control.*

5. **ISSUE:** *Obstacles to efficient and safe traffic flow.*

This proposal will situate the new business where traffic flow has been already established and safely monitored.

12. **ISSUE:** *Deterioration of air quality due to vehicle emissions.*

This proposal will locate the casino and bar in a centrally located entertainment and motel district. By doing this, the proposal will create less need for potential customers to drive to reach the destination.

Public Facilities and Services Element

7. **ISSUE:** *There are vacant structures around Billings and in the County that could be reused. This proposal will absorb two vacant retail suites in a retail strip center on a main thoroughfare of Billings. This will delete two empty suite fronts.*

Cultural and Historic Resources Element

Because this proposal is situated in an established retail and motel area, it will have no negative impact on the cultural and historic resources elements addressed in the Growth Policy Statement.

Community Health Element

This proposal will have no negative impact on the community health elements addressed in the Growth Policy Statement.

B. Why is there a need for the intended use of the property at this location?

1. *The location of this casino and bar at this location will fill two empty retail suites in the Heritage Plaza.*
2. *The longer the suites sit empty, the harder it is to fill them, and the City of Billings will suffer from empty buildings with no occupancy.*

C. How will the public interest be served if this application is approved?

1. *This casino and bar will compliment the restaurants in the area and service the guests of Hilton Garden Inn, and the new Marriot Hotel opening April 2015, that are across the parking lot and street, respectively, from this proposed location.*

D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

The proposal calls for the two suites to be joined into one unit. The casino and bar will hold twenty gaming machines and 32 chairs. The present suites are not compatible for the use and will require internal building and permanent leasehold improvement construction.

Special review is being sought because the present retail office suites are not designed for such use.



City Zoning Commission

Meeting Date: 03/03/2015

SUBJECT: Special Review 924 - Multi-Family Dwellings - Bench Boulevard

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Special Review #924 – Bench Boulevard: This is a special review to allow four, nine-plex multi-family buildings (36 dwelling units) in a Residential 6,000 (R-60) zone on Lot 4, Block 1, Chalice Acres Subdivision, a 1.98 acres parcel of land, generally located west of 1442 Bench Boulevard. The property received previous special review approval for 7 four-plex multi-family dwellings (28 units) in 2008.

RECOMMENDATION

The Planning Division is recommending denial based on the findings of the 3 criteria for Special Review 924.

APPLICATION DATA

OWNER: Kincaid Land LLC - Gene Culver

AGENT: William E. Smith, P.E. - Octagon Consulting Engineers

LEGAL DESCRIPTION: Lot 4, Block 1, Chalice Acres Subdivision

ADDRESS: 1400 Block of Bench Boulevard

CURRENT ZONING: R-60

EXISTING LAND USE: Vacant

PROPOSED USE: Four 9-plex multi-family dwellings (36 units)

SIZE OF PARCEL: 1.98 acres - 86,261 square feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

This property received a previous special review conditional approval in 2008 (Special Review 856) for seven, 4-plex multi-family dwellings (28 units). The owner has not acted on this approval since 2008, except for the filing of the Chalice Acres Subdivision to create lots for the 3 existing homes along the Bench Boulevard frontage and this large vacant lot west of those homes. The subdivision provided 2 access easements for the large vacant lot anticipating the construction of the seven 4-plex multi-family dwellings. The owner now contemplates an additional 8 dwelling units and a re-configuration from 4-plex buildings to 9-plex buildings.

Prior to the special review in 2008, another special review was approved for one of the parcels subsumed by the Chalice Acres Subdivision. This special review would have allowed two 10-plex multi-family dwellings (Special Review 767). Since this parcel was integrated into the new subdivision, the owner can no longer act on this special review approval.

The City has considered several special review requests for multi-family dwellings in R-60 in Billings Heights since zoning was adopted in 1972. Fourteen applications have been made for this type of development; 3 have been denied and 3 have been withdrawn. Eight applications have been conditionally approved. Four of the 8 have been limited to 4-plex multi-family dwellings. The remaining 4 applications were approved for 5 to 10-plex multi-family dwellings. These 4 applications are located within the Eagle's Nest Subdivision west of Main Street.

SURROUNDING LAND USE & ZONING

- NORTH: Zoning: CC
Land Use: Billings Heights Water District offices and Best Friends Animal Hospital
- SOUTH: Zoning: R-70
Land Use: Single family dwellings
- EAST: Zoning: R-70 and RMF-R
Land Use: Duplex dwellings
- WEST: Zoning: HC
Land Use: Volunteers of America - apartment complex

BACKGROUND

This is a special review request to allow 36 dwelling units in four, nine-unit buildings on Lot 4, Block 1 of Chalice Acres Subdivision. The property is approximately 2 acres in area and is located just west of 3 single family dwellings that have frontage on Bench Boulevard. To the west is the Volunteers of America apartment complex that has access to Main Street and is zoned Highway Commercial (HC). The subject property received a previous special review approval for 28 dwelling units in seven, four-unit buildings. The owner has a vested right to move forward with this previous approved plan, or with this new plan if it is approved by the City Council. The applicant could also accomplish 36 dwelling units by developing six, six-unit buildings and still meet the lot area requirements.

The applicant has submitted a site plan and a typical elevation of the proposed 9-unit buildings. The buildings would be 139 feet in length and 56 feet wide. The elevation plan shows 9 tuck-under garages on each front façade with a 2nd story living area above the garage. The proposed roof line is a 6:12 pitch with 3 gables shown on the front façade. There are no exterior front entrance doors for each dwelling unit. The elevation plan shows an exterior door on each end of the building to perhaps access a common interior hallway. A floor plan was not included with the submitted site plan. Recent examples of this type of apartment building configuration are included in the Site Photos attachment.

The applicant states the reason for the request is to construct 3-bedroom rental apartments based on a market analysis in Billings Heights. The applicant states the interior entrance from each garage to the living area will be more secure than a front door for each dwelling unit. The site plan shows a private road that loops around from Bench Boulevard. The proposed road is 34 feet in width with an 8-foot concrete apron in front of the garage doors that provide access to the buildings. The 8-foot apron is not deep enough to park a vehicle without blocking the proposed 4-foot wide sidewalk and part of the parking lane on the private road. It is likely residents will park on the apron in any case. The off-street parking regulations for the City of Billings require 1.5 parking spaces for each dwelling unit in a multi-family

development where 2 or more bedrooms are provided in each unit. Each unit will have 1 garage space and there are enough parking spaces on the private road to provide at least an additional 18 parking spaces. The site plan shows 4-foot curb sidewalks in front of each building but no other sidewalks to connect out to Bench Boulevard. As stated above, these sidewalks will likely be blocked by cars parked in front of the garage doors. There is little usable outdoor space other than the private street. The larger spaces to the north of Building 1 and west of Building 3, as shown on the site plan, are scheduled to be used for storm water management and cannot be developed for outdoor activities. The east side of Building 4 is 15 feet from the rear property line of 1442 Bench Boulevard, a single family home. There is a 36-foot wide lawn area west of Building 2 that may have some suitability for outdoor activities if it is not needed for storm water management.

The Planning Division has reviewed this application with other city departments and is recommending denial based on the findings of the 3 criteria. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations, the 2008 Growth Policy including any neighborhood plans, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that it is in a zoning district, R-60, where multi-family dwellings are allowed by special review approval. In fact, a previous special review for 28 dwelling units in 7 multi-family dwellings has been conditionally approved for this property (2008). The form of the application is correct and the submitted site plan appears to be in conformance with site development and zoning regulations for the R-60 zoning district. There is a concern that the short concrete apron in front of the garage doors on each building will invite parking across the sidewalk and out into the parking lane of the private road. There is no indication on the site plan how solid waste service will be provided or collected. Typically, multi-family developments are required to have a central solid waste collection location that all residents use. The site plan shows no exterior fencing on the property boundary and no trees are shown on the landscape plan. The applicant submitted a Traffic Accessibility Study for the City Traffic Engineer to review. This review by the City is not yet complete. One of the recommendations of the report is to move the existing private driveways for 1432 and 1448 Bench Boulevard on to the new private road and to place stop signs where it intersects Bench Boulevard. (see Traffic Analysis Attachment).

The application does not conform to the second and third criteria. The zoning regulations adopted by the City Council have the purpose of promoting health, safety and general welfare and to implement the 2008 Growth Policy and the Billings Heights Neighborhood Plan. The proposed site plan placing 7,784 square foot buildings, 2 stories tall (28 feet) close to exterior property lines (10 feet minimum and 60 feet maximum) with 60 feet of concrete and asphalt between the front facades of buildings is not promoting the health, safety or welfare of the neighborhood. There are no 2-story structures to the north, east, or south of this property. To the west is the Volunteers of American apartment complex. This is a 3 story structure but it is 140 feet west of this parcel and 100 feet from the closest single family home on Winemiller Lane to the south. The single family dwelling at 1424 Bench Boulevard is 10 feet from the south property line of this parcel. This is a split level home that is oriented to the northeast. The site plan shows a 5-foot wide planting area next to this property line with "bushes and shrubs" but no fencing or other buffer between the south end of the new private road and the front of this single family dwelling. As stated previously, the applicant could accommodate the same number of units with fewer units per building (six 6-plex buildings).

Careful site design is necessary to ensure compatibility with adjacent uses. This site design has not been done carefully and details for landscaping, screening, storm water management, solid waste collection are

incomplete or missing. A full 2-story structure in the mass and scale as proposed is not compatible with the surrounding uses. A 9-unit building could be designed that may fit within this neighborhood but it would not have a 140 foot façade without any front doors. The property is poised to provide a walkable neighborhood but sidewalks are only provided in front of the buildings and do not connect to any existing or proposed sidewalk on Bench Boulevard. The Heights Neighborhood Plan adopted in 2006 indicated the area between Bench Boulevard and Main Street should be developed with a mixture of housing choices and uses. This property has been approved for 28 dwelling units and could still be developed with 4-plex multi-family dwellings.

RECOMMENDATION

The Planning Division is recommending denial and adoption of the findings of the 3 criteria for Special Review 924.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Commission Determinations

Zoning Map

Site Photos

Site Plan and Applicant Letter

Traffic Analysis

Attachment A
Zoning Commission Action

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Attachment C
Site Photos – Special Review #924



Subject Property from Bench Boulevard – south of 1432 Bench Boulevard



Volunteers of America apartment complex west of subject property

Attachment C, continued
Site Photos – Special Review #924



View north along Bench Boulevard



View north east across Bench Boulevard

Attachment C, continued
Site Photos – Special Review #924



View south along Bench Boulevard



View south and east across Bench Boulevard

Attachment C, continued
Site Photos – Special Review #924

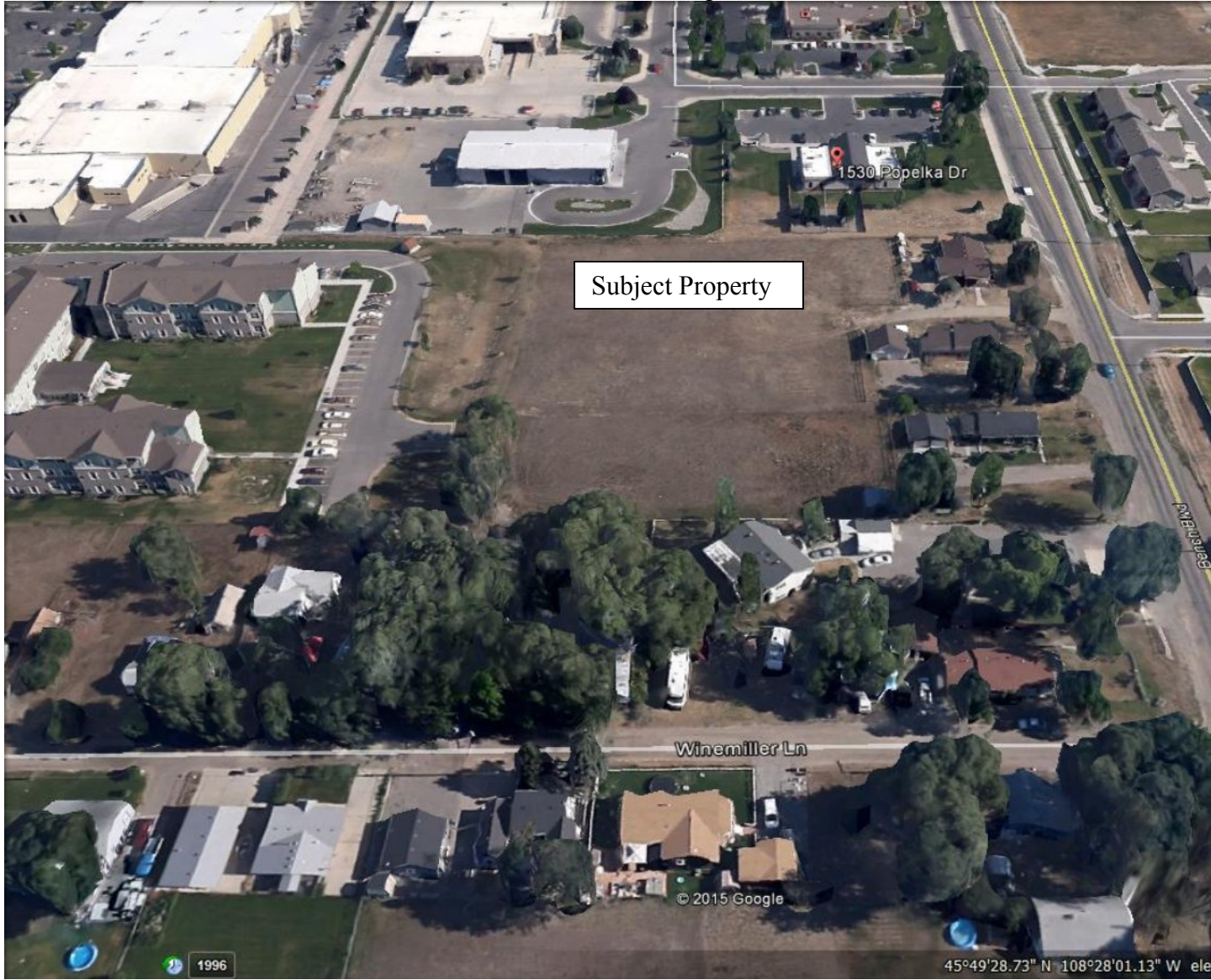


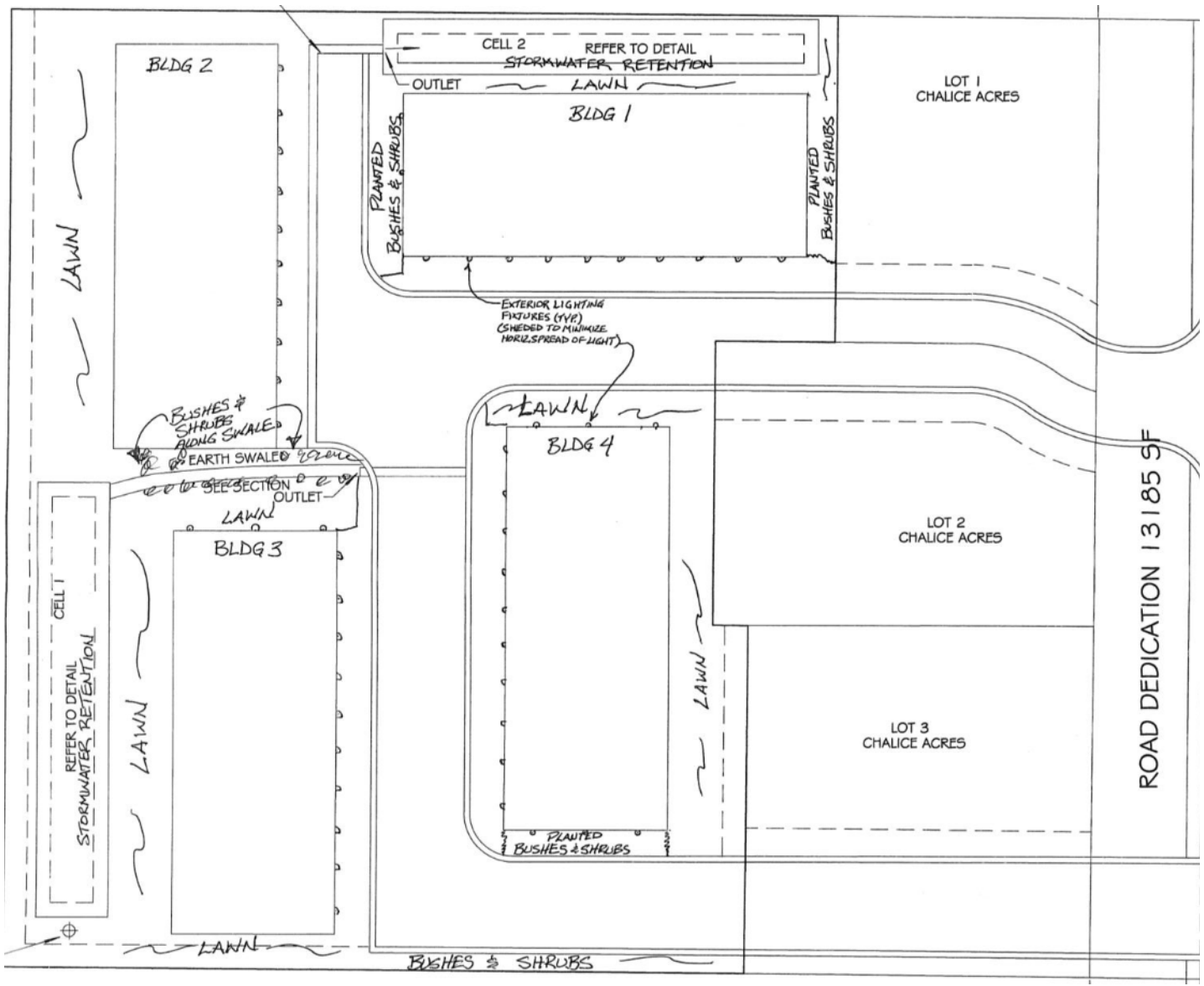
Similar style multi-family dwellings – garage doors



Similar style multi-family dwellings – garage doors

Attachment C, continued
Site Photos – Special Review #924





Chalice Acres Subdivision Lot 4
Special Review Application for
Four Nineplex Apartment Buildings
Answers to Application Questions

A. In what ways is this proposal consistent with the goals and policies of the adopted Growth Policy?

The following list presents the points of consistency which this proposed development shares with the City of Billings/Yellowstone County Growth Policy:

- Improves the quality of life for residents on multiple fronts.
- Concentrates growth pattern by establishing higher density in-fill.
- Compatible with existing uses on properties of similar size in the neighborhood.
- More beneficial to the area than developing this 86,261 sq. ft lot with 14 single family or 24 duplex residences, which are alternatives within R-6000 zoning classification.
- Provides affordable rental housing conveniently located in Billings Heights.
- Location within walking distance of the new Heights middle school will provide increased tax base to the school district.
- Will create visually attractive buildings surrounded by appealing open space, maintained lawns and irrigated landscape.
- Location is within walking distance of grocery stores and a wide variety of shopping opportunities.
- The development's private streets, curbs, gutters and sidewalks, designed to tie into the public street infrastructure scheduled to be constructed along Bench Boulevard this summer, increase safety for vehicles and pedestrians.
- The new infrastructure will provide convenient and safe movement of vehicle traffic and pedestrians through the development and onto Bench Boulevard.
- Development's site layout is designed to enhance the inter-connectedness between the buildings and the residents.
- The dimensions, layout and proximity between the four buildings in this development are visually and functionally compatible with surrounding developments on properties of similar size in the area.
- Adequate and well placed exterior lighting will be provided on the buildings to effectively illuminate sidewalks and open areas at night, while minimizing the horizontal spread of light onto neighboring properties.
- Private garages and common laundry facility directly accessible from within each building are features which increase safety and security of the residents.

B. Why is there a need for the intended use of the property at this location?

Market analysis conducted by the property owner/developer has demonstrated that quality three bedroom apartments are in short supply in the Heights. In addition, quality features including attractive two story buildings surrounded by maintained landscape, attached private garages accessible directly from inside the building and usable open lawn area adjacent to the buildings are expected to make these units stand out in the Heights rental market.

Space and plumbing will be provided within most floor plans for personal washer and dryer units. In addition, a common laundry facility with coin-op machines will be directly connected to each building and accessible only from inside the building to enhance the convenience and increase the security for residents.

C. How will the public interest be served if this application is approved?

Many of the Growth Policy community goals and objectives applicable to this type of development are affirmatively addressed by this proposal. This project is compatible with existing facilities on neighboring properties of comparable size.

This project provides affordable housing which is in high demand and short supply in the Heights. Features built into this project include attractive buildings and maintained landscape with lawns for use by the residents and guests.

This property is located within walking distance of grocery stores, a variety of stores and shops, and the new middle school. The intersections of the project's private street into the new public infrastructure being constructed along Bench Boulevard, which includes curbs, gutters and sidewalks, will enhance access and safety for drivers and pedestrians.

Private garages and central laundry facilities accessible from within each building will greatly increase the personal security of the residents.

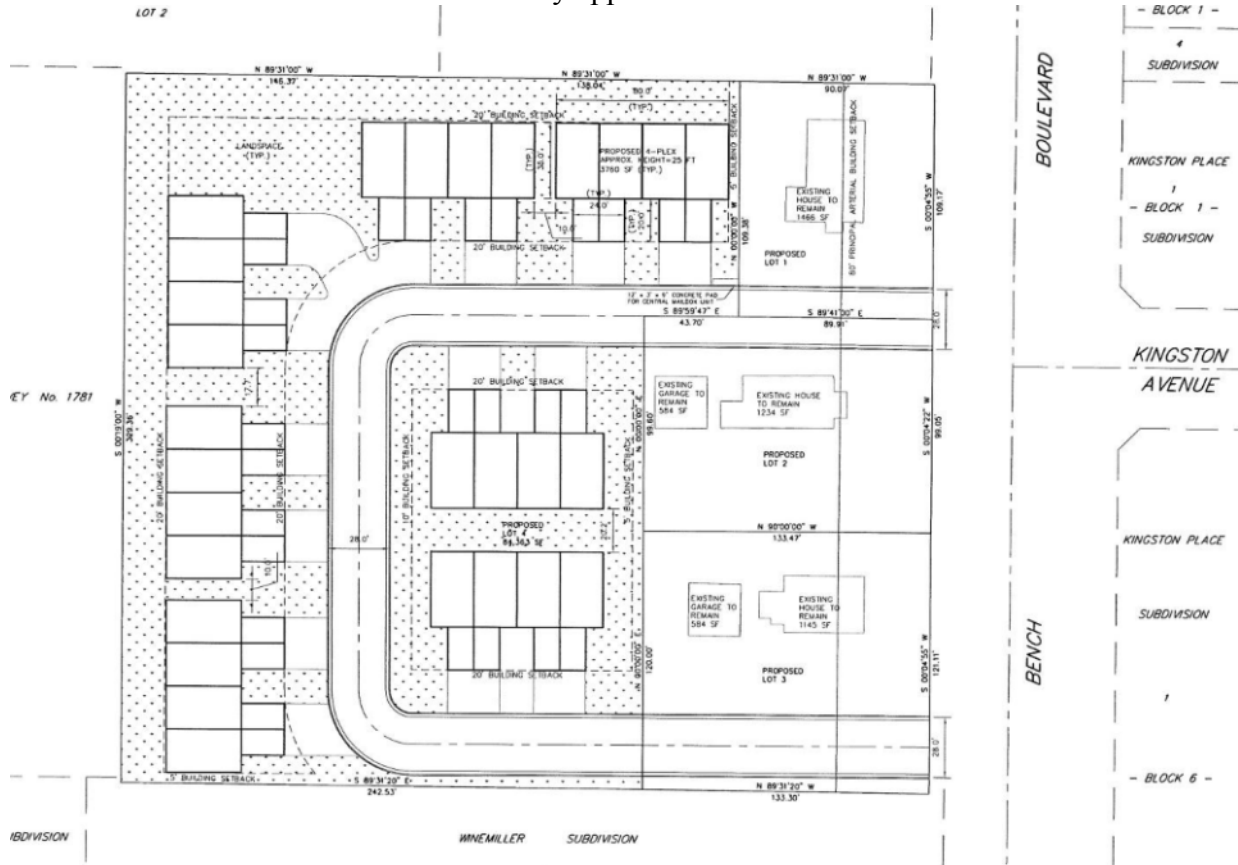
D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

Lot 4 of Chalice Acres Subdivision is 86,216 sq. ft or 1.98 acres in area. Located within R-6000 zoning classification, a gradation of multiple family densities up to 10 units per building is provided as alternative to the commonly accepted single family option. The number of higher density units allowed is limited by the area of the property. (Refer to the chart entitled "Zoning Classification Districts" in zoning code Sec. 27-308.) In accordance with the R-6000 zoning classification, a nineplex building must occupy an area of no less than 17,500 sq. ft.

Upon thorough study and deliberation on this subject, the owner/developer of this property and the project engineer believe that four nineplex buildings constitute the highest and best use of this property. These four buildings require a minimum lot size of 70,000 sq. ft. A total of 36 units on Lot 4 provide a compatible fit with similar uses existing on neighboring lots of similar or larger size. In addition, this proposal addresses the Growth Policy's goal of higher density in-fill development in compatible neighborhoods within the city.

A total of four two story buildings with each building containing nine individual apartments are proposed. Because this multiple family density is toward the upper end of the maximum density allowed within the R-6000 zoning classification, a special review is required to ensure compatibility with existing land uses in the neighborhood.

Previously approved Site Plan

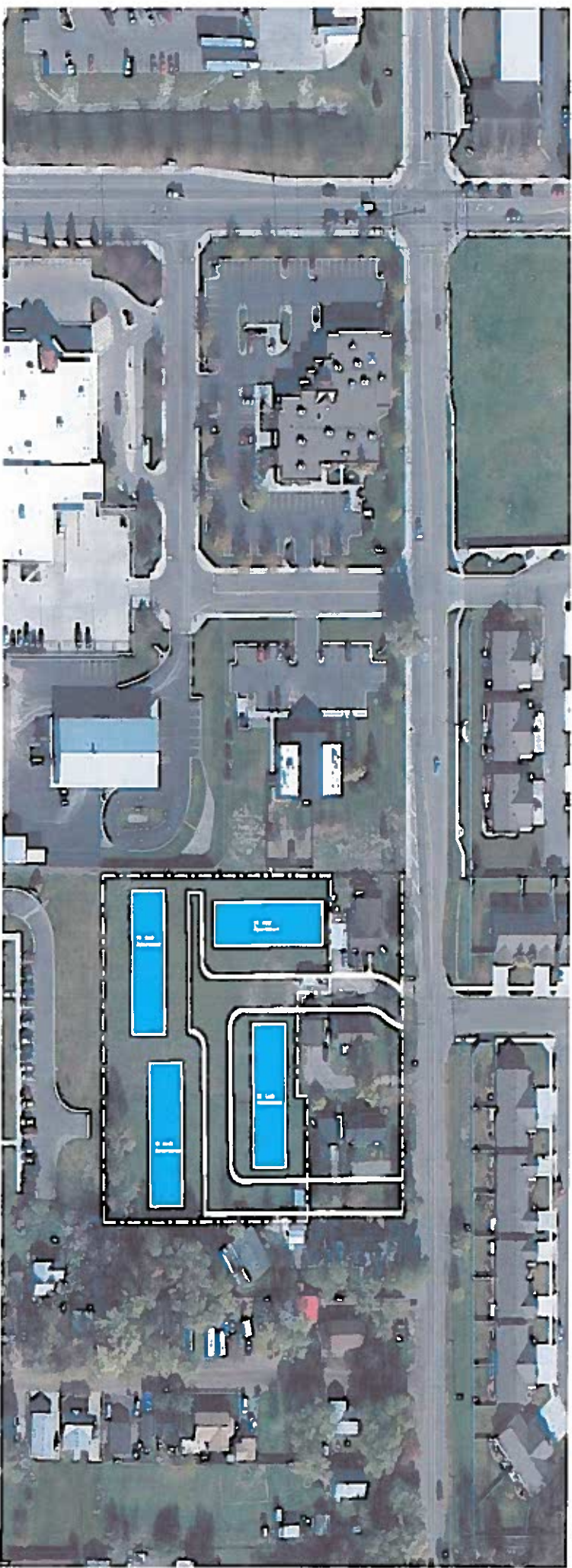


Conditions of approval Special Review #856 (2008)

The conditions of approval for Special Review #856 are as follows:

1. The special review approval shall be limited to Tract 2, C/S 193 and Tract 1, C/S 1531 as shown on the site plan dated December 18, 2007.
2. This special review approval is for the construction of 7 four-plex multifamily dwellings and no other use or expansion of this use is approved or implied with this conditional approval.
3. Development of the site shall be in substantial conformance with the site plan dated December 18, 2007, unless specifically modified by these conditions. Deviations from the approved site plan that change the location of buildings or increase the number of dwelling units will require additional special review approval.
4. This approval shall be limited to 28 dwelling units in 7 structures as shown on the site plan dated December 18, 2007.
5. Any expansion of the gross floor area of the building(s) or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.
6. The north access road shall be re-aligned to coincide with Kingston Avenue that enters Bench Boulevard opposite the subject property. Any new alignment will be approved by the City Engineer.
7. The proposed 28-foot wide access road will be widened to 34 feet and be designed and constructed in accordance to city standards for a new residential street. The street design will be approved by the City Engineer and the City Fire Department.
8. Landscaping shall be provided as shown on the site plan dated December 18, 2007, and as required by Section 27-1100, of the Unified Zoning Regulations.

9. A 6-foot high sight-obscuring fence shall be constructed along the entire length of the north and south property lines excluding any required clear vision area. The fence shall be constructed of standard fencing materials. No chain link or wire fencing will be used for a sight-obscuring fence. The fence will shield the development from the commercial development to the north and the single family developments to the south.
10. These conditions of special review approval shall run with the land described in this special review approval and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
11. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City regulations that apply.
12. The effective date of this approval is concurrent with the effective date of ZC #834, April 10, 2008.



TRAFFIC ACCESSIBILITY STUDY

for

Chalice Acres Subdivision Lot 4

Billings, MT

Prepared for

KINCAID LAND, LLC

Prepared by



MARVIN & ASSOCIATES

**1300 North Transtech Way
Billings, MT 59102**

April 2014

TRAFFIC ACCESSIBILITY STUDY

for

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1300 North Transtech Way
Billings, MT 59102



April 2014
P.T.O.E. # 259

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Marvin & Associates

**Chalice Acres Subdivision Lot 4
TRAFFIC ACCESSIBILITY STUDY**

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

INTRODUCTION

This report summarizes a traffic accessibility study completed for the Chalice Acres Subdivision Lot 4 development in Billings, Montana. The proposed Chalice Acres Lot 4 property is located on the west side of Bench Boulevard approximately 850 feet south of the Wicks Lane and Bench Boulevard intersection (see Figure 1). This property is currently undeveloped and all of the surrounding property is occupied by businesses and residences.

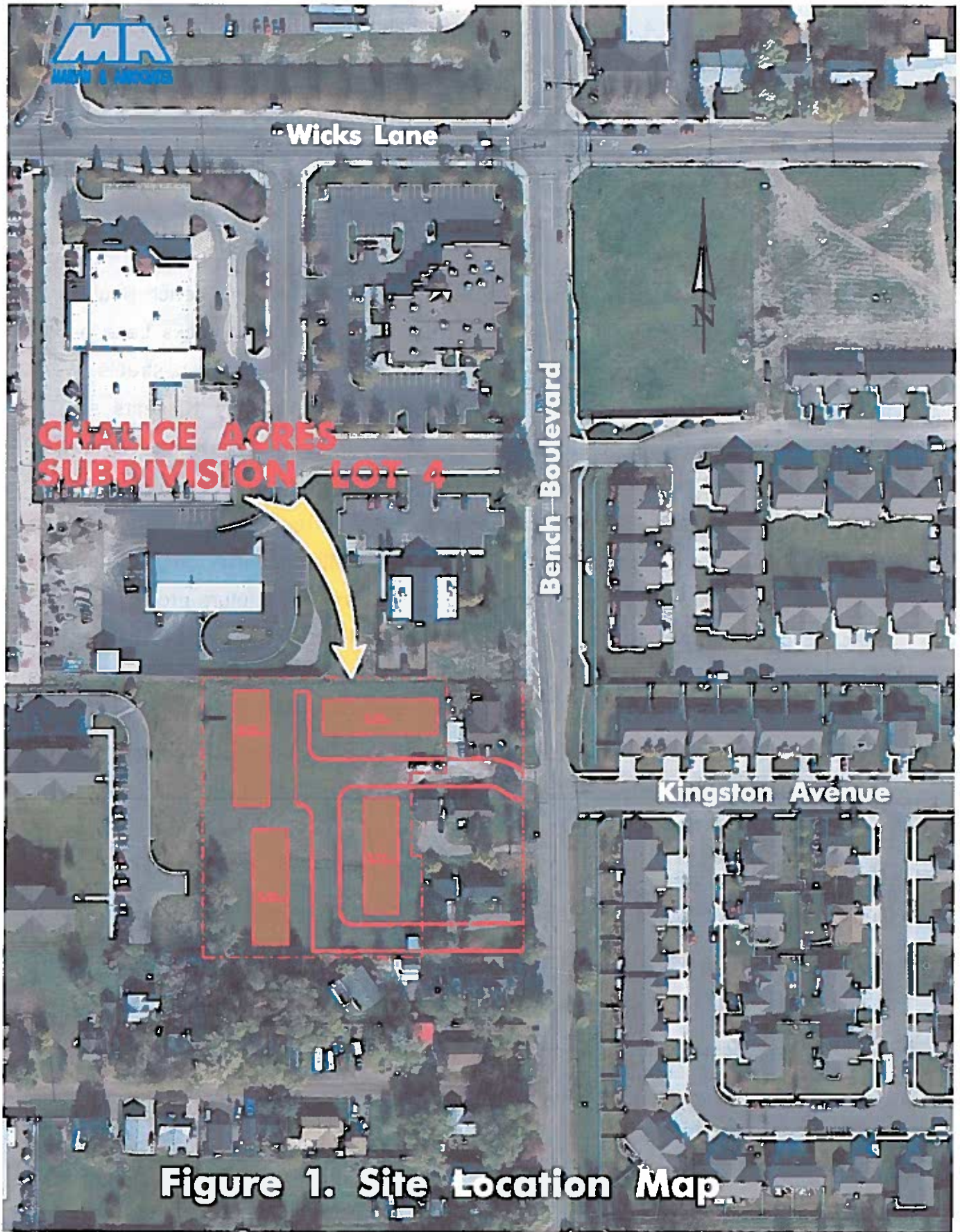
Octagon Engineering prepared a site plan for the developer, Kincaid Land, LLC. The developer retained Marvin & Associates to provide a Traffic Accessibility Study (TAS) after having had discussions with City of Billings Public Works staff. City of Billings staff indicated that the study should focus on the accesses and the key intersection of Wicks Lane and Bench Boulevard. Therefore, this study focuses on the two site accesses and the intersection of Wicks Lane and Bench Boulevard.

The study methodology and analysis procedures within this study employ the latest technology and nationally accepted standards in the area of site development and transportation impact assessment. Recommendations made within this report are based on accepted standards and the professional judgment of the author.

SITE LOCATION & DESCRIPTION

Figure 1 shows the proposed Chalice Acres Lot 4 site plan overlaid on a Google aerial photo. There are two accesses proposed for the Chalice Acres Lot 4 property. The northern access would be aligned to enter Bench Boulevard opposite Kingston Avenue, a local street serving an existing townhouse development. The southern access would be located approximately 180 feet south of Kingston Avenue. There would be a single circulation road within the site that would access the four apartment buildings. Each of the buildings would have 10 apartment units.

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study



Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

The Chalice Acres Lot 4 apartments will have parking in front of each building and it has been assumed that the City of Billings Building Department has or will check that the number of spaces agree with City Building Codes.

EXISTING CONDITIONS

Streets & Intersections

The adjacent and potentially impacted streets are Wicks Lane and Bench Boulevard, along with the intersection of those two streets (see Figure 1). Wicks Lane and a portion of Bench Boulevard, along with the intersection of those two streets, were reconstructed as part of the Walmart development approximately 12 years ago. A project that connected Bench Boulevard to Main Street at 6th Avenue North was constructed in 2012 and reconstruction of Bench Boulevard from Metra to Hilltop Road was completed in 2013. The new connection resulted in redistribution of traffic at the Bench Boulevard and Wicks Lane intersection. Traffic patterns are substantially different than those used to design the original intersection. A future project has also been designed that will reconstruct Bench Boulevard from Hilltop Road to HWY 87 at Main Street, north of Wicks Lane. That project will result in modifications to the Wicks Lane and Bench Boulevard intersection and the typical section all along Bench Boulevard. The future typical section on Bench Boulevard will accommodate two thru lanes with a center two-way left-turn lane with bike lanes on each side of the roadway.

Traffic Volumes

Turning movement counts were taken between 4:30 and 5:45 pm on April 1 and April 2, 2014 at the Wicks Lane and Kingston Avenue intersections with Bench Boulevard. Figure 2, on the following page, illustrates turning movement counts and average weekday traffic (AWT) on the surrounding streets and intersections. AWT volumes in Figure 2 were not counted but were estimated using turning movement counts and daily traffic variation factors from the MDT permanent count station data on Main Street.

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

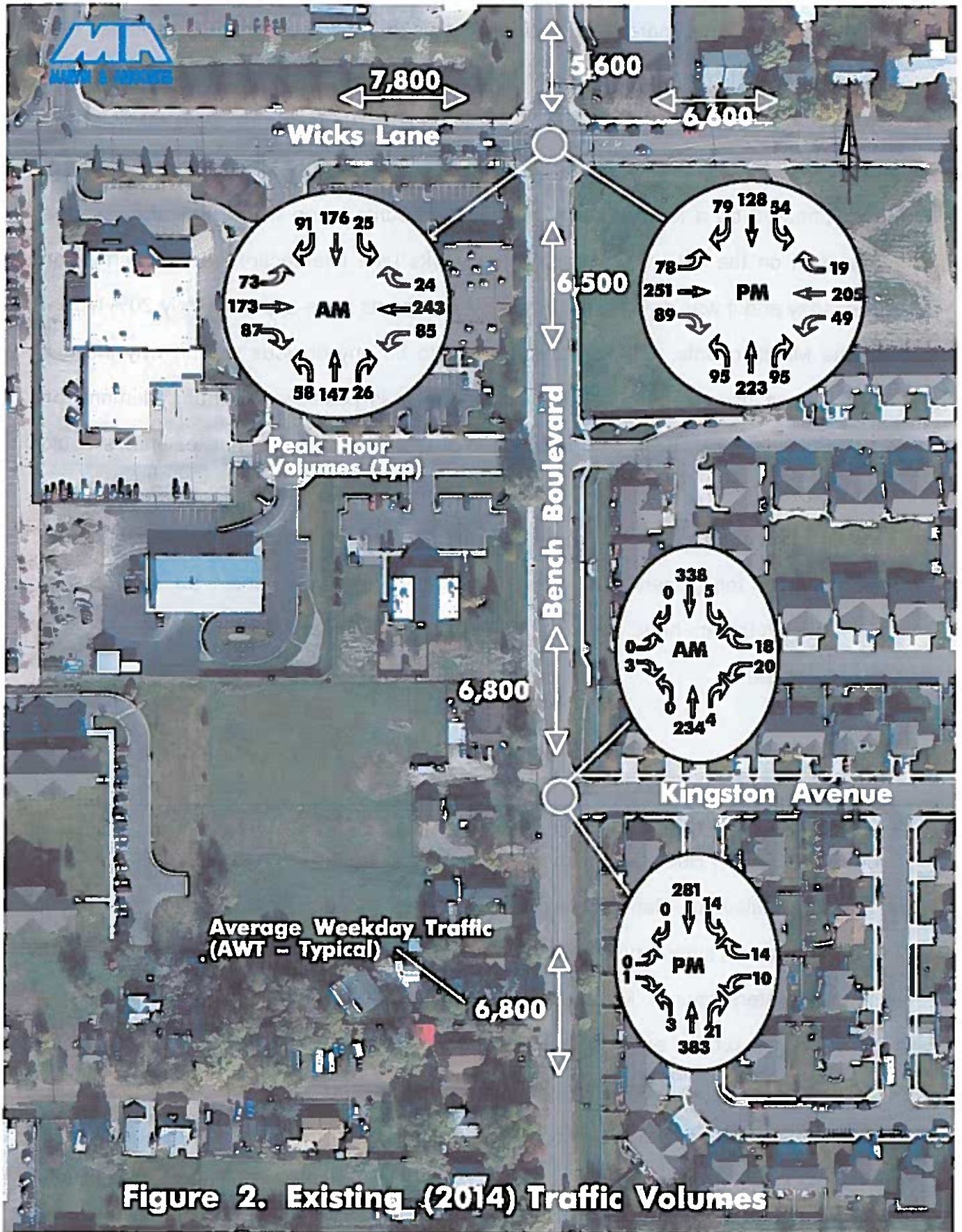


Figure 2. Existing (2014) Traffic Volumes

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

The traffic counts are approximately the same as the average peak hour volumes that would be experienced at these intersections over the course of a year, according to the daily and seasonal factors. It should be noted that traffic counts were taken at the intersection of Wicks lane and Bench Boulevard on Thursday March 27, 2014. Since there appeared to be a large imbalance between counts taken at the Kingston Avenue intersection on the following Tuesday, the Wicks lane intersection was recounted on Wednesday and it was determined that the April counts were approximately 20% higher than the March counts. There doesn't appear to be any obvious reason why the two counts should have been substantially different. It is possible that traffic demand on Bench Boulevard can be highly variable. Thus, design hour volume estimates could have a low level of confidence. Peak am hour traffic volumes were calculated using directional splits, historic hourly counts, and a traffic balancing routine. Since the peak pm hour trip generation potential of the development would be substantially greater than in the am hour, it was felt that the cost of performing actual am hour counts was not justified.

Capacity

Capacity calculations were completed for the stop controlled intersection of Kingston Avenue and Bench Boulevard and for the signal controlled intersection of Wicks Lane and Bench Boulevard. Capacity calculations can be found in Appendix A of this report. Table 1 provides a summary of measures of effectiveness (MOEs) for each approach at each of the intersections. MOEs include the control delay in seconds per vehicle, the level of service (LOS), and the volume to capacity (V/C) for each of the intersection approach legs. It can be seen that all of the movements at both of the intersections have a LOS of "B" or better, which indicates that all movements are operating at acceptable levels of service.

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

Table 1. Capacity Analysis Summary 2014 Existing Conditions

Intersection	MOE	NB		SB		EB		WB	
Movement Group		L	TR	L	TR	L	TR	L	TR
<i>Bench Boulevard & Wicks Lane Peak AM Hour</i>	Control Delay (s/veh)	10.4	10.9	9.9	11.4	11.2	12.0	11.3	12.1
	LOS	B	B	A	B	B	B	B	B
	V/C Ratio	0.16	0.26	0.06	0.34	0.20	0.35	0.21	0.36
	Queue Length (95%)	2	3	1	4	2	4	2	5
Movement Group		L	TR	L	TR	L	TR	L	TR
<i>Bench Boulevard & Wicks Lane Peak AM Hour</i>	Control Delay (s/veh)	10.8	12.1	10.4	10.9	11.2	12.8	11.0	11.8
	LOS	B	B	B	B	B	B	B	B
	V/C Ratio	0.23	0.45	0.16	0.26	0.20	0.46	0.15	0.30
	Queue Length (95%)	6	6	2	4	3	5	2	4
Movement Group		LTR		LTR		LR		LR	
<i>Kingston Avenue & Bench Boulevard Peak AM Hour</i>	Control Delay (s/veh)	8.0		7.8		10.4		13.3	
	LOS	A		A		B		B	
	V/C Ratio	0.00		0.00		0.01		0.10	
	Queue Length (95%)	0.0		0.0		0.0		0.4	
Movement Group		LTR		LTR		LR		LR	
<i>Kingston Avenue & Bench Boulevard Peak PM Hour</i>	Control Delay (s/veh)	7.9		8.4		9.9		14.6	
	LOS	A		A		B		B	
	V/C Ratio	0.00		0.01		0.00		0.08	
	Queue Length (95%)	0.0		0.0		0.0		0.3	

TRIP GENERATION

Trip generation rates found in the ITE Trip Generation report, Ninth Edition, were evaluated and it was found that these rates could be applied specifically to the type of development being proposed on this site. The ITE Trip Generation Code 220 for Apartments was used with the independent variable for this land-use being the number of apartments (40 units). The following rates and calculations were used:

AWT: $T=6.65(X) = 6.65(40) = 266$ AWT

Peak AM: $T=0.49(X)+3.73 = 0.49(40)+3.73 = 23$ (20% entering)

Peak PM: $T=0.55(X)+17.65 = 0.55(40)+17.65 = 40$ (65% entering)

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

The following peak am and pm hour trip generation numbers would apply to the two accesses:

AM Hour:	5 Enter	18 Exit
PM Hour:	26 Enter	14 Exit

In addition to total trip generation numbers, it is sometimes important to know the type of trips to properly evaluate traffic impacts. Some percentage of total trips could be assigned to the pedestrian mode, since there are significant complimentary trip attractors within walking distance of the proposed development. However the total trip generation numbers are so low that any fraction thereof would be irrelevant.

Internal capture trips are of significant importance for certain developments. In this case, it doesn't appear that there would be any significant internal capture trips.

There are also three classifications of trip types related to use of the street system: 1) Primary purpose trips are trips for which the development is a primary destination from any particular origin. 2) Diverted linked trips are trips made to the development as a secondary destination and are diverted from a path between an origin and a primary destination. 3) Passerby trips are also trips made to a development as a secondary destination, but the primary trip path is on the adjacent street system, i.e. stop on the way home from work. For this development, it was assumed that no passerby trips could be considered.

The combination of all trip types results in the net number of new or system added trips. In this case, the net number of trips would equal the total trips as stated above.

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

TRIP DISTRIBUTION

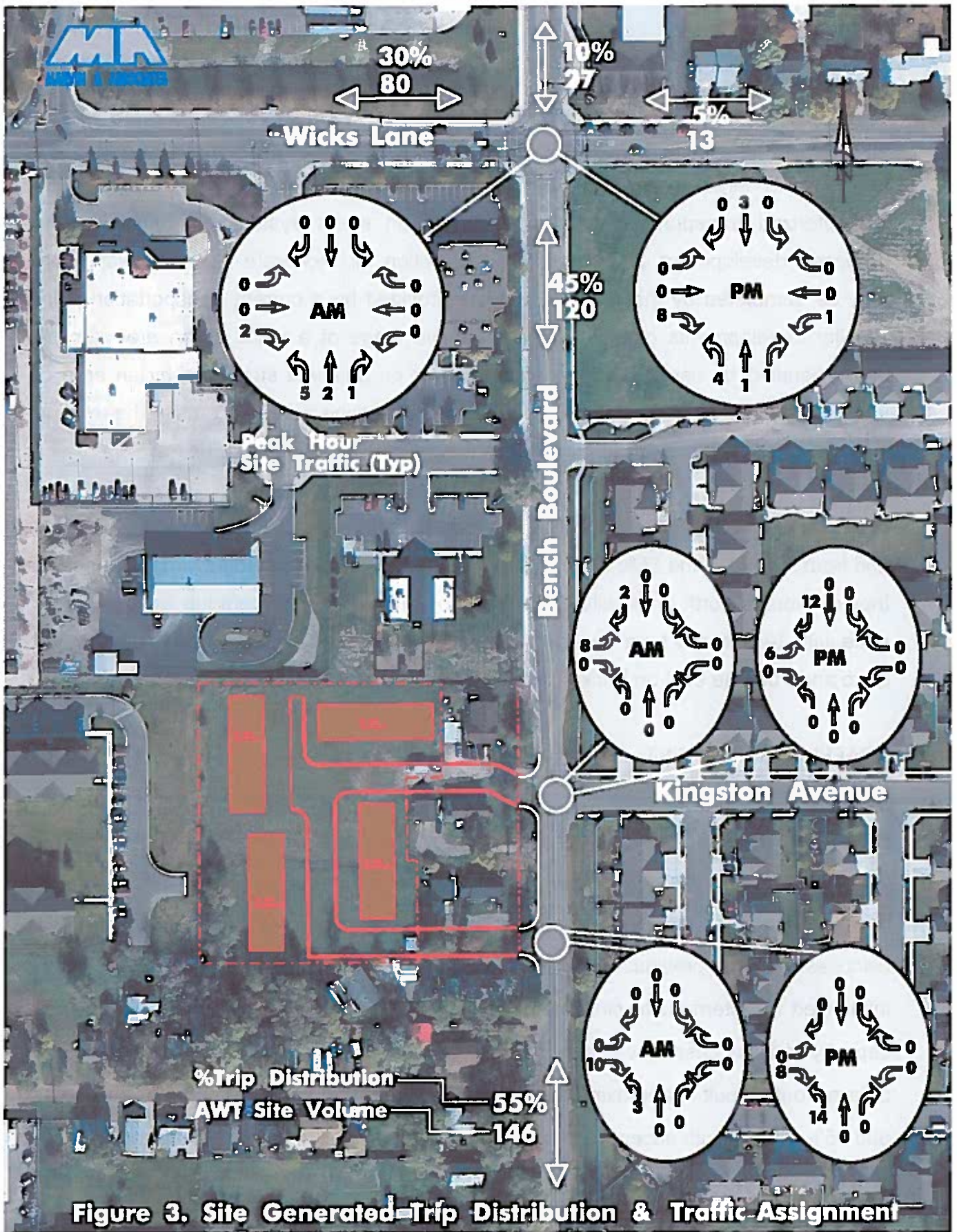
There are various methods of determining the directional distribution of trips to and from site developments and subdivisions. For large and complex developments within the middle of a large urbanized area, the task is best accomplished by creating a computerized transportation model of the urban street system and including the proposed development changes. Trip distribution for moderate sized developments may be completed by manipulation of data provided by a current transportation plan. Smaller developments or developments on the fringe of a small urban area can be easily handled by using existing traffic volumes on adjacent streets or by an area of influence method, or both. In this case, the use of existing traffic patterns at the existing intersections would provide an acceptable means of distributing trips.

The analogy method of trip distribution resulted in an estimated distribution of 45% to and from the north and 55% to and from the south on the Bench Boulevard. Of the 45% trips distributed north of the site, 30% would be directed to and from the west on Wicks Lane with 10% to and from the north on Bench Boulevard and the remaining 5% would be to and from the east on Wicks Lane.

TRAFFIC ASSIGNMENT

Assignment of site traffic to the street system and site access points is normally dependent upon several factors, directional distribution, passerby distribution and operational conditions at the site and on the street system. Directional distribution was discussed in the previous section. Assignment of traffic to the access points is influenced by internal site circulation, number of approaches, internal travel time and capacity of the access movements. In this case, it was determined that travel times and delays would result in approximately 45% of the site traffic assigned to the north access and 55% to the south access, which is directly proportional to the trip distribution.

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study



Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

Figure 3 shows the percentage trip distribution, average weekday traffic (AWT) assignment, and the peak am and pm hour traffic assignments. It can be seen that in the am and pm hours all of the traffic to and from the north would use the northern approach and all of the site traffic to and from the south would use the southern approach due to the relative travel times and delays associated with each access. In actual operations, there may be vehicles accessing the site using all of the turning movement options for a variety of reasons, but the theoretical demand for those movements shown as zero would not exist based on the site development circulation and access patterns.

TRAFFIC IMPACTS

Traffic Volumes

Figure 4 presents a summary of peak am and pm hour volumes at the access points and on the surrounding street system. The turning movement volumes are calculated by adding the site traffic assignment to existing traffic volumes. Also shown in Figure 4, are the relative percentage increase that site traffic would add to existing AWT volumes. The largest percentages increases would occur on Bench Boulevard adjacent to the proposed development due to access movements into and out of the site. The percentage increase in traffic on Bench Boulevard would only be approximately 2%. Normally traffic counting samples can only estimate average traffic conditions within 10% accuracy and from the two separate counts taken at Wicks and Bench, it appears that traffic volumes can vary by more than 20% in a one week period. Therefore, it can be assumed that the 2% increase could be considered insignificant.

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

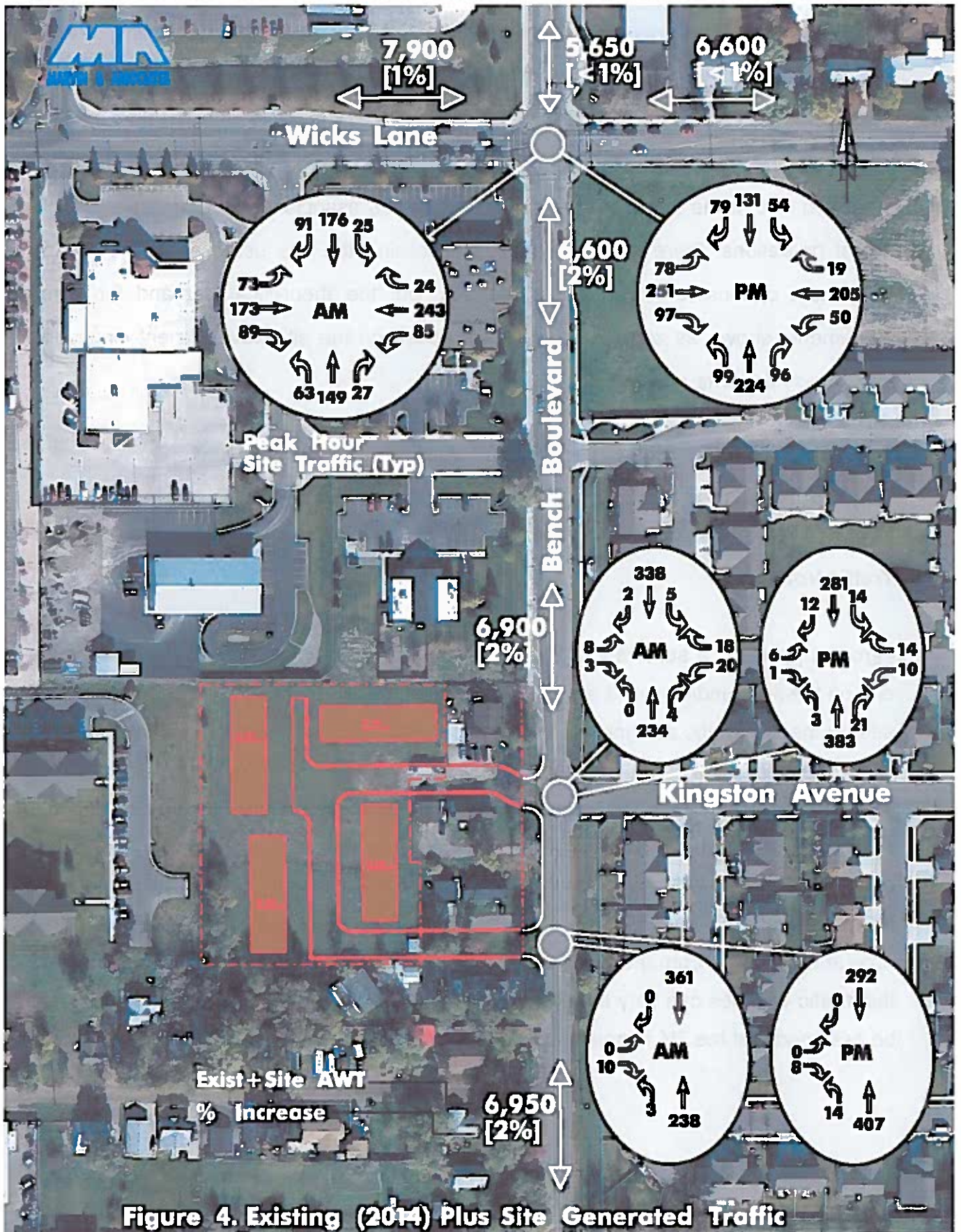


Figure 4. Existing (2014) Plus Site Generated Traffic

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

Capacity Impacts

Appendix "B" contains capacity calculations for existing plus site traffic (peak hour) conditions. Table 2 is a summary of capacity impacts at the site accesses and at the intersection of Wicks Lane and Bench Boulevard in the same format as contained in Table 1.

Table 2. Capacity Analysis Summary 2014 Existing Plus Site Traffic

Intersection	MOE	NB		SB		EB		WB	
Movement Group		L	TR	L	TR	L	TR	L	TR
<i>Bench Boulevard & Wicks Lane Peak AM Hour</i>	<i>Control Delay (s/veh)</i>	10.5	10.9	9.9	11.4	11.2	12.1	11.3	12.1
	<i>LOS</i>	B	B	A	B	B	B	B	B
	<i>V/C Ratio</i>	0.17	0.26	0.06	0.34	0.20	0.35	0.21	0.36
	<i>Queue Length (95%)</i>	3	4	1	4	2	4	2	5
Movement Group		L	TR	L	TR	L	TR	L	TR
<i>Bench Boulevard & Wicks Lane Peak AM Hour</i>	<i>Control Delay (s/veh)</i>	10.8	12.1	10.4	10.9	11.2	12.9	11.0	11.8
	<i>LOS</i>	B	B	B	B	B	B	B	B
	<i>V/C Ratio</i>	0.24	0.45	0.16	0.26	0.20	0.47	0.16	0.30
	<i>Queue Length (95%)</i>	5	5	2	4	4	6	2	3
Movement Group		LTR		LTR		LR		LR	
<i>Kingston Avenue & Bench Boulevard Peak AM Hour</i>	<i>Control Delay (s/veh)</i>	8.0		7.8		14.5		13.4	
	<i>LOS</i>	A		A		B		B	
	<i>V/C Ratio</i>	0.00		0.00		0.05		0.10	
	<i>Queue Length (95%)</i>	0.0		0.0		0.2		0.4	
Movement Group		LTR		LTR		LR		LR	
<i>Kingston Avenue & Bench Boulevard Peak PM Hour</i>	<i>Control Delay (s/veh)</i>	7.9		8.4		17.8		14.7	
	<i>LOS</i>	A		A		C		B	
	<i>V/C Ratio</i>	0.00		0.01		0.05		0.08	
	<i>Queue Length (95%)</i>	0.0		0.0		0.2		0.3	
Movement Group		LT				LR			
<i>Southern Site Access & Bench Boulevard Peak AM Hour</i>	<i>Control Delay (s/veh)</i>	8.0				10.7			
	<i>LOS</i>	A				B			
	<i>V/C Ratio</i>	0.00				0.03			
	<i>Queue Length (95%)</i>	0.0				0.1			
Movement Group		LTR				LR			
<i>Southern Site Access & Bench Boulevard Peak PM Hour</i>	<i>Control Delay (s/veh)</i>	7.9				10.1			
	<i>LOS</i>	A				B			
	<i>V/C Ratio</i>	0.01				0.02			
	<i>Queue Length (95%)</i>	0.0				0.1			

In comparing Table 1 to Table 2 it can be seen that all movements at the accesses and intersection would still operate at or above LOS "B". It can also be seen that the addition of site generated traffic to the proposed access at the Kingston Avenue intersection would operate at LOS "C" while the south access would operate at LOS "B". Since none of the MOEs would be impacted to any significant degree, it could be

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

concluded that additional traffic generated by the site development would not impact the efficiency of existing traffic operations.

Safety Impacts

In addition to capacity impacts, safety of the proposed site layout and access would be a prime factor in consideration of impacts to the street system. Increased traffic volumes at the access points wouldn't necessarily result in an increased number of accidents due to increased exposure rates. At certain points along the system, usually at intersections, safety concerns are the greatest. From observations of existing conditions, the biggest factor that could be involved with potential safety would be sight distance at the approaches. Since there are no immovable objects that currently obstruct sight distance, the only obstructions would be queued vehicles. Since there are only single lanes in each direction and the capacity calculations indicate that queues will be no more than a single vehicle, conflicts should not exist. Turn lane warrants were examined and it was discovered that the projected traffic volumes would be well under the warranting values.

Pedestrians

Pedestrian access to the site from the public street system is not expected to be significant and the movement of pedestrians between adjacent developments doesn't have the potential to be substantial. Existing pedestrian traffic in the area was minimal with the only pedestrian activity occurring at the intersection of Wicks and Bench.

FUTURE ACCESS OPERATIONS

Consideration of access operations in the future need to be assessed to determine if future traffic increases on the roadway system would change the efficiency of the proposed accesses. Since a future MDT project will widen Bench Boulevard and will provide a continuous center turn-lane, bike lanes and sidewalks, evaluation of future operations assumed that the improvements would be in-place within the next 5 years. Capacity calculations using an annual growth rate of 2% along with the planned typical road section were completed (Appendix C). It was determined that the northern access

Chalice Acres Subdivision Lot 4 Traffic Accessibility Study

at the intersection of Kingston Avenue would operate at LOS "C" while the southern access would operate at LOS "B". Thus, the planned access should provide acceptable levels of service in future years.

CONCLUSIONS & RECOMMENDATIONS

The proposed subdivision development would generate new vehicular trips on the existing street system. On a daily basis, new traffic on Bench Boulevard would represent an increase of approximately 2% of existing traffic volumes on Bench Boulevard. The proposed accesses to the site property would operate at acceptable levels of service initially and well into the future. Capacity calculations at the existing intersection of Wicks Lane and Bench Boulevard indicate that the proposed site development traffic would not degrade existing levels of service to any substantial degree and additional vehicle queues at that intersection would not impede operations on Bench Boulevard.

The only identifiable development conditions that need to be addressed would be associated with potential safety concerns. The study analysis indicates that no additional measures such as additional traffic lanes are warranted as a mitigation measure. Since the development accesses will be constructed as street approaches, it would be necessary to install stop signs at their intersections with Bench Boulevard. Internally, traffic speeds should be relatively low (20 mph or less). However, the internal curves are 90 degree turns and the line of sight on the inside of those curves could present a safety problem if any permanent structure or landscaping is placed in the corner areas. Therefore, the sight lines on those corners should be maintained (see Figure 5).

Figure 5 shows new driveway locations for two of the three existing residential houses fronting on Bench Boulevard. The existing driveways would be too close to the access streets and the driveway approaches should be moved to the new subdivision streets, as shown.

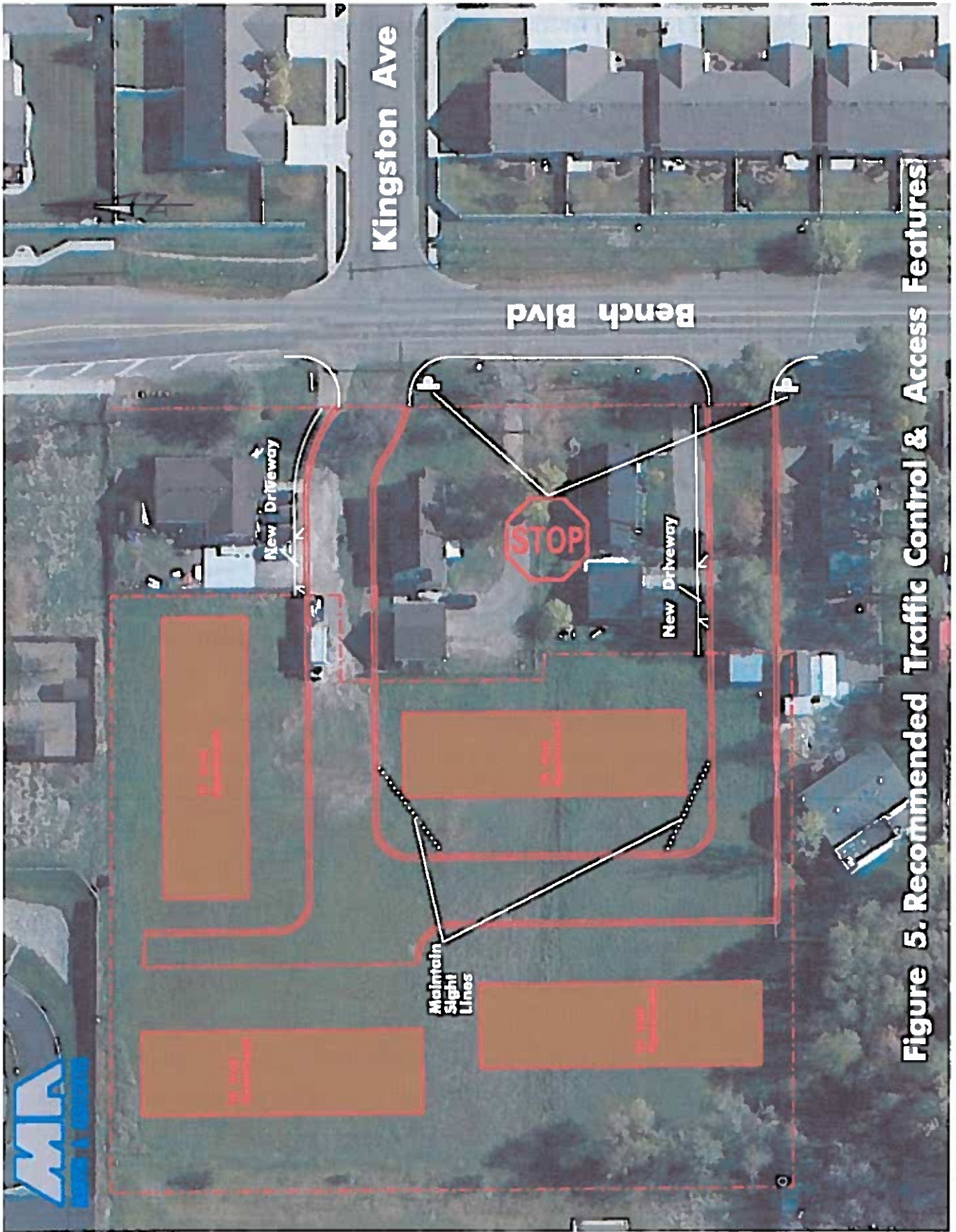


Figure 5. Recommended Traffic Control & Access Features

APPENDIX "A"

Existing Capacity Calculations

HCM Analysis Summary

2014 Existing
R Marvin
AM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist AM

Area Type: Non CBD
Analysis Duration: 15 mins.

Lanes			Geometry: Movements Serviced by Lane and Lane Widths (feet)											
Approach	Outbound		Lane 1		Lane 2		Lane 3		Lane 4		Lane 5		Lane 6	
EB	2	1	L	12.0	TR	12.0								
WB	2	1	L	12.0	TR	12.0								
NB	2	1	L	12.0	TR	12.0								
SB	2	1	L	12.0	TR	12.0								
Data			East			West			North			South		
			L	T	R	L	T	R	L	T	R	L	T	R
Movement Volume (vph)			73	173	87	85	243	24	58	147	26	25	176	91
PHF			0.86	0.86	0.86	0.91	0.91	0.91	0.80	0.80	0.80	0.87	0.87	0.87
% Heavy Vehicles			0	0	0	0	0	0	0	0	0	0	0	0
Lane Groups			L	TR		L	TR		L	TR		L	TR	
Arrival Type			3	3		3	3		3	3		3	3	
RTOR Vol (vph)			32			8			8			35		
Peds/Hour			5			5			5			5		
% Grade			0			0			0			0		
Buses/Hour			0			0			0			0		
Parkers/Hour (Left Right)			--		--	--		--	--		--	--		--
Signal Settings: Actuated			Operational Analysis				Cycle Length: 60.0 Sec				Lost Time Per Cycle: 9.0 Sec			
Phase:			1	2	3	4	5	6	7	8	Ped Only			
EB			LTP											
WB			LTP											
NB				LTP										
SB				LTP										
Green			25.0	26.0										0
Yellow	All Red		3.5	1.0	3.5	1.0								

Capacity Analysis Results									Approach:	
App	Lane Group	Cap (vph)	v/s Ratio	g/C Ratio	Lane Group	v/c Ratio	Delay (sec/veh)	LOS	Delay (sec/veh)	LOS
EB	L	423	0.084	0.417	L	0.201	11.2	B	11.8	B
	TR	762	0.145	0.417	TR	0.348	12.0	B		
WB	L	441	0.088	0.417	L	0.211	11.3	B	11.9	B
	* TR	784	0.152	0.417	TR	0.364	12.1	B		
NB	L	462	0.068	0.433	L	0.156	10.4	B	10.8	B
	TR	809	0.110	0.433	TR	0.255	10.9	B		
SB	L	515	0.024	0.433	L	0.056	9.9	A	11.2	B
	* TR	793	0.145	0.433	TR	0.335	11.4	B		

NETSIM Summary Results

2014 Existing
R Marvin
AM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist AM

App	Lane Group	Queues Per Lane Avg/Max (veh)	Average Speed (mph)	Spillback in Worst Lane (% of Peak Period)	
EB	L	1 / 2	10.7	0.0	
	TR	2 / 4	18.4	0.0	
	All		16.9	0.0	
WB	L	1 / 2	15.1	0.0	
	TR	3 / 5	16.7	0.0	
	All		16.5	0.0	
NB	L	1 / 2	9.9	0.0	
	TR	2 / 3	17.9	0.0	
	All		16.0	0.0	
SB	L	0 / 1	12.2	0.0	
	TR	3 / 4	17.1	0.0	
	All		16.7	0.0	
Intersect.			16.5		

HCM Analysis Summary

2014 Existing
R Marvin
PM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist PM

Area Type: Non CBD
Analysis Duration: 15 mins.

Lanes			Geometry: Movements Serviced by Lane and Lane Widths (feet)											
	Approach	Outbound	Lane 1		Lane 2		Lane 3		Lane 4		Lane 5		Lane 6	
EB	2	I	L	12.0	TR	12.0								
WB	2	I	L	12.0	TR	12.0								
NB	2	I	L	12.0	TR	12.0								
SB	2	I	L	12.0	TR	12.0								
Data	East			West			North			South				
	L	T	R	L	T	R	L	T	R	L	T	R		
Movement Volume (vph)	78	251	89	49	205	19	95	223	95	54	128	79		
PHF	0.86	0.86	0.86	0.91	0.91	0.91	0.80	0.80	0.80	0.87	0.87	0.87		
% Heavy Vehicles	0	0	0	0	0	0	0	0	0	0	0	0		
Lane Groups	L	TR		L	TR		L	TR		L	TR			
Arrival Type	3	3		3	3		3	3		3	3			
RTOR Vol (vph)	36			6			32			31				
Peds/Hour	5			5			5			5				
% Grade	0			0			0			0				
Buses/Hour	0			0			0			0				
Parkers/Hour (Left Right)	---		---		---		---		---		---			
Signal Settings: Actuated		Operational Analysis				Cycle Length: 60.0 Sec				Lost Time Per Cycle: 9.0 Sec				
Phase:	1	2	3	4	5	6	7	8	Ped Only					
EB	LTP													
WB	LTP													
NB		LTP												
SB		LTP												
Green	25.0	26.0										0		
Yellow	All Red	3.5	1.0	3.5	1.0									

Capacity Analysis Results									Approach:	
App	Lane Group	Cap (vph)	v/s Ratio	g/C Ratio	Lane Group	v/c Ratio	Delay (sec/veh)	LOS	Delay (sec/veh)	LOS
EB	L	465	0.082	0.417	L	0.196	11.2	B	12.5	B
	* TR	770	0.192	0.417	TR	0.460	12.8	B		
WB	L	363	0.062	0.417	L	0.149	11.0	B	11.6	B
	TR	785	0.127	0.417	TR	0.304	11.8	B		
NB	L	517	0.100	0.433	L	0.230	10.8	B	11.8	B
	* TR	795	0.195	0.433	TR	0.450	12.1	B		
SB	L	381	0.071	0.433	L	0.163	10.4	B	10.8	B
	TR	789	0.111	0.433	TR	0.256	10.9	B		

NETSIM Summary Results

2014 Existing
R Marvin
PM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist PM

App	Lane Group	Queues Per Lane Avg/Max (veh)	Average Speed (mph)	Spillback in Worst Lane (% of Peak Period)	
EB	L	1 / 3	11.1	0.0	
	TR	4 / 5	17.6	0.0	
	All		16.5	0.0	
WB	L	1 / 2	8.9	0.0	
	TR	2 / 4	18.2	0.0	
	All		17.0	0.0	
NB	L	2 / 6	7.8	0.0	
	TR	3 / 6	16.2	0.0	
	All		14.2	0.0	
SB	L	1 / 2	9.6	0.0	
	TR	2 / 4	18.7	0.0	
	All		16.9	0.0	
Intersect.			15.8		

TWO-WAY STOP CONTROL SUMMARY

General Information			Site Information					
Analyst	R Marvin		Intersection	Bench & Kingston				
Agency/Co.	Marvin Associates		Jurisdiction	City of Billings				
Date Performed	4/2/2014		Analysis Year	2014 Existing				
Analysis Time Period	Peak AM							
Project Description Chalice Acres Sub Lot 4								
East/West Street: Kingston Avenue			North/South Street: Bench Boulevard					
Intersection Orientation: North-South			Study Period (hrs): 0.25					
Vehicle Volumes and Adjustments								
Major Street	Northbound			Southbound				
Movement	1	2	3	4	5	6		
	L	T	R	L	T	R		
Volume (veh/h)	0	234	4	5	338	0		
Peak-Hour Factor, PHF	0.81	0.81	0.81	0.89	0.89	1.00		
Hourly Flow Rate, HFR (veh/h)	0	288	4	5	379	0		
Percent Heavy Vehicles	0	--	--	0	--	--		
Median Type	Undivided							
RT Channelized			0			0		
Lanes	0	1	0	0	1	0		
Configuration	LTR			LTR				
Upstream Signal		0			0			
Minor Street	Eastbound			Westbound				
Movement	7	8	9	10	11	12		
	L	T	R	L	T	R		
Volume (veh/h)	0		3	20		18		
Peak-Hour Factor, PHF	0.50	1.00	0.50	0.75	1.00	0.75		
Hourly Flow Rate, HFR (veh/h)	0	0	6	26	0	24		
Percent Heavy Vehicles	0	0	0	0	0	0		
Percent Grade (%)	0			0				
Flared Approach		N			N			
Storage		0			0			
RT Channelized			0			0		
Lanes	0	0	0	0	0	0		
Configuration	LR			LR				
Delay, Queue Length, and Level of Service								
Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LTR	LTR	LR			LR		
v (veh/h)	0	5	50			6		
C (m) (veh/h)	1191	1281	482			672		
v/c	0.00	0.00	0.10			0.01		
95% queue length	0.00	0.01	0.35			0.03		
Control Delay (s/veh)	8.0	7.8	13.3			10.4		
LOS	A	A	B			B		
Approach Delay (s/veh)	--	--	13.3			10.4		
Approach LOS	--	--	B			B		

TWO-WAY STOP CONTROL SUMMARY

General Information				Site Information			
Analyst	R Marvin			Intersection	Bench & Kingston		
Agency/Co.	Marvin Associates			Jurisdiction	City of Billings		
Date Performed	4/2/2014			Analysis Year	2014 Existing		
Analysis Time Period	Peak PM						
Project Description Chalice Acres Sub Lot 4							
East/West Street: Kingston Avenue				North/South Street: Bench Boulevard			
Intersection Orientation: North-South				Study Period (hrs): 0.25			
Vehicle Volumes and Adjustments							
Major Street	Northbound			Southbound			
Movement	1	2	3	4	5	6	
	L	T	R	L	T	R	
Volume (veh/h)	3	383	21	14	281	0	
Peak-Hour Factor, PHF	0.81	0.81	0.81	0.89	0.89	0.89	
Hourly Flow Rate, HFR (veh/h)	3	472	25	15	315	0	
Percent Heavy Vehicles	0	--	--	0	--	--	
Median Type	Undivided						
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration	LTR			LTR			
Upstream Signal		0			0		
Minor Street	Eastbound			Westbound			
Movement	7	8	9	10	11	12	
	L	T	R	L	T	R	
Volume (veh/h)	0		1	10		14	
Peak-Hour Factor, PHF	0.50	1.00	0.50	0.75	1.00	0.75	
Hourly Flow Rate, HFR (veh/h)	0	0	2	13	0	18	
Percent Heavy Vehicles	0	0	0	0	0	0	
Percent Grade (%)	0			0			
Flared Approach		N			N		
Storage		0			0		
RT Channelized			0			0	
Lanes	0	0	0	0	0	0	
Configuration		LR			LR		
Delay, Queue Length, and Level of Service							
Approach	Northbound	Southbound	Westbound			Eastbound	
Movement	1	4	7	8	9	10	11
						12	
Lane Configuration	LTR	LTR	LR			LR	
v (veh/h)	3	15	31			2	
C (m) (veh/h)	1257	1077	406			730	
v/c	0.00	0.01	0.08			0.00	
95% queue length	0.01	0.04	0.25			0.01	
Control Delay (s/veh)	7.9	8.4	14.6			9.9	
LOS	A	A	B			A	
Approach Delay (s/veh)	--	--	14.6			9.9	
Approach LOS	--	--	B			A	

APPENDIX "B"

Existing Plus Site Traffic Capacity Calculations

HCM Analysis Summary

2014 Existing Plus Site
R Marvin
AM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist Plus AM

Area Type: Non CBD
Analysis Duration: 15 mins.

Lanes			Geometry: Movements Served by Lane and Lane Widths (feet)											
Approach	Outbound		Lane 1		Lane 2		Lane 3		Lane 4		Lane 5		Lane 6	
EB	2	1	L	12.0	TR	12.0								
WB	2	1	L	12.0	TR	12.0								
NB	2	1	L	12.0	TR	12.0								
SB	2	1	L	12.0	TR	12.0								
Data			East			West			North			South		
			L	T	R	L	T	R	L	T	R	L	T	R
Movement Volume (vph)			73	173	89	85	243	24	63	149	27	25	176	91
PHF			0.86	0.86	0.86	0.91	0.91	0.91	0.80	0.80	0.80	0.87	0.87	0.87
% Heavy Vehicles			0	0	0	0	0	0	0	0	0	0	0	0
Lane Groups			L	TR		L	TR		L	TR		L	TR	
Arrival Type			3	3		3	3		3	3		3	3	
RTOR Vol (vph)			32			8			8			35		
Peds/Hour			5			5			5			5		
% Grade			0			0			0			0		
Buses/Hour			0			0			0			0		
Parkers/Hour (Left Right)			---		---	---		---	---		---	---		---
Signal Settings: Actuated			Operational Analysis				Cycle Length: 60.0 Sec				Lost Time Per Cycle: 9.0 Sec			
Phase:			1	2	3	4	5	6	7	8	Ped Only			
EB			LTP											
WB			LTP											
NB				LTP										
SB				LTP										
Green			25.0	26.0										0
Yellow	All Red		3.5	1.0	3.5	1.0								

Capacity Analysis Results									Approach:	
App	Lane Group	Cap (vph)	v/s Ratio	g/C Ratio	Lane Group	v/c Ratio	Delay (sec/veh)	LOS	Delay (sec/veh)	LOS
EB	L	423	0.084	0.417	L	0.201	11.2	B	11.9	B
	TR	761	0.146	0.417	TR	0.351	12.1	B		
WB	L	439	0.088	0.417	L	0.212	11.3	B	11.9	B
	* TR	784	0.152	0.417	TR	0.364	12.1	B		
NB	L	462	0.074	0.433	L	0.171	10.5	B	10.8	B
	TR	809	0.113	0.433	TR	0.260	10.9	B		
SB	L	514	0.024	0.433	L	0.056	9.9	A	11.2	B
	* TR	793	0.145	0.433	TR	0.335	11.4	B		

NETSIM Summary Results

2014 Existing Plus Site
R Marvin
AM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist Plus AM

App	Lane Group	Queues Per Lane Avg/Max (veh)	Average Speed (mph)	Spillback in Worst Lane (% of Peak Period)	
EB	L	1 / 2	10.4	0.0	
	TR	3 / 4	18.1	0.0	
	All		16.6	0.0	
WB	L	1 / 2	14.6	0.0	
	TR	3 / 5	16.6	0.0	
	All		16.4	0.0	
NB	L	1 / 3	7.5	0.0	
	TR	2 / 4	18.8	0.0	
	All		15.5	0.0	
SB	L	0 / 1	12.3	0.0	
	TR	3 / 4	17.2	0.0	
	All		16.8	0.0	
Intersect.			16.3		

HCM Analysis Summary

2014 Existing Plus Site
R Marvin
PM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist Plus PM

Area Type: Non CBD
Analysis Duration: 15 mins.

Geometry: Movements Serviced by Lane and Lane Widths (feet)

Lanes			Geometry: Movements Serviced by Lane and Lane Widths (feet)											
Approach	Outbound		Lane 1		Lane 2		Lane 3		Lane 4		Lane 5		Lane 6	
EB	2	1	L	12.0	TR	12.0								
WB	2	1	L	12.0	TR	12.0								
NB	2	1	L	12.0	TR	12.0								
SB	2	1	L	12.0	TR	12.0								
Data			East			West			North			South		
			L	T	R	L	T	R	L	T	R	L	T	R
Movement Volume (vph)			78	251	97	50	205	19	99	224	96	54	131	79
PHF			0.86	0.86	0.86	0.91	0.91	0.91	0.80	0.80	0.80	0.87	0.87	0.87
% Heavy Vehicles			0	0	0	0	0	0	0	0	0	0	0	0
Lane Groups			L	TR		L	TR		L	TR		L	TR	
Arrival Type			3	3		3	3		3	3		3	3	
RTOR Vol (vph)			36			6			32			31		
Peds/Hour			5			5			5			5		
% Grade			0			0			0			0		
Buses/Hour			0			0			0			0		
Parkers/Hour (Left Right)			---		---	---		---	---		---	---		---
Signal Settings: Actuated			Operational Analysis					Cycle Length: 60.0 Sec			Lost Time Per Cycle: 9.0 Sec			
Phase:			1	2	3	4	5	6	7	8				Ped Only
EB			LTP											
WB			LTP											
NB				LTP										
SB				LTP										
Green			25.0	26.0										0
Yellow	All Red		3.5	1.0	3.5	1.0								

Capacity Analysis Results

App	Lane Group	Cap (vph)	v/s Ratio	g/C Ratio	Lane Group	v/c Ratio	Delay (sec/veh)	LOS	Approach:	
									Delay (sec/veh)	LOS
EB	L	465	0.082	0.417	L	0.196	11.2	B	12.5	B
	* TR	767	0.197	0.417	TR	0.473	12.9	B		
WB	L	355	0.065	0.417	L	0.155	11.0	B	11.6	B
	TR	785	0.127	0.417	TR	0.304	11.8	B		
NB	L	515	0.104	0.433	L	0.241	10.8	B	11.8	B
	* TR	795	0.196	0.433	TR	0.453	12.1	B		
SB	L	379	0.071	0.433	L	0.164	10.4	B	10.8	B
	TR	789	0.113	0.433	TR	0.261	10.9	B		

NETSIM Summary Results

2014 Existing Plus Site
R Marvin
PM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist Plus PM

App	Lane Group	Queues Per Lane Avg/Max (veh)	Average Speed (mph)	Spillback in Worst Lane (% of Peak Period)	
EB	L	1 / 4	9.5	0.0	
	TR	4 / 6	17.2	0.0	
	All		15.9	0.0	
WB	L	1 / 2	7.6	0.0	
	TR	2 / 3	18.0	0.0	
	All		16.5	0.0	
NB	L	1 / 5	9.7	0.0	
	TR	3 / 5	17.4	0.0	
	All		15.8	0.0	
SB	L	1 / 2	10.1	0.0	
	TR	2 / 4	18.4	0.0	
	All		16.8	0.0	
Intersect.			16.1		

TWO-WAY STOP CONTROL SUMMARY

General Information			Site Information				
Analyst	R Marvin		Intersection	Bench & Kingston			
Agency/Co.	Marvin Associates		Jurisdiction	City of Billings			
Date Performed	4/2/2014		Analysis Year	2014 Existing Plus Site			
Analysis Time Period	Peak AM						
Project Description Chalice Acres Sub Lot 4							
East/West Street: Kingston Avenue			North/South Street: Bench Boulevard				
Intersection Orientation: North-South			Study Period (hrs): 0.25				
Vehicle Volumes and Adjustments							
Major Street	Northbound			Southbound			
Movement	1	2	3	4	5	6	
	L	T	R	L	T	R	
Volume (veh/h)	0	234	4	5	338	2	
Peak-Hour Factor, PHF	0.81	0.81	0.81	0.89	0.89	0.89	
Hourly Flow Rate, HFR (veh/h)	0	288	4	5	379	2	
Percent Heavy Vehicles	0	--	--	0	--	--	
Median Type	Undivided						
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration	LTR			LTR			
Upstream Signal		0			0		
Minor Street	Eastbound			Westbound			
Movement	7	8	9	10	11	12	
	L	T	R	L	T	R	
Volume (veh/h)	8		3	20		18	
Peak-Hour Factor, PHF	0.50	1.00	0.50	0.75	1.00	0.75	
Hourly Flow Rate, HFR (veh/h)	16	0	6	26	0	24	
Percent Heavy Vehicles	0	0	0	0	0	0	
Percent Grade (%)	0			0			
Flared Approach		N			N		
Storage		0			0		
RT Channelized			0			0	
Lanes	0	0	0	0	0	0	
Configuration		LR			LR		
Delay, Queue Length, and Level of Service							
Approach	Northbound	Southbound	Westbound			Eastbound	
Movement	1	4	7	8	9	10	11
Lane Configuration	LTR	LTR		LR			LR
v (veh/h)	0	5		50			22
C (m) (veh/h)	1189	1281		481			401
v/c	0.00	0.00		0.10			0.05
95% queue length	0.00	0.01		0.35			0.17
Control Delay (s/veh)	8.0	7.8		13.4			14.5
LOS	A	A		B			B
Approach Delay (s/veh)	--	--		13.4			14.5
Approach LOS	--	--		B			B

TWO-WAY STOP CONTROL SUMMARY

General Information			Site Information				
Analyst	R Marvin		Intersection	Bench & Kingston			
Agency/Co.	Marvin Associates		Jurisdiction	City of Billings			
Date Performed	4/2/2014		Analysis Year	2014 Existing Plus			
Analysis Time Period	Peak PM						
Project Description <i>Chalice Acres Sub Lot 4</i>							
East/West Street: <i>Kingston Avenue</i>			North/South Street: <i>Bench Boulevard</i>				
Intersection Orientation: <i>North-South</i>			Study Period (hrs): <i>0.25</i>				
Vehicle Volumes and Adjustments							
Major Street	Northbound			Southbound			
Movement	1	2	3	4	5	6	
	L	T	R	L	T	R	
Volume (veh/h)	3	383	21	14	281	12	
Peak-Hour Factor, PHF	0.81	0.81	0.81	0.89	0.89	0.89	
Hourly Flow Rate, HFR (veh/h)	3	472	25	15	315	13	
Percent Heavy Vehicles	0	--	--	0	--	--	
Median Type	<i>Undivided</i>						
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration	<i>LTR</i>			<i>LTR</i>			
Upstream Signal		0			0		
Minor Street	Eastbound			Westbound			
Movement	7	8	9	10	11	12	
	L	T	R	L	T	R	
Volume (veh/h)	6		1	10		14	
Peak-Hour Factor, PHF	0.50	1.00	0.50	0.75	1.00	0.75	
Hourly Flow Rate, HFR (veh/h)	12	0	2	13	0	18	
Percent Heavy Vehicles	0	0	0	0	0	0	
Percent Grade (%)	0			0			
Flared Approach		<i>N</i>			<i>N</i>		
Storage		0			0		
RT Channelized			0			0	
Lanes	0	0	0	0	0	0	
Configuration		<i>LR</i>			<i>LR</i>		
Delay, Queue Length, and Level of Service							
Approach	Northbound	Southbound	Westbound			Eastbound	
Movement	1	4	7	8	9	10	11
Lane Configuration	<i>LTR</i>	<i>LTR</i>		<i>LR</i>			<i>LR</i>
v (veh/h)	3	15		31			14
C (m) (veh/h)	1243	1077		403			296
v/c	0.00	0.01		0.08			0.05
95% queue length	0.01	0.04		0.25			0.15
Control Delay (s/veh)	7.9	8.4		14.7			17.8
LOS	<i>A</i>	<i>A</i>		<i>B</i>			<i>C</i>
Approach Delay (s/veh)	--	--		14.7			17.8
Approach LOS	--	--		<i>B</i>			<i>C</i>

TWO-WAY STOP CONTROL SUMMARY

General Information			Site Information					
Analyst	R Marvin		Intersection	South Access & Bench				
Agency/Co.	Marvin Associates		Jurisdiction	City of Billings				
Date Performed	4/3/2014		Analysis Year	2014 Existing Plus Site				
Analysis Time Period	Peak AM							
Project Description <i>Chalice Acres Sub Lot 4</i>								
East/West Street: <i>Southern Access</i>			North/South Street: <i>Bench Blvd</i>					
Intersection Orientation: <i>North-South</i>			Study Period (hrs): <i>0.25</i>					
Vehicle Volumes and Adjustments								
Major Street	Northbound			Southbound				
Movement	1	2	3	4	5	6		
	L	T	R	L	T	R		
Volume (veh/h)	3	238			361	0		
Peak-Hour Factor, PHF	0.90	0.90	1.00	1.00	0.90	0.90		
Hourly Flow Rate, HFR (veh/h)	3	264	0	0	401	0		
Percent Heavy Vehicles	0	--	--	0	--	--		
Median Type	<i>Undivided</i>							
RT Channelized			0			0		
Lanes	0	1	0	0	1	0		
Configuration	<i>LT</i>					<i>TR</i>		
Upstream Signal		0			0			
Minor Street	Eastbound			Westbound				
Movement	7	8	9	10	11	12		
	L	T	R	L	T	R		
Volume (veh/h)	0		10					
Peak-Hour Factor, PHF	0.50	1.00	0.50	1.00	1.00	1.00		
Hourly Flow Rate, HFR (veh/h)	0	0	20	0	0	0		
Percent Heavy Vehicles	0	0	0	0	0	0		
Percent Grade (%)	0			0				
Flared Approach		<i>N</i>			<i>N</i>			
Storage		0			0			
RT Channelized			0			0		
Lanes	0	0	0	0	0	0		
Configuration		<i>LR</i>						
Delay, Queue Length, and Level of Service								
Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	<i>LT</i>						<i>LR</i>	
v (veh/h)	3						20	
C (m) (veh/h)	1169						653	
v/c	0.00						0.03	
95% queue length	0.01						0.09	
Control Delay (s/veh)	8.1						10.7	
LOS	A						B	
Approach Delay (s/veh)	--	--					10.7	
Approach LOS	--	--					B	

TWO-WAY STOP CONTROL SUMMARY								
General Information				Site Information				
Analyst	R Marvin			Intersection	South Access & Bench			
Agency/Co.	Marvin Associates			Jurisdiction	City of Billings			
Date Performed	4/3/2014			Analysis Year	2014 Existing Plus Site			
Analysis Time Period	Peak PM							
Project Description Chalice Acres Sub Lot 4								
East/West Street: Southern Access				North/South Street: Bench Blvd				
Intersection Orientation: North-South				Study Period (hrs): 0.25				
Vehicle Volumes and Adjustments								
Major Street	Northbound			Southbound				
Movement	1	2	3	4	5	6		
	L	T	R	L	T	R		
Volume (veh/h)	14	407			292	0		
Peak-Hour Factor, PHF	0.92	0.92	1.00	1.00	0.90	0.90		
Hourly Flow Rate, HFR (veh/h)	15	442	0	0	324	0		
Percent Heavy Vehicles	0	--	--	0	--	--		
Median Type	Undivided							
RT Channelized			0			0		
Lanes	0	1	0	0	1	0		
Configuration	LT					TR		
Upstream Signal		0			0			
Minor Street	Eastbound			Westbound				
Movement	7	8	9	10	11	12		
	L	T	R	L	T	R		
Volume (veh/h)	0		8					
Peak-Hour Factor, PHF	0.50	1.00	0.50	1.00	1.00	1.00		
Hourly Flow Rate, HFR (veh/h)	0	0	16	0	0	0		
Percent Heavy Vehicles	0	0	0	0	0	0		
Percent Grade (%)	0			0				
Flared Approach		N			N			
Storage		0			0			
RT Channelized			0			0		
Lanes	0	0	0	0	0	0		
Configuration		LR						
Delay, Queue Length, and Level of Service								
Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LT						LR	
v (veh/h)	15						16	
C (m) (veh/h)	1247						722	
v/c	0.01						0.02	
95% queue length	0.04						0.07	
Control Delay (s/veh)	7.9						10.1	
LOS	A						B	
Approach Delay (s/veh)	--	--				10.1		
Approach LOS	--	--				B		

APPENDIX "C"

Future Conditions Capacity at Accesses

TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information					
Analyst	R Marvin	Intersection	Bench & Kingston				
Agency/Co.	Marvin Associates	Jurisdiction	City of Billings				
Date Performed	4/2/2014	Analysis Year	Year 2020 Conditions				
Analysis Time Period	Peak PM						
Project Description Chalice Acres Sub Lot 4							
East/West Street: Kingston Avenue			North/South Street: Bench Boulevard				
Intersection Orientation: North-South			Study Period (hrs): 0.25				
Vehicle Volumes and Adjustments							
Major Street	Northbound			Southbound			
Movement	1	2	3	4	5	6	
	L	T	R	L	T	R	
Volume (veh/h)	3	435	21	16	320	12	
Peak-Hour Factor, PHF	0.83	0.83	0.83	0.91	0.91	0.91	
Hourly Flow Rate, HFR (veh/h)	3	524	25	17	351	13	
Percent Heavy Vehicles	0	--	--	0	--	--	
Median Type	Undivided						
RT Channelized			0			0	
Lanes	1	1	0	1	1	0	
Configuration	L		TR	L		TR	
Upstream Signal		0			0		
Minor Street	Eastbound			Westbound			
Movement	7	8	9	10	11	12	
	L	T	R	L	T	R	
Volume (veh/h)	6		1	12		16	
Peak-Hour Factor, PHF	0.50	1.00	0.50	0.75	1.00	0.75	
Hourly Flow Rate, HFR (veh/h)	12	0	2	16	0	21	
Percent Heavy Vehicles	0	0	0	0	0	0	
Percent Grade (%)	0			0			
Flared Approach		N			N		
Storage		0			0		
RT Channelized			0			0	
Lanes	0	0	0	0	0	0	
Configuration		LR			LR		
Delay, Queue Length, and Level of Service							
Approach	Northbound	Southbound	Westbound			Eastbound	
Movement	1	4	7	8	9	10	11
Lane Configuration	L	L		LR			LR
v (veh/h)	3	17		37			14
C (m) (veh/h)	1206	1031		356			255
v/c	0.00	0.02		0.10			0.05
95% queue length	0.01	0.05		0.34			0.17
Control Delay (s/veh)	8.0	8.6		16.3			19.9
LOS	A	A		C			C
Approach Delay (s/veh)	--	--		16.3			19.9
Approach LOS	--	--		C			C

TWO-WAY STOP CONTROL SUMMARY								
General Information					Site Information			
Analyst	R Marvin				Intersection	South Access & Bench		
Agency/Co.	Marvin Associates				Jurisdiction	City of Billings		
Date Performed	4/3/2014				Analysis Year	2020 Conditions		
Analysis Time Period	Peak PM							
Project Description Chalice Acres Sub Lot 4								
East/West Street: Southern Access					North/South Street: Bench Blvd			
Intersection Orientation: North-South					Study Period (hrs): 0.25			
Vehicle Volumes and Adjustments								
Major Street	Northbound			Southbound				
Movement	1	2	3	4	5	6		
	L	T	R	L	T	R		
Volume (veh/h)	14	462			333	0		
Peak-Hour Factor, PHF	0.92	0.92	1.00	1.00	0.90	0.90		
Hourly Flow Rate, HFR (veh/h)	15	502	0	0	370	0		
Percent Heavy Vehicles	0	-	-	0	-	-		
Median Type	Undivided							
RT Channelized			0				0	
Lanes	1	1	0	0	1	0		
Configuration	L	T					TR	
Upstream Signal		0			0			
Minor Street	Eastbound			Westbound				
Movement	7	8	9	10	11	12		
	L	T	R	L	T	R		
Volume (veh/h)	0		8					
Peak-Hour Factor, PHF	0.50	1.00	0.50	1.00	1.00	1.00		
Hourly Flow Rate, HFR (veh/h)	0	0	16	0	0	0		
Percent Heavy Vehicles	0	0	0	0	0	0		
Percent Grade (%)	0			0				
Flared Approach		N			N			
Storage		0			0			
RT Channelized			0				0	
Lanes	0	0	0	0	0	0		
Configuration		LR						
Delay, Queue Length, and Level of Service								
Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	L						LR	
v (veh/h)	15						16	
C (m) (veh/h)	1200						680	
v/c	0.01						0.02	
95% queue length	0.04						0.07	
Control Delay (s/veh)	8.0						10.4	
LOS	A						B	
Approach Delay (s/veh)	--	--					10.4	
Approach LOS	--	--					B	



City Zoning Commission

Meeting Date: 03/03/2015

SUBJECT: Special Review #925 72 & 77 Lily Valley Circle - Retirement Center

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: David Green

Information

REQUEST

City Special Review #925 – 72 & 77 Lily Valley Circle – Retirement Center: This is a special review to allow a retirement center with 15 units in a 16,438 square foot addition to an existing assisted living residence in a Residential 9,600 (R-96) zone on Lots 26 and 27, Block 2, Howard Heights Subdivision and additional land (13,151 square feet) from adjacent owners to the south and east, a 34,429 square foot parcel of land. The property received previous special review approval for an assisted living home in 2005. The owner is BLW Investments, LLC and the agent is AT Architecture, Inc.

RECOMMENDATION

The Planning Division is recommending conditional approval.

APPLICATION DATA

OWNER: BLW Investments, LLC

AGENT: AT Architecture, Inc., Alex Tommerup

LEGAL DESCRIPTION: Lots 26 and 27, Block 2, Howard Heights Subdivision, 10,576 sf and 7,865 sf (34,429 sf total) additional land from Churches

ADDRESS: 72 & 77 Lily Valley Circle

CURRENT ZONING: R-96

EXISTING LAND USE: Vacant

PROPOSED USE: Retirement Center

SIZE OF PARCEL: 50,867 Square feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Subject Property – Special Review #714 – Special Review to allow the location of an assisted living facility was approved January 14, 2002. Original Special Review for this facility.

Surrounding Properties

Four special reviews have been submitted within this area, three for the churches, Trinity Church of the Nazarene has two Special Reviews, one for the original construction and one for a future expansion. The fourth special review was the original special review for this facility.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: R-96 Land Use: Residential
SOUTH:	Zoning: R-96 Land Use: Trinity Church of the Nazarene
EAST:	Zoning: R-96 Land Use: Residential / Vacant
WEST:	Zoning: R-96 Land Use: Residential

BACKGROUND

This is a special review request to expand an assisted living facility in a Residential 9600 district in the Howard Heights Subdivision. An assisted living facility is not considered a multi-family residential use since additional services are provided to residents that can no longer live independently. There are several assisted living facilities in the Heights area of Billings. Most of them are smaller facilities with as few as 9 residents with others up to 30. There is one large facility at 1439 Main Street. Staff was able to identify 6 facilities with a search on the internet. Compared to the other areas of Billings, the Heights does not have a lot of options for assisted living facilities. As the number of people age 65 and older increases, the demand for assisted living and similar supportive living facilities will increase. The population age 65 and older in Yellowstone County in 1990 was about 14,000, or 12% of the total population. In 2013, this population group increased to 23,000 or about 15% of the total population. Census projections estimate by 2030, persons over age 65 will approach 39,000 or 22% of the total population in Yellowstone County.

This facility is in a residential setting where the residents can be in a less institutional feeling area. They are also located where there is a minimum of traffic. The proximity to social, community, and commercial services will allow the residents to exercise a modicum of independence. The site plan shows the same type and style of landscaping will be installed and there is also a fence along the southern edge of the proposed addition.

The Planning Division has reviewed this application and is recommending conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Unified Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it is within a district where an assisted living facility may be allowed by special review.

The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have designated all residential zoning districts as areas where assisted living facilities for more than 8 persons may be allowed. The proposal is consistent with goals of the 2008 Growth Policy –

specifically the goal of encouraging uses that are compatible with the character of the adjacent land use patterns. This site is adjacent to single family uses within the city limits and will share a common boundary with the Heights Baptist Church and Trinity Church of the Nazarene. There are minimal impacts from the proposed location of the assisted living facility that need to be mitigated. The conditions recommended with the exception of condition 3 are standard conditions applicable to all special review approvals.

RECOMMENDATION

The Planning Division recommends conditional approval subject to the following conditions:

1. The special review approval is for the expansion of an assisted living facility generally located at 72 and 77 Lily Valley Circle.
2. The approval is limited to Lots 26 and 27, Block 2, Howard Heights Subdivision, 10,576 sf and 7,865 sf (34,429 sf total) additional land from adjacent Churches.
3. The property is currently owned by the Heights Baptist Church and the Trinity Church of the Nazarenes included in this site plan must be purchased and lot lines relocated before construction of the new addition can begin.
4. Increases in the number of units or the number of off-street parking spaces greater than 10% of the numbers shown on the site plan will require additional special review approval.
5. The site will be developed in substantial conformance with the submitted site plan dated 01-25-15. Minor modifications to the site plan are acceptable.
6. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
7. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit or zoning compliance permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

ATTACHMENTS

Attachment A: Zoning Commission Action

Attachment B: Zoning Map

Attachment C: Site photographs

Attachment D: Site Plan

APPROVED BY CITY ADMINISTRATOR

Attachments

Attachments

Attachment A
Zoning Commission Action

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

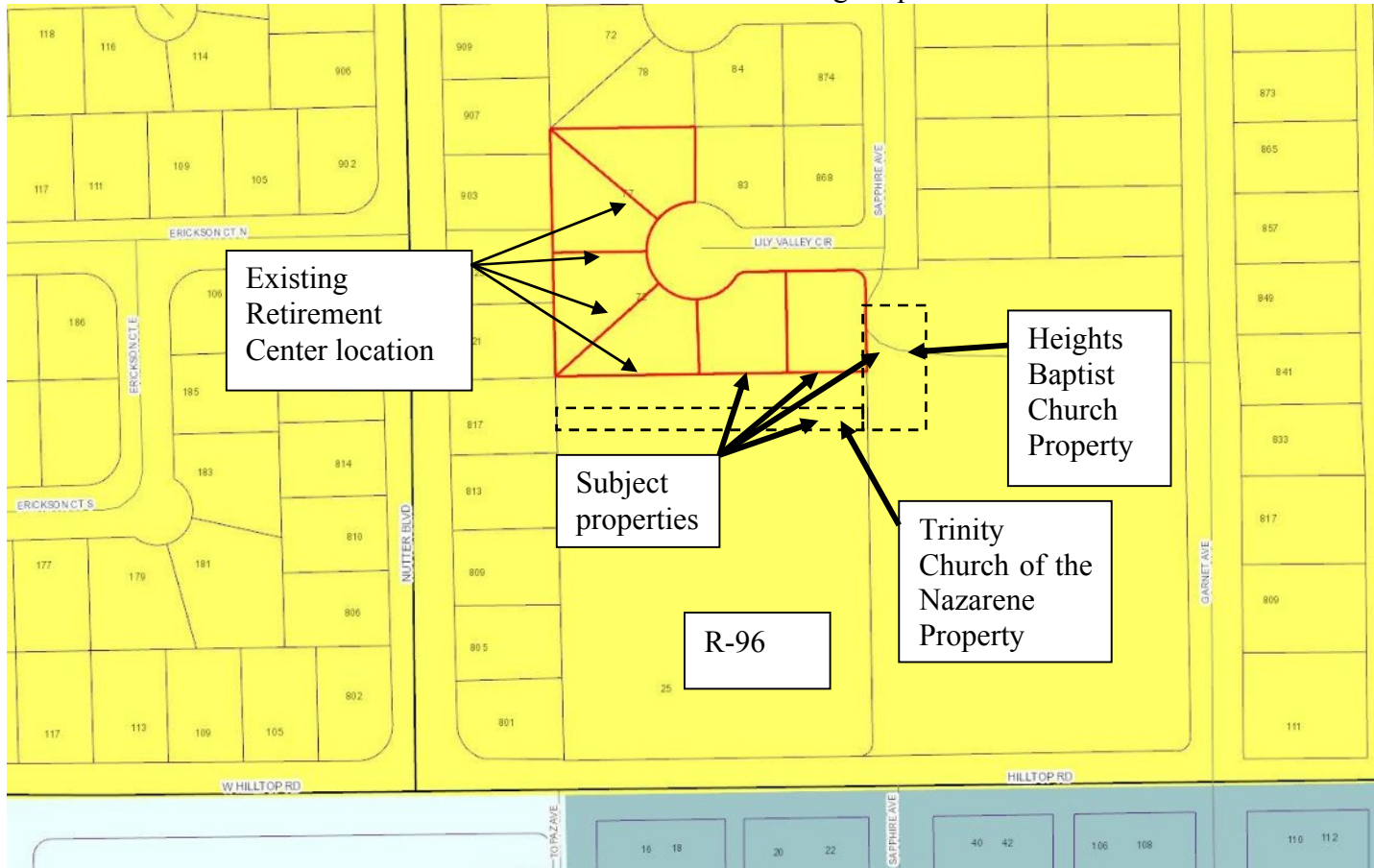
Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Subject Property **Attachment B**
Zoning Map



Attachment C
Site Photos



Subject Property



Attachment C, continued
Site Photos



View east looking at Baptist Church Building



View north east along Lily Valley Circle

BUTTERFLY HOMES

BILLINGS, MT



Looking WSW from Lily Circle at Butterfly Homes



Looking ESE from Lily Valley Circle



Looking NW from Hilltop toward Butterfly Homes



Looking SW from Lily Valley Circle



Looking E from Lily Valley Circle



Looking W from Lily Valley Circle

Attachment D Site plan

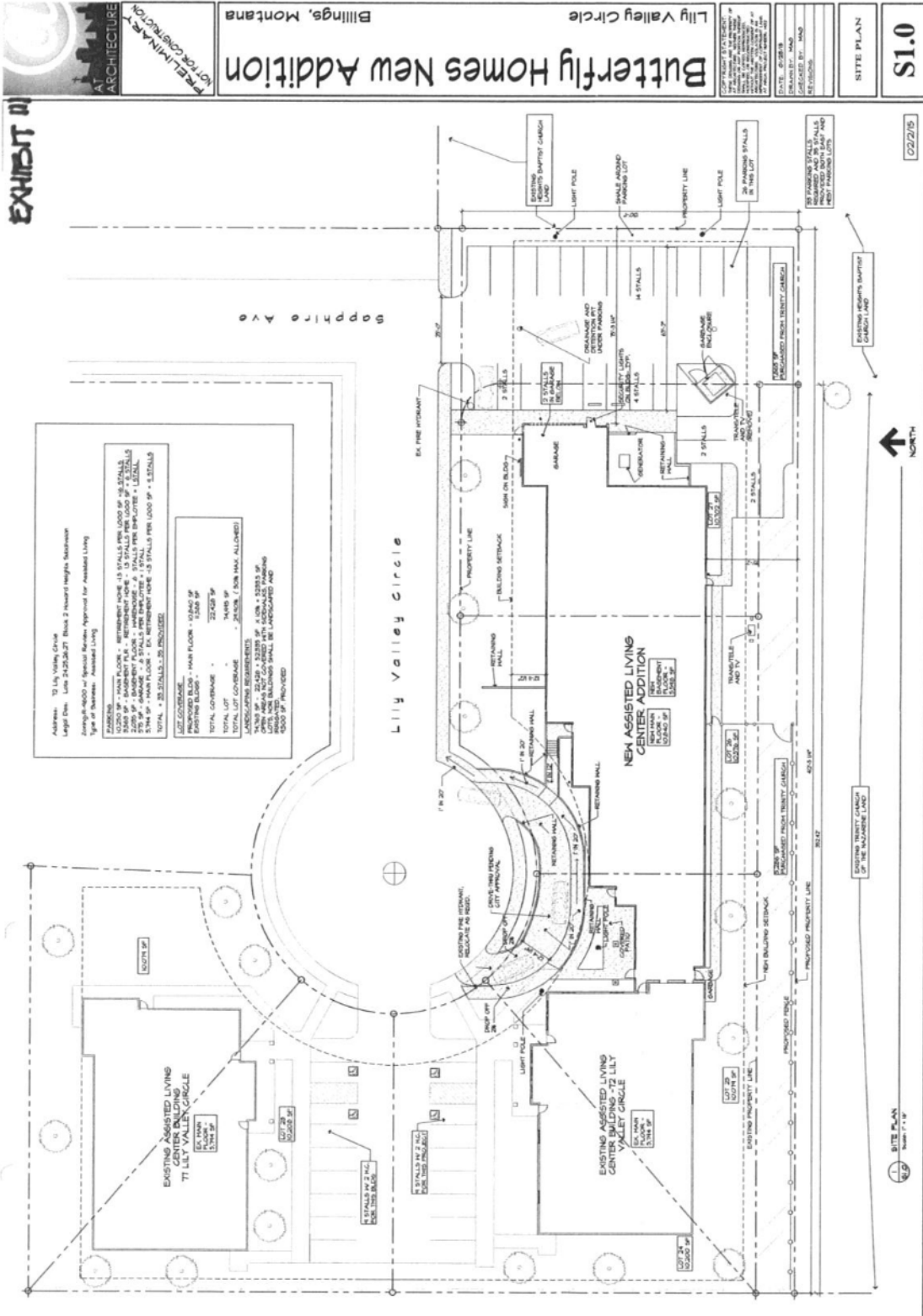


EXHIBIT D



PRELIMINARY AT ARCHITECTURE FOR LORCOR CORP.

Butterfly Homes New Addition
Lily Valley Circle
Billings, Montana

DATE: 02/21/15
SCALE: 1/8" = 1'-0"
REVISIONS:

SITE PLAN
S1.0

Attachment D, continued

Applicant Letter



February 2, 2015

Planning & Community Services Department
4th Floor
2825 3rd Ave North
Billings, MT 59102

RE: Request for Special Review For
Butterfly Homes
72 & 77 Lily Valley Circle
Billings, MT 59105

Planning Staff:

The Butterfly Homes, which is an Assisted Living Facility presently occupies a site at 72 & 77 Lily Valley Circle. This project would be an addition to the East of the existing south building. See attached Location Map – Exhibit I. The following outlines the data requested by your application instructions.

A. Forward:

This land consists of 74,995 SF and is zoned Residential 9600. The Butterfly Home south building which we are adding to was originally built in 2004 and the north building was built in 2002. The existing south building on the site is approximately 5,794 sf. The proposed addition to the facility will be approximately 10,840 sf on the main floor plus an additional 5,548 sf in the basement space. The existing south building and the addition will be joined with an interior hall system and will operate as one project. The new addition will include living quarters of 1 bedroom and studio units, offices, kitchen, dining, living room, storage rooms & a garage.

1. Questions:

A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy? (Answer to Instructions 1.A)

1. Economic Development - This new addition will increase the potential for care for more seniors. Butterfly Homes will also employ additional full time people at this facility to care for those who need living assistance. This facility addition will help strengthen the area economy through the creation of a bigger and a better place for those needing assisted living and those who work there. This will

help support the Billings job markets and help bring in needed leaders and workers for this facility.

2. Aesthetics - The area around the existing building and grounds is well landscaped and is kept in good condition. A new and attractive sign will be added which will be a nice addition for the facility identification for visitors. The new building will improve the appearance of the facility and area.
3. Natural Resources – Butterfly Homes keeps their site area free of weeds, etc which helps with fire management.
4. Public Services –This addition will be a great addition since the Heights lacks rooms for assisted living. A much needed facility.
5. Land Use Element – This addition will carry the same land use as the neighboring Butterfly Buildings.

- B. Why is there a need for the intended use of the property on this location. (Answer to Instructions 1.B)

Butterfly Homes in its present location was built in 2004. Since then, this facility has been mostly full. The need for additional assisted living is needed in the Heights since most of the potential residents end up having to go to the West end to find a place to live if this type of care is needed. With this addition many will be able to stay closer to family & friends.

- C. How will the public interest be served if this application is approved? (Answer to Instructions 1.C)

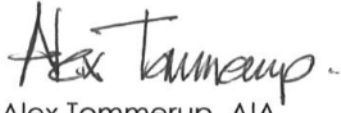
This project will address many issues of public concern including drainage issues through this property. With development of these lots, the neighboring churches will see great neighbors. Also the neighbors in the area will also experience loving workers as well as the residents who have worked hard all their lives and find a nice home to finish their days.

- D. Prepare a written statement addressing what is intended to be done with the property, and why the special review is being sought. (Answer to Instructions 1.D)

The proposed addition will be an addition to serve addition residents with full assisted living services and amenities. These include bathing, exercising, visiting, meals and security. It will also be the home offices for the staff of the assisted living facilities run by Wolf Creek Enterprises and Butterfly Homes.

The current facility is zoned R-9600. An assisted living facility is allowed under a special review approval. Currently the existing 2 Butterfly Homes are located on adjacent lots which are contiguous. The owner is in the process of aggregating the lots to be as few of lots as possible so these facility will be on one lot if possible.

Sincerely,

A handwritten signature in black ink that reads "Alex Tommerup". The signature is written in a cursive style with a horizontal line extending from the top of the "A".

Alex Tommerup, AIA

AT Architecture
848 Main Street Suite 7
Billings, Montana 59105
406-245-2724

cc: Planning and Community Services Department w/ enclosures (1)
Mike White, Owner – Butterfly Homes & Wolf Creek Enterprises (1)



City Zoning Commission

Meeting Date: 03/03/2015

SUBJECT: Zone Change 934 - Text Amendment to Allow Tow Trucks to be Parked Off-Street in Residential Zones

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Zone Change #934 – Text Amendment – This is a City Council initiated amendment to the Unified Zoning Regulations Section 27-601(a) and 27-606 to allow the off-street parking and storage of Class A or Class D tow trucks in all residential zones. The City Council initiated this zone change on February 9, 2015 at the request of the Yellowstone Valley Tow Truck Association. There is a companion ordinance amendment to 24-406 that regulates on-street parking of similar vehicles. This is not part of the Zoning Regulations. The Zoning Commission may take comment on this item but will only forward a recommendation on the proposed amendments to the Zoning Regulations 27-601(a) and 27-606.

RECOMMENDATION

The Planning Division is recommending denial of the amendments to allow tow trucks to park off-street in residential zones.

APPLICATION DATA

OWNER:

AGENT:

LEGAL DESCRIPTION:

ADDRESS:

CURRENT ZONING:

EXISTING LAND USE:

PROPOSED USE:

SIZE OF PARCEL:

APPLICABLE ZONING HISTORY

Section 27-601(a) of the Zoning Regulations has been amended several times by the City and County since 1997, the year the City and County zoning regulations were unified. This section of the code regulates how items including motor vehicles may be stored on property within residential zones and on property used for residential purposes. Residential zones are primarily intended for all types and choices of housing without the intrusion of intensive commercial, retail, and industrial uses. Section 27-606 of the Zoning Regulations allows and limits home occupations or home-based businesses within residential zones in the City and County. The code allows all types of office-based businesses and certain types of

services within residential zones. Home-based businesses must comply with the limitations in the code including no employees except occupants of the residence, no signage, and no traffic to or from the residence between 6 pm and 7:30 am. The regulations are intended to preserve the nature of residential neighborhoods as places of quiet enjoyment for families.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: Land Use:
SOUTH:	Zoning: Land Use:
EAST:	Zoning: Land Use:
WEST:	Zoning: Land Use:

BACKGROUND

In October 2014, the Yellowstone Valley Tow Truck Association presented the City Council proposed city code amendments to allow certain types of tow trucks to parked on-street and off-street within residence districts. The City Council held a work session on the proposed code amendment on October 20, 2014, to discuss the draft amendment. The City Council asked legal staff to re-draft the proposed ordinance and the revised ordinance was initiated by the City Council on February 9, 2015. The initiative includes amendments to the Zoning Regulations and the Traffic Regulations of the city code. The Zoning Regulations only pertain to private property and the Traffic Regulations only pertain to public property - the City's public street. Private streets and right-of ways will not be affected by the changes to the Traffic Regulations. The Zoning Regulation amendments do not override or nullify private covenants and restrictions for subdivisions that are more restrictive for off-street parking and storage.

The intent of the regulations for off-street parking and storage of vehicles and other personal property in residence districts {Section 27-601(a)} is to maintain these areas for residential enjoyment with allowances for storage of recreational vehicles on driveways or in back yards. The collection and open storage of salvaged items, trash, debris, discarded household items and appliances as well as inoperable, wrecked, or junk vehicles has long been an issue in many residential areas of Billings and Yellowstone County. In the past 5 years, the City Code Enforcement Division has responded to more than 3,600 complaints of open storage and inoperable vehicles in Billings' neighborhoods. In same time period, Code Enforcement has received more than 950 complaints about RV parking on driveways or yards in residential areas. From 2010 to the end of 2014, the division received less than 75 complaints about commercial vehicles parked on driveways in residential zones but nearly 3,800 complaints about trailers or commercial vehicles parked on residential streets. Several complaints during the summer of 2014 pertained to tow trucks parked in residential zones.

The Yellowstone Valley Tow Truck Association (the Association) is concerned that towing businesses may not be able to respond to calls for service - particularly during overnight periods - if owners and employees cannot continue to park their wreckers at home on the driveway or on the street. The State of Montana maintains a "rotation call list" for all eligible towing and wrecking companies in Yellowstone County. Companies can be called to respond to traffic accidents or other emergencies to remove or recover vehicles. If a company cannot respond within a certain time period - 30 minutes or less - law enforcement at the scene will call the next company in line to respond. Companies do not know in advance when they might receive a call to respond and calls may come at any hour on any day of the week. Not all towing and wrecking companies are on the rotation call list. These companies may also

have calls for service from private parties at any time on any day of the week.

The State of Montana categorizes tow trucks by "class" that roughly corresponds to weight and towing capacity. See Attachment Tow Truck Classifications. The Association has requested that Class A, a lower weight rated boom truck, and the Class D, a higher weight rated car carrier or roll back, be allowed in residential zones and residential use areas. The Association has submitted additional comment after the City Council initiated the amendment to further restrict the Class D tow truck to a "Class 5 truck or less". This proposed restriction would not allow all Class D car carrier type towing vehicles, just the single vehicle flat-bed type. In addition, the Association and Hanser's Towing and Recovery are asking to amend the proposal to include Class B tow trucks. Class B tow trucks are boom type tow trucks with a higher weight rating and towing capacity. Hanser's Towing and Recovery also commented that towing and recovery businesses should not be allowed as a home occupation in residential areas but was in favor of the proposal to allow employees and business owners to park a tow truck at home for on-call purposes.

The Planning Division has considered the proposed amendment and is recommending denial to the Zoning Commission based on the findings of the 10 criteria. This proposed zone change is not designed in accordance with the 2008 Growth Policy goals of predictable land use decisions that are compatible with existing neighborhoods and protects neighborhood integrity. Parking of tow trucks on driveways in residential zones to answer overnight calls for wrecker services would not protect the adjacent residents from noise or fumes since most tow trucks will need to be started and warmed up prior to leaving for a call. Most residential driveways are not designed or constructed to handle the weight class of the Class A, Class B, or Class D tow trucks on a regular basis. Most residential streets are also not designed to handle this weight class of vehicles on a regular basis. Tow trucks parked in residential driveways or on residential streets on a regular basis will increase street maintenance costs for the city and driveway maintenance costs for the property owner.

The proposed amendment does not maintain the high quality of life in existing neighborhoods, serve to reduce conflict between neighbors, or create more attractive neighborhoods. The proposed amendment may also be difficult to enforce since tow trucks are restricted by classification and weight rating. If tow trucks are parked on residential driveways, the Code Enforcement Officers may not be able to see the Class rating sticker or weight rating on the vehicle from the public right of way. Code Enforcement Officers do not have an automatic right of entry on to private property. The proposed zoning is not designed to secure property from fire and other dangers or promote the public health, safety and general welfare. A tow truck parked on a residential driveway may hamper response to an emergency in the residence. Public health may be negatively affected by idling tow trucks (fumes and noise). In addition, parking a tow truck on a regular basis on a residential driveway may negatively affect the quality of the housing market in a neighborhood. The proposed amendment does not promote compatible urban development by potentially placing tow trucks in all residential neighborhoods on a regular basis. The proposed zoning will not encourage the most appropriate use of land throughout the City and County.

The City Council's 2014 Strategic Plan includes goals and objectives for the community that this zoning amendment would be in conflict with. Strategy 2: Comprehensive, Orderly Growth, Goal 1: Comprehensive, cost-effective and orderly growth, Objective 3, states that the City shall "Develop, preserve and revitalize residential neighborhoods that are safe, attractive and provide diverse, affordable housing." Strategy 4: Sustainable Economic Development, Objective 4, states that the City shall "Provide a safe, healthy and attractive place to live and work, offer quality housing choices, accessible amenities and an environment that provides a desirable quality of life." Allowing tow trucks to park in all residential neighborhoods in the City does not achieve these Goals and Objectives.

RECOMMENDATION

The Planning Division recommends denial based on the findings of the 10 criteria for Zone Change 934.

APPROVED BY CITY ADMINISTRATOR

Attachments

Review Criteria Findings

Tow Truck Classifications

Typical Tow Truck Class photos

Letters of Comment

Zoning Ordinance

Non Zoning Ordinance Section 24-406

Attachment B

Zoning Commission Determinations

Zone Change #934 – Text Amendment to allow Tow Trucks in Residential Zones

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is not consistent with the following goals of the Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)*

The proposed zoning would permit commercial tow trucks weighing as much as 19,500 pounds to be parked on any residential driveway throughout the city. This is not a predictable land use decision based on the intent of residential zones – to provide an area for the quiet enjoyment of residential living.

- *New development that is sensitive to and compatible with existing neighborhoods (Land Use Element Goal, page 6)*

The proposed text amendment does not meet the objectives of maintaining a high quality of life for existing residents and reducing conflicts between neighbors. Starting, running and warming up tow trucks on a residential neighborhood during overnight hours would tend to increase conflicts between neighbors and reduce the quality of life in those neighborhoods.

2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning would allow commercial tow trucks to park on residential driveways. Parking this type of equipment on a residential driveway may impede access to the dwelling unit depending on the layout of the site.

3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health, safety and general welfare will not be promoted in residential neighborhoods by allowing commercial tow trucks to park on driveways. Regular use of a residential street by higher weight vehicles will increase street maintenance costs. Regularly parking a commercial tow truck in a residential neighborhood will tend to depress the marketability of residential homes. Starting, running, and warming up commercial tow trucks adjacent to residential sleeping rooms and living areas would not promote the public health.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning should have no impact on transportation.

Water and Sewer: The proposed zoning should have no impact on provision of water and sewer service.

Schools and Parks: The proposed zoning should have no impact on schools or parks.

Fire and Police: The proposed zoning should have no impact on the provision of adequate public safety services. The Association has pointed to a decrease in response times for towing vehicles to accident or emergency scenes as the motivation for the change in the zoning code. The call rotation service requires the business to be able to respond in 30 minutes or less. If the business cannot respond in

that time frame, the next company on the list is called. This standard and procedure will not change. Accident and emergency clearance services will not be enhanced or diminished. The ability of tow truck businesses to provide timely response will not be enhanced or diminished by this change to the zoning regulations. Commercial tow truck businesses are required to have an office and a storage yard for vehicles that are towed. These locations are in commercial zones. Tow trucks are stored here as well. Most residential zones are within 1-mile of a commercial zoning district.

5. *Will the new zoning provide adequate light and air?*
The proposed zoning may have a negative effect on air quality for at least brief periods of time in residential neighborhoods.
6. *Will the new zoning effect motorized and non-motorized transportation?*
The transportation system in existing and new residential neighborhoods may be negatively affected by regular use of heavy tow truck traffic. Residential streets are not designed for regular use by commercial trucks.
7. *Will the new zoning will promote compatible urban growth?*
The new zoning does not promote compatibility with urban growth. The parking of tow trucks in residential neighborhoods would diminish the quality of life in these residence zones.
8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*
The new zoning does not consider the character of residential neighborhoods that are designed and intended for the quiet enjoyment of residential property.
9. *Will the new zoning conserve the value of buildings?*
The new zoning will not conserve the value of existing homes in residential neighborhoods. Parking 1 or more commercial tow trucks in a residential neighborhood would diminish the marketability of the adjacent homes.
10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*
The proposed zoning does not encourage the most appropriate use of residential land throughout the City.

Attachment B – Zone Change 934
Tow Truck Classifications

Montana Code Annotated (MCA)

61-8-905. Classification standards. (1) Commercial tow trucks are divided into the following five classes based on the manufacturer's rating:

(a) Class A tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 4 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle weight.

(b) Class B tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 8 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle weight.

(c) Class C tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 16 tons and must be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight.

(d) Class D tow truck equipment includes manufactured rollbacks and car carriers with manufacturer's gross vehicle ratings of 10,000 pounds and over. The rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the minimum gross weight of the rollback or car carrier. Class D also includes any piece of towing equipment without a boom.

(e) Class E includes two or more tow trucks working together with a combined manufacturer's rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders, and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

(2) An operator of noncommercially manufactured or modified tow truck equipment in use on October 1, 1995, that wishes to participate in the law enforcement rotation system must have its equipment classified by the department within a time period set by the department. Once the equipment is classified, further modifications may not be made.

(3) An operator of new noncommercially manufactured or modified tow truck equipment must have its equipment independently certified before participating in the law enforcement rotation system. Once the equipment is classified, further modifications to the equipment must be recertified.

History: En. Sec. 5, Ch. 283, L. 1995; amd. Sec. 3, Ch. 88, L. 2003.




Vehicle Identification Guide

Accurate communications between on-scene responders, dispatch, and towing and recovery operators describing an incident and the vehicles involved helps with the quick and efficient clearing of the incident scene.


Use the guide below to describe to dispatch the type of vehicle that is disabled and the nature of the problem to enable the wrecker company to determine what type of tow/recovery vehicle that should respond.⁴

LAW ENFORCEMENT VEHICLE IDENTIFICATION GUIDE

CLASS 1 - LIGHT-DUTY
(5,000 lbs. or less GVWR - 4 tires)*



CLASS 2 - LIGHT-DUTY
(5,001 - 10,000 lbs. GVWR - 4 tires)*



Class 1 through 2 include passenger cars, light trucks and minivans, full size pickups, sport utility vehicles, full size vans.

CLASS 1 AND 2 - LIGHT-DUTY TOW
Gross Vehicle Weight Rating (5,000 to 10,000 lbs.)
Passenger cars, small SUVs and pickup trucks

<input type="checkbox"/> Year, make and model?	<input type="checkbox"/> 4x4 or AWD?
<input type="checkbox"/> Number of occupants?	<input type="checkbox"/> Keys?
<input type="checkbox"/> Full size pickup or van?	<input type="checkbox"/> Trailer?
<input type="checkbox"/> Is it loaded?	<input type="checkbox"/> What is the load?

VEHICLES IN THESE CLASSES USUALLY HAVE FOUR TIRES.

⁴ Guide content reproduced with permission of Towing and Recovery Association of America (Copyright 2009© TRAA). Graphics and artwork reproduced with permission of Tow Times magazine. (Alexandria, VA).



CLASS 3 - MEDIUM-DUTY
(10,001 - 14,000 lbs. GVWR - 6 tires or more)*



CLASS 4 - MEDIUM-DUTY
(14,001 - 16,000 lbs. GVWR - 6 tires or more)*



CLASS 5 - MEDIUM-DUTY
(16,001 - 19,500 lbs. GVWR - 6 tires or more)*



CLASS 6 - MEDIUM-DUTY
(19,501 - 26,000 lbs. GVWR - 6 tires or more)*



Class 3 through 6 include a range of mid-sized to larger vehicle utility vehicles, motor homes, package parcel trucks, ambulances, landscape vehicles, small flatbed and stake-type trucks, ref. small and medium-duty buses (school and local).

CLASS 3, 4, 5 & 6 - LIGHT- OR MEDIUM-DUTY TOW
Gross Vehicle Weight Rating (10,001 up to 26,000 lbs.)

- Year, make and model?
- Body type - pickup truck, box truck, flatbed, etc.
- What is the load and is it damaged?
- Pickup, van, shuttle bus or motor home?
- Number of occupants? Keys?
- Vehicle description is critical to determine the type of tow/recovery vehicle that should respond.

VEHICLES IN THESE CLASSES USUALLY HAVE SIX TIRES.

Attachment C – Zone Change 934
Typical Photos of Class type Tow Trucks



Class D Type – Car Carrier – Class 5 weight rating or less



Class A Type – Boom Truck Class 5 weight rating or less

Attachment C – Zone Change 934, continued
Typical Photos of Class type Tow Trucks



Class C



Class C

Attachment C – Zone Change 934, continued
Typical Photos of Class type Tow Trucks



Class D



Class D



Range of Classes A, B, and C

Attachment D – Zone Change 934
Comments

Comment from Hanser's Towing and Recovery – February 10, 2015

From: Ralph Hanser [mailto:ralph@hansers.com]

Sent: Tuesday, February 10, 2015 2:17 PM

To: Volek, Christina

Cc: Scott Hanser; Spencer Hanser; Shawn Hanser; Joanne; MRTSTOWING

Subject: Code Change for Section 24-406

Dear Tina:

We would like to express our view point on the ordinance change. In order to stay within the scope of the Montana Tow Truck Act in dealing with quick clearance, traffic incident management, and officer safety, we think by allowing A and B wreckers to be parked overnight by drivers that are on call would be a positive. We feel that Class D needs to be eliminated because car carriers are not allowed to respond to accidents by Montana Law. They can only respond as a secondary unit to an accident.

We do feel that the ordinance should be strong in stating that only one wrecker with a driver on call to respond at night would be allowed. Not multiple wreckers at someone's home. We are very much against anything that could be misinterpreted to allow any home based business.

If you wish to discuss this with myself or any of my sons, it would be our honor to meet with you. Please feel free to forward this e-mail as you see fit.

Ralph E. Hanser

President

Hanser's Towing and Recovery Network

Hanser's Environmental and Remediation

Billings, MT 59101

406-248-7795 ext. 2030

406-208-9210 cell

Comment from Montana Tow Truck Association – February 11, 2015

Re: Code Change for Section 24-406 (Parking, Stopping and Standing on Public Streets)

Dear Tina,

The Montana Tow Truck Association would like to commend you and the commission for the work on the writing of this ordinance to allow the parking of commercial tow trucks in residential zoned locations in your community. This will facilitate faster response times for all types of emergencies, not just law enforcement or rotation calls that necessitate the need for commercial towers to respond in a timely manner.

The MTTA participated in the initial work session of the commission earlier in January and has monitored correspondence of the various concerned parties involved in the effort to solidify a workable solution to this issue.

First and foremost the MTTA does not encourage or promote commercial tow truck operations being located and operated in areas not zoned for that use. We do however encourage allowances in the law that will facilitate quicker response times for off duty drivers in the interest of public safety as relates to many types of emergencies that require a timely response.

The adoption of the use of the window sticker issued by the Montana Highway Patrol is very effective and seamless means for your code enforcement officers to recognize the size and type of tow truck being parked in the residential area. The parking of only one truck by a driver in front of his residence is a valuable tool to discourage a non-conforming business in a residential zone.

I would like to address some of the concerns and offer some solutions brought to my attention by the interested parties involved.

In an Email addressed to councilmen Denis Pitman dated Feb. 8th 2015. A citizen identifying himself as Roy brought up that the class D tow truck could be larger than what the council had envisioned, being more than just a flat bed or carrier type tow truck. That is true. This could be remedied by restricting the size of the class D truck to **“Class 5 truck or less”**. This designation is listed on TRAA VEHICLE IDENTIFICATION GUIDE. And is a size designation adopted by the National Transportation and Safety Administration and the DOT. Or you can just look it up on Wikipedia. The carrier or flatbed tow truck is becoming to be the most commonly used piece of equipment in the towing industry because of increased number of all-wheel drive cars and light duty pickups that necessitate the use of a carrier. The Montana Professional Tow Truck Act. 61-8-901 through 61-8-920. Specifically 61-8-920 (2) (h) requires a company to have a Class A, B or C truck in there fleet to be on rotation. Arm 23.6.101 (3) allows for a Class D tow truck to respond to an emergency or rotation call.

"Class 'D' towing" means, for purposes for the state law enforcement rotation system, that a class "A" or "B" tow truck has been called from the rotation system, **but the operator finds that the call involves only retrieving an inoperable vehicle from a roadway or its immediate vicinity, so that the use of a rollback or car carrier would be more appropriate.**

Referencing the concerns of a local tower whose fleet includes a number of class B tow trucks. The Ford F-450's and F550's and the Dodge 4500's and 5500's. And this tower is not alone in that concern. The solution would be to include the Class B trucks in the ordinance and apply the same class 5 or less restriction to the B trucks as the Class D trucks.

There for in conclusion the ordinance could possibly be amended to read like...

DRAFT

*“No person shall stand or park any truck, truck-tractor, trailer, semitrailer or bus on any street in a residential district for any purpose or period of time other than for the expeditious loading or unloading of such vehicles, except that the provisions of this section shall not apply to the driver of a truck, truck-tractor, trailer or semitrailer while such vehicle is being used in connection with the construction or repair of buildings, service calls or the moving of household goods and shall not be applicable to the driver of a bus while such vehicle is parked in a designated bus stop. This section shall also not apply to commercial tow trucks classified as either **Class A, B and D (class 5 trucks or less)** by the State of Montana if the tow truck is parked along the frontage of the tow truck driver's property in the parking lane directly in front of the driver's house. The parking of the tow truck must comply with all other state and local parking restrictions, including but not limited to, distance from curb, direction of traffic, distance from driveways, and width of street.”*

Thank you for taking the time to review the input from the Montana Tow Truck Association.

The results of this endeavor will be looked at copied and administered in other communities around the state. This has the potential to be a model ordinance around the state.

Sincerely,

Terry Morrison, President
Montana Tow Truck Association

From: keith kolstad

To: .Mayor & Council

Subject: Tow Truck issue

Date: Wednesday, October 22, 2014 7:56:14 PM

I read that the city council is considering allowing tow trucks to be parked in residential neighborhoods. Although one council person was quoted in the paper as "this is a no brainer", I would respectfully ask that you take time to consider all the impacts of your proposed variance.

As the Code Enforcement Officer for the City of Laurel I have found that parking any diesel vehicle, whether a tow truck or semi in a residential neighborhood has the potential to create problems, especially in the winter. These trucks have been observed to be run at all times of the night, emitting diesel fumes into the air and neighborhood much less to say noise disturbance. The dispatch of these tow vehicles at any hour have a tendency to increase the traffic and noise volume, in whatever season. This presents a fine line between having a business based in a zone where it is permitted and one that may indeed be a home based business in a residential zone, which is entirely a different entity.

I would ask that all the council consider the ramifications of this proposal, and I would dare to say it is not "a no brainer".

Thank you for your time and efforts to be fair to both businesses and those residents affected by this decision.

Keith Kolstad

Sent from Windows Mail

February 16, 2015

Dave Green and Billings Zoning Commission:

The Yellowstone Valley Tow Truck Association held an emergency meeting to discuss the ordinance change regarding tow truck parking on residential streets.

The Association members want to thank you, the City Attorney, City Council, City Administrator, and the folks at Code Enforcement for their time spent on understanding this issue of public safety and welfare.

The Association is also in receipt of the communication from Ralph Hanser regarding the addition of the "B" classification and information shared by the Montana Tow Truck Association President Terry Morrison.

We, as the local Association accept the changes as written. We do not support nor promote "home" based towing businesses or heavy wreckers being parked in residential areas. We also agree that the changes offered by the Montana Tow Truck Association President, Terry Morrison are workable (adding class "A", "B", and "D" (class 5 trucks or less)).

We are grateful for the efforts of all involved. Thanking you in advance for your consideration.

Joanne G. Blyton
President Yellowstone Valley Tow Truck Association

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 27-601(a) AND 27-606 OF SAID CODE; ALLOWING OPEN STORAGE AND OFF-STREET PARKING OF ONE COMMERCIAL TOW TRUCK CLASSIFIED AS EITHER CLASS A OR CLASS D BY THE STATE OF MONTANA AS AN ACCESSORY USE IN A RESIDENTIAL DISTRICT; AND, ALLOWING ONE SUCH COMMERCIAL TOW TRUCK TO BE PARKED OR STORED ON THE PREMISES OF A HOME OCCUPATION.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That subsection (a) of Section 27-601 of the Billings, Montana City Code be amended so that such subsection shall read as follows:

Sec. 27-601. - Parking and storage restrictions.

- (a) *Residential.* The following standards for off-street parking and storage shall apply in all residential zoning districts and on property that is developed for residential use.
- (1) Open storage and off-street parking of licensed and operable motor vehicles is an allowed accessory use as defined in section 27-201.
 - (2) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a prohibited use.
 - (3) Within the city limits open storage and off-street parking of licensed and operable motor vehicles in any front or side yard shall be on a surface prepared with asphalt or concrete. Open storage and off-street parking of licensed and operable motor vehicles in any rear yard may be on any type of surface. (See also sections 6-1203, 24-401 and 27-1201.)
 - (4) Open storage and off-street parking of one (1) licensed and operable motor vehicle used for commercial or business purposes, including a commercial tow truck classified as either Class A or Class D by the State of Montana, is an allowed accessory use. All such motor vehicles, except the commercial tow trucks noted above, shall provided it does not exceed twelve thousand (12,000) pounds in G.V.W. (gross vehicle weight). Outside the city limits on property zoned agriculture open space or agriculture suburban this motor vehicle weight limitation shall not apply.

. . . (the rest of this subsection is unchanged)

Section 2. That Section 27-606 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 27-606. - Home occupations.

A *home occupation* is defined as an occupation carried on by an occupant of a dwelling, which is located in a residential zoning district, as an accessory and incidental activity to the main residential use of the building.

The *planning department* recognizes that the restrictions set forth in this section do not anticipate all possible types of home occupations. Therefore, to guide the planning department in the enforcement of this section, the department has adopted the following policies:

- (1) The home occupation should not generate traffic before 7:30 a.m. or after 6:00 p.m.
- (2) The occupation should not generate, on average, more than four (4) vehicle trips to the residence during any hour.

The home occupation shall comply with all of the following restrictions:

- (a) The occupation to be performed must be a use which is allowed outright in the Residential Professional (RP) zoning district. In addition, the following uses, listed by Standard Industrial Classification (S.I.C.), may also be allowed:

S.I.C. Number	Description
7231	Beauty shops
7241	Barber shops
7251	Shoe repair shops
7291	Tax return preparation services
7631	Watch, clock and jewelry repair
76—	Office only for miscellaneous repair services
7911	Dance studios, schools and halls

Uses not listed above may be allowed with written approval from the zoning coordinator, if they meet the spirit and intent of this section and will conform to all of the restrictions of this section.

- (b) No person shall be employed other than the residents of the dwelling.
- (c) The occupation shall be conducted entirely within the dwelling or an accessory building.
- (d) The floor area devoted to the occupation shall not exceed five hundred (500) square feet or twenty-five (25) percent of the total ground area occupied by the buildings, whichever is less.
- (e) The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.
- (f) There shall be no sign advertising or calling attention to the home occupation on the premises.
- (g) There shall be no display, evidence or activity apparent from the exterior of the lot which would indicate that the premises are being used for any purpose other than that of a dwelling.
- (h) There shall be no group instruction, assembly or activity for greater than five (5) persons.
- (i) One (1) business vehicle that is associated with the home occupation and which does not exceed ~~eight thousand (8,000)~~ twelve thousand (12,000) pounds gross vehicle weight (G.V.W.), may be parked or stored on the premises. This weight limitation shall not apply to commercial tow trucks classified as either Class A or Class D by the State of Montana. In addition, there shall be no outside storage of materials or equipment related to the home occupation, except the one (1) allowed business vehicle.

Section 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

Section 4. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this ___ day of _____, 2015.

ADOPTED and APPROVED on second reading this ___ day of _____, 2015.

CITY OF BILLINGS

By _____
Thomas W. Hanel, Mayor

ATTEST:

By _____
Cari Martin, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 24-406 OF SAID CODE; ALLOWING A COMMERCIAL TOW TRUCK CLASSIFIED AS EITHER CLASS A OR CLASS D BY THE STATE OF MONTANA TO BE PARKED ON CITY STREETS SUBJECT TO PARKING REQUIREMENTS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That Section 24-406 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 24-406. - Parking trucks, trailers, buses and similar vehicles in residential districts.

No person shall stand or park any truck, truck-tractor, trailer, semitrailer or bus on any street in a residential district for any purpose or period of time other than for the expeditious loading or unloading of such vehicles, except that the provisions of this section shall not apply to the driver of a truck, truck-tractor, trailer or semitrailer while such vehicle is being used in connection with the construction or repair of buildings, service calls or the moving of household goods and shall not be applicable to the driver of a bus while such vehicle is parked in a designated bus stop. This section shall also not apply to commercial tow trucks classified as either Class A or Class D by the State of Montana if the tow truck is parked along the frontage of the tow truck driver's property in the parking lane directly in front of the driver's house. The parking of the tow truck must comply with all other state and local parking restrictions, including but not limited to, distance from curb, direction of traffic, distance from driveways, and width of street.

Section 2. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

Section 3. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this ____ day of _____, 2015.

ADOPTED and APPROVED on second reading this ____ day of _____, 2015.

CITY OF BILLINGS

By _____
Thomas W. Hanel, Mayor

ATTEST:

By _____
Cari Martin, City Clerk

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