



CITY ZONING COMMISSION
AGENDA-Tuesday, April 5, 2016, 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 minutes of the Board meeting of February 2, 2016

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

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:

Public Hearings:

- a. **City Zone Change #946 – 3122 Lynn Avenue – R-96 to R-70** – A zone change request from Residential 9,600 (R-96) to Residential 7,000 (R-70) on Lot 11, Block 9, Central Acres Subdivision, 5th Filing, a 10,417 square-foot parcel of land. A pre-application neighborhood meeting was held on February 10, 2016 at the Sunset Bowl, 1625 Central Avenue. Presented by: Nicole Cromwell, Zoning Coordinator
- b. Special Review #936. This is a special review request to allow the location of a 50-foot monopole support structure for new Verizon Wireless communication antennas in an EBURD-Central Works (EBURD-CW) zone, on Lots 18-24, Block 19, Billings Original Town, a 1,335 square foot lease on a 24,500 square foot parcel of land generally located at 401 N 17th Street.
- c. **City Special Review #939 – 4910 Southgate Drive – Add 2 outdoor patios and 4,000 square feet of retail space** – A special review request to add 2 outdoor patios and 4,000 square feet of floor area to an existing restaurant and casino in an Entryway General Commercial (EGC) zone, on Lot 1A, Block 1, Geyser Park Subdivision, a 3.125 acre parcel of land. Presented by Nicole Cromwell, Zoning Coordinator
- d. **City Special Review #940 – 116 N Broadway – Add seasonal outdoor patio** – A special review request to allow the addition of a 320 square-foot outdoor seasonal patio on the public sidewalk adjacent to Doc Harper's in the Central Business District (CBD), on Lots 7-12 and a fraction of Lot 6, Block 93, Billings Original Town, Unit 2 of the Babcock Building. Presented by Nicole Cromwell, Zoning Coordinator
- e. **City Special Review #941 – 54th St West at Trail Creek Drive – LDS Meetinghouse** – A special review request to allow the construction of a new church in a Residential 9,600 (R-96) zone on a 4.03 acre portion of an 89.98 acre un-platted parcel of land described as the N1/2NE1/4, SWNE1/4 in Section 31, Township 1 North, Range 25 East. A concurrent annexation of the 4.03 acre parcel has been submitted. Presented by Nicole Cromwell, Zoning Coordinator.

Other Business/Announcements

Adjournment

The City Council has designated **Monday, April 25, 2016**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the **City Zone Change #946** and **Special Reviews #936, #939 and #940**.

The City Council has designated **Monday, May 9, 2016**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against **Special Review #941**.

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 (April 22, 2016) 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 zone change and special reviews. 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 Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@ci.billings.mt.us

City Zoning Commission

Meeting Date: 04/05/2016

Information

Subject

The minutes of the Board meeting of February 2, 2016

Attachments

BZC_2016_02_02_Draft

City of Billings Zoning Commission Meeting Minutes-February 2, 2016

The City of Billings Zoning Commission met on Tuesday, February 2, 2016 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana

Vice Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday February 22, 2016** 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		01/05/2016	02/02/2016	03/01/2016	04/05/2016	05/03/2016	06/07/2016	07/05/2016	08/02/2016	09/06/2016	10/04/2016	11/03/2016	12/06/2016
Dan Wagner	Chairman	1	1										
Dennis Ulvestad	Vice Chairman	1	1										
Mike Boyett	Commissioner	E	1										
Michael Larson	Commissioner	1	1										
James Mariska	Commissioner	1	1										
Candi Millar	Director, Planning & Community Services												
Wyeth Friday	Division Planning Manager												
Nicole Cromwell	Planner Zoning Coordinator	1	1										
Tammy Deines	Planning Clerk												
Dave Green	Planner II	1											
Karen Husman	Planner I	1	1										
Robbin Bartley	Administrative Support	1	1										

Total Number of 2016 Applications	01/05/2016	02/02/2016	03/01/2016	04/05/2016	05/03/2016	06/07/2016	07/05/2016	08/02/2016	09/06/2016	10/04/2016	11/03/2016	12/06/2016	TOTAL
Zone Change	1	0											1
Special Review	2	1											3

Vice Chairman Wagner introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator; Robbin Bartley, Administrative Support; Karen Husman, Planner I.

In Attendance:

Jase Norsworthy, Jr., Jase Norsworthy, Sr., Rob Morehead, Travis McDowell, Maureen Earnest, Terrald Earnest, Amy Dunphy

Public Comment

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

Approval of Minutes: January 5, 2016

Vice Chairman Wagner called for approval of the January 5, 2016 meeting minutes.

Motion

Commissioner Larson made a motion and Commissioner Mariska seconded the motion to approve the January 5, 2016 meeting minutes as submitted.

The motion for approval then carried with a unanimous voice vote 5-0.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

Disclosure of Conflict of Interest

Vice Chairman Wagner called for disclosures of conflict of interest. There were none.

Disclosure of Outside Communication

Vice Chairman Wagner called for disclosure of ex parte communications. 5 Letters concerning Special Review #938 are located in the binder.

Public Hearings:

Vice Chairman Wagner reviewed the rules and the procedures by the City Zoning Commission public hearings are conducted, and asked Nicole Cromwell to review the first and only agenda item. Karen Husman presented:

City Special Review #938 – 3104 Boulder Avenue – Multi-family in R-60 zone – A
special review request to construct two 4-plexes and two 3-plexes on Lot 6, Wolf
Subdivision, in a Residential 6,000 (R-60) zone on a 38,379 square foot parcel of land. Tax
ID: A18647

RECOMMENDATION

The Planning Division recommends conditional approval.

PROPOSED CONDITIONS

1. The special review approval is for the two triplexes and two fourplexes on Lot 6, of Wolf Subdivision, a 38,379 square foot parcel of land located at 3104 Boulder Ave. (14 dwelling units total). No other use or development is intended or implied by this approval.
2. Any expansion in gross floor area of the proposed buildings or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
3. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade.
4. All proposed drive approaches will be reviewed by City Traffic Engineering for final approval and location.
5. No construction activity will occur before 7 am or after 8 pm daily.
6. Prior to Building Permits being issued, a Master Site Plan Review must be submitted to the Planning Division and approved for the project.
7. The developer will redesign the plan so there is not vehicular access between Colton Blvd. and Boulder Ave. and install 4 trees at each private street entrance on Boulder Ave. and Colton Blvd. Mature trees exists at the Boulder Ave. frontage may be preserved and counted toward the 4 tree total in this area. New trees shall not be any tree with the genus scientific name of Populus or any of its subspecies including any variety of aspens. Also no Salix (willows), Acer negundo (Box Elder) or Ulmus (Elms). The site will otherwise be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.
8. A trash receptacle must be provided with a three sided site obscuring fence and a closing gate.

9. 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.

10. 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 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 his application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out the use and development of the property must be in accordance with the submitted site plan.

Discussion

Vice Chairman Wagner called for questions and discussion from the members of the Commission. Commissioner Larson asked if the choice was made to deny the request would the project go forward as duplexes and would there be anything to stop the drive through between Colton and Boulder. Staff replied a Master Site Plan review is still required and it is doubtful a drive through between Colton and Boulder would be denied if the developer wanted to proceed in this manner.

Applicant/Agent

Vice Chairman Wagner asked for a presentation by the applicant.

Travis McDowell, agent for Twenty-O Five Corporation, 2029 Forest Park Drive, Billings, MT

The number of units is the consideration. Owners want a quality property with less units than the maximum allowed by special review. The drive through will be revised and trees will be added along Colton and Boulder. Garbage collection issues are being discussed with Solid Waste to see whether curb-side collection with individual cans will be allowed or whether a commercial size dumpster will be required.

Commissioner Larson spoke of another complex where he lived and asked whether 3 to 4 parking spaces could be added as an option. Mr. McDowell stated there are preliminary plans to add 8 more parking spaces but they are not approved by the owner as of today.

Commissioner Mariska asked if the units will be rentals or to be sold. McDowell stated the construction will be townhouses so they could be rented or sold. Mr. Mariska asked whether a homeowner's association would be formed and expressed concern about garages being used for storage of household items and not cars. Mr. McDowell replied the homeowner's association is a possibility and there may be lease agreements include restrictions on use of the enclosed garage spaces. Mr. McDowell again stated the owner is discussing the options for solid waste collection. Mr. Mariska asked how mail would be delivered. Mr. McDowell stated there would be group mailboxes on each street frontage but would be on the private property.

Commissioner Ulvestad asked about access from Colton and from Boulder. Mr. McDowell stated there will be no vehicle access between the two public streets but a pedestrian walkway will be provided.

Commissioner Boyett, asked what is the proposed square footage of each unit. Mr. McDowell stated the proposed square footage for the 3 bedroom unit is 1,400 and 1,600 for 4 bedroom unit. Commission Boyett stated he was concerned 4 families could share a 4 bedroom unit.

Public Hearing:

Vice Chairman Wagner opened the public hearing and called for proponents or opponents of **City Special Review #938.**

Jase Norsworthy, Sr. owner of Twenty-O Five Corporation and the subject property

Mr. Norsworthy stated this is the last piece of ground in north west Billings zoned R-60. He stated the project will be upscale and higher quality construction. He has been a resident of Billings for 63 years and cares for the community. He stated some of the adjacent buildings are not in great condition but he would not want a lower quality product for his project. He stated if he does not construct the multi-family as proposed another owner might build as nice a project with 5 duplexes.

Jase Norsworthy, Jr. Berkshire Hathaway

Mr. Norsworthy stated the project will be very attractive. He stated as a real estate professional his hope is to raise values in surrounding areas. He stated the target market for these units is young professionals or those willing to pay a higher rent for a quality product.

Rob Morehead, 1043 N 32nd Street

Mr. Morehead stated he has done a few of these projects before and he does have a financial stake in this project and will own a few of the townhouses. He stated he does not wish to create a slum or build a lower quality project. He stated a lower quality building would devalue surrounding properties. He stated the objective is to build a quality townhome with lasting value for the area and for the owners. He stated the units would be affordable quality homes.

Commissioner Boyett asked if he would build 5 duplexes if the special review is not approved. Mr. Morehead stated it would have to go back to the drawing board. He stated if they did the construction quality would have to be lower to make the project financially viable. He stated they want better quality.

Vice Chairman Wagner asked what the treatment will be for the perimeter of the property. Mr. Morehead stated it is in the budget to build some privacy fencing for the backyards.

Vice Chairman Wagner asked if anyone wanted to speak in opposition of City Special Review #938.

Maureen Earnest, 3155 Fairmeadow Drive

Mrs. Earnest stated the volume of traffic is a concern. She stated with the number of proposed units there could be 4 roommates each with their own car. She stated the on-street parking on Colton is crowded as it is now and added more would make the situation worse. She stated the proximity to Boulder Elementary School will cause problems with the on-street parking. She stated she was concerned with the snow removal from the private road being plowed across Colton and onto the their sidewalk. She stated she was concerned another ugly dumpster would be parked on the street. She stated she was concerned with the type of people renting these units creating late night noise. She stated some of the residents in the adjacent apartments come home at 2 am and make a lot of noise. She stated they no longer can leave their windows open at night because of this noise. She stated she would like to see more of a buffer between the proposed buildings and Colton. She stated she would rather have 5 duplexes. She stated the project only meets the minimum setbacks, and these units will be looking in the windows of neighbors. She stated there was no usable open space and each unit only has a small patio. She stated she had submitted a letter of opposition with 16 signatures from her neighbors.

Commissioner Ulvestad stated he agrees there should be no drive through at all to Colton and definitely less units. He stated 3-4 bedroom units will be a lot of people.

Terrald Earnest, 3155 Fairmeadow Drive

Mr. Earnest stated the school buses line up on the north side of Colton during school pickup. He stated there is a lot of illegal parking in the yellow zones around the school and visibility is poor at the intersection with 32nd St West. He stated he has many concerns about student safety. He stated the street will be more congested with additional on-street parking and school buses turning. He state his property paid to install the curb and gutter and fire hydrants on Colton. He stated many people drive 35+ mph on Colton because the speed limit is not posted. He stated there should be a speed reduction in the school zone.

Commissioner Mariska asked about the yellow zone locations. Mr. Earnest pointed these out on the overhead slide. Mr. Mariska stated the school principals control the parking and enforcement around their schools. Mr. Mariska stated the principal at this school does not allow ticketing in yellow areas. Mr. Mariska advised Mr. Earnest to speak to the School District and with the school principal about the illegal parking. .

Mr. Earnest stated he would recommend 10 units as duplexes with more yard area.

Vice Chairman Wagner asked the agent or owner to provide rebuttal.

Travis McDowell addressed the concerns of Mr. & Mrs. Earnest. He stated the owner and designer have done their best to limit access on Colton and provided a wider buffer with heavier landscaping than required. He stated the issues presented are existing and this project will not add to the existing problems. .

Motion

Commissioner Ulvestad made a motion to recommend denial. There was no second.

Commissioner Larson made a motion to recommend conditional approval with the conditions as proposed by staff and adopt the findings of the 3 criteria. Commissioner Boyett seconded the motion.

Discussion

Vice Chairman Wagner called for discussion on the motion.

Mr. Ulvestad stated Billings is moving too fast and he would vote no on the motion. He stated the Commission should deny the request to allow the applicant to negotiate with the surrounding owners. Mr. Ulvestad stated he thought 10 units is enough for this property.

Commissioner Larson stated he is struggling with the decision. He is familiar with the area. Rent is a factor in the type of residents who could live here. He stated the concession on drive through makes a significant difference. Mr. Larson encouraged the designer to be creative before the City Council meeting. He stated he has some concern with the curb side garbage collection. He stated he thinks a covered enclosed dumpster is better than a curbside collection.

Mr. Mariska stated this project is similar to Trailhead Townhomes on Avenue B between 16th and 17th. He stated the owners had 24 units and expanded to 32 units through a special review. He stated the City Council heard objections to the project over traffic concerns, noise, lighting and garbage service. He stated the developer paved alley, put in speed bumps, built townhome units and added a lot of trees. None of the concerns of the neighbors in area were realized after the project was completed. He stated the lot has been zoned since 1973 to be multi-family. He stated to deny this multi-family project when the whole area is zoned and built for multi-family units would pull the chair out from under this owner. He stated this is like musical chairs and this is the last piece in the area. Mr. Mariska voiced concerns about the number of parking spaces provided and how many people could live in each unit. He stated a homeowner's association could eliminate these concerns. He stated the neighbors should address yellow zone parking with the school district. Mr. Mariska stated he was concerned if it is not developed as presented, it could be much worse. Mr. Mariska stated he would vote in favor of the motion.

Vice Chairman Wagner stated a HOA can control how many people can live in each unit, parking and snow removal. He stated the concerns about the school district not addressing parking issues and safety issues should be brought to the attention of the principal and the superintendent.

Vice Chairman Wagner called for a roll call vote.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad		x		
Mike Larson	x			
James Mariska	x			

**The motion carried with a roll call vote, 4-1, Commissioner Ulvestad opposed.
Public Hearing adjourned at 5:39pm.**

Other Business:

Election of 2016 Officers

Commissioner Ulvestad made a motion to elect Vice Chairman Wagner as Chairman, and Commissioner Boyett seconded. Voted as follows:

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson	X			
James Mariska	X			

Commissioner Ulvestad made a motion to elect Commissioner Boyett as Vice Chairman, Commissioner Mariska seconded. Voted as follows:

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

The next meeting is scheduled for Tuesday, March 1, 2016 but will be cancelled due to the lack of applications to review

Adjournment: The meeting adjourned at **5:41 p.m.**

DRAFT: To be approved by a motion: **April 5, 2016**

ATTEST:

Robbin Bartley, Administrative Assistant I

Chairman, Dan Wagner



City Zoning Commission

Meeting Date: 04/05/2016

SUBJECT: Zone Change 946 - 3122 Lynn Avenue

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Zone Change #946 – 3122 Lynn Avenue – R-96 to R-70 – A zone change request from Residential 9,600 (R-96) to Residential 7,000 (R-70) on Lot 11, Block 9, Central Acres Subdivision, 5th Filing, a 10,417 square-foot parcel of land. A pre-application neighborhood meeting was held on February 10, 2016 at the Sunset Bowl, 1625 Central Avenue. Presented by: Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the 10 criteria for Zone Change 946.

APPLICATION DATA

OWNER: James Ouren

AGENT: NA

LEGAL DESCRIPTION: Lot 11, Block 9, Central Acres Subdivision 5th Filing

ADDRESS: 3122 Lynn Avenue

CURRENT ZONING: R-96

EXISTING LAND USE: Vacant

PROPOSED USE: Duplex/townhome

SIZE OF PARCEL: 10,417 square feet

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Three zone changes from residential to commercial zoning were approved along Central Avenue prior to 1980. In 1985, the City denied a zone change from R-96 to R-70 for 3 lots on the north side of Lynn Avenue west of 32nd Street. In 1987, an application to change the east side of 35th St West between Terry avenue and Howard Avenue from R-96 to R-70 was withdrawn by the applicant. Since this time, the City has approved several zone changes for property with Central Avenue frontage to allow neighborhood services, apartments, and professional offices.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96

Land Use: Single family dwellings

SOUTH: Zoning: Neighborhood Commercial (NC)

Land Use: New multi-tenant neighborhood retail businesses

EAST: Zoning: R-96

Land Use: Single family dwellings

BACKGROUND

This property is the only un-developed lot on the 3100 block of Lynn Avenue. The lot to the east, Lot 12 at 3116 Lynn Avenue, was in common ownership with the subject property prior to Mr. Ouren's purchase in 2009. The property has remained vacant except for the occasional prior use by the adjacent owner for storage of vehicles, boats, outdoor equipment and vehicles. A sanitary sewer line is stubbed into the property from the alley to the south.

The surrounding zoning is R-96 to the east, west and north of the subject property. South of the property across the alley is zoned NC and is developing as a retail center for neighborhood services. Property at the east end of this block is zoned R-60 and these lots are developed as four-plex townhomes. Mr. Ouren conducted a pre-application meeting in February and several surrounding owners attended the meeting. The primary concern expressed by the surrounding owners is the number of non-owner occupied residences in the area. The zoning code does not require the occupancy of any dwelling unit by the owner of the property. In general within the city limits, approximately 60% of dwelling units are owner occupied. On this block of Lynn Avenue, 10 of the 13 single family dwellings are owner occupied or about 75% of the dwelling units. If the zone change is approved on this lot and 2 dwelling units are constructed and occupied by renters, the percentage of owner occupied units would drop to 65%. This is still within the same general character of city neighborhoods.

The neighborhood is near the intersection of 2 principal arterial streets - Central Avenue and 32nd Street West. The intersection has been improved in the past 5 years to handle the increasing traffic through this intersection, including dedicated left turn lanes and signals. The most recent traffic counts at this intersection are 27,821, with 32nd Street West having a higher count than Central Avenue. The City intends to complete arterial street improvement on Central Avenue from 35th St West to Shiloh Road during the next fiscal year (FY17). Signal timing along the 32nd Street West corridor from King Avenue West north to Poly Drive is also being addressed. Lynn Avenue has a stop controlled intersection with 32nd Street West just north of the signalized intersection. To the east, Lynn Avenue intersects with 31st Street West at an uncontrolled 3-way intersection. Lynn Avenue at this point is not a continuous street and the lots to the east would not allow a continuation of Lynn Avenue in the future.

The lot is large enough to support 2 dwelling units at nearly 1/4 of an acre. One block to the north is R-70 zoning on the north side of St John's Avenue. There is a mixture of single family and two-family dwellings in this area. On 31st Street West on the west side are 4 four-plex dwellings between Central Avenue and St. John's Avenue in an R-60 zone. Two-family dwellings built as townhomes can have 2 separate owners and generally have more property value than a two-family dwelling built as a simple duplex with one owner. The most recent set of townhomes built in this neighborhood as two attached units has each unit valued at more than \$192,000. These taxable values are similar to surrounding single family homes. Older duplexes with one owner in this neighborhood are valued in the \$225,000 to \$250,000 range. The townhomes in the four-plex at the intersection of 31st St West and Central Avenue are valued at \$138,000 to \$150,000 for each unit. The 2 end units have higher taxable value than the center 2 units.

The Planning Division has reviewed the proposed zone change and is recommending approval based on the findings of 10 criteria for zone changes. The proposed zoning gives consideration to the surrounding neighborhood character and is compatible with the existing and proposed uses in the area. The neighborhood has a mixture of housing choices and a two-family dwelling will not be out of character for this area. The proposed zoning is supported by the city's Infill Policy by making the most efficient use of land where incremental density is appropriate. The proposed zoning allows either single family or two-family dwellings by right but does not allow multi-family dwellings (3 or more attached units). The value of adjacent property will be enhanced by any new construction. Two off street parking spaces are required for each newly constructed dwelling unit. The proposed zoning allows the construction of 2 dwelling units whether attached or detached. Construction as townhomes will add the most property value and would allow purchasers to use traditional financing. The townhomes and duplexes in the immediate area are well-maintained and fit in well with the adjacent single family dwellings.

RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the 10 criteria for Zone Change 946.

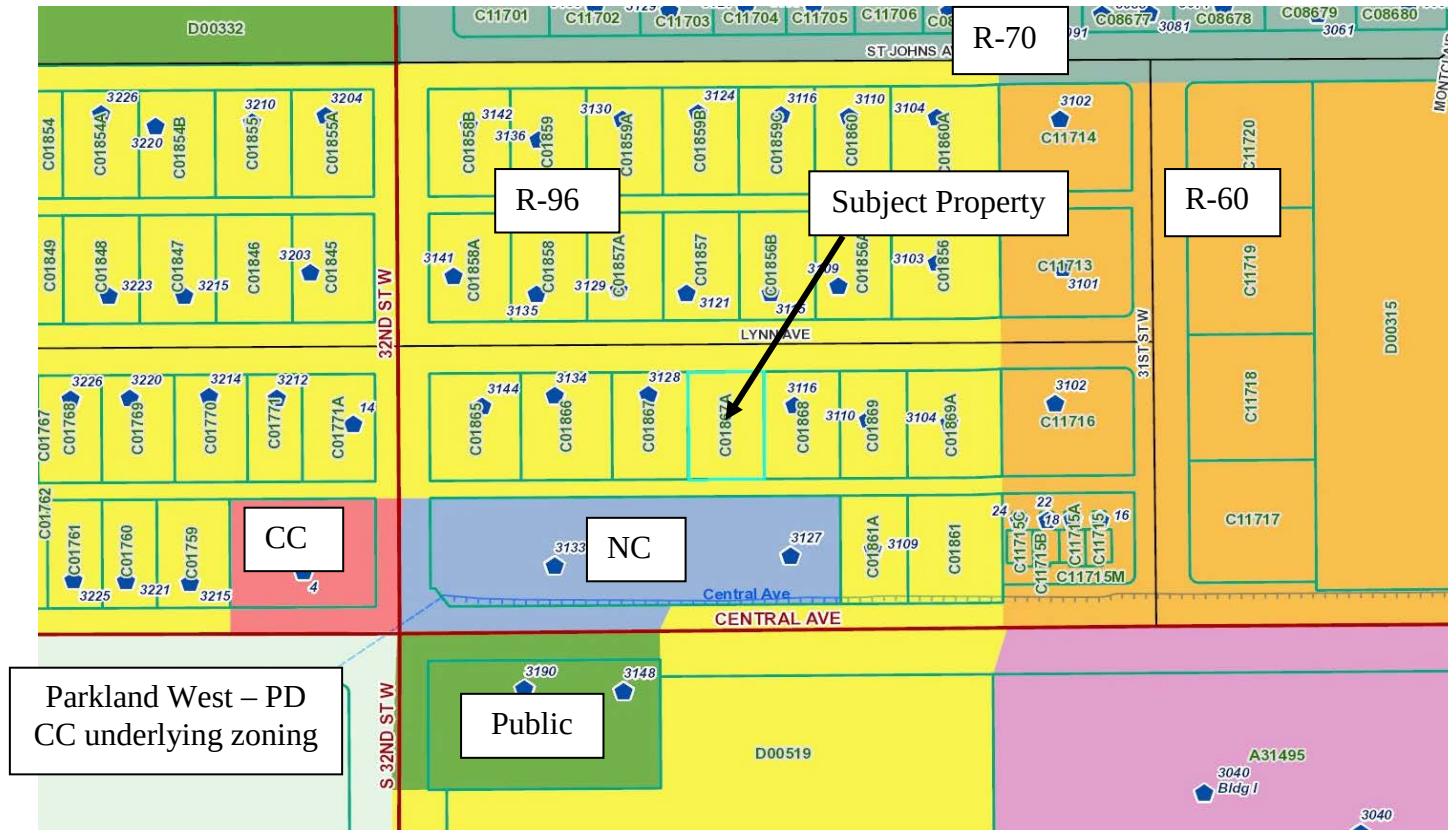
Attachments

Zoning Map and Site Photos

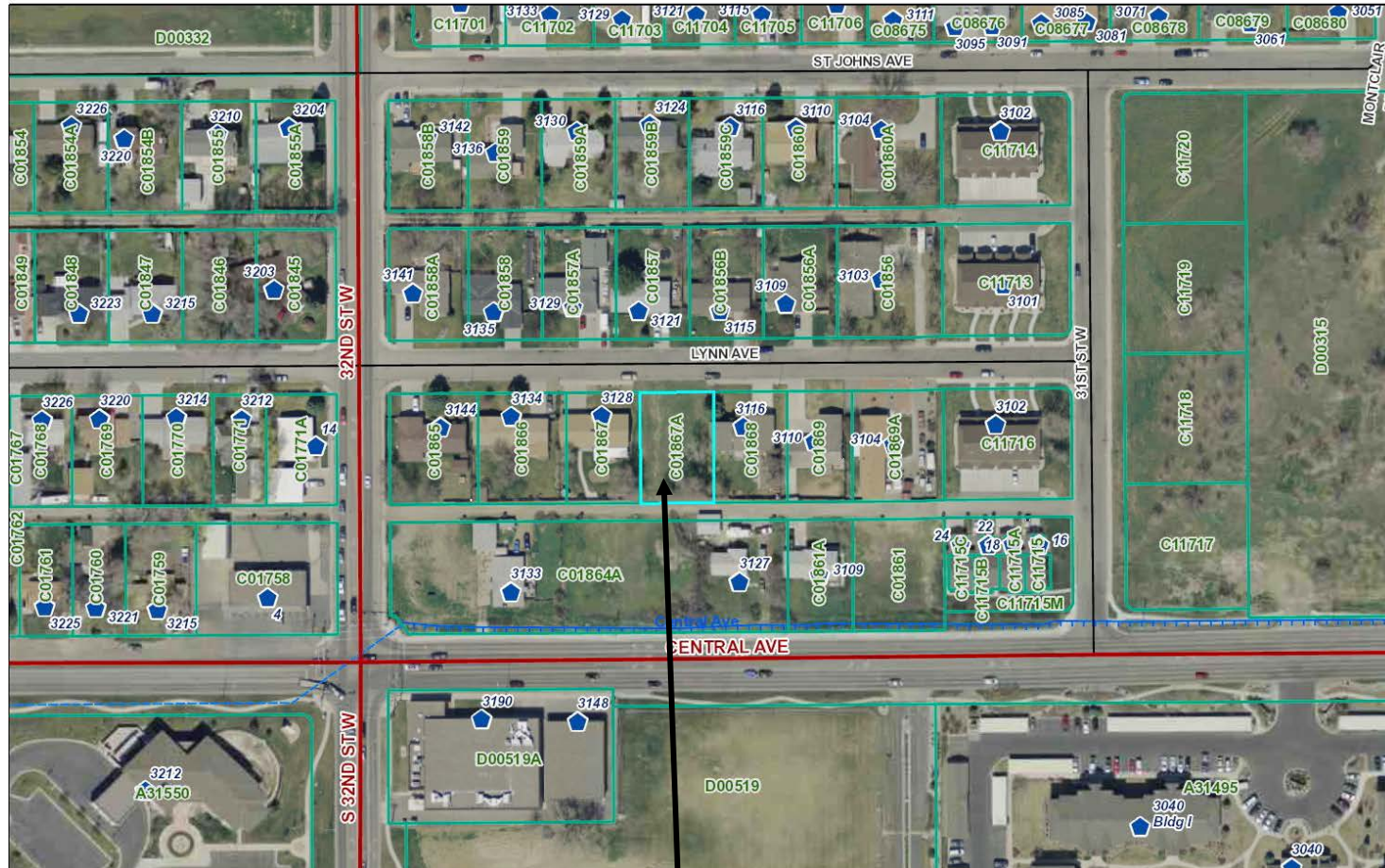
Review Criteria Findings

Pre application info and applicant letter

Surrounding Zoning
Zone Change #946 – 3122 Lynn Avenue



3122 Lynn Aerial Map



Subject Property



Subject Property from Lynn Avenue



View west along Lynn Avenue



View east along Lynn Avenue



View northwest across Lynn Avenue



View north across Lynn Avenue



2 side-by-side duplexes at 31st St West and St John's Avenue



Townhomes at South Daffodil

Zoning Commission Determinations
Zone Change #946 – 3122 Lynn Avenue

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 allow an undeveloped lot to be developed with either a single family dwelling or a two-family dwelling. The zoning code allows the owner to attach or detach the two dwelling units or to construct the dwelling units as townhomes. The zoning district is compatible with the neighborhood character and land use patterns.

- The Infill Policy encourages development of vacant property within the city limits with emphasis on housing choice and efficient use of existing city infrastructure and services. The proposed zoning will allow housing choice, and will make more efficient use of city infrastructure.

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

The new zoning requires minimum setbacks, 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 and public safety will be promoted by the proposed zoning. Development of the vacant land in the city will promote the public health and safety of the adjacent residential neighborhood by providing full development along the 3100 block of Lynn Avenue. Vacant lots tend to detract from adjacent property value and serve as a cut through for pedestrian traffic.

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

Transportation: The proposed zoning and subsequent development will not have an impact on Lynn Avenue. Off street parking must be provided at the time of construction as well as completion of the street improvements such as sidewalks.

Water and Sewer: The City will provide water and sewer to the property. There is an existing sewer stubbed into the property from the alley. A water service connection will need to be constructed from Lynn Avenue to the new dwelling(s). There should be no additional impact to the system from the proposed zoning.

Schools and Parks: There may be a limited impact to schools from the proposed zone change. Residential development is an allowed use in both the current zoning and the proposed zoning.

Fire and Police: The subject property will be served by city public safety services. The Public Safety departments have no concerns with the zone change.

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. The setbacks, lot coverage and building height are the same for the existing and proposed zoning districts.
6. *Will the new zoning effect motorized and non-motorized transportation?*
The new zoning may have a minor effect on vehicle and pedestrian traffic. A single family dwelling in general generates 8 to 10 traffic trips per day. This traffic includes trips by the dwelling occupants as well as service traffic trips such as mail delivery.
7. *Will the new zoning will promote compatible urban growth?*
The new zoning does promote compatibility with urban growth. The proposed zoning will allow residential uses with an efficient density.
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 the district and the suitability of the property for a mix of housing types in the neighborhood.
9. *Will the new zoning conserve the value of buildings?*
The property is currently vacant. The value of existing buildings will increase when the property is developed.
10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*
The proposed zoning will permit residential dwellings of similar type and density as the surrounding neighborhood and is the most appropriate use of land at this location.

Applicant letter and pre-application meeting notes
Zone Change #946 – 3122 Lynn Avenue

February 18, 2016

Reference: Proposed zone change for the property located at 3122 Lynn Ave.
(Lot 11 Block 9 Central Acres Subdivision 5th filing)
Owner: James O Ouren
PO Box 30723
Billings, MT 59107

To Whom It May Concern:

I, James Ouren conducted the pre-application neighborhood meeting for the proposed zone change. The meeting was held February 10th, 2016 at Sunset Bowl at 5:00 PM. The zone change application is based on materials provided at that pre-application meeting, which are included in this submittal. A sign in sheet from the meeting is included.

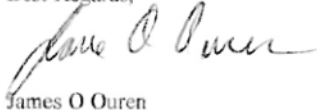
At the meeting there were six homeowners (five properties represented) and one homeowner from just outside the 300 ft radius. I opened by asking if everyone had read and understood what I was planning to do, they all acknowledged. Gerald Voto opened by saying he was opposed to the zone change, the others from the block said they were also opposed. Francis Dahl said he had talked to his neighbors and they were opposed. Bruce O'Banion said there was enough multifamily on the block already, to which Bill Mizell agreed. Susan Wilkerson said Eaton got 31st Street moved and was the only reason for the 4-plexes at the end of the block. We talked about the original restrictions on the subdivision allowing for 2-family dwellings and that changed after the city annexation, then zone changes allowed for duplexes and commercial development on the back side of the block across the alley. Gerald Voto stated very few homeowners live on the block. Susan Wilkerson said "the whole block is already rentals, we don't need anymore". Bryan Steele said he would like to see it developed as he and his wife don't like to see empty unkept lots when they take their nightly walks.

Answer the following questions:

- A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?
- The development of this lot into 2 family homes would make use of County resources and services better by filling in the interior open space of the city rather than expanding further out for 2 families.
 - It will create a more attractive community by making use of empty space, therefore improving the image of the community.
 - It will create more affordable housing for 2 middle-low income families that can only afford townhouses.
 - Because of its close proximity to the businesses on the west end it can reduce commuting distance and therefore reducing drain on natural resources and traffic congestion.
 - By developing this lot it will fill in this section of sidewalk, increasing the safety of the neighborhood and increase property values by getting rid of an empty lot (eyesore).
- B. Explain your need for the intended zone change and why the property cannot be used under existing zoning.
- Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.
- I need the zone change in order to build a 2-family dwelling. I have owned the lot for close to 7 years and the only interest I have received in it is for a duplex or a parking lot.
 - The restrictions and zoning on this block have been changed many times over the years and block consists of single family homes, duplexes, fourplexes, and commercial units.

On February 17, I caught up with Rachel Foos who resides to the east of my lot and she reconfirmed that she is not opposed to the zone change, (see enclosed letter)

Best Regards,



James O Ouren

Feb 17, 2016

To whom It may concern;

I Rachel Foos reside at 3116
Lynn Ave^{and} do not object to Jim
Ouren building two townhouses next
to my property.

Sincerely,
Rachel Foos

January 28, 2016

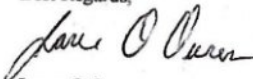
Reference: Proposed zone change for the property located at 3122 Lynn Ave.
(Lot 11 Block 9 Central Acres Subdivision 5th filing)
Owner: James O Ouren
PO Box 30723
Billings, MT 59107

To Whom It May Concern:

You are cordially invited to meet with James Ouren the owner of Lot 11 Block 9 Central Acres Subdivision. I will be having a neighborhood informational meeting and discussion regarding a zone change for the subject property. The property has been vacant for many years and has been used as a collection area for many peoples toys and trash. I propose a zone change from Residential 9600 to Residential 7000 in order to sufficiently utilize the property. This would allow for the building of a duplex for possible sale as townhouses.

The meeting is to be held in the basement meeting room at Sunset Bowl-1625 Central Ave-Billings, MT on Wednesday February 10th from 5pm to 6pm.

Best Regards,


James O Ouren





City Zoning Commission

Meeting Date: 04/05/2016

SUBJECT: Special Review #936 - 401 North 17th Street - Verizon Wireless Tower

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: David Green

Information

REQUEST

Special Review #936. This is a special review request to allow the location of a 50-foot monopole support structure for new Verizon Wireless communication antennas in an EBURD-Central Works (EBURD-CW) zone, on Lots 18-24, Block 19, Billings Original Town, a 1,335 square foot lease on a 24,500 square foot parcel of land generally located at 401 N 17th Street.

RECOMMENDATION

The Planning Division is recommending conditional approval based on the findings of the 3 review criteria for Special Review 936.

APPLICATION DATA

OWNER: Richard Alan Collum

AGENT: Verizon Wireless, Brandon Kiser

LEGAL DESCRIPTION: Lots 18-24, Block 19, Billings Original Town

ADDRESS: 401 North 17th Street

CURRENT ZONING: EBURD - Central Works

EXISTING LAND USE: Outdoor Storage next to a warehouse

PROPOSED USE: New Cell Tower on the northwest corner of the lot

SIZE OF PARCEL: a 1,335 square foot lease on a 24,500 square foot parcel of land.

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

The City has approved 86 special reviews in the the Billings Original Town Subdivision (much of the core of downtown) since the early 1970's. Most have been for all beverage licenses and setbacks. A quick review of the zoning history for the Billings Original Town Subdivision shows that there have been 5 special reviews for antennas and one for a satellite dish. There are two existing antennae towers in the EBURD, according to review by staff. There also are additional existing wireless and radio antenna in the immediate area west of the EBURD and north of the EBURD on the rimrocks.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: EBURD-CW
Land Use: SOCO – Stockton Oil Company / Warehouse

SOUTH: Zoning: EBURD-CW
Land Use: Warehouse

EAST: Zoning: EBURD-CW
 Land Use: SOCO - Stockton Oil Company

WEST: Zoning: EBURD-CW
 Land Use: Starter and Alternator Specialist / Warehouse

BACKGROUND

This is a special review to locate a new cell tower at 401 North 17th Street. There are two existing antenna towers in the EBURD itself and several more in the downtown area. The applicant states in their letter that this new cell tower is needed to provide the services to the north park area and areas south to the river. With the newer technologies on phones and the increased demand of wireless devices, the new tower will provide customers with advanced technology capabilities. The applicant believes this will be a benefit with new businesses moving into the area and for the residents where wireless technology is becoming more common place.

This property is in the East Billings Urban Revitalization District (EBURD) and is zoned Central Works (CW). The EBURD code does not specify a maximum allowed height being allowed outright that would preclude an applicant from going through the special review process. In the EBURD code Section 27-1806, Table 27-1806-1 Use Table by District, Wireless Transmission Facility, the table shows wireless transmission facilities in all districts need a special review. In the same section under paragraph 'U', it defines wireless communication facilities and references Section 27-1503 for the special review requirements and also Section 27-620 for the requirements that need to be met with the tower such as setbacks from residential uses, lot coverage and height, fencing, buffering and landscape, lighting, signage and maintenance.

All these requirements of Section 27-620 apply to wireless communication towers with the exception of fencing. EBURD code defines a more strict fencing code than what is allowed in Section 27-620. In the EBURD, code chain link fencing is only allowed in the Industrial Sanctuary district. In the Industrial Sanctuary district, chain link, razor wire, and barbed wire fencing are permitted, but must be located eight (8) feet above grade. This property is in the CW district. In the EBURD code, allowed materials for fences and walls are brick, stone, cast stone, wood, painted, matte finish vinyl, wood composites. Prohibited materials include barbed wire, chain link, exposed cinder or concrete block, metal mesh, and razor wire and single wire fences. In addition, fences along the front yard or front lot line shall have a maximum opacity (transparency) of fifty (50) percent. In the Central Works District where this antenna is proposed, the maximum height of any fence or wall shall be eight (8) feet. On the drawing submitted by the applicant, it shows the use of chain link fencing material with barbed wire at the top. This fencing material is not allowed in the CW zoning where this property is located. In section 27-620 (f) (10) code also states that the wireless structure shall have be muted by being painted a neutral color and/or textured and painted to match surrounding buildings. The structure cannot have a reflective surface that would attract attention or reflect the sun light. The applicant will need to meet the EBURD code requirements and all other requirements of zoning, building and engineering code that applies at the time of construction.

Planning staff finds that this use may be made less-obtrusive in this area of Billings under the standards required by the EBURD zoning. The staff 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) the proposal 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 that the application complies with the requirements of Section 27-1500. The application also conforms to the second and third criteria. It conforms to most all parts of the Unified Zoning Regulations, with the exception of the fence material and this has been addressed with a proposed condition of approval. The location is in one of the zoning districts that allows wireless communication equipment. The application is conforming to the purposes of the regulations and the 2008 Growth Policy. This location is a compatible use with the surrounding uses and will improve the site with the screening fence/wall in place to enclose the proposed equipment and cell tower. The location should have minimal impact on the surrounding uses or neighbors. Planning staff is recommending conditions for this special review based on the approval criteria for special review uses.

RECOMMENDATION

The Planning Division recommends conditional approval.

PROPOSED CONDITIONS

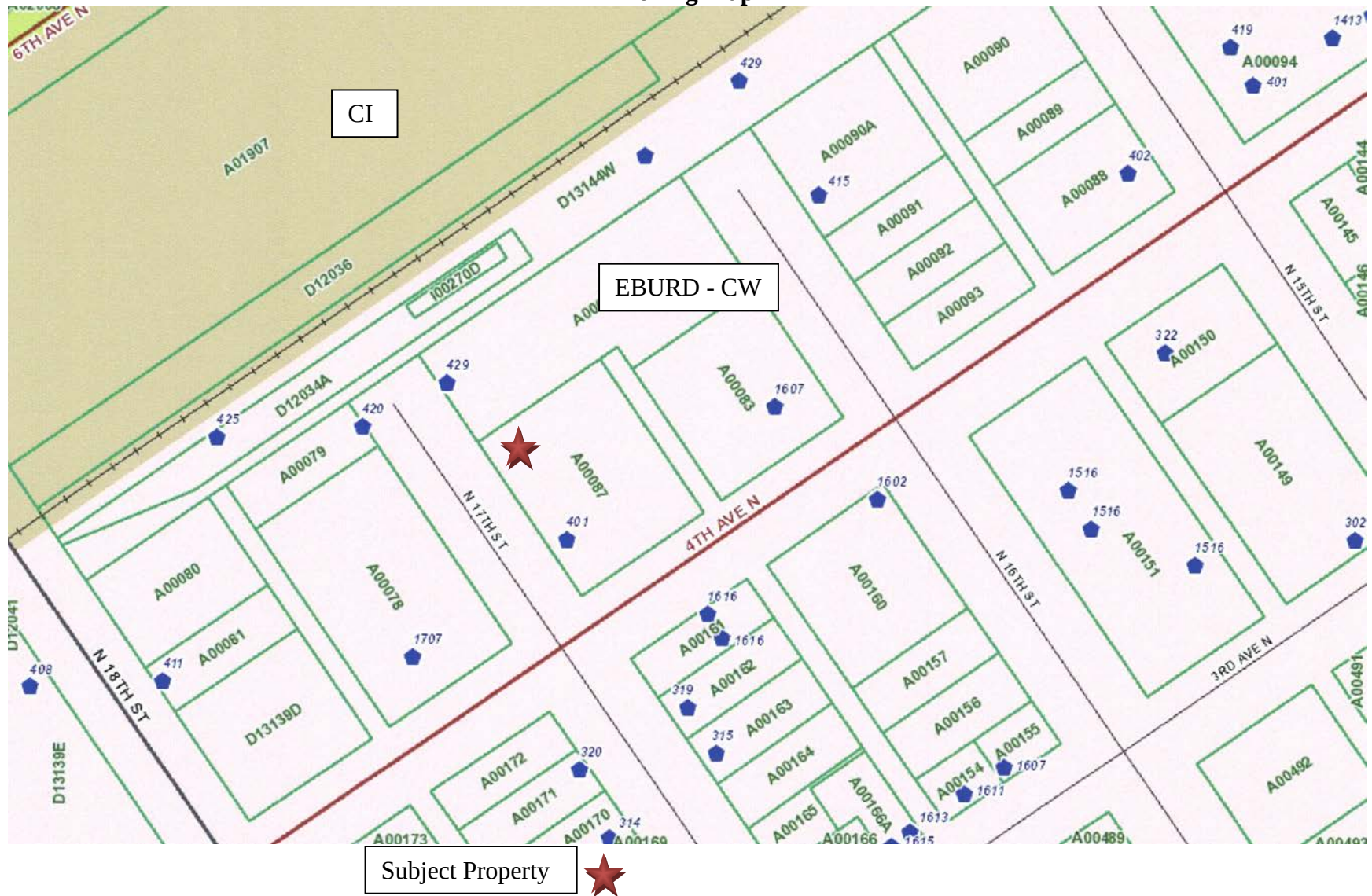
1. The special review is limited to Lots 18-24, Block 19, Billings Original Town generally located at 401 North 17th Street.
2. The special review approval is for the location of a wireless communication facility and no other use is intended or implied.
3. The applicant will meet the required zoning code, EBURD-CW, for fences, walls, and all other codes that apply at the time of construction.
4. The monopole will be constructed with a non-reflective material to eliminate glare.
5. The proposed 'New Verizon Outdoor Generator' shall be a 'Whisper Quiet Generator' to eliminate loud generator noises in the area.
6. No construction or demolition activity will occur before 7 am or after 8 pm daily.
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.

****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.

Attachments

Zoning Map and Site Photos
Site Plan and Applicant Letter

Zoning Map



Site photos



Subject Property



Looking east across subject property

Site photos



Looking south from subject property

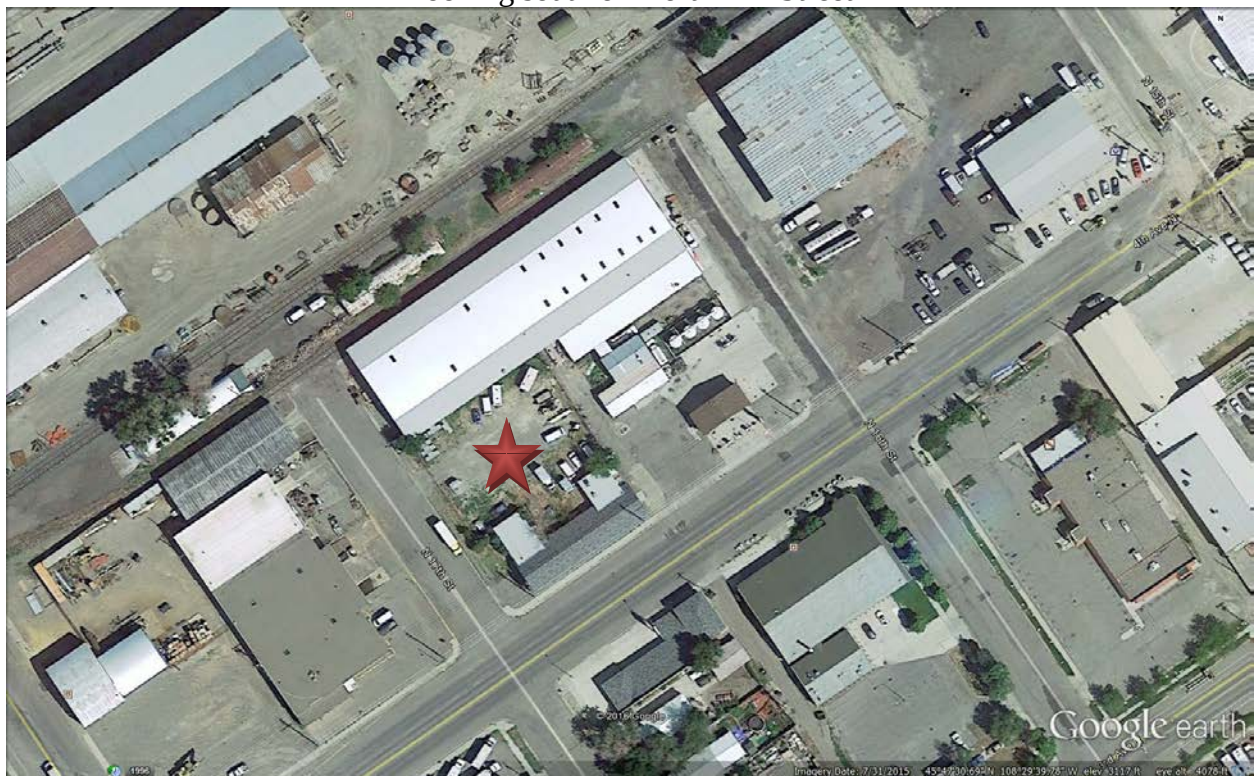


Looking west across North 17th Street from subject property

Site photos

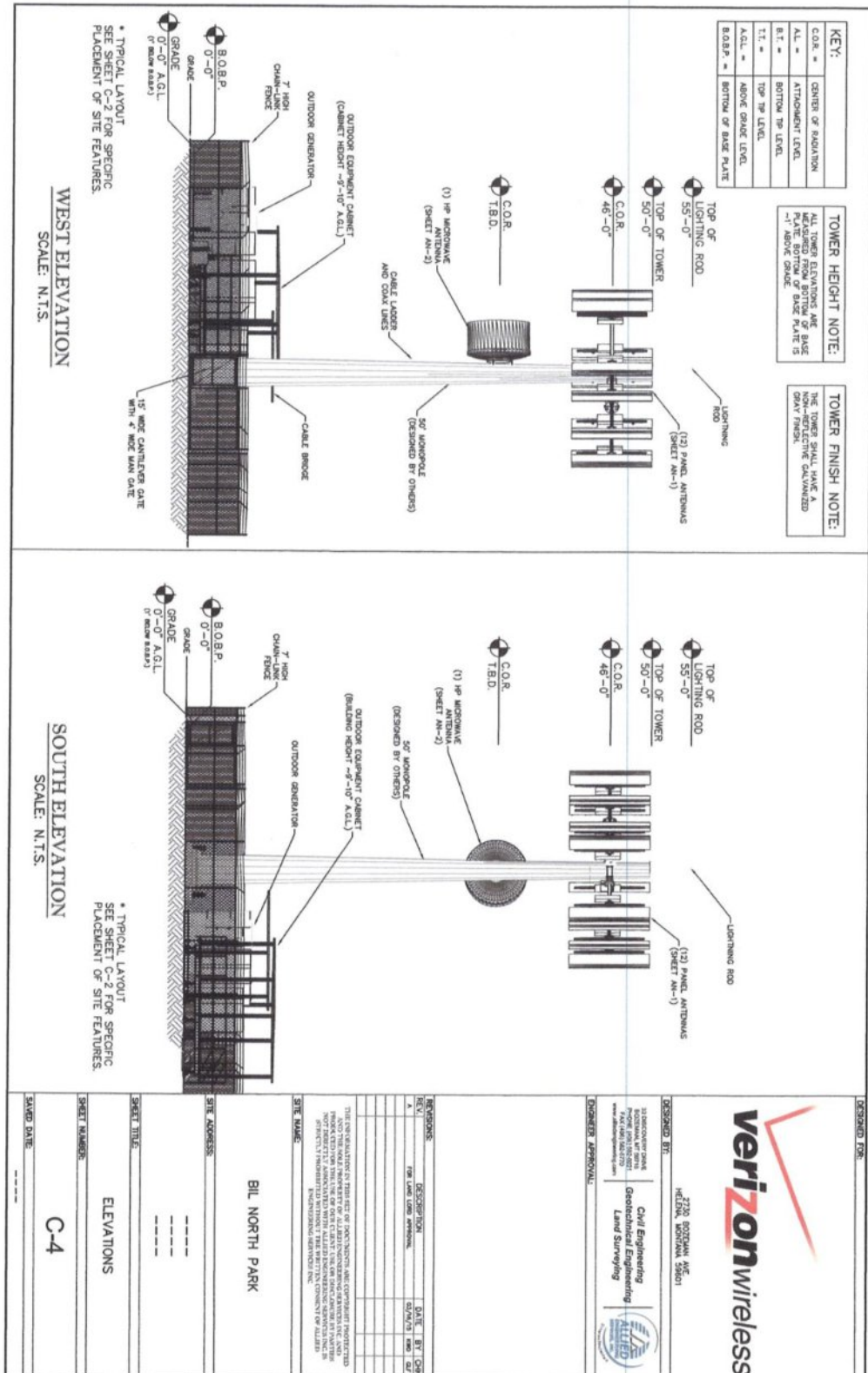


Looking south on North 17th Street



Subject Property 

[illegible]



Applicant Letter

City of Billings Special Review Application N 17th Street / Verizon Wireless site BIL North Park

Additional Information Enclosed:

Answer the following questions:

- a. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

The proposed Verizon Wireless facility is consistent with the goals and policies of the adopted Growth Policy in three ways:

- i. **Land Use** – The parcel on which VZW is proposing to build their facility is located in an industrial area. The monopole and equipment will be between two buildings just off of the railroad tracks. This area of town has a large population of wireless users (both voice and data) and needs the additional infrastructure to accommodate the growing demand
 - ii. **Economic Development** – Wireless coverage and capacity is a necessity in today's world. Consumers and businesses expect their phone and internet connection to work everywhere. This site is intended to serve the business community south towards the river as well as the North Park residential community to the northwest. In order to attract and keep businesses in the area, Billings must have accessible and reliable wireless service.
 - iii. **Aesthetics** – The proposed monopole will be located between two buildings in an industrial area. At 50' tall, the tower will have a minimal visual impact on the neighboring community.
- b. Why is there a need for the intended use of the property at this location?

Verizon Wireless has determined that the North Park area of Billings is growing short on wireless capacity on the Verizon Wireless network. A lack of capacity will eventually block calls, delay emergency responses, and slow down wireless data rates. According to the most recent national study, over 45% of homes rely solely on wireless phones. This means that over two in every five homes are relying on wireless service to reach 911.

Full disclosure – Verizon Wireless is building a 4G LTE site, which means voice calls will be carried over their LTE network. This is a change and will require customers to have a device capable of advanced calling.

What is a 4G LTE site? A Verizon Wireless 4G LTE cell site uses the latest technology to carry both voice and data. Voice service is provided over VOLTE or Voice Over Long Term Evolution technology through a service Verizon Wireless calls Advanced Calling 1.0.

Advanced Calling offers high-definition or HD voice and video calling. To complete calls on this new cell site, customers' phones must be capable of Advanced Calling and that feature must be activated in the phone itself. Both customers on a call must be served by 4G LTE and have the Advanced Calling feature activated to experience HD voice and video service. Customers with older 1X, 3G or 4G devices without Advanced Calling will not experience a change in voice service.

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

Verizon Wireless is the largest wireless carrier in the United States. The Verizon Wireless customers, including the City of Billings, rely on Verizon Wireless to continually invest in wireless infrastructure to prevent reduced functionality as the demand for wireless services (smartphones, tablets, etc.) increases.

- 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.

Verizon Wireless is proposing a 50' monopole in the unpaved area behind the building located on the northeast corner of N 17th St. and 4th Ave N and in front of the warehouse that borders the railroad tracks. A Special Review is required because the area is zoned EBURD – Central Works.



City Zoning Commission

Meeting Date: 04/05/2016

SUBJECT: Special Review 939 - 4910 Southgate Drive

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Special Review #939 – 4910 Southgate Drive – Add 2 outdoor patios and 4,000 square feet of retail space
– A special review request to add 2 outdoor patios and 4,000 square feet of floor area to an existing restaurant and casino in an Entryway General Commercial (EGC) zone, on Lot 1A, Block 1, Geyser Park Subdivision, a 3.125 acre parcel of land. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 review criteria for Special Review 939.

APPLICATION DATA

OWNER: America Foods

AGENT: Dave Hawkins

LEGAL DESCRIPTION: Lot 1A, Block 1 Geyser Park Subdivision

ADDRESS: 4910 Southgate Drive

CURRENT ZONING: Entryway General Commercial (EGC)

EXISTING LAND USE: Vacant Geyser Park building - under construction for remodel and proposed additions

PROPOSED USE: Same with 2 outdoor patios and a 4,000 square foot addition for a liquor store

SIZE OF PARCEL: 3.125 acres

CONCURRENT APPLICATIONS

Building permits for interior remodel of structure have been issued. The owner has received a previous special review approval (SR 934) to locate an all beverage license in the existing building. This special review is required for the expansion of the building and for the addition of 2 outdoor patios.

APPLICABLE ZONING HISTORY

The property received a special review approval in 1995 (SR 557) for the outdoor go-cart track and bumper boats for Geyser Park. In 2015, the property was sold and a special review was approved (SR 934) to allow the location of an all beverage license in the existing building for the re-location of the Bayou Restaurant from Parkway Lane.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: EGC
Land Use: Best Western Plus/Kelly Inn and Suites

SOUTH: Zoning: EGC
Land Use: Interstate - 90 (on-ramp)

EAST: Zoning: EGC
Land Use: New Comfort Suite Hotel

BACKGROUND

This is a special review request to allow the expansion of an existing building and add 2 outdoor patios where an all beverage license is to be located. The outdoor patios will serve the restaurant area (a 1,300 square foot non-smoking patio) and the casino (a 1,500 square foot smoking allowed patio). The additional building area of 4,000 square feet is intended for a liquor store.

The City has approved three locations for alcoholic beverage sales on Southgate Drive, and one included gaming. This area of Billings has quite a few hotels and a destination store for outdoor enthusiasts. It also is near Amend Park, a large City park facility that hosts statewide and regional soccer events, as well as special events throughout the year. This restaurant will give travelers and locals another option for a sit down restaurant and it is within walking distance of the nearby hotels. There are no churches, parks with playing fields or playgrounds or schools within 600 feet of this proposed location. The addition of the outdoor patios will allow outdoor dining for the restaurant and outdoor seating for the casino patrons on a seasonal basis.

The Planning Division has reviewed the application and the three criteria for special reviews 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 proposal is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. The proposed addition of the outdoor patios for the restaurant and casino meet all the requirements of the zoning regulations and the proposed building addition also meets these regulations. The location is in one of the zoning districts that allows an all beverage license with gaming by special review approval. An on-site liquor store is not a special review use per se but a condition of the previous special review limited the expansion of the building to no more than 1,200 square feet without an additional review. The application meets the objectives and purposes of the zoning regulations and is consistent with the 2008 Growth Policy.

The Planning staff is recommending several conditions of approval to mitigate the likely impacts of the addition and the outdoor patios on this property. Outdoor patios have been used in other locations for staging outdoor concerts and events so it is reasonable to limit these uses in close proximity to the hotels in the area. The liquor store is an allowed use so mitigation of this addition will be limited to the appearance of the building addition and access to the new building.

PROPOSED CONDITIONS:

1. The special review is limited to Lot 1A, Block 1 Geyser Park Subdivision generally located at 4910 Southgate Drive.
2. The special review approval is for the addition of 2 outdoor patios; 1 at 1,300 square feet and 1 at 1,500 square feet; and for the addition of 4,000 square feet to the existing 12,000 building where an all beverage license with gaming is currently located. No other use is intended or implied.
3. Any expansion of the outdoor patios greater than 280 square feet or a building addition greater than 1,600 square feet will require additional special review approval.
4. All exterior lighting, including security lighting, shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 20 feet above grade. Entryway lighting shall be recessed lighting so no part of the lens or fixture projects below the entrance canopy.
5. The outdoor patios are allowed to have background music when the patios are open for use by patrons. Background music may be amplified or non-amplified but should not be audible more than 25 feet from the outside of the patio.
6. Each patio shall have a surrounding fence at 42 inches in height and an exit gate to a sidewalk or adjacent paved area. No entry through the exit gate is allowed and each patio may only be accessed through the building or entry vestibule.
7. There shall be no outdoor announcement system whether permanent or temporary on any part of the property.

8. No outdoor area shall be used for any event where amplified sound systems are in use.
9. The owner will provide bicycle parking for up to 6 bicycles on the west side of the building and for up to 4 bicycles on the north side of the building addition to the east. The racks selected and spacing required shall be as recommended by the City of Billings Bicycle Parking Guidelines.
10. The 4,000 square foot addition to the building shall be complementary in color and design to the existing and remodeled building.
11. Any centralized solid waste storage shall be enclosed by a wall on three sides and a closing gate or gates on the fourth side. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
12. 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.
13. 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.

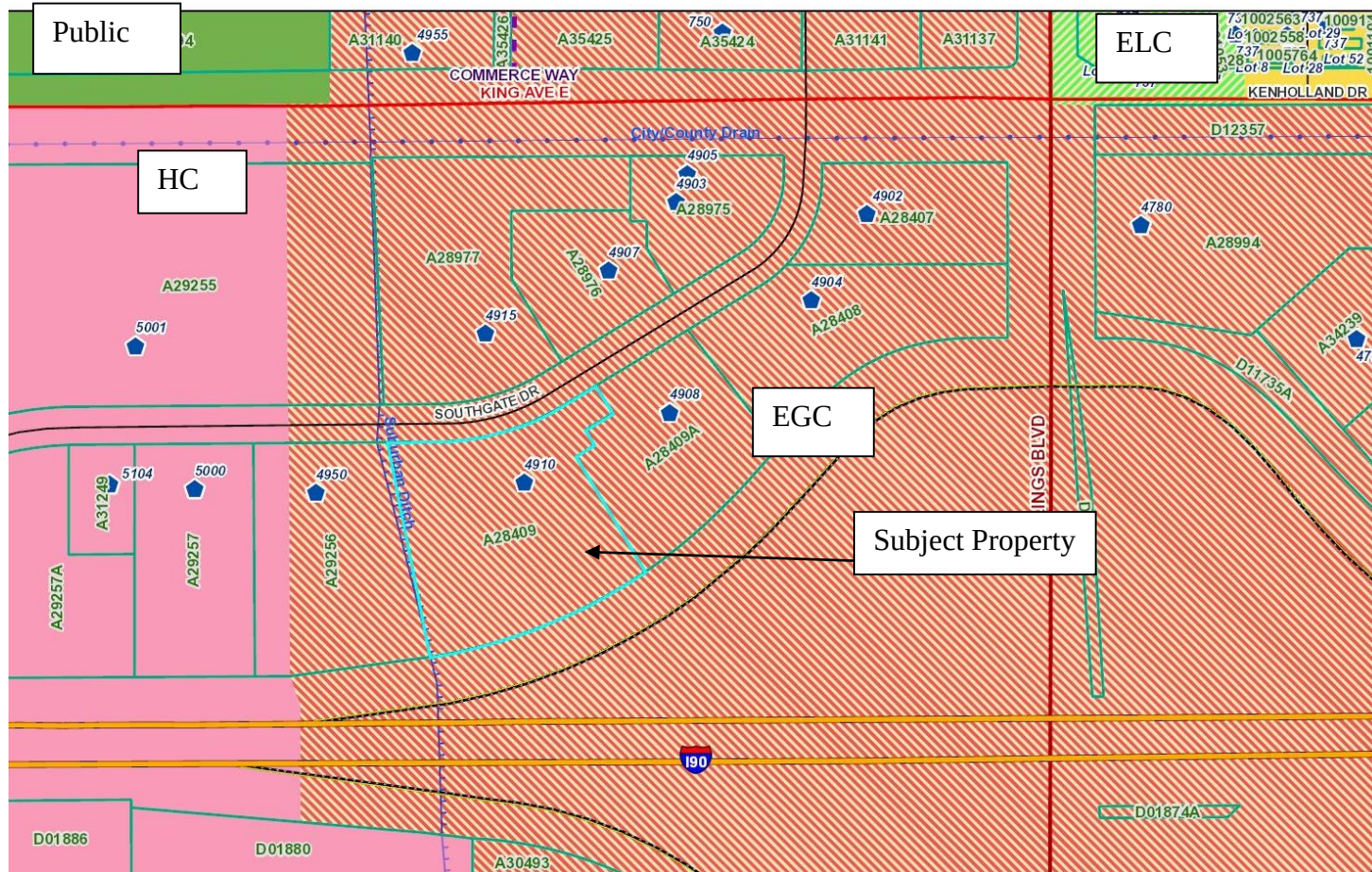
RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 review criteria for Special Review 939.

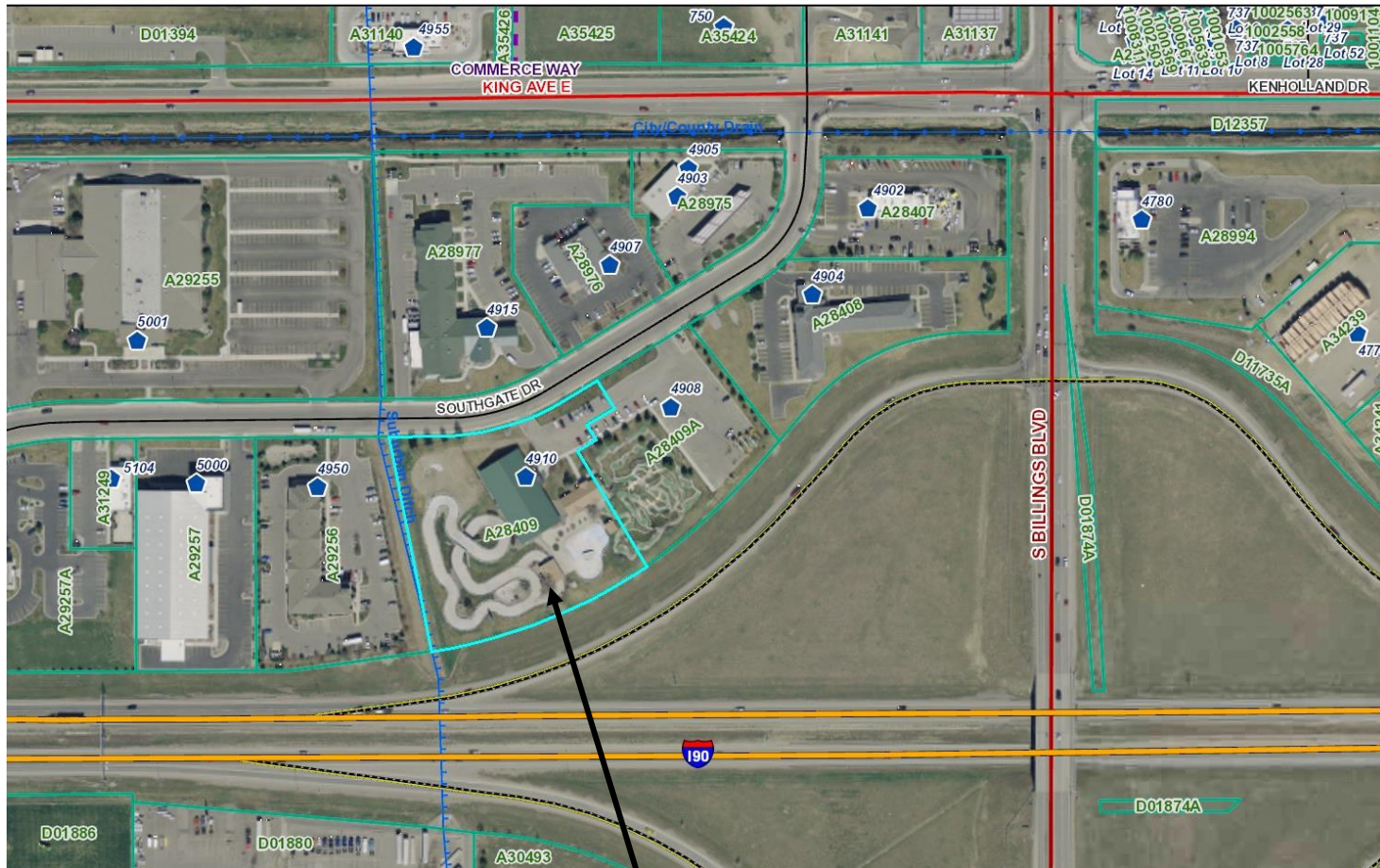
Attachments

Zoning Map and Site Photos
Site Plan and Applicant Information
Bicycle Parking Guidelines

Zoning Map – Special Review #939
4910 Southgate Dr



4910 Southgate Dr



Subject Property



Subject Property – view west along Southgate Drive



View east along Southgate Dr – Comfort Inn and Suites under construction at 4908 Southgate Dr



View north and east across Southgate Drive



View north across Southgate Drive

Special Review 939
Site Plan and Applicant Letter

NICOLE

APPLICATION FORM

CITY SPECIAL REVIEW Billings Special Review# 939 - Project # PZ-16-00033

The undersigned as owner(s) of the following described property hereby request a Special Review as outlined in the City of Billings Zoning Regulations.

Present Zoning: Entryway General Commercial

Special Review Requested: Addition of 4000 square foot of retail space and two patios one in front - NON-Smoking and one in back for designated Smoking

TAX ID# A 28409 CITY ELECTION WARD # _____

Legal Description of Property: LOT 1A, Block 1 AMENDED, Geysers Park Subd, S17, T01S, R24E

Address or General Location (If unknown, contact City Engineering): 4910 Southgate Drive

Size of Parcel (Area & Dimensions): 3.125 Acres

Present Land-Use: Vacant Building

Covenants or Deed Restrictions on Property: Yes _____ No X
If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): America Foods
(Recorded Owner)
4910 Southgate Drive, Billings, MT 59101
(Address)
406-672-6151 AmericaFoodsMT@gmail.com
(Phone Number) (email)

Agent(s): Dave Hawkins
(Name)
3307 GRAND Ave Ste 103A, Billings, MT 59102
(Address)
406-591-0195 DHawkins@treasurestateelectric.com
(Phone Number) (Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Special Review. Also, I attest that all the information presented herein is factual and correct.

Signature: D Hawkins Date: 2-29-16
(Recorded Owner)







City of Billings Off-Street Bicycle Parking Guidelines



Thank you for choosing to provide safe and convenient bicycle parking to your customers, clients, employees and residents. This will help meet the City's goal to improve and prioritize bicycle accommodations within Billings.

Customers and Clients

Bicycle Parking

1. Bicycle parking spaces are at least 2 feet by 6 feet; minimum 7 feet overhead clearance.
2. A minimum 5 feet access aisle behind rack for bicycle maneuvering.
3. Spaces should not block pedestrians; 4 foot thoroughway recommended, 3 feet required.
4. Bicycle rack installed a minimum of 30 inches from adjacent walls and other edges.

Bicycle Rack Site Location

1. Located in highly visible area outside main entrance of building and easily accessible.
2. On a hard surface, such as concrete.
3. In rows and within 50 walking feet of a main entrance, distributed to serve all entrances and buildings.
4. Shared bicycle parking facilities within 150 feet of main entrances to buildings served.

Bicycle Racks*

1. Two points of contact with bicycle. 2. Supports "U" type shackle-lock. 3. Securely anchored.

RECOMMENDED



NOT RECOMMENDED



**examples only. not an all inclusive set.*

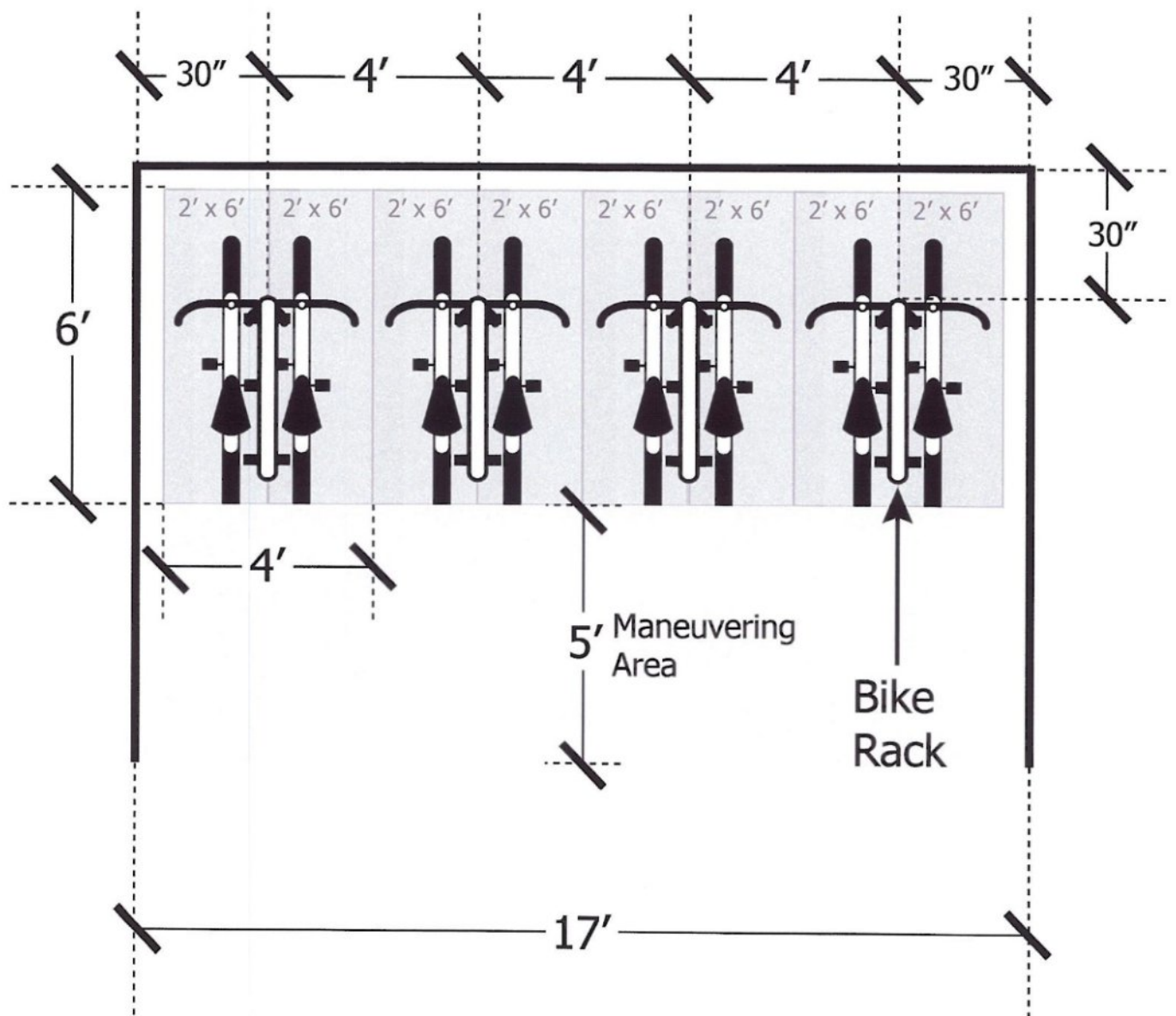
Employees and Residents

1. Either located on site or in an area where the closest point is no more than 300 feet from site.
2. To provide security, long-term facilities are recommended in at least one of the following locations:
 - In a locked room
 - In an area enclosed with a fence with a locked gate.
 - Within 100 feet of an attendant or security guard.
 - In an area monitored by a security camera; or
 - In an area that is visible from employee work areas.
3. At least 50 percent of long-term bicycle parking should be covered.
4. A minimum of 30 percent attached to floor or ground.

For Questions Contact:

Jeffrey Butts,
Bicycle and Pedestrian
Coordinator
406.247.8637
buttsj@ci.billings.mt.us

Draft: November 2014





City Zoning Commission

Meeting Date: 04/05/2016

SUBJECT: Special Review 940 - 116 N Broadway

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Special Review #940 – 116 N Broadway – Add seasonal outdoor patio – A special review request to allow the addition of a 320 square-foot outdoor seasonal patio on the public sidewalk adjacent to Doc Harper's in the Central Business District (CBD), on Lots 7-12 and a fraction of Lot 6, Block 93, Billings Original Town, Unit 2 of the Babcock Building. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

The Planning Division is recommending conditional approval and adoption of the findings of the 3 review criteria for Special Review 940.

APPLICATION DATA

OWNER: The Babcock, LLC

AGENT: Bruce Harper

LEGAL DESCRIPTION: Lots 7-12 and a fraction of Lot 6, Block 93, Billings Original Town

ADDRESS: 116 N Broadway

CURRENT ZONING: CBD

EXISTING LAND USE: Doc Harper's

PROPOSED USE: same with seasonal outdoor patio

SIZE OF PARCEL: Patio will be 320 square feet on the public sidewalk

CONCURRENT APPLICATIONS

The agent, Bruce Harper, has submitted a request to the State Liquor Licensing Division to alter the premises to include a 320 square foot outdoor patio for patrons. The agent has applied for a City of Billings Encroachment Permit from the City Engineering Division and has opened discussion with the Parking Division regarding the 3 on-street parking spaces that will be impacted by the proposed patio.

APPLICABLE ZONING HISTORY

The property received special review approval to locate an all beverage license without gaming (SR 918) in 2014. This area of downtown has received 26 other special review approvals to locate liquor licenses.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: CBD Land Use: Retail business
SOUTH:	Zoning: CBD Land Use: Retail businesses
EAST:	Zoning: CBD Land Use: Retail businesses

BACKGROUND

The applicant is requesting permission to install an outdoor seasonal patio on the public sidewalk outside the main entrance for Doc Harper's at 116 N. Broadway. The applicant will use materials easily removed at the end of the outdoor season so no permanent structures or encroachments are proposed at this time. The City has approved permanent encroachments for several downtown restaurants with on-premise alcohol service. The first location granted a permanent encroachment was Montana Brewing Company in April 2000, directly across the street from Doc Harper's. Since 2000, the City has granted several other permanent encroachments for outdoor patios including the Travel Cafe (now Broadway Deli) at 313 N Broadway, the Carlin Hotel at N 25th St and Montana Avenue, and the Golden Phoenix (now Rowdy's) at 222 N Broadway. Other eating establishments have less formal outdoor dining with just a few tables and chairs set out during business hours.

Places that serve alcohol must comply with state regulations about where and when patrons may be served. Local zoning regulations require a special review whenever an outdoor patio is added at a location that requires a special review for the type of liquor license on the premises. For example, a restaurant that serves beer and wine and has a gaming restricted license does not need a special review to add an outdoor patio. A microbrewery allowed by the zoning regulations does not need a special review to add an outdoor patio. All locations within the Central Business District (CBD) are exempt from the local 600-foot separation requirement to churches, schools and public parks with playgrounds.

North Broadway is a downtown commercial street with two-way traffic, on-street parking and wide sidewalks for a high level of pedestrian activity. The 2015 traffic count data indicates an average daily traffic count of approximately 4,700 vehicles per day on this section of N Broadway. The vehicle traffic on this street is lower than adjacent and surrounding arterial streets. Vehicle traffic is not indicative of commerce in the area as most businesses rely on pedestrian access for their businesses. This block of N Broadway also has a high level of use for the on-street parking. In 2000, the City allowed Montana Brewing Company to eliminate 4 parallel parking spaces in front of its property to accommodate the outdoor patio and relocation of the sidewalk into the parking lane. A similar elimination of on-street parallel parking spots occurred for the Golden Phoenix outdoor patio in the 200 block of N Broadway. The agent is negotiating with the Parking Division to mitigate the seasonal loss of 3 on-street diagonal parking spaces proposed for this outdoor patio. Mitigation may include payment of the anticipated loss of revenue, payment for retrofitting nearby parking spaces to 2-hour parking meters, and other potential solutions.

The Planning Division has reviewed the application with staff and other City departments, including Engineering and Parking. Planning is recommending conditional approval of the application. 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 the CBD district where an outdoor patio where service of alcohol may be allowed by special review. It also appears the proposal meets all of the zoning requirements within the CBD. The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have designated several zoning districts where outdoor patios may be allowed where alcohol is served. The CBD zone is one of those districts. The adjacent properties are not primarily residential and have similar customer and employee traffic. There are several apartments above ground floor businesses in this area so restrictions on outdoor events on the patio are proposed. The proposed seasonal outdoor patio will allow Doc Harper's to enjoy similar benefits as surrounding neighbors without permanently occupying the public right of way year round. 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 surrounded by a mix of commercial businesses within the city limits. The CBD zone district is intended accommodate stores, hotels, governmental and cultural centers and service establishments at the central focal point of the city's arterial and transportation system. There are direct impacts from the proposed seasonal patio and the

Planning staff has recommended several conditions to mitigate these potential conflicts.

PROPOSED CONDITIONS:

1. The special review approval shall be limited to Unit 2 of the Babcock Building located on Lots 7 through 12 and a fraction of Lot 6, Block 93, Billings Original Town generally located at 116 North Broadway.
2. This special review is to allow the installation of a temporary outdoor patio of 320 square feet on the public right-of-way directly adjacent to the business.
3. The installation of the temporary outdoor patio will not occur before May 1 of each calendar year and shall not remain in place after October 31 of each calendar year.
4. The installation of the temporary outdoor patio shall not occur in any calendar year unless an Encroachment Permit has been issued by the City Engineering Division and a signed Memorandum of Understanding with the Parking Division is in place to off-set the loss of the 3 on-street diagonal parking spaces.
5. The installation of the temporary outdoor patio shall be in substantial conformance with the site plan submitted with the application including materials and the general location of benches, temporary sidewalks, and seating areas.
6. There shall not be any outdoor amplified music, announcement system or music system broadcast on the patio after 8 pm daily. Background music is allowed before 8 pm.
7. No signs, banners, or placards shall be posting on the fencing or benches.
8. Temporary planters or barriers will be placed at the top of the 3 on-street diagonal spaces to prevent vehicle parking against the benches and planters adjacent to the temporary walkway. The temporary planter or barrier design and placement will be determined by the City Engineering Division.
9. 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.
10. 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.

RECOMMENDATION

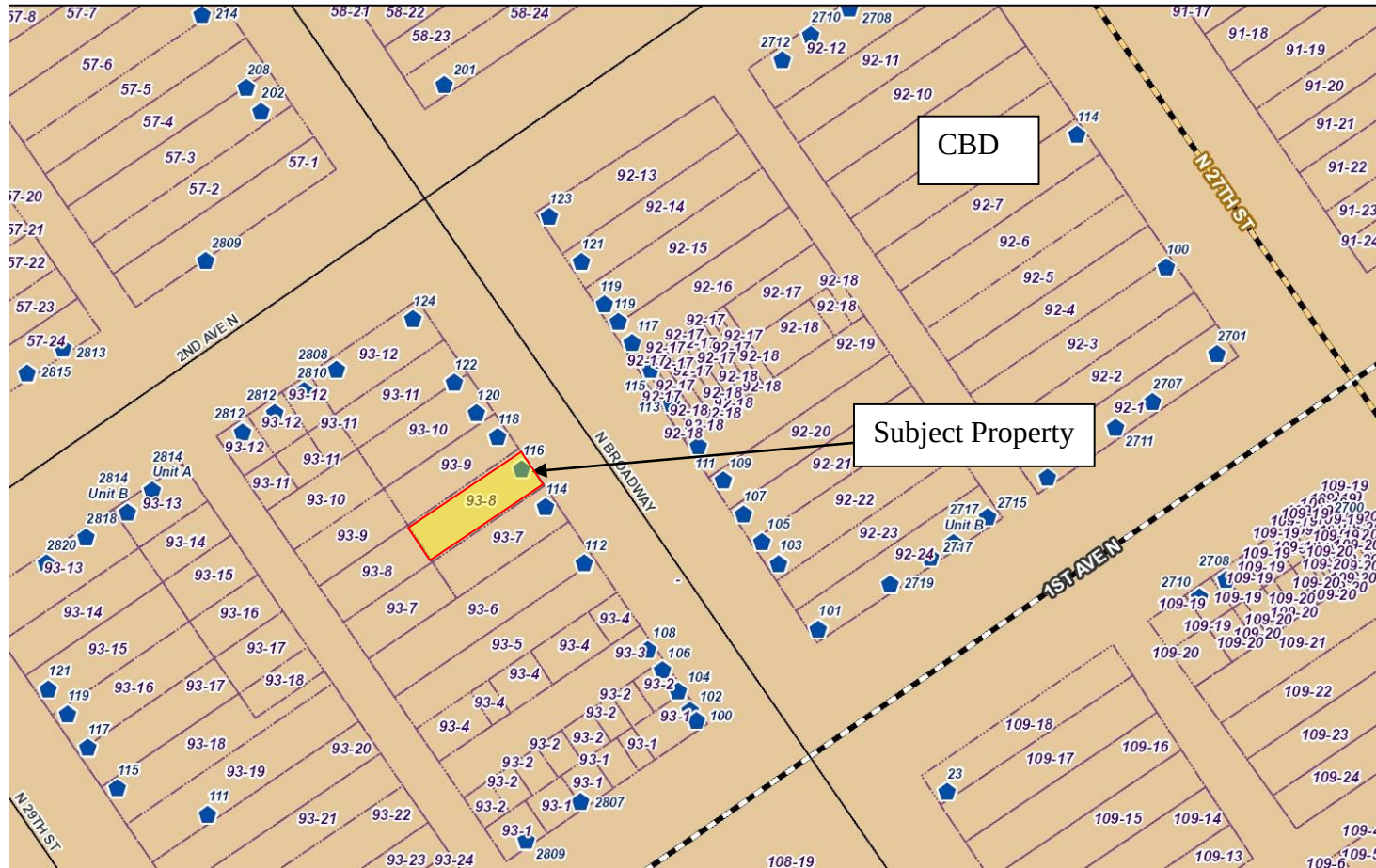
The Planning Division recommends conditional approval and adoption of the findings of the 3 review criteria for Special Review 940.

Attachments

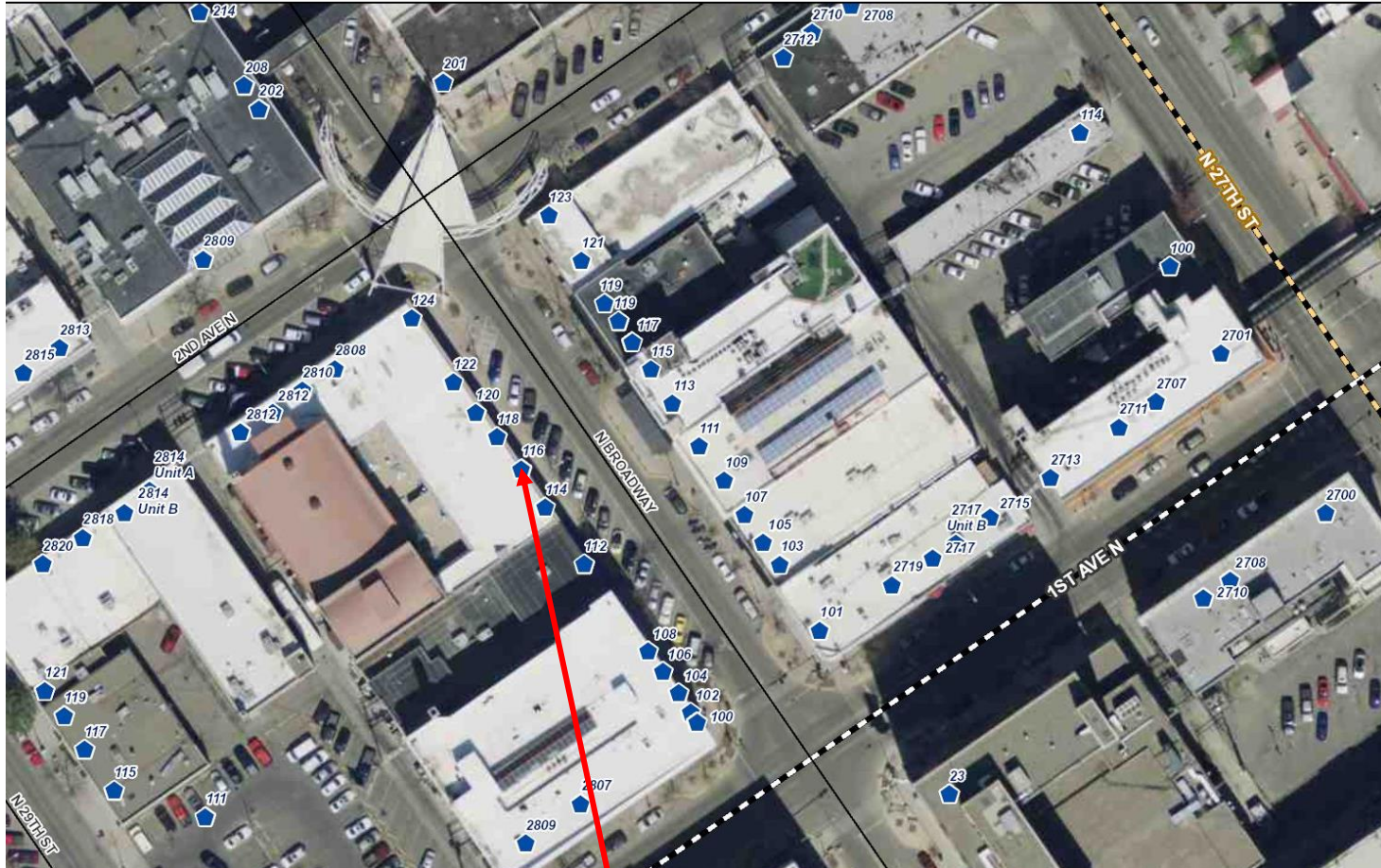
Zoning Map and Site Photos
Site Plan and Applicant Letter

Zoning Map – Special Review #940

116 N Broadway



116 N Broadway



Subject Property



Subject Property – 116 N Broadway



View north along N Broadway



View east across N Broadway



View south along N Broadway



Special Review 940 Site Plan and Applicant Letter

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

The addition of a seasonal patio to Doc Harper's Tavern in the Babcock building on North Broadway will present an alternative to most other all-beverage facilities in the downtown area. Doc Harper's offers high end cocktails - martinis, manhattans, gibsons and rob boys - and sophisticated after dinner cocktails such as brandies, scotches and classic whiskeys. The addition of an outdoor patio with high end alcoholic beverage services will bring a second unique facility to the all-beverage license operations now available in downtown Billings. The Montana Brewing Company located directly across the street from Doc Harper's does have a permanent patio facility now existing. Another outdoor service of alcoholic beverages will be attractive to downtown Billings and will add to and improve quality of life. Approval of this outdoor addition to Doc Harper's will promote the live-work environment of downtown Billings. Permitting a second outdoor beverage garden/patio will present a real alternative to other beverage operations throughout downtown Billings business and residential community, thus promoting, enhancing and complimenting both commercial and residential clientele. This additional and enhanced seasonal use of the property contributes to a high quality of life for new and existing residents. The facility will promote the Babcock building and support the downtown Billings hotel and guest services facilities. It will help to invigorate the entire Billings economy and will attract Billings residents and Billings tourists, conventioners and business representatives. Promotion of business, and thus economic development, is a primary goal of the City of Billings Growth Policy of the Billings Zoning Ordinance.

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

North Broadway is undoubtedly the heart of downtown Billings. Literally everything starts, evolves around, or concludes with Sky Point. The introduction of an outdoor patio to Doc Harper's existing indoor all-beverage license facility will present a unique addition and complement to Doc Harper's current beverage and light food facility in downtown Billings. The existence of an outdoor patio at this location will help to promote a vibrant and viable North Broadway in the heart of downtown Billings. Sky Point activities - farmers' markets - Burn the Point activities - parade activities - community events - will all be enhanced in downtown Billings by the addition of a second full beverage license with outdoor patio service on North Broadway.

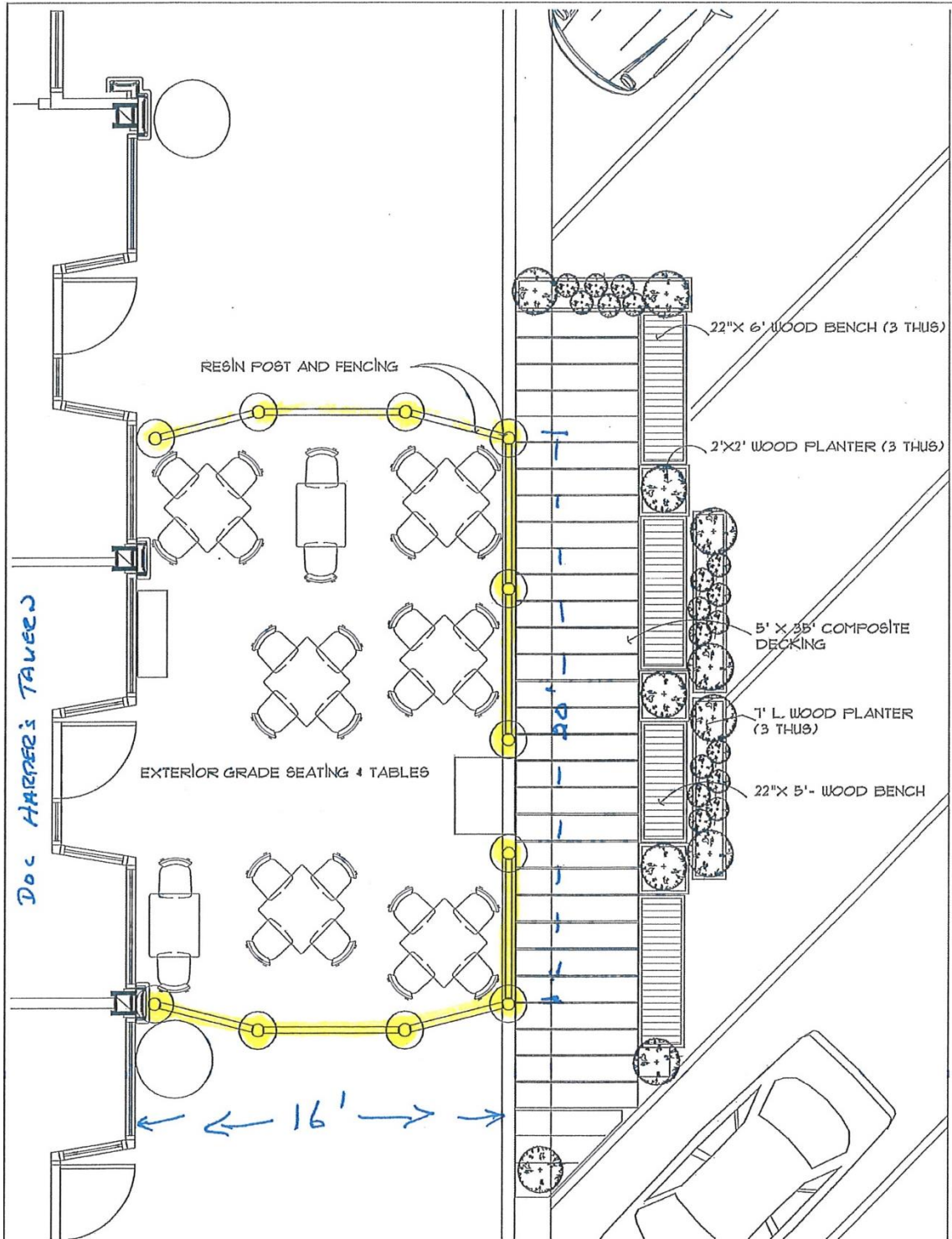
C. How will the public interest be served if this application is approved?

The Billings community and visitors/guests to the Billings area will be provided a unique addition to Doc Harper's now-existing hors d'oeuvres and beverage service in downtown Billings. Metropolitan areas such as Denver, Seattle, Portland, Boise and Rapid City are praised and repeatedly visited by persons seeking drinking, dining and entertainment experiences such as downtown Billings now provides and which outdoor seating and food and beverage services will only enhance. The idea of limiting the patio services to seasonal and, therefore, temporary use, is adopted from Portland where temporary patios have proven to be a better alternative to the permanent dislocation of parking spaces and other long-term negative impact on traffic flow. Alberta Bair patrons, YAM patrons, arts and crafts patrons, sports fans, tourists and conventioners seek out and support the very kind of bar services and light food proprietors as will be featured at

Doc Harper's full service bar which will now be available on the street during good weather days. Doc Harper's high end bar service and "small plates" facility has already earned the reputation as one of the "go to" places in downtown Billings, and, of course, such reputation will be enhanced with the addition of outdoor facilities for food and beverages. Doc Harper's expects to continue to restrict its hours to midnight closing.

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.

This Special Review is for permission to serve alcoholic beverages "outside" Doc Harper's Tavern facility at 116 North Broadway. The planning is not yet complete, but the current intention is to enclose a portion of the sidewalk and the street area in the immediate vicinity of Doc Harper's current leasehold premises. Attached please find a copy of the Montana Department of Revenue letter dated February 19, 2016, approving the request to alter the licensed premises to include the patio. The exterior improvements are to be seasonal in nature and open to conduct business operations from about May 1 each year to about the end of October. The improvements will be temporary in nature and removed by the end of October each year and reinstalled in the late Spring - about May 1 each year.



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Proposed **Patio Addition**
Doc Harpers TAVERN
 116 N 28th Billings, MT
 (BROADWAY)

PROJ. NO. 1602

DATE Jan 2016

Site Plan

SHEET 1 OF 1



City Zoning Commission

Meeting Date: 04/05/2016

SUBJECT: Special Review 941 - 54th St West and Trail Creek Drive

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Special Review #941 – 54th St West at Trail Creek Drive – LDS Meetinghouse – A special review request to allow the construction of a new church in a Residential 9,600 (R-96) zone on a 4.03 acre portion of an 89.98 acre un-platted parcel of land described as the N1/2NE1/4, SWNE1/4 in Section 31, Township 1 North, Range 25 East. A concurrent annexation of the 4.03 acre parcel has been submitted. Presented by Nicole Cromwell, Zoning Coordinator.

RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 941.

APPLICATION DATA

OWNER: Yellowstone Meadows Partners, LLC (Bruce Carlson)

AGENT: NBW Architects, P.A. (Scott Nielson)

LEGAL DESCRIPTION: A 4.03 acre parcel in the north east corner of the N1/2NE1/4, SWNE1/4 in Section 31, Township 1 North, Range 25 East

ADDRESS: None assigned

CURRENT ZONING: R-96

EXISTING LAND USE: Vacant - agricultural land

PROPOSED USE: LDS Meetinghouse

SIZE OF PARCEL: 4.03 acres

CONCURRENT APPLICATIONS

An annexation petition for the 4.03 acres has been submitted. The intent is to have this Special Review application come before the City Council after ,or at the same meeting, as the Annexation Petition.

APPLICABLE ZONING HISTORY

A portion of this un-platted parcel received a zone change from the County in 1974 to change the zoning to Residential 15,000. This portion is located south and west of the subject property. The Yellowstone Meadows Subdivision to the north is in the County and zoned R-96. The first phase of the subdivision was filed in 1970, but no dwellings have been constructed. Mont Vista Subdivision to the east was granted a zone change in 2008 at the time of annexation to a Planned Development zone. Mont Vista started construction in 2014.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96
Land Use: Vacant subdivision lots

SOUTH: Zoning: R-96
Land Use: Agricultural land

EAST:	Zoning: R-96 and PD - Mont Vista Land Use: Subdivision under construction
WEST:	Zoning: R-96 Land Use: Agricultural land

BACKGROUND

This is a special review request to construct a new LDS meetinghouse on a 4 acre portion of an un-platted parcel of land west of 54th St West and south of Trail Creek Drive. The parcel is outside the city limits but a concurrent annexation petition has been submitted. The property is zoned R-9600 and churches and religious institutions are allowed by special review approval. In 2015, the LDS meetinghouse was proposed for several vacant lots in the Rim Point Subdivision north of Rimrock Road near the LDS Temple. This application was withdrawn.

The Church of Jesus Christ LDS is in need of additional meetinghouse space to accommodate a growing church membership. The meetinghouse is meant to accommodate everyday worship activities and will be similar in size and construction style as other meetinghouse sites in Billings (912 Wicks Lane, 2929 Belvedere, 3595 Monad Road, 1640 Broadmoor and 1711 6th Street West).

The proposed meetinghouse is a 16,558 square foot building with a future addition of 2,510 square feet. The building will be a single story structure with a maximum building height of approximately 28 feet. The church spire will be approximately 64 feet above finished grade. There is also a small 190 square foot storage shed on the west end of the parking lot next to an enclosure for a satellite dish. The dumpster enclosure and enclosure for a power transmission facility are located on the south edge of the proposed 191-stall parking lot that wraps around the church. The site plan shows 1 drive approach off 54th Street West and 1 drive approach off Trail Creek Drive to the north. Annexation of the property will require some improvements to Trail Creek Drive. The church is sited 80 feet west of the front property line and the area between the building and the street is scheduled to be landscaped with grass and trees. Storm water control of the run off from the roof and parking area will be handled on site since no city storm water system exists in this area of West Billings. The landscaping plan shows a total of 73 trees to be disbursed throughout the site. No freestanding sign is proposed - the building will have 1 un-lit stone engraved sign. The building is proposed as wood construction with a brick exterior. There is no building lighting. The proposed lighting is for the parking and sidewalk areas. Four mechanical pads for air handling units are shown on the site plan - two north of the building and two south of the building. The landscaping plan was designed by local landscape architects so species and plant material will be appropriate for this location. The parking lot lights (8 shown) are on the interior edge of the proposed parking and are full cut-off shield fixtures.

The applicant has provided a full traffic accessibility study for the site. The study concludes the new traffic would not have a significant impact on existing traffic on 54th St West. The City Traffic Engineer, Terry Smith, has not yet approved the conclusions of the study. Any required mitigation will be determined by Mr. Smith including but not limited to contributions to future traffic management at 54th St West and Rimrock and 54th St West and Grand Avenue, and street frontage improvements on 54th St West and Trail Creek Drive.

The Planning Division has reviewed the application and is recommending conditional approval 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) the proposal 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-96, where churches and places of worship are allowed by special review approval. The City has conditionally approved similar churches and places of worship in West Billings in the past 10 years as the population in this area has increased. 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-96 zoning district. The proposal is consistent with goals of the 2008 Growth Policy, and the West Billings Neighborhood Plan – specifically the goal of encouraging uses that are compatible with the character of the adjacent land use patterns. The property has direct access to a principal arterial street and is not directly adjacent to any existing dwellings. There is a platted but undeveloped residential subdivision to the north and Mont

Vista Subdivision to the east across 54th St West is under construction. The bulk and height of the building are mitigated by the large setbacks from property lines. The proposed landscaping around the building and parking lot will soften the appearance of the building over time. There are some impacts from the proposed location that need to be mitigated by conditions of approval specifically concerning the parking lot lights and the mechanical units. Other recommended conditions are standard conditions applicable to all special review approvals.

PROPOSED CONDITIONS:

1. The special review approval is for the construction of an LDS Meetinghouse of 16,558 square feet with a future addition of 2,510 square feet and a 191-space parking lot.
2. The approval is limited to a 4.03 acre portion of an 89.98 acre un-platted parcel of land described as the N1/2NE1/4, SWNE1/4 in Section 31, Township 1 North, Range 25 East as shown on the submitted site plan.
3. Increases in the size of the meetinghouse and its future addition or the number of parking spaces by more than 10% of what is shown will require an additional special review.
4. The site will be developed in substantial conformance with the submitted site plan. Minor modification are acceptable.
5. The applicant will provide a screening wall around each mechanical pad as shown on the site plan to reduce noise and provide continuity with the adjacent building. The screening wall will be compatible in color and materials to the adjacent building.
6. All outdoor light fixtures shall be no taller than 15 feet from grade and have full cut-off shields so no part of the fixture or lens projects below the shielding. Entryway lights shall be recessed within the ceiling of the canopy so no part of the fixture or lens projects below the ceiling.
7. The landscaping including the enclosures for the dumpster, satellite dish and power transformer shall be installed as shown on the submitted site plan. The enclosures shall be constructed of similar or complementary materials as the church. No reflective building materials shall be used for the enclosures.
8. There shall be no construction activity after 8 pm or before 7 am daily.
9. 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.
10. 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.

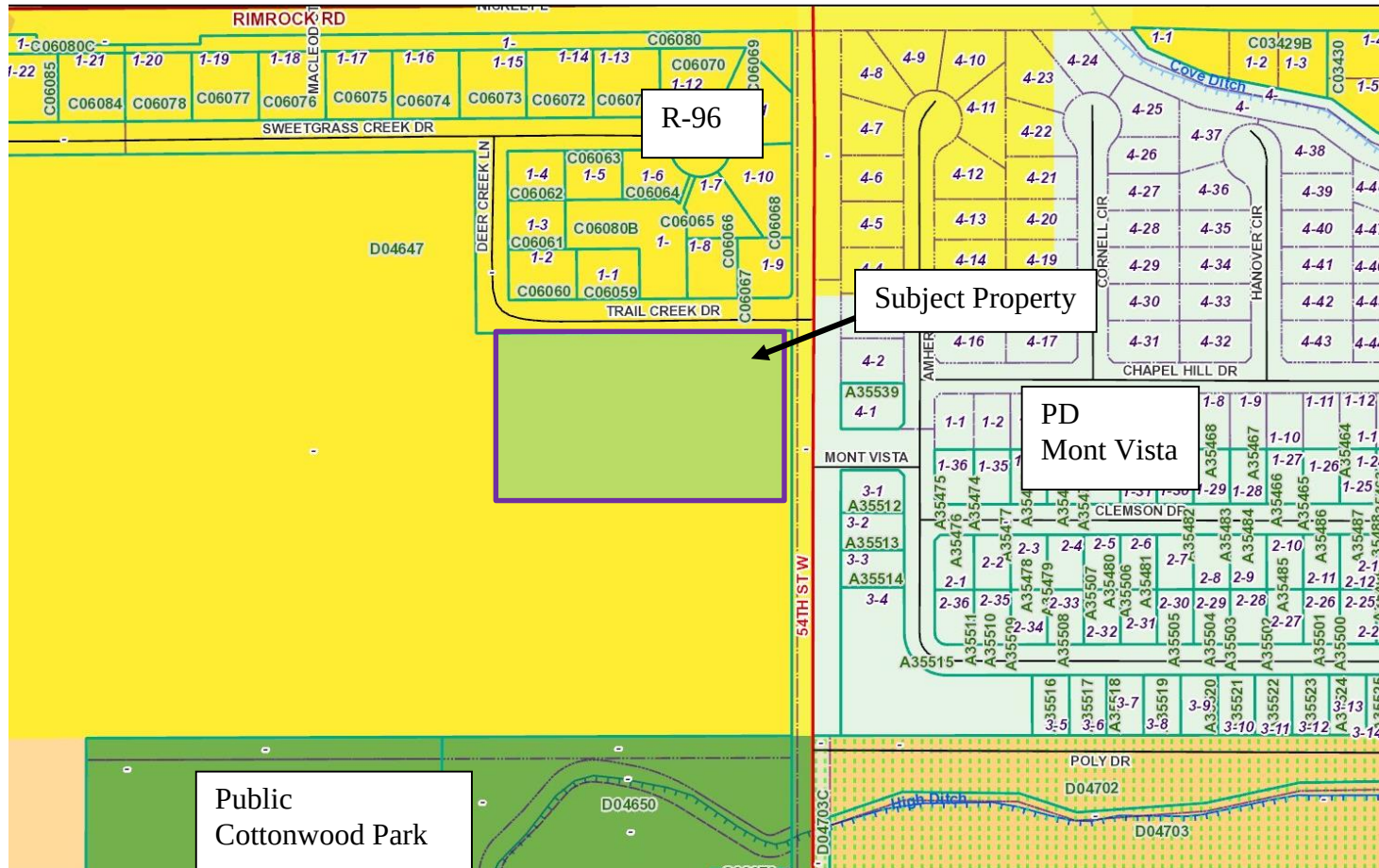
RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 review criteria for Special Review 941.

Attachments

Zoning Map and Site Photos
Site Plan and Applicant Letter

54th St W and Trail Creek Dr





Subject Property – from Trail Creek Drive



View west along Trail Creek Drive



View south from intersection of Trail Creek Drive and 54th St West



View south and east across 54th St West – Mont Vista Subdivision



View north and east across 54th Street West – Mont Vista Subdivision



View south and west across subject property

Special Review 941
Site Plan and Applicant Letter

**THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
PROPOSED MEETING HOUSE**

**SPECIAL REVIEW APPLICATION
INSTRUCTIONS ITEM 1 A**

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

PROPOSAL CONSISTENCY WITH THE PRIMARY GOALS AND OBJECTIVES OF THE 2008 GROWTH POLICY

LAND USE ELEMENT

Issue 1: Neighborhood pressures from development

The type of structure proposed under this application is a prototype building that has been developed by the LDS church primarily for siting in residential areas. Considerations taken are eave heights, overall building height and exterior materials that are not only compatible with but typical of residential structures. This meets the objective of preserving neighborhood integrity. The objective of empowering neighborhood groups does not appear to be applicable in this case other than a cooperative effort between the church and the neighboring properties in terms of property line interface, noise control, lighting scenario etc. These items will be discussed later in this document.

Issue 2: Compatibility of use

As stated above houses of worship are typically sited in residential neighborhoods rather than in commercial, retail or industrial areas. We feel that a house of worship is compatible with the neighborhood and a common occurrence in cities throughout our country.

Issue 3: Rural town-site

This issue does not appear to be applicable in this area since it is located near an established neighborhood in the City of Billings and a large subdivision has been platted to the east of our development.

Issue 4: Urban sprawl

This doesn't appear to be an applicable issue in as much as it is in an established area with existing services. This facility poses no reason for concern for overloading of existing service facilities nor does it threaten the vitality of the city core and downtown area.

Issue 5: Affordable housing

The nature of this facility is not housing oriented and does not propose the development of housing in any way and therefore this issue is not applicable.

Issue 6: Mixed use neighborhoods

While this project is not of the nature to provide mixed use in its true sense it will still allow closer proximity to the members of the LDS church that live in the surrounding neighborhoods thereby lessening travel for them and reducing traffic at meetinghouses at other locations. From that aspect, this project will provide proximal services for the members of the LDS church that currently do not exist in this part of Billings.

ECONOMIC DEVELOPMENT ELEMENT

Issue 1: Focus in economic development

Since the proposed facility is to be constructed in a residential zone and is intended for religious worship it's intention is not related to retail or business development.

Issue 2: Lack of living wage jobs

While this facility will not have the ability to create jobs or enhance income levels of the citizens of Billings it will still represent a significant improvement to what is now an undeveloped vacant piece of property. History has proven that with the nature of the building and landscape that the LDS church typically constructs that the neighborhood then has a tendency to infill with homes of people desiring to live adjacent to these types of facilities. Customarily these have been well constructed and maintained residential properties that enhance the neighborhood. This is the type of growth that cities desire to have. Attracting this type of growth is a positive consideration since these people then assist through property taxes etc. in paying for services, improving infrastructure and so on.

Issue 3: Entryways to the community

This issue would not apply since it is not located at or near an entryway to the community

Issue 4: Government supported programs and improvements are not sufficiently funded.

This project is not funded by any government entity. However, it should be noted that at the time of commencement of construction all funding for the project is in place and committed. This will provide the assurance that the project will be completed as intended and as designed.

Issue 5: Economic viability of downtown Billings

This issue is not applicable to this project

Issue 6: Safety in Downtown Billings

This issue is not applicable to this project

Issue 7: Need for economic development

As stated above, in as much as this is a house of worship the need for economic development will not apply.

Issue 8: Need for higher paying wages

This issue does not apply

Issue 9: Economic Development of Billings Heights is overlooked

This issue does not apply.

Issue 10: Quality of Schools

This project will not impact the quality of schools in any way.

Issue 11: Preserve the character of the neighborhood

As stated above, the facility, site layout, lighting and landscape design are with the intention of blending well into a residential neighborhood. The scale of the building is maintained at a size that will not overwhelm the residential architecture found in a typical neighborhood housing area. Building materials to be used are similar to those used on the residences in this area. Parking is only of a capacity to meet

local zoning requirements and the entire site other than building and hardscapes will be landscaped with attractive plantings that are indigenous to or will grow well in the local climate. Privacy fences will be constructed which will reasonably protect the neighbors from vehicle or pedestrian intrusion and will screen adjacent homes from headlight glare. Lighting is kept at a minimal level in order to avoid over lighting. Lights are placed at locations to avoid light spill over into neighboring properties. Light poles are spaced typically at 80' on center and are relatively short poles at 18 feet. They are shoebox type fixtures with cut off shields as required. They are typically shut off after any evening activities at the building are ended. A photometric layout can be provided upon request. It is the intention of the church to be a good neighbor and they have taken every possible precaution to do so. There will be no recreational facilities such as athletic fields or pavilions at this property. Outdoor activity around the building will be limited to members coming and going to and from the facility for worship and indoor activities

Issue 12: Shortage of skilled workers

This facility will not add to, nor detract from the issue of shortage of skilled workers. Therefore this issue does not apply

AESTHETICS ELEMENT

Issue 1: Some areas in Billings are unattractive and present a poor image of the community

This issue has been largely addressed in item 11 in the preceding topic. This facility will enhance the current setting (vacant lot) and will be of a nature not to diminish the image of the community. The building will have a pleasing design and the choice of materials will not seem out of place with the surrounding homes.

Issue 2: Signs, cell towers and power lines and other structures could reduce the visual quality of the rims.

The only sign that will be utilized on this facility will be an incised letter stone sign incorporated into the front of the building. It is approximately 4' x 3' and will be neither front-lit nor back-lit. There are no cell towers or power lines associated with this project.

NATURAL RESOURCES ELEMENT

Issue 1: Quality of Yellowstone River and associated riparian habitat

This project is not located near the Yellowstone River or in the riparian habitat and it is not envisioned that the project will have impact on either.

Issue 2: Water is an important resource and is becoming more scarce.

This facility will not use large amounts of water. The primary use will be on Sunday and water will be used for toilet rooms and drinking water. The facility does not contain a commercial kitchen or any other amenity that will utilize any excessive amount of water. The landscape will be purposely designed to also minimize the amount of water used. In recent years the LDS church has moved to designs that reduce the amount of sod on the site and to the use of smaller minimal water consuming plant and therefore more drip style irrigation and less rotor or spray head water distribution.

Issue 3: Risk to human life and property from wildfires

In as much as this site will be fully developed it is not anticipated that it will provide fuel for wildfires. All areas of the site will be landscape, hardscape or building and therefore there will be no areas to develop fuel. This property is not viewed as a potential contributor to this issue

Issue 4: Weeds detract from beauty and pose a fire danger – reduce ag production.

Please see the response above

Issue 5: Human encounters with wildlife

This site is currently vacant property and is not seen as a supporter of wild life nor does it provide a suitable habitat for wildlife in its current state. With development the site will be similar to the residential properties around it. It is not anticipated that encounters with wild life will be an issue on this property.

Issue 6: Certain development is damaging to our natural resources.

Once this site is developed the storm water will be controlled per applicable requirements. There are no existing water bodies on site that will be affected or need protection. This development will not negatively affect air quality or productive agricultural land.

OPEN SPACE RECREATION ELEMENT

Issue 1: neighborhood park funding

A neighborhood park is not involved in this project. Therefore, this issue does not apply.

Issue 2: Counties need more major recreation facilities and need to improve existing facilities

This issue does not appear to be related to this particular project.

Issue 3: Private land development sometimes restricts access to public land

The development of this property will not restrict access to public land

Issue 4: County townsites need more multiple use trails

This issue does not appear to pertain to this project

Issue 5: Public access to areas above and below the rimrocks is limited and decreasing

This project will not inhibit access to the subject areas.

Issue 6: Public access to areas along the Yellowstone River is limited and decreasing

This project does not limit access to the Yellowstone River

TRANSPORTATION ELEMENT

Issue 1: Speeding in City neighborhoods and outlying communities

This facility will utilize traffic infrastructure already in place and will meet all necessary access and traffic control requirements. It will not adversely affect the rate at which traffic flows in this area. Location of this building will allow a better pedestrian opportunity to members of the congregation who live in this area and who currently drive to other locations to attend church.

Issue 2: Safe and efficient traffic circulation.

This facility will reduce travel times for members of the LDS church who currently live in this area. As stated above this facility will utilize traffic infrastructure already in place and will meet all necessary access and traffic control requirements.

Issue 3: Lack of adequate traffic control.

At city request, the owner is providing a traffic study of the area and the impact that the construction and use of this facility will have on local traffic. It is the owner's intention to comply with all requirements that are based on the study to provide adequate traffic control.

Issue 4: Design of roads, streets and pedestrian facilities.

This project will utilize the existing street (54th Street West) for an east access drive approach. The road to the north (Trail Creek Drive) is currently a gravel road. The developer will comply with city standards and requirements regarding the development of this road insofar as they apply.

Issue 5: Obstacles to efficient and safe traffic flow

There are no apparent obstacles to efficient and safe traffic flow associated with this project.

Issue 6: Deteriorated condition of city streets and county roads

The developer of this project will meet its obligations to the necessary support of the maintenance, upkeep and improvements to the existing city streets. No county roads are affected.

Issue 7: Resources for transportation improvements should be rationally allocated.

This issue appears to be a function of the governing body charged with the distribution of improvement funds and not the responsibility of this particular developer.

Issue 8: More convenient bus schedules are needed

This issue appears to be the responsibility of the regulating agency and is out of the control of this developer.

Issue 9: Condition of existing sidewalks

Currently there are no existing sidewalks near or adjacent to this development. This developer will respond as required for the installation of new sidewalks along existing streets and roads as required by the city.

Issue 10: Lack of adequate bicycle facilities

This developer will comply with city requirements regarding the development of bicycle facilities insofar as they apply.

Issue 11: MET is underfunded

This issue does not appear to be applicable to this development.

Issue 12: Deterioration of air quality due to vehicle emissions

The LDS church encourages its members to be sensitive to the environment and not to purposely contribute to environmental problems. Nevertheless, these same members will rely on their private transportation as required.

Issue 13: Some bicyclists do not follow traffic laws and can cause unsafe situations

This is a matter of individual prerogative and this developer does not exercise control over individuals and their behavior or choice of mode of transportation in this regard.

Issue 14: There are more motorcycles, bicycles and motor scooters on the roadways

See item 13 above. The same response applies.

Issue 15: Billings needs a cross town demonstration or pilot program to illustrate that public transportation attracts riders

Not under the purview of this developer

PUBLIC FACILITIES AND SERVICES ELEMENT

Issue 1: Residents are not adequately informed of County and City projects

Not under the purview of this developer

Issue 2: Dilapidated and unsafe properties in City neighborhoods and County townsites

There are no such properties as described above at or near this project site.

Issue 3: Safety is a concern in neighborhoods and outlying County townsites.

It is the intention of this developer to provide compliant and safety conscious design for this project for the pedestrians, motorists and general public who will use this facility.

Issue 4: There are safety and functionality issues with City Streets.

A traffic study has been obtained by the owner to identify potential traffic loads generated by this project and will comply with the requirements of that study in conjunction with the interpretation and direction given by the City of Billings engineering department.

Issue 5: Funding for Community facilities and infrastructure is very limited.

This issue is not under the purview of this developer.

Issue 6: Public funds are not distributed rationally throughout City neighborhoods and County townsites

This developer has no control over the distribution of public funds.

Issue 7: There are vacant structures around Billings and in the County that could be re-used

There are no vacant facilities in the area of this project that are existing.

Issue 8: Community services are not always available to everyone.

This issue is not under the purview of this owner and is not applicable to this project.

Issue 9: Reviews of subdivisions, plats and other permit items are not always conducted in a timely manner

This developer is not responsible for those processes and has no control over them.

Issue 10: Maintenance of existing and planning for new educational facilities

This issue is not under the purview of this owner and is not applicable to this project.

Issue 11: Competition for tax dollars by Multiple Community interests

This development is not seeking tax dollars in any form.

CULTURAL AND HISTORIC RESOURCES ELEMENT

Issue 1: Historic landmarks and structures are being lost to development

There are no historic landmarks or structures that are being lost due to this development.

Issue 2: Cities must link economic development with quality of life. Need culturally aware city

This is a matter for city administrators and economic development personnel and is not a function of this development.

Issue 3: Public art is seen as an important part of the Billings landscape.

This development will take place near a residential neighborhood and the developer sees no benefit to create public area in this setting but rather it should be seen in public and common areas.

Issue 4: Archeological surveys.

The creation of a requirement for this type of survey is not under the purview of this developer.

COMMUNITY HEALTH ELEMENT

Issue 1: Existing neighborhood plans lack sufficient detail to address emergency preparedness.

The members of the LDS Church that are involved with the development and use of this facility are willing and able to assist the neighborhood in developing, promoting and maintaining an emergency preparedness plan.

Issue 2: Not all neighborhoods are planned with ways to access nutritious food.

The members of the LDS Church that are involved with the development and use of this facility are willing and able to assist the neighborhood in the endeavor of providing nutritious food.

Issue 3: Some roadways are not designed to accommodate pedestrians and therefore create inconvenient and unsafe conditions.

This project will take place in an undeveloped neighborhood where sidewalks and pedestrian facilities do not exist along roadways. The developer will provide pedestrian access as required.

Issue 4: Physical activity is not seen as a means of getting from place to place.

Church developments usually have sidewalks along the streets to encourage neighborhood residents to walk to the facility as much as possible. This neighborhood has no connecting sidewalks adjacent to the development.

Issue 5: Neighborhoods lack a sense of community, which is contributing to neighborhood decline.

The purpose of this development is for the construction of a place of worship where neighborhood enhancement and unity is a principle that is taught through outreach, cooperation and inclusion.

Issue 6: Some neighborhoods are not safe.

This development will attract church members and new neighbors that desire to live near a church. That type of neighborhood will act to increase safety for all who are there.

Issue 7: Poor housing and lack of living wage jobs puts the health of residents at risk.

This project is not intended to addressing housing issues or wage rates. However, it will attract the type of people as neighbors that will likely construct safe desirable housing and that will contribute economically to the neighborhood.

**SPECIAL REVIEW APPLICATION
INSTRUCTIONS ITEM 1 B**

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

The existing LDS meetinghouse facilities in the Billings area are currently at or above capacity. Growth in general population and therefore LDS population as well in this area has resulted in the number of members of the LDS church to grow over the period of the past number of years. The congregations that meet in the existing area facilities have grown to the point where some of them need to be divided to create more administratively manageable sized congregations. Because of scheduling issues each of the existing meetinghouses are not capable of handling any more congregational units than they currently house and still be able to meet the worship and activity needs of the members. The need is to construct an additional meetinghouse that can accommodate the additional congregation(s) that will be created in the near future.

This particular site was selected due to geographical location for members and the proximity to existing utility services. The geographical location provides short travel times and reduced vehicular involvement for the members who live in this area. It will allow them to avoid longer car trips to reach the other meetinghouses where they currently attend.

The church has investigated other potential sites but the other locations available were not always best suited for access by the members it needs to serve in terms of location. In addition, purchase costs of other properties together with development costs were significantly more prohibitive on most of the sites in comparison to this site primarily with respect to their ownership.

**SPECIAL REVIEW APPLICATION
INSTRUCTIONS ITEM 1 C**

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

The present site is currently vacant undeveloped ground. The development of this site will create an attractive addition to the community of Billings with tasteful architecture and well planned and maintained landscape.

The development will provide a finished site which will be inviting to those who choose to avail themselves of the use of the facility. Studies have shown that the construction of a church facility promotes a better neighborhood environment, more of a safe environment, does away with the ugliness and uselessness of vacant property within a city, and the typical construction of additional single family residences that follow.

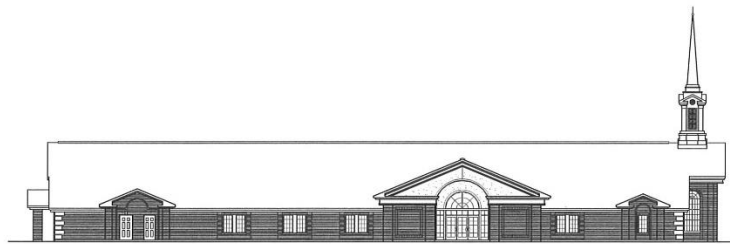
SPECIAL REVIEW APPLICATION
INSTRUCTIONS ITEM 1 D

D.

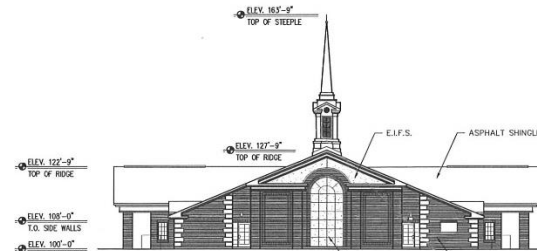
Prepare a written statement addressing what is intended to be done with the property, including new construction or changes in the use of the property, and why the special review is being sought.

It is the intention of the LDS church to construct a new meeting house on the subject property. The meeting house is a 16,558 sf building with a sloped roof. It is a frame building with brick veneer. It will be single story with no basement. The remainder of the site will provide city compliant parking and landscaping. All of the property designated for the church will be developed and / or improved with this project. There are no recreational facilities being developed with this site.

The Special Review is being sought because it is being required by the City of Billings for church construction within the R9600 Zone.



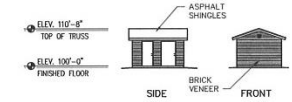
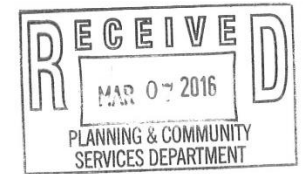
SIDE



FRONT

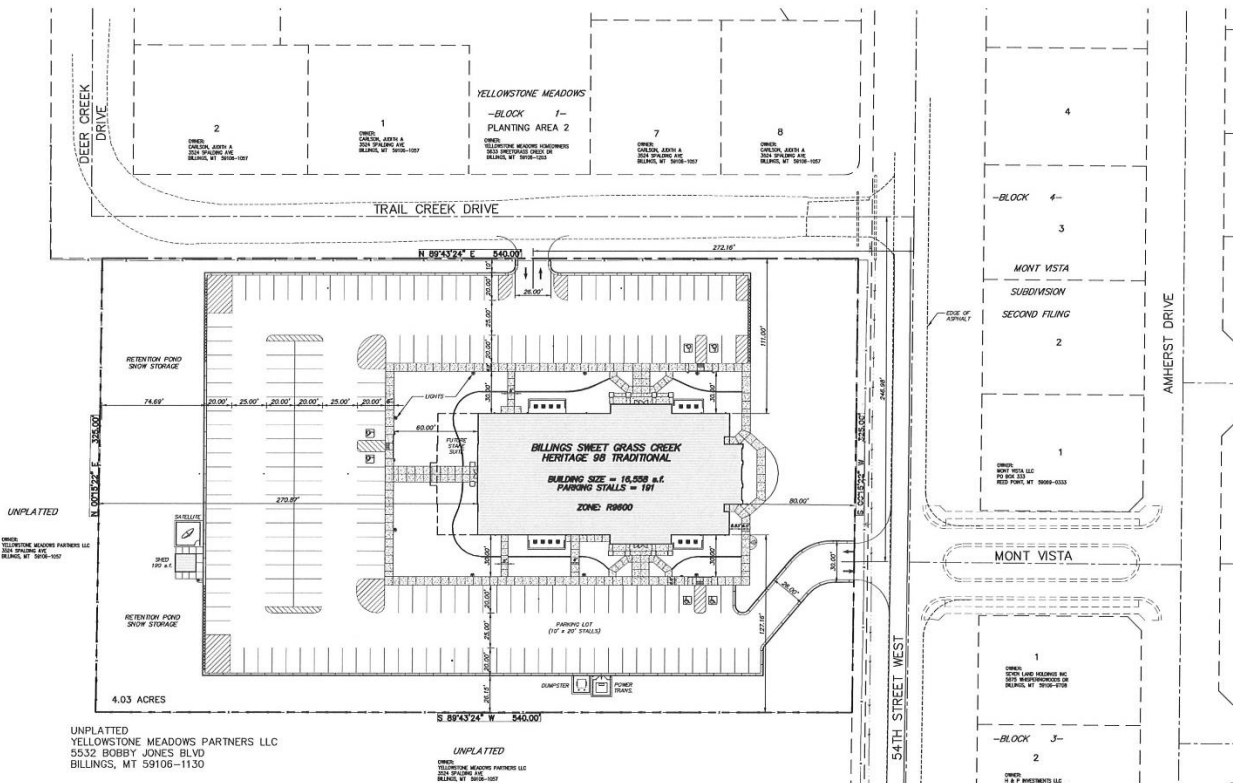
BUILDING ELEVATIONS

SCALE: 3/4" = 1'-0"



SHED ELEVATIONS

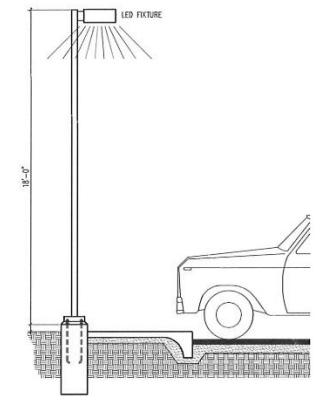
SCALE: 3/4" = 1'-0"



- LEGEND**
- PROPERTY LINE
 - FENCE LINE
 - SIDEWALK
 - MOV STOP
 - CONCRETE CURB & GUTTER
 - 6" CONCRETE CURB
 - ROLL BACK CURB

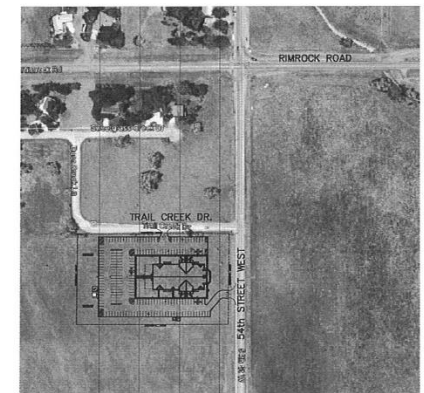
PRELIMINARY SITE LAYOUT

SCALE: 1" = 40'-0"



PARKING LOT LIGHTS

SCALE: N.T.S.



SITE KEY PLAN

SCALE: N.T.S.

OWNER:
CARLSON, JUDITH A
3524 SPALDING AVE
BILLINGS, MT 59106-1057

272.16'

74.69'

N 00°15'22" E 325.00'

SATELLITE

SHED
190 s.f.

RETENTION POND
SNOW STORAGE

4.03 ACRES

ZONE: R9600

PARKING LOT
(10' x 20' STALLS)

DUMPSTER   POWER TRANS.

S 89°43'24" W 540.00'

OWNER:
YELLOWSTONE MEADOWS PARTNERS LLC
3524 SPALDING AVE

RECEIVED
MAR 07 2016

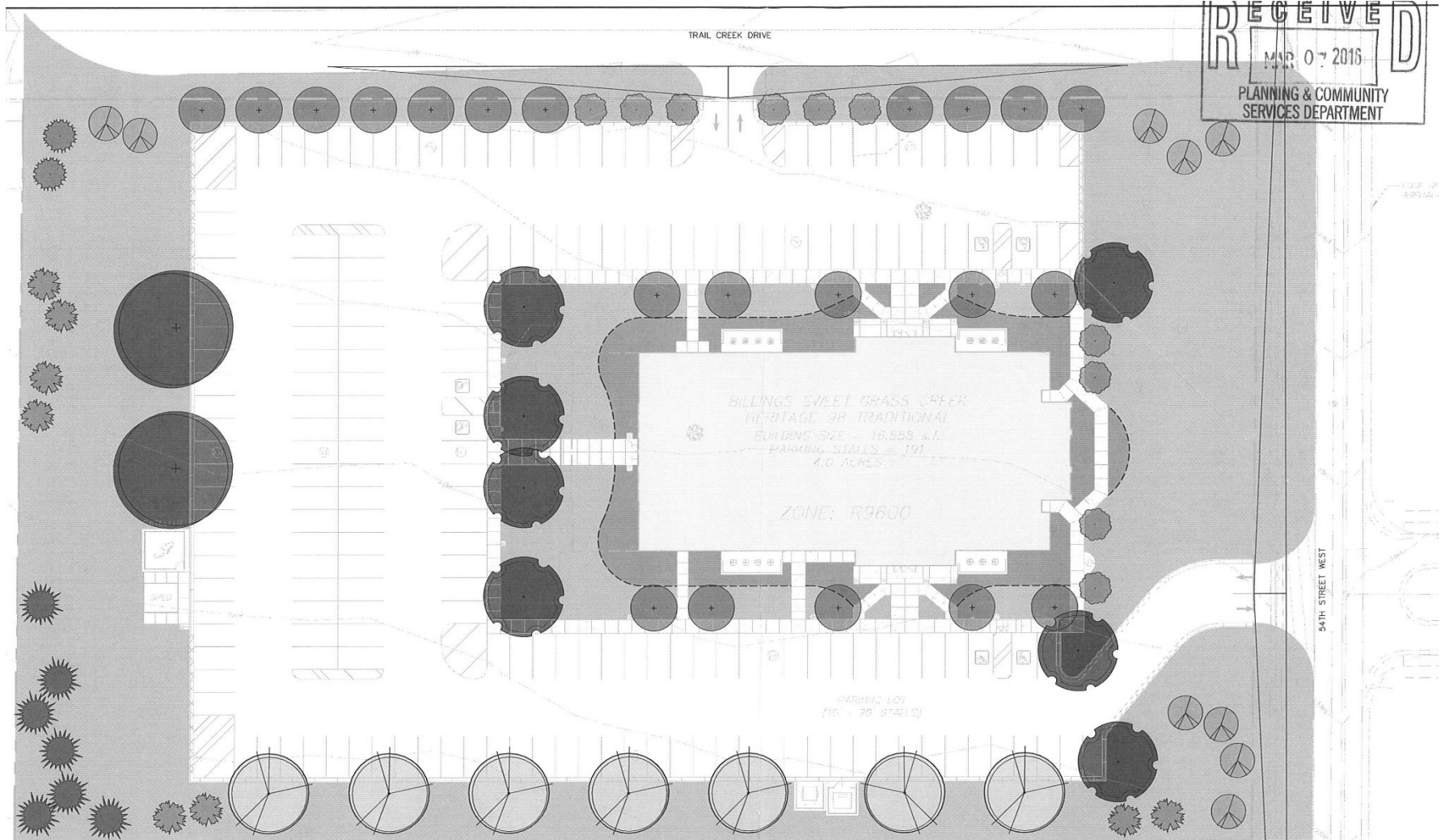
PRELIMINARY SITE LAYOUT
SCALE: 1" = 20'-0"

- UNPLATTED

LEGEND

 PROPERTY LINE
 FENCE LINE
 SIDEWALK
 MOW STRIP
 CONCRETE CURB & GUTTER
 6" CONCRETE CURB
 ROLL BACK CURB

54TH STREET WEST



DESIGN CRITERIA

CLIMATE	U.S. HARDINESS ZONE 4
ZONING ORDINANCE	CITY OF BILLINGS ARTICLE 27-1100 LANDSCAPING
WATER AVAILABILITY	T.B.D. P.S.I. AND G.P.M.
SOIL TYPE	T.B.D. PER TOPSOIL TEST REPORT/INDICATE IF IMPORT IS NEEDED
SLOPES	NONE
WIND	SOUTHWEST
SETBACKS/EASEMENTS	UNKNOWN
MICROCLIMATES	SHADE ON NORTH SIDE OF BUILDING
SOIL PH	T.B.D. PER TOPSOIL TEST REPORT
LAWN AREA PERCENTAGE	TBD
UNDEVELOPED PROPERTY	NONE
IRRIGATION SYSTEM	YES -AUTOMATIC

LANDSCAPE DATA

TOTAL SITE AREA	4.4 ACRES
SHRUBS/GROUND COVER	6,240 SQ.FT.
TOTAL LANDSCAPE AREA	69,435 SQ.FT.

PLANT COVERAGE

	SHRUBS-MATURE COVERAGE	TREES-MATURE COVERAGE
STREET FRONTAGE	50% - 75%	FRAME BUILDING
ENTRIES	50% - 75%	FRAME ENTRY
BUILDING PERIMETER	40% - 60%	40% - 60%
PERIMETER SIDES	75%	60% - 80%
PERIMETER REAR	75%	40% - 60%

LEGEND:

--- CONCRETE CURBING, SEE DETAILS

SHRUBS = 83,195 SQ.FT.

PLANTER AREA = 6,240 SQ.FT.

CITY OF BILLINGS LANDSCAPE ORDINANCE REQUIREMENTS:

REQUIRED BUFFERYARD	TOTAL	REQUIRED	PROVIDED
STREET FRONTAGE LANDSCAPING: 20' MINIMUM BUFFERYARD AND 1 TREE/40' LF (54th STREET WEST)	325 LF	8.1	8
10' MINIMUM BUFFERYARD AND 2 TREES/40' LF (TRAIL CREEK DRIVE)	395 LF	19.8	20
20' MINIMUM BUFFERYARD AND 1 TREE/40' LF (TRAIL CREEK DRIVE)	145 LF	3.6	4
PERIMETER LANDSCAPING: SOUTH 5' MINIMUM BUFFERYARD AND 1 TREE/40 LF	540 LF	13.5	14
WEST 5' MINIMUM BUFFERYARD AND 1 TREE/40 LF	325 LF	8.1	8
OFF-STREET PARKING LOT LANDSCAPING	TOTAL	REQUIRED	PROVIDED
TREES: 1 TREE/10 STALLS	191 STALLS	19.1	19
LANDSCAPE AREA: STEPPED SCALE	191 STALLS	5,120 SF	-

NOTES:

1. ALL PLANTERS TO RECEIVE ROCK MULCH.

