



CITY ZONING COMMISSION
AGENDA-Tuesday, August 2, 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 July 5, 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
a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **City Special Review 945 – 545 S 18th St West** – A special review request to locate an all beverage license with gaming in a new 3,500 square foot building in a Controlled Industrial (CI) zone, on Lot 3B, Block 2 of Trillium Sub Amended, a 1.431-acre parcel of land generally located at 545 S 18th St West. Tax ID: A28494

- b. **City Special Review 946 – 1100 Block of 16th St West** – A special review request to construct a new 43-space parking lot with alley access and landscaping in a Residential 7,000 (R-70) zone, on the North 130 feet of Lot 8 and the North 140 feet of Lot 7, Block 3 of West View Subdivision, a 20,250 square foot parcel of land generally located on the east side of 16th St West just north of the intersection of Lewis Avenue. Tax ID: A18300

Other Business/Announcements

Adjournment

The City Council has designated **Monday, August 22, 2016**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the special reviews.

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.

The Zoning Commission and City Council will hear all persons wishing to speak relative to the proposed 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: 08/02/2016

Information

Subject

The minutes of the Board meeting of July 5, 2016.

Attachments

BZC_2016_07_05

City of Billings Zoning Commission Meeting Minutes July 5, 2016

The City of Billings Zoning Commission met on Tuesday, July 5, 2016 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana

Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday July 25, 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	-	1	1	1	1					
Dennis Ulvestad	Commissioner	1	1	-	1	1	1	1					
Mike Boyett	Vice Chairman	E	1	-	1	1	E	E					
Michael Larson	Commissioner	1	1	-	1	1	1	1					
James Mariska	Commissioner	1	1	-	1	1	1	1					
Candi Millar	Director, Planning & Community Services	-	-	-	-	-	-	-					
Wyeth Friday	Division Planning Manager	-	-	-	-	-	-	-					
Nicole Cromwell	Planner Zoning Coordinator	1	1	-	1	1	1	1					
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-					
Dave Green	Planner II	1	-	-	-	-	-	-					
Karen Husman	Planner I	1	1	-	-	-	-	-					
Robbin Bartley	Administrative Support	1	1	-	1	1	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	0	0	1						3
Special Review	2	1	-	4	1	1	1						10

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

In Attendance:

Ralph Hanser, Scott Hanser, Bill Morgan, Jim Johnson, Cathy Coe, Patty (last name unknown)

Public Comment

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

Approval of Minutes: June 7, 2016

Chairman Wagner called for approval of the June 7, 2016 meeting minutes.

Motion

Commissioner Michael Larson made a motion and Commissioner Dennis Ulvestad seconded the motion to approve the June 7, 2016 meeting minutes.

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

The motion for approval then carried with a unanimous voice vote 4-0.

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

Disclosure of Conflict of Interest

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

Planning staff indicated an anonymous letter has been received regarding the 2 applications and is located in the ex parte binder.

Disclosure of Outside Communication

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

Chairman Wagner called for disclosure of ex parte communications. There were none.

Public Hearings:

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience this would be heard by the City Council on July 25, 2016. He then asked Nicole Cromwell to review the first agenda item.

Nicole Cromwell presented:

City Zone Change 947 – 505 & 521 S Billings Blvd – A zone change from Residential 6,000 (R-60) to Controlled Industrial (CI) on the South 2 acres of the North 4 acres of Lot 5 in the SW1/4 of Section 9, Township 1 South, Range 26 East, a 2 acre parcel of land generally located at 505 and 521 S Billings Blvd. A pre-application neighborhood meeting was held on May 24, 2016 at 430 S Billings Blvd. Tax ID: D01753.

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 3 criteria for **City Zone Change 947**.

Discussion

Commissioner Ulvestad asked about accesses. Chairman Wagner asked about the width of Newman Lane Commissioner Mariska asked if there was a previous right of way? Staff replied there are no right of ways on record. Commissioner Ulvestad asked if it is one way? Newman Lane is one-way traffic north of Ruth Lane.

Chairman Wagner asked for the applicant of **City Zone Change 947**.

Ralph Hanser, 1565 Westridge Circle

Mr. Hanser thanked the Commission and Planning Staff. He purchased the land and the homes may stay for a while. Hanser’s has been in business for 51 years. He stated he has 6 sons, 3 in business with Hanser’s. Mr. Hanser stated they have several places of business throughout Montana and a 5 million dollar yearly payroll with full benefits. Hanser’s employs 90-110 persons all the time. Revenue comes from outside Montana and in several counties in Montana and the dollars are recycled into our community.

Commissioner Ulvestad asked if he expects to go over the 50 percent generated by outside sources? Mr. Hanser stated he expects to happen and it is just the way the business is set up.

Bill Morgan, Sanderson Stewart

Mr. Morgan testified Hanser's operates under a Storm Water Pollution Plan (SWPP) to insure the storm water is safe. All fluids are drained and contained in basins. The Southwest Corridor Task Force gives their support regarding this request. There is room for necessary landscaping for aesthetic value.

Commissioner Larson asked about the elevations being changed. Are there any challenges? Mr. Morgan explained there may be some challenges but the city manhole installation will accommodate the elevations.

Scott Hanser

Mr. Hanser stated he operates the salvage business line for Hanser's. He stated the operation is very clean and conforms to the requirements of the Storm Water Pollution Plan (SWPP) to insure the storm water is safe. He stated all vehicles on the pick-a-part lot are drained of fluids and all storm water is contained in basins. He stated there are about 400 models of cars and trucks on the market now so keeping one vehicle for each model takes up a lot a space. He expects the expansion will not happen right away but it will operate in the same way as the existing yard.

Opposed

None

Discussion

None

Chairman Wagner asked for a motion.

Commissioner Larson made a motion and Commissioner Mariska seconded the motion to recommend approval and adoption of the findings of the 10 criteria for **City Zone Change #947**.

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 unanimous verbal vote of 4-0.

Nicole Cromwell presented:

City Special Review 944 – 505 & 521 S Billings Blvd – A special review request to locate a motor vehicle wrecking yard on the South 2 acres of the North 4 acres of Lot 5 in the SW1/4 of Section 9, Township 1 South, Range 26 East, a 2 acre parcel of land generally located at 505 and 521 S Billings Blvd. See Zone Change 947.

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 3 criteria for **City Special Review 944**.

Discussion

Chairman Wagner asked for the applicant of **City Special Review 944**. Staff and the applicant had no further testimony of the special review use, as this was covered during the zone change presentation.

Discussion

Chairman Wagner asked for a motion.

Commissioner Larson made a motion and Commissioner Ulvestad seconded the motion to recommend conditional approval and adoption of the findings of the 3 criteria for **City Special Review 944**.

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 unanimous verbal vote of 4-0.

Other Business:

Next meeting will be August 2, 2016.

Adjournment: The meeting adjourned at **5:02 p.m.**

DRAFT: To be approved by a motion: **August 2, 2016.**

ATTEST:

Robbin Bartley, Administrative Assistant I



City Zoning Commission

Meeting Date: 08/02/2016

SUBJECT: Special Review #946 – 1100 Block of 16th Street West – Parking Lot

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: David Green

Information

REQUEST

City Special Review 945 – 545 S 18th St West – A special review request to locate an all beverage license with gaming in a new 3,500 square foot building in a Controlled Industrial (CI) zone, on Lot 3B, Block 2 of Trillium Sub Amended, a 1.431-acre parcel of land generally located at 545 S 18th St West. Tax ID: A28494

RECOMMENDATION

The Planning Division is recommending conditional approval.

APPLICATION DATA

OWNER: Donald R. Lee

AGENT: Dave Pfohl

LEGAL DESCRIPTION: North 130 feet of Lot 8 and the North 140 feet of Lot 7, Block 3 of West View Subdivision

ADDRESS: 1100 Block of 16th Street West

CURRENT ZONING: Residential 7000 (R-70)

EXISTING LAND USE: Vacant

PROPOSED USE: Parking Lot

SIZE OF PARCEL: 20,250 Square Feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Eleven special reviews have been granted within this neighborhood. Eight for Beer and Wine or All Beverage licenses. There has been one for a Satellite Dish over 12 feet in diameter, one for a Drive Through and one for an Outdoor Patio. There have been many variances in this neighborhood as well.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Residential-6000 (R-60)
Land Use: Residential

SOUTH: Zoning: R-70
Land Use: Residential

EAST: Zoning: R-70
Land Use: Residential

BACKGROUND

This is a special review request to construct a parking lot on a vacant lot that is zoned Residential 7000, north of the intersection of 16th Street West and Lewis Avenue. This parcel has sat vacant for many years and has not been developed into housing as have properties to the southeast and north. To the west, commercial uses have developed. There are some circumstances that make this parcel difficult to develop as housing. Spring Creek ditch is enclosed in a culvert under this property and there is also a City storm drain system under the property and in the adjacent alley. Another issue that has prevented the residential development of this parcel is the availability of a sewer connection. The closest sewer connection is in Lewis Avenue, uphill from the subject property. Although the sewer line in Lewis Avenue is approximately 17 feet deep, there is no easement in the properties to the south to access that sewer line. City Engineering is willing to let a developer put the sewer line in the City right of way, but there is the challenge of digging up hill in 16th Street West and into the intersection of 16th Street West and Lewis Avenue, and missing the footings of the existing signal light poles. A sewer line from this property would also most likely need to have a pump system to get effluent to the sewer line in Lewis Avenue. All of these factors make development of this lot for residential purposes complex and costly.

The applicant is proposing to develop the land into a parking lot for the use of employees that work in the office building at 1601 Lewis Avenue, across the street from the subject property. With this proposal, there would be no need to obtain a sewer connection to the parcel and water is readily available for landscape irrigation. In the letter submitted by the applicant, they are stating that this will open more parking for them around the office building for clients and provide enough parking to attract more new businesses into the office building.

City Engineering has submitted some comments to the Planning Division about this parcel outlining some work that will need to take place on this parcel, but the staff is supportive of the parking lot proposal. City Engineering state in its letter concerns about safety of pedestrians crossing 16th Street West to get to work at 1601 Lewis Avenue. It is recommended the applicant install landscaping, fencing, or screening to discourage direct crossing from the proposed parking lot across 16 th Street West. See Attachment 'Engineering Comments'.

There have been other parking lots that have gone through special review to allow them on land that is zoned residential. A few examples of other properties with parking on residentially zoned land include 819 Grand Avenue, Off The Leaf, Residential 6000; 1045 Grand Avenue, Dairy Queen, Residential Multi-Family Restricted; 1403 Grand Avenue, Stockman Bank, Residential 6000; 2032 Grand Avenue, Dana Motors, Residential 6000. There are also many Church buildings with parking lots on residentially zoned property. Section 27-305 BMCC allows parking lots to be placed on residentially zoned land with a Special Review.

The Planning Division has reviewed this application and is recommending conditional approval.

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

The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have designated all residential zoning districts can have a parking lot on them as long as they go through the special review process. 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 in a transitional area of Billings, with residential and professional office uses next to each other. The development of this parcel into a parking lot would continue that use and take a parcel that is vacant and contains weeds and redevelop it to improve the neighborhood. There are minimal impacts from the proposed location of the parking lot that need to be mitigated. The conditions recommended with the special review should mitigate impacts on the site and the

surrounding properties.

RECOMMENDATION

The Planning Division recommends conditional approval.

1. The special review approval is for the construction of a parking lot facility generally located at the 1100 Block of 16th Street West.
2. The approval is limited to North 130 feet of Lot 8 and the North 140 feet of Lot 7, Block 3 of West View Subdivision, a 20,250 square foot parcel of land.
3. The proposed use as a parking lot is supported by City Engineering and with this special review process also grants the applicant a variance from the requirement of a separate Site Development Variance normally required by City Engineering for access through the alley.
4. Increases in the number of parking spaces greater than 10% of the numbers shown on the site plan will require additional special review approval.
5. The site will be developed in conformance with City Planning and City Engineering input to ensure it meets the requirements of zoning, site development and safety identified by staff, including those identified by City Engineering in the 'Engineering Comments' attached to this staff report.
6. The applicant will install screening, fencing, and landscaping along the 16th St. West frontage with an opening at the southwest corner and directional signage to encourage pedestrian crossing at the signalized intersection of 16th Street West and Lewis Avenue.
7. No construction can take place before 7 am or after 8 pm.
8. 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.
9. 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.

Zoning Commission Action

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

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

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

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

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

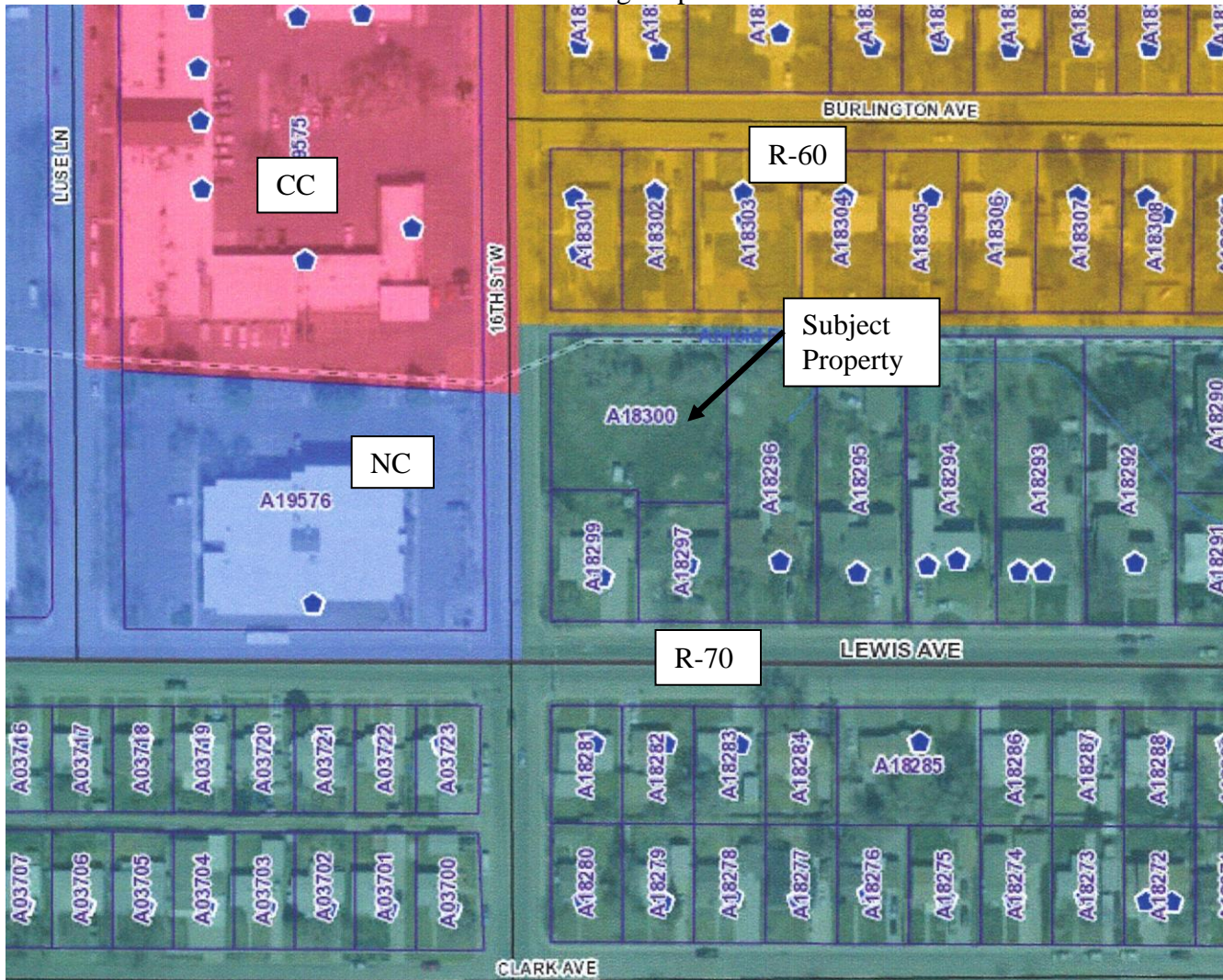
1. Street and road capacity;

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

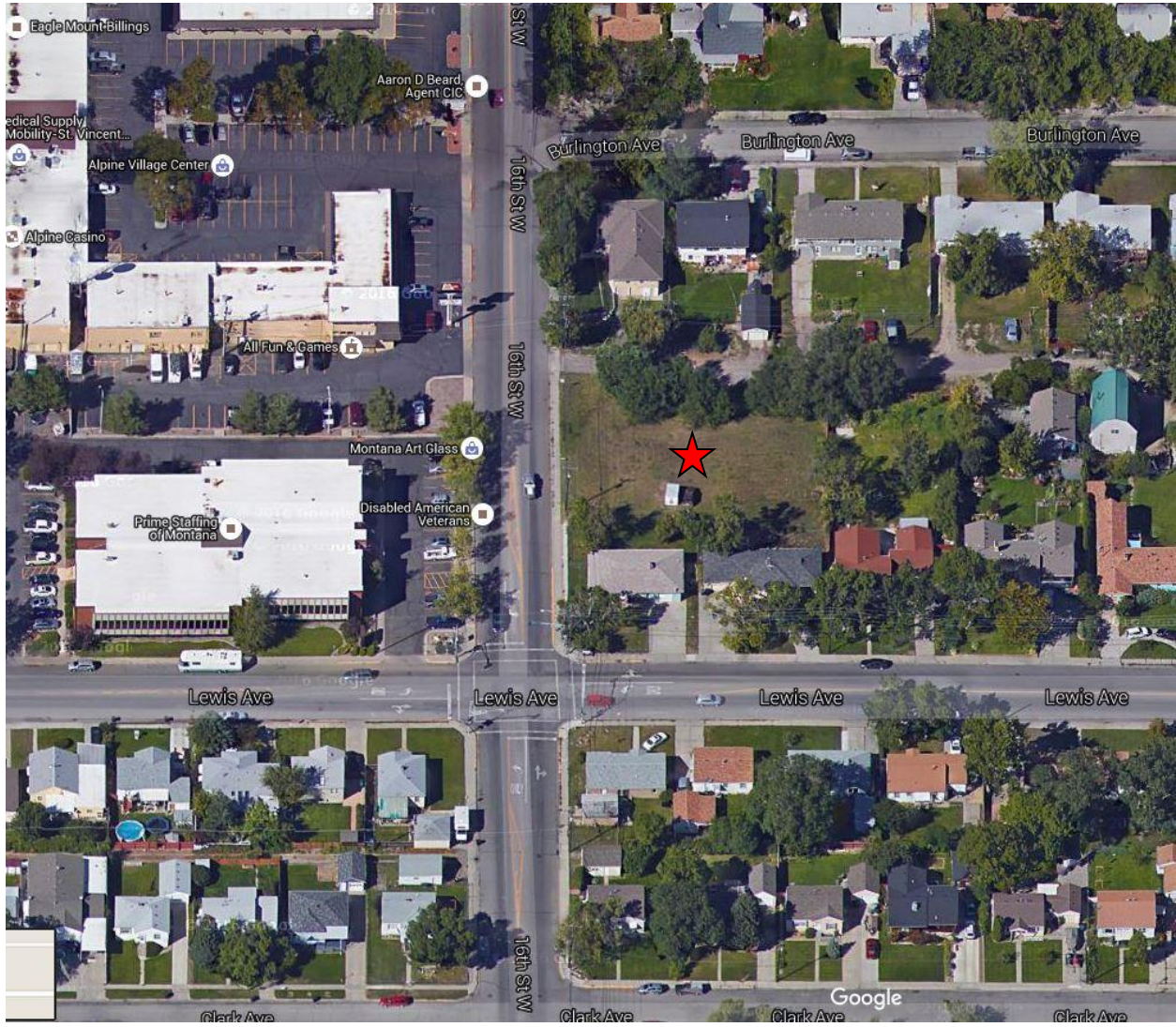
Attachments

Zoning Map and Site Photos
Site Plan and Applicant Letter
Engineering Comments

Zoning Map



Site Photos



Subject Property 

Site Photos



Subject property from 16th Street West looking east



Looking south toward Lewis Avenue



Looking from subject property across 16th Street West to 1601 Lewis Avenue Building



Alley at north end of subject property



Looking north from subject property

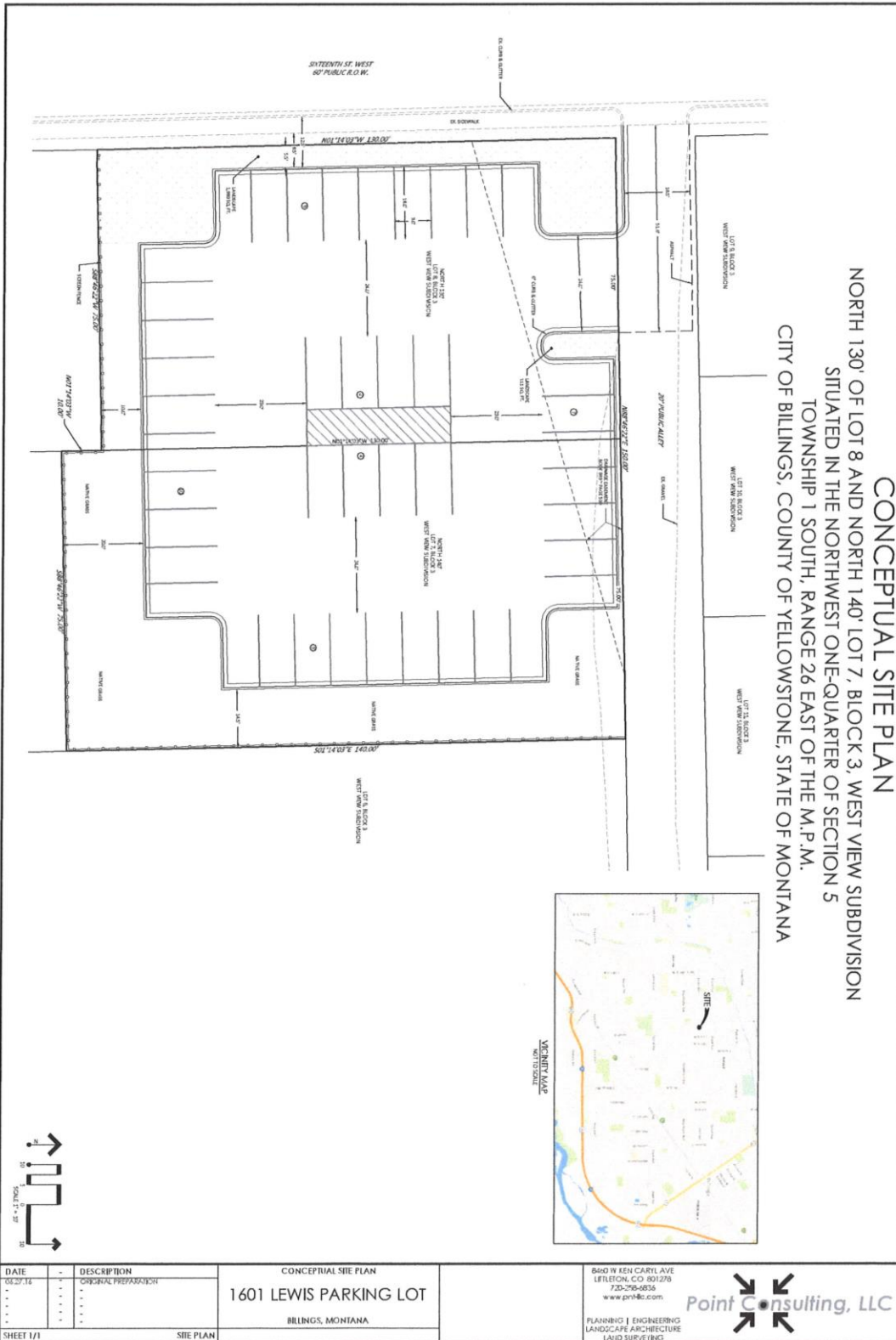


Photos provided by applicant




Photos provided by applicant

Site plan



CONCEPTUAL SITE PLAN
 NORTH 130' OF LOT 8 AND NORTH 140' LOT 7, BLOCK 3, WEST VIEW SUBDIVISION
 SITUATED IN THE NORTHWEST ONE-QUARTER OF SECTION 5
 TOWNSHIP 1 SOUTH, RANGE 26 EAST OF THE M.P.M.
 CITY OF BILLINGS, COUNTY OF YELLOWSTONE, STATE OF MONTANA

DATE	DESCRIPTION	CONCEPTUAL SITE PLAN	8440 19 th KEN CARL AVE LITTLETON, CO 80120 720-298-6836 www.pntc.com
08.27.12	CONCEPTUAL PREPARATION	1601 LEWIS PARKING LOT	 PLANNING ENGINEERING LANDSCAPE ARCHITECTURE LAND SURVEYING
.....	BILLINGS, MONTANA	
SHEET 1/1		SITE PLAN	

Applicant Letter

SPECIAL REVIEW APPLICATION CITY OF BILLINGS

1. A. The development of this vacant lot would be a benefit to the city for many reasons.

1. The lot is currently vacant and unmaintained. This proposal will clean up and make an apparently unused property more esthetically appealing and usable.

2. The lot will be asphalted and landscaped, allowing parking for more vehicles thus contributing to the expansion of businesses in this area.

3. It will give businesses the option of producing more jobs and having the availability to expand in an area that has a shortage of parking for their employees and customers.

4. The lot has never been developed because of the underground water structure beneath it. Digging for a foundation, power or sewer is not an option. Installing a parking lot at this location is a logical improvement.

B. There is a shortage of parking at 1601 Lewis Avenue. 1601 Lewis Avenue is a 36,000 square foot commercial office building that is located directly across the street from the vacant lot. The building has also recently lost the use of several street parking options due to the new bicycle path implemented on Lewis Avenue.

C. 1. It will allow the expansion of business and cause new jobs.

2. It will be more esthetically pleasing.

3. The property will be lighted and can possibly help cut down on crime and vandalism in a dark neighborhood.

4. Having the property paved and landscaped will help control the weed problem that is overtaking the city.

D. The purpose of this application is to acquire permission to construct a parking facility on a vacant lot located at Lot 8 of the West View Subdivision, 16th Street West Billings Mt. Currently the lot is zoned residential. The lot is being purchased by David Pfohl and Dennis Dodge the owners of 1601 Lewis Ave. Our intent is to make more parking available for the tenants and businesses located in 1601 Lewis Avenue. 1601 Lewis Avenue is a commercial office building that houses approximately 34,000 square feet of rentable office space. We currently have 88 parking spaces on our property. With the new age of computers we find that less space is necessary to facilitate the average employee. This is causing more bodies per square foot of rented space and a need for more parking for these employees.

The vacant lot has sat without improvement for many years. The previous owner and his family had purchased the property in 1956 and were never able to build on it even though he was a developer and had bought it with that intension. He had acquired several lots in this subdivision and later found that there is an underground drainage system under this particular lot that would prohibit him from

building the rental complex that he had imagined. Sixty years later the descendants of this developer still held ownership of this property, have made no improvements on it and had tried to sell it to someone who could find a use for it.

With the need for extended parking at the 1601 Lewis Ave. building, the owners acquired the professional advice of Eggart Engineering Co.. The lot consists of approximately 20,250 square feet. It is Eggart's opinion that a parking facility housing 40-50 spaces can be engineered into the site. A preliminary site plan and budget have been designed. Further investigation has also been acquired from Fisher Construction of Billings. Fisher Construction have also verified that the property is capable of housing a parking facility. Bids and layouts are also in process by Fisher Construction. Both companies agree that the Special Review must be the next step in pursuing the development of the property.

D & P Land Investment the owners of 1601 Lewis Avenue and Donald Lee the owner of Lot 8 have formed a Buy, Sell Agreement with a contingency that the property will pass a Special Review that will allow the development of a parking lot.

Thank you for considering this development.

D & P Land Investments LLC

Dave Pfohl

Owner/Manager

Engineering Comments

There are some concerns that the owner and/or the Zoning Commission should be aware of concerning this property and the proposed parking lot.

- There are portions of the City Storm Drain system under this property and in the adjacent alley.
 - I have talked with staff in our office, and we are OK with a parking lot being placed over the storm drain piping. Access to any existing manholes will need to be maintained.
 - If there is not a specific easement document already in place, one should be recorded prior to a building permit being issued for the parking lot. City staff can prepare the easement document, but the property owner or his agent should provide information from a licensed surveyor as to where the storm drain piping is physically located
- A site development variance would normally be required for alley access to the parking lot because of residentially zone properties along the alley. Because the Special Review also goes to Council, we are comfortable with not requiring a separate Site Development Variance as long as the alley access is specifically called out in the Council approval. The alternative is to not use the alley for access and to provide direct access onto 16th St. West.
- The location of this lot versus the building it will serve will lead to pedestrians jaywalking across 16th Street West as they go to and from the office building.
 - Based on nearby count station data for 16th St. West the average daily traffic volume on this portion of 16th St. West is between 4,000 and 5,000 vehicles per day.
 - The city will NOT approve any sort of signed or striped crosswalk across 16th this near the signalized intersection at 16th & Lewis.
 - The parking lot should be designed with screening, fencing, or landscaping along the 16th St. West frontage to discourage street crossings directly to & from the parking lot.
 - Signing should be provided at any point where pedestrians can exit the parking lot (driveway or entry walkway) directing pedestrians to cross at the traffic signal at Lewis.

Terry



City Zoning Commission

Meeting Date: 08/02/2016

SUBJECT: Special Review #945 – 545 South 18th Street West

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: David Green

Information

REQUEST

City Special Review 946 – 1100 Block of 16th St West – A special review request to construct a new 43-space parking lot with alley access and landscaping in a Residential 7,000 (R-70) zone, on the North 130 feet of Lot 8 and the North 140 feet of Lot 7, Block 3 of West View Subdivision, a 20,250 square foot parcel of land generally located on the east side of 16th St West just north of the intersection of Lewis Avenue. Tax ID: A18300

RECOMMENDATION

The Planning Division is recommending conditional approval.

APPLICATION DATA

OWNER: Jones Enterprises LLC

AGENT: Jerry Jones

LEGAL DESCRIPTION: To allow an All Beverage License with Gaming

ADDRESS: 545 South 18th Street West

CURRENT ZONING: Controlled Industrial (CI)

EXISTING LAND USE: Storage Area / Raw Land

PROPOSED USE: Casino

SIZE OF PARCEL: 1.431 Acres

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Special Review 822, All Beverage License with Gaming – 1731 King Avenue West, Suite 1, was conditionally approved on 07-27-2006 and is currently the Copper Creek Casino

Special Review 725, Beer and Wine with Gaming – 1806 King Avenue West was conditionally approved on 08-29-2002

Special Review 726, All Beverage License without Gaming – 1824 King Avenue West was conditionally approved 08-29-2002

SURROUNDING LAND USE & ZONING

NORTH: Zoning: CI
Land Use: Jones Enterprises LLC

SOUTH: Zoning: CI
Land Use: CEI Electrical Contractors

EAST: Zoning: CI
Land Use: Albertsons Distribution Center
WEST: Zoning: CI
Land Use: UPS parking yard

BACKGROUND

This is a request to allow the construction of a new building for a casino with an all beverage license. The property is approximately 1.4 acres and is located north of the intersection of King Avenue West and South 18th Street West. The subject property is surrounded mostly by industrial uses with some commercial uses also in the area. All surrounding properties are also zoned Controlled Industrial like the subject property. Directly surrounding the property is CEI Electrical Contractors to the south, Jones Enterprises to the north, the UPS parking yard to the west, and the Albertsons Distribution Center to the east. Farther south of the subject property is a Charter warehouse. South and west across King Avenue West are Texas Road House, Hu Hot Mongolian Grill and Spring Hill Suites Marriot. Featherlite trailer sales is located east of the Spring Hills Suites Marriot. South and west of the subject property also is an O'Reilly Auto parts warehouse and retail store.

The casino at 1731 King Avenue West, Suite 1, has been in that location since 2006 after receiving a special review approval. At that time, the business in the largest building at 1731 King Avenue West was Carries Quilts and Iron. That business closed and the property was purchased and remodeled in 2011 for a change in use to Word of Life Fellowship Church. According to City of Billings zoning code Section 27-612 (a) (1), there must be a 600-foot separation from an eating and drinking establishment with on premise consumption of alcohol and a church, school, or from a public park that contains a children's play area. When the Word of Life Fellowship Church moved into the building, there were two eating and drinking establishments within 600 feet of the property line with on premise consumption of alcohol. Hu Hot Mongolian Grill is about 91.5 feet from the church, property line to property line, and Texas Road house is about 389 feet, property line to property line. The building that Copper Creek Casino occupies at 1731 King Avenue West, Suite 1, was also purchased by the church and is on the same parcel of land as the Word of Life Fellowship Church. There is no property line separation between them, but there is approximately 54-feet of parking and drive lane between them. The three businesses that are required to have a 600-foot separation from the church were all in place before the church was in the area.

This application does not meet one of the requirements of Section 27-612 (a)(1) BMC which is the required separation of 600 feet between property lines from an eating and drinking establishment with on premise consumption of alcohol from any building that is predominantly used as a church or school, or from a public park that contains a children's play area. The 600-foot separation is between property lines. Measuring from the southwest corner of the subject property to the northwest corner of the Word of Life Fellowship Church property, the distance is approximately 284 feet.

In Section 27-612 (a) (1) BMC there are some exceptions that may be considered to allow the City Council to waive the separation requirement. The exceptions include: An Arterial Street separates the properties; A building or buildings obstruct the view between the separate uses; and there is no direct physical access that exists between the two uses. One criterion that may be applied in this case by the City Council in consideration of waiving the 600-foot separation is, "A building or buildings obstruct the view between the separate uses." The proposed structure will sit on the subject property to the west of the lot, near the frontage of South 18th Street West. The property to the south is occupied by CEI Electrical Contractors. This business property is enclosed by a chain-link fence with 3 strands of barbed wire along the top of the fence. There are trucks and heavy equipment parked around the perimeter of the fenced property, which obscures visibility to the south when the equipment is located there. South of CEI Electrical Contractors is the main building of the Word of Life Fellowship Church. The church occupies approximately one third of the building at the southern end, which fronts King Avenue West. The back two thirds of the building is leased by Charter Communications and is used as warehouse space. From the church entry parking area off of King Avenue West, it is not possible to see the subject property of this special review where the new casino would be located. The church building itself blocks the views north and the wall enclosed outdoor patio on the west of the church building also blocks views to the north.

A second criterion for consideration of a waiver of the 600-foot distance is "No direct physical access that exists between the two uses." There are no sidewalks on South 18th Street West from the subject property to the church

property that connect the two properties. There are also chain link fences with barbed wire separating the two properties. Therefore, this application meets two of the three exceptions for the waiver of the 600-foot separation requirement, and the Council may consider waiving the separation requirement.

Section 27-612 of the Billings, Montana City Code (BMCC) requires a 600-foot separation of an eating or drinking establishment that has on premise consumption of alcohol from any building that is predominantly used as a church or school, or from a public park that contains a children's play area. The BMCC is more restrictive than the State Law (MCA 16-3-306) requiring a similar separation distance. The City requirement measures the distance from property line to property line and the state requirement measures from entrance door to entrance door, provided both locations are on the same street.

The current location of Copper Creek casino is a leased space. The building is owned by the Word of Life Fellowship Church and the lease will not be renewed. The casino needs to relocate by June 2017. The new location to the north will be within the same area the casino currently operates and enable it to continue to provide the services to the same neighborhood it has in since 2006.

The Planning Division has reviewed this application and is recommending conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) 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 district that allows a casino with an all beverage license. The proposed building, landscaping, solid waste storage will meet the code requirements for this zone. New landscaping will be installed around the building and along the street frontage. The property will have access off of South 18th Street West.

The proposal is consistent with some goals of the 2008 Growth Policy, encouraging compatible uses and avoiding leapfrog development beyond City services. The proposal also is in line with City's Infill Development Policy as it would utilize a vacant lot already accessible to most City services. Planning staff is recommending conditions for this special review based on the approval criteria for special review uses. The building will be located near the front of the lot near South 18th Street West where it will not be visible from the parking area and entry to the church building and the application is conforming to the purposes of the regulations and the 2008 Growth Policy.

RECOMMENDATION

The Planning Division recommends conditional approval.

PROPOSED CONDITIONS

1. The special review is limited to Lot 3B, Block 2, of Amended Plat of Lot 2A, Block 2, Trillium Subdivision, generally located at 545 South 18th Street West.
2. The special review approval is for the construction of a 3,500 square foot building for a casino with an all beverage license with gaming. No other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed building greater than 10 percent of what is shown on the submitted site plan will require an 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.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. New trees shall not be any tree with the scientific genus name of Populus or any of its subspecies including any variety of aspens. Also no Salix (willows), Acer negundo (Box Elder) or Ulmus (Elms).
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. 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.

8. The site will be developed in substantial conformance with the submitted site plan, including landscaping, parking and building locations.
9. Any outdoor announcement system shall be operated so it is not audible beyond the property lines.
10. The owner is allowed to have background music and un-amplified, live entertainment on the outdoor patio. Amplified, live entertainment is not allowed at any time.
11. 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.
12. 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.

Zoning Commission Action

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

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

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

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

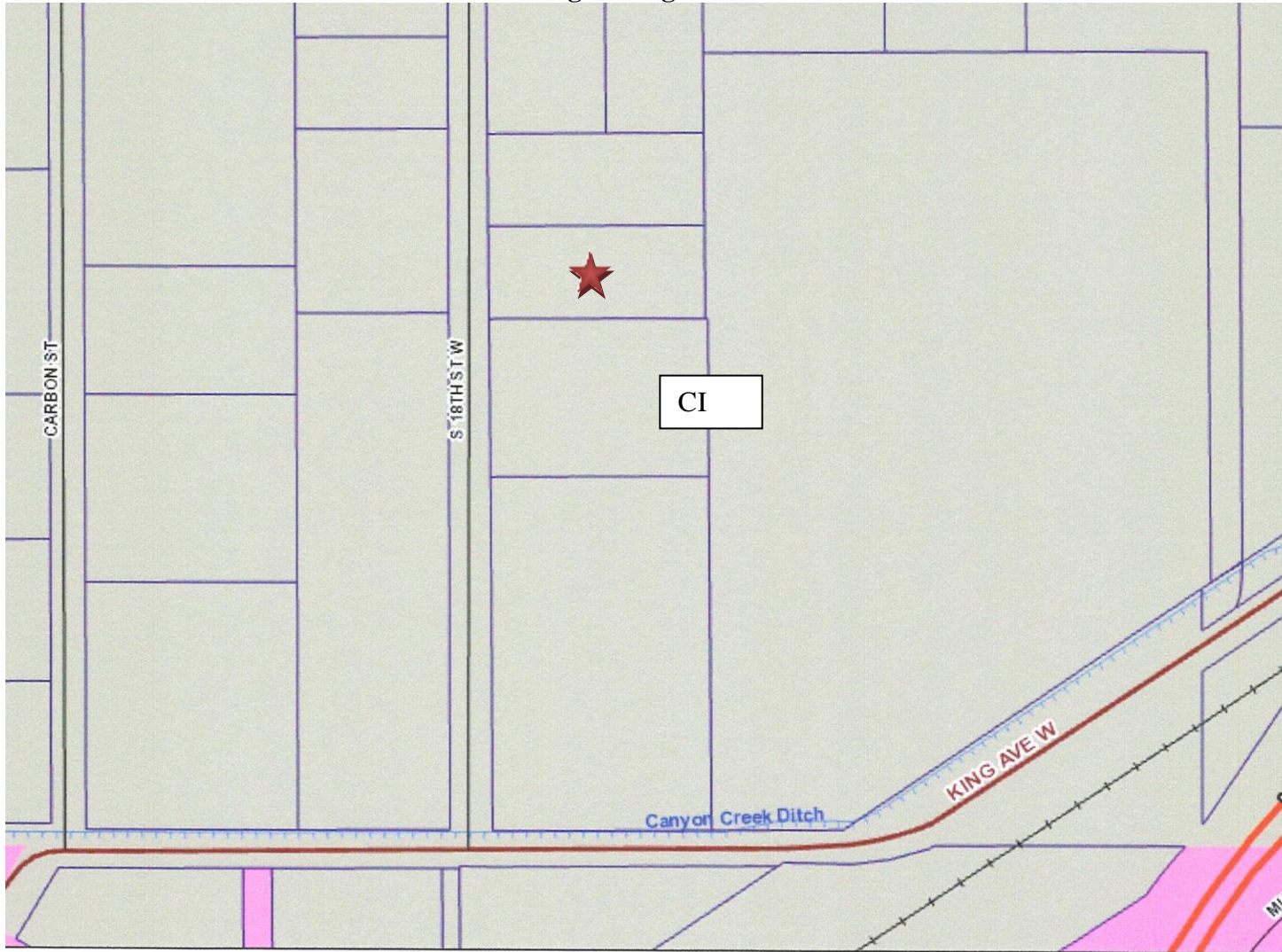
Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

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

Attachments

Zoning Maps and Site Photos
Site Plan and Applicant Letter

urrounding Zoning



Subject Property



Site photos



Subject Property – Viewed from South 18th Street West



View south from subject property toward King Avenue West



View west across South 18th Street West



View across South 18th Street West looking north west from subject property



View north from parking lot of Church



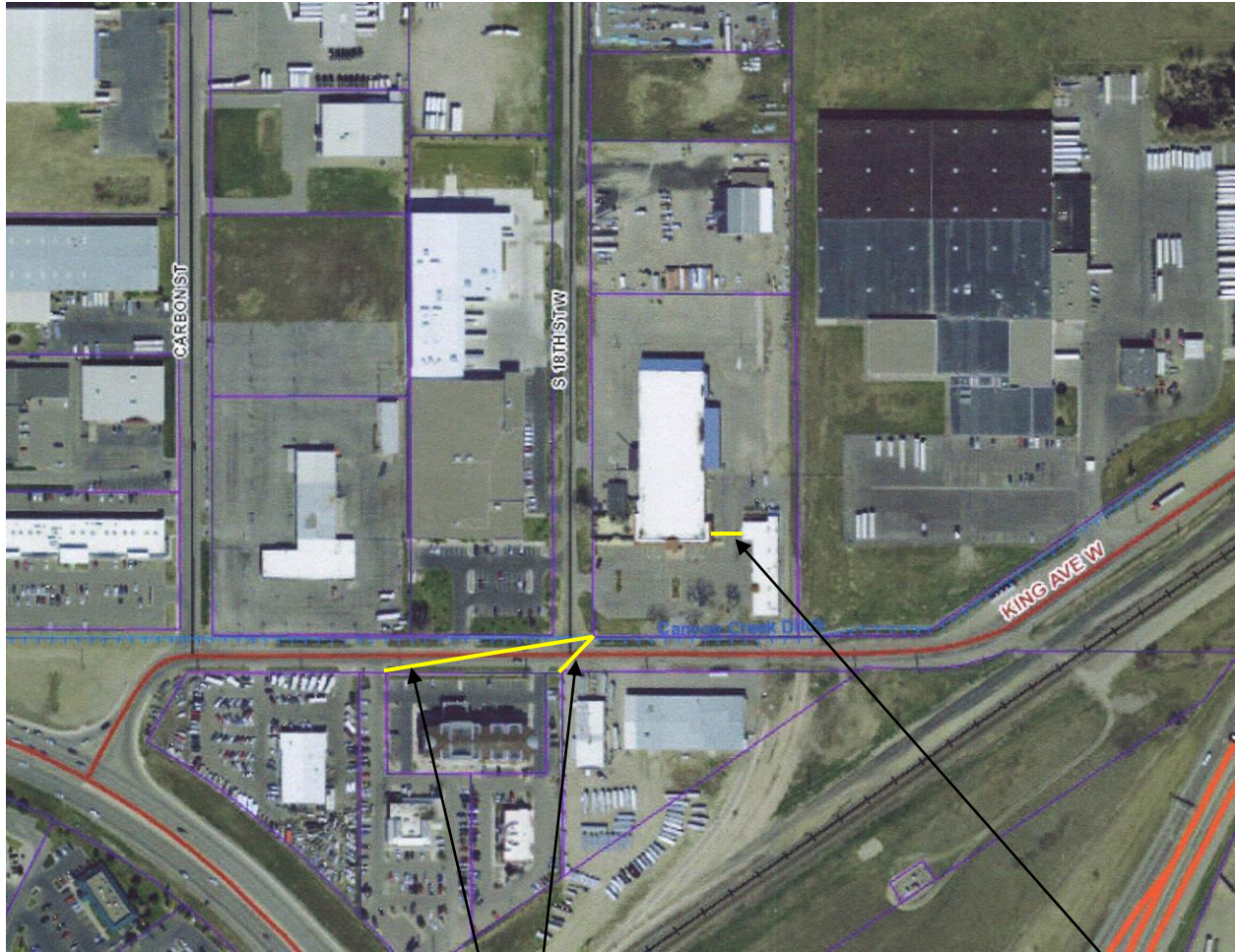
View North from Church parking lot



Picture of church and existing Copper Creek Casino



View North between existing casino and church looking at CEI Electrical building.



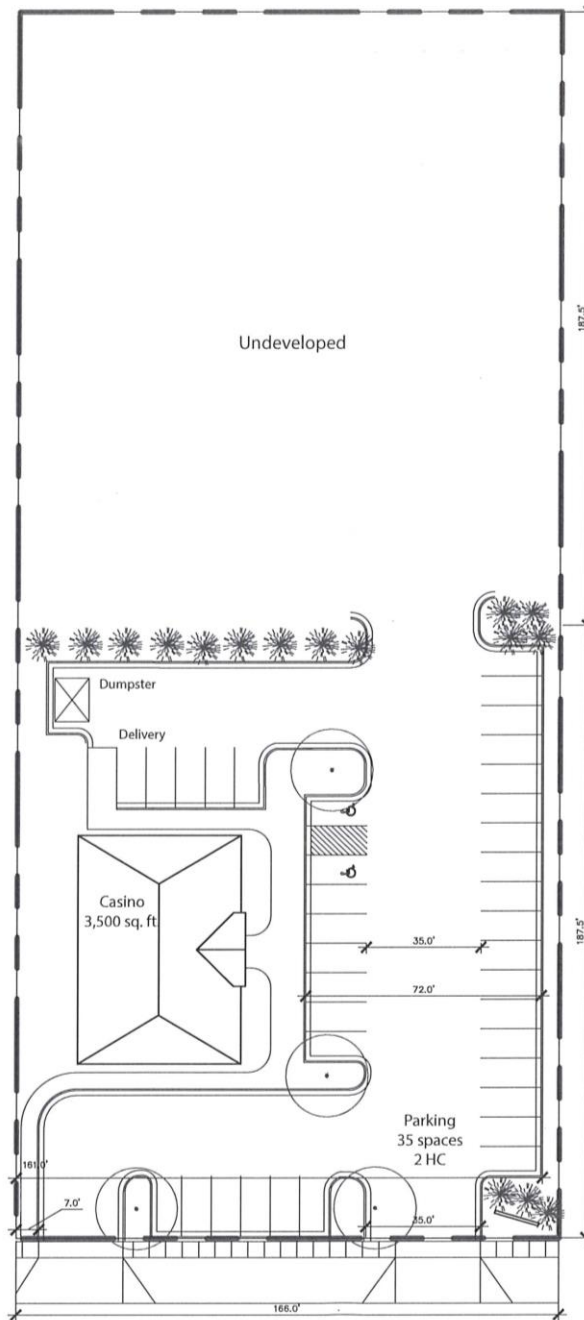
Texas Road house is about 389 feet, property line to property line from the church property.

Hu Hot Mongolian Grill is about 91.5 feet, property line to property line

54-feet of parking and drive lane between church and Copper Creek Casino.

Site Plan

Exhibit for
Item 2 (A)



15 0 30 60

SCALE: 1" = 30'

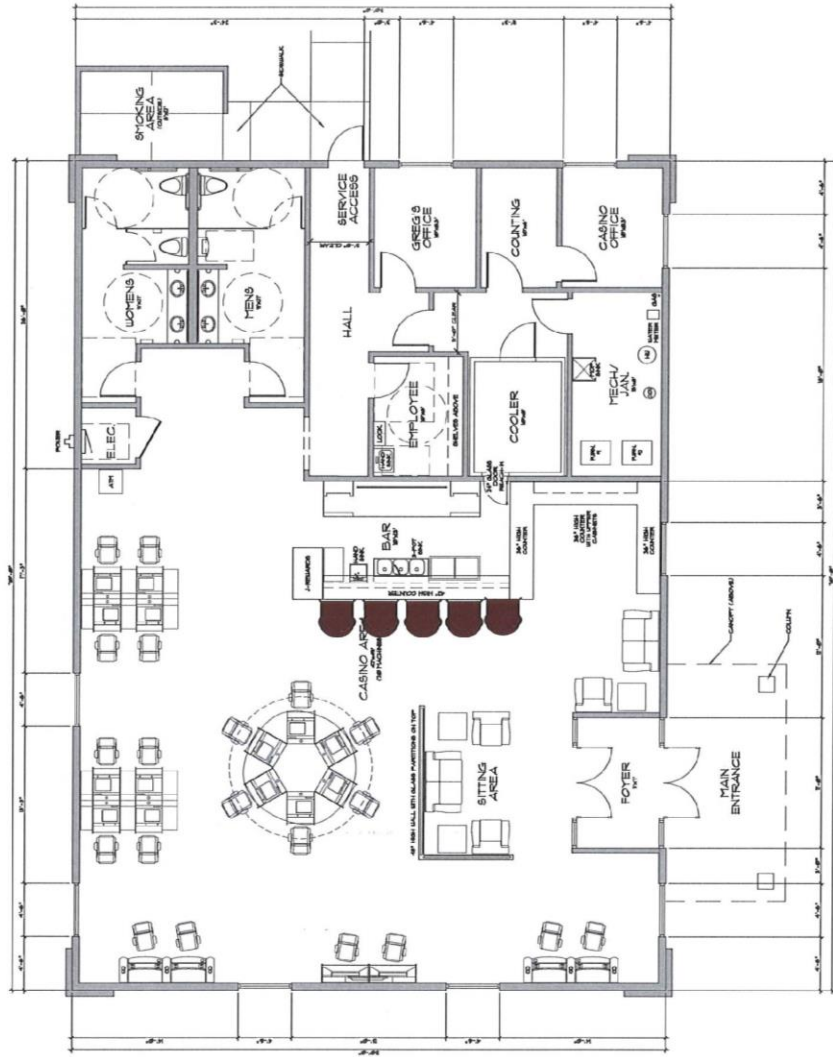
June 2016

Trillium Sub - Lot 3B, Block 2
Conceptual Sketch Plan

SANDERSON STEWART 

Interior Plan

Exhibit for Item 2 (A), (B)



BUILDING AREA 3,500 SQ. FT. OF FINISHED
 FLOOR PLAN - PRELIMINARY
 SCALE 1/4" = 1'-0"

Applicant Letter
SPECIAL REVIEW APPLICATION
CITY OF BILLINGS

Planning & Community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT 59101
Phone: 247-8676 Fax (406) 657-8327
Website: <http://ci.billings.mt.us>

NOTICE TO PETITIONER

The Zoning Coordinator will check the application for completeness after the deadline date. If the application is unacceptable, you will be notified as to what changes need to be made. Incomplete and/or unacceptable applications may delay the review process by four weeks or longer. Make sure your application is totally complete or your request will be delayed.

INSTRUCTIONS

All applications shall be submitted to the Planning & Community Services Department, 2825 3rd Ave North, 4th Floor. The filing fee must accompany the application in order for it to be accepted.

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

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

Land Use Element

1. **ISSUE:** *Neighborhoods are experiencing pressures from new development and land use changes. This proposal places a casino and bar in an area that is already home to other commercial enterprises, instead of mixing it into or close to residential neighborhoods. This proposal also takes the casino and bar out of an area that is directly across the parking lot from a church.*
2. **ISSUE:** *The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites. This proposal will place a high quality atmosphere and construction that is in keeping with the character of nearby commercial businesses.*
3. **ISSUE:** *Rural townsites are not prepared to handle increased growth.* **NA**

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4. **ISSUE:** *Urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services, and threatens the vitality of the city core and downtown area. This proposal places a new business in an established commercial space. This proposal also places the casino and bar in a commercial area that separates the enterprise from the current location by the church, with several buildings and neither the church nor casino and bar can be seen by the other in compliance with City of Billings Sec. 27-612 (a)(1).*
5. **ISSUE:** *There is a serious lack of affordable housing for low to moderate income households.*
NA
6. **ISSUE:** *There is a desire for more mixed use neighborhoods. This proposal will place an alternative entertainment destination for the other commercial businesses in the area.*

Economic Development Element

1. **ISSUE:** *We need to continue a cohesive focus in economic development.*
2. **ISSUE:** *Lack of living-wage jobs*
This proposal will create living wage jobs for multiple employees and suppliers of the services.
3. **ISSUE:** *Entryways to our communities should be attractive and not present physical barriers discouraging economic development.*
This proposal will locate a viable business in an area that is close to other businesses frequented by newcomers to Billings and those from surrounding communities, including hotels and restaurants. This will anchor customers into an area close to the Interstate and thoroughfares of Billings so they do not have to drive through town.
4. **ISSUE:** *Government supported programs and improvements are not sufficiently funded.* NA
5. **ISSUE:** *Like many other Montana cities, the economic viability of Downtown Billings is uncertain.* NA
6. **ISSUE:** *Safety in the Downtown Billings is an important element.* NA
7. **ISSUE:** *Surrounding communities in the County need economic development to sustain them.* NA
8. **ISSUE:** *Billings needs to attract businesses that pay higher wages.*
This proposal will meet the objectives of improving the quality of life for residents, strengthening the local economy and creating living wage jobs.
9. **ISSUE:** *The economic development of Billings Heights is overlooked.* NA
10. **ISSUE:** *The quality of our schools is a determining factor for whether businesses locate in Billings.* NA
11. **ISSUE:** *Neighborhoods provide the character and strength of the community and the quality of neighborhoods should be preserved.* NA

12. **ISSUE:** *The Billings economy faces a severe shortage of skilled workers in a number of sectors (a problem that will worsen as the population ages).* **NA**

Aesthetics Element

1. **ISSUE:** *There are areas in the City and County that are unattractive and present a poor image of the community.
This proposal will include construction of a new building, parking space and signage on a current vacant lot between commercial business. This should make the area more attractive.*
2. **ISSUE:** *New development and signs, cell towers, power lines and other structures could reduce the visual quality of the rims.* **NA**
3. **ISSUE:** *Urban interstate corridors through the County are unattractive.* **NA**

Natural Resources Element

1. **ISSUE:** *The quality of the Yellowstone River and the associated riparian habitat is threatened.* **NA**
2. **ISSUE:** *Water is an important resource and it is becoming scarcer.* **NA**
3. **ISSUE:** *Due in part to the arid nature of our environment and the remoteness of some developments, there is an increased risk to human life and property from wildfires.* **NA**
This proposal will be in an already established commercial district.
4. **ISSUE:** *Weeds detract from the beauty of an area, pose a fire danger, and reduce the productivity of agricultural land.
This proposal will place a building, paved parking spaces and landscaping on an otherwise vacant lot with weeds.*
5. **ISSUE:** *Human encounters with wildlife often result in a painful consequence for wildlife, pets, and humans.* **NA**
6. **ISSUE:** *Certain development is damaging our natural resources.
This proposal will have no adverse effect on sensitive natural resources, including established trees or waterways.*

Open Space and Recreation Element

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

1. **ISSUE:** *Some neighborhood parks appear to receive more funding for improvements than other neighborhood parks.* **NA**
2. **ISSUE:** *Billings and Yellowstone County need more major recreation facilities and need to improve those we already have.* **NA**
3. **ISSUE:** *Private land development sometimes restricts access to public land.
The vacant land being built on is a small lot in a commercial area that is not zoned for, or a*

corridor to, public land.

4. **ISSUE:** *Billings and surrounding County townsites need more multiple use trails. The vacant land being built on is a small lot in a commercial area that is not zoned for, or a corridor to, public access to trails or trailheads.*

Transportation Element

1. **ISSUE:** *Speeding in City neighborhoods and outlying communities. NA*
2. **ISSUE:** *Safe and efficient traffic circulation around and through the City. This proposal will place the casino and bar on established thoroughfares and immediate interstate highway access.*
3. **ISSUE:** *Lack of adequate traffic control. This proposal will situate the new business where traffic flow has been already established and safely monitored.*
4. **ISSUE:** *The design of roads, streets, and pedestrian facilities can be more attractive and functional. The proposal is for a commercial area on a strict two-lane street with no turn outs or passing zones.*
5. **ISSUE:** *Obstacles to efficient and safe traffic flow. This proposal will situate the new business where traffic flow has been already established and safely monitored.*
6. **ISSUE:** *Deteriorated conditions of City streets and County roads. This proposal is on a street that is in good condition.*
7. **ISSUE:** *Resources for transportation improvements should be rationally allocated throughout City neighborhoods and County townsites. NA*
8. **ISSUE:** *More convenient bus schedules are needed to attract MET ridership. NA*
9. **ISSUE:** *The sidewalk system in the City needs upgrading; many sidewalks are cracked and broken, several critical sections are missing, and important sidewalk routes are not adequately maintained. The proposal is in a commercial area that has no sidewalks.*
10. **ISSUE:** *Lack of adequate bicycle facilities. The proposal is in an area that is conducive to bicycle transportation.*
11. **ISSUE:** *MET Transit is underfunded. The proposal is in an area that can be accessed by MET Ridership.*
12. **ISSUE:** *Deterioration of air quality due to vehicle emissions.*

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

Public Facilities and Services Element

1. **ISSUE:** *Residents are not adequately informed of County and City projects. NA*
2. **ISSUE:** *Dilapidated and unsafe properties in City neighborhoods and County townsites. This proposal will decrease the amount of area that is vacant, unused and subject to vandalism.*
3. **ISSUE:** *Safety is a concern in neighborhoods and outlying County townsites. NA*
4. **ISSUE:** *There are safety and functionality issues with City streets. The street at the proposed location is in good condition with normal traffic flow safety items present.*
5. **ISSUE:** *Funding for community facilities and infrastructure is very limited. NA*
6. **ISSUE:** *Public funds are not distributed rationally throughout City neighborhoods and County townsites. NA*
7. **ISSUE:** *There are vacant structures around Billings and in the County that could be reused. NA*
8. **ISSUE:** *Community services are not always available to everyone. NA*
9. **ISSUE:** *Subdivision review, zoning applications, and other development permit review are not always conducted in a streamlined and timely manner. NA*
10. **ISSUE:** *Maintenance of existing K-12 school facilities and planning for new schools is critically important to maintaining existing communities built around the neighborhood school concept and fostering new communities surrounding school sites. NA*
11. **ISSUE:** *Multiple community interests (including local government, arts organizations, and social organizations) are competing for tax dollars for facility development and maintenance, resulting in taxpayer fatigue and overall declining support for capital and maintenance projects. NA*

Cultural and Historic Resources Element

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

Community Health Element

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

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

Locating the proposed casino and bar at this location will reduce the amount of vacant commercial lots in the City of Billings. It will also anchor traffic flow and commerce in an area that is already commercial, instead of adding to new areas on the fringes of the City of Billings.

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

This casino and bar will compliment the restaurants in the area and service the guests of Spring Hill Suites of Billings from this proposed location.

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

We originally entered into a lease on the property at the current location, 1731 King Avenue West, Billings, in April 2009. It was a commercial retail development and we were one of five businesses operating there. The lease had an initial five year term, with an option to the lessee to extend the term for two additional five year terms. The original owners fell on hard times and the property was purchased, subject to our lease, in May 2013 by the International Church of the Foursquare. The church leaders met with us sometime soon after purchasing the property to inform us they would eventually like to use the space for other church activities and asked if we would consider an amendment to our lease to shorten the potential term. In May 2014, we entered into an amendment together agreeing to extend the term of the lease until June 2017, with no further term extensions. The customer base of our business is established, and so we started looking for other commercial spaces in the same general area that would allow us to maintain our current customer base, but be separate and much further away from the church than we are today. The vacant lot at 545 South 18th Street West is within the target customer area we are hoping for.

There will be new construction for a single level building, paved parking lot and area lighting.

The proposed new location is approximately directly at 600 feet from the closest property boundary of the proposed location to the property owned and used by the International Church of the Foursquare. (The location of the building itself will be beyond the 600 feet, as it will be located within the lot away from the property line.) We feel we have adequate grounds for a waiver to City of Billings Sec. 27-612 (1) on the following points:

1. *The new location is located on a different street (South 18th Street West) than the current and church location of King Avenue West.*

2. *There are several physical barriers between the church and proposed new location:*

a. *The "Charter Communications" (leased) building and parking lot with company vehicles is directly north and behind the church building, although the property is apparently owned by the church;*

b. *Continuing north, a chain link fence with barbed wire on the top separates the*

Charter property from the “CEI-Billings” business property; and

c. The “CEI–Billings” property contains an equipment parking lot in front with service equipment, service vehicles and service trucks and trailers.

d. Continuing north of CEI-Billings, is the vacant lot we propose to locate on.

There is no direct access between the church building and the proposed location. The parking lots of Charter and CEI are enclosed with chain link fences around the property. In addition, with the various intervening businesses and equipment, there is no direct line of sight from the church building to the proposed location.