



CITY ZONING COMMISSION
AGENDA-Tuesday, December 6, 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 November 1, 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 Zone Change 951 – 533 S 24th St West** – A zone change request from Residential 7,000 (R-70) to Neighborhood Commercial (NC) on the east ½ of Lot 2 and Lot 3, Block 5 of Amended Block 2, Valley View Acres Subdivision, a 14,400 square foot parcel of land. A pre-application neighborhood meeting was held at the subject property on October 12, 2016. Tax ID: A28338M. Presented by Nicole Cromwell, Zoning Coordinator

- b. **City Special Review 950 – 3122 Lynn Avenue** – A special review request to construct a public parking lot for employees and tenants of the Central Avenue Center in a Residential 9,600 (R-96) zone, on Lot 11, Block 5 of Central Acres Subdivision, 5th filing, a 10,418 square foot parcel of land. The property is proposing vehicle access only from the alley and not on Lynn Avenue. Tax ID: C01867A. Presented by Dave Green, Planner II.

- c. **City Special Review 951 – 805 24th St West – Suite 1** – A special review request to locate a beer and wine license with gaming in a 1,563 square foot tenant space (Suite 1) in a multi-tenant building, in a Community Commercial (CC) zone, on the North 408.375 feet of the South 544.5 feet of Lot 21, less the West 10 feet, Arnold Subdivision, 2nd filing, a 1.43 acre parcel of land. Tax ID: A02522. Presented by Dave Green, Planner II.

Other Business/Announcements

Adjournment

The City Council has designated **Monday, January 9, 2017**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zone change.

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 (January 6, 2017) the first reading of the amendment by the City Council.

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 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: 12/06/2016

Information

Subject

The minutes of the Board meeting of November 1, 2016.

Attachments

BZC_2016_11_01

City of Billings Zoning Commission Meeting Minutes November 1, 2016

The City of Billings Zoning Commission met on Tuesday, November 1, 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 November 28, 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	11/01/2016	12/06/2016
Dan Wagner	Chairman	1	1	-	1	1	1	1	1	1	1	1	
Dennis Ulvestad	Commissioner	1	1	-	1	1	1	1	1	1	1	1	
Mike Boyett	Vice Chairman	E	1	-	1	1	E	E	1	1	1	1	
Michael Larson	Commissioner	1	1	-	1	1	1	1	A	1	A	1	
James Mariska	Commissioner	1	1	-	1	1	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	1	1	1	1	
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-	-	-	-	
Dave Green	Planner II	1	-	-	-	-	-	-	1	1	1	-	
Karen Husman	Planner I	1	1	-	-	-	-	-	-	-	-	-	
Robbin Bartley	Administrative Support	1	1	-	1	1	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	11/01/2016	12/06/2016	TOTAL
Zone Change	1	0	-	1	0	0	1	0	1	1	1		6
Special Review	2	1	-	4	1	1	1	2	2	1	0		15

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

In Attendance: Ed Hofmann, Bryan Alexander, Daniel N. Marich, Peto Bugon

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: October 4, 2016

Chairman Wagner called for approval of the October 4, 2016 meeting minutes.

Motion

Commissioner Ulvestad made a motion and Commissioner Boyett seconded the motion to approve the October 4, 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 5-0.

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		

Disclosure of Outside Communication

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

Public Hearings:

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience that this would be heard by the City Council on November 28, 2016. He then asked Nicole Cromwell to review the first agenda item. Nicole Cromwell presented:

City Zone Change 950 – 4240 Central Avenue – A zone change request from Agriculture-Open Space (A-1) to Residential 7,000 (R-70) on Tract 3 of C/S 1648, a total area of 15.107 acres of land. A pre-application neighborhood meeting was held at 1300 N Transtech Way on September 26, 2016. A concurrent annexation petition has been submitted. Tax ID: D00489

RECOMMENDATION

Staff recommends **approval and adoption** of the findings of the 10 criteria for Zone Change 950.

Discussion

Commissioner Boyett asked if the setbacks would be the same as on the Legends West development. Staff confirmed it will be the same.

Commissioner Mariska questioned what will be the envisioned final road to pass by this plat. Staff replied indicating it would be an arterial street, however, arterials come in many different configurations. The city has no plans for improvements on this section of Central Avenue in the 5 year plan.

Commissioner Ulvestad made some local comparisons and asked if they were similar to the plan. Staff answered the plan is to have enough right of way to handle the traffic. It is likely a feasibility study will need to be done.

Commissioner Boyett asked for an explanation as how the property will be developed. Staff explained that currently the original owner, Janet Bergman, has entered into an agreement to sell it to Marsich Development. Marsich is working with Sanderson Stewart. Their intent at this point is not to do a sub-division, which dedicates streets and those kinds of things. A unit ownership is the plan. All the land would be a common owner, similar to a patio home.

Commissioner Mariska stated that these streets would be private and not maintained by the City. Staff confirmed this and they would be maintained by the Homeowner's Association. These streets, although not owned by the City, are built to City specifications.

Commissioner Boyett inquired where there are any other duplexes or twin homes in the area. Staff replied there are 4 in the Legends West development.

Commissioner Larson pointed out the entire edge of Morning Star is duplexes.
Commissioner Boyett asked what Morning Star is zoned. It is zoned R-96.

Chairman Wagner asked for the applicant of **City Zone Change 950**.

Brian Alexander, Sanderson Stewart

Mr. Alexander is the agent. They are seeking R-70 zoning for Unit ownership.
Commissioner Boyett asked if there will be parks or playgrounds. To which he replied they intend to have open spaces, not necessarily parks. There will be storm retention areas, available for recreation.

Chairman Wagner asked what size buildings are planned. There will be zero stair entry, and one level. 80x56, approximately 1400 square feet with 3 bedrooms.

Commissioner Mariska asked if city services are allowed on these private roads. This is all covered in the condominium agreements and bylaws. Solid waste will be handled by the City. The structures will have crawl spaces not basements. The area is not in a flood plain. Unit development allows for more control on finish grade. Water runoff is controlled within the development.

Chairman Wagner asked how high the water table is in this area. It varies, but it used to be 6 feet.
Mr. Hofmann, from the audience, stated it used to be 6 but is 11.5 now.

Commissioner Ulvestad asked how long before annexation and how long before project start. Staff replied annexation and a zone change are scheduled to occur at the same meeting. There is no time frame for a start date.

Opposed

Ed Hofmann, 4246 Central Ave

Mr. Hofmann stated he has lived out there since 1992.

I has no idea what is proposed. He was not invited to the neighborhood meeting. He is very concerned with the trespassing by Sanderson Stewart and Rimrock Engineering to access this property. His property is being torn up. He would like to know what is going on before going forward. He is quick to state that he has no issue with the development, only that he has not been rightfully informed or asked if his property could be used to provide access.

Commissioner Ulvestad asked what is the distance of letters to be sent out. Staff replied that any property owner within 300 feet of the property line involved should receive a letter. Staff does not know why Mr. Hofmann was not notified. His name does appear on the certified list.

Chairman Wagner asked where the 300 feet start. Staff explained it starts from the exterior property line. There are 88 names on the list.

REBUTTAL

Brian Alexander sent out the mailings for the pre-application meeting. He does not know why Mr. Hofmann was not notified. Mr. Alexander apologized and vowed to do differently in the future regarding communication and access concerns.

Chairman Wagner asked for a motion.

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to recommend approval and adoption of the findings of the 10 criteria for **City Zone Change 950**.

Discussion

Commissioner Larson encourages conversation with Mr. Hofmann. Commissioner Mariska and Commissioner Ulvestad agreed with Commissioner Larson.

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 5-0.

Other Business:

Next meeting will be December 6, 2016.

Adjournment: The meeting adjourned at **5:13 p.m.**

DRAFT: To be approved by a motion: **December 6, 2016.**

ATTEST:

Robbin Bartley, Administrative Assistant I



City Zoning Commission

Meeting Date: 12/06/2016

SUBJECT: Zone Change 951 - 533 S 24th St West

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Zone Change 951 – 533 S 24th St West – A zone change request from Residential 7,000 (R-70) to Neighborhood Commercial (NC) on the east ½ of Lot 2 and Lot 3, Block 5 of Amended Block 2, Valley View Acres Subdivision, a 14,400 square foot parcel of land. A pre-application neighborhood meeting was held at the subject property on October 12, 2016. Tax ID: A28338M. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the 10 criteria for Zone Change 951.

APPLICATION DATA

OWNER: 5K Real Estates Holdings, LLC

AGENT: Steve and Diana Kuehn

LEGAL DESCRIPTION: Valley View Acres Block 5, Lots 1-3

ADDRESS: 533 S 24th St West

CURRENT ZONING: NC - Lot 1 and west 1/2 of Lot 2 - R-70 east 1/2 of Lot 2 and Lot 3

EXISTING LAND USE: Caring Hands Veterinary Hospital with small parking lot and dog exercise yard

PROPOSED USE: Same with part of the exercise yard converted to create additional off-street parking

SIZE OF PARCEL: 14,400 square feet - east 1/2 of Lot 2 and Lot 3 - total parcel area is 29,039 square feet

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Subject Property - A zone change from R-70 to Community Commercial (CC) was denied by the City Council in October 1980. Subsequently, a zone change for Lot 1 and the west 1/2 of Lot 2 from R-70 to NC was approved in February 1994. In 1995, the City Council granted a special review to allow the veterinary clinic to locate in the existing building.

Surrounding Property - In the surrounding subdivisions, 56 zone changes have been processed since 1972. Thirty-seven of these applications were approved, 14 were denied, and 5 were withdrawn. Most of the denied applications were re-submitted and approved at a later date after applicants had met with surrounding owners concerning proposed development plans.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Neighborhood Commercial
Land Use: Commercial uses in a small shopping plaza

SOUTH: Zoning: Neighborhood Commercial
Land Use: Men's clothing store

EAST: Zoning: Residential-7000
Land Use: Single family residences
WEST: Zoning: Community Commercial (Across 24th Street West)
Land Use: Barnes and Noble Book Sellers, Golden Corral Restaurant

BACKGROUND

The property owners are requesting a zone change to facilitate the development of additional off-street parking for the Caring Hands Veterinary Clinic located at this busy intersection of S 24th St West and Lampman Drive. On-street parking is becoming scarce and the veterinary business is finding it difficult to provide safe off-street parking for its clients and customers. A special review could be submitted to allow development of additional off-street parking in the area still zoned R-70, but the applicants preferred the zone change application. The owners do not intend to change the primary use of the property for the veterinary clinic, but a zone change could assist in any future marketing of the property for lease or sale.

Surrounding property to the north is zoned NC and is developed for multi-tenant retail business. Property to south also has split zoning of R-70 and NC. This property at 585 S 24th St West is developed with a men's apparel store. Property west across S 24th St West is zoned CC and is developed with Golden Corral restaurant, an office building, and Barnes & Noble book store. Property east of the subject property is zoned R-70 and is a well developed single-family and two-family neighborhood.

South 24th St West is a principal arterial street and the intersection of Lampman Drive is a signalized intersection. Lampman Drive is a local street but the traffic into adjacent businesses necessitated the installation of a traffic signal. South 24th St West is a full 5-lane street with curb sidewalk on the east side and boulevard sidewalk on the west side. Traffic volume on S 24th St West at this location is over 26,000 vehicle trips per day on average. Additional off-street parking on the subject property will assist traffic control at the adjacent intersection by reducing the number of occupied on-street parking spaces and reduce the chances of parking violations in the area.

The Planning Division has reviewed the zone change and is recommending approval based on the proposed findings of the 10 criteria for this zone change. The proposed zoning will allow the current business to remain at an established location and expand the business without complication of mis-matched zoning for the parcel. The 2016 Growth Policy guidelines support the proposed zoning by retaining existing businesses and allowing for necessary expansions. Any new development for off-street parking or new buildings will have to meet the compatibility regulations within the zoning code including screening, lighting restrictions and landscaping.

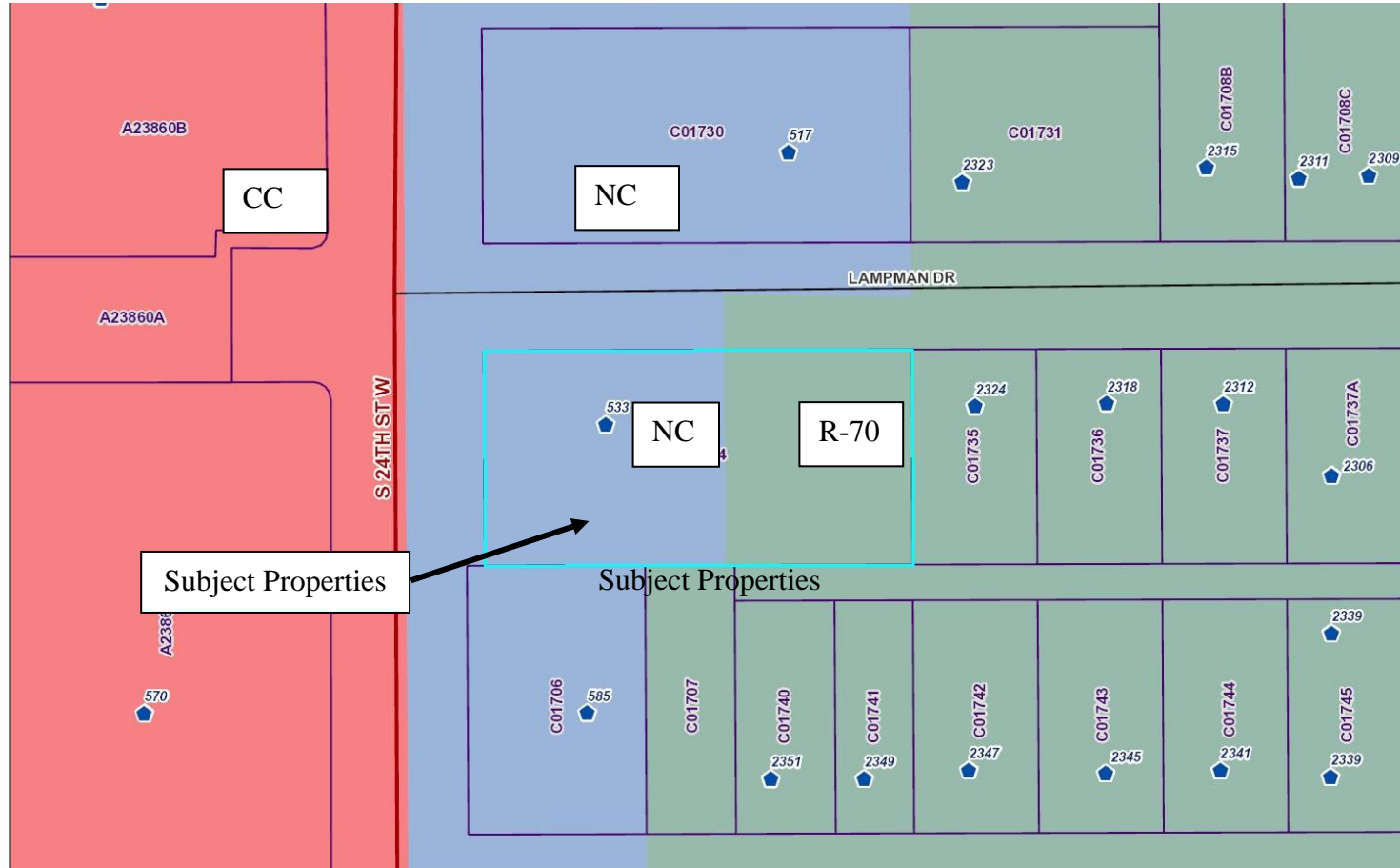
RECOMMENDATION

Staff recommends approval of Zone Change 951 and adoption of the findings of the 10 criteria.

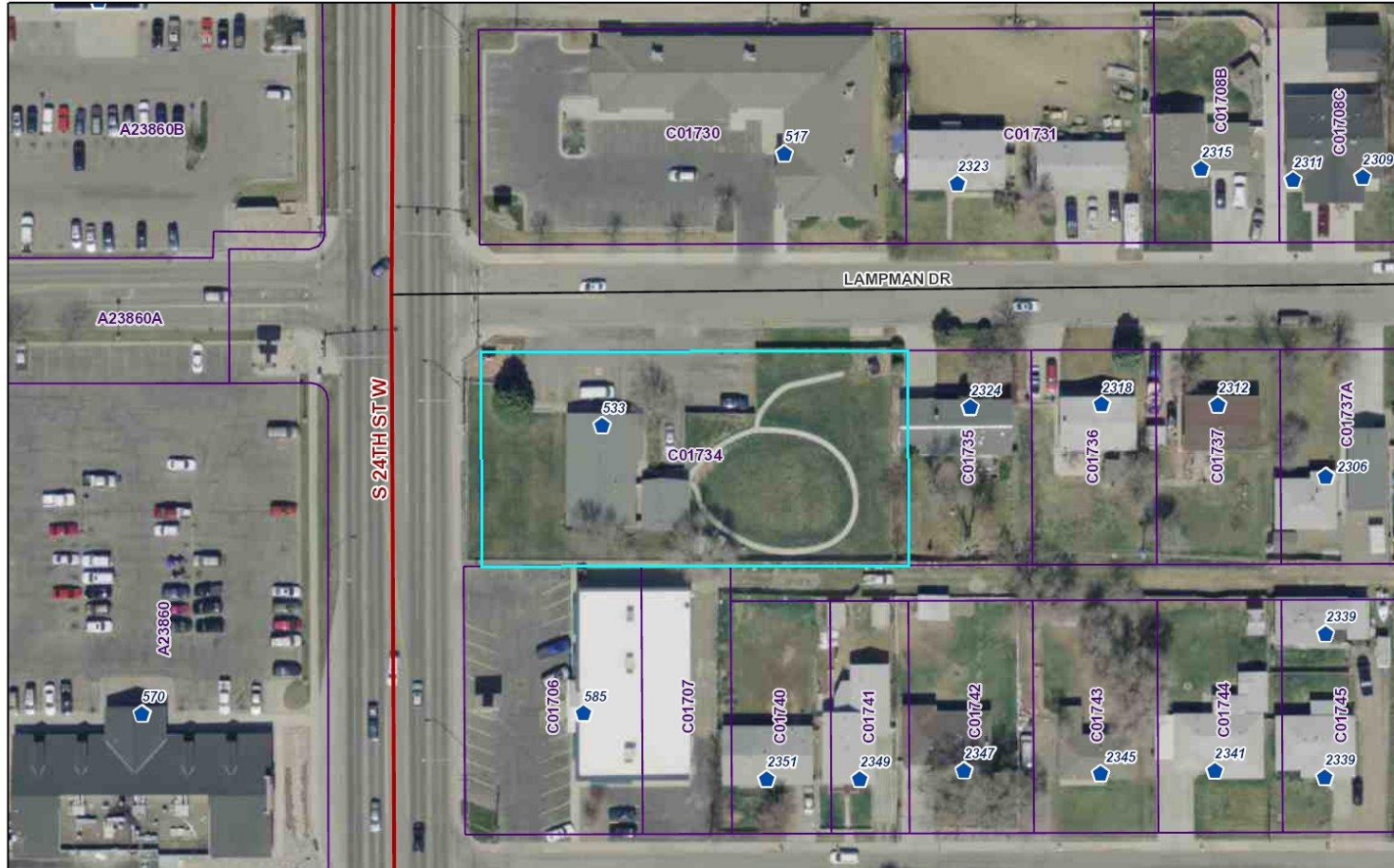
Attachments

Zoning Map and Site Photos
Proposed Findings of the Review Criteria
Pre-application info and Application

Surrounding Zoning
Zone Change #951 – 533 S 24th St West



ZC 951





Subject Property – view south from Lampman Drive



View west along Lampman Drive to S 24th St West



View northwest across Lampman Drive



View east along Lampman Drive

Zone Change #951 – 533 S 24th St West

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 guidelines of the 2016 Growth Policy:

- Prosperity: Retaining and supporting existing businesses helps sustain a healthy economy.

The proposed zoning would allow the business owner to provide additional off-street parking at their established business location. The current zoning does not allow expansion of the existing parking without a special review approval. A zone change would allow the property owner certainty for current and future business expansion on the parcel

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

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

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

Public health and public safety will be promoted by the proposed zoning. The current split zoning of the parcel does not provide certainty for development standards and the existing off-street parking is inadequate. On-street parking violations do occur on this block of Lampman Drive with a negative effect on public health and safety. The proposed zoning will allow the development of additional off-street parking to reduce the incidence of on-street parking violations.

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

- Transportation: The proposed zoning will improve the safety of this intersection by reducing on-street parking.
- Water and Sewer: The City provides water and sewer to the property. Any new development for parking will be required to provide storm water management. There will be no additional impacts to the system from the proposed zoning.
- Schools and Parks: Schools and parks should not be affected by the proposed zoning.
- Fire and Police: The subject property will be served by city public safety services. The Police and Fire Departments had 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.

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

The new zoning will have a beneficial impact on vehicle and pedestrian traffic by reducing the on-street parking congestion.

7. *Will the new zoning will promote compatible urban growth?*

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to continue at this location and the use is compatible with the existing neighborhood.

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 the proposed use. The proposed zoning is identical to the zoning north of the subject property and is an appropriate zone with the adjacent residential neighborhood to the east.

9. *Will the new zoning conserve the value of buildings?*

The property is currently developed with a veterinary hospital, a small parking area and a dog exercise yard. The dog exercise yard is currently zoned R-70 and the hospital and parking lot is zoned NC. The value of existing buildings and the parcel will be improved and conserved by the proposed zoning and development.

10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*

The proposed zoning will allow a dual-zoned parcel to be a single zoning. This is the most appropriate use of the land at this location.

Application and pre-application meeting notes
Zone Change #951 – 533 S 24th ST West

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 951 - Project # P2-16-00199

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

Present Zoning: Residential

Proposed Zoning: Neighborhood commercial

TAX ID# C01734 CITY ELECTION WARD # 3

Legal Description of Property: Valley View Acres Block 5 1-3

Address or General Location (If unknown, contact City Engineering): 533 S. 24th St. West

Size of Parcel (Area & Dimensions): 14,400 sq. ft 120' X 120'

Present Land-Use: Yard

Proposed Land-Use: Parking and yard

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): Steve and Diana Kuehn (SK Real Estate Holdings, LLC)

(Recorded Owner)

4925 Chevelle Drive Billings, MT. 59106

(Address)

406-861-7294

(Phone Number)

Steve.kuehn61@gmail.com

(email)

Agent(s):

(Name)

(Address)

(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 Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Steve M Kuehn Diana E Kuehn Date: 10/18/16
(Recorded Owner)



Dear Neighbors,

Steve and Diana Kuehn, owners of Caring Hands Veterinary Hospital and owners of the Caring Hands Veterinary Property, invite you to a meeting at 533 South 24th Street West at 7:00 p.m. on Wednesday October 12, 2016. The meeting will be held as the "Pre-application Neighborhood City Zone Change Meeting".


Currently the west half of the 533 South 24th Street property is "Neighborhood Commercial" and the east half of the property is zoned "Residential". We are requesting a zone change for the entire property to be changed to "Neighborhood Commercial".

The zone change is required to expand the parking while eliminating the congestion along Lampman Drive making the area safer. This zone change would make the property consistent with the property across the street located at 517 24th St. W.

The legal description of our property is "Valley View Acres Block 5 1-3" or 533 South 24th Street West Billings, Montana 59102. The property is located at the corner of 24th Street West and Lampman Drive. This location is at 108.575 Longitude and 45.760 Latitude.

The dimensions of the property requested to be re-zoned is 120' X 120'. The entire property is 240' X 120'.

Please contact us if you have any concerns or questions.

Sincerely,

Steve and Diana Kuehn
(406)656-6320

Synopsis On Neighborhood Meeting

- The meeting was held at Caring Hands Veterinary Hospital on October 12, 2016 at 7:00.
- Bill Stene, Steve and Diana Kuehn were in attendance. Mr. Stene was representing Pat Dotsun (2324 Lampman).
- We discussed the need for additional parking and our plan to expand the parking area.

The meeting was adjourned at 7:30 p.m.



City Zoning Commission

Meeting Date: 12/06/2016

SUBJECT: Special Review #950 - 3122 Lynn Avenue - Parking Lot

THROUGH: Wyeth Friday

PRESENTED BY: David Green

Information

REQUEST

City Special Review 950 – 3122 Lynn Avenue – A special review request to construct a public parking lot for employees and tenants of the Central Avenue Center in a Residential 9,600 (R-96) zone, on Lot 11, Block 5 of Central Acres Subdivision, 5th filing, a 10,418 square foot parcel of land. The property is proposing vehicle access only from the alley and not on Lynn Avenue. Tax ID: C01867A. Presented by Dave Green, Planner II.

RECOMMENDATION

The Planning Division is recommending conditional approval.

APPLICATION DATA

OWNER: Ed Jorden and Gerald Neumann

AGENT: None

LEGAL DESCRIPTION: Lot 11, Block 5 of Central Acres Subdivision, 5th filing

ADDRESS: 3122 Lynn Avenue

CURRENT ZONING: R-96

EXISTING LAND USE: Vacant

PROPOSED USE: Parking Lot

SIZE OF PARCEL: 10,418 Square Feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Subject Property – A zone change request from R-96 to R-70 Lot 11, Block 5 Central Acres Subdivision was denied by the City Council in April 2016.

Surrounding Properties

Three special reviews have been granted in the surrounding neighborhood. Two were for churches and one for a cemetery. In addition to the 3 special reviews, there have been 21 other zoning actions in this subdivision - 5 variances and 16 zone changes.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96
Land Use: Residential uses

SOUTH: Zoning: Neighborhood Commercial
Land Use: Commercial

EAST: Zoning: R-96
Land Use: Residential
WEST: Zoning: R-96
Land Use: Residential

BACKGROUND

This is a special review request to construct a parking lot on a vacant lot that is zoned Residential 9600, generally located at 3122 Lynn Avenue. This parcel has been vacant for many years and has not been developed into housing as have properties to the east, west and north. The majority of the surrounding property has developed into housing and commercial uses on the major intersection of Central Avenue and 32nd Street West.

The neighborhood development on the northeast corner of Central Avenue and 32nd Street West is a new development in this area and provides several neighborhood services to the area. The development has had a great deal of success gaining tenants and the owners would like to be able to have the parking at the building be more for the customers. They are proposing to build a parking lot on the vacant parcel at 3122 Lynn Avenue to provide parking for employees and leave more of the front parking for the customers.

In the letter submitted by the applicants, they outline their plans and reasoning for the requested parking lot. They will be landscaping the lot and only accessing it off of the alley on the south. Accessing the lot from the alley only would have no impact to traffic on Lynn Avenue.

There have been other parking lots that have gone through special review in the City to allow them on land that is zoned residential. Some older use properties have not been subject to the special review. 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; 4635 Simpson Street, Resource, Support and Development Inc., Residential 7000. Recently, there also have been ones completed on a vacant lot near the northeast corner of the intersection of Lewis and 16th Street West and one at 331 Calhoun. 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 2016 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 the zoning regulations adopted by the City Council have designated that all residential zoning districts can have a parking lot on them as long as they go through the special review process. There are requirements for landscaping and screening from residential uses next to commercial uses within the zoning regulations.

The application meets criteria from the second requirement as it is consistent with some of the objectives of the 2016 Growth Policy:

- **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective.
The proposed special review will promote development of an existing vacant lot on the edge of a residential neighborhood where there are already City services and infrastructure. This will provide an additional parking for new businesses and no additional traffic on residential streets to those residents within the neighborhood.
- **Strong Neighborhoods and Essential Investments:** Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed special review will take a vacant lot that can be overgrown with vegetation and clean it up in an established neighborhood. By cleaning the lot and developing it into a parking lot with landscaping and fencing it will be more attractive, safer, more attractive than an overgrown vacant lot and provide essential additional parking for employees leaving more existing parking for customers.

- **Prosperity:** A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community.

The proposed special review will support new businesses, provide employment opportunities at this location, and benefit the community with needed local services.

The application also meets the third criteria in that it is compatible with surrounding land uses in the area. This site is a transitional area of Billings, with residential, community service type businesses, and commercial uses next to each other. The development of this parcel into a parking lot would continue that mix and take a parcel that has historically been vacant. 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 generally located at 3122 Lynn Avenue.
2. The approval is limited to Lot 11, Block 5 of Central Acres Subdivision, 5th filing, a 10,418 square foot parcel of land.
3. Increases in the number of parking spaces greater than 10% of the numbers shown on the site plan will require additional special review approval.
4. The site will be developed in conformance with all applicable zoning and site development regulations, specifically fencing next to residential uses. The applicant will install fencing around 3 sides of the property, on the west, east and north. They will meet the requirements of a 4-foot fence height maximum along the north property line and 20 feet back from the north property line down the west and east property lines. The 4-foot fence will have a pedestrian opening on Lynn Avenue and the fence will be a 'picket' style fence allowing visibility into the parking lot. The remaining fence along the west and east property lines will be 6-foot sight obscuring fence.
5. All lighting in the parking lot shall be bollard lighting, not pole lighting, so that no light will spill onto the neighboring residential properties to the west and east.
6. No construction can take place before 7 am or after 8 pm.
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 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.

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.

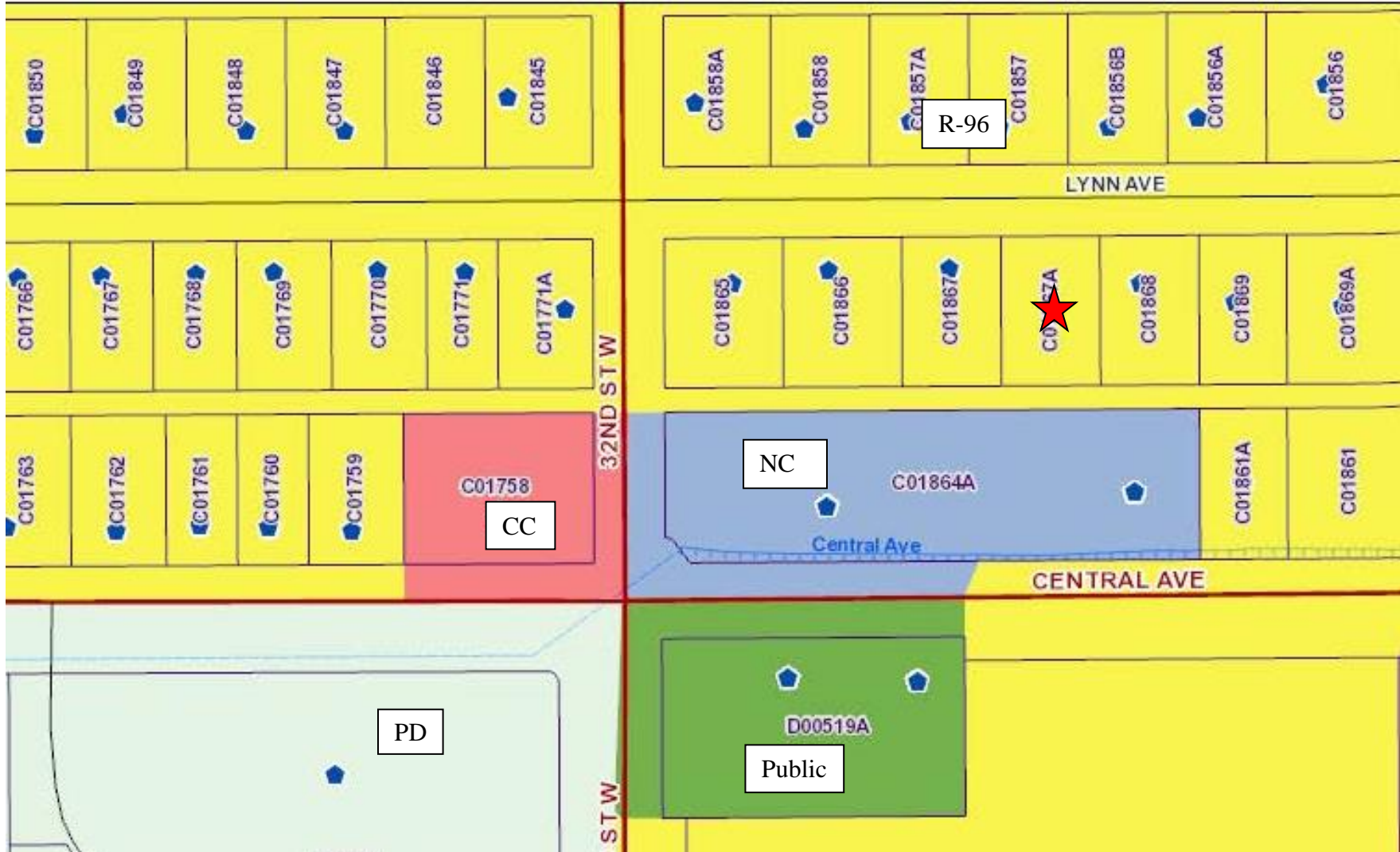
Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:


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

Surrounding Zoning



Subject Property 

Site Photos



Subject Property ★

Site Photos



Subject property from Lynn Avenue looking south



Looking west from Lynn Avenue



Looking west from subject property



Looking north across Lynn Avenue



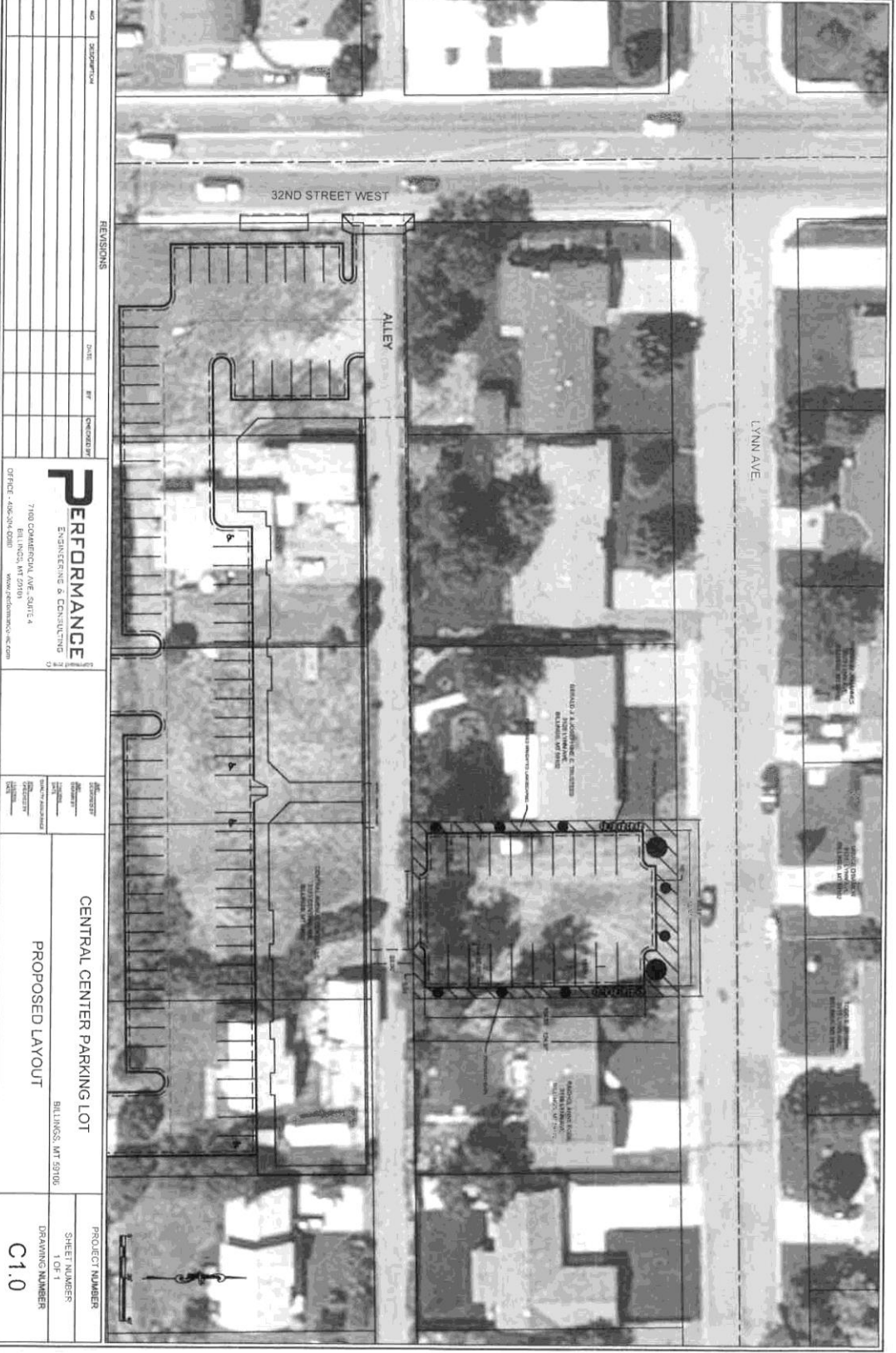
Looking west from subject property along Lynn Avenue



Looking west from back of subject property along alley



Picture of subject property from the alley to Lynn Avenue



NO.	DESCRIPTION	DATE	BY	CHECKED BY

PERFORMANCE
ENGINEERING & CONSULTING

7180 COMMERCIAL AVE. SUITE 4
BILLINGS, MT 59101
OFFICE - 406-294-0280
www.performance-ec.com

REVISION	DATE	BY	CHECKED BY

CENTRAL CENTER PARKING LOT
BILLINGS, MT 59106

PROPOSED LAYOUT

PROJECT NUMBER
SHEET NUMBER
DRAWING NUMBER

C1.0

Applicant Letter

1. A. Not Applicable

B. The reason we purchased this lot was to provide adequate parking for our retail center at the corner of 32nd St W and Central Avenue. We have just filled the center and anticipate needing more parking as the businesses grow in the future. There is not any available off-street parking so we are limited to where people can park. The lot is exactly behind our center and would allow the employees easy access to their businesses and open up more parking spaces for customers. This proposed parking lot will be only for employees and not for customers.

C. The public using the retail center will enjoy more available parking and less congestion. The neighbors will appreciate a parking lot with landscaping instead of a town home that was previously proposed.

D. We are proposing that we be allowed to turn this lot into a parking lot that will have a maximum of 20 cars. It will be paved, landscaped, and have access off the alley and not off of Lynn Avenue. There will be no buildings constructed on the lot.



City Zoning Commission

Meeting Date: 12/06/2016

SUBJECT: Special Review #951 - 805 24th Street West, Suite 1

THROUGH: Wyeth Friday

PRESENTED BY: David Green

Information

REQUEST

City Special Review 951 – 805 24th St West – Suite 1 – A special review request to locate a beer and wine license with gaming in a 1,563 square foot tenant space (Suite 1) in a multi-tenant building, in a Community Commercial (CC) zone, on the North 408.375 feet of the South 544.5 feet of Lot 21, less the West 10 feet, Arnold Subdivision, 2nd filing, a 1.43 acre parcel of land. Tax ID: A02522. Presented by Dave Green, Planner II.

RECOMMENDATION

The Planning Division is recommending conditional approval.

APPLICATION DATA

OWNER: Plaza 24, LLC

AGENT: James Healow

LEGAL DESCRIPTION: North 408.375 feet of the South 544.5 feet of Lot 21, less the West 10 feet, Arnold Subdivision, 2nd filing

ADDRESS: 805 24th Street West, Suite 1

CURRENT ZONING: Community Commercial

EXISTING LAND USE: Vacant tenant space in a strip mall

PROPOSED USE: Casino with Beer and Wine License

SIZE OF PARCEL: 1.43 acres

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Subject Property – none

Surrounding Property – There have been many zoning actions in this subdivision. Arnold Subdivision has had 53 zoning applications for Special Reviews, Variances and Zone Changes. There have been 9 special review requests in this subdivision, some for casinos, parking lots on residentially zoned property, drive up window service and a cell tower. One special review was denied for a casino but was later proposed again and was granted.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Residential Multi-Family Restricted / Residential 7000 (R-70)
Land Use: Residential multi-family

SOUTH: Zoning: Community Commercial
Land Use: Commercial

EAST: Zoning: R-70
Land Use: Residential
WEST: Zoning: R-70
Land Use: Residential across 24th Street West

BACKGROUND

This is a special review request to allow a beer and wine license with gaming for a proposed new Casino at 805 24th Street West, Suite 1. The property has frontage along 24th Street West and is in a newer strip mall that was constructed in 2008, according to State Orion property information. The property is already developed with all existing infrastructure facilities and the needed parking. No additional infrastructure requirements will be needed. The 16,990 square foot building has multiple tenants. Suite 1 formerly had a frozen yogurt business in it but that business is no longer open. The applicant is not proposing an outdoor patio and there is no area available on the property for such a proposal. There are no churches, parks with playing fields or playgrounds, or schools within 600 feet of this proposed location.

24th Street West carries about 22,000 vehicles per day on this section of the roadway. This is a built out area of Billings and the amount of traffic will not be affected by the addition of the proposed casino in this location.

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 2016 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 the zoning regulations adopted by the City Council have designated that community commercial zoning districts allow a casino with a beer and wine license with gaming. The building, landscape requirements, and solid waste storage meet the code requirements for this zone. The property will have access off of 24th Street West.

The application meets criteria from the second requirement as it is consistent with some of the objectives of the 2016 Growth Policy:

- **Essential Investments:** Neighborhoods that are safe and attractive and provide essential services are much desired.
The proposed special review will provide business use in an existing empty suite within a building with a parking lot and landscaping. The use is in a development that is fully developed and has most suites occupied near residential and other commercial uses. This will provide an additional service to those residents within their neighborhood and travelers along 24th Street West.
- **Strong Neighborhoods:** Neighborhoods that are safe and attractive and provide essential services are much desired
The proposed special review will allow the applicant to use an existing structure and putting a new business in a currently unused suite. This will provide an additional service to the community in the area.
- **Prosperity:** A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community.
The proposed special review will support a new business and diversify career opportunities at this location.

The application also meets the third criteria in that it is compatible with surrounding land uses in the area. This site is in a transitional area of Billings, with residential, community service type businesses and commercial uses next to each other. There are minimal impacts from the proposed use 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 Department recommends conditional approval.

PROPOSED CONDITIONS

1. The special review approval is for the location of a beer and wine license with gaming on the North 408.375 feet of the South 544.5 feet of Lot 21, less the West 10 feet, Arnold Subdivision, 2nd filing generally located at 805 24th Street West, Suite 1 no other use is intended or implied.
2. Any expansion of the casino greater than 10% will require an additional special review approval.
3. There shall be no outdoor public address system or outside announcement system, whether permanent or temporary, of any kind.
4. 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.
5. 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

Surrounding Zoning





Subject Property



Site photos



Subject Property – Viewed from 24th Street West



View south east from 24th Street West



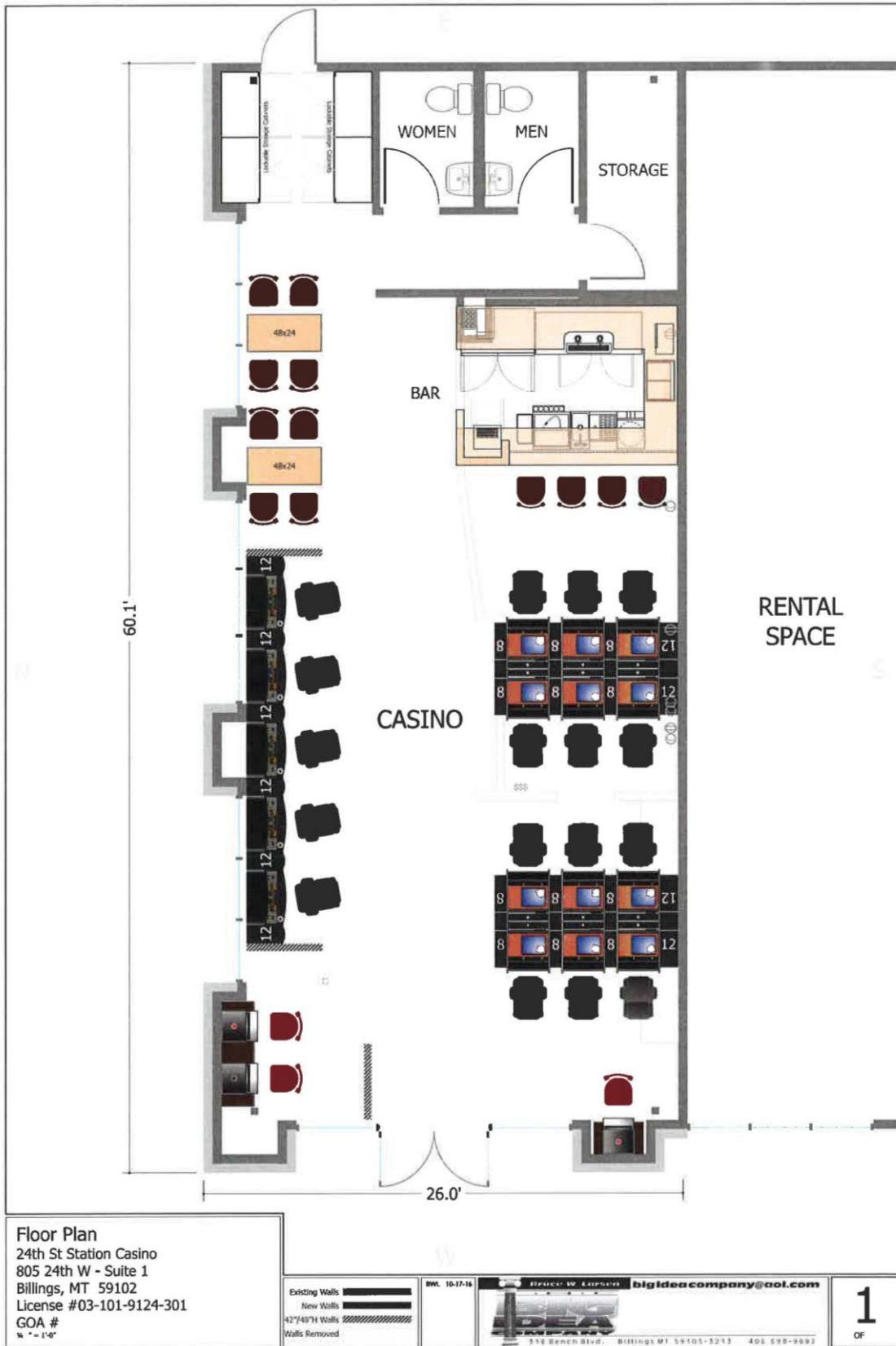
View south from subject property



View directly west across 24th Street West from subject property



View north from subject property



Interior plan

Applicant Letter
24th Street Station Casino Special Review

- A. This proposal is consistent with the goal and policies of the adopted Growth Policy in the following ways:
- The proposal involves infill development of a vacant commercial property.
 - The proposal will create a service, essential to many citizens, walkable from surrounding neighborhoods.
 - The proposal will contribute in various ways to the local tax base.
 - The business will provide jobs to benefit the community.
 - Putting this now idle beer and wine license will help sustain a healthy economy.
 - The proposed business is on a well-developed and very-busy arterial street, and as such will impose no burdens on traffic or other city services.
- B. There is a need for the intended use at this location because the location which formerly housed this beverage license is no longer available, and because the proposed location is an existing but vacated facility.
- C. The public interest will be served if this application is approved because the license exists pursuant to a quota established by the legislature, and the proposed location is in a high traffic commercial location which will be easily accessed by a maximized segment of the citizenry, with no significantly noticeable effects on city services.
- D. The applicant, Corey Welter, is a former owner of the Alpine Casino. The buyers of the Alpine failed in the business and defaulted. Mr. Welter now has recovered his beverage license but the premises formerly occupied by the Alpine is no longer available and is dated in any event. Meanwhile, the proposed location is in a relatively new strip mall on a very busy arterial; and now sits vacant because the frozen yogurt shop that it formerly housed went out of business. Corey wishes to relocate his license to this more modern facility, on a higher traffic arterial, in order to maximize his potential for a successful commercial venture.