



**CITY ZONING COMMISSION**  
**AGENDA-Tuesday, June 5, 2018, 4:30 p.m.**  
**Miller Building, 1<sup>st</sup> Floor Conference Room**  
**2825 3<sup>rd</sup> 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 May 1, 2018.

**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 Exparte 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 966 – 21 N 15<sup>th</sup> St – Kairos Center** – A zone change request from EBURD- Industrial Sanctuary (EBURD-IS) to EBURD Central Works (EBURD-CW), on Lots 1 through 24 of Block 122; Lots 1 through 24 of Block 123, less a portion of Lot 19 of Block 123 deeded to the State of Montana, Billings Original Town, together with abandoned streets and alleys, a 5.64 acre parcel of land generally located between N 13<sup>th</sup> St and N 15<sup>th</sup> St on the south side of 1<sup>st</sup> Avenue North. Presented by Nicole Cromwell, Zoning Coordinator
  
- b. **City Zone Change 967 – 430 Josephine Drive** – A zone change request from Residential Multi-Family (RMF) to Community Commercial (CC) on Lot 15 of Josephine Subdivision, a 1.724 acre parcel of land generally located on the southeast corner of the intersection of Lake Elmo Drive and Josephine Drive. Presented by Nicole Cromwell, Zoning Coordinator
  
- c. **Special Review #964– 3415 Grand Avenue – All Beverage with Gaming** - This is a special review request to allow the location of an All-Beverage Liquor License with Gaming (bar & casino) as part of a new Town Pump gas station convenience store and liquor store in a Community Commercial (CC) zone on proposed Lot 1, Block 5 of Zimmerman Home Place Subdivision, 2<sup>nd</sup> filing a 3.39 acre parcel of land. Tax ID: A36266. Presented by Karen Husman, Planner I.
  
- d. **Special Review #965- 2512 Shiloh Road - Wireless Communication Camouflage Facility** - A special review request to allow a 50-ft camouflage wireless facility – a faux tree – next to a detached garage in a Residential Professional (RP zone on Lot 4A2 of Blue Meadow Acreage Tracts, a 1.085-acre parcel of land. The ground equipment cabinet will be in an enclosure next to the garage. Tax ID:C01757. Presented by Karen Husman, Planner I.
  
- e. **Special Review #966- 2202 Central Avenue - A Drive Through Food Service** - A special review request to locate a drive through food service restaurant across an alley from a Residential zone in a Community Commercial (CC) Zone on Lot 1B, Block 1 of Central Heights Subdivision, 2<sup>nd</sup> filing; a 21,211 square foot parcel of land. Little Caesar’s Pizza is proposing a new location at this address. Tax ID: A04406. Presented by Karen Husman, Planner I.

**Other Business/Announcements**

**Adjournment**

**The City Council has designated Monday, June 25, 2018, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zone changes and 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.

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 (June 22, 2018) the first reading of the amendment by the City Council.

The Zoning Commission and City Council will hear all persons wishing to speak relative to the proposed **zone changes and special reviews**. Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 2825 3<sup>rd</sup> Avenue North, 4<sup>th</sup> 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](mailto:bartleyr@ci.billings.mt.us)

**City Zoning Commission**

**Meeting Date:** 06/05/2018

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**Information**

**Subject**

The minutes of the Board meeting of May 1, 2018.

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**Attachments**

BZC\_20180501\_draft

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## City of Billings Zoning Commission Meeting Minutes May 1, 2018

The City of Billings Zoning Commission met on Tuesday, May 1, 2018 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday May 29, 2018** 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		01/03/2018	02/06/2018	03/06/2018	04/03/2018	05/01/2018	06/05/2018	07/03/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018
Dan Wagner	Chairman	1	1	1	1	1							
Dennis Ulvestad	Commissioner	1	1	E	1	1							
Mike Boyett	Vice Chairman	1	1	1	1	1							
Michael Larson	Commissioner	1	1	1	E	1							
James Mariska	Commissioner	1	1	1	1	E							
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-							
Monica Plecker	Division Planning Manager	-	-	-	1	1							
Nicole Cromwell	Planner Zoning Coordinator	1	1	1	1	1							
Tammy Deines	Planning Clerk	-	-	1	1	-							
Dave Green	Planner II	-	-	-	-	-							
Karen Husman	Planner I	-	1	1	1	-							
Robbin Bartley	Administrative Support	1	1	-	-	1							

Total Number of 2016 Applications	01/03/2018	02/06/2018	03/06/2018	04/03/2018	05/01/2018	06/05/2018	07/03/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018	TOTAL
Zone Change	2		1	2	0-R								5
Special Review	1	1	1	1	0								4

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

**In Attendance:** Chuck Henrichs, Darcy Frewin, Phil Bratton, Mary Lou Marchello, Rene Freitag, Ralph Gurney, Kim Buhman, Mike Buhman, Phil Cox, Steven Repac, Beth Connaghan, Jeff Muri, Matt Owen

**Public Comment**

Chairman Wagner called for public comments.

Chairman Wagner closed the public comment portion of the meeting.

**Approval of Minutes: April 3, 2018**

Chairman Wagner called for approval of the April 3, 2018 meeting minutes.

**Motion**

Commissioner Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to approve the April 3, 2018 meeting minutes.

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	<b>x</b>			
Mike Boyett	<b>x</b>			
Dennis Ulvestad	<b>x</b>			
Mike Larson	<b>x</b>			
James Mariska				<b>x</b>

**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**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner		<b>x</b>		
Mike Boyett		<b>x</b>		
Dennis Ulvestad		<b>x</b>		
Mike Larson		<b>x</b>		
James Mariska				<b>x</b>

**Disclosure of Outside Communication**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner		<b>x</b>		
Mike Boyett		<b>x</b>		
Dennis Ulvestad		<b>x</b>		
Mike Larson		<b>x</b>		
James Mariska				<b>x</b>

Nicole Cromwell pointed out that all emails and communications regarding this Agenda item may be found in the Ex Parte notebook, located on the table at sign in.

**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 May 29, 2018. He then asked Nicole Cromwell to review the first agenda item.

Monica Plecker presented:

**City Zone Change 964- Council Initiated Text Amendment** – Gymnastics Instruction in RP zones – A zone change to Section 27-306 – Commercial and Industrial Uses – to allow Gymnastics Instruction in all Residential Professional (RP) zones. The City Council initiated the amendment on February 26, 2018.

**RECOMMENDATION**

Staff is recommending approval of the text amendment.

**Questions for Staff:**

Commissioner Boyett inquired as to the maximum height of a house. Staff replied a house can be 34 feet high. Is there a maximum lot size? Staff replied our Zoning Code does not identify maximum lot sizes.

**In favor**

**Jeff Muri**

Mr. Muri wishes to reiterate this is not about one parcel. It affects the entire city.

**Mike Buhman, 6033 Hazelwood Drive, Billings, MT**

Mr. Buhman stated it is compatible, is not for one parcel, it is across the city. Parking and traffic will be brought up again and again. Parking is not a relevant issue. This will not affect property values.

**Kim Buhman, 6033 Hazelwood Drive**

Ms. Buhman addresses the particular parcel that started this amendment. The building will blend, and traffic will not be impacted in a negative way.

**Steve Repac, 1533 Clark**

90 percent of the parcels in Billings zoned RP are less than ½ acre. Not passing this is discriminatory against the kids. This kind of venue would be forced in to CC areas.

**Chuck Henricks, EEC, 721 Lowest Lane**

Mr. Henricks believes this follows the Growth Policy

**Darcy Frewin, 3530 Timberline Drive**

Ms. Frewin presents a picture of a building that could allow any number of venues. It meets all the criteria. But not a gymnastics instruction venue.

**Opposed**

**Beth Tanahan, 4114 Julaura Lane**

Ms. Tanahan wishes to clarify the opposition was not against gymnastics but against the proposed zoning. She believes that those in favor of the Text Amendment have financial interests in the original Zone Change request. She would like to have these questions addressed.

What time was traffic study done? On what days? What are the peak hours of the Billings Gymnastic School? How many RP zoned properties are vacant and can accommodate a gymnastics facility? She insists that martial arts and gymnastics are very different and require different space.

**Mike Heffner, 1780 Shiloh Road**

Mr. Heffner is certain that more traffic will be generated. There are also Covenants and Restrictions that have not been addressed.

**Phil Bratten, 4131 Julaura**

Mr. Bratten is certain the traffic will peak 3-7pm. The current gymnastics facility enter and exit off of a much wider road. The traffic impact will be considerable at these hours.

**Phil Cox, 4127 Julaura Lane**

Mr. Cox distributed a hand out. He also insists that the Zone Change is for the original request. The traffic impact is unreasonable. He does not want a Gymnastics facility in his neighborhood.

**Matt Owen, 4115 Julaura Lane**

Mr. Owen does not feel the streets can handle the traffic even based on the traffic study.

**Theresa Goodwin, 4126 41<sup>st</sup> Street West**

Ms. Goodwin speaks to the Covenants and Restrictions which say the maximum height is 30 feet. Also building plans in this area must be submitted to their Architectural Review Committee. She feels there will be a negative impact. Commissioner Larson asked what is in force to enforce your Covenants. She replied that legal action would be taken to enforce the Covenants and Restrictions.

**REBUTTAL**

Monica Plecker addressed the questions.

Traffic counts: Analysis was done based on peak hours of 5:15 to 6:15pm, total of 133 trips occurred in this 1 hour. Observed in late April, exact date is available. A camera is set up to do a manual count.

Yes, 12 properties is less than 1 percent.

Vacancy rate: Staff does not have that information readily available.

Chairman Wagner questions about Covenants, the City does not enforce Covenants and Restrictions, ultimately enforcement of any Covenants and Restrictions would be the responsibility of the neighborhood.

Commissioner Larson asked if these issues are being addressed with Project Re:Code, Yes. Commissioner Larson asked if after 18 months the public will have an opportunity to comment. There is opportunity to comment throughout the 18 months. Currently we have 4 working groups and a Steering Committee meeting regularly. The meetings are posted publicly as are the agendas and meeting notes. Ordinances may not be changed without a public hearing.

A citizen inquired about the streets and how they are determined. Staff explained the City Functional Classification map.

A citizen inquired about the camera that was used during the traffic count. She asked what day of the week that was. Staff said she does have that information, but not with her. She also asked if anyone had asked the current gymnastics facility what they considered to be peak hours. Staff is not aware of the question being asked.

A citizen spoke up and stated she was there on the day the camera was used, she believes it was a Thursday. Their lowest attendance happens on a Friday. Does changing the Zoning to RP mean that anything can be built, or that City Code must still be followed? Staff stated all Codes would have to be followed.

**Public Hearing was closed at 5:31pm.**

**Discussion**

Commissioner Larson speaks to the purpose of this Text Amendment. This is a Council driven initiative that would not have occurred had it not been for this project. Which takes it out of the Zoning realm and into a political realm. We have an organized protocol that looks at the Zoning law across the City. He feels that this is stepping outside of the protocol and systematic way. He does not want to be involved in any of the traffic issues as he does know of their validity. He expects Project Re:Code to do this in a more practical, systematic way. If the City Council chooses to make different decisions than the Zoning Commission, that is their choice. The City Council are elected officials and face the scrutiny. This commission is appointed. He cannot support this.

Chairman Wagner stated that he is in full agreement and the cart is coming before the horse.

**Chairman Wagner asked for a motion.**

Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to deny **City Zone Change 964**. This is not a city wide request. Commissioner Boyett does not see this business as meeting the criteria to be an 8-5pm business in an RP zone. Commissioner Ulvestad agrees.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska				x

**The motion carried with a unanimous verbal vote to deny, 4-0.**

**Other Business:**

**The next meeting will be June 5, 2018. Mike Boyett will not attend.**

**Adjournment:** The meeting adjourned at **5:38p.m.**

**DRAFT:** To be approved by a motion June 5, 2018.

**ATTEST: Robbin Bartley, Administrative Support**



**City Zoning Commission**

**Meeting Date:** 06/05/2018

**SUBJECT:** Zone Change 966 - 21 N 15th Street

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Zone Change 966 – 21 N 15<sup>th</sup> St – Kairos Center** – A zone change request from EBURD- Industrial Sanctuary (EBURD-IS) to EBURD Central Works (EBURD-CW), on Lots 1 through 24 of Block 122; Lots 1 through 24 of Block 123, less a portion of Lot 19 of Block 123 deeded to the State of Montana, Billings Original Town, together with abandoned streets and alleys, a 5.64 acre parcel of land generally located between N 13<sup>th</sup> St and N 15<sup>th</sup> St on the south side of 1<sup>st</sup> Avenue North. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

Planning staff recommends approval based on the findings of the 10 criteria for Zone Change 966.

**APPLICATION DATA**

OWNER: Kairos Center LLC

AGENT: Martin Connell, Managing Member

LEGAL DESCRIPTION: Lots 1 through 24 of Block 122; Lots 1 through 24 of Block 123, less a portion of Lot 19 of Block 123 deeded to the State of Montana, Billings Original Town, together with abandoned streets and alleys

ADDRESS: 21 N 15th Street

CURRENT ZONING: EBURD Industrial Sanctuary (EBURD-IS)

EXISTING LAND USE: Offices, shops, warehouse, manufacturing & storage

PROPOSED USE: Same with residential/office condominiums

SIZE OF PARCEL: 5.64 acres

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
21 N 15th Street	ZC 901	Sept 10, 2012	From HI to EBURD-IS	Yes	EBURD districts adopted
SURROUNDING PROPERTY	Zone Change Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1140 1st Ave N	Annexation	June 27, 1983	Zoned HC at annexation	Yes	
1002 1st Ave N	SR 170	Nov 28, 1983	All Beverage with gaming	Yes	“Stock Exchange”
1004 1st Ave N	Annexation	August 28, 1989	Zoned CI at annexation	Yes	
1002 thru 1200 1st Ave N	ZC 901	Sept. 10, 2012	From HI & CI to EBURD-IS	Yes	EBURD districts adopted
123 N 16th Street	SR 657	April 26, 1999	Allow powder coating business in CI	Yes	
123 N 18th Street	SR 196	Nov 5, 1984	Allow gas/convenience store & car wash	Yes	

1709 1st Ave N	SR 448	Nov 25, 1991	All Beverage with gaming	Yes	Lewis & Clark Inn
2224 Minnesota Ave	SR 872	Jan 27, 2009	Sandblasting	Yes	
920 2nd Ave N	SR 886	Oct 25, 2010	60' Wireless Tower	Yes	Verizon
1123 1st Ave N	SR 575	March 18, 1996	All Beverage with gaming	Yes	The Loft & Wild Willy's Casino

## SURROUNDING LAND USE & ZONING

**NORTH:** Zoning: EBURD-Central Works(CW) and EBURD-13th St Main Street (13MS)  
Land Use: Alpha Overhead Door, Lazy K-T Motel, Rimrock Foundation, Automatic Transmission Company

**SOUTH:** Zoning: EBURD-Industrial Sanctuary(IS) and Controlled Industrial (CI)  
Land Use: Warehouse

**EAST:** Zoning: EBURD-IS and Heavy Industrial (HI)  
Land Use: Billings Auto Auction Lot

**WEST:** Zoning: EBURD-CW  
Land Use: O'Reilly Auto Parts

## BACKGROUND

This is a zone change request from the EBURD-Industrial Sanctuary (EBURD-IS) zone to the EBURD-Central Works (EBURD-CW) zone to allow the Kairos Center property to continue its re-development plan. The current zone does not allow residential dwellings by right, only employee or caretaker units in the former Pierce Packing Plant, now known as the Kairos Center. In addition, the EBURD-IS zone does not allow retail uses. The re-development plan for this building now includes residential apartments and some retail uses.

This property was formerly zoned Heavy Industrial (HI) prior to the formation of the East Billings Urban Renewal District, adoption of the (EBURD) Master Plan, and implementation of the new form-based zoning districts. The Master Plan was started in 2006 and adopted in 2009 along with the Urban Renewal District. In 2009 and 2010, efforts got underway to develop a form-based zoning code for this 400+ acre area east of downtown and west of MetraPark. Based on the Master Plan and guided by an 8-member Steering Committee, the zoning districts were created and the boundaries determined in 2012. The subject property was placed in the EBURD-IS district primarily due to its historical use as a meat packing plant and it intended uses at the time.

The property is adjacent to the EBURD-CW zone to the north and west. It is not dissimilar to these adjacent uses except in building scale and property area. This single property covers over 5.5 acres of land where most surrounding parcels are 1/2 acre to 2 acres in area. The property is located along 1st Ave North, a principal arterial street that carries between 10,000 and 16,000 vehicle trips per day. North 13th Street is a major signalized intersection that anchors the northeast corner of the property. North 13th Street carries over 10,000 vehicle trips per day.

The Kairos Center property is the former Pierce Packing Plant that served the livestock industry throughout the economic region of central and eastern Montana, northern Wyoming and even into the Dakotas. The meat packing plant closed in 1984 after a series of economic and operational challenges. At the time, the plant employed more than 500 people. Marty Connell and the Kairos corporation purchased the property at a Sheriff's Auction in 2000. The current owners have made incremental changes, updates and renovations to the building over the past 18 years. The intent is to finish the renovations and get the building fully occupied as soon as possible. The idea of allowing residential apartments is a new use for the existing building.

## RECOMMENDATION

Planning staff has reviewed the application and the 10 criteria as required by BMCC 27-1502 for zone changes within the city limits. Based on the proposed findings, staff is recommending approval of this zone change. The proposed zone change is compatible with the area land uses, conforms to the adopted master plan goals for the EBURD and the 2016 City of Billings' Growth Policy. The zone change will allow this property to finalize its re-development plan by adding residential uses and retail uses to an existing building.

## **Attachments**

Zoning Map and Site Photos

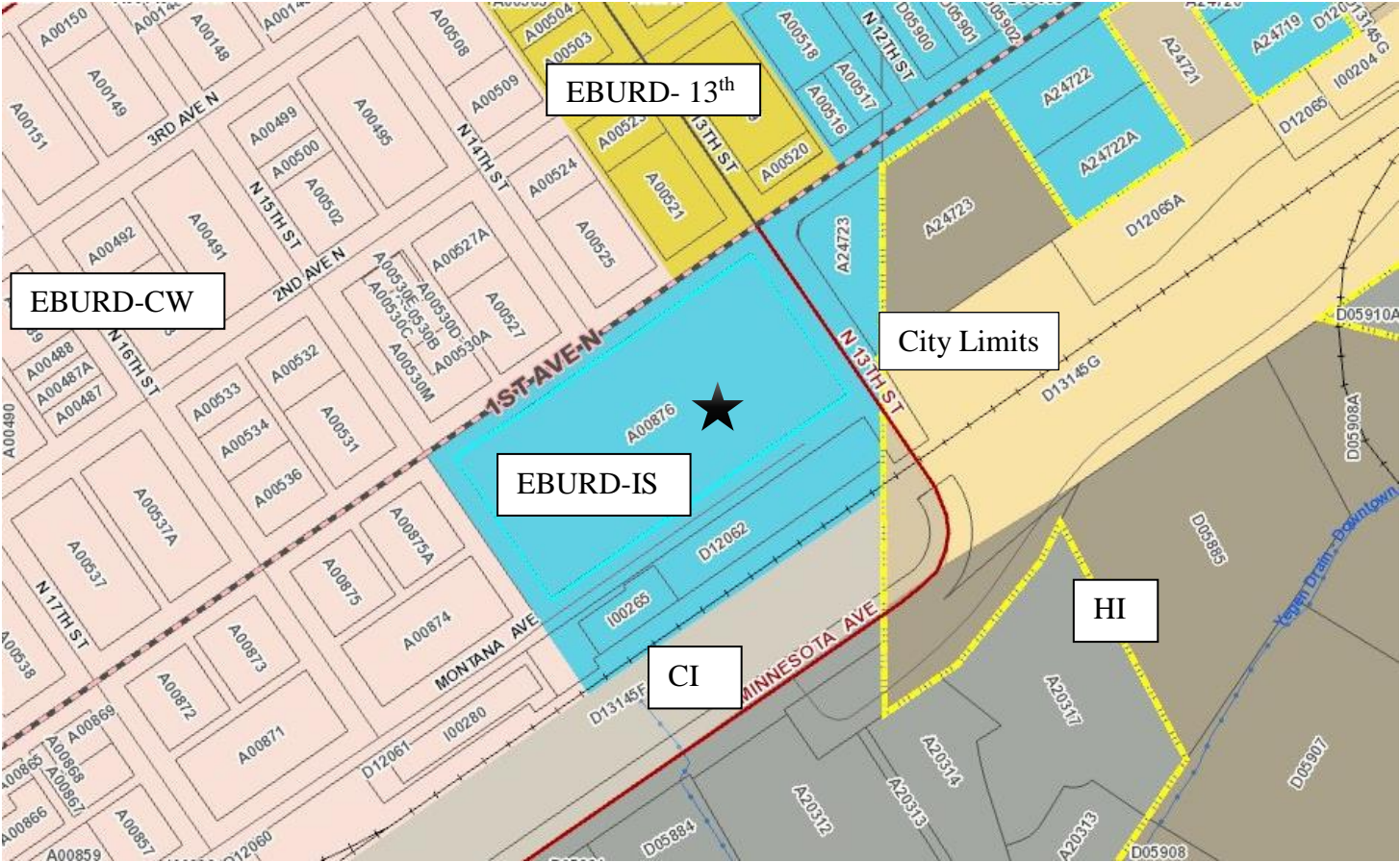
Proposed Findings of the 10 Review Criteria

Applicant Letter and Pre app materials

Letters of Support

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**Surrounding Zoning**  
Zone Change 966 – Kairos Properties



Subject Property



## Subject Property Photos



Subject Property – 1<sup>st</sup> Ave North at N 15<sup>th</sup> Street intersection



View east along 1<sup>st</sup> Ave N

**Subject Property Photos**



View west along 1<sup>st</sup> Ave N at N 15<sup>th</sup> St intersection



View south along N 15<sup>th</sup> St from 1<sup>st</sup> Ave N

**Subject Property Photos**

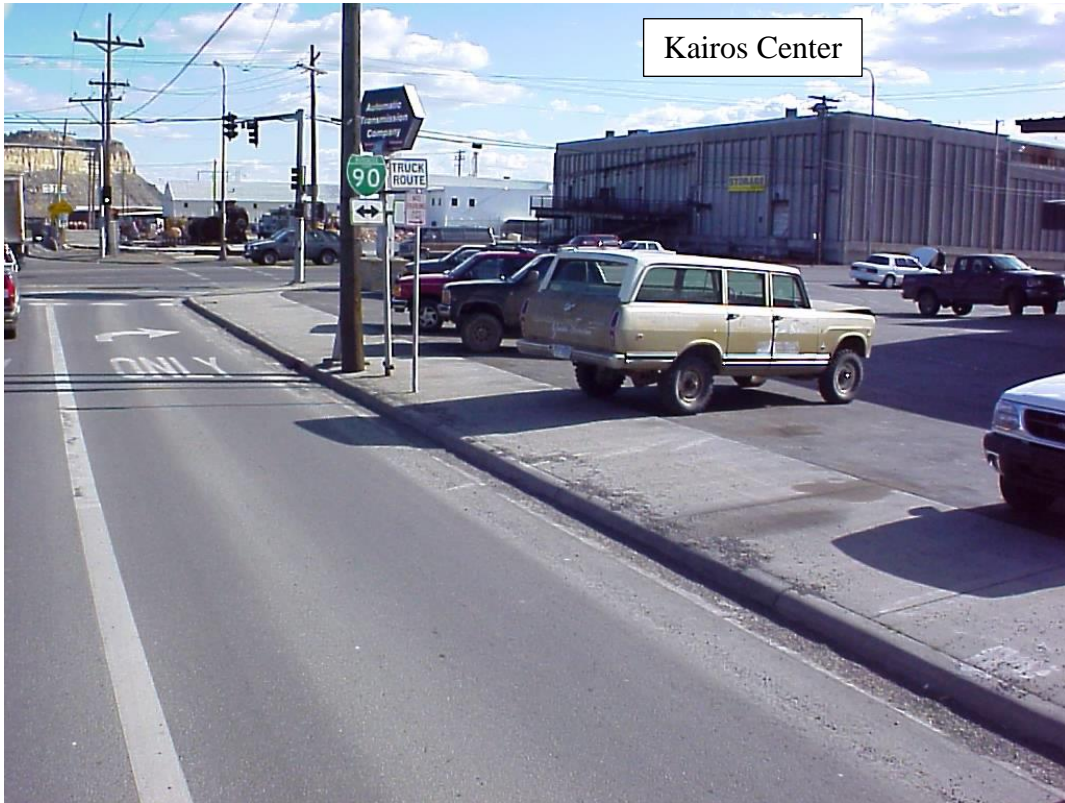


View of subject property from N 15<sup>th</sup> St



View north and east across 1<sup>st</sup> Ave N

**2003 Street Side Photos**



Subject Property – View from N 13<sup>th</sup> Street southbound



View east from 1<sup>st</sup> Ave North at N 15<sup>th</sup> Street

**2003 Street Side Photos**



View north east from N 15<sup>th</sup> Street



View west along Montana Avenue from N 13<sup>th</sup> Street

**Current Photos – Google Street View**



Subject Property – View from N 13<sup>th</sup> Street southbound



View east from 1<sup>st</sup> Ave North at N 15<sup>th</sup> Street

**Current Photos – Google Street View**



View north east from N 15<sup>th</sup> Street



View west along Montana Avenue from N 13<sup>th</sup> Street

## **Zone Change #966 – 21 N 15<sup>th</sup> St**

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:

- Home Base: A mix of housing types that meet the needs of a diverse population is important; Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe;

The proposed zoning would allow the developer to include residential uses as part of this mixed use building. The City recently completed a Housing Needs Assessment for the EBURD and Downtown areas. The study found there will be an increasing demand for a wide variety of housing choices in the EBURD and Downtown. The current zoning does not allow residential uses. Financing improvements or sale of the property is unnecessarily complicated by the current zoning. The property will provide a unique housing option in this area of the EBURD.

- Strong Neighborhoods: Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels; Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction; Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed zoning will allow the owner to develop apartments within the current building and complete the re-development of the property. The residential uses will fit with the existing and potential uses in the area.

- Prosperity: A diversity of available jobs can ensure a strong Billings' economy; Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses; Retaining and supporting existing businesses helps sustain a healthy economy

The proposed zoning will allow the owner to offer retail spaces within the existing building. This will assist in filling the remaining vacant areas within the building and help retain and grow new local small businesses.

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

The new zoning is a form-based code that requires site development standards and regulates uses to a lesser degree. The implementation of the form-based code along with Building and Fire codes during re-development will 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 property has the potential to allow apartment dwelling units. Daytime and evening occupancy of the building will provide more security in the area. A full re-development of the building and grounds will benefit the general welfare. Since purchasing the property in 2000, the property tax revenue generated to the city has increased from about \$12,000/year to over \$65,000/year. This increase in value is much greater than surrounding properties. Finalizing the re-development will stabilize this investment.

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

Transportation: The proposed zoning will not have any effect on the existing transportation system.

Water and Sewer: The City provides water and sewer to the property. 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 is 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 building separations to allow for adequate light and air.

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

The new zoning will have no effect on transportation systems.

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

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to continue and complete its redevelopment and allow compatible uses to be included in this revitalization plan.

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 and west of the subject property and is an appropriate zone with the adjacent businesses and arterial streets.

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

The building on the property has been remodeled and re-purposed over the past 18 years. Approval of the zone change will conserve the value of the property and will allow the redevelopment plan be responsive to the market in this area of Billings. The value of existing buildings and the parcel will be improved and conserved by the proposed zoning

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

The proposed zoning will encourage the full redevelopment of the property by allowing 2 additional uses. This is the most appropriate use of the land at this location

Applicant Letter and Pre app materials  
 Zone Change 966 – 21 N 15<sup>th</sup> Street  
 Pre-Application Zoning Meeting Synopsis

<b>MEETING:</b>	<b>Location:</b> 49 N 15 <sup>th</sup> St, Ste 2 <b>Day/Date:</b> Monday, April 30, 2018 <b>Time:</b> 1:30 p.m. to 2:20 p.m.
<b>ATTENDEES:</b>	Bob Weber Tim Goodridge
<b>MAILED SUPPORT LETTERS:</b>	Lenette Kosovich at Rimrock Tim Goodridge at BIRD Scott Chesarek at J & S Properties, Inc. Mary Lee Connell at Phoenix Industries Charles Yegen at Peter Yegen, Jr., Inc.
<b>AGENDA ITEMS</b>	
<p>Summary of Meeting:</p> <ol style="list-style-type: none"> <li>1. Meeting was held at the facility of the zoning change request at 49 N 15<sup>th</sup> St, Ste 2</li> <li>2. Provided a list of surrounding property owners</li> <li>3. Provided the legal description of subject parcels</li> <li>4. Provided the map showing dimensions, acreage and location of parcels</li> <li>5. Provided photographs and artist renditions of proposed residential/office spaces from Montana Avenue</li> <li>6. Discussed the benefits of the zoning change from Industrial Sanctuary to Central Works and why it can't currently be used for residential and more office spaces.</li> <li>7. Discussed benefits of having possible residential and more offices in the neighborhood</li> <li>8. Received comments from surrounding area property owners</li> </ol>	
<b>DECISIONS MADE</b>	Need work force housing and more people working and living in the EBURD. This increases the safety of the EBURD.
<b>ISSUES IDENTIFIED</b>	Need offices and housing





Kairos Center - Montana Avenue View

# Article 27-1800. East Billings Urban Revitalization District Code

Uses	EBURD Districts				
	Rail Spur Village Main Street	Rail Spur Village	Central Works	13th Street Main Street	Industrial Sanctuary
<b>KEY</b>					
●	Permitted				
○	Permitted in Upper Stories Only				
⦿	Permitted with Development Standards				
○	Requires a Special Review				
<b>Residential &amp; Lodging</b>					
Residential	○	●	●	○	●
Lodging & Residential Care	○	●	●	○	●
<b>Civic</b>					
Assembly	○	●	●	○	●
Hospital	○	●	●	○	●
Library/Museum	●	●	●	●	●
Police and Fire	●	●	●	●	●
Post Office	●	●	●	●	●
School	○	●	●	○	●
<b>Retail &amp; Wholesale</b>					
General Retail	●	●	●	●	●
Commercial Equipment &		●	●	●	●
Outdoor Sales Lot		⦿	●	●	●
<b>Service</b>					
General Service	●	●	●	●	●
Large Scale Entertainment			●	●	●
Vehicle Service	●	⦿	●	●	●
<b>Office</b>					
Office	●	●	●	●	○
<b>Industrial</b>					
Craftsman Industrial	⦿	●	●	●	●
General Manufacturing			●	●	●
Warehousing & Distribution		●	●	●	●
Heavy Manufacturing					⦿
Transportation Facilities			●		●
Sexually Oriented Business			○	○	○
<b>Infrastructure</b>					
Parking Lot	⦿	⦿	⦿	⦿	⦿
Utility & Infrastructure		○	●	○	●
Wireless Transmission Facility	○	○	○	○	○
Open Space	⦿	⦿	⦿	⦿	⦿

Uses	EBURD Districts				
	Rail Spur Village Main Street	Rail Spur Village	Central Works	13th Street Main Street	Industrial Sanctuary
<b>Accessory Uses</b>					
Outdoor Storage of Material	●	●	●	●	●
Employee/Caretaker Units	⦿	⦿	⦿	⦿	⦿

Table 27-1806-1. Use Table by District.

rooms. Rooms shall be accessed from the interior of the building.

- (e) Civic Uses. A category of uses related to fulfilling the needs of day-to-day community life including assembly, public services, educational facilities, hospitals, and cemeteries.
- (1) Assembly. A facility that has organized services, meetings, or programs to benefit, educate, entertain, or promote discourse amongst the residents of the community in a public or private setting. Assembly includes such uses as a community center, house of worship, and private clubs and lodges. Residential uses accessory to and on the same lot as an assembly use, such as a convent, parish house, or caretaker's home, are also permitted.
  - (2) Hospital. A licensed institution providing medical care and health services to the community. These services may be located in one (1) building or clustered in several buildings and may include laboratories, in- and out-patient facilities, training facilities, medical offices, staff residences, food service, pharmacies, and gift shop.
  - (3) Library/Museum. A structure open to the general public housing educational, cultural, artistic, or historic information, resources, and exhibits. May also include food service and a gift shop.

Letters of Support  
Zone Change 966 - 21 N 15<sup>th</sup> St



Nicole Cromwell  
Planning & Community Services  
510 N Broadway, 4th Floor  
Billings, MT 59101

Dear Nicole

Billings as a whole is not content to remain static. Improvements in the city that encourage economic development will be the catalyst to really make Billings the destination to live, work and play. Kairos Properties, LCC are located in the BIRD. A primary objective in the BIRD's strategic plan is to encourage the development of residential property. The project that Kairos Properties is proposing would be a great start in encouraging this desirable growth.

Therefore, this letter is in support of a zoning change from Industrial Sanctuary to Central Works in order for Kairos Properties, LLC add residential condominiums and offices. I believe there will be a great deal of interest from people seeking this additional type of living accommodations.

Thanks for your consideration for this important endeavor.

Sincerely,

A handwritten signature in black ink, appearing to read "Lenette Kosovich", written in a cursive style.

Lenette Kosovich  
CEO Rimrock  
BIRD Board Member

# PETER YEGEN, JR., INC.

*"The Insurance Men"*

ESTABLISHED 1919

BILLINGS, MONTANA

INSURANCE  
REAL ESTATE  
SURETY BONDS

211 NORTH 30TH STREET  
BOX 959  
ZIP 59103

4-26-2018

Nicole Cromwell  
City Planning  
2825 3<sup>rd</sup> Ave N. 4<sup>th</sup> Floor  
Billings, MT 59101

Regarding :

Kairos Properties, LLC. Zoning change

Dear Ms. Cromwell,

This zoning change from Industrial Sanctuary to Central Works related to this property will benefit the surrounding neighborhood in which we are property owners.

We feel that the opportunity to provide habitational use in this property will add additional opportunity for the development of business ventures that would serve and support those residents.

The Kairos Properties, LLC, people have done nothing but good things to what once was considered a dangerous and unsightly fossil in a deteriorated neighborhood of our city. Their efforts on site and throughout the immediate and expanded sector of Billings have been exemplary.

This is a known, repeatedly proven entity requesting a change that makes sense to their future vision of the development of their property. It makes sense to us to support and encourage community builders of vision who are improving our city.

306 LLC



By, Charles G. Yegen, Managing Member



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(406) 252-0163  
[www.pyegen.com](http://www.pyegen.com)



1413 4<sup>th</sup> Avenue North, Suite C • Billings, MT 59101

April 25, 2018

Planning and Community Services  
City of Billings  
2825 3<sup>rd</sup> Ave. North  
Billings, MT 59101

The BIRD supports Kairos Properties LLC in a zoning change from Industrial Sanctuary to Central Works. Kairos Properties is contiguous to Central Works and the change will allow them to build residential units & offices.

Encouraging more people to live in the East Billings Urban Renewal District (EBURD) is a key recommendation of the EBURD Master Plan. Urban neighborhoods need people working, people shopping and people living in them to sustain a vibrant, safe community.

It has been 60 years since any housing has been built in the EBURD. New workforce housing is needed to make living here attractive.

The goal of the Downtown Housing Study, completed in 2017, is to capture 10% of the multifamily housing market in Billings over the next 10 years. This means we need to build 200 units downtown. Making this zone change will help us get started.

Please support the Kairos Properties zone change from Industrial Sanctuary to Central Works.

Very Truly Yours,

Tim Goodridge  
EBURD Coordinator

**1413 4<sup>th</sup> AVE N, SUITE C - BILLINGS, MONTANA 59101**

**Phoenix Industries Inc.**


1400 Montana Ave.  
Billings, MT 59101

Nicole Cromwell  
Planning & Community Services  
2625 3<sup>rd</sup> Ave. N 4<sup>th</sup> Floor  
Billings, MT 59101

Dear Nicole:

I am writing on behalf of my company in support of the zone change that Kairos Properties LLC is requesting. Central Works zoning makes the most sense for them. They are good neighbors. More people will be good for the infill policy of the City. More good people less crime.

Sincerely,



Mary Lee Connell  
Vice President

# J & S PROPERTIES, INC

P.O. BOX 31292, BILLINGS, MT 59107

406-248-8103

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April 24, 2018

Nicole Cromwell  
Planning & Community Services  
2625 3<sup>rd</sup> Ave N 4<sup>th</sup> Floor  
Billings, MT 59101

Nicole:

I am writing on behalf of my company in support of Kairos Properties LLC request to change their zoning from Industrial Sanctuary to Central Works. I cannot be present at the public hearing on Monday April 30<sup>th</sup>. I cannot attend as my partner and I will be out of the country.

Kairos Properties are our neighbors and we think it will be an improvement to the EBURD to have more people working and living in this area.

Sincerely,



Scott Chesarek



**City Zoning Commission**

**Meeting Date:** 06/05/2018

**SUBJECT:** Zone Change 967 - 430 Josephine Drive

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Zone Change 967 – 430 Josephine Drive** – A zone change request from Residential Multi-Family (RMF) to Community Commercial (CC) on Lot 15 of Josephine Subdivision, a 1.724 acre parcel of land generally located on the southeast corner of the intersection of Lake Elmo Drive and Josephine Drive. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

Planning staff is recommending approval based on the findings of the 10 review criteria as required by BMCC 27-1502 for Zone Change 967.

**APPLICATION DATA**

OWNER: Orville Kurtz  
 AGENT: David Goodridge  
 LEGAL DESCRIPTION: Lot 15, less 3,167 sf for Lake Elmo, of Josephine Subdivision  
 ADDRESS: 430 Josephine Drive  
 CURRENT ZONING: Residential Multi-Family (RMF)  
 EXISTING LAND USE: Single family dwelling, over-sized shop, commercial storage yard  
 PROPOSED USE: Same with a taxi cab company  
 SIZE OF PARCEL: 1.724 acres

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
430 Josephine Dr	City ZC 490	Nov 18, 1985	RMF to CC	No	Proposed Auto Repair for car rental company
SURROUNDING PROPERTY	Zone Change Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
429 Josephine Dr	County ZC 203	Sept 1978	RMF to CC	Yes	Long Construction
441 Josephine Dr	City ZC 913	July 22, 2013	CC to RMH	Yes	Replace a MH
491 Hilltop	City ZC 622	Sept 8, 1997	RMF to CC	Yes	Mini-storage warehousing

917-921 Lake Elmo	County ZC 232	May 1, 1979	RMF to RP	Yes	New office bldg
832 Lake Elmo	City ZC 285	April 28, 1980	RMF to RP	No (withdrawn)	New office
832 Lake Elmo	City ZC 297	Nov 24, 1980	RMF to RP	Yes	New office
822 Lake Elmo 331 & 333 Hunt Lane	City ZC 297	Nov 24, 1980	R-60 to RP	Yes	New offices
1125 Lake Elmo	City ZC 922	Aug 25, 2014	RMF-R to CC	Yes	Mini-storage warehousing
1540 Lake Elmo	City ZC 543	Oct 15, 1990	R-70 to RP	Yes	New office bldg
743 Lake Elmo	City ZC 253	June 5, 1979	R-60, R-70 & NC to CC	Yes	Mini-storage warehousing

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning: Community Commercial (CC) Land Use: Long Brothers Trucking, Storage and Construction
SOUTH:	Zoning: Residential Multi-Family (RMF) Land Use: Single family dwellings
EAST:	Zoning: RMF Land Use: Single family and multi-family dwellings
WEST:	Zoning: RMF Land Use: Multi-family dwellings

## BACKGROUND

The proposed zoning, Community Commercial (CC), will allow the owner to sell the property without the financial and legal burden of its legal non-conforming status for zoning. The new owner can continue the commercial use of the property in conformance with the new zoning district designation. The new owner, City Cab, needs a property where there is space to store the cab fleet, do minor repairs and maintenance on the vehicles and where the business owner can reside. This property provides these essential qualities. Cab and taxi service is in high demand in Billings, where the aging population will need to rely on alternative modes of transportation in the decades to come. When this property was zoned RMF in the County in 1973, Mr. Kurtz's business, Heights Equipment Repair, had already been in business for at least a decade. The business has been a legal non-conforming use since 1973. Mr. Kurtz has retired and would like to sell the property.

The property is located at the intersection of Lake Elmo Drive, a collector street and Josephine Drive, a local street. Property to the north is zoned CC and has been used by the Long Brothers for warehousing, storage for a trucking company and heavy contractor's storage. This business to the north has existed before zoning was adopted in 1973. Property to the east, south and west across Lake Elmo Drive is zoned Residential Multi-family (RMF). These properties are developed for single family and multi-family dwellings. Lake Elmo Drive carries about 11,000 vehicle trips per day, a heavy traffic load for a collector street. The city re-built Lake Elmo Drive about 10 years ago to add curbs, gutter, sidewalk, a center turn lane, and a multi-use path. Prior to this reconstruction, Lake Elmo Drive had no sidewalks, curbs or gutters in this section. Josephine Drive provides an east/west connection between Main Street and Lake Elmo Drive. A one-time traffic count over 10 years ago, showed about 1,500 vehicle trips per day. Josephine Drive has only a 20-foot paved street section without curb, gutter, parking lanes or sidewalks.

The legal non-conforming uses and status of the property makes it difficult to insure, maintain, sell, re-finance or invest in property improvements. A non-conforming property tends to become neglected due to these substantial legal and financial difficulties. It also tends to bring down adjacent property values due to this dis-investment. The proposed zoning will alleviate this burden and allow the property to stabilize as a conforming use. The site does not meet the city's current site development standards for issues such as storm water management, parking, paving, screening and landscaping. Any new buildings or significant changes in use will trigger compliance with some or all of these site development requirements. The proposed use, City Cab, is not significantly different than the prior use by Mr. Kurtz.

## RECOMMENDATION

Planning staff has reviewed the application and the 10 review criteria as required by BMCC 27-1502 for this zone change and is recommending approval based on the proposed findings. The proposed zoning, CC, is consistent with the 2016 Growth Policy and the 2006 Heights Neighborhood Plan. The Heights Neighborhood Preferred Land Use map shows this area as a future mixed use area. It was anticipated this area would combine a mixture of residential, offices, retail and service businesses. The proposed zoning is consistent with this goal and land use map. The property's non-conforming status is an economic burden to the current owner and any future owner who would like to preserve, maintain, and continue the existing uses. Removing this burden is consistent with the 2016 Growth Policy for economic growth and sustainability. Any potential future uses or new buildings would trigger compliance with the city's site development standards and this is consistent with the 2016 Growth Policy on well developed public and private landscapes.

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### **Attachments**

Zoning Map and Site Photos

Proposed Findings of the Review Criteria

Applicant Letter and Pre-app materials

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**Subject Property Photos**



Subject Property – from Lake Elmo Dr at Josephine Dr intersection (west side)



View south and east across subject property from Lake Elmo Dr

**Subject Property Photos**



Subject Property

View south along Lake Elmo Drive



View south and west across Lake Elmo Drive

**Subject Property Photos**



Single family residence

View east across subject property from Lake Elmo Drive



Subject Property

View north along Lake Elmo Drive

**Subject Property Photos**



View east along Josephine Drive



View north and east across Josephine Drive

**Current Photos – Google Street View**



Subject Property – View from Josephine Drive – south and west



Subject Property – View from Josephine Drive – south

## Zone Change #967 – 430 Josephine Drive

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

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- Strong Neighborhoods: Neighborhoods that are safe and attractive and provide essential services are much desired.

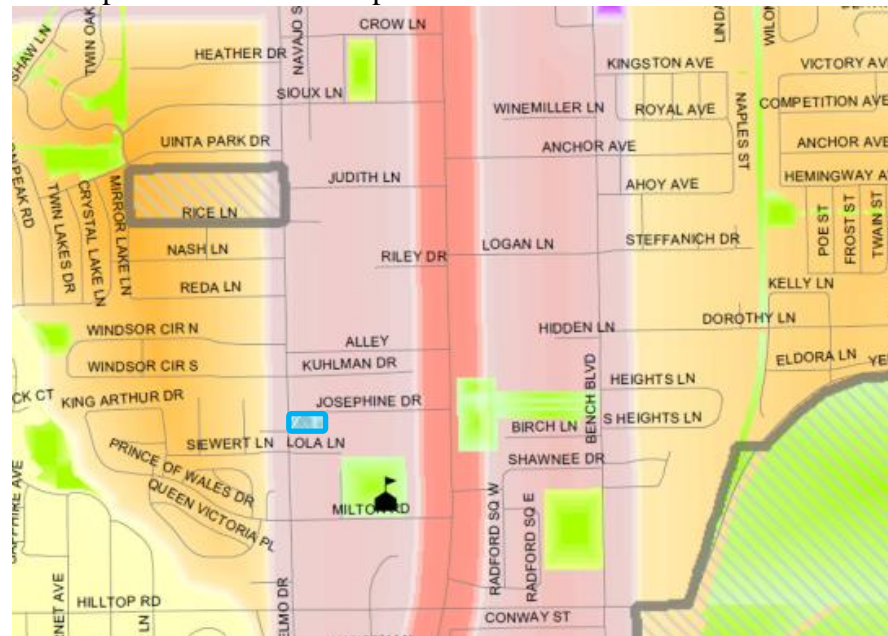
The proposed zoning will allow the owner to sell the property without the burden of a non-conforming use. The new owner can continue the commercial use of the property in conformance with the zoning regulations. The new owner, City Cab, needs a property where there is space to store the cab fleet, do minor repairs and maintenance on the vehicles and where the business owner can reside. This property provides these essential qualities. Cab and taxi service is in high demand in Billings, where the aging population will need to rely on alternative modes of transportation in the decades to come.

- Prosperity: A diversity of available jobs can ensure a strong Billings' economy; Retaining and supporting existing businesses helps sustain a healthy economy

The proposed zoning will allow the new owner to re-locate within the city limits in order to sustain and grow his business. Transportation services provides a strong economic foundation for the Billings community. Supporting and retaining existing transportation companies is a goal of the 2016 Growth Policy.

- Prohibit high intensity commercial development in residential areas by implementing the preferred future land use map for the Heights Neighborhood Plan to guide development through zoning requests.

The 2006 Billings Heights Neighborhood Plan adopted a preferred land use map. The area between Lake Elmo Drive and Main Street was designated as a commercial mixed use area. The proposed zoning aligns with the preferred land use map.



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

The new zoning, as do all standard zoning districts, requires separation between buildings and setbacks from property lines. This should 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 property has been a legally non-conforming use of land since 1973 – 45 years. A property with this type of legal limitation on its entitlement can bring down adjacent property values. Property owners tend not to invest, re-finance or upgrade these properties due to the inherent financial difficulties. Providing this property with a conforming zoning district will support the general welfare by taking this property out of financial jeopardy.

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

- Transportation: The proposed zoning will not have any effect on the existing transportation system.
- Water and Sewer: The City provides sewer and the Billings Heights Water District provides water to the property. 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 is 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 building separations to allow for adequate light and air.

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

The new zoning will have no effect on transportation systems.

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

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to be sold without the legal and financial burdens of a legal non-conforming land use. The property, and the businesses located here, are part of the fabric of this area of Billings Heights. The area between Main Street and Lake Elmo Drive is recognized as an area for mixed uses including residential, offices, service businesses as well as retail businesses.

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 businesses and collector streets.

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

The value of existing buildings and the parcel will be improved and conserved by the proposed zoning. The existing zoning would not allow the reconstruction or re-use of some of these building except for an identical use.

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

The proposed zoning will encourage the maintenance and sale of the property by allowing new and similar uses. This is the most appropriate use of the land at this location

Applicant Letter and Pre app materials  
Zone Change 967 – 430 Josephine Drive



David Goodridge  
1010 Grand.  
Billings, Mt  
59102  
(406)591-1605

April 30, 2018

City of Billings Zoning  
Summary of Discussion of April 27<sup>th</sup> Pre-App Meeting in regard to Zone Change for 430 Josephine Dr.

To Whom it may concern:

See the list of questions asked at the meeting which started at 6:05 PM to allow for any late comers.

- It was asked if there would be surface requirements for the lot where the dry RV storage is with the new zoning of Community Commercial (CC).
- It was asked if the CC zoning would overlap onto one of the neighboring properties.
- One of the attendees was very adamant about knowing exactly what type of business was looking to buy the property. The potential new buyer spoke up at that point and told them he ran a cab business.
- It was explained to the folks that the property was too close to a school property for a bar/casino to operate there without a variance.

Sincerely,

A handwritten signature in blue ink that reads "David Goodridge". The signature is fluid and cursive, with the first and last names being the most prominent.

David Goodridge  
Commercial & Residential Real Estate Specialist

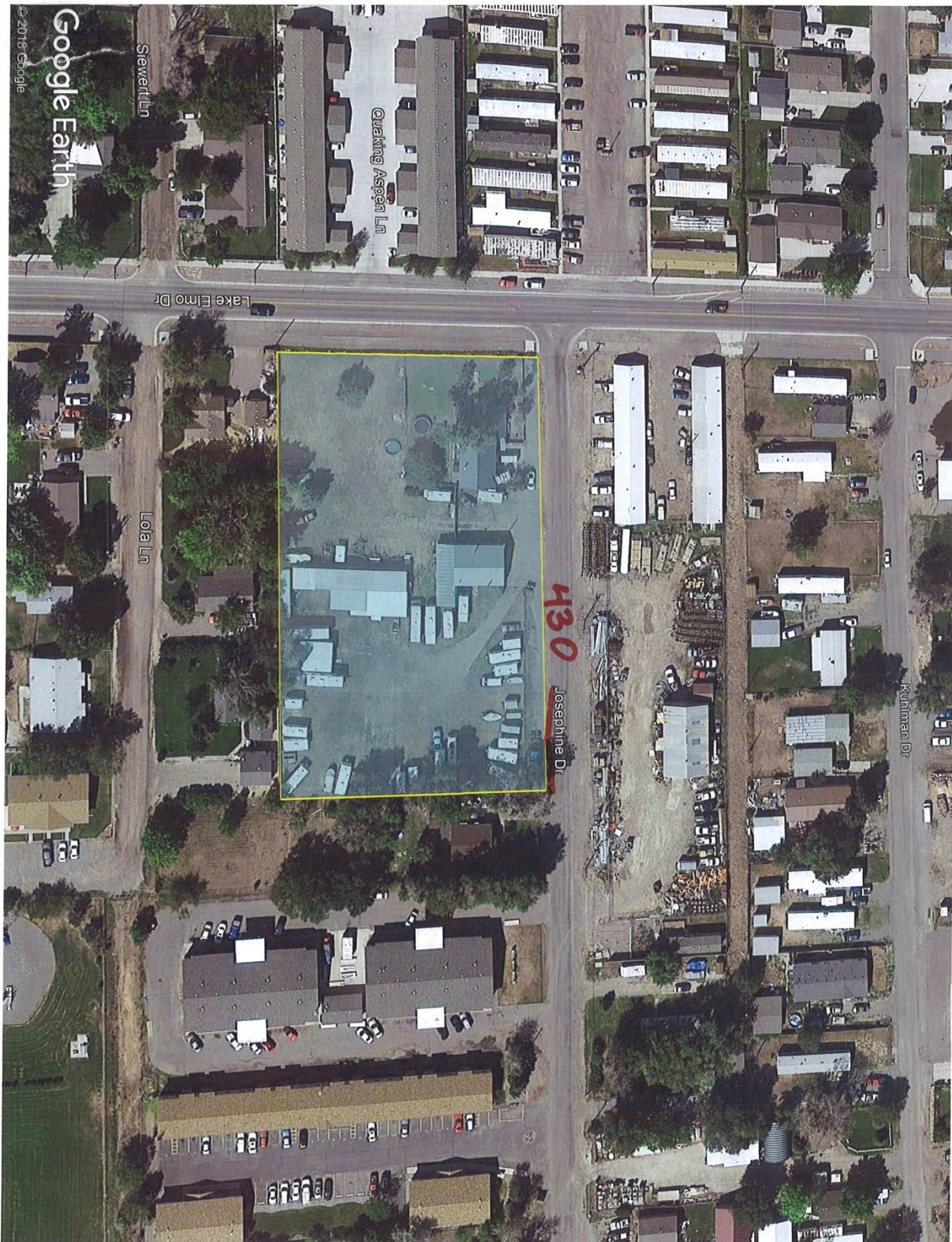
4/27/18 Pre-App meeting

	Name	Address	Phone #	Email
1	Tom & Cathy	1747 W 18th	252 3220	
2	Scott Lowman	419 <sup>100th</sup> 1003 <sup>94th</sup> EMO		
3	Judy Johnson	429 Lake Dr.	245-4942	
4	Sue Rozema	416 Kula Dr	245-2544	
5	Tom Ellis	2008 Arthur Dr	252-6399	
6	Ben & Marie Miller	1341 1/2 St. Dr.	866-2425	
7	Carl Miller	451 Sahuquillo Dr	670-4482	
8	Harmon & Judy Hill	948 Lake Elmer Dr	252-2912	
9	Cather Ruzema	451 Douglas	252-5948	
10	David Goodridge	811 N 31st St	591-1605	
11	Avile Kutz	Owner of property		
12				
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22				

## 430 Josephine Dr.



- 387 ft x 220 ft
- 1.0724 Acres
- Currently zoned **Residential Multi Family (RMF)**



© 2018 Google

Google Earth

Stewart Ln

Quaking Aspen Ln

Lake Elm Dr

Lola Ln

430

Josephine Dr

Kuhnman Dr





**City Zoning Commission**

**Meeting Date:** 06/05/2018

**SUBJECT:** Special Review #964– 3415 Grand Avenue – All Beverage with Gaming

**THROUGH:** Monica Plecker

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**Special Review #964– 3415 Grand Avenue – All Beverage with Gaming** - This is a special review request to allow the location of an All-Beverage Liquor License with Gaming (bar & casino) as part of a new Town Pump gas station convenience store and liquor store in a Community Commercial (CC) zone on proposed Lot 1, Block 5 of Zimmerman Home Place Subdivision, 2nd filing a 3.39 acre parcel of land. Tax ID: A36266. Presented by Karen Husman, Planner I.

**RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 964.

Special Review applications are reviewed using BMCC Section 27-1503, the three criteria referenced in the Alternatives Analyzed section of this memo. Special Reviews do not require an ordinance for approval, are not zone changes on property; rather, are tied to specific uses that are allowed in a given zoning district but are subject to a review by the City prior to the use being allowed. Special Reviews, unlike zone changes, may be conditioned to mitigate possible impacts from the use on the subject property or surrounding properties.

**APPLICATION DATA**

**OWNER:** Town Pump, Inc.  
**LEGAL DESCRIPTION:** Lot 1, Block 5, Zimmerman Home Place Sub. 1st Filing  
**ADDRESS:** 3415 Grand Avenue  
**CURRENT ZONING:** Community Commercial  
**EXISTING LAND USE:** Vacant/Agricultural  
**PROPOSED USE:** All Beverage with Gaming  
**SIZE OF PARCEL:** 3.39 acres

**CONCURRENT APPLICATIONS**

Zimmerman Home Place Subdivision, 2nd Filing.

**APPLICABLE ZONING HISTORY**

## Subject Property

Prior to subdivision approval in 2017, Zone change #675 was approved for the property August 2, 2016. The parcel was annexed by the City of Billings on May 14, 2018.

## Surrounding Properties

There has been one special review approved in the surrounding area that is similar to the submitted application. SR. # 831 received conditional approval for a beer and wine license with no gaming at 1335 Golden Valley Circle which is located southeast of the intersection of Zimmerman Trail and Grand Avenue.

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning:	Community Commercial- CC
	Land Use:	Vacant Ag
SOUTH:	Zoning:	Planned Development- PD
	Land Use:	Residential
EAST:	Zoning:	Community Commercial- CC
	Land Use:	Retail
WEST:	Zoning:	Community Commercial- CC
	Land Use:	Retail

## BACKGROUND

This is a special review request to allow the location of an All-Beverage Liquor License with Gaming (bar & casino) as part of a new Town Pump gas station convenience store and liquor store in a Community Commercial (CC) zone on proposed Lot 1, Block 5 of Zimmerman Home Place Subdivision, 2nd filing, a 3.39-acre parcel of land.

According to the 2016 Billings Urbanized Traffic Count Map there are no traffic counts available for this section of Zimmerman Trail. The closest traffic count on Zimmerman Trail is north of Rimrock Road at 11,890 trips. The closest traffic count for Grand Avenue is 14,000 trips. Zimmerman Trail and Grand Avenue are both considered principle arterial streets.

The applicants are proposing construction of a new Town Pump gas station with a convenience store, lounge, liquor store and casino on the recently annexed parcel of land on the northeast corner of Grand Ave. and Zimmerman Trail. The City requires a special review any time an existing or new on-premise liquor license is located within the city limits. The City does not control the number of on-premise liquor licenses that may be issued by the state. The City can specify appropriate zoning districts, separation requirements and provide for conditions of approval to mitigate any potential negative effects of the location on an on-premise liquor license.

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 as required by BMCC 27-1503: 1) The application complies with all parts of the Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Zoning Regulations and the 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 any on-premise liquor license in a CC zone may apply for a special review. The proposed site plan meets all the requirements of the zoning regulations for setbacks, building height, clear vision areas and lot coverage.

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

- **Essential Investments: Infill development and development near existing City infrastructure may be the most cost effective.**

The development of a vacant parcel in an area close to established commercial areas will be a cost effective

project where City infrastructure and some services already exist.

- **Strong Neighborhoods and Essential Investments: Neighborhoods that are safe and attractive and provide essential services are much desired. Infill development and development near existing City infrastructure may be the most cost effective.**

The proposed special review will promote infill development of an existing parcel where there are City services and infrastructure near the site. This will provide an additional services to those residents within the surrounding neighborhoods.

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

This development will allow a new business to be located in a growing area of Billings, creating new jobs. This development will help support and sustain the tax base for Billings.

The application also meets the *third* criteria in that it is compatible with surrounding land uses in the area. This site is in a growing area of Billings, with good access to transportation choices. The area provides access to essential everyday services such as restaurants, retail shopping, convenience shopping and services. 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.

## **SUMMARY**

### 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.

## **RECOMMENDATION**

The Planning Division recommends conditional approval.

1. This special review request is to allow the location of an All-Beverage Liquor License with Gaming (bar & casino) as part of a new Town Pump gas station, convenience store and liquor store in a Community Commercial (CC) zone on proposed Lot 1, Block 5 of Zimmerman Home Place Subdivision, 2nd Filing. This approval is directly impacted by the concurrent application of the proposed Zimmerman Home Place Subdivision, 2nd filing. If approved, these conditions will reflect this approval is for Lot 1, Block 5, Zimmerman Home Place Subdivision 2nd filing, a 3.39 acre area of land located northwest of the intersection of Zimmerman Trail and Grand Avenue only.
2. The special review approval is for the construction of a 15,729 square foot building for a gas station, convenience store, liquor store (and casino) with an all beverage license with gaming, no other use or development 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. No construction or demolition activity will occur before 7 am or after 8 pm daily.
5. The site will be developed in conformance with all applicable zoning and site development regulations, as well as the submitted site plan including required landscaping, parking and building locations.
6. A site obscuring fence shall be constructed and maintained to buffer the neighboring residential structure.
7. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.
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.

**\*\*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.

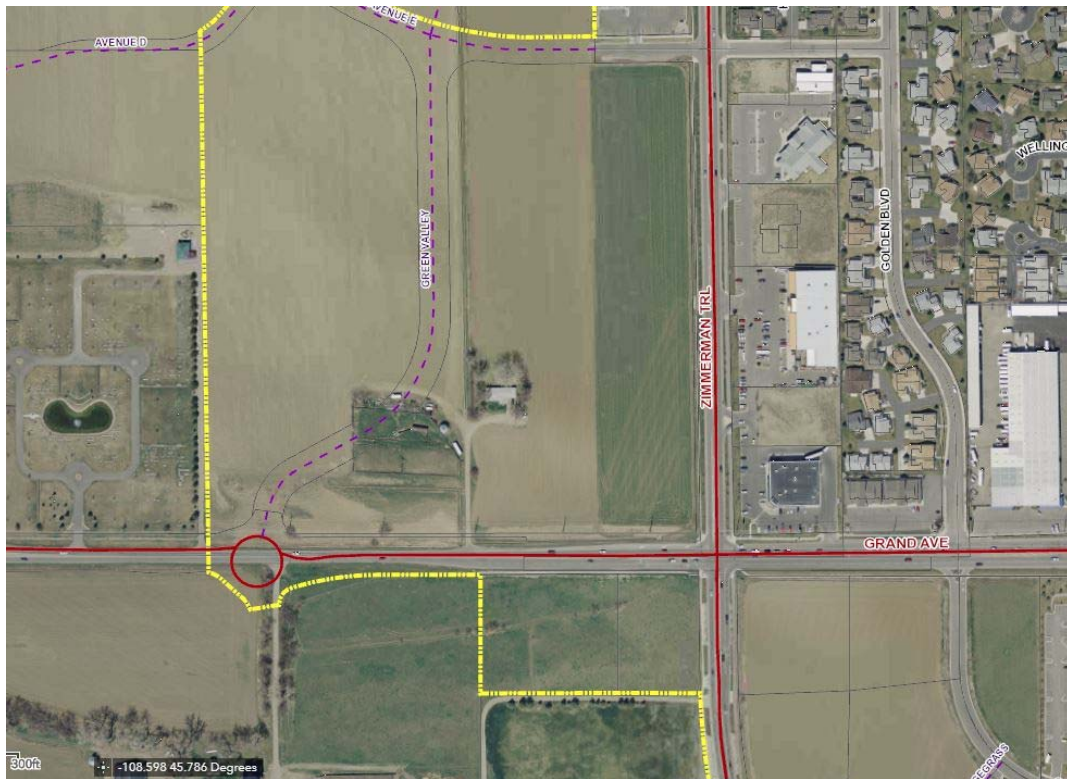
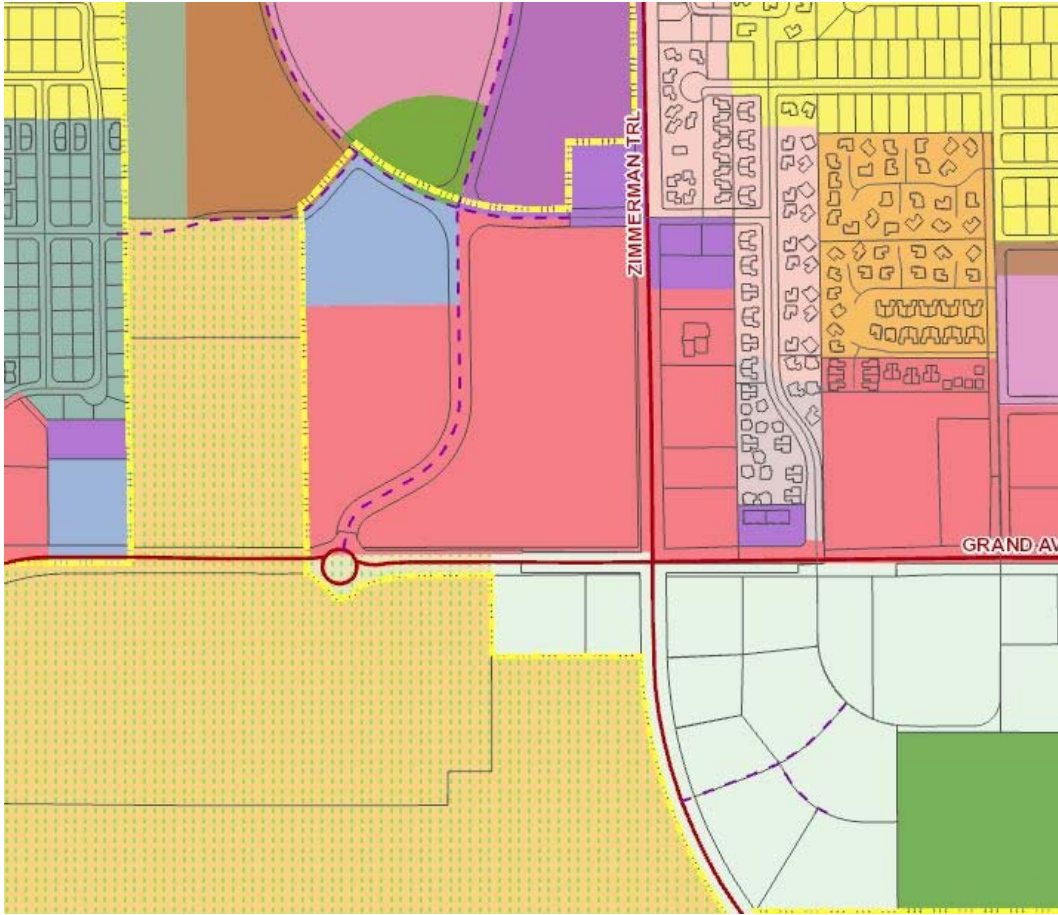
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### **Attachments**

Zoning Map & Site Photos  
Application, Applicant letter & Site plan  
Letters in opposition

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Attachments:  
Zoning Map & Site Photos



Attachments Continued



Subject Property



Looking North

Attachments Continued



North east



South

Attachments Continued



East



West

Attachments:  
Application, Applicant letter Site Plan

**APPLICATION FORM**

CITY SPECIAL REVIEW Billings Special Review# 964 - Project # P2-18-00072

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

Present Zoning: Community Commercial

Special Review Requested: TO ALLOW A CASINO WITH A GAS/CONVENIENCE STORE @ THE NW CORNER OF ZIMMERMAN & GRAND

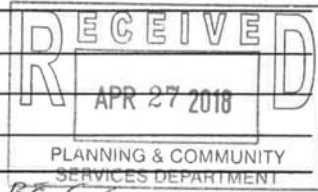
TAX ID# A36266 CITY ELECTION WARD # 5

Legal Description of Property: LOT 1, Block 5, Zimmerman Home Place Subdivision, First Filing

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

Size of Parcel (Area & Dimensions): 3.39 ACRES

Present Land-Use: FARM LAND/AGRICULTURAL / TO BE C.C.



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): TOWN PUMP, INC  
(Recorded Owner)  
600 S. MAIN, BUTTE, MT. 59701  
(Address)  
406-497-6700 DANS@TOWNPUMP.COM  
(Phone Number) (email)

Agent(s): AT ARCHITECTURE / MARK OLSON  
(Name)  
248 MAIN STREET, BILLINGS 59105  
(Address)  
245 272A mark@ataarchitecture.com  
(Phone Number) (Email)

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

Signature: [Signature] Date: 4-25-18  
(Recorded Owner)



April 27, 2018

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

RE: Request for Special Review For  
Town Pump Gas, Convenience Store & Casino  
NE Corner Zimmerman Trail & Grand Avenue  
Billings, MT 59101

Planning Staff:

The Town Pump is looking to build a new building to house a gas station, convenience store & casino at the NE corner of Zimmerman Trail & Grand Avenue. This project will include a new gas station, convenience store & casino building and the site work. See attached Site Plan – Exhibit I. The following outlines the data requested by your application instructions.

A. Forward:

This site consists of lot 1 which has a total of 3.39 acres and is zoned Community Commercial. The proposed building will include a convenience store/gas station and casino floor with 'cage' area, offices, restrooms, storage rooms & mezzanine to meet the requirements of the Building Code.

1. Questions:

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

1. Economic Development - This new building will increase the economy of the area adding an attractive structure with vibrant business potential. Town Pump gas station/convenience store & casino will also employ additional full time people at this location to manage the businesses. This new facility will help strengthen the area economy through the creation of a viable business which has attracted a steady clientele in the region. This will help support the Billings job markets and the economy of area businesses.

Request for Special Review  
Town Pump Gas, Convenience Store & Casino  
NE Corner of Zimmerman Trail & Grand Avenue, Billings, MT  
4/27/18

2. Aesthetics - The site will be designed, landscaped and constructed on as a new and attractive building and grounds as well landscaped and traditionally maintained in great condition. A new and attractive sign will be updated which will be a nice addition for the facility identification for potential clients and the neighboring businesses. The new building will improve the appearance of the area.
3. Natural Resources – Town Pump keeps their site area free of weeds, well landscaped, etc. which helps with fire management.
4. Public Services –This new station, store & casino will provide an ever increasing population that uses these facilities to purchase convenience store supplies, gas & gamble if they so choose.
5. Land Use Element – This building will carry a compatible land use to the neighbors such as the businesses, motels & restaurants nearby and makes sense on the increasingly busy intersection in Billings.

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

Town Pump has operated gas/convenience with casinos in the City and State and has seen an increase in loyal patrons. This one would provide a facility in this area where there currently is not a Town Pump. It is a great location for their existing customer base as well as first time customers to experience the Town Pump family & quality.

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

This project will address many issues of public interest including improvement of the site conditions, a convenience/gas & casino option in the area. It will provide for maintenance of the grounds including parking lot & landscaping. Also the service that it provides meets the needs of the area as well as it is located in a neighborhood of businesses that it is very compatible with.

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

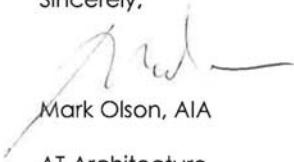
The proposed use is a gas station, convenience store but includes a casino which requires a special review. The lot is zoned Community Commercial. A casino is allowed under a special review approval.

Request for Special Review  
Town Pump Gas, Convenience Store & Casino  
NE Corner of Zimmerman Trail & Grand Avenue, Billings, MT  
4/27/18

2. Attached please find the following support documentation:

- |  |             |
|--|-------------|
| 1. General Location Map (Showing 300' radius)                        | Exhibit I   |
| 2. Site Plan (1" = 20')  | Exhibit II  |
| 3. Site Plan (11"x 17")  | Exhibit III |
| 4. Certified List of Property Ownership Within 300'                  | Exhibit IV  |
| 5. Photographs   | Exhibit V   |
| 6. Check for \$1,215 Application & \$45.00 deposit for zoning signs. |             |
| 7. Declaration of Restrictions                                       | None known  |
| 8. Labels  |             |

Sincerely,



Mark Olson, AIA

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

cc: Planning and Community Services Department w/ enclosures (1)  
Dan Sampson, Town Pump, Construction and Development Manager (1)

**Building Area**  
 15,729 SF - Main Floor Area  
 2,468 SF - Mezzanine

**Parking Requirements**  
 Casino = 2,185 SF x 1 space/100 SF = 22 spaces  
 Liquor Store = 978 SF x 1 space/200 SF = 5 spaces  
 Gas Station = 1,711 SF x 1 space/80 SF = 22 spaces  
 C-Store = 3,372 SF x 1 space/200 SF = 17 spaces  
 Storage/Restrooms = 9,660 SF ~ 10 spaces  
 Offices = 291 SF x 1 space/300 SF = 1 space  
 73 spaces + 4 accessible spaces required = 77 total required & 99 provided

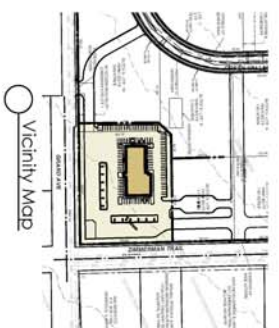
**Bicycle Racks**  
 Provide 2 racks per City Recommendations

**Zoning**  
 Community Commercial  
 Lot Coverage 50%, Max - Actual = 9.9%  
 Landscape requirements 10% - Actual = 16% landscaping  
 3.63 Total Acres

**Legal Description**  
 Lot 1, Block 5, Zimmerman Home Place Subdivision, First Filing

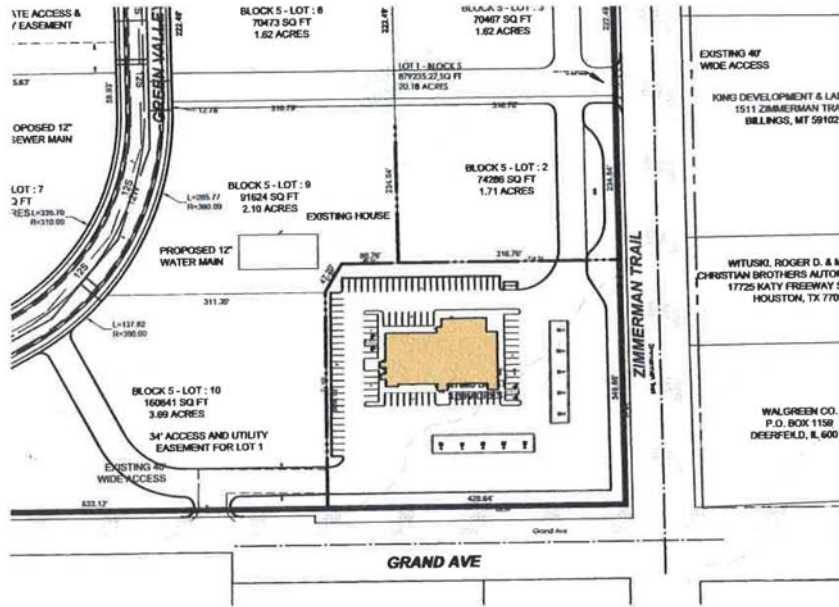
**Address**  
 NW Corner of Grand Avenue & Zimmerman Trail

**Proposed Use**  
 A-2 Casino & Bar  
 M Gas Station, Convenience Store & Liquor Store  
 S1 Storage



**TOWN PUMP GAS STATION & CASINO of ZIMMERMAN**  
 Grand Avenue & Zimmerman Trail, Billings, MT  
 CONCEPTUAL SITE DESIGN  
 5/1/18





Vicinity Map



RECEIVED  
 APR 27 2018  
 PLANNING & COMMUNITY  
 SERVICES DEPARTMENT

## Husman, Karen

---

**From:** Husman, Karen  
**Sent:** Monday, May 21, 2018 2:52 PM  
**To:** 'Erika Smith'  
**Subject:** RE: not another casino!

Erika,  
Thank you for your input. I will forward your concerns to the Zoning Commission, and City Council. As Staff, my job is to research the property and request and forward a recommendation to the Commission for review. I do not have the ability to approve or deny an application. I will print your email and include it with my staff report for review.

Thank you again,

**Karen Husman**  
**Planner I**  
**City of Billings & Yellowstone County**  
**Planning Division**  
**2825 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Floor**  
**Billings, MT 59101**  
**(406) 247-8684**  
**[husmank@ci.billings.mt.us](mailto:husmank@ci.billings.mt.us)**

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**From:** Erika Smith [mailto:ErikaAnne@msn.com]  
**Sent:** Monday, May 21, 2018 2:09 PM  
**To:** Husman, Karen <husmank@ci.billings.mt.us>  
**Subject:** not another casino!

Ms. Husman,

I am writing to voice my concern over the continued effort and possible approval of yet another casino in Billings, particularly on the West End. Billings is saturated by casinos and to use the argument or logic that Billings "needs" another casino is preposterous! Please deny the request for a casino at Zimmerman and Grand, or for that matter, anywhere else. Let's keep our West End neighborhoods and community free from that dubious business and clientele. Thank you for your consideration.

Erika Smith  
661-2848

## Husman, Karen

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**To:** Kassie Oram  
**Subject:** RE: West End Casino

Kassie,

Thank you for your input. I will forward your concerns to the Zoning Commission, and City Council. As Staff, my job is to research the property and the applicants request, and then forward a recommendation to the Zoning Commission for review. I do not have the ability to approve or deny an application. I will print your email and include it with my staff report for review. The City Council will hear the recommendation from the Zoning Commission at their meeting on June 25, 2018.

**Karen Husman**  
**Planner I**  
**City of Billings & Yellowstone County**  
**Planning Division**  
**2825 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Floor**  
**Billings, MT 59101**  
**(406) 247-8684**  
**[husmank@ci.billings.mt.us](mailto:husmank@ci.billings.mt.us)**

**From:** Kassie Oram [mailto:kassieoram@gmail.com]  
**Sent:** Monday, May 21, 2018 2:14 PM  
**To:** Husman, Karen <husmank@ci.billings.mt.us>  
**Subject:** West End Casino

Ms. Husman,

I am part of a group that is trying to stop the spread of casinos on the West End of Billings. Recently, a member of this group made us aware that there is a plan to build a gas station with a casino and bar on the West End, and I would like to ask you to oppose this plan (and all future plans.) These businesses do not provide true benefits to the community. I believe the following professional information will show that a bar/casino is only going to negatively affect the surrounding area and will not help the city to prosper.

According to a study done by the Institute for American Values released in 2013, casinos harm health, drain wealth, and contribute to income inequality. The report cites another study that showed that 96% of casino revenues came from only 25% of players – meaning that it is the problem gambler that most frequents the casino. According to the California Council on Problem Gambling, those with gambling addictions often have other family and professional issues. Problem gamblers are “3 to 4 times more likely to be arrested and spend time in jail for domestic violence, child abuse, theft, and fraud.” They are also “2 to 7 times more likely to use illegal drugs, drink and/or binge alcohol, and smoke cigarettes.” The study from the IAV also showed that “Those in the upper ranks of the income distribution rarely, if ever, make it a weekly habit to gamble at the local casino. Those in the lower ranks of the income distribution often do. Those in the upper ranks rarely, if ever, contribute a large share of their income to the state's take of casino revenues. Those in the lower ranks do.” This is obviously not the type of business that will encourage a prosperous city, neither will it fit in or benefit the currently family-friendly area on the West End, especially so close to churches and schools and neighborhoods with lots of children.

Some may argue that a bar & casino is just another business that will bring more foot traffic and revenue to the surrounding businesses, thus improving the overall financial health of the area. A CNN article from 2013 details the efforts to use this logic to improve Atlantic City, NJ. While the legalization of casinos did bring jobs and tourism, the

overall effect was extraordinarily negative: increased crime, more liquor stores, and higher poverty rates. Casinos are not the type of business that improves an area, even if they provide jobs.

Finally, property values suffer when a casino is nearby. According to the National Association of Realtors, the impact of nearby casinos on home values is "unambiguously" negative. Problem gambling leads to financial distress that can manifest in home foreclosures and higher rates of domestic violence. Besides the casino, a bar would lead to greater numbers of drunk drivers and accidents that can lead to serious injury, damage, and deaths. This is not the type of business that will improve the West End, especially near schools and neighborhoods.

Please oppose this attempt to build a casino and bar on Grand & Zimmerman. A casino (especially combined with a bar), will not fit in with this area of town. Many people move to the West End because it is family-friendly. A casino brings with it more problems than it solves, and takes more away from a community than it provides. Let's leave at least one area of Billings untouched by the negative affects of casinos and make it a safe, comfortable place for families and children.

Thank you,

Kassie Oram

References:

<http://www.cnn.com/2013/09/24/opinion/frum-casinos-harm/index.html>

<https://www.usatoday.com/story/news/nation/2013/06/11/atlantic-city-casinos-money-squandered/2412791/>

<http://www.americanvalues.org/search/item.php?id=1981>

<http://www.calpg.org/societal-impact-of-problem-gambling/>



## City Zoning Commission

**Meeting Date:** 06/05/2018

**SUBJECT:** Special Review #965- 2512 Shiloh Road

**THROUGH:** Monica Plecker

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**Special Review #965- 2512 Shiloh Road - Wireless Communication Camouflage Facility** - A special review request to allow a 50-ft camouflage wireless facility – a faux tree – next to a detached garage in a Residential Professional (RP zone on Lot 4A2 of Blue Meadow Acreage Tracts, a 1.085-acre parcel of land. The ground equipment cabinet will be in an enclosure next to the garage. Tax ID:C01757. Presented by Karen Husman, Planner I.

#### RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 965.

Special Review applications are reviewed using BMCC Section 27-1503 criteria referenced in the Alternatives Analyzed section of this memo. Special Reviews do not require an ordinance for approval, are not zone changes on property; rather, are tied to specific uses that are allowed in a given zoning district but are subject to a review by the City prior to the use being allowed. Special Reviews, unlike zone changes, may be conditioned to mitigate possible impacts from the use on the subject property or surrounding properties.

#### APPLICATION DATA

**OWNERS:** Kincaid Land LLC  
**AGENT:** Verizon Wireless, Kevin Howell  
**PURPOSE:** To allow a 50-ft camouflage wireless facility – a faux tree – next to a detached garage  
**LEGAL DESCRIPTION:** Blue Meadow Acreage Tracts, Lot 4A2  
**ADDRESS:** 2512 Shiloh Road  
**EXISTING LAND USE:** Residential  
**PROPOSED LAND USE:** Residential - with a faux tree  
**EXISTING ZONING:** Residential Professional -RP

#### CONCURRENT APPLICATIONS

None

#### APPLICABLE ZONING HISTORY

**Subject Property- None**

**Surrounding Property-None**

#### SURROUNDING LAND USE & ZONING

NORTH: Zoning: RP  
Land Use: Residential/Commercial  
SOUTH: Zoning: R-96  
Land Use: Residential  
EAST: Zoning: R-96  
Land Use: Residential  
WEST: Zoning: R-96  
Land Use: Residential

## BACKGROUND

A special review request to allow a 50-ft camouflage wireless facility – a faux tree – next to a detached garage in a Residential Professional (RP) zone on Lot 4-A-2 of Blue Meadow Acreage Tracts, a 1.085-acre parcel of land. The ground equipment cabinet will be in an enclosure next to the garage.

The Planning staff has reviewed the proposed location for the wireless facility 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 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 any wireless facility that does not conform to certain provisions of Section 27-620 may apply for a special review. The property is not a school, government or government utility site where wireless facilities may be allowed by right. The proposed facility meets all the requirements of 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:** Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed special review will provide reliability to an essential service in the Billings west end neighborhoods. Verizon Wireless needs to increase its capacity in this area of Billings to serve the customer demand.

- **Strong Neighborhoods:** Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed special review will allow the applicant to remain outside of the denser residential area while still providing an essential service to those areas. Conditions are being recommended to buffer neighboring properties from adverse impacts. Sight obscuring screening will be required to disguise the entire equipment cabinet.

The application also meets the *third* criteria in that it is compatible with surrounding land uses in the area. This site is in an area of Billings, with residential zoning and residential uses surrounding it. 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.

## PROPOSED CONDITIONS

1. This special review request is to allow a 50-ft camouflage wireless facility – a faux tree – next to a detached garage in a Residential Professional (RP) zone on Lot 4A2 of Blue Meadow Acreage Tracts, a 1.085-acre parcel of land. No other use is intended or implied.
2. Any generator and mechanical equipment on site will use "whisper quiet" technology so adjacent land uses are not disturbed.
3. The ground equipment cabinet and shelter must be buffered with screening or enclosure so that it cannot be seen from the neighboring properties.

4. The proposed development shall comply with all other limitations of Section 27-613 of the Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**\*\*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.

## **SUMMARY**

### **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 recommending approval of 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.

## **RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria as required by BMCC 27-1503 for Special Review 965.

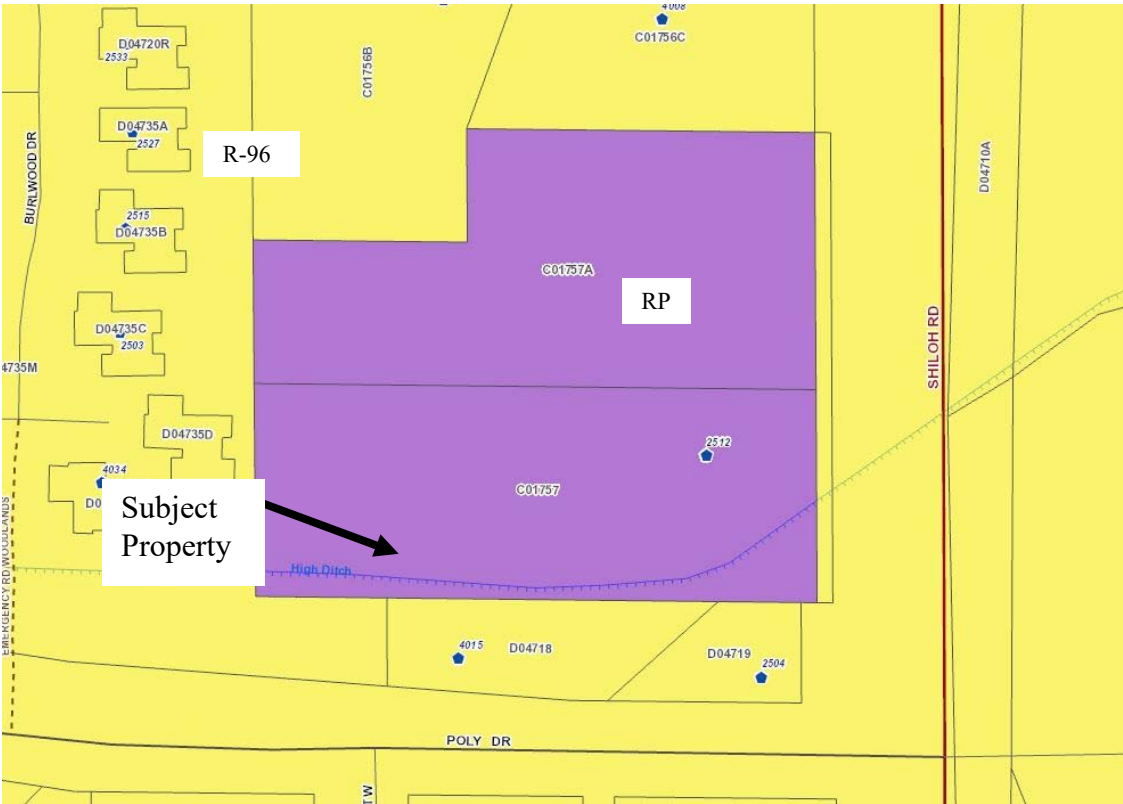
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## **Attachments**

Zoning Map & Site Photos  
Application, Applicant letter & Site plan

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**ATTACHMENT**  
Surrounding Zoning & Site Location



Surrounding Zoning



Aerial View

**ATTACHMENT**  
Site Photographs



Subject Property.



Looking North



South View



Facing west

**ATTACHMENT**  
Applicant Letter & Site Plan



May 1, 2018

Ms. Nicole Cromwell  
Planner II  
City of Billings  
210 North 27<sup>th</sup> Street  
Billings, MT 59101

RE: Special Review Application  
2512 Shiloh Road  
Billings, MT 59106  
Verizon Wireless Site BIL Mustangs

Dear Nicole,

Attached is a City of Billings Special Review Application for property owned by Kincaid Land LLC and located at 2512 Shiloh Road in Billings, MT on which Verizon Wireless proposes to install a Wireless Communications Facility. The facility will consist of antennas located on a faux tree next to the detached garage and equipment cabinets located within a City of Billings approved rhino rock wall on the ground next to the faux tree.

Verizon Wireless needs to increase its capacity in northwest Billings. Installation of new antennas at the intersection of Shiloh Road and Poly Drive will increase capacity and coverage in the Billings area, and specifically the growing area surrounding this intersection.

Thank you for your cooperation and please call me if you have any questions regarding this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin T. Howell". The signature is stylized and somewhat cursive.

Kevin T. Howell  
President, Digital Skylines, Inc.  
Representing Verizon Wireless

**APPLICATION FORM**

CITY SPECIAL REVIEW

Billings Special Review# 165 - Project # P2-18 60078

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

Present Zoning: RP

Special Review Requested: Verizon Wireless is requesting approval to install antennas on a faux tree next to the detached garage owned by Kincaid Land LLC with an equipment cabinet located within a rhino rock wall on the ground next to the tree.

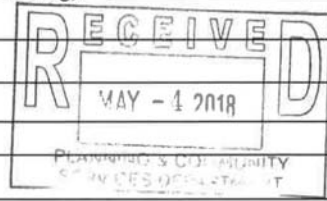
TAX ID# C01757 CITY ELECTION WARD # 4

Legal Description of Property: BLUE MEADOWS ACREAGE TRACTS, S33, T01 N, R25 E, Lot 4A2, AMD (12)

Address or General Location (If unknown, contact City Engineering): 2512 Shiloh Road, Billings, MT 59106

Size of Parcel (Area & Dimensions): 1.085 Acres

Present Land-Use: Residential



Covenants or Deed Restrictions on Property: Yes  No

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): Kincaid Land LLC

(Recorded Owner)  
3208 Rugby Drive, Billings, MT 59102-0752

(Address)  
Gene Culver - (406) 698-9346 Culver620@gmail.com  
(Phone Number) (email)

Agent(s): Kevin Howell representing Verizon Wireless

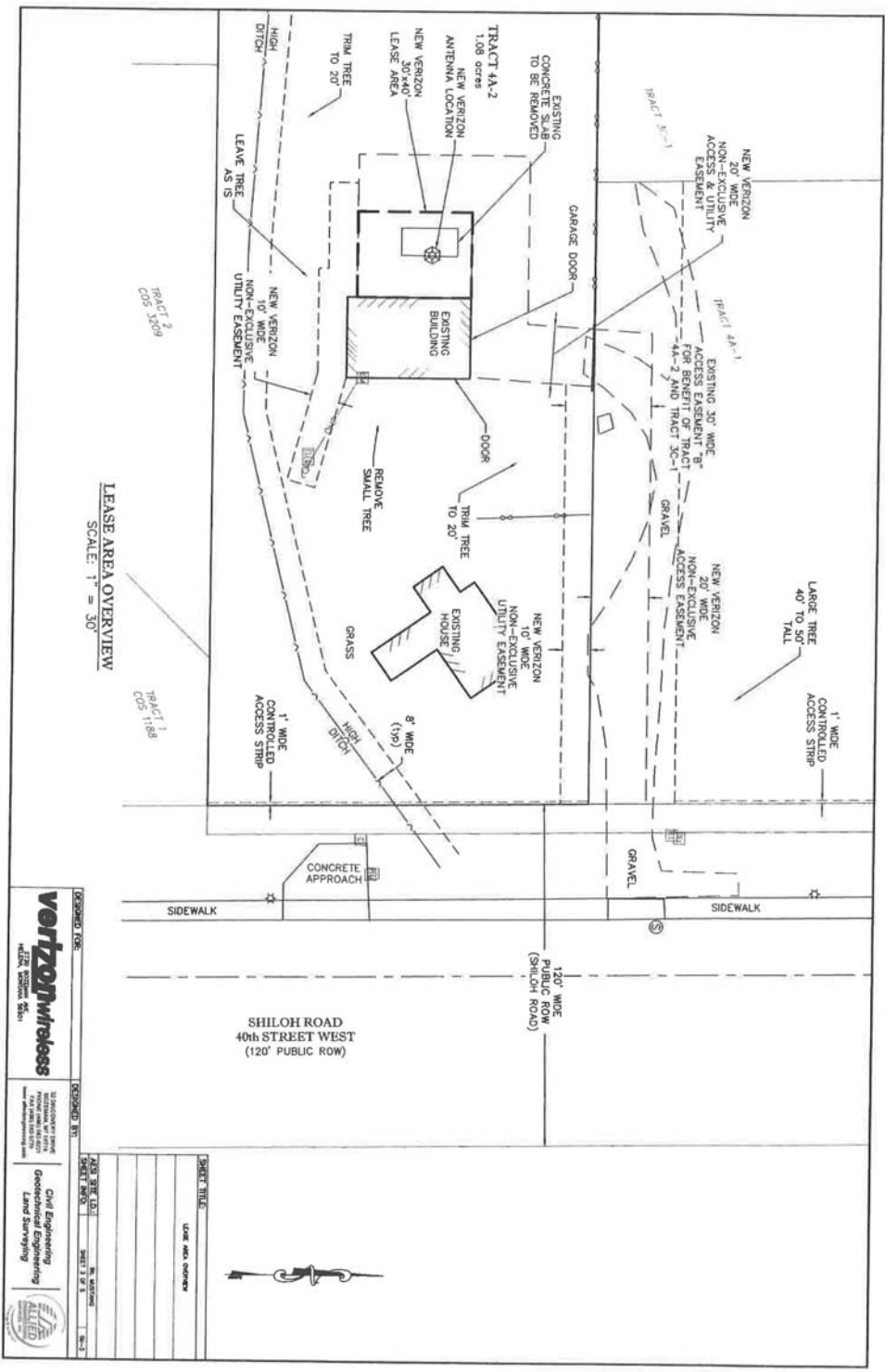
(Name)  
C/O Digital Skylines, Inc., 11340 N 105th Place, Scottsdale, AZ 85259

(Address)  
(480) 425-9353 Khowell@DigitalSkylines.com  
(Phone Number) (Email)

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

Signature: Please see attached Date: \_\_\_\_\_

(Recorded Owner)



LEASE AREA OVERVIEW  
SCALE: 1" = 30'

**verticalwireless**  
4422 BROWN BLVD  
DENVER, CO 80212

DESIGNED BY: [Redacted]  
DESIGNED FOR: [Redacted]  
DATE: [Redacted]  
SHEET: 2 OF 2  
SCALE: 1" = 30'



SHEET TITLE:  
LEASE AREA OVERVIEW







## City Zoning Commission

**Meeting Date:** 06/05/2018

**SUBJECT:** Special Review #966- 2202 Central Avenue

**THROUGH:** Monica Plecker

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**Special Review #966- 2202 Central Avenue - A Drive Through Food Service** - A special review request to locate a drive through food service restaurant across an alley from a Residential zone in a Community Commercial (CC) Zone on Lot 1B, Block 1 of Central Heights Subdivision, 2nd filing; a 21,211 square foot parcel of land. Little Caesar's Pizza is proposing a new location at this address. Tax ID: A04406. Presented by Karen Husman, Planner I.

#### RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria as required by BMCC 27-1503 for Special Review 966.

Special Review applications are reviewed using BMCC Section 27-1503 criteria referenced in the Alternatives Analyzed section of this memo. Special Reviews do not require an ordinance for approval, are not zone changes on property; rather, are tied to specific uses that are allowed in a given zoning district but are subject to a review by the City prior to the use being allowed. Special Reviews, unlike zone changes, may be conditioned to mitigate possible impacts from the use on the subject property or surrounding properties.

#### APPLICATION DATA

**OWNERS:** Zarbock Enterprises, LLC

**AGENT:** John Atkinson

**PURPOSE:** Locate a drive through food service restaurant

**LEGAL DESCRIPTION:** Central Heights Sub, 2nd filing, Lot 1B, Block 1

**ADDRESS:** 2202 Central Ave

**EXISTING LAND USE:** Commercial

**PROPOSED LAND USE:** Commercial

**EXISTING ZONING:** Community Commercial-CC

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

Subject Property- Special Review #220 was conditionally approved to allow the sale of alcoholic beverages.

Surrounding Property- There have been four special reviews approved in the subdivision for drive in or drive through services next to residential zoning.

#### SURROUNDING LAND USE & ZONING

NORTH: Zoning: Community Commercial -CC  
Land Use: Commercial  
SOUTH: Zoning: Residential-7000 – R-70  
Land Use: Residential  
EAST: Zoning: CC  
Land Use: Commercial  
WEST: Zoning: CC  
Land Use: Commercial

## BACKGROUND

This is a special review request to locate a drive through food service restaurant across an alley from a Residential zone in a Community Commercial (CC) Zone on Lot 1B, Block 1 of Central Heights Subdivision, 2nd filing; a 21,211 square foot parcel of land. Little Caesar's Pizza is proposing a new location at this address.

The special review is required whenever a drive through service is located adjacent to a residential zone. There is residential zoning to the south of the subject property across the alley.

There have been four special reviews approved for this subdivision to allow drive through services. Special Review #541, 2244 Central, #297 at 2274 Central, #556 at 2338 Central, and #876 at 2156 Central were all conditionally approved for drive through services. The property zoning to the north, east and west is CC and are all currently commercial uses. The residentially zoned parcels to the south across the alley should be minimally impacted with the proposed conditions of approval.

The Planning staff has reviewed the proposed location for a drive through service 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 as required by BMCC 27-1503: 1) The application complies with all parts of the Zoning Regulations, 2) The application is consistent with the objectives and purposes of the 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 all CC zoning districts can have a drive through service adjacent to a residential zone 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 proposed facility meets all the requirements of 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 a commercial service area on a parcel where none currently exists on land that has been zoned appropriately for this commercial use and has easy access to City services and infrastructure. This will remove an older structure and replace it with a new, updated building than previously existed.

**Strong Neighborhoods:** Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed development of this land will provide walkable services to the immediately adjacent neighbors. Conditions of approval will be proposed to ensure this development does not impact these same neighbors with excessive noise, light and other intrusions.

**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, 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 in an area of Billings with residential zoning and residential uses to the south and commercial zoning with commercial uses to the north, east and west. 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.

## **SUMMARY**

### **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 recommending approval of 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.

## **RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 966.

## **PROPOSED CONDITIONS**

1. The special review approval is limited to Lot 1B, Block 1 of Central Heights Subdivision, 2nd filing generally located at 2202 Central Avenue.
2. The special review is for the construction and operation of a drive through service window on the west side of the new drive through pizza restaurant. No other use is intended or implied.
3. The drive through service window shall not be open 24-hours a day. Hours of operation will be submitted for approval at the time of building permit application. Hours of operation shall not occur before 6 am or after 10 pm on a daily basis.
4. Any outdoor announcement system associated with the drive through service window shall not be audible at any property line.
5. No internally illuminated signage will be placed on any wall parallel to the south property line.
6. A sight obscuring fence shall be placed on the south property line to buffer the residentially zoned property across the alley.
7. The proposed development shall comply with all other limitations of Section 27-613 of the Zoning

Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

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.

**\*\*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.

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### **Attachments**

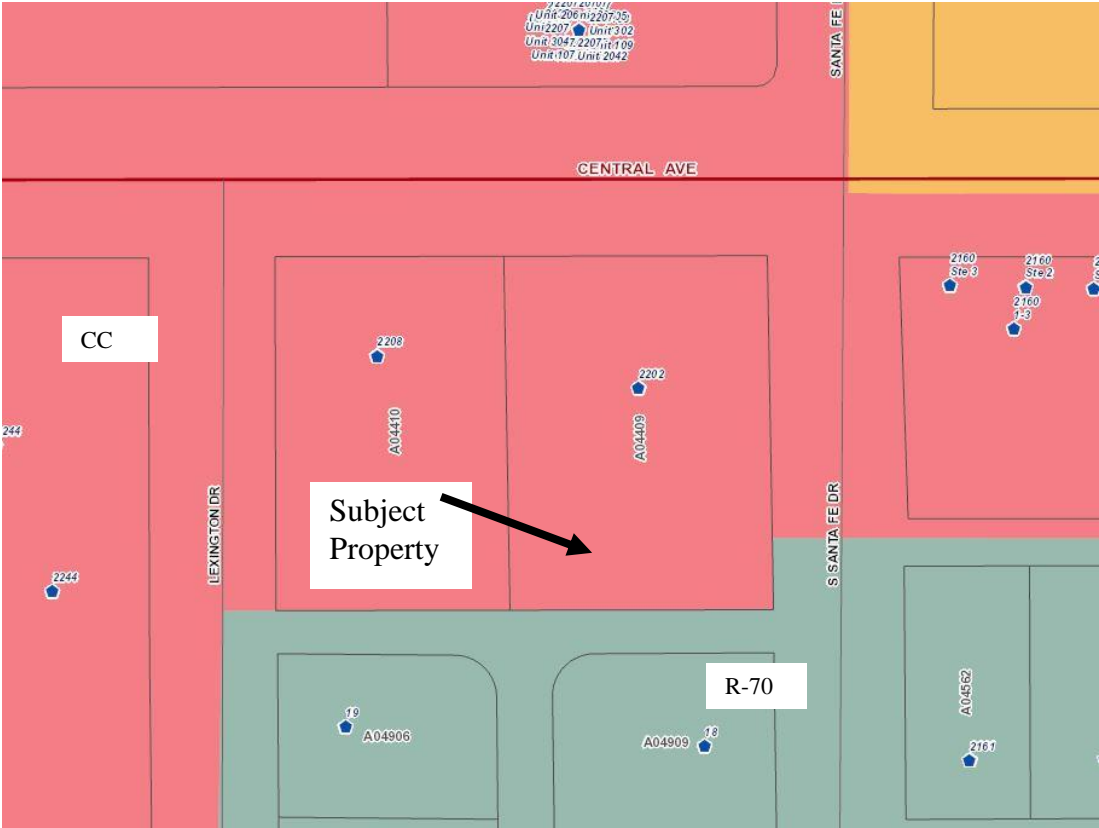
Zoning Map & Site Photos

Application, Applicant letter & Site plan

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**ATTACHMENT**  
Surrounding Zoning & Site Location



Surrounding Zoning



Aerial View

**ATTACHMENT**  
Site Photographs



Subject Property.



North across Central Ave



East View



Facing west



South toward alley



South east (across Santa Fe Dr.)

ATTACHMENT  
Applicant Letter & Site Plan



MAY 4, 2018

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

RE: Request for Special Review For  
Little Caesars Pizza Drive Through  
2202 Central Ave.  
Billings, MT 59102

Planning Staff:

Little Caesars Pizza is planning to relocate from their existing location at 2325 Central Avenue to a new building @ 2202 Central Ave. This project will include demolishing the existing vacant restaurant building on site now and providing a new building, parking lot, and landscaping. The relocation for Little Caesars will be conducted under a separate permit, and this Special Review application is requesting a drive through window for this location. See attached Site Plan – Exhibit II. The following outlines the data requested by your application instructions.

A. Forward:

This site consists of lot 1 which has a total of 21,211sf. and is zoned Community Commercial. The proposed building will be 1,678 sf. and will have no seating inside for customers so a drive through window for pickups of pre-ordered pizzas is very important to the project. The building will meet all the requirements of the latest Building Codes.

1. Questions:

- A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy? (Answer to Instructions 1.A)
1. Economic Development - This new building will increase the economy of the area adding an attractive structure with vibrant business potential. Little Caesars Pizza will also employ additional employees at this location to manage and operate the business. This new facility will help strengthen the area economy through the creation of a viable business which has attracted a steady clientele

in the region. This will help support the Billings job markets and the economy of area businesses.

2. Aesthetics - The site will be designed, landscaped and constructed as a new and attractive building with well landscaped grounds kept in great condition. A new and attractive sign will be updated which will be a nice addition for the facility identification for potential clients and the neighboring businesses. The new building will improve the appearance of the area. The existing site has a vacant and derelict building and messy parking lot which will be removed.
3. Natural Resources – Little Caesars Pizza keeps will keep the site area free of weeds, well landscaped, etc. which helps with fire management.
4. Public Services –This building and services will be relocated from across and further down the street but with this location and the drive through customers will be treated to a quicker flow for picking up their food items if the drive through is approved. It is also further from the congested intersection at 24<sup>th</sup> Street and Central Avenue.
5. Land Use Element – This building will carry a compatible land use to the neighbors such as the businesses, motels & restaurants nearby on the increasingly busy Central Ave.

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

This property is ideal for this type of facility especially for a drive through. It has great street access and exits off the site on a side street. There will be a 6'-0" high fence at the alley between the residential zoning to the south and the parking and driving lanes do not impact the alley at the south. This new building is replacing their other facility across the street but will keep customers in the area and also help increase the growth in the future.

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

This project will address many issues of public interest including improvement of the site conditions, and providing a new modern and attractive energy efficient structure. It will provide for maintenance of the grounds including parking lot & landscaping. Also the service that it provides meets the needs that are already established in the area. It is located in a neighborhood of businesses that it is very compatible with.

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

The proposed use is restaurant which is allowed in the zoning district, but includes a drive through which requires a special review. The lot is zoned Community Commercial. A drive through is allowed under a special review approval.

Request for Special Review  
Little Caesars Pizza Drive Thru  
2202 Central Ave., Billings, MT  
5/4/18

2. Attached please find the following support documentation:

- |   |             |
|---|-------------|
| 1. General Location Map (Showing 300' radius)       | Exhibit I   |
| 2. Site Plan (1" = 20')                             | Exhibit II  |
| 3. Site Plan (11" x 17")                            | Exhibit III |
| 4. Certified List of Property Ownership Within 300' | Exhibit IV  |
| 5. Photographs                                      | Exhibit V   |
| 6. Declaration of Restrictions                      | None known  |
| 7. Labels   |             |
| 8. Traffic Study (will be submitted once completed) |             |

Sincerely,



John Atkinson,

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

cc: Planning and Community Services Department w/ enclosures (1)

CITY SPECIAL REVIEW

APPLICATION FORM

Billings Special Review# 966 - Project # PZ-18-00080

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

Present Zoning: COMMUNITY COMMERCIAL

Special Review Requested: DRIVE THROUGH WINDOW

TAX ID# A04409 CITY ELECTION WARD # 3

Legal Description of Property: LT BLK 1 CENTRAL HEIGHTS SUB 2ND FIL AMD(16) 207, T01S, R26 E

Address or General Location (If unknown, contact City Engineering): 2202 CENTRAL AVE

Size of Parcel (Area & Dimensions): 2721 SF ; 125' x 169'-8"

Present Land-Use: VACANT RESTAURANT

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): ZARBECK ENTERPRISES LLC

(Recorded Owner)

PO BOX 21566 BILLINGS, MT 59104

(Address)

406-591-4829

(Phone Number)

(email)

Agent(s): JOHN ATKINSON

(Name)

810 MAIN ST STE 7 BILLINGS 59105

(Address)

406-249-2724

(Phone Number)

john@dataarchitecture.com

(Email)

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

Signature: [Signature] Date: 5-4-18

(Recorded Owner)

CENTRAL AVE.



SANTA FE DR.

1 SITE PLAN Scale: 1" = 12'-0"

