



**CITY ZONING COMMISSION**  
**AGENDA-Tuesday, July 10, 2018, 4:00 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 June 5, 2018 will be available at the meeting.

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

**Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff**  
**a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.**

## **Regular Business:**

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

## **Public Hearings:**

- a. **City Zone Change 969 – 2226 Virginia Lane – R-96 to R-60-R** – A zone change request from Residential 9,600 (R-96) to Residential 6,000 Restricted (R-60-R) on the un-platted 125 foot by 300 foot Northeast Corner in the SESE NE4 of Section 31, Township 1 North, Range 26 East, a 37,500 square foot parcel of land generally located on the southwest corner of the intersection of O'Malley Drive and Virginia Lane. Presented by Nicole Cromwell, Zoning Coordinator
- b. **City Zone Change 968 – 1041, 1043, 1043 ½ , 1045, 1045 ½ , 1047 N 24th Street and 2316, 2316 ½ and 2320 11th Ave N – R-70 to RMF-R** – A zone change request from Residential 7,000 (R-70) to Residential Multi-family-Restricted (RMF-R) on the North 100 feet of Lot 2, Block 8, Sunnyside Subdivision 2nd Filing, a 14,000 square foot parcel of land generally located on the southeast corner of the intersection of N 24th Street and 11th Avenue North. Tax IDs: A16401 & A1640. Presented by Karen Husman, Planner I.

## **Other Business/Announcements**

## **Adjournment**

**The City Council has designated Monday, August 13, 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.**

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 (August 10, 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**. 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:** 07/10/2018

**SUBJECT:** Zone Change 969 - 2226 Virginia Lane

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Zone Change 969 – 2226 Virginia Lane – R-96 to R-60-R** – A zone change request from Residential 9,600 (R-96) to Residential 6,000 Restricted (R-60-R) on the un-platted 125 foot by 300 foot Northeast Corner in the SESE NE4 of Section 31, Township 1 North, Range 26 East, a 37,500 square foot parcel of land generally located on the southwest corner of the intersection of O’Malley Drive and Virginia Lane. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

The applicant has submitted a request to withdraw the application. The Planning staff recommends the Zoning Commission grant the withdrawal of Zone Change 969. If granted, the applicant cannot submit a new zone change for the property for 4 months following the withdrawal. A zone change application may only be withdrawn once within a 12 month period.

**APPLICATION DATA**

OWNER: Big Sky Endeavors, LLC - Jamey Eisenbarth

AGENT: Performance Engineering - Scott Aspenlieder, P.E.

LEGAL DESCRIPTION: un-platted 125 foot by 300 foot Northeast Corner in the SESE NE4 of Section 31, Township 1 North, Range 26 East

ADDRESS: 2226 Virginia Lane

CURRENT ZONING: R-96

EXISTING LAND USE: One single family dwelling

PROPOSED USE: Subdivision and development of up to 6 single family dwellings

SIZE OF PARCEL: 37,500 square feet

**CONCURRENT APPLICATIONS**

Preliminary Subdivision - to be submitted on July 2, 2018.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2226 Virginia Lane	None Original Zoning 1972	May 3, 1972		NA	
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
601 Parkhill Dr	City ZC 182	Nov 28, 1977	R-96 to R-60	Yes	Existing up/down
544 Parkhill Dr	City ZC 214	July 24, 1978	R-96 to R-60	No	
602 Beverly Hill Blvd	City ZC 382	Jan 24, 1983	R-96 to R-60	Yes	Existing up/down
3020 Grandview Blvd	City ZC 324	July 6, 1981	R-96 to RP	Yes	LDS Offices
3020 Grandview Blvd	City ZC 497	Feb 1986	Medical Corridor	Yes	New district
702 Beverly Hills Blvd	City ZC 387	April 25, 1983	R-96 to R-60	Yes	Existing 3-family dwelling

**SURROUNDING LAND USE & ZONING**

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

## **BACKGROUND**

This is a zone change application to allow the existing un-platted parcel of 37,500 square feet to be subdivided into 6,000 square foot parcels of land for new single family dwellings within an existing neighborhood. The applicant and agent conducted a pre-application neighborhood meeting on May 16, 2018 at 1500 Poly Drive. The pre-application sign in sheet and meeting notes are attached to this report. The proposed zoning is Residential 6,000 Restricted (R-60-R). This zoning would permit lots of at least 6,000 square feet for single family dwellings.

There is a wide variety of lots sizes and development styles within the neighborhood. Planning staff reviewed the subdivisions and property information for the area and found that slightly more than 30% of the lots within 1,000 feet are 6,000 square feet in area or less. More than 70% of the lots within 1,000 feet are less than 9,600 square feet. Developed lots on O'Malley Drive, Oak Street, Crawford Drive, 7th St W, and Maple Street do not meet the minimum lot area requirements for R-96. On the east side of Virginia Lane, many of the lots in the "Tree Streets" are 6,000 square feet although the entire area is zoned R-96.

There are significant new dwellings in the immediate neighborhood but most others were built between the 1920s and 1970s. The traffic on Virginia Lane, a minor arterial street, averages about 6,280 vehicle trips per day. These traffic counts are 3 year averages and do not include counts taken during the school year. There are significant traffic contributions from MSU-Billings (Poly & Virginia) and Senior High School (Grand & Virginia). Pioneer Park, a major community park, at Virginia Lane and Parkhill Drive also contributes traffic to this street.

The Planning staff has received many letters of protest and objections to the application as proposed. A valid protest has been achieved - 25% of the lots within 150 feet of the subject property are protesting the zone change. A valid protest does not effect the Zoning Commission's required vote but does require a 2/3 majority vote of the City Council to approve the proposed zone change. The letters of protest and the valid protest finding are included as attachments to this report.

On June 28, 2018, the Planning staff received a written request from the applicant's agent to withdraw the zone change request. The Planning staff is recommending the Zoning Commission grant the request. If granted, a new application for a zone change may not be submitted for 4 months. A zone change may only be withdrawn once in a 12 month period.

## **RECOMMENDATION**

Staff recommends the Zoning Commission grant the applicant's request to withdraw the zone change.

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### **Attachments**

Applicant Request to Withdraw  
Letters of Opposition  
Valid Protest

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# PERFORMANCE ENGINEERING

7100 Commercial Ave., Ste. 4 • Billings, MT 59101 • (406) 384-0080

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June 28, 2018

Nicole Cromwell  
Zoning Coordinator  
Planning & Community Services  
2825 3<sup>rd</sup> Ave. North, 4<sup>th</sup> Floor  
Billings, MT 59101

RE: Zone Change 969 – 2226 Virginia Lane

Dear Ms. Cromwell,

On behalf of Big Sky Endeavors, LLC, Performance Engineering, LLC, is writing to request Zone Change 969 – 2226 Virginia Lane be pulled from consideration by the City of Billings Zoning Commission and Billings City Council. We will pull the zoning sign from the site and return that to the Planning Dept. We do not intend to proceed forward with a zone change at this time. Thank you for your consideration and assistance through this process. If you have any questions you can direct them to Scott Aspenlieder by email at [scott@performance-ec.com](mailto:scott@performance-ec.com) or by phone at 406-384-0080.

Sincerely,

Scott Aspenlieder, P.E.  
Principal

CC: Big Sky Endeavors, LLC, File

(Letter emailed May 13 to applicant's engineer at Performance Engineering)

Good morning,

We are unable to attend the neighborhood meeting scheduled for next Wednesday, May 16th at 6:00pm at Bistecca, 1500 Poly Drive. We are submitting these comments and would appreciate if they could be shared with the people in attendance. We look forward to seeing a copy of the meeting minutes as required by the City.

Dear neighbors, allow us to set the context with two overall points:

A) It is important to note that the request before the public right now is that of the zone change only. It is not to approve a certain type or style of home even though the applicant states that these will be "high end dwellings". There is no way to know or guarantee what type or style of home will be built at this time should the zone change be approved. The only request before the public right now is to increase the density for this one parcel from low density residential to medium density residential. The subdivision and building permits for the homes are a separate process that would happen later.

B) The City of Billings Zoning Map designates this parcel and all of the surrounding neighborhood Low Density Residential with a minimum lot size of 9600 square feet. The neighborhood zoning doesn't change to Medium Density Residential until the south side of Parkhill Drive.

We are opposed to the zone change request for the following reasons:

Point 1: We have concerns and questions regarding how the proposed rezoned lot sizes are characterized. The applicant proposes to rezone the existing .86 acre lot to a R6000 restricted zone and eventually divide the parcel into 6 individual lots with a minimum lot size of approximately 6250 square feet. The R6000 zoning district requires a minimum lot size of 6000 ft<sup>2</sup>. While the applicant calculates each lot as 6250 ft<sup>2</sup>, the actual buildable area for each lot is closer to 5250 square feet, not 6250 square feet. The applicant is proposing a private street approximately 20 feet wide extending from Oak Street to Virginia Lane. Since this is a private street (and not dedicated public right-of-way), the applicant includes the area of this private street easement in their calculation of the total area of each lot, even though this is not liveable/buildable space.

In summary, the "feel" of this proposal for the neighborhood will be one of each new house essentially occupying a lot of 5250 ft<sup>2</sup>, not 6250 ft<sup>2</sup> due to the effect of the private street. In addition, a question: The preliminary plat does not show any dedication of right-of-way on Oak Street for required standard street improvement typical with this type of development. Including this right of way for a sidewalk would eliminate some land area for proposed lot 1 and bring it under the required 6000 square foot minimum. Will the City require such right of way? If so, it is pertinent to this request.

Point 2. This zone change request is not in compliance with the adopted Highland Neighborhood plan approved by the City and a departure from the Plan's vision for the future. The Highlands Neighborhood Plan adopted by the City designates this parcel and the surrounding neighborhood Low Density Residential as the preferred future land use designation. Further, the City's Infill Policy, Goal (c) states Ensure Compatibility with and work to enhance existing neighborhood amenities by implementing neighborhood plans.

Point 3. The proposed zoning does not fit in with the existing zoning and land uses of the immediate area. In order to meet the criteria for a zone change, the City must consider the *character of the district*. The character of the neighborhood is one of detached single family dwellings on lots with a minimum lot area of 9600. Although the applicant is proposing eventually to build detached single family dwellings, they will be on lots with a usable area of approximately 5250 square feet and accessed via a private street. This does not meet the existing character of the neighborhood.

Point 4. We are also very concerned about the transportation impacts of the zone change and don't feel the applicant meets the City's growth policies, the Highland Neighborhood Plan, and the zone change approval criteria to ensure safe transportation systems for all users and to protect and provide for safe routes to school. The applicant proposes a new private street that will have access onto Oak Street. Oak Street is an half block local street with many people, especially children, walking and riding bikes. Highland Elementary is our neighborhood school and Oak Street is a main bike and pedestrian route to the school. We are very concerned about the increase of traffic on Oak Street and the safety of our walking and biking community if this proposal is approved and don't believe that the current proposal ensures the public's health, safety and welfare of the neighborhood -- key approval criteria for a zone change.

Point 5. The re-zoning request is not needed. The current zoning provides ample space for the applicant to re-develop this property, putting at least three houses on the lot which currently has one. It is a large flat lot connected to public water, sewer and streets. There are no natural restrictions such as steep slopes, floodplains or unstable soils that would prevent it from being developed under current zoning and development standards. Developing the lot under current zoning would eliminate the need for the "private street" and the conflicts with the new ingress and egress points for the entire development onto Oak Street. For example, why not put one house with a driveway onto Virginia, another with a driveway onto O'Malley and a third with a driveway onto Oak? This would be much more in keeping with the Highland Neighborhood Plan, City policies, and related key criteria and spread out the transportation impacts of the new development.

In conclusion we feel that this request is excessive and asks too much of the parcel and most importantly does not meet key approval criteria. This proposal constitutes "spot zoning" in order to increase the density for one parcel only that is very different from that of the surrounding area for the benefit of the applicant and to the detriment of other landowners in the neighborhood. Under the current zoning, the applicant has the ability and the right to develop the land in an efficient way and use the existing services that are already in place. Finally, this zone change request if approved, will be at the expense of other adopted plans and policies that citizens worked hard to develop and which provide predictability to neighborhoods and landowners.

Thank you for the opportunity to comment.

Jeff and Amy Griffin  
2211 Oak Street

(contact emails: [amy.lakejulia@gmail.com](mailto:amy.lakejulia@gmail.com); [gobigrif@gmail.com](mailto:gobigrif@gmail.com) )

Vicky Harrison  
646 Crawford Dr.  
Billings, MT 59102

June 28, 2018

Dear City of Billings Zoning Commission;

The zoning change proposed for the lot on O'Malley and Virginia from R9600 to R6000 is wrong for the neighborhood and its residents. It is not a safe proposal and it **will** negatively impact the character of one of Billings' historic areas. Additionally, this zoning request change will affect the safety and traffic patterns on a street that is used for kids travelling to Highland school and pedestrians commuting to work. Finally, this zoning request does not meet the City of Billings subdivision regulations and could ultimately be a safety hazard.

The current proposed zoning change is in direct conflict to the following City of Billings zoning change criteria.

- 1) **The new zoning was designed in accordance with the comprehensive plan.**
  - a. The proposed zoning is not designed in accordance with the comprehensive neighborhood plan. The Highland neighborhood plan adopted in 2007 does not have any other R6000-R areas. The smallest zoning in the area is R9600. And the lots directly attached to this property range in size from 12,000 to 17,000 square feet. The proposed change would qualify as "spot zoning" to re-zone an area that was not part of the comprehensive neighborhood plan adopted over a decade ago. Additionally, it would change a low density zoned area to medium density. This would be the only medium density area in the neighborhood, further qualifying it as spot zoning.
- 2) **The new zoning was designed to lessen congestion in the streets.**
  - a. The proposed zoning change will not lessen congestion on the streets. It will, in fact, increase congestion on the streets due to lack of off street parking for visitors. Both Oak and O'Malley are narrow streets. Accommodating at least six to twelve vehicles in and out of the area in question daily will detrimentally impact the flow of traffic of the neighborhood on very narrow streets. Additionally, this is an area traveled by children on their way to and from our neighborhood school, Highland Elementary. A six to twelve fold increase in traffic from one parcel of property is a safety hazard. Whether the new zoning will promote health and general welfare
- 3) **The new zoning will promote health and general welfare.**
  - a. O'Malley and 7<sup>th</sup> Street is a route used heavily by children, walkers, bicycle riders, dog walkers and more because the area is safe, quiet and a shaded by lovely trees. The additional traffic and congestion will definitely reduce the general welfare of these users.

- 4) **The new zoning will be secure from fire, panic and other dangers**
- a. This neighborhood which extends east from Virginia Lane to 7<sup>th</sup> Street W and south from Parkhill to O'Malley has only two exits. The proposed zoning change creates increased traffic at one of the only two exits to the neighborhood.
  - b. The proposed zoning is not secure from fire. The City of Billings Subdivision Regulations require that dead-end roads or driveways over 150 feet must to have a cul-de-sac at the end or a hammerhead for firetruck accessibility and turnaround (p. 36). The proposed alley does not meet this regulation. Furthermore, alleys are required to be a minimum width of 20 feet and dead end alleys shall be avoided if possible, but if not, an adequate turnaround facility must be available (p. 39). But no such plans are provided here.
- 5) **The new zoning will prevent the overcrowding of land**
- a. The proposed zoning does not prevent the overcrowding of land. In fact, it is of concern that the proposed subdivision does not meet the City Subdivision Regulations. Page 56 states that 30% of land in a new subdivision must be open space for common use for cluster development. 30% of the total area must be undeveloped and the open space must be contiguous. These plans fail to meet that regulation because of the private alley and foot print of the homes.
  - b. The addition of a sidewalk, alley, parking aprons and garages significantly reduces the livable space available for these lots, making them too small to be zoned R6000. The livable, buildable space is closer to 5250 by the time the right of way improvements and alley are completed. These exceptionally small lots definitely change the character of the neighborhood because there is nothing of this size for many blocks.
- 6) **The new zoning gives reasonable consideration to the character of the district**
- a. The proposed zoning change is a detriment to the character of the district. Our neighborhood is characterized by single family homes with yards and large trees. The spot zoning request to change to R6000 disregards the existing neighborhood plan and proposes to build structures that are not in character with those currently existing in the Highland neighborhood. If the existing zoning of R9600 is maintained, 3 homes more in character with the neighborhood and its existing plan could be built on this property. This fits the character of the neighborhood in look, structure, and zoning.

I urge you to say no to the zoning change request made for our neighborhood. It will forever alter the safety and character of one of Billings' finest historic neighborhoods. It puts kids, pedestrians, and bikers at risk. And it blatantly disregards several of the City of Billings Zoning change criteria and 3 of the current City of Billings Subdivision Regulations. Our kids and our neighborhood deserve longevity, safety, and historic preservation.

Best,



Vicky Harrison  
646 Crawford Dr.

June 11, 2018

Nicole Cromwell  
Zoning Coordinator  
[CromwellN@ci.billings.mt.us](mailto:CromwellN@ci.billings.mt.us)

RE: Letter of protest for zone change at corner of O'Malley Drive and Virginia Lane

Dear Ms. Cromwell,

We are writing to protest the zone change request for property at the corner of O'Malley and Virginia Lane. The applicant's proposal does not meet the required approval criteria and should not be approved. Our findings are summarized below and in the attached exhibits.

**Clarification of the public record**

First we'd like to clarify for the public record that prior to the neighborhood meeting we emailed comments to the applicant's engineer on May 13 (see attached). Since we could not attend in person we asked that the comments be shared with the meeting attendees, which he did not do. More than 20 neighbors attended this meeting. At the end of the meeting a neighbor read our comments out loud and then asked for a show of hands in opposition. It was unanimous. The applicant did not include our letter, nor the information about the show of hands in opposition in the meeting minutes as required by the City.

**Summary of our argument**

The request before the City is significant. The request for the City to approve a change in land use designation of low density residential to medium density residential for one single parcel only constitutes "spot zoning." This one parcel is completely surrounded by other properties zoned for the same low density – R9600. It does not meet the zone change criteria, is in conflict with the City approved Highland Neighborhood Plan, and does not meet the applicable growth guidelines nor the goals set forth in the City's Infill Policy. In fact, we argue that the City's growth guidelines and infill policies are meant to protect against this type of development, instead of promoting it as the applicant claims.

The infill policy and the growth guidelines make development of underutilized lands within the City a priority and rightly so. But nowhere do these policies encourage the City to approve spot zone changes to develop underutilized parcels. On the contrary, recognizing the tricky nature of developing in already established neighborhoods, these policies stress the importance of enhancing existing neighborhoods, matching neighborhood character and ensuring the safety of all transportation users, especially safe routes to school:

1. The Infill Policy Goal (c) states *Ensure compatibility with and work to enhance existing neighborhood amenities by implementing neighborhood plans, involving residents early in planning process, and striving for a shared vision of the future.*
2. Infill Policy Goal (d) states *Find ways to include safety, health, environmental, and transportation benefits for the community when considering any infill development plan or project to always improve the overall sense of place.*

The Highland Neighborhood Plan adopted by the City Council in 2007 designates this entire area to remain R9600 as the preferred future land use designation (see attached map). Approval of this zone change would be in conflict with the Neighborhood Plan and a departure from the neighborhood's shared vision of the future.

As described in our attached findings, the proposed zone change will increase density in an established neighborhood creating significant traffic impacts especially on Oak and O'Malley Streets, both of which have a high walking and biking population and are a main route to our neighborhood school, Highland Elementary. The proposed smaller lots with buildable lot areas of only 5200 square feet and accessed by a private street, do

not meet the existing character of the neighborhood and definitely do not improve the overall sense of place identified as Goal d above.

The applicant states that the proposal is in line with the existing character of the neighborhood by claiming that the majority of surrounding lots have a lot area of 6,000 – 7,000 square feet. This is simply not true. The area that this proposal will most directly impact is the neighborhood to the west of Virginia Lane served by O'Malley Drive, Oak Street, Crawford Drive, Tree Lane and 6<sup>th</sup> Street W. The lot sizes in this area range in size from 7000 square feet in the Crawford Subdivision (the 10 lots bordered by O'Malley, Oak Street, Crawford and 6<sup>th</sup> Street W), to 105,721 square feet on O'Malley Drive.

Perhaps more importantly, the lot sizes for those lots immediately bordering the subject property on the west side of Virginia Avenue are:

- 2211 Oak Street: 13,670 square feet
- 2222 Virginia Lane: 15,500 square feet
- 2306 Virginia Lane: 22,000 square feet
- 505 O'Malley Drive: 10,019 square feet
- 520 O'Malley Drive: 7,200 square feet

The Grandview Subdivision across Virginia Lane to the east and the Crawford Subdivision bordered by O'Malley, Oak, Crawford and 6<sup>th</sup> Street W were developed in the 1930s and 1940s. The City Council adopted the Highland Neighborhood Plan 2007 well after these subdivisions were developed. This indicates that despite the lots in these earlier subdivisions having an area less than 9600 square feet, the shared vision for future infill development in this area was one of new lots having a minimum area of 9600 square feet. The applicant's request is in direct conflict with this vision.

In conclusion we feel that this request is excessive. A change in the zoning map from low density residential to medium density residential is a departure from the shared vision reflected in the Highland Neighborhood Plan and the City zoning map, and creates an atmosphere of "ad hoc" planning on behalf of the City that reduces predictability for residents.

And finally, a change in the zoning is simply not necessary for the applicant to re-develop the parcel. Under the current zoning, the applicant has the ability and the right to develop the land in an efficient way and use the existing services that are already in place. And in fact, we support this. What we do not support is this unreasonable and excessive step of requesting a spot zone change that runs counter to so many policies and plans already in place.

Thank you for the opportunity to comment.

Jeffrey Griffin and Amy Drought  
2211 Oak Street  
[amy.lakejulia@gmail.com](mailto:amy.lakejulia@gmail.com)  
[gobigrif@gmail.com](mailto:gobigrif@gmail.com)

#### **List of Attachments**

Findings addressing Growth Guidelines  
Findings addressing Zone Change Criteria  
Proposed site plan for "The Gables" distributed by Applicant for neighborhood meeting  
Proposed preliminary plat distributed by Applicant to the neighbors  
Highland Neighborhood Plan Preferred Future Land Use Map approved by City 2007  
Highland Neighborhood Current Zoning  
Amy Drought email to Performance Engineering dated 13 May

## Findings addressing Growth Policy and Guidelines

*In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe, and provide a choice of housing and transportation options.*

**Finding:** This parcel can easily be redeveloped providing more housing options and increased tax revenue without the zone change. Nothing precludes the applicant from developing the property under current zoning standards and densities. Given the size of the lot, the applicant could develop the property very creatively preserving the existing beautiful trees and maximizing open liveable space while still providing different housing options.

If the zone change is approved however, the applicant will create six lots with buildable lots areas of only 5200 square feet and accessed via a private street that has entry and exit points on Oak Street (see attached site plan and preliminary plat). The existing parcel already has frontage on 3 public streets. Dedicating land for a private street when the lot is already surrounded on three sides by public streets is a waste of valuable land that could be used for living and building space and contrary to smart growth and infill development strategies.

As documented in other findings, the zone change will negatively impact the existing strong neighborhood especially with regard to the transportation network and safe routes to school.

*The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans.*

**Finding:** The proposal does not ensure the safety of all users of the transportation system. Oak and O'Malley are local streets with a large walking and biking community and are a direct route to our neighborhood school, Highland Elementary.

At the neighborhood meeting the applicant stated that the proposed zoning would have a minimal impact on Virginia Lane. However, of key importance is the impact to O'Malley and Oak Streets both of which are local streets unlike Virginia Lane which is a major arterial. The increase in density will create new circulations patterns and an increase in vehicular trips that will negatively impact the existing street system and in particular the walking and biking community.

The applicant's proposal called *The Gables* development shows a new private street that will have access onto Oak Street. Having the main ingress and egress onto Oak Street for the entire development will create significant conflicts for reasons stated above. However, the increased density to allow six new units with any development scenario will have a negative impact on traffic circulation and especially our biking and walking community.

*Infill development and development near existing City infrastructure may be the most cost effective.*

**Finding:** The current zoning provides ample space for the applicant to re-develop this property, putting at least three houses on the lot which currently has one. It is a large flat lot connected to public water, sewer and streets. There are no natural restrictions such as steep slopes, floodplains or unstable soils that

would prevent it from being developed under current zoning and development standards.

Developing the lot under current zoning would eliminate the need for the “private street.” Dedicating land for a private street when the lot is already surrounded on three sides already by public streets is a waste of valuable land that could be used for living and building space and contrary to smart growth and infill development strategies. The area dedicated to the private street could be used as buildable/useable land if the project was developed under current zoning standards.

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

**Finding:** The zone change will not contribute to a safe and attractive neighborhood. Small lots with buildable areas of only 5200 square feet served by a private street do not meet the character of the existing neighborhood and is a departure from the shared vision of the Highland Neighborhood Plan. As stated earlier, the proposal will significantly impact the neighborhood transportation system especially for bikers and walkers. Our neighborhood already has essential services such as access to public sewer, water and streets.

***Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable.***

**Finding:** A change in the zoning map from low density residential to medium density residential destabilizes property values because it is a departure from the shared vision reflected in the Highland Neighborhood Plan and the City zoning map, and creates an atmosphere of “ad hoc” planning on behalf of the City that reduces predictability for residents. Furthermore, the proposal with buildable lot areas of only 5200 square feet and increased traffic impacts on the neighboring streets will destabilize property values because it does not meet the existing character of the neighborhood, does not enhance the neighborhood and reduces the liveability of the neighborhood.

***Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels.***

**Finding:** The Highland Neighborhood current zoning has different zoning designations that provide a diversity of housing options (see attached current zoning map). If the City feels that the current zoning regulations or designations need to change, then the City should initiate a public process to review and possibly change the existing zoning map as well as amend the Highland Neighborhood Plan. This process should be based on an analysis of needed housing at different densities that looks at a variety of scenarios. Absent of a deliberative process such as that, the City is put into a position of reacting, instead of proactive planning. By approving this isolated zone change request, the City is allowing an applicant to dictate the future look of the City in a very piece-meal fashion, instead of the other way around.

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

The proposed zone change and increased density will not contribute to a safe and attractive neighborhood. Small lots with buildable areas of only 5200 square feet served by a private street do not meet the character of the existing neighborhood and is a departure from the shared vision of the Highland Neighborhood Plan. Our neighborhood is already an attractive, liveable and walkable place connected to essential services. The applicant claims that the proposal will “revitalize” our neighborhood. Our neighborhood does not need “revitalizing” as the applicant claims. Furthermore, the applicant will be required to make improvements such as sidewalks, even if he decides to develop the lot under current zoning standards. The zone change request itself has no bearing on whether improvements will be

required.

***Implementation of the Infill Policy is important to encourage underutilized properties.***

**Finding:** As mentioned above in our summary arguments, this development is not in compliance with the Infill Policy, specifically Goal (c) *Ensure compatibility with and work to enhance existing neighborhood amenities by implementing neighborhood plans, involving residents early in planning process, and striving for a shared vision of the future,* and Goal (d) *Find ways to include safety, health, environmental, and transportation benefits for the community when considering any infill development plan or project to always improve the overall sense of place.*

Further, the current zoning provides ample space for the applicant to re-develop this property, putting at least three houses on the lot which currently has one. It is a large flat lot connected to public water, sewer and streets with no natural restrictions. Developing the lot under current zoning would eliminate the need for the “private street.” Dedicating land for a private street when the lot is already surrounded on three sides by public streets is a waste of valuable land that could be used for living and building space and contrary to smart growth and infill development strategies.

***A mix of housing types that meet the needs of a diverse population is important.***

As stated earlier, the Highland Neighborhood current zoning has different zoning designations that provide a diversity of housing options (see attached current zoning map). If the City feels that the current zoning regulations or the zoning needs to change, then the City should initiate a public process to review and possibly change the existing zoning map as well as amend the Highland Neighborhood Plan. This process should be based on an analysis of needed housing at different densities and look at a variety of scenarios. Instead, by approving this isolated zone change request, the City is allowing an applicant to dictate the future look of the City in a very piece-meal fashion, instead of the other way around.

***The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development.***

There is nothing in the Billings Housing Needs Assessment that states this parcel is needed to be rezoned from low density residential to medium density residential for the purposes of providing 3 more additional housing units at this location than what could be allowed under current zoning.

***Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.***

The proposed zone change and increased density will not contribute to a safe and attractive neighborhood. Small lots with buildable areas of only 5200 square feet served by a private street do not meet the character of the existing neighborhood and is a departure from the shared vision of the Highland Neighborhood Plan. As stated earlier, the proposal will significantly impact the neighborhood transportation system especially for bikers and walkers.

Nothing precludes the applicant from developing the property under current zoning standards. Given the size of the lot, the applicant could develop the property very creatively preserving the existing beautiful trees and maximizing open liveable space while still providing different affordable housing options.

***Safe and accessible transportation systems benefit everyone's quality of life.***

**Findings:** We are fortunate that Oak and O'Malley Streets are part of a transportation system that

benefits everyone's quality of life in the neighborhood. Many bikers and walkers from other neighboring areas used these streets to get to Highland Elementary school as well. The increase in density will create new circulations patterns and an increase in vehicular trips that will negatively impact the existing street system and in particular the walking and biking community.

*"Safe Route to Schools" promotes physical health and reduces vehicle trips, earning parents more time and less costs for transportation.*

**Findings:** As stated above, Oak Street and O'Malley are a main route to our neighborhood school, Highland Elementary, and are used by many bikers and walkers. Many bikers and walkers from other surrounding neighboring areas used these streets to get to Highland Elementary school as well. The proposed increased density and development layout with the vehicle trips entering and existing onto Oak Street will create significant safety risks for all users of the transportation system, but especially our children on their way to school.

### Findings addressing Zone Change Criteria

We find that the applicant does not meet the following zone change criteria:

*(1) Whether the new zoning is in compliance with the growth policies*

**Findings:** As explained in attached findings, the new zoning is not in compliance with applicable growth policies.

*(3) Whether the new zoning will promote public health, public safety and general welfare;*

**Findings:** The new zoning will not promote the overall public health, public safety and general welfare of the community. As already stated in the attached findings, we are fortunate because Oak and O'Malley Streets are part of a transportation system that benefits everyone's quality of life in the neighborhood. Many bikers and walkers from other neighboring areas used these streets to get to Highland Elementary school as well. Protecting safe routes to schools is a priority goal in the growth guidelines, as well as the Highland Neighborhood Plan.

The proposed increased density and development layout with the vehicle trips entering and existing onto Oak Street creates conflicts to this system and negatively impacts the quality of life for all transportation users. Of key consideration is the impact to O'Malley and Oak Streets both of which are local streets unlike Virginia Lane which is a major arterial. The increase in density will create new circulations patterns and an increase in vehicular trips that will negatively impact the existing street system and in particular the walking and biking community.

*(4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;*

**Findings:** As stated above, the new zoning will not facilitate the transportation needs for the neighborhood. The proposal does not ensure the safety of all users of the transportation system. The new zoning does not protect the transportation needs of walkers and bikers, nor protect safe routes to schools. Unlike Virginia Lane, Oak and O'Malley are local streets with a large walking and biking community and are a direct route to our neighborhood school, Highland Elementary. Protecting safe routes to schools is a priority goal in the growth guidelines, as well as the Highland Neighborhood Plan.

*(5) Whether the new zoning will provide adequate light and air;*

While the applicant calculates each lot as 6250 ft<sup>2</sup>, the actual buildable area for each lot is closer to 5250 square feet, not 6250 square feet (see attached site plan and preliminary plat). The applicant is proposing a private street approximately 20 feet wide extending from Oak Street to Virginia Lane. Since this is a private street (and not dedicated public right-of-way), the applicant includes the area of this private street easement in their calculation of the total area of each lot, even though this is not liveable/buildable space. The "feel" of this proposal for the neighborhood will be one of each new house essentially occupying a lot of 5250 ft<sup>2</sup>, not 6250 ft<sup>2</sup> due to the effect of the private street. This is much denser than the current neighborhood and does not meet the vision set forth in the Highland Neighborhood Plan.

*(6) Whether the new zoning will effect motorized and nonmotorised transportation;*

The new zoning will negatively impact nonmotorized transportation and potentially create conflicts for motorized transportation as well. The new zoning will not protect the transportation needs of walkers and bikers, nor protect safe routes to schools. The proposal does not ensure the safety of all users of the transportation system. Oak and O'Malley are streets with a large walking and biking community and are a direct route to our neighborhood school, Highland Elementary. Oak Street is a local street with many

people, especially children, walking and riding bikes. Protecting safe routes to schools is a priority goal in the growth guidelines, as well as the Highland Neighborhood Plan.

*(7) Whether the new zoning will promote compatible urban growth;*

The new zoning does not promote compatible urban growth. As documented in our summary arguments, this development is not in compliance with the Infill Policy, specifically goal (c) *Ensure compatibility with and work to enhance existing neighborhood amenities by implementing neighborhood plans, involving residents early in planning process, and striving for a shared vision of the future,* and goal (d) *Find ways to include safety, health, environmental, and transportation benefits for the community when considering any infill development plan or project to always improve the overall sense of place.*

Further, the current zoning provides ample space for the applicant to re-develop this property, putting three houses on the lot which currently has one. It is a large flat lot connected to public water, sewer and streets. There are no natural restrictions such as steep slopes, floodplains or unstable soils that would prevent it from being developed under current zoning and development standards.

Developing the lot under current zoning would eliminate the need for the “private street.” Dedicating land for a private street when the lot is already surrounded on three sides by public streets is a waste of valuable land that could be used for living and building space and contrary to smart growth and infill development strategies.

Nothing precludes the applicant from developing the property under current zoning standards. Given the size of the lot, the applicant could develop the property very creatively preserving the existing beautiful trees and maximizing open liveable space while providing additional housing options.

*(8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;*

The proposed zoning does not fit in with the existing zoning and land uses of the immediate area. Although the applicant is proposing to build detached single family dwellings, they will be on lots with a usable area of approximately 5250 square feet and accessed via a private street. While the applicant calculates each lot as 6250 ft<sup>2</sup>, the actual buildable area for each lot is closer to 5250 square feet, not 6250 square feet. The applicant is proposing a private street approximately 20 feet wide extending from Oak Street to Virginia Lane. Since this is a private street (and not dedicated public right-of-way), the applicant includes the area of this private street easement in their calculation of the total area of each lot, even though this is not liveable/buildable space.

The “feel” of this proposal for the neighborhood will be one of each new house essentially occupying a lot of 5250 ft<sup>2</sup>, not 6250 ft<sup>2</sup> due to the effect of the private street. This does not meet the existing character of the neighborhood, especially those lots in the neighborhood to the west of Virginia Lane most affected by this development, and those lots immediately bordering the subject property which have the following lot areas:

- 2211 Oak Street: 13,670 square feet
- 2222 Virginia Lane: 15,500 square feet
- 2306 Virginia Lane: 22,000 square feet
- 505 O’Malley Drive: 10,019 square feet
- 520 O’Malley Drive: 7,200 square feet

*(9) Whether the new zoning will conserve the value of buildings; and*

**Findings:** A change in the zoning map from low density residential to medium density residential destabilizes property values because it is a departure from the shared vision reflected in the Highland Neighborhood Plan and the City zoning map, and creates an atmosphere of “ad hoc” planning on behalf of the City that reduces predictability for residents. The proposal with buildable lot areas of only 5200 square feet and increased traffic impacts on the neighboring streets will destabilize property values because it does not meet the existing character of the neighborhood, does not enhance the neighborhood and reduces the liveability of the neighborhood.

*(10) Whether the new zoning will encourage the most appropriate use of land throughout*

**Findings:** The new zoning does not encourage the most appropriate use of the piece of property and negatively impacts the surrounding area as mentioned in earlier findings. Dedicating land for a private street when the lot is already surrounded on three sides by public streets is a waste of valuable land that could be used for living and building space and contrary to smart growth and infill development strategies.

The current zoning provides ample space for the applicant to re-develop this property, putting three houses on the lot which currently has one. It is a large flat lot connected to public water, sewer and has public street frontage on 3 sides. Developing the lot under current zoning would eliminate the need for the “private street.” Given the size of the lot, the applicant could develop the property very creatively preserving the existing beautiful trees and maximizing open liveable space while still providing different housing options.

From: Amy Drought amy.lakejulia@gmail.com  
Subject: Proposed Zone Change Virginia Lane & O'Malley  
Date: May 13, 2018 at 12:51 PM  
To: rob@performance-ec.com  
Cc: Amy Drought-Griffin amy.lakejulia@gmail.com, Jeffrey Griffin gobigrif@gmail.com

Good morning,

We are unable to attend the neighborhood meeting scheduled for next Wednesday, May 16th at 6:00pm at Bistecca, 1500 Poly Drive. We are submitting these comments and would appreciate if they could be shared with the people in attendance. We look forward to seeing a copy of the meeting minutes as required by the City.

Dear neighbors, allow us to set the context with two overall points:

A) It is important to note that the request before the public right now is that of the zone change only. It is not to approve a certain type or style of home even though the applicant states that these will be "high end dwellings". There is no way to know or guarantee what type or style of home will be built at this time should the zone change be approved. The only request before the public right now is to increase the density for this one parcel from low density residential to medium density residential. The subdivision and building permits for the homes are a separate process that would happen later.

B) the City of Billings Zoning Map designates this parcel and all of the surrounding neighborhood Low Density Residential with a minimum lot size of 9600 square feet. The neighborhood zoning doesn't change to Medium Density Residential until the south side of Parkhill Drive.

We are opposed to the zone change request for the following reasons:

Point 1: We have concerns and questions regarding how the proposed rezoned lot sizes are characterized. The applicant proposes to rezone the existing .86 acre lot to a R6000 restricted zone and eventually divide the parcel into 6 individual lots with a minimum lot size of approximately 6250 square feet. The R6000 zoning district requires a minimum lot size of 6000 ft<sup>2</sup>. While the applicant calculates the each lot as 6250 ft<sup>2</sup>, the actual buildable area for each lot is closer to 5250 square feet, not 6250 square feet. The applicant is proposing a private street approximately 20 feet wide extending from Oak Street to Virginia Lane. Since this is a private street (and not dedicated public right-of-way), the applicant includes the area of this private street easement in their calculation of the total area of each lot, even though this is not liveable/buildable space. In summary, the "feel" of this proposal for the neighborhood will be one of each new house essentially occupying a lot of 5250 ft<sup>2</sup>, not 6250 ft<sup>2</sup> due to the effect of the private street. In addition, a question: The preliminary plat does not show any dedication of right-of-way on Oak Street for required standard street improvement typical with this type of development. Including this right of way for a sidewalk would eliminate some land area for proposed lot 1 and bring it under the required 6000 square foot minimum. Will the City require such right of way? If so, it is pertinent to this request.

Point 2. This zone change request is not in compliance with the adopted Highland Neighborhood plan approved by the City and a departure from the Plan's vision for the future. The Highlands Neighborhood Plan adopted by the City designates this parcel and the surrounding neighborhood Low Density Residential as the preferred future land use designation. Further, the City's Infill Policy, Goal (c) states Ensure Compatibility with and work to enhance existing neighborhood amenities by implementing neighborhood plans.

Point 3. The proposed zoning does not fit in with the existing zoning and land uses of the immediate area. In order to meet the criteria for a zone change, the City must consider the *character of the district*. The character of the neighborhood is one of detached single family dwellings on lots with a minimum lot area of 9600. Although the applicant is proposing eventually to build detached single family dwellings, they will be on lots with a usable area of approximately 5250 square feet and accessed via a private street. This does not meet the existing character of the neighborhood.

Point 4. We are also very concerned about the transportation impacts of the zone change and don't feel the applicant meets the City's growth policies, the Highland Neighborhood Plan, and the zone change approval criteria to ensure safe transportation systems for all users and to protect and provide for safe routes to school. The applicant proposes a new private street that will have access onto Oak Street. Oak Street is an half block local street with many people, especially children, walking and riding bikes. Highland Elementary is our neighborhood school and Oak Street is a main bike and pedestrian route to the school. We are very concerned about the increase of traffic on Oak Street and the safety of our walking and biking community if this proposal is approved and don't believe that the current proposal ensures the public, health, safety and welfare of the neighborhood – key approval criteria for a zone change.

Point 5. The re-zoning request is not needed. The current zoning provides ample space for the applicant to re-develop this property, putting at least three houses on the lot which currently has one. It is a large flat lot connected to public water, sewer and streets. There are no natural restrictions such as steep slopes, floodplains or unstable soils that would prevent it from being developed under current zoning and development standards. Developing the lot under current zoning would eliminate the need for the "private street" and the conflicts with the new ingress and egress points for the entire development onto Oak Street. For example, why not put one house with a driveway onto Virginia, another with a driveway onto O'Malley and a third with a driveway onto Oak? This would be much more in keeping with the Highland Neighborhood Plan, City policies, and related key criteria and spread out the transportation impacts of the new development.

In conclusion we feel that this request is excessive and asks too much of the parcel and most importantly does not meet key approval criteria. This proposal constitutes "spot zoning" in order to increase the density for one parcel only that is very different from that of the surrounding area for the benefit of the applicant and to the detriment of other landowners in the neighborhood. Under the current zoning, the applicant has the ability and the right to develop the land in an efficient way and use the existing services that are already

zoning, the approval rate the ability and the right to develop the land in an efficient way and see the existing services that are already in place. Finally, this zone change request if approved, will be at the expense of other adopted plans and policies that citizens worked hard to develop and which provide predictability to neighborhoods and landowners.

Thank you for the opportunity to comment.

Jeff and Amy Griffin  
2211 Oak Street

(contact emails: [amy.lakejulia@gmail.com](mailto:amy.lakejulia@gmail.com); [gobigrif@gmail.com](mailto:gobigrif@gmail.com) )

Carrie La Seur  
Andrew Wildenberg  
525 O'Malley Drive  
June 11, 2018

To Whom It May Concern:

We live at 525 O'Malley, across the intersection of Oak and O'Malley from the proposed development. We would be directly affected by construction and increased traffic. With residents of six new houses using that intersection, it will be a challenge to get out of our driveway. Our kids and their friends will be less safe running into the street to chase a ball or bicycling to school as they currently do. The single lane alley will force every single car to enter or exit the subdivision onto tiny Oak Street, which has only one partial sidewalk, and greatly increase traffic on O'Malley and Sixth Street. It's absurd to use traffic counts on Virginia Lane as the standard for assessing impact to O'Malley and Oak, which aren't arterials and have only short stretches of sidewalk.

The application states that "the majority of the lots surrounding the development are in the 6,000 – 7,000 square foot range", but that isn't true on the west side of Virginia, where the development would be. The streets east of Virginia are more densely developed and have a different character than the neighborhood to the west, so much so that during the recent SD2 redistricting effort, Virginia was considered a natural barrier and the districts were altered to make Virginia a boundary.

The small setbacks and yards for the proposed development are inconsistent with their neighbors - except for the home owned by the developer, which used zoning waivers. Our lot is over 10,000 sf and our neighbors have as large or larger lots, with correspondingly larger homes. Smaller homes on smaller lots may decrease surrounding property values. This is a thriving existing neighborhood that needs no "revitalization."

The lot is currently home to many healthy mature trees and large shrubs that cool the neighborhood in summer, create a pleasant canopy effect on O'Malley and Oak, provide wildlife habitat, and add to the unique appeal of the "tree streets." The proposed development couldn't be accomplished without ripping out all those trees. This happened when the Shadowlawn subdivision was developed, greatly diminishing the visual appeal of O'Malley Drive and the corner of Poly and Virginia.

The noise and other impacts of the Shadowlawn development, which is only half built, have been enormous. Noise violations have been constant and the noise ordinance is unenforceable, because police can't respond in time to catch construction crews that start work 30-45 minutes before the 7 a.m. legal start time. There has been no respite on weekends. Start times of 7 a.m. on Sunday morning have been common. Construction on O'Malley caused constant heavy traffic, parking problems, stormwater runoff, and a sea of mud for kids to wade through on their way to school for years. The current developer's representations about construction hours and timeline are unenforceable. There are surface and groundwater challenges on the site that if inadequately addressed will increase flooding on neighboring properties. The reduction in permeable surfaces will cause standing water and flooding in the neighborhood as the Shadowlawn development continues to do. Many houses near the site already struggle with flooding on a regular basis. New construction on O'Malley causes a lake to form in the middle of the street after every heavy rain.

The developer's summary of the neighborhood meeting left out the important detail that a vote was taken and the 20+ neighbors present unanimously oppose the rezoning proposal. We urge you to deny the rezoning application.

Carrie La Seur

Andrew Wildenberg

June 22, 2018



Planning Division  
2825 3rd Avenue North  
4th Floor, Miller Building  
Billings MT 59103

**This is a protest** for Billings zone change # 969 for project PZ-18-0097.

My address is:

*2211 Virginia Ln.*

I have reviewed the application and do not believe it is in keeping with the character of the neighborhood and will create congestion and traffic. Too many houses wedged into the lot. The current zoning should be respected.

Thank you for your consideration.

Signed by all property owners:

*Dale Makin*

Copy:

Nicole Cromwell

Zoning Coordinator

[cromwellm@ci.billings.mt.us](mailto:cromwellm@ci.billings.mt.us)

*Dale Makin*



June 22, 2018

Planning Division  
2825 3rd Avenue North  
4th Floor, Miller Building  
Billings MT 59103

**This is a protest for Billings zone change # 969 for project PZ-18-0097.**

My address is: 2205 TREE LANE  
BILLINGS, MT 59102

I have reviewed the application and do not believe it is in keeping with the character of the neighborhood and will create congestion and traffic. Too many houses wedged into the lot. The current zoning should be respected.

Thank you for your consideration.

Signed by all property owners:

A handwritten signature in blue ink, appearing to be "Angela Price (GAINAN)".

ANGELA PRICE (GAINAN)

Copy:  
Nicole Cromwell  
Zoning Coordinator  
[cromwellm@ci.billings.mt.us](mailto:cromwellm@ci.billings.mt.us)



June 21, 2018

Planning Division  
2825 3rd Avenue North  
4th Floor, Miller Building  
Billings MT 59103

**This is a protest** for Billings zone change # 969 for project PZ-18-0097.

My address is:

2223 Virginia Lane  
Billings, MT 59102

I have reviewed the application and do not believe it is in keeping with the character of the neighborhood and will create congestion and traffic. Too many houses wedged into the lot. The current zoning should be respected.

Thank you for your consideration.

Signed by all property owners:

Teri Rockwell

Copy:

Nicole Cromwell

Zoning Coordinator

[cromwellm@ci.billings.mt.us](mailto:cromwellm@ci.billings.mt.us)

Teri Rockwell



June 21, 2018

Planning Division  
2825 3rd Avenue North  
4th Floor, Miller Building  
Billings MT 59103

**This is a protest** for Billings zone change # 969 for project PZ-18-0097.

My address is:

2327 Virginia Lane  
Billings, MT 59102

I have reviewed the application and do not believe it is in keeping with the character of the neighborhood and will create congestion and traffic. Too many houses wedged into the lot. The current zoning should be respected.

Thank you for your consideration.

Signed by all property owners:

A handwritten signature in black ink, appearing to read "Marianne J. D." with a stylized flourish at the end.

Copy:

Nicole Cromwell  
Zoning Coordinator  
[cromwellm@ci.billings.mt.us](mailto:cromwellm@ci.billings.mt.us)



**505 O'Malley Drive  
Billings MT 59102**

Monday, June 18, 2018

Planning Division  
2825 3rd Avenue North  
4th Floor, Miller Building  
Billings MT 59103

**This is a protest** to the zone change request for the property at the corner of O'Malley Drive and Virginia Lane. The copy of the application designates the zone change as # 969 for project PZ-18-0097.

We in possession of the protest dated June 11, 2018 submitted by Amy Drought and Jeff Griffin who reside at 2211 Oak St. Their protest is comprehensive, detailed and specific. We endorse the arguments made by them in their letter and adopt them as our arguments for our protest against the zone change requested without the need to repeat them in this letter.

We might add that we were offended that the notes of the neighborhood meeting submitted with the application failed to include the vote that was taken at the meeting in which not one attendee voted in favor of the project. In addition, crowding six houses onto a lot currently zoned for three R9600 lots if subdivided, is completely out of character in the neighborhood. And when we define our neighborhood, we include properties on the West side of Virginia Lane up to the Highland Golf Club. The houses on the east side of Virginia Lane belong with the Tree Streets neighborhood. Virginia Lane is the dividing line. For many years the O'Malley Drive neighborhood held a Christmas party. Those invited lived on O'Malley, Oak and the feeder streets up to the golf course as well as the those living on the West side of Virginia Lane near O'Malley. No invitees lived East of Virginia Lane. Different neighborhood.

O'Malley Drive and its immediate environs has always been a low-density residential neighborhood in keeping with the Highland neighborhood plan. Stuffing six houses onto the subject property will increase traffic and congestion and will result in an a change in the neighborhood that we believe no one wants except the developer. For example, can you imagine the parking and congestion on O'Malley Drive which will occur, for example, with six houses on the subject property with holiday parties going on over the same weekend.

We would have no objection to the subject property subdivided into three R9600 lots with appropriate houses built on each. There may be other areas of Billings where the development of the kind contemplated may be suitable, but O'Malley Drive is not one of them.

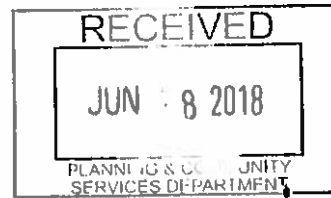
Thank you for considering our protest.

A handwritten signature in blue ink, appearing to read "Laurence R. Martin" and "Ruth B. Martin" written together.

Laurence R Martin and Ruth B Martin  
505 O'Malley Drive  
lrm59102lrm@mac.com

June 17, 2018

Nicole Cromwell  
Zoning Coordinator  
[CromwellN@ci.billings.mt.us](mailto:CromwellN@ci.billings.mt.us)



RE: Letter of protest for zone change at corner of O'Malley Drive and Virginia Lane

Dear Ms. Cromwell, Members of the Zoning Commission, and City Council,

We are writing to **oppose the zone change request at 2226 Virginia Lane from R-96 to R-60-R**. It is scheduled to go before the Zoning Commission on July 10, 2018. We oppose this proposed zone change for several reasons.

This proposed zone change will not fit with the character of the current Virginia Lane/O'Malley/Oak Street area. The property at 2226 Virginia Lane is directly in the middle of an area with very few residential properties NOT zoned as R-96 (from Grand Ave. to the south to north of Rimrock Rd., and from Rehberg to the west to Locust St/N 32<sup>nd</sup> St. to the east). This rezoning would be termed 'spot zoning' and certainly does not benefit nor adhere to the character of this neighborhood. Further, the development of this lot into six separate properties will certainly result in all of the current landscaping and trees to be removed. Mature, healthy trees are a large part of the character of this neighborhood.

The desire to subdivide this lot into six parcels does not fit with the character of this neighborhood, and is unnecessary; this property could be divided into three lots even under the current R-96 zone. Six houses in this area would increase traffic and street parking, adversely affecting the ability of pedestrians and cyclists to safely use these streets. O'Malley is used by many kids as a safe walking route to Highland School.

Thank you in advance for your consideration of our thoughts during the hearing.

Jess and Jeremy Archer  
2318 Virginia Lane

Two handwritten signatures in black ink. The top signature is a cursive name, likely "Jess Archer". The bottom signature is another cursive name, likely "Jeremy Archer".

	TAX ID	OWNER NAME	ADDRESS 1	CITY	STATE	ZIP CODE	STREET #	STREET	SUFF	Subdivision	BLOCK	LOT	PROTESTED (Y/N)
1	A03134	BRIAN E HARRINGTON	501 CHANCERY LN	BILLINGS	MT	59102-2547	501	CHANCERY	LN	BLACKACRE SUBD		2	
		MOLLY M HARRINGTON											
2	A03137C	JAMEY RONALD EISENBARTH	2222 VIRGINIA LN	BILLINGS	MT	59102-2567	2222	VIRGINIA	LN	BLACKACRE SUBD 2ND FILING		8	
		DONALD N CHRISTENSEN											
3	A03137D	JEFFREY F GRIFFIN	VIA DANDOLO 50				2211	OAK	ST	BLACKACRE SUBD 2ND FILING		9	Yes
		AMY C DROUGHT											Yes
4	A03137A	LANCE R HOSKINS	2205 OAK ST	BILLINGS	MT	59102-2558	2205	OAK	ST	BLACKACRE SUBD 2ND FILING		6	
		CHRISTINE M HOSKINS											
5	A05765	KURTIS E NICKOLOFF	3114 17TH ST W	BILLINGS	MT	59102-0706	521	CRAWFORD	DR	CRAWFORD SUBD	1	1	
		CHRISTOPHER J NICKOLOFF											
6	A05766	RICHARD M FEELEY	2508 MCCORMICK LN	BILLINGS	MT	59102-1527	2228	OAK	ST	CRAWFORD SUBD	1	2	
		MARY A FEELEY											
		MARTIN P FEELEY											
7	A05774	MARGARET MARY KUHLMANN ONSTAD	1615 SMELTER AVE	BLACK EAGLE	MT	59414-1009	520	O MALLEY	DR	CRAWFORD SUBD	1	10	
8	A05773	MARGARET MARY KUHLMANN ONSTAD	1615 SMELTER AVE	BLACK EAGLE	MT	59414-1009		O MALLEY	DR	CRAWFORD SUBD	1	9	
9	A20304	SMSH, LLC	175 N 27TH ST STE 1203	BILLINGS	MT	59101-2048	543	O MALLEY	DR	SHADOW LAWN ESTATES SUB (15)	1	5	
		ERIC NORD, AGENT	PO BOX 1942	BILLINGS	MT	59103							
10	D05729	ANDREW WILDENBERG	158 W 81ST ST APT 61	NEW YORK	NY	10024-5957	525	O MALLEY	DR	CS 1540 TRACT 2A			Yes
		CARRIE LA SEUR											Yes
11	D05730	LAURENCE R MARTIN	505 O MALLEY DR	BILLINGS	MT	59102-2554	505	O MALLEY	DR	CS 1540 TRACT 2B			Yes
		RUTH B MARTIN											Yes
12	D05728	DAVID P LANGFORD	12742 CANYON CREEK RD	MOLT	MT	59057-2118	2306	VIRGINIA	LN	CS 1540 TRACT 1			
		KERI L SPAHR-LANGFORD											
13	D05727	MICHAEL S BROWN	2312 VIRGINIA LN	BILLINGS	MT	59102-2505	2312	VIRGINIA	LN	CS 2909 TRACT 1 & CS 1911 TRACTS 1B/2B			
		AIMEE M BROWN											
14	A08333	BLODGETT INVESTMENTS INC	2227 VIRGINIA LN	BILLINGS	MT	59102-2566	2227	VIRGINIA	LN	GRANDVIEW SUBD	18	7	
		JENNIFER D BLODGETT, AGENT	PO BOX 16	RAPELJE	MT	59607							
15	A08334	TERI ROCKWELL	2223 VIRGINIA LN	BILLINGS	MT	59102-2566	2223	VIRGINIA	LN	GRANDVIEW SUBD	18	8	Yes
16	A08335	KATHY M MCCLEARY	2217 VIRGINIA LN	BILLINGS	MT	59102-2566	2217	VIRGINIA	LN	GRANDVIEW SUBD	18	9	
17	A08323	LISA M GALVIN	2315 VIRGINIA LN	BILLINGS	MT	59102-2504	2315	VIRGINIA	LN	GRANDVIEW SUBD	17	11	
18	A08324	MARY ELIZABETH JOHNSON	2309 VIRGINIA LN	BILLINGS	MT	59102-2504	2309	VIRGINIA	LN	GRANDVIEW SUBD	17	12	
		MEGAN E CLOVER-OWENS											
		ALLISON A NELSON											
19	A08325	REBECCA L WOLFE	PO BOX 216	BRIDGER	MT	59014-0216	2305	VIRGINIA	LN	GRANDVIEW SUBD	17	13	Yes
		ROBERT W MULLER											Yes
20	A08326	BRET KING	2303 VIRGINIA LN	BILLINGS	MT	59102-2504	2303	VIRGINIA	LN	GRANDVIEW SUBD	17	14	
		RHONDA KING											
20 PROPERTIES WITHIN 150 FEET CITY ZONE CHANGE 969													
25% REQUIRED FOR A VALID PROTEST = 5 PROPERTIES				VALID PROTEST REQUIRES 2/3 VOTE IN FAVOR BY CITY COUNCIL TO APPROVE ZONE CHANGE									
ALL OWNERS MUST SIGN TO QUALIFY A PROPERTY AS PROTESTING (3 OWNERS = 3 SIGNATURES)													



## City Zoning Commission

**Meeting Date:** 07/10/2018

**SUBJECT:** Zone Change 968 -1041 North 24th St.

**THROUGH:** Monica Plecker

**PRESENTED BY:** Karen Husman

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### Information

#### REQUEST

**City Zone Change 968** – 1041, 1043, 1043 ½ , 1045, 1045 ½ , 1047 N 24th Street and 2316, 2316 ½ and 2320 11th Ave N – R-70 to RMF-R – A zone change request from Residential 7,000 (R-70) to Residential Multi-family-Restricted (RMF-R) on the North 100 feet of Lot 2, Block 8, Sunnyside Subdivision 2nd Filing, a 14,000 square foot parcel of land generally located on the southeast corner of the intersection of N 24th Street and 11th Avenue North. Tax IDs: A16401 & A1640. Presented by Karen Husman, Planner I.

#### RECOMMENDATION

Planning staff is recommending approval for Zone Change 968 based on the findings of the 10 review criteria as required by Billings, Montana City Code (BMCC) Sec. 27-1502(d).

#### APPLICATION DATA

OWNER: Red Gate #2, Britt A. Romain

LEGAL DESCRIPTION: The north 100 feet of Lot 2, Block 8, Sunnyside Sub., 2nd Filing

ADDRESS: 1041 24th St. N - 2320 11th Ave N

CURRENT ZONING: Residential - 7000

EXISTING LAND USE: Residential Multi-Family

PROPOSED USE: Residential Multi-Family

SIZE OF PARCEL: 14,000 sf

#### CONCURRENT APPLICATIONS

None. The applicant intends to apply for a lot area variance if the zone change is approved. If approved, the lot area variance would insure the same number of dwelling units that exist now could be re-built on these lots.

#### APPLICABLE ZONING HISTORY

**Subject Property:** None

**Surrounding Property:**

- Zone Change #396 from -7200 to RMF, on Lot 3, Block 14, of Sunnyside Sub.
- Zone Change #402 from R-7200 to R-6000, on Lot 3, Block 14, 3rd filing.

- Zone Change #830 from R-7000 to R-6000 on lot the north fraction 100'x150' in Block 305, Billings, 1st Addition.

## **SURROUNDING LAND USE & ZONING**

NORTH:

Zoning: R-7000

Land Use: Residential & Residential Multi-Family

SOUTH:

Zoning: R-7000

Land Use: Residential & Residential Multi-Family

EAST:

Zoning: RMF-R

Land Use: Residential & Multi-Family

WEST:

Zoning: R-7000

Land Use: Residential & Residential Multi-Family

## **BACKGROUND**

This is an application to change Residential 7,000 (R-70) to Residential Multi-Family-Restricted (RMF-R) on the North 100 feet of Lot 2, Block 8, Sunnyside Subdivision 2nd Filing, a 14,000 square foot parcel of land generally located on the southeast corner of the intersection of N 24th Street and 11th Avenue North.

The requested zoning of RMF-R will allow the existing multifamily dwellings to remain on the property. Currently, there are two duplex dwellings, one single family dwelling and one fourplex on the property, for a total of nine dwelling units. The zone change to RMF-R would allow multifamily dwellings on the property, whereas, R-70 only allows duplex dwellings, and single family dwellings.

Planning staff has reviewed the application and is recommending approval based on the findings of the 10 review criteria. The proposed zoning and use of the property is compatible with the adjacent and surrounding land uses. The 2016 Growth Policy supports the proposed zoning and use in this area of mixed uses and zoning. The proposed zoning also supports the Strong Neighborhoods and Home Base Guidelines: *"Create and enhance strong neighborhoods that are clean and safe with streets and public places that provide convenient access for our most vulnerable citizens – our children and grandparents. Enable a home environment for all residents that is healthy, safe and affordable, and offers a choice of housing options."* The proposed zoning allows the existing multi-family use of the property to continue. The applicant intends to submit a lot area variance if the zone change is approved. A lot area variance is needed to ensure the same number of dwellings units can be re-built if necessary in the future.

## **RECOMMENDATION**

Planning staff has reviewed the application and the 10 review criteria as required by BMCC Sec. 27-1502(d) for this zone change and is recommending approval based on the proposed findings. The proposed zoning meets many of the 2016 Billings Growth Policy guidelines. 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 use.

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## **Attachments**

Zoning Map & Site Photos

Application, Applicant letter & Pre App. Notes

Site Plan

Proposed Findings of the Review Criteria

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Site Photos



Subject property



Subject Property

Site Photos



Subject property looking East



Looking North



Looking South



looking west

Application

APPLICATION FORM

CITY ZONE CHANGE

ID: Billings Zone Change # 968 - Project # P2-18-00085

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

Present Zoning: R70

Proposed Zoning: RMF-R

TAX ID# A16401/A16402 CITY ELECTION WARD # \_\_\_\_\_

Legal Description of Property: Sec 32, Town of N, Range 28E Lot 7 B1K 8  
Sunnyside subd 2nd 51st S 32 T1N, Range 26W, B1K 8 Lot 2 55' x 100' Lot 2

Address or General Location (If unknown, contact City Engineering): 1041 24 STW

Size of Parcel (Area & Dimensions): 7,000 sq ft + 7,000 sq ft. ~ 14,000 sq ft

Present Land-Use: Multifamily

Proposed Land-Use: Multifamily - RMF-R

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): Red Gate #2 by Britt A. Romani

(Recorded Owner)  
4640 Riverview Rd Billings MT 59106  
(Address)  
408-390-0060  
(Phone Number) (email)

Agent(s): \_\_\_\_\_

(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Phone Number) (email)



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

Signature: Britt A Romani Date: 5-11-18  
(Recorded Owner)

Applicant Letter to Board

ZONING and VARIANCE COVER LETTER

May 1, 2018

This letter is to address my need for a variance on 1041, 1043 and 1043 1/2 North 24<sup>th</sup> Street (legal) in Billings, Montana. This lot already has an existing duplex and home (3 units). I wish to get a conforming acknowledgment so I can rebuild, maintain and improve the existing structures.

History of sewer and water construction to the city was accrued in 1940.

The lot is a 7,000 square foot lot on which the side setbacks currently are 5 feet side setbacks, back setbacks are 5 feet, and front setback is 20 feet. I would like to maintain setbacks as they currently are.

Neighborhood shows that I am surrounded by multiplexes on all sides.

My neighbor's lot to the north (Mark Wright's) is a restricted multifamily zoned lot. He recently applied for and was approved to keep his four-plex on his 7,000 square foot lot. Therefore, my request should be acceptable to the neighborhood with no more than 45% of lot footprint for improvements. The existence of my 3 units on this lot proves they have provided affordable housing close to hospitals, baseball field, grocery store, and other businesses.

Currently I am providing 2 parking spaces and will in the future have the existing garage upgraded for a car.

Option of building 1 nine-plex if both connecting lots are combined; 14,000 square feet with no more than 45% coverage for carports and structure, providing 8 off street parking spaces, should any structure become damaged beyond 50%.

My location is providing low income housing for the workers of the neighborhood. Businesses with bus transportation and close location makes it possible for them to walk to work.

Britt Romain  
4740 Rimrock Road  
Billings, MT 59106  
406.380.0060

## Britt Roman Zone Change + Variance

I. Billings Growth Policy. This property is within the city of Billings served by current infrastructure. To change the zoning would contribute to a stronger neighborhood and allow the owner to upgrade and maintain existing repairs as needed.

II there is an adjacent property that is already zoned RMF-R. My property is used for similar purposes. In order to perform upgrades, rebuilds and get building permits I need the zoning to describe the current use as close as possible.

III Pre application statement. I held a pre application meeting on 5-10-18 @ 5PM  
copy of minutes attached + sign sheet

Sincerely,  
Britt Roman

Pre-Application Minutes

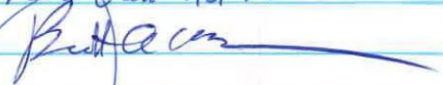

Minutes of Pre-Application Neighborhood Meeting.

Held: 10 May 2018 at 5:00 P.M. at North Park Building 6<sup>th</sup> Ave N + N. 21<sup>st</sup> Street Billings, Mt

Meeting was called to order at 5:00 P.M. -

Owner and attorney waited until 5:15 No one appeared.

Meeting was adjourned at 5:15 p.m.

Red Gate #1 LLC  
Owner:   
  
Attorney

Site Plan



North ↑

N 24th St

11th Ave N

9 units total

ALLEY

50'

## Zone Change #968

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following as required by BMCC Sec. 27-1502(d):

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 existing residential multifamily use to be conforming to the zoning. The current zoning does not allow multi-family residential uses. Financing improvements or sale of the property is unnecessarily complicated by the current zoning. The property provides a desirable and needed housing choice in the area. The neighborhood is stable, safe and conveniently located near services.

- **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 current residential use to remain and the owner to reconstruct the multifamily structures on the property. The residential use fit into the neighborhood. The property is within walking distance of many services including medical services, shopping, parks, schools and transit. The location is within walking distance of downtown.

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

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

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

Public health and public safety will be promoted by the proposed zoning. The property has existing single and multifamily dwellings; the current zoning of the parcel does not provide certainty for future reconstruction of the multifamily residential structures. Investment in property maintenance and upgrades will carry less risk if the zoning is conforming to the property use.

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 the multi-family uses to continue and the use is compatible with the existing neighborhood.
8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*  
The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning is identical to the zoning east of the subject property and is an appropriate zone with the adjacent residential neighborhood surrounding it.
9. *Will the new zoning conserve the value of buildings?*  
Approval of the zone change will conserve the value of the property and will make the current development conforming to zoning. The new zoning will allow reconstruction of the existing structures. 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 allow the existing multifamily structures to be re-constructed if necessary in the future. This is the most appropriate use of the land at this location.