

(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 was 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  
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[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

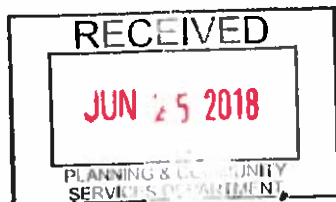
Copy:

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.

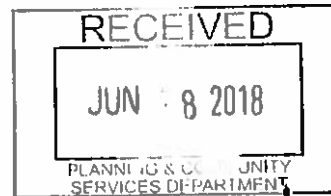
Thank you for considering our protest.

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 "Jess Archer" and the bottom signature is a cursive "Jeremy Archer".