



**CITY ZONING COMMISSION**  
**AGENDA-Tuesday, August 7, 2018, 4:30 p.m.**  
**Miller Building, 1st Floor Conference Room**  
**2825 3rd Avenue North, Billings, Montana**

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

**Call the meeting to order.**

**Introduction of City Zoning Commission Members and Planning Department Staff.**

**Public Comment**

**Approval of Minutes:**

The minutes of the Board meeting of July 10, 2018.

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

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

**Regular Business:**

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

**Public Hearings:**

- a. **City Special Review 967 – 4007 Avenue B – Palms West Pub and Casino** - A special review request to relocate an existing beer & wine license with gaming to Lot 1A, Block 2 of Goodman Subdivision, 3<sup>rd</sup> Filing, a 23,671 square foot parcel of land located in a Community Commercial (CC) zone, at 4007 Avenue B. The applicant is also requesting a waiver of the 600-foot separation distance from a church located approximately 500 feet north of the subject property. The license will be located in a 2,000 square foot area of a proposed 3,500 square foot building. Presented by Nicole Cromwell, Zoning Coordinator
  
- b. **City Special Review 968– 4910 Southgate Drive**- This is a special review request to allow the expansion of an outdoor beverage service area for an existing all-beverage license with gaming on Lot 1A, Block 1 of Geysers Park Subdivision, a 3.215-acre parcel of land located in an Entryway General Commercial (EGC) zone at 4910 Southgate Drive. No separation distance waiver is required for this liquor license. The proposed enclosed outdoor area for service of alcohol and other activities is ~23,300 square feet in area. Presented by Karen Husman, Planner I.

## **Other Business/Announcements**

## **Adjournment**

**The City Council has designated Monday, August 27, 2018, at 5:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the special reviews.**

Before taking any action on an application for a **special review use**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The City Council shall take one of the following actions on these Special Review requests: 1) approve the application; 2) conditionally approve the application; 3) deny the application; 4) allow withdrawal of the application; or 5) delay the application for a period not to exceed thirty (30) days.

The Zoning Commission and City Council will hear all persons wishing to speak relative to the proposed **special reviews**. Testimony regarding the above mentioned 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:** 08/07/2018

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**Information**

**Subject**

The minutes of the Board meeting of July 10, 2018.

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**Attachments**

BZC\_20180711\_draft

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## City of Billings Zoning Commission Meeting Minutes July 10, 2018

The City of Billings Zoning Commission met on Tuesday, July 10, 2018 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:00 p.m. 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 zoning applications.

Commission and Staff		01/03/2018	02/06/2018	03/06/2018	04/03/2018	05/01/2018	06/05/2018	07/10/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018
Dan Wagner	Chairman	1	1	1	1	1	1	1					
Dennis Ulvestad	Commissioner	1	1	E	1	1	1	A					
Mike Boyett	Vice Chairman	1	1	1	1	1	E	1					
Michael Larson	Commissioner	1	1	1	E	1	1	1					
James Mariska	Commissioner	1	1	1	1	E	1	1					
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-	-	-					
Monica Plecker	Division Planning Manager	-	-	-	1	1	-	-					
Nicole Cromwell	Planner Zoning Coordinator	1	1	1	1	1	1	1					
Tammy Deines	Planning Clerk	-	-	1	1	-	-	-					
Dave Green	Planner II	-	-	-	-	-	-	-					
Karen Husman	Planner I	-	1	1	1	-	1	1					
Robbin Bartley	Administrative Support	1	1	-	-	1	1	1					

Total Number of 2018 Applications	01/03/2018	02/06/2018	03/06/2018	04/03/2018	05/01/2018	06/05/2018	07/10/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018	TOTAL
Zone Change	2		1	2	0-R	2	2						9
Special Review	1	1	1	1	0	3	0						7

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

**In Attendance:**

**Public Comment**

Chairman Wagner called for public comments.

Chairman Wagner closed the public comment portion of the meeting.

**Approval of Minutes May 1, 2018**

Chairman Wagner called for approval of the June 5, 2018 meeting minutes.

**Motion**

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to approve the June 5, 2018 meeting minutes.

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

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

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

**Disclosure of Conflict of Interest**

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

**Disclosure of Outside Communication**

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

**Public Hearings:**

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience that this would be heard by the City Council on June 25, 2018. He then asked Nicole Cromwell to review the first agenda item.

Nicole Cromwell presented:

**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 south west corner of the intersection of O’Malley Drive and Virginia Lane. Tax ID: D05736

**RECOMMENDATION** – Applicant is requesting the application be withdrawn

**Questions for Staff:**

Chair Wagner - Why was the application withdrawn? Staff explained a valid protest had been achieved against the Zone Change on June 27, 2018. Also 12 or so letters of protest against the Zone Change have been received. Chair Wagner asked if the applicant would come back, staff indicated it is not likely.

**In favor**

NONE

**Opposed**

NONE

**REBUTTAL**

**Public Hearing** - NONE

**Discussion**

**Chairman Wagner asked for a motion.**

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to approve **Withdrawal of City Zone Change 969.**

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

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

Karen Husman presented:

**City Zone Change 968 – 1041, 1043, 1043 ½ , 1045, 1045 ½ , 1047 N 24<sup>th</sup> Street and 2316, 2316 ½ and 2320 11<sup>th</sup> 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 2<sup>nd</sup> Filing, a 14,000 square foot parcel of land generally located on the south east corner of the intersection of N 24<sup>th</sup> Street and 11<sup>th</sup> Avenue North. Tax IDs: A16401 & A16402**

**RECOMMENDATION**

Planning staff is recommending approval based on the findings of the 10 review criteria as required by BMCC 27-1502 for Zone Change 968.

**Questions for Staff:**

Commissioner Boyett asked if the 4 plex structure burnt down it could it be rebuilt only as a duplex? Staff replied affirmatively.

**Ken Peterson, agent**

We held the neighborhood meeting May 10, 2018, no one attended. The applicant has great difficulty getting building permits for improvements with the current zoning.

**In favor**

NONE

**Opposed**

NONE

**REBUTTAL**

NONE

**Public Hearing was closed at 4:13 pm.**

**Discussion**

**Chairman Wagner asked for a motion.**

Commissioner Boyett made a motion and Commissioner Larson seconded the motion to approve **City Zone Change 968.**

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

**Other Business:**

**The next meeting will be August 7, 2018.**

**Adjournment:** The meeting adjourned at **4:15 p.m.**

**DRAFT:** To be approved by a motion **August 7, 2018.**

**ATTEST: Robbin Bartley, Administrative Support**



**City Zoning Commission**

**Meeting Date:** 08/07/2018

**SUBJECT:** Special Review 967 - 4007 Avenue B

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Special Review 967 – 4007 Avenue B – Palms West Pub and Casino** - A special review request to relocate an existing beer & wine license with gaming to Lot 1A, Block 2 of Goodman Subdivision, 3rd Filing, a 23,671 square foot parcel of land located in a Community Commercial (CC) zone, at 4007 Avenue B. The applicant is also requesting a waiver of the 600-foot separation distance from a church located approximately 500 feet north of the subject property. The license will be located in a 2,000 square foot area of a proposed 3,500 square foot building. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

Planning staff is recommending conditional approval and adoption of the findings of the 3 criteria of Special Review 967.

**APPLICATION DATA**

OWNER: RC Property Holdings LLC

AGENT: Rob Veltkamp

LEGAL DESCRIPTION: Lot 1A, Block 2, Goodman Subdivision, 3rd Filing

ADDRESS: 4007 Avenue B

CURRENT ZONING: Community Commercial (CC)

EXISTING LAND USE: Vacant

PROPOSED USE: 2-tenant building with a transferred beer & wine license including gaming in a 2,000 square foot space for a bar/casino

SIZE OF PARCEL: 23,671 square feet

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
4007 Avenue B	City ZC 586	July 11, 1994	A-1 to CC	Yes	Original ZC & Annexation of Goodman Subdivision
SURROUNDING PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
3990 Ave D	City SR 210	Feb 25, 1983	Gas Station	Yes	Not Built as Gas Station Doctor's Office
3969 Grand Ave	City SR 586	June 10, 1996	2 Drive Thru's	Yes	Now Town Pump
3925 Grand Ave	City SR 631	May 26, 1998	All Bev Gaming	Yes	Bottles & Shots
1450 Country Manor	City SR 634	July 27, 1998	Vet Clinic with boarding	Yes	Granite Peak Vet

1810 Shiloh Rd	County SR 252	Mar 23, 1999	Church Expansion	Yes	Shiloh Methodist
3875 Grand	City SR 670	Jan 24, 2000	All Bev Gaming	Yes	The Red Door
1430 Country Manor	City SR 702	July 23, 2001	250' cell tower	No	
3980 Parkhill	City SR 705	Aug 27, 2001	Assisted Living	Yes	Highgate Senior Living
3980 Parkhill	City SR 717	Mar 25, 2002	Increase Units	Yes	Highgate Senior Living
3969 Grand Ave	City SR 731	Jan 13, 2003	Beer & Wine Gaming	Yes	Now Town Pump
1431 Country Manor	City SR 766	Aug 23, 2004	Beer & Wine Gaming	Yes	Atlantis Casino
3839 Grand Ave	City SR 829	Oct 23, 2006	All Bev Gaming	No	Proposed Silver City Casino
3839 Grand Ave	City SR 878	Aug 24, 2009	All Bev Gaming	Yes	Magic City Casino
3969 Grand Ave	City SR 912	Oct 28, 2013	Expand Casino	Yes	Town Pump Magic Diamond Casino

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning: CC Land Use: Sylvan Nursery
SOUTH:	Zoning: CC Land Use: Stockman Bank
EAST:	Zoning: CC Land Use: Vacant Land
WEST:	Zoning: CC Land Use: Peretti Dental

## BACKGROUND

This is a special review request to re-locate an existing beer & wine license with gaming from Lucky's Grand Casino at 1411 13th St West to this new location at 4007 Avenue B. The proposed sports bar and casino will be a second location for the current Palms Grand Casino at 1112 Grand Avenue. The proposed name of this new location is Palms West Pub & Casino. The new location is proposed for 2,000 square feet of the new 3,500 square foot building. The remaining 1,500 square feet will be for a new sandwich shop - TOPZ Sandwich Company - featuring dine in or drive through service.

The location is 600 feet south of a property primarily used for a church - Shiloh United Methodist Church at 1810 Shiloh Road. The local zoning code requires a property line-to-property line separation between locations that serve alcohol and any property used primarily for a church, a school, or public park with playgrounds or playing fields. The proximity of the church property will require a waiver from the City Council to allow the sale of alcoholic beverages in this location. A waiver may be granted when 1 or more conditions exist such as the lack of a pedestrian connection, visual barriers between the locations or separation by an arterial street.

This location is on the corner of Shiloh Road, a principal arterial street, and Avenue B, a local commercial access street. Average daily traffic on Shiloh Road is about 13,750 vehicle trips per day (a 3-year average). This is modest average daily traffic for a 4-lane arterial street. Poly Drive between 13th St West and Virginia, a 2-lane minor arterial street, regularly carries more than 10,000 vehicle trips per day. This location is 1 block north of the major arterial intersection of Grand Avenue and Shiloh Road. Avenue B and Shiloh Road is a full access intersection and this location will only have driveway access off Avenue B and not Shiloh Road. This side of Shiloh Road carries a 10-foot wide multi-use trail. Trail use counts in this area were last done in 2015 but indicate about 100+ users on the trail each day. This is the 3rd highest trail count section of all the sections monitored by the City.

The property has been zoned CC since 1994 when the property was subdivided and annexed to the City. It has been 20+ years since the first commercial building - the Holiday Station - was constructed in this subdivision. Several on-premise alcohol service licenses have been granted in and around this area since 1998 when the first special review was granted to Bottles and Shots at 3925 Grand Avenue. This proposed license location is also directly adjacent to a principal arterial street but is not an all beverage license. Only beer and wine may be served with the

proposed license. Gaming is attached to this license so video gaming will be offered.

The proposed location is within 600 feet of a church located at 1810 Shiloh Road. The local code requires measuring the separation distance from property line to property line. The City Council may consider granting a waiver if it finds a physical barrier exists. These can include a visual barrier. In this instance, buildings between the 2 locations obstruct any direct line of sight and can be considered a basis for granting a waiver. The Planning staff recommends the 600-foot separation requirement be waived for this application.

The Planning Division has reviewed this application and is recommending conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Zoning Regulations and the Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the *first* criteria in so far that the zoning regulations adopted by the City Council have designated this zoning as an area where on-premise service of alcohol with gaming may be allowed by special review approval. The proposed site plan meets all the requirements of the zoning regulations for setbacks, building height, clear vision areas and lot coverage. The Planning staff will ensure compliance with all the North Shiloh Corridor Overlay District requirements for building design, landscaping and signage.

The application meets criteria from the *second* requirement and is consistent with the objectives of the 2016 Growth Policy:

**Essential Investments:**

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

**Community Fabric:**

- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity

**Strong Neighborhoods:**

- 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
- Implementation of the Infill Policy is important to encourage development of underutilized properties

**Prosperity:**

- Successful businesses that provide local jobs benefit the community
- Retaining and supporting existing businesses helps sustain a healthy economy

The proposed development will fill in a vacant parcel along a major transportation corridor and will help support a local business and make the use of the multi-use path more desirable for the area. Vacant lots or vacant buildings discourage pedestrian activity. An "unfinished" landscape on this stretch of Shiloh Road also discourages other investment in the area.

The application also meets the *third* criteria in that it is compatible with surrounding land uses in the area. This site is in an already established and growing area of Billings, with good access to transportation choices. The area provides some access to essential everyday services such as restaurants, banking, vehicle services and medical offices. There will be minimal impacts from the proposed use that need to be mitigated. The conditions recommended with the special review should mitigate impacts on the site and the surrounding properties.

**SUMMARY**

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

1. Deny the application for a special review use.
2. Grant the application for a special review use.

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

Before recommending approval for a special review use, the City Zoning Commission shall find that the contemplated use:

1. **Complies with all requirements of this chapter;**
2. **Is consistent with the objectives and purposes of this Resolution/Ordinance and the Comprehensive Plan; and**
3. **Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.**

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

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

## **RECOMMENDATION**

The Planning staff recommends conditional approval:

1. The special review is for 1 (one) beer and wine license with gaming to be located on Lot 1A, Block 2 of Goodman Subdivision, 3rd Filing, generally located at 4007 Avenue B. No other special review use is intended or implied.
2. The site will be developed in general conformance with the submitted site plan dated March 15, 2018.
3. The maximum floor area for the special review use is limited to 2,000 square feet. Increases of 10% or less are allowed under this special review approval.
4. Trees will be provided along each property frontage at a rate of not less than 1 tree for each 50 linear feet of street frontage. The following tree species are specifically excluded: Evergreen species (all varieties), ornamental deciduous trees (less than 40 foot mature height), Carolina poplar, other populus subspecies including any variety of aspens, elms, lombardy poplar, silver leaf poplar, weeping willow, or box elder. All installed trees will be continuously maintained and replaced as necessary by the owner. Installation of the trees along the Shiloh Road property frontage shall be placed a minimum of 5 feet behind the multi-use path and the street trees along the Avenue B property frontage shall be planted in the boulevard between the curb and the sidewalk. Equidistant spacing is not required, however the Shiloh Road property frontage needs at least 3 trees. All street frontage trees should be large enough so the lowest branch height above the root stock is 8 feet at the time of planting.
5. A free-standing solid brick or stone wall or facsimile of brick or stone wall of 30 inches in height will be installed parallel to the east side of the drive through lane in order to diminish headlight glare from vehicles.
6. All exterior lighting, including security lighting, shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade. Exceptions to this requirement are allowed for entry doorway lighting.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar, or complimentary in color, to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside. The developer will coordinate with the Solid Waste Division of

Public Works to ensure proper placement, size and construction of the storage facility.

8. The developer will install 1 (one) off-street bicycle parking facility consisting of an *Inverted U* or *Post and Ring* design. The location of the facility will be verified at the time of building permit but shall be close to at least one of the business entry doorways.
9. A pedestrian access walkway will be installed through the landscaped area west of the proposed monument sign at the street intersection. This pathway will include a marked crossing of the interior drive aisle to reach the building walkway. This pedestrian access will be verified at the time of building permit application.
10. Any outdoor announcement system shall be operated so it is not audible beyond the property lines.
11. The proposed monument sign must comply with the clear vision standards for the intersection of Avenue B and Shiloh Road.
12. The final building plan, landscaping plan, site development and signage plan shall conform to all requirements of the North Shiloh Corridor Overlay District unless modified by these conditions of approval.
13. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
14. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit or zoning compliance permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

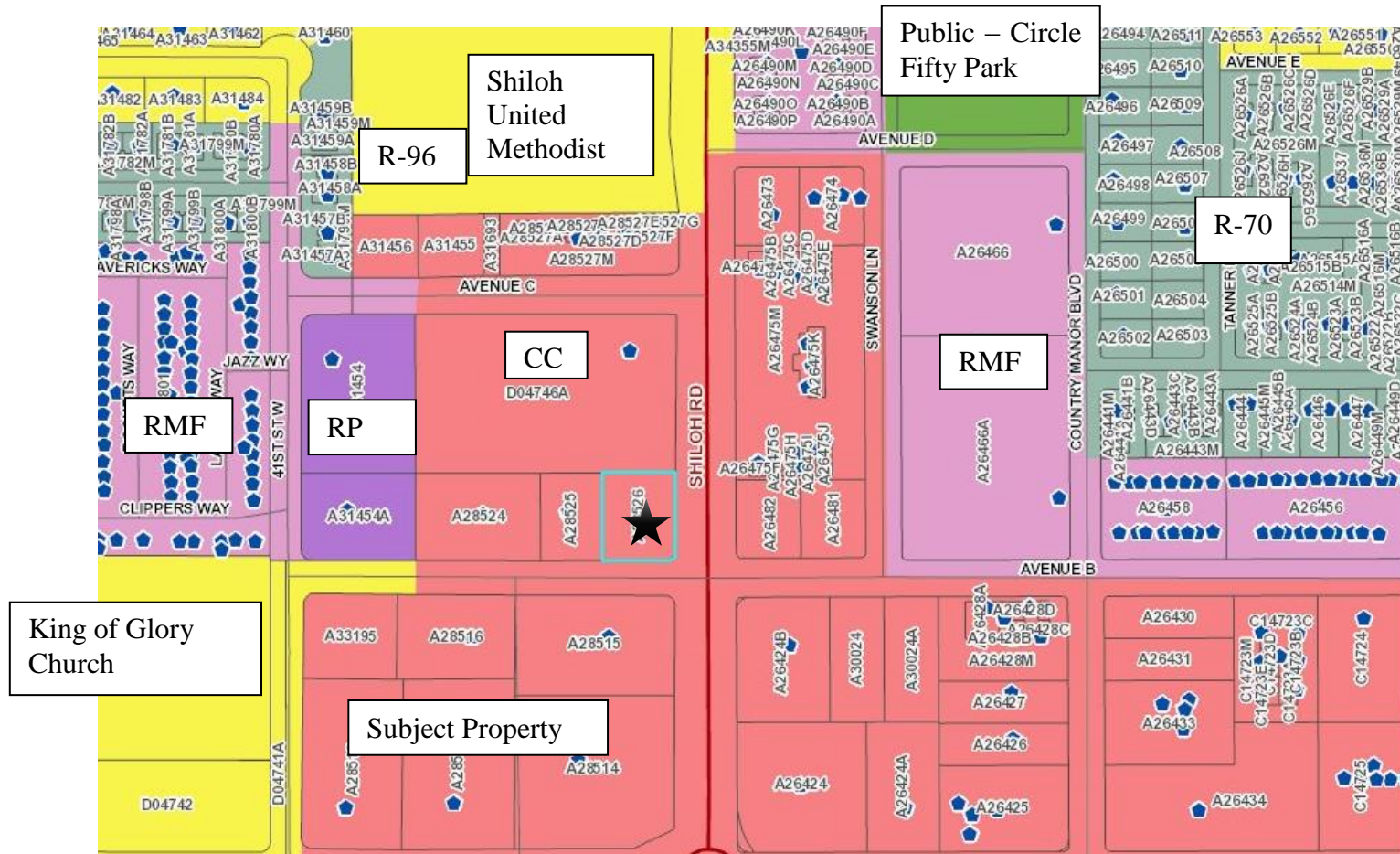
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### **Attachments**

Zoning Map and Site photos  
Application and Site Plan

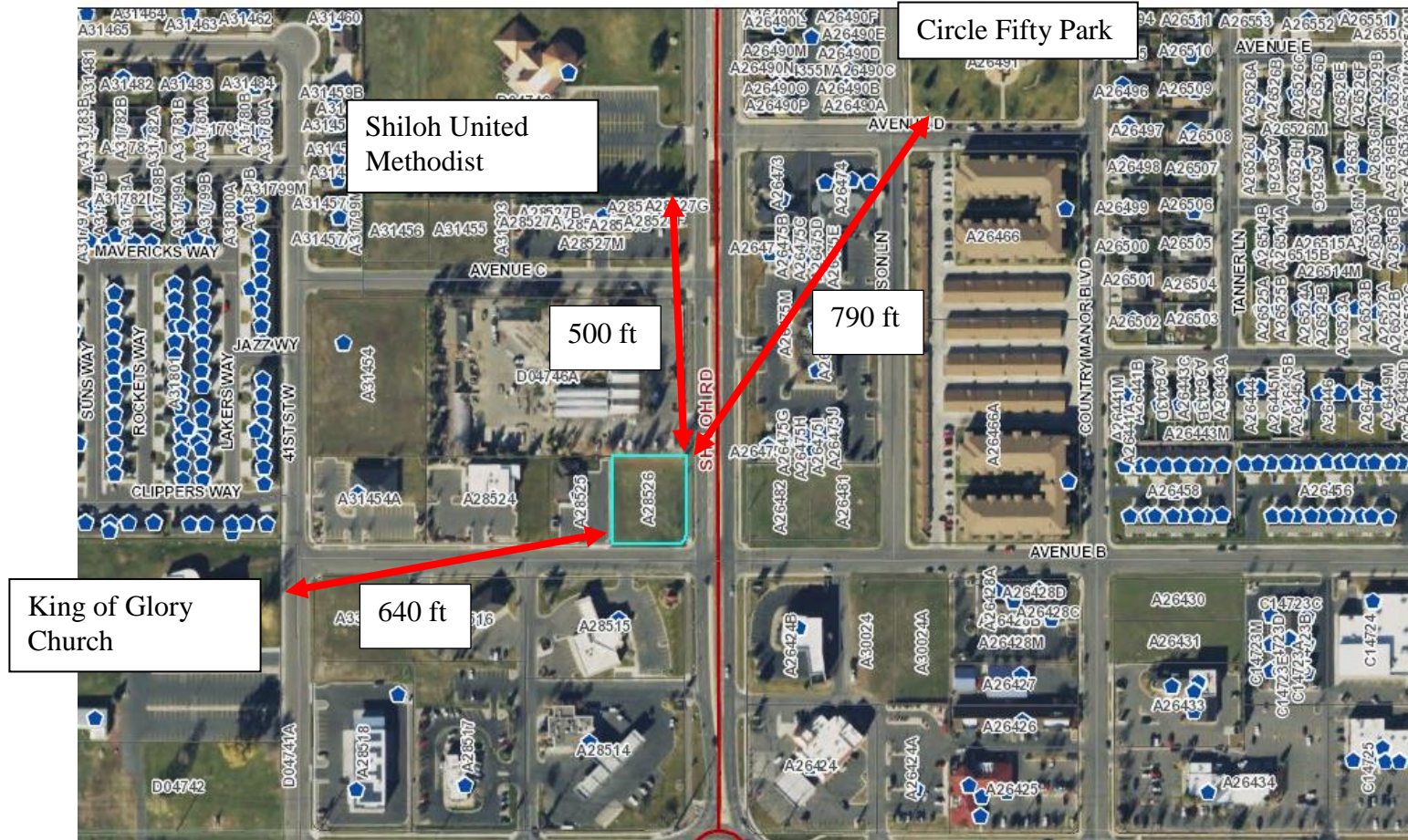
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Surrounding Zoning  
Special Review 967

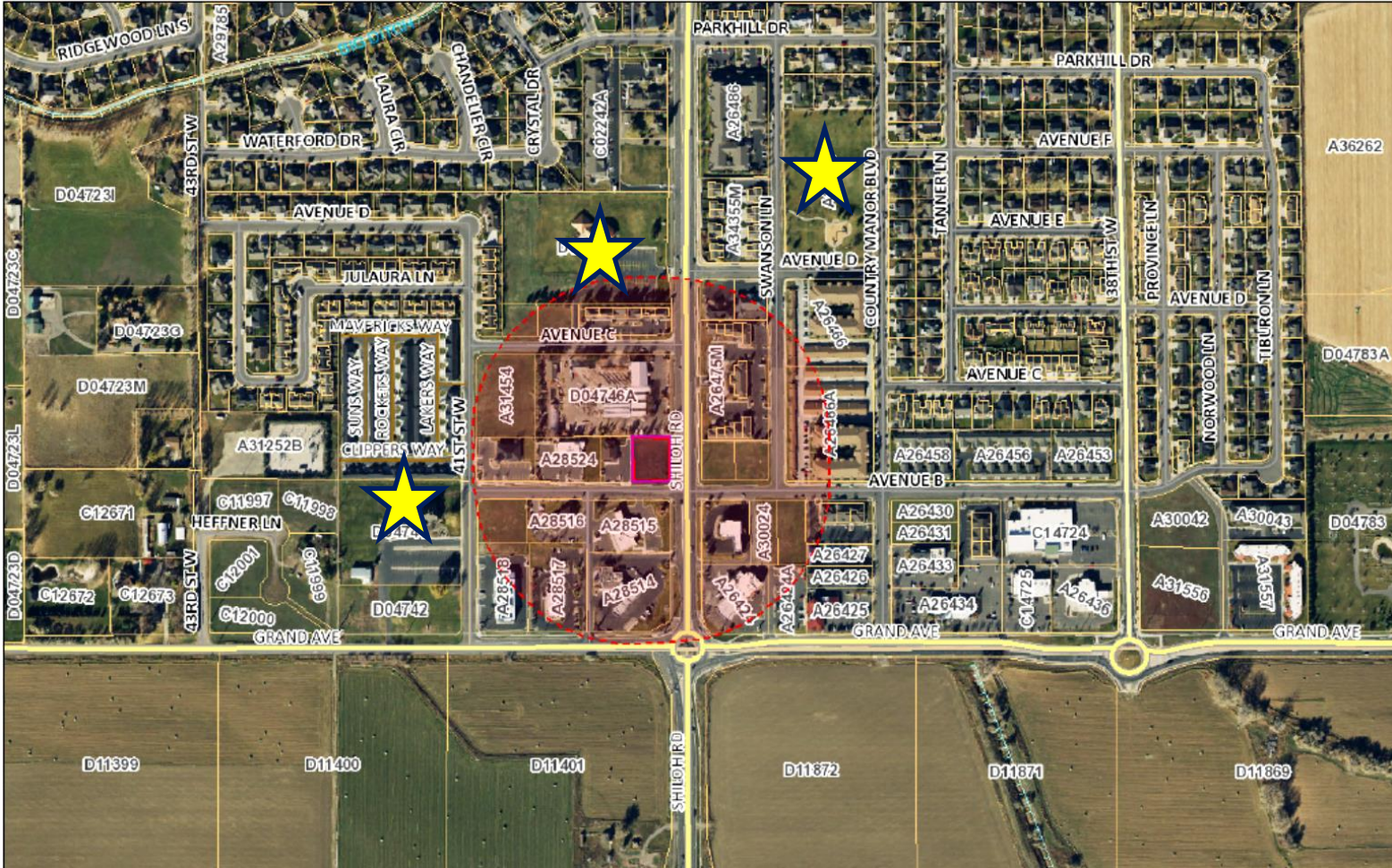


Subject Property

# SR 967 4007 Ave B Aerial Map



600 ft radius



**Subject Property Photos**



Peretti Dental

Subject Property – view west along Avenue B



Subject Property

View north along multi-use path on Shiloh Road

**Subject Property Photos**



View south west across Avenue B



View south along Shiloh Road

**Subject Property Photos**



View north across property



Subject Property

Sylvan Nursery

Subway

Church (behind Subway)



View-shed between subject property and church property

Application and Site Plans  
Special Review 967 – 4007 Avenue B

June 26, 2018

Special Review Application Answers to Questions:

- A. The new 3,500 sq. ft. development will improve vacant land and create more tax base for the City of Billings and County of Yellowstone.

This new development will create a lot of new construction jobs. The new development will house TOPZ Sandwich Company and Palms West Pub & Casino whose businesses will promote equal opportunity and economic advancement. The two new businesses will provide new local jobs which benefit the community and by providing new jobs ensure a strong Billings economy. TOPZ Sandwich Company plans to employ between 12-15 new employees in their second location in Billings. Their current location at 900 South 24<sup>th</sup> Street West, Suite 6 employs 10-12 employees. Palms West will create 6-8 new jobs for their second location in Billings. Their current location employs 6-8 employees at The Palms Grand at 1112 Grand Avenue.

- B. The northwest corridor is still very limited in food and entertainment options. TOPZ Sandwich Company will provide another good food option for northwest patrons, and Palms West will provide additional food and drink options along with the gaming for entertainment.
- C. Again, the public interest will be served by providing more food and drink options in the northwest corridor.
- D. The small 23,671 sq. ft. northwest community commercial zoned lot will be developed by constructing a small 3,500 sq. ft. building for restaurant use that will house two tenants, a 1,500 sq. ft. new TOPZ Sandwich Company restaurant with drive thru service, and a 2,000 sq. ft. new Palms West sports pub, eatery, and casino. The property is already zoned properly for this type of use, but we are asking for a waiver of the 600 ft. rule as there is a church located 500 ft. to the north of this parcel from property corner to property corner. The new building will be located well over 650 ft. from the actual church building, but the church has a very large amount of parking and landscaping south of the church so the property corners are only 500 ft. apart. We believe our hard commercial corner on Shiloh Road and Avenue B has plenty of buffer properties adjacent to the north including Sylvan Nursery, Avenue C, and the strip center north of Avenue C which blocks any visibility looking south from the church down Shiloh Road.

We also have observed that there is very limited pedestrian traffic using the sidewalk adjacent to Shiloh Road between this parcel going north to the church property so pedestrian safety would not be a concern.





**City Zoning Commission**

**Meeting Date:** 08/07/2018

**SUBJECT:** Special Review 968 - 4910 Southgate Drive

**THROUGH:** Monica Plecker

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Special Review 968– 4910 Southgate Drive-** This is a special review request to allow the expansion of an outdoor beverage service area for an existing all-beverage license with gaming on Lot 1A, Block 1 of Geyser Park Subdivision, a 3.215-acre parcel of land located in an Entryway General Commercial (EGC) zone at 4910 Southgate Drive. No separation distance waiver is required for this liquor license. The proposed enclosed outdoor area for service of alcohol and other activities is ~23,300 square feet in area. Presented by Karen Husman, Planner I.

**RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 968.

**APPLICATION DATA**

**OWNER:** America Foods  
**AGENT:** Barbara Hawkins  
**LEGAL DESCRIPTION:** Lot 1A, Block 1 of Geyser Park Subdivision  
**ADDRESS:** 4910 Southgate Drive  
**CURRENT ZONING:** Entryway General Commercial  
**EXISTING LAND USE:** Restaurant, Lounge  
**PROPOSED USE:** Allow outdoor service in fenced patio/yard  
**SIZE OF PARCEL:** 3.215 acres

**CONCURRENT APPLICATIONS**

Department of Revenue - Request to Modify Premises

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Special Review #	DATE	FOR	APPROVED (Y/N)
4910 Southgate Dr.	934	11/23/2015	All Bev. Lic./Gaming	Yes
	939	4/26/2016	Outdoor Patio	Yes
SURROUNDING PROPERTY	Special Review #	DATE	FOR	APPROVED (Y/N)
4907 Southgate Dr.	615	10/14/97	All Bev. Lic with Gaming	yes
740 S 24th St W	493	6/21/93	All Bev. Lic with Gaming	yes
740 S 24th ST W	533	7/25/94	Patio Lounge	yes
2530 King Ave. W	595	11/12/96	Beer & Wine Lic.	Yes

980 South 24th St. W	787	6/28/05	Patio Lounge	Yes
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**SURROUNDING LAND USE & ZONING**

NORTH:     Zoning:    Entryway General Commercial - EGC  
              Land Use:  Best Western Plus/Kelly Inn and Suites

SOUTH:     Zoning:    Highway Commercial - HC  
              Land Use:  Interstate - 90 (on-ramp)

EAST:       Zoning:    EGC  
              Land Use:  Comfort Suite Hotel

WEST:       Zoning:    EGC  
              Land Use:  Extended Stay America

**BACKGROUND**

This is a special review request to allow the expansion of an outdoor beverage service area for an existing all-beverage license with gaming on Lot 1A, Block 1 of Geyser Park Subdivision, a 3.215 acre parcel of land located in an Entryway General Commercial (EGC) zone at 4910 Southgate Drive.

The Planning Division has reviewed this application and is recommending conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Zoning Regulations and the Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the *first* criteria in so far that the zoning regulations adopted by the City Council have designated this zoning as an area where outdoor service of alcohol may apply for a special review. The proposed site plan meets all the requirements of the zoning regulations for setbacks, building height, clear vision areas and lot coverage. There are no churches, schools or parks with playground equipment or playing fields within 600 feet of this location.

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

**Strong Neighborhoods:**

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

**Prosperity:**

- Successful businesses that provide local jobs benefit the community.

This development will allow an existing business to expand and retain local jobs. This development will help support and sustain the tax base for Billings.

The application also meets the *third* criteria in that it is compatible with surrounding land uses in the area. This site is in an already established area of Billings, with good access to transportation choices. The area provides access to essential everyday services such as restaurants, retail shopping, convenience shopping and services. There are minimal impacts from the proposed use that need to be mitigated. The conditions recommended with the special review should mitigate impacts on the site and the surrounding properties.

**SUMMARY**

## Zoning Commission Action

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

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

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

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

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

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

## **RECOMMENDATION**

The Planning Division recommends conditional approval.

1. This is a special review request to allow the expansion of an outdoor beverage service area for an existing all-beverage license with gaming on Lot 1A, Block 1 of Geyser Park Subdivision, a 3.215-acre parcel of land located in an Entryway General Commercial (EGC) zone at 4910 Southgate Drive. The proposed enclosed outdoor area for service of alcohol and other activities is ~23,300 square feet in area. No other use is intended or implied by this approval.
2. Any outdoor seating space will not be used for live, amplified entertainment or music after 10 p.m.
3. Fencing shall be in conformance with requirements of all codes that apply. A fence permit will be obtained prior to construction of the enclosure. The site will be developed in conformance with all other applicable zoning and site development regulations.
4. The proposed development shall comply with all other limitations of Section 27-613 of the Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit or zoning compliance permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

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## **Attachments**

Zoning Map & Site Photos

Application, Applicant letter & Site plan

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Subject Property



West



North



East



South East

Application

City Special Review

APPLICATION FORM

City Special Review # 968 - Project # P2-18-0011

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

Present Zoning: Entryway General Commercial

Special Review Requested: Fence South backyard

TAX ID# A28409 COUNTY COMMISSIONER DISTRICT # 1

Legal Description of Property: Geyser Park Subd Block 1, Lot 1A, AMD

Address or General Location (If unknown, contact County Public Works): 4910 Southgate Dr

Size of Parcel (Area & Dimensions): 3.215 Acres

Present Land-Use: Restaurant, Lounge

Covenants or Deed Restrictions on Property: Yes No [checked]

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): America Foods Inc (Recorded Owner) 4910 Southgate Drive (Address) 406-672-6151 (Phone Number) America Foods MT@gmail.com (email)

Agent(s): Barbara Hawkins (Name) 4910 Southgate Drive, Billings, MT 59101 (Address) 406-672-6151 (Phone Number) America Foods MT@gmail.com (Email)

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

Signature: Barbara Hawkins (Recorded Owner) Date: 7/2/18

## Applicant Letter

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

The proposed application, to fence in and create a backyard/patio area adjacent to an eating and drinking establishment where alcoholic beverages are served, is consistent with the land use elements goals and objectives as it is consistent with nature of the existing neighborhood and type of uses allowed.

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

The need for a fence surrounding the backyard/patio is public safety and control. The backyard area will contain volleyball nets and other backyard games. The fence will keep unauthorized individuals from accessing the area. In addition, the fence will define the alcoholic licensed premises and create separation from the Hotel next door.

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

The approval of this application will serve the public interest by enhancing a locally owned quality restaurant and sports bar facility. The business helps to serve the growing demand for services in the area. It will provide an outside area for customers and allow them to be out of the public's view.

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

We propose approval of the application for a 6' high chain link fence which surrounds the backyard/patio area. The fence will be 210'

# Site Plan

