



CITY ZONING COMMISSION
AGENDA-Tuesday, September 4, 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 August 7, 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 Zone Change 970 – 2015 Blue Creek Road – NC to CC - A zone change request from Neighborhood Commercial (NC) to Community Commercial (CC) on Tract 1C of C/S 566, a .91 acre parcel of land. A pre-application neighborhood meeting was held on July 30, 2018, at the Blue Creek Volunteer Fire Department Tax ID: D01951. Presented by Karen Husman, Planner I

- b. City Special Review 969 – 316 S 24th St W – Blaze Pizza – Beer and Wine License w/o gaming – request to waive the 600-foot separation distance - A special review request to allow the location of a beer and wine license without gaming less than the required 600 feet – measured property line to property line – from a public park with a children’s playing field and playground (Stewart Park) and from a public school (Central Heights Elementary). The license is proposed for a new Blaze Pizza restaurant in a vacant 2,700 square foot tenant space in the multi-tenant building at 316 S 24th St West on Parcel A1 of C/S 1136, 2nd amended, a 36.82 acre parcel of land (Rimrock Mall property) located in a Community Commercial (CC). Presented by Monica Plecker, Planning Division Manager

Other Business/Announcements

Adjournment

The City Council has designated **September 24, 2018** at **5:30 p.m.** in the City Council Chambers as the time and place to hear testimony for or against the special review use and zone changes.

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

As provided in Montana Code Annotated, Section 76-2-305(2), in the event of a protest petition against such **zone change** signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, **one hundred fifty (150) feet from a lot included in a proposed change**, such proposed amendment shall not become effective except by the favorable vote of two-thirds (2/3) of the present and voting members of the city council. For purposes of this protest provision interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the Planning Division office by 5:00 p.m. on the Friday preceding (September 21, 2018) the first reading of the amendment by the City Council.

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

Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103.

Additional information on any of these items is available in the Planning and Community Services Office. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@ci.billings.mt.us

City Zoning Commission

Meeting Date: 09/04/2018

Information

Subject

The minutes of the Board meeting of August 7, 2018.

Attachments

BZC_20180807_draft

City of Billings Zoning Commission Meeting Minutes August 7, 2018

The City of Billings Zoning Commission met on Tuesday, August 7, 2018 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:00 p.m. The City Council has designated **Monday August 27, 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	1				
Dennis Ulvestad	Commissioner	1	1	E	1	1	1	A	1				
Mike Boyett	Vice Chairman	1	1	1	1	1	E	1	1				
Michael Larson	Commissioner	1	1	1	E	1	1	1	E				
James Mariska	Commissioner	1	1	1	1	E	1	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	1				
Tammy Deines	Planning Clerk	-	-	1	1	-	-	-	-				
Dave Green	Planner II	-	-	-	-	-	-	-	-				
Karen Husman	Planner I	-	1	1	1	-	1	1	1				
Robbin Bartley	Administrative Support	1	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	0					9
Special Review	1	1	1	1	0	3	0	2					9

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 July 10, 2018

Chairman Wagner called for approval of the July 10, 2018 meeting minutes.

Motion

Commissioner Boyett made a motion and Commissioner Mariska seconded the motion to approve the July 10, 2018 meeting minutes.

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

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

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

Disclosure of Conflict of Interest

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

Disclosure of Outside Communication

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

Public Hearings:

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience that this would be heard by the City Council on August 27, 2018. He then asked Nicole Cromwell to review the first agenda item.

Nicole Cromwell presented:

City Special Review 967 – 4007 Avenue B – Palms West Pub and Casino - A special review request to locate 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. Tax ID: A28526

RECOMMENDATION

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

Questions for Staff:

Mb-letter says has been approved previously? Less than 10 in 10 years, Billings Heights
MB-18th st w, staff explains
DW-why need 1 bicycle slot/based on square footage

In favor

Rob Veltkamp, 4382 Huckleberry Lane South, owner

Mr. Veltkamp, owner and applicant and Kasey Lowe of Studio 4 Architects, testified on the details of the proposed businesses and site plan. Mr. Veltkamp explained the beer and wine license with gaming was purchased from Lucky's Grand Casino at 13th and Grand Avenue. The license must be re-located in a short time period as dictated by state regulators. In response to a question from Commission member Ulvestad, Mr. Veltkamp stated the 2,000 square feet is more than enough for the beer and wine license. Lucky's Grand Casino was a little over 2,500 square feet. Mr. Veltkamp stated the former Lucky's location at Grand and 13th St West along with the former St. Vincent's Thrift Store will be demolished next year to make room for a new branch location for Yellowstone Bank.

In response to a question from Commission member Mike Boyett, Mr. Veltkamp stated the existing trees along the north property line belong to Sylvan Nursery and not the subject property.

Kasey Lowe, 2075 Cook Circle, Studio 4 Architect

She stated the property will comply with the recommended 14 conditions of approval as well as the North Shiloh Corridor Overlay District. In response to a question from Mike Boyett, Ms. Lowe stated there is no specific location on site yet for snow storage but this detail will be finalized if the special review moves forward. In response to a question from Dennis Ulvestad, Mr. Veltkamp stated the existing Palms Grand Casino at 1112 Grand is about 2,500 square feet and the proposed floor area for this location is 2,000 square feet.

Bill Warner of 3390 Canyon Drive D-16, testified in opposition. He stated he attends Shiloh United Methodist Church and believes there are enough casinos in Billings and in this area already to satisfy any need or demand for such entertainment. He stated the City should hold to the 600-foot minimum separation requirement. He stated there are plenty of other sites not within 600 feet of churches, schools or playgrounds to locate a casino.

Opposed

Bill Warner

He stated he attends Shiloh United Methodist Church and believes there are enough casinos in Billings and in this area already to satisfy any need or demand for such entertainment. He stated the City should hold to the 600-foot minimum separation requirement. He stated there are plenty of other sites not within 600 feet of churches, schools or playgrounds to locate a casino.

Mike Heffner, 4209 Hefner Lane

Mr. & Mrs. Heffner also provided a letter of opposition. He stated if the waiver is granted it sets the stage to grant further waivers in the area of this church and other churches along this corridor. He stated the Sylvan Nursery property is a large parcel and is for sale. This parcel is also zoned Community Commercial and another bar or casino could ask for a waiver to locate on that property. Mr. Heffner stated the City would have the same conditions to consider as this property.

Tim Morgan, 2157 Rangeview Court

He stated the proposed casino is not in character with the area and the professional offices. He stated there are 5 casinos and food services down on Grand Avenue. He stated granting the 600 foot waiver will set a precedent for this area and more licenses could try the same thing even closer to the churches. He stated there are several reasons why Billings is not attracting larger businesses and firms to the area. First, is the lack of transportation choices, and second, is the poor quality of our school system, and third, is allowing casinos and similar lower class developments in our City.

Cindy Morgan, 2157 Rangeview Court

She stated she agreed with everything that was already said against the casino. She stated she was opposed to granting the waiver to the 600-foot separation. She stated there are 5 great casinos already on Grand Avenue to the south and another one is not needed. She stated her doctors tell her call 6 months in advance for an appointment because they cannot recruit enough new doctors to come to Billings.

She surmises this is because of the quality of our development and casinos all over the place.

Darlene Newstrom, 4538 Toyon Drive

She stated she attends Shiloh United Methodist Church and she knows the congregation does not want this casino on this property. She stated she is certain the developer will do a good job with the building and site but it is the use that is a problem. She stated this use preys on the vulnerable people in the community who are addicted to alcohol or gambling. She stated the community lives with the costs of this addiction every day. She stated the City should not grant the waiver or the proposed use.

Connie Wardell, 514 64th St West

Casino use is not wanted here. this is my neighborhood
Addicts have certain behaviors that are not wanted
Ice and Snow in Ave B is horrible, there will be no place to store accumulations
Why was the Church not notified? It is within 600 feet

Brad Fuller, 4045 Ave B

Mr. Fuller owns Fuller Family Medicine at the other end of the block on Avenue B. Mr. Fuller stated his only concern is the casino and the effect it might have on his property. He stated when Happy Homes apartments went in across the street a few years ago he started having people wonder through his parking lot, leave trash on his landscaping and damaged his holiday light display. He stated he was concerned the casino would attract a rougher crowd. He stated he was worried that

someone might think of robbing his medical practice of pain killers, even though he does not have any pain killers in his offices.

Ken Boeschen of 3741 Colin Drive

Testified in opposition to the special review and the waiver of the 600-foot separation distance. He stated casinos take advantage of weak-minded people who are easily parted from their money. He stated casinos promote and encourage addiction to alcohol and gambling. He stated he was very much in favor of more restaurant choices in the area but no more casinos or bars. He stated the subject property is a perfect location for professional offices.

Karen Freeman, 5120 Amherst Drive and Secretary of the West End Task Force

Testified in opposition to the special review on behalf of the West End Task Force. She stated the proposed waiver and the special review are not supported by the goal of the 2001 West Billings Plan: *"To inspire decisions to implement the community's shared vision for the future of West Billings enabling it to thrive on growth and change through innovative, aesthetic land use, and responsible development."* She urged the commission to vote against the request.

Theresa Goodman, 1643 41st Street West

She stated she was the "villain" that sold the property to Mr. Veltkamp. She was under the mistaken impression the property would be used by Mr. Veltkamp's son who wanted to relocate to Billings. The son's business would build an office building at this location. She stated her family began building the Goodman Subdivision in 2004 but the 2 churches already existed by that time. She stated the intent was always to respect the church locations and never sell or build anything that would harm the churches. She stated the waiver of the separation distance was not in keeping with this development and the character of the area.

Rev. Tyler Amundson of 2444 Miles Avenue and pastor of the Shiloh United Methodist Church. He stated casinos do not add a positive element to neighborhoods. He stated the church is opposed to granting the waiver to the 600-foot separation distance.

REBUTTAL

Mr. Veltkamp provided rebuttal testimony. Mr. Veltkamp stated he understood the neighbor's concerns but the use is an allowed use within the zone and qualifies for a waiver based on the City's adopted regulations. There is no visual connection between Shiloh United Methodist Church and this property. He stated every business he runs and businesses his sons operate are legitimate, clean businesses. He stated every non-residential enterprise in the City including churches, restaurants, doctors, lawyers, real estate agents, bars and casinos are all vying for clients and consumers. Every person has a choice of how to spend their time, money and resources any way they want based on our freedom of choice. He stated each and every waiver of the separation distance should stand or fail on its own merits and not on what the City Council did in some other place or at some other time. He stated a waiver for this property would not make another waiver in the same area any easier or harder. He stated he believes developing this vacant commercial corner

will improve the area and will not have any detrimental effect on the surrounding uses. In response to a question from Mr. Ulvestad, Mr. Veltkamp stated he had not looked at other property to locate the beer and wine license. In response to questions from Chair Dan Wagner, Mr. Veltkamp stated if the trees and buildings were to go away on the parcels to the north he was certain they would be re-built and re-planted with new landscaping. Mr. Veltkamp stated the proposed size of the bar and casino is just right for his son's business model. He would not be increasing the area.

Public Hearing - Closed at 5:41pm

Discussion

Chairman Wagner asked for a motion.

Commission member Mike Boyett made a motion to recommend denial of the waiver of the 600-foot separation distance to Shiloh United Methodist Church and the special review request based on its potential detrimental effects on public safety and the character of the neighborhood. The motion was seconded by Dennis Ulvestad. Chair Dan Wagner stated he would vote in favor of the motion because granting the waiver would set a bad precedent in this area.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson				X
James Mariska	X			

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

Karen Husman presented:

City Special Review 968 – 4910 Southgate Drive – Request to increase outdoor service area - 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. Tax ID: A28409

RECOMMENDATION

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

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 Geysers 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 at any time whether on a permanent or temporary basis.
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.

Questions for Staff:

Commissioner Boyett stated the actual patio is space is 1500 on one and 1300 on the other. Alcohol will be allowed in the fenced area. Chair Wagner asked about the height of the fence. Staff replied a 6 foot fence, may not be site obscuring

Commissioner Boyett asked if outdoor music is allowed. His understanding is it is not allowed following a previous Special Review. Staff acknowledged 13 conditions imposed previously. This means the music restriction would need to be adhered to.

Commissioner Mariska stated that Interstate 90 traffic was much louder than music.

In favor

Barbara Hawkins, owner

We would like to use this area as a safe and controlled access and a landscaped area for outdoor events.

Opposed

NONE

REBUTTAL

NONE

Public Hearing was closed at 6:08 pm.

Discussion

Chairman Wagner asked for a motion.

Commissioner Ulvestad made a motion and Commissioner Boyett seconded the motion to approve **City Special Review 968** with condition #2 deleted.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson				X
James Mariska	X			

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

Other Business:

Reappointment of Mike Boyett, Commissioner Boyett will reapply.

The next meeting will be September 4, 2018.

Adjournment: The meeting adjourned at **6:10 p.m.**

DRAFT: To be approved by a motion **September 4, 2018.**

ATTEST: Robbin Bartley, Administrative Support



City Zoning Commission

Meeting Date: 09/04/2018

SUBJECT: Zone Change 970- 2015 Blue Creek Road

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

City Zone Change 970 – 2015 Blue Creek Road – NC to CC - A zone change request from Neighborhood Commercial (NC) to Community Commercial (CC) on Tract 1C of C/S 566, a .91 acre parcel of land. A pre-application neighborhood meeting was held on July 30, 2018, at the Blue Creek Volunteer Fire Department Tax ID: D01951. Presented by Karen Husman, Planner I

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 criteria (BMCC 27-1502) for Zone Change 970.

APPLICATION DATA

OWNER: No Cash Water, LLC

AGENT: Jeff Essmann

LEGAL DESCRIPTION: Tract 1C of C/S 566

ADDRESS: 2015 Blue Creek Road

CURRENT ZONING: NC

EXISTING LAND USE: Water Filling Station & Vacant Land

PROPOSED USE: Water Filling Station & 5,000 square foot, multi-tenant commercial rental building

SIZE OF PARCEL: 39,640 square feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2015 Blue Creek Rd.	169	2/28/78	R-150 to NC	Yes	
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Tract 2 CS 566	249	8/28/79	R-150 to NC	Yes	

SURROUNDING LAND USE & ZONING

NORTH:

Zoning: NC

Land Use: Commercial (Gas station convenience store)

SOUTH:

Zoning: NC & CC

Land Use: Mini Storage

EAST:

Zoning: R-150

Land Use: Residential

WEST:

Zoning: Public

Land Use: Parkland

BACKGROUND

This is an application to change from Neighborhood Commercial (NC) to Community Commercial (CC) on Tract 1C of C/S 566, a .91-acre parcel of land. The requested zoning of CC will allow the applicant an opportunity to utilize the land for more diversity of potential businesses. If approved, the applicant is proposing a 5,000 square-foot addition to the existing water service building for retail and other businesses to serve the neighborhoods in the area. The property currently has one building used for water distribution to local residents.

Planning staff has reviewed the application and is recommending approval based on the findings of the 10 review criteria. The proposed zoning and use of the property is compatible with the adjacent and surrounding land uses. The Growth Policy supports the proposed zoning and use; the proposed zoning supports the Strong Neighborhoods, Prosperity and Essential investments as outlined in the review criteria required under BMCC Sec. 27-1502(c).

RECOMMENDATION

The Planning staff has reviewed the requested zoning and is recommending approval based on the proposed findings of the 10 criteria for Zone Change 970.

Attachments

Zoning Map & Site Photos

Applicant Letter & Site Plan

Proposed Findings of the 10 Criteria

Site Photos



Subject property



South

Site Photos



Looking North



Existing Structure

Application

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 970 - Project # PZ-18-00126

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

Present Zoning: Neighborhood Commercial

Proposed Zoning: Community Commercial

TAX ID# D01951 CITY ELECTION WARD # 3

Legal Description of Property: Tract 1C of Certificate of Survey 566, Section 21, T1S, R26E PMM

Address or General Location (If unknown, contact City Engineering): 2015 Blue Creek Rd

Size of Parcel (Area & Dimensions): 0.91 acres or 39,640 SF

Present Land-Use: Water filling station and vacant land

Proposed Land-Use: Water filling station and approx 5000 SF multi-tenant commercial rental building

Covenants or Deed Restrictions on Property: Yes No Applicant Letter to Board

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): No Cash Water LLC

(Recorded Owner) PO Box 80945 Billings MT 59108
(Address) 406-534-3345 (email) help@nocashwater.com
(Phone Number)

Agent(s): Jeff Essmann

(Name) 3130 McMarkers Rd Billings MT 59101
(Address) 406-534-3345 (email) jeffessmann@gmail.com
(Phone Number)

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

Signature: [Signature] Date: 8/1/2018
(Recorded Owner)



Zone Change Application
2015 Blue Creek Road

1. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?
 - A. For the past 11 years I have operated No Cash Water at 2015 Blue Creek Road on a parcel that is zoned Neighborhood Commercial by the City of Billings. With the development of the new large storage facility on the 10 acres to the south of Santiago Boulevard across from my site, there is now no undeveloped property with Community Commercial zoning in the Blue Creek neighborhood.

This proposal is consistent with the goals of the growth policy because it will encourage infill development within the existing city limits, it will allow better development of an underutilized property, it will encourage successful businesses that provide needed jobs in the community, and it will reduce long commute trips across the river to access businesses and services that are not currently available in the Blue Creek neighborhood.

2. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.
 - A. I have room on my parcel that will support future development of an approximately 5000 square foot retail building. Therefore, I seek a change in the zoning of my parcel from Neighborhood Commercial(NC) to Community Commercial(CC) so that a slightly wider array of potential businesses will be able to rent space and serve the needs of the neighborhood I live in. The list of potential tenant businesses that would be allowed under Community Commercial Zoning that are not permitted under Neighborhood Commercial zoning includes:
 1. Veterinary services
 2. Dog Grooming
 3. Residential Contractors
 4. Special Trade Contractors, i.e. Plumber, Electrician, HVAC
 5. Warehouse storage
 6. Hardware and Garden Supply
 7. Restaurant with beer and wine/no gaming (cabaret license)
 8. Civic, social and fraternal organizations

The new zoning will be compatible with the existing zoning and land uses of the immediate area. There is a large parcel of Community Commercial to the south with a large storage facility under construction. There is a very busy convenience store with gas pumps

immediately adjacent to the north. There is a large parcel of well maintained city property to the east that serves as a buffer to the residential neighborhood of Cedar Park subdivision, and there is a very wide right of way for the busy highway that separates my parcel from the subdivision to the west. The additional traffic load generated by Community Commercial zoning versus Neighborhood Commercial zoning will be negligible.

Pre-Application Minutes

Statement on Pre-Application Meeting

Date and time of meeting July 30, 2018 at 6:30 pm

Location of meeting: Blue Creek Volunteer Fire Department Building

Proposed Zone Change: Neighborhood Commercial to Community Commercial

Address of parcel involved: 2015 Blue Creek Road Billings MT 59101

Legal Description: Tract 1C Certificate of Survey NO. 566 Section 21, T1S R25E PMM

The agent for the applicant, Jeff Essmann and his wife Sherry arrived at the Blue Creek Volunteer Fire Department building on Blue Creek Road at 6:20 pm on Monday July 30, 2018. They were met by Mr. Doug Beringer, a member of the Blue Creek VFD who opened the building and escorted them to the meeting room.

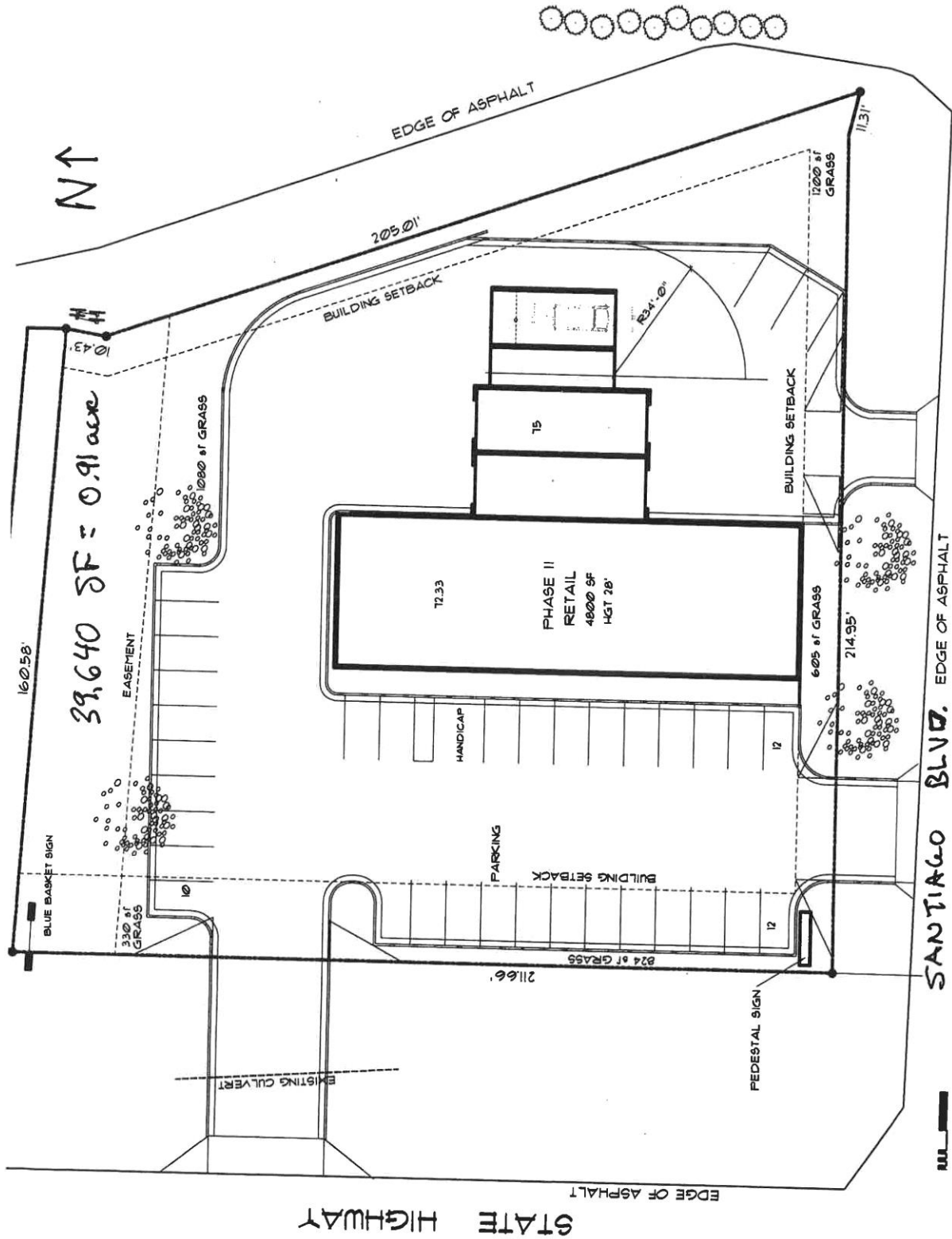
No one appeared to attend the meeting for the next thirty minutes. After Mr. Beringer gave the Essmanns a brief tour of the facility and equipment of the VFD, he signed the attendance sheet at the request of the Essmanns so that there would be independent confirmation that the pre-application meeting was held as required.

It is the conclusion of the agent for the applicant that at this time there is apparently no strong opposition to the proposed zone change for the parcel from Neighborhood Commercial to Community Commercial.

Signed this 2nd day of August, 2018

X Jeff Essmann
X Doug Beringer

Proposed Site Plan



STATE HIGHWAY

EDGE OF ASPHALT

EDGE OF ASPHALT

SANTIAGO BLVD. EDGE OF ASPHALT

N ↑

29,640 SF = 0.91 acre

160.58'

209.01'

11.31'

1700 SF GRASS

BUILDING SETBACK

BUILDING SETBACK

PHASE II RETAIL
4800 SF
HGT 28'

12.33

7.5

HANDICAP

12

12

PARKING

BUILDING SETBACK

824 SF GRASS

211.66'

320 SF GRASS

EASEMENT

EXISTING CULVERT

BLUE BASKET SIGN

PEDESTAL SIGN

1" = 100'

Zone Change #970

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

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

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

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

The proposed zoning will allow the owner to expand the existing structure for commercial uses to provide essential services in the neighborhood.

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

The proposed zoning will allow the owner to sustain and grow his business and provide essential services to the surrounding neighborhoods. Rezoning the parcel will allow construction of new commercial businesses which will require employees and provide jobs that will be a benefit to the community.

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

The proposed zoning requires any development to install landscaping with a preference for it to be along the street frontage. New buildings, sidewalks, landscaping and fencing would make this area of Billings more visually appealing to residents and visitors. Infill development is the most cost effective since there is already infrastructure in place. Providing basic services near residential development is much desired and convenient to the local residential community.

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

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

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

Public health and public safety will be promoted by the proposed zoning. The property has an existing water distribution use. If approved, the new zoning will promote new businesses and predictable land use.

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

- Transportation: The proposed zoning will not have any effect on the existing transportation system. Future uses may contribute some traffic to the surrounding street network, but Blue Creek Road is a Principal Arterial Street and can handle large traffic volumes.
- Water and Sewer: The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.
- Schools and Parks: Schools and parks should not be affected by the proposed zoning.

Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient building separations to allow for adequate light and air.

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

The new zoning will have no significant effect on transportation systems.

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

The new zoning does promote compatibility with urban growth. The proposed zoning will allow infill and new commercial uses that will be compatible with the existing neighborhood.

8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning is identical to the zoning south of the subject property and is an appropriate zone with the adjacent neighborhood surrounding it.

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

Approval of the zone change will conserve the value of the property and will allow current development to expand. The value of existing buildings and the parcel will be improved and conserved by the proposed zoning

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

The proposed zoning will allow the existing business to expand and offer new commercial uses serve the neighborhood. This is the most appropriate use of the land at this location.



City Zoning Commission

Meeting Date: 09/04/2018

SUBJECT: Special Review 969 - 316 S 24th St W

THROUGH: Monica Plecker

PRESENTED BY: Monica Plecker

Information

REQUEST

City Special Review 969 – 316 S 24th St W – Blaze Pizza – Beer and Wine License w/o gaming – request to waive the 600-foot separation distance - A special review request to allow the location of a beer and wine license without gaming less than the required 600 feet – measured property line to property line – from a public park with a children’s playing field and playground (Stewart Park) and from a public school (Central Heights Elementary). The license is proposed for a new Blaze Pizza restaurant in a vacant 2,700 square foot tenant space in the multi-tenant building at 316 S 24th St West on Parcel A1 of C/S 1136, 2nd amended, a 36.82 acre parcel of land (Rimrock Mall property) located in a Community Commercial (CC). Presented by Monica Plecker, Planning Division Manager

RECOMMENDATION

Planning staff is recommending conditional approval and adoption of the findings of the 3 criteria of Special Review 969.

APPLICATION DATA

OWNER: Matthew Colebank
 AGENT: Steven Zeier
 LEGAL DESCRIPTION: S12, T01S, R25E, COS 1136, Parcel A1, 2nd Amended
 ADDRESS: 316 S 24th Street West
 CURRENT ZONING: Community Commercial
 EXISTING LAND USE: Rimrock Mall, Vacant Tenant Space
 PROPOSED USE: Restaurant
 SIZE OF PARCEL: 36.82 acres, 2,700 sq. ft. Tenant Space

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
C/S 1136	City SR 63	April 23, 1979	Alcoholic Beverages	Yes	Dos Machos
C/S 1136	City SR 88	November 24, 1980	Beer and Wine	Yes	CJ’s Restaurant
C/S 1136	City SR 98	June 8, 1981	Alcoholic Beverages	Yes	Sea Galley

C/S 1136	City SR 127	May 24, 1982	Alcoholic Beverages	Yes	CJ's Ribs
C/S 1136	City SR 480	March 8, 1993	Beer and Wine	Yes	Sidney's Pizza
C/S 1136	County SR 530	July 27, 1994	All Beverages	Yes	Sidney's Pizza
C/S 1136	City SR 662	July 26, 1999	Beer and Wine	Yes	Microbrewery
C/S 1136	City SR 669	May 22, 2000	All Beverage	No	2520 Central
C/S 1136	City SR 703	July 23, 2001	All Beverage	Yes	

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: Community Commercial Land Use: Retail, Mall Parking
SOUTH:	Zoning: Community Commercial Land Use: Rimrock Subaru
EAST:	Zoning: Community Commercial and Neighborhood Commercial Land Use: Commercial Strip Mall
WEST:	Zoning: Community Commercial and Public Land Use: Rimrock Mall, Stewart Park

BACKGROUND

This is a special review request to locate a beer and wine license with no gaming in the tenant space located at 316 South 24th Street West in association with a new restaurant in an existing building. The 2,700 sq.ft. space will house the proposed Blaze Pizza. The building is located northwest of the intersection of 24th Street West and Phyllis Lane. The tenant space is located on a 36.82 acre parcel that contains the Rimrock Mall and shares a western boundary with Stewart Park. 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 Stewart Park and Central Heights Elementary School 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.

The tenant space located at 316 South 24th Street West is physically located more than 600 feet away from both Stewart Park and Central Heights Elementary School, however, because the tenant space sits on a roughly 36 acre parcel, when measured property line to property line the distance does not exceed 600 feet. Stewart Park is immediately adjacent to the western boundary while Central Heights Elementary is separated by approximately 392 feet. Physically, the building where the proposed Blaze Pizza will be located to the nearest property line is approximately 1,120 feet to Stewart Park and 860 feet to Central Heights Elementary School. Both the park and school have barriers that separate them from the location of the restaurant. Stewart Park is visually blocked by Rimrock Mall. Central Heights Elementary Schools is blocked visually by a commercial strip mall, a principal arterial, South 24th Street West, and residential homes. The Planning staff recommends the 600-foot separation requirement be waived for this application.

The tenant space is located in an existing commercial area and is part of the property where Rimrock Mall is located. The property has access to good transportation choices. Access closest to the tenant space is served by a principal arterial, South 24th Street West.

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 may be allowed by special review approval.

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 tenant space along a major transportation corridor and will help support a new business and make the use of an existing commercial and retail center.

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, retail, entertainment, 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

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

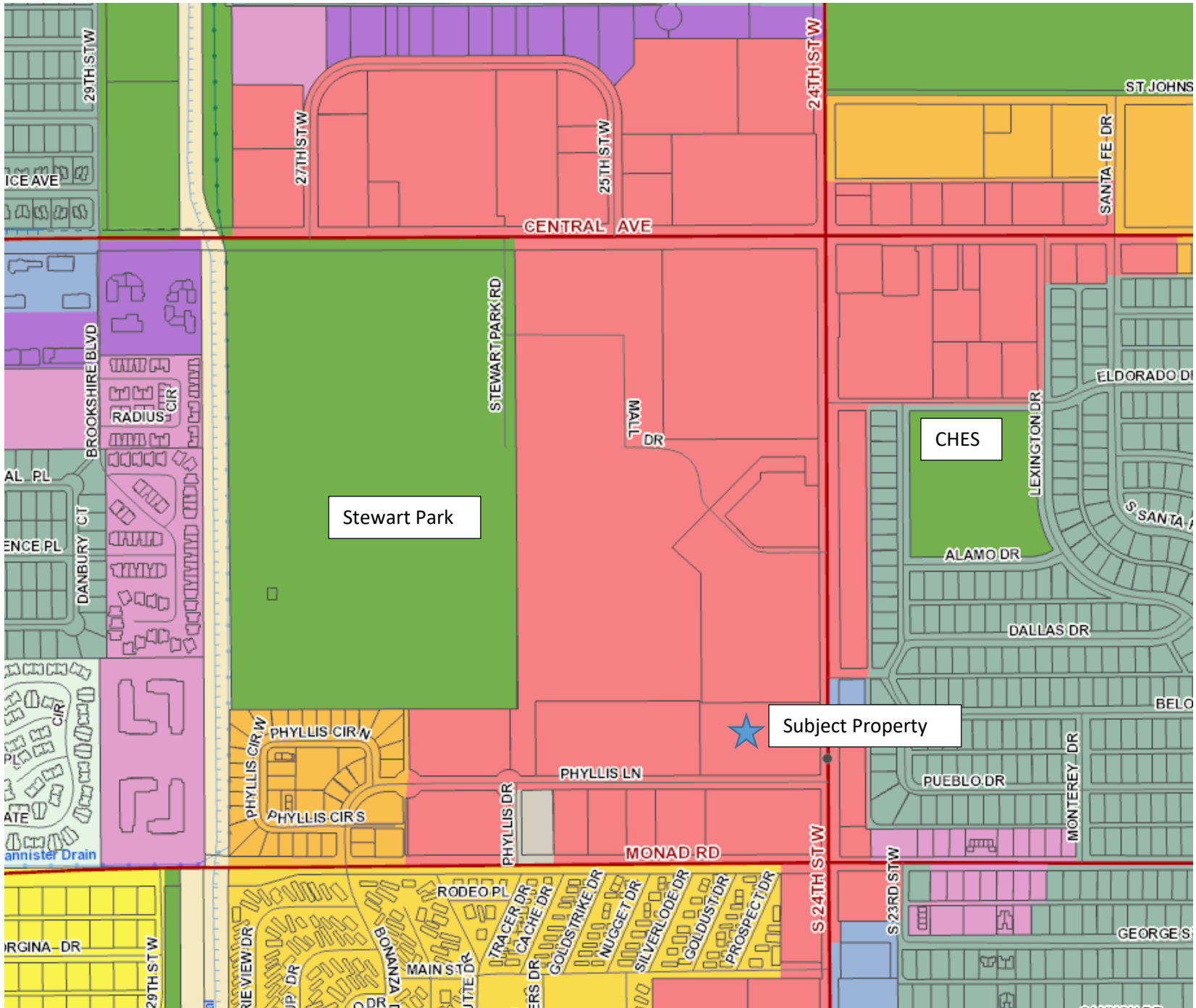
Staff recommends conditional approval:

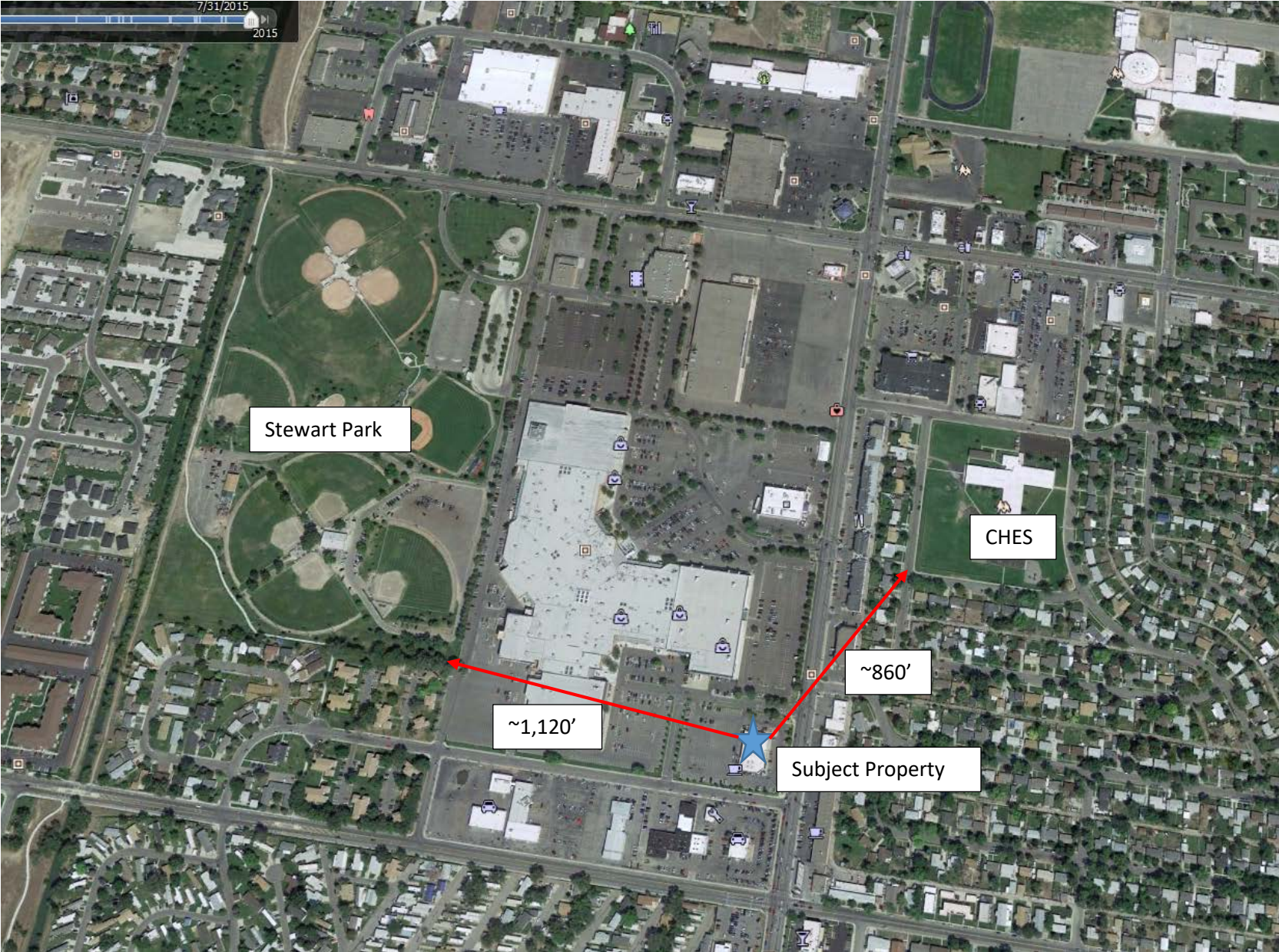
1. The special review is for 1 (one) beer and wine license with no-gaming to be located in the 2,700 sq.ft. tenant space located at 316 South 24th Street West located at the southeast corner of C/S 1136 Parcel A1 Amended. No other special review use is intended or implied.
2. The maximum floor area for the special review use is limited to 2,700 square feet. Increases of 10% or less are allowed under this special review approval.
3. Any outdoor announcement system shall be operated so it is not audible beyond the property lines.
4. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
5. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit 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.

Attachments

Zoning Map and Site Photos
Application and Site Plan







East



South east across 24th Street West



Subject Property



Subject Property





Looking west from 24th Street West

APPLICATION FORM

CITY SPECIAL REVIEW

Billings Special Review#

969

- Project #

PZ-18-00123

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

Present Zoning: Community Commercial

Special Review Requested: Location of a Billings Restaurant Beer & Wine License, with no gaming. The location address is 316 S 24th St W and is the future home of a Blaze Fast Fire'd Pizza.

Waiver of 600-ft separation requires Special Review

TAX ID# D00524

CITY ELECTION WARD # 5

Legal Description of Property: S12, T01 S, R25 E, C.O.S. 1136, PARCEL A1, 2ND AMND

Address or General Location (If unknown, contact City Engineering): 316 S 24th St W

Size of Parcel (Area & Dimensions): 36.82 Acres - 2,700 SF tenant space

Present Land-Use: Retail Shopping Center

Covenants or Deed Restrictions on Property: Yes X No

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): MRB Pizza 1 LLC

(Recorded Owner) 3031 Grand Ave Suite 100 PMB 121

(Address) 406-670-4483

(Phone Number) (email)

Agent(s): Steven Zeier - NAI Business Properties

(Name) 3312 4th Ave N

(Address) 406-294-6315 szeier@naibusinessproperties.com

(Phone Number) (Email)

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

Signature: (See attached letter) Date:

(Recorded Owner)

NAI Business Properties

Commercial Real Estate Services, Worldwide.

July 24, 2018

Ms. Nicole Cromwell
City of Billings
2825 4th Ave North, 4th Floor
Billings, MT 59101

Re: Special Review Application for the location of a Billings, MT Restaurant Beer & Wine License.

Dear Nicole,

MRB Pizza 1, LLC, a Blaze Fast Fire'd Pizza franchisee, is under contract to acquire a City of Billings Restaurant Beer & Wine license # 03-101-9270-401. This license is for the sale of beer and wine only as part of a food service operation and does not allow gaming. The owners plan on locating this license at 316 S 24th St W as part of the remodeling of an existing space to a fast casual restaurant space. The applicant is seeking a waiver from Section 27-612(a)(1) requiring a 600 foot separation from an establishment that serves alcohol from churches, schools, and public playgrounds. Per section (b); (1), (2) & (3) a waiver is appropriate when there is a building obstructing the view and no direct physical access exists. In this case it is roughly 2,200 feet from the location to the public playground located at Stewart Park and roughly 1,600 feet from Central Heights Elementary School. In the case of the playground the mall building, the lack of a direct access fulfills the waiver requirement. In the case of the school an arterial street is between the two properties. The unique nature of the large mall parcel and the large park parcel requires the special review process in that they are adjacent. In the case of the school, it is within 600 feet of the far NW corner of the mall property. A waiver is appropriate in both cases.

Please see the information below as answers to the questions found in the Instructions, Section 1 of the Special Review Application Form.

Answer the following questions:

- A. *In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?*
This application is most consistent with three Goals from the Growth Policy. These goals include Essential Investment, Place Making, and the Community Fabric goals. This project is a good example of infill development as it is a reuse of a currently existing space, it will provide additional service options to a busy and dense commercial corridor, as well as the surrounding neighborhoods.
- B. *Why is there a need for the intended use of the property at this location?*
This is a prime retail and restaurant location that will serve the entire community. The ability to serve beer and wine as allowed provides the business owner a greater offering for services.

NAI Business Properties

Commercial Real Estate Services, Worldwide.

- C. *How will the public interest be served if this application is approved?*
The public interest will be served by allowing for more and diverse dining options located adjacent to a large regional retail shopping center.

- 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.*
The intended use of this property is the remodeling of an existing retail space for a Blaze Fast Fire'd fast casual pizza restaurant. This special review is being sought to conform with the Section 27.612 of the City of Billings zoning code that specifies the requirement of a special review where a public playground is within a certain distance of location where alcohol is served for on premise consumption.

Thank you for your consideration of this request. Please contact me with any additional questions or request for more information.

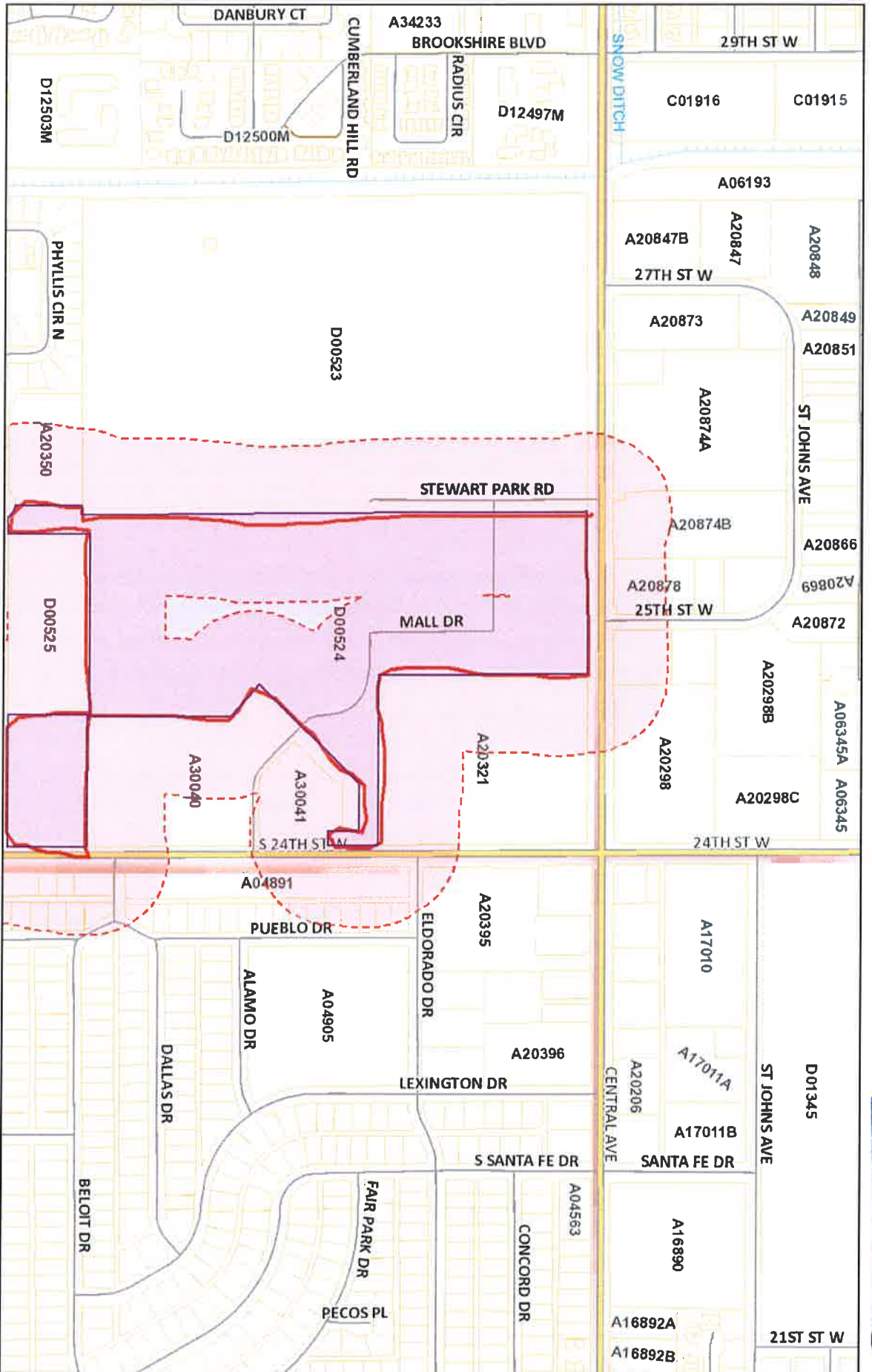
Respectfully,



Steven Zeier

300' Radius Map 300 S 24th St W - SR

Certified True
 10/2018
 Dept of Revenue
 RG

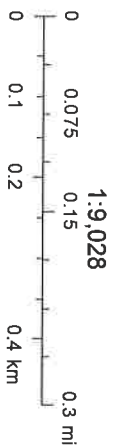


July 30, 2018

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Steve Zeier

406 - 670 - 6969



Sources: Esri, Garmin, USGS, NPS

