



CITY ZONING COMMISSION

AGENDA-Wednesday, November 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 September 4, 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 970 – 1595 Grand Avenue, Suite 235 – Beer and Wine License with Gaming – Request to Waive the 600-foot separation distance** - A special review request to allow the location of a beer and wine license with gaming and a waiver from the required 600 foot separation – measured property line to property line – from a church (Central Christian Church @ 1221 16th St W) and from a public park with playground equipment (Evergreen Park @ 15th St W and Avenue D). The license is proposed for a new Heidi Casino in a vacant 4,482 square foot tenant space (Suite 235) in the West Park Promenade on Lot 2A2, Partington Park Subdivision, 5th Filing a 12.93 acre parcel of land located in a Community Commercial (CC) zone. Presented by Monica Plecker, Planning Division Manager
The applicant has requested withdrawal.
- b. **City Zone Change 971 – Hawk Creek Avenue and Chy Way - Planned Development (PD)** - A zone change request from Neighborhood Commercial (NC) to Planned Development with underlying NC, to allow 1 microbrewery license and 1 restaurant beer & wine license (no gaming) on Lot 4, Block 1 of MK Subdivision, a 3.6 acre parcel of land. A pre-application neighborhood meeting was held on August 27, 2018, at Grace Montessori School. A Preliminary Review meeting was held on September 26, 2018. Presented by Nicole Cromwell, Zoning Coordinator

Other Business/Announcements

Adjournment

The City Council has designated Monday, November 26, 2018, at 5:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zone change.

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 (November 23, 2018) the first reading of the amendment by the City Council.

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: 11/07/2018

Information

Subject

The minutes of the Board meeting of September 4, 2018.

Attachments

BZC_20180904_draft

City of Billings Zoning Commission Meeting Minutes September 4, 2018

The City of Billings Zoning Commission met on Tuesday, September 4, 2018 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday 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 zoning applications.

Commission and Staff		0	0	0	0	0	0	0	0	0	1	1	1
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		3	6	6	3	1	5	0	7	4	2	6	4
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		8	8	8	8	8	8	8	8	8	8	8	8
Dan Wagner	Chairman	1	1	1	1	1	1	1	1	1			
Dennis Ulvestad	Commissioner	1	1	E	1	1	1	A	1	1			
Mike Boyett	Vice Chairman	1	1	1	1	1	E	1	1	1			
Michael Larson	Commissioner	1	1	1	E	1	1	1	E	1			
James Mariska	Commissioner	1	1	1	1	E	1	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	1			
Tammy Deines	Planning Clerk	-	-	1	1	-	-	-	-	-			
Dave Green	Planner II	-	-	-	-	-	-	-	-	-			
Karen Husman	Planner I	-	1	1	1	-	1	1	1	1			
Robbin Bartley	Administrative Support	1	1	-	-	1	1	1	1	1			

Total Number of 2018 Applications	0	0	0	0	0	0	0	0	0	1	1	1	T O T A L
	1	2	3	4	5	6	7	8	9	0	1	2	
	/	/	/	/	/	/	/	/	/	/	/	/	
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	3	6	6	3	1	5	0	7	4	2	6	4	
	/	/	/	/	/	/	/	/	/	/	/	/	
	2	2	2	2	2	2	2	2	2	2	2	2	
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1	1	1	1	1	1	1	1	1	1	1	1		
8	8	8	8	8	8	8	8	8	8	8	8		
Zone Change	2		1	2	0-R	2	2	0	1				10
Special Review	1	1	1	1	0	3	0	2	1				10

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: Jeff Essman, Steve Zeier

Public Comment

Chairman Wagner called for public comments.

Chairman Wagner closed the public comment portion of the meeting.

Approval of Minutes August 7, 2018

Chairman Wagner called for approval of the August 7, 2018 meeting minutes.

Motion

Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to approve the August 7, 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 5-0.

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 September 24, 2018. He then asked Nicole Cromwell to review the first agenda item.

Karen Husman presented:

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

RECOMMENDATION

Planning staff is recommending conditional approval and adoption of the findings of the 10 criteria of City Zone Change 970.

Questions for Staff:

Commissioner Boyett asked why what is wanted cannot be built with Neighborhood Commercial Zoning. Staff replied a mixture of development is wanted, not just offices. What controversial thing could be built in this area should the zone change be approved? Staff indicated restaurants with Alcohol licensing could be allowed.

In favor

Jeff Essman, 3131 Mc Masters, agent

Mr. Essman is the agent for the owners. There are many additional businesses allowed with Community Commercial not allowed with Neighborhood Commercial. The site is big enough for an approximately 5000 sq ft building. There is an existing water business on this location and it will continue.

Commissioner Ulvestad asked if any public inquiries had been received and if parking would be accommodated. A veterinary service has made inquiries. There will be 4 store fronts.

Commissioner Mariska asked about traffic counts. Mr. Essman does not believe a traffic count would be valid as most traffic is going to the City/County Landfill. The speed limit was considered. The owner has been approved for two approaches.

Chair Wagner asked if Adult Book Stores could locate there. The owner indicates there are those who he would not rent to. Staff indicated that Adult Book Stores are not allowed in either of these zones.

Commissioner Ulvestad asked if anyone had inquired about locating a Caberet License in this location. The owner said it was included in the possibilities listed on the neighborhood meeting invitation and no one with this interest attended.

Opposed

NONE

Public Hearing - Closed at 4:48pm

Discussion

Chairman Wagner asked for a motion.

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to approve **City Zone Change 970**.

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, 5-0.

Karen Husman presented:

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 located in a Community Commercial (CC). Tax ID: D00524

RECOMMENDATION

The Planning Division 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. Any outdoor announcement system shall be operated so it is not audible beyond the property lines.
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.

Questions for Staff:

Commissioner Larson asked if beer is being served at Stewart Park? Yes.
There is no easy walking access from school or playground.
He also clarified no gaming license is included with this application.
Commissioner Ulvestad – was dos machos and the cattle company in this area? Yes.

In favor

Steve Zeier, P.O. Box 21462, agent

This is the first Blazes Pizza in Montana. Blazes is a well known Pizza establishment.
Commissioner Ulvestad how will pizza and beer be served in this business. Pizza will be cooked while you fill your drink.
He then asked how Lucky Lils got their waiver. Staff replied the waiver was granted inside the mall by the City Council if the entrance faced 24th Street West since 1972.

Matthew Colbank, 3031 Grand Ave Suite 100

Chair Wagner asked how it differs from other like businesses.
Mainly 5 percent of sales will be beer and wine. 2700 square feet, employing 32 persons. Open for business October 5, 2018.
Commissioner Ulvestad asked what size the pizza will be. 12 inches only.

Opposed

NONE

REBUTTAL

NONE

Public Hearing was closed at 5:05 pm.

Discussion

Chairman Wagner asked for a motion.

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to approve City Special Review 969 including the waiver.

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, 5-0.

Other Business:

The next meeting will be October 2, 2018.

Adjournment: The meeting adjourned at 5:10 p.m.

DRAFT: To be approved by a motion October 2, 2018.

ATTEST: Robbin Bartley, Administrative Support



City Zoning Commission

Meeting Date: 11/07/2018

SUBJECT: Special Review 970 - 1595 Grand Avenue Suite 235

THROUGH: Monica Plecker

PRESENTED BY: Monica Plecker

Information

REQUEST

City Special Review 970 – 1595 Grand Avenue, Suite 235 – Beer and Wine License with Gaming – Request to Waive the 600-foot separation distance - A special review request to allow the location of a beer and wine license with gaming and a waiver from the required 600 foot separation – measured property line to property line – from a church (Central Christian Church @ 1221 16 th St W) and from a public park with playground equipment (Evergreen Park @ 15th St W and Avenue D). The license is proposed for a new Heidi Casino in a vacant 4,482 square foot tenant space (Suite 235) in the West Park Promenade on Lot 2A2, Partington Park Subdivision, 5th Filing a 12.93 acre parcel of land located in a Community Commercial (CC) zone. Presented by Monica Plecker, Planning Division Manager

The applicant has requested withdrawal.

RECOMMENDATION

The applicant has submitted a request to withdraw the application. The Planning staff recommends the Zoning Commission grant the withdrawal of Special Review 970.

APPLICATION DATA

OWNER: Boardman Westpark, LLC
 AGENT: Bridger Mountain LLC
 LEGAL DESCRIPTION: Partington Park Sub, 5th filing, S36, T01N, R25E, LOT2A2, AMD(14)
 ADDRESS: 1595 Grand Avenue, Suite 235
 CURRENT ZONING: Community Commercial
 EXISTING LAND USE: Commercial
 PROPOSED USE: Casino
 SIZE OF PARCEL: 4,482 SF commercial space

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Lot 3A&4A, 7th Filing, Partington Park	City SR 103	Aug 24, 1981	All Beverage	Yes	Shooters
Lot 2A2, 5th Filing, Partington Park	City SR 264	November 24, 1980	All Beverage with Gaming	Yes	Lion's Den

Lot 2A2, 5th Filing, Partington Park	City SR 268	June 8, 1981	All Beverage	Yes	Red Robin
Lot 3A&4A, 7th Filing, Partington Park	City SR 487	May 4, 1993	All Beverage	Withdrawn	Shooters, outdoor patio
Lots 3A&4A, 7th Filing, Partington Park	City SR 514	Feb 7, 1994	All Beverage	Yes	2nd License, Shooters
Lot 2A1, 5th Filing, Partington Park	City SR 914	Jan 13, 2014	All Beverage	Yes	Umi

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Community Commercial
Land Use: Commercial

SOUTH: Zoning: Community Commercial
Land Use: Commercial

EAST: Zoning: Community Commercial
Land Use: Commercial

WEST: Zoning: Community Commercial
Land Use: Commercial

BACKGROUND

This is a special review request to relocate a beer and wine license with gaming attached in an existing 4,482 square foot tenant space in a multi-tenant building located at 1595 Grand Avenue on lot 2A2, Partington Park Subdivision, 5th Filing.

The applicant is proposing to move an existing beer and wine license with gaming attached from a former golf course. The City requires a special review any time an existing or new on-premise liquor license is relocated within the city limits. The City does not control the number of on-premise liquor licenses that may be issued by the state. The City can specify appropriate zoning districts, separation requirements and provide for conditions of approval to mitigate any potential negative effects of the location on an on-premise liquor license.

On September 21, 2018, the applicant provided a written request to withdraw the application. Since the public hearing had already been noticed, the Zoning Commission will need to determine whether it wishes to accept the request for withdrawal. Planning staff recommends the Zoning Commission grant the withdrawal of SR 970. The Zoning Commission was cancelled on October 2nd due to lack of a quorum. The withdrawal will be considered on November 7, 2018.

RECOMMENDATION

Staff recommends the Zoning Commission grant the applicant's request to withdraw the special review.

Attachments

Withdrawal Request
Zoning Map and Site Photos

September 20, 2018

Planning & community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT, 59101

Nicole Cromwell,

Blueline Engineering submitted a special review application on September 4th, 2018 for Bridger Mountain LLC. (PZ- 18-001430). The special review was for Heidi's Casino, located at 1595 Grand Avenue Suite 235 in the West Park Plaza promenade. At this time, we would like to pull the special review and stop the process on behalf of our client. Our client has decided to not proceed with opening a casino at this location. Please feel to contact me at (406) 294-2294 if you any questions.

Sincerely,



Kristi Patterson













City Zoning Commission

Meeting Date: 11/07/2018

SUBJECT: City Zone Change 971- Planned Development - Hawk Creek

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Zone Change 971 – Hawk Creek Avenue and Chy Way - Planned Development (PD) - A zone change request from Neighborhood Commercial (NC) to Planned Development with underlying NC, to allow 1 microbrewery license and 1 restaurant beer & wine license (no gaming) on Lot 4, Block 1 of MK Subdivision, a 3.6 acre parcel of land. A pre-application neighborhood meeting was held on August 27, 2018, at Grace Montessori School. A Preliminary Review meeting was held on September 26, 2018. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

Planning Staff recommends approval and adoption of the findings of the 10 criteria for Zone Change 971.

APPLICATION DATA

OWNER: MYK Enterprises, LLC (Patricia Kramer)
 AGENT: Scott Aspenlieder, P.E. Performance Engineering
 LEGAL DESCRIPTION: Lot 4, Block 1, MK Subdivision
 ADDRESS: None
 CURRENT ZONING: Neighborhood Commercial (NC)
 EXISTING LAND USE: Vacant
 PROPOSED USE: New microbrewery and restaurant
 SIZE OF PARCEL: 3.6 acres

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Hawk Creek Ave	City ZC 798	March 12, 2007	A-1 to NC & CC	Y	Lot 1 = CC Lots 2-5 = NC
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1411 Chy Way	City ZC 925	Oct 14, 2014	NC to CC	Y	New restaurant/bar/casino
62nd St W & Rimrock Rd – SW corner	County ZC 667	Dec 29, 2015	R-96 to CC	Y	Annexed to City August 2016
Grand & 54th – NE corner	City ZC 756	May 9, 2005	A-1 to CC, R-70, R-96 & Public	Y	Annexed to City July 2005
Grand Peaks Sub	City ZC 794	May 14, 2007	A-S to R-50, R-70, R-96, RMF-R	Y	Annexed to City Dec 2006
Cottonwood Grove Sub	City ZC 734	July 12, 2004	A-1 to R-70	Y	Annexed July 2004
Daybreak Sub	City ZC 920	June 9, 2014	A-1 to R-60	Y	Annexed July 2014
62nd St W and Rimrock Rd – NW corner	City ZC 767	Nov 17, 2005	R-96 to RP, RMF & CC	Y	Annexed Jan 2006 Now Coal Creek Sub
Mont Vista Sub	City ZC 837	June 3, 2008	R-96 to PD	Withdrawn	

Mont Vista Sub	City ZC 851	Nov 24, 2008	R-96 to CC, RMF-R, RMF, R-60, R-70, R-70-R, & Public	Withdrawn	
Mont Vista Sub	City ZC 851 (revised)	July 13, 2009	PD underlying R-96, R-70, R-70-R, R-60, RMF-R, RMF & Public	Y	
Trails West Sub	City ZC 847	Oct 14, 2008	R-96 to R-60-R	Y	Annexed & zoned R-96 on 2006

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70
Land Use: Single family residences

SOUTH: Zoning: NC and Community Commercial (CC)
Land Use: Vacant and a restaurant/bar under construction

EAST: Zoning: NC
Land Use: vacant

WEST: Zoning: Agriculture Open-Space (A-1)
Land Use: Agricultural production

BACKGROUND

This is a zone change request to allow the placement of a new microbrewery and restaurant on property currently zoned Neighborhood Commercial (NC). The proposed Planned Development (PD) zone would keep the underlying NC zoning, add the use to allow 1 microbrewery and 1 restaurant beer & wine license, restrict other uses as well as place strict requirements for landscaping, signage, operational requirements and buffering adjacent residences on the future development of the property. The property does not have direct access to an arterial street but is within a commercially zoned subdivision consisting of Community Commercial (CC) zoned lots and NC zoned lots. There is a completed residential subdivision to the north - Cottonwood Grove. It is also currently adjacent to land outside the city limits zoned Agriculture Open-Space (A-1). The adjacent county land is in the same ownership as the subject property.

Microbreweries (manufacturing less than 1,500, 31-gallon barrels per year) are only allowed by right in the Community Commercial (CC), Highway Commercial (HC), Central Business District (CBD), Controlled Industrial (CI), Heavy Industrial (HI), EBURD districts and South 27th Street Corridor zones. Microbreweries manufacturing more than 1,500, 31-gallon barrels per day require special review approval in the CC, HC, CBD and S 27th Street Corridor zones. Microbreweries and other alcoholic beverage makers are regulated by the Montana Department of Revenue Liquor Licensing Division. State law allows microbreweries to have a "tap room" or sample room where patrons may consume up to 48 ounces of the brewer's product during limited serving hours (MCA Title 16, Chapter 3). There are 8 listed craft brewers in Billings and 3 distilleries. Montana is listed 3rd in the nation for number of craft brewers per capita according to the Brewers Association, a U.S. trade group.

Restaurants that offer service of beer and wine are not allowed uses within the NC zoning district. These restaurants are only allowed in the CC, HC, CBD, CI, HI, EBURD Districts and the South 27th St. Corridor zone. These restaurants are also required to maintain a minimum separation of 600 feet (measured property line to property line) from churches, schools and public parks with playing fields or playgrounds. This location is not within 600 feet of any of these uses. Restaurant beer and wine licenses do not have any ability to add video gaming or gambling of any type.

The proposed PD zoning district will retain the underlying NC zoning and intends to allow only 1 (one) microbrewery license and only 1 (one) restaurant beer and wine license on the entire 3.6 acre parcel. The PD zone also proposes to restrict certain uses normally allowed in the NC zone including out-patient veterinary clinics, sand and gravel mining, all other food or beverage makers, pipelines and other utility transmission infrastructure including any wireless antennae, convenience stores or gas stations, auto supply stores, hotels, motels, or campgrounds, laundromats, dry cleaners, funeral homes, public parking lots (as a primary use) and modular built dwellings (Article II of the draft PD). The proposed PD limits the outdoor seating areas for both the microbrewery and the restaurant and dictates that all outdoor activities will cease at 9 pm. The PD proposes to prohibit all electronic message signs, neon signs, balloon signs, roof signs, and strings of pennants or flags. The PD states all signs except for 1 (one) sign must be wall signs placed on buildings. The 1 (one) freestanding sign is allowed for

each developed parcel of land.

Site lighting and landscaping are also proposed for strict regulation including limiting all outdoor light standards to 15 feet maximum height and requiring full shields on all outdoor lights except street lighting. The PD dictates a minimum 25-foot wide landscaping buffer be maintained along the entire north property line adjacent of Cottonwood Grove Subdivision. The landscaping requirements also include the use of 2-inch caliper trees, water saving drip irrigation, and reduced amounts of off-street parking (1 per 200 sf of floor area) to minimize asphalt areas.

The PD was presented to the surrounding property owners at a pre-application meeting on August 27, 2018. The application was received by the Planning Division in September and a preliminary review meeting with the applicant, the surrounding property owners, and other City staff was held on September 26, 2018. Meeting notes from the pre-application meeting and the public comments received via email and letter are included as attachments. Only city staff and the applicant attended the Preliminary Review meeting on September 26, 2018.

Several surrounding property owners, as well as property owners in the general vicinity, have expressed concerns with the proposed PD. The primary concern appears to be focused on the availability of alcohol at this location. Secondary concerns stated were about "bars" in general, gambling (casinos), crime generated by locations that serve alcohol and impaired or drunk drivers. Five of the 21 letters of comment were concerned with additional traffic generation, noise and lighting. Three of the 21 letters were either in support of the proposal or neutral. There were a few concerns about the effect of having a commercial-type land use adjacent to high value homes in lower density suburban neighborhoods. The letters of comment from surrounding owners are included as an attachment.

Traffic on Grand Avenue and 54th Street West is increasing as new city and county subdivisions are constructed in the area. Traffic counts in 2018 on these nearby arterial streets are about 8,700 vehicle trips per day on Grand Avenue and about 3,500 vehicle trips per day on 54th St West. These are low traffic volumes for fully constructed arterial streets, however neither Grand Avenue nor 54th St West are constructed to a full arterial street section. Both roads are partially within the city limits and have large sections that are still within the County's jurisdiction. This makes it difficult for either governing body to make substantial road improvements to handle increasing traffic volumes.

The most recent traffic study completed for the West End was the 2016 West Billings Multi-Modal Planning study to determine where existing traffic flow and safety is deficient and where improvements may be necessary in the future. The intersection of Rimrock Road and 54th Street West was determined to have an existing safety concern with the volume of traffic. This intersection is about 1 mile north of the subject property and a traffic light is now installed at this intersection to improve pedestrian and motorist safety and circulation. Two other nearby intersections at Grand and 48th Street West and Grand and 56th Street West were also identified as deficient and in need of a traffic signal improvement or a roundabout. The study also concluded most of the major streets in West Billings are not conducive to use by pedestrians or bicyclists due to narrow shoulders, no separated pedestrian or bicycle paths, and high travel speeds. The study identified 2 corridor improvement projects to complete the upgrade of Grand Avenue from Shiloh Road through to its intersection with 62nd St West. A short section of Grand Avenue corridor was improved and the traffic signal installation was completed on Grand Avenue at 54th Street West to coincide with the opening of Ben Steele Middle School at 5640 Grand Avenue. The 2016 study analyzed crash data in the area from 2010 through 2015. The study predicted current and future traffic patterns based on steady or aggressive growth and land use patterns. The executive summary of this plan is included as an attachment.

The property can be served by all city utilities and other city services exist in the area including police and fire. The West Billings Neighborhood Plan (2001) anticipated a "community center commercial node" for a proposed 4-way intersection at Grand Avenue and 56th St West. The northern leg of this 4-way intersection was abandoned and the intersection was split between 54th St. West (north of Grand) and 56th St. West (south of Grand). In this new configuration, a community center commercial node is no longer possible. The commercial node here is more oriented to neighborhood level commercial services with some provision on the east side of 54th St West for community retail services such as the proposed Albertson's. The proposed PD zone change would introduce 2 uses in the existing NC zone that are not currently allowed but also eliminates currently allowed uses that could have a larger detrimental effect on the neighbors in the Cottonwood Grove Subdivision to the north. The PD also sets

minimum standards for landscaping, lighting and signage that are above the "standard" site development requirements for allowed uses in the NC zone.

The Planning staff has reviewed the proposed final draft of the PD zone change and is recommending approval based on the 10 criteria for zone changes. Staff finds the proposed zone change is compatible and conforming to the City's adopted 2016 Growth Policy, including the 2001 West Billings Neighborhood Plan. The proposed limitations in the PD will allow the proposed and potential uses of the property to fit in with the existing and future land uses in the area.

Limitations imposed in the PD-NC zone include grocery or food retail stores, auto dealers or gas stations, hotels, rooming houses or modular dwellings of any kind. The PD also prohibits gambling, adult entertainment, laundromats or dry cleaners, auto repair or auto supply as well as neon lighting or electronic message center signs. The PD proposes operational restrictions so any outdoor activity at any location on the property must cease by 9 pm, and any outdoor pole lighting is fully shielded. The number of potential patrons on a daily basis to the microbrewery is an unknown at this point in time, however, state law limits how much beer can be sold or given away at any microbrewery sampling room. This limitation is meant to prevent sampling rooms from becoming a "bar", and would necessarily limit the number of patrons at the sampling room on a daily basis. Brewers may only serve what is produced on site or at an affiliated brewer's facility. Traffic volume to this location is not known due to the developing nature of the subdivision. A traffic impact study was submitted with the original MK Subdivision and would have to be updated based on the proposed uses. The original traffic study was based on the zoning and probable uses allowed within those zoning districts. Some uses "capture" drive by traffic and other uses create more traffic as destination points. The proposed uses will be destination points for calculating traffic and whether any addition traffic control measures are needed. All access to and from Grand Avenue and 54th Street West is already existing. No new access driveways to these 2 arterial streets will be allowed.

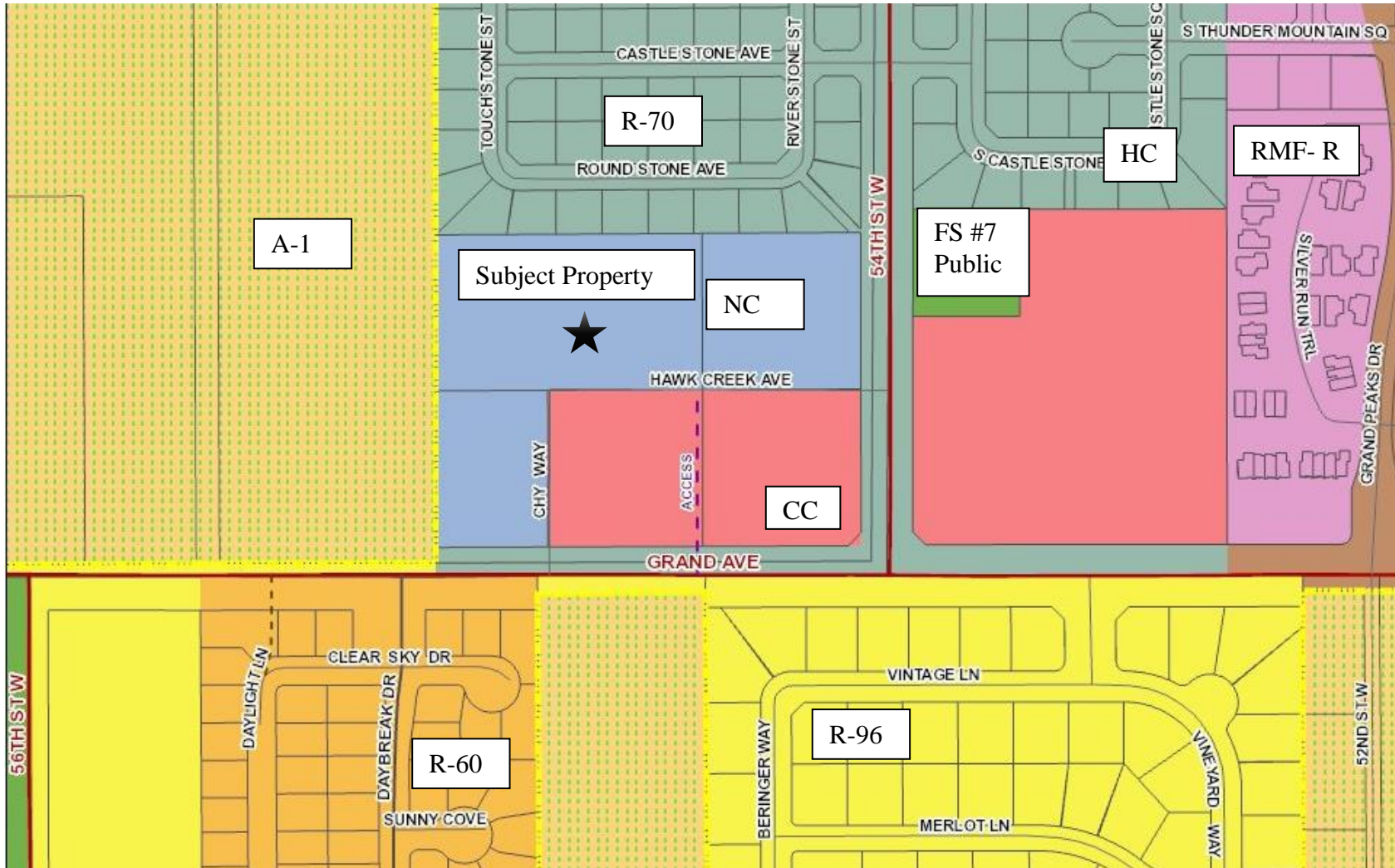
RECOMMENDATION

Staff recommends approval and adoption of the findings of the 10 criteria for Zone Change 971.

Attachments

Zoning Map and Site Photos
Applicant Letter and Pre App Info
Concept Site Plan
PD Agreement
Review Criteria Findings
WE Multi-Modal Traffic Study Executive Summary
MT DOR Brewery License FAQs
Cabaret License Info
Comments through October 26

Surrounding Zoning
Zone Change 971 – Hawk Creek PD



ZC 971 - Hawk Creek PD



Subject Property Photos



Subject Property – from Chy Way



View east along front of new construction on Grand Avenue

Subject Property Photos



New 2-tenant building (The Den) on Grand Avenue & Chy Way



View north and west across subject property

Subject Property Photos



Cottonwood Grove Subdivision

View north across subject property from Hawk Creek Avenue



FS #7 - 54th St W

View north and east across subject property

Subject Property Photos



View south across Hawk Creek Avenue



View east along Hawk Creek Avenue

Applicant Letter and Pre app materials
Zone Change 971 – Hawk Creek PD



APPLICATION FORM
Billings Zone Change # 971 - Project # 18-058 *P2-18-00142*

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: PD-Neighborhood Commercial with the allowance of one cabaret license and one brewery/taproom license

Tax ID # A31805C CITY ELECTION WARD # WARD IV

Legal Description of Property: MK Sub, Section 31, Township 01N, Range 25E, Block 1, Lot 4

Address or General Location (If unknown, contact County Public Works): Grand Avenue & 54th Street West
Hawk Creek Ln + Chy Way

Size of Parcel (Area & Dimensions): 3.6 ACRES (522 FT X 304 FT)

Present Land-Use: Undeveloped

Proposed Land-Use: Commercial

Covenants or Deed Restriction on Property: Yes _____ No X

If yes, please attach to application

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

Owner(s): MYK Enterprises, LLC
(Recorded Owner)
218 Brookshire Blvd Unit 2, Billings, MT 59102
(Address)
406-860-1967 kramerpatsy@gmail.com
(Phone Number) (Email)

Agent(s): Scott Aspenlieder
(Name)
7100 Commercial Ave., Suite 4, Billings, MT 59101
(Address)
406-384-0080 scott@performance-ec.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 Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: *Patricia A Kramer Manager* Date: 9/14/18
(Recorded Owner)

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

The tract of interest is currently zoned Neighborhood Commercial. The Growth Policy has several goals that would be met by changing the zoning of the property from Neighborhood Commercial to Planned Development-Neighborhood Commercial. The issues that will be addressed are described below.

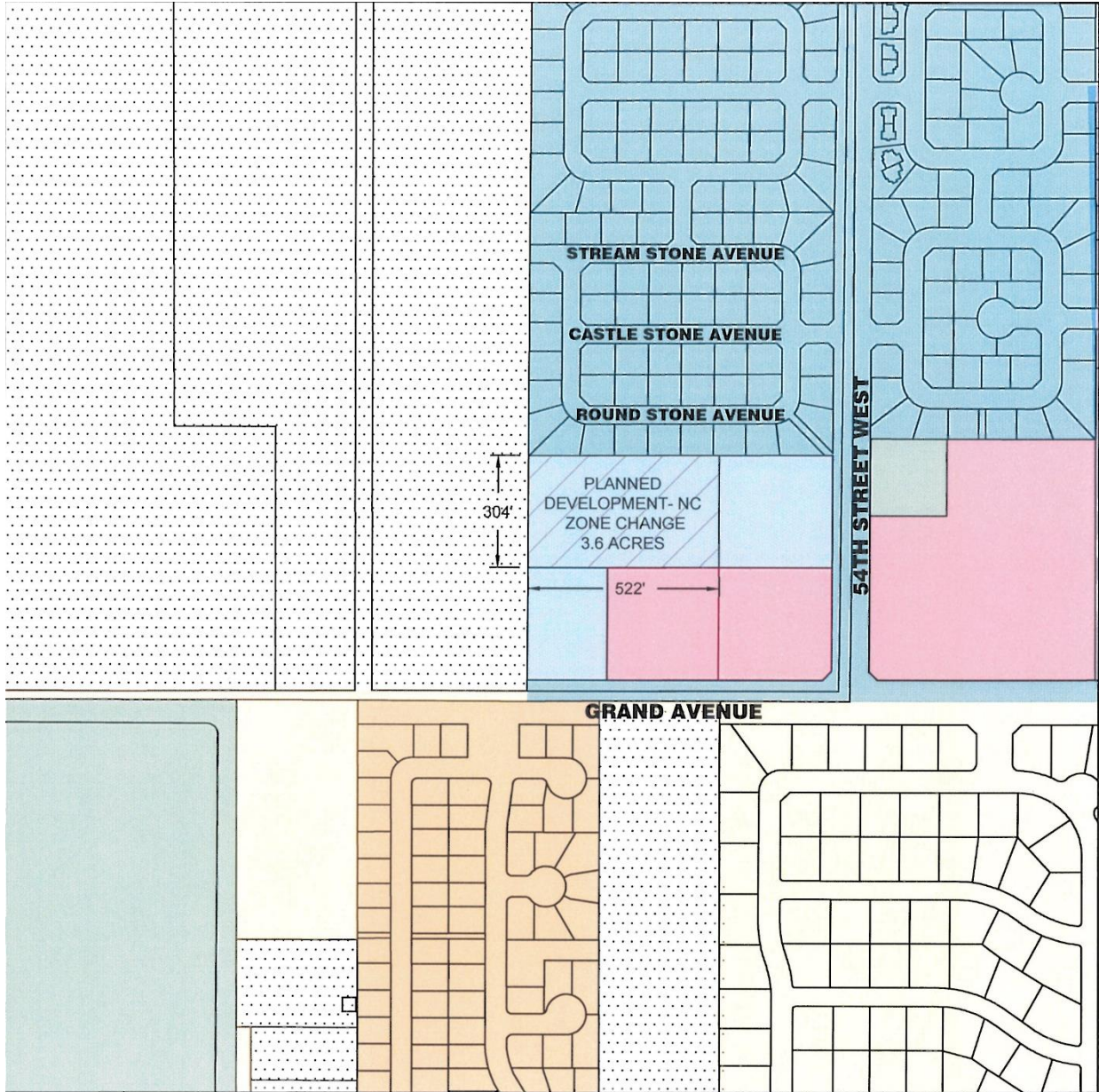
Implementation of the Infill Policy is important to encourage development of underutilized properties. The proposed zone change will fit with the City's Infill Development Policy by reducing the cost of basic City services, providing local neighborhood services, encouraging walkable communities, and adding new energy to existing neighborhoods. Commercial businesses will help to offset the cost of services to the neighborhood by increasing the tax base in the area and adding rate paying customers to City services such as water, sewer and solid waste.

The Growth Policy calls for commercial development at the nodes of two arterial roads, in this case 54th Street West and Grand Ave. This property is within the commercial node outlined in the Growth Policy and West End Plan and falls within the types of businesses desired for commercial nodes. The allowance of a cabaret and taproom license on the proposed lot allows for a much needed restaurant or dining facility to locate within the west end neighborhood. This creates a local feel for the neighborhood and allows for access to dining without driving over 2 miles into the City.

Predictable, reasonable City taxes and assessments are important to Billings' taxpayers. The creation of new commercial businesses within the City of Billings will add to the assessments the City collects and increase the City's tax base.

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.









The proposed development plan is to construct a facility restaurant and taproom facility allowing for on-site sale of beer and wine. State law restricts hours of operation for taproom facilities enforcing a end of sales at 8 pm, similarly cabaret facilities must end all alcohol sales at 10 pm. Both are well within the reasonable hours of operation for businesses and will not conflict with residential neighborhoods in the area. The proposed PD-Neighborhood Commercial zoning will fit well with surrounding commercial zoning and could likely encourage more development of commercial property in the area by providing for eatery options in the area. The proposed PD documents provide for a myriad of landscaping, parking, noise, lighting, and architectural restrictions to best fit the neighboring properties and minimize any potential negative impact while still adding value to the community and City.



LEGAL DESCRIPTION

LOT 4, BLOCK 1,
MK SUBDIVISION
BILLINGS, MT

LEGEND

- | | | | |
|---|---|---|-------------------|
|  | PLANNED DEVELOPMENT - NEIGHBORHOOD COMMERCIAL |  | PUBLIC |
|  | AGRICULTURAL OPEN |  | RESIDENTIAL 7000 |
|  | COMMUNITY COMMERCIAL |  | RESIDENTIAL 9600 |
|  | NEIGHBORHOOD COMMERCIAL |  | RESIDENTIAL 15000 |



PROJECT TITLE
**MK
SUBDIVISION**
SHEET TITLE
ZONE CHANGE MAP

DRAWN BY
DTG
DATE
Jul-18
CHECKED BY
CPD

CLIENT
**MYK
ENTERPRISES**
218 BROOKSHIRE BLVD UNIT 2
BILLINGS, MT 59102



**PERFORMANCE
ENGINEERING**
7100 COMMERCIAL AVE., SUITE 4
OFFICE - 406-384-0090
BILLINGS, MT 59101
www.performance-ec.com

EXHIBIT
1
COPYRIGHT 2018 ©

Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** Neighborhood Commercial
2. **Written description of the Zone Change Plan** including a square footage or acres of proposed new zoning: The zoning proposal will change 3.6 acres of undeveloped, Neighborhood Commercial to Planned Development- Neighborhood Commercial to accommodate one brewery/taproom and one cabaret license.
3. **Subject Property Map:** See Attachments
4. **Legal Description of Property:** MK Sub, S31, T01 N, R25 E, Block 1, Lot 4
5. **Neighborhood Task Force:** West End Task Force comments not received as of submittal
6. **Roster of persons who attended the pre-application neighborhood meeting:** See Attachments
7. **A copy of the meeting notice:** See Attachments
8. **A brief synopsis of the meeting results:** See Attachments
9. **The undersigned affirm the following:**

- 1) The pre-application neighborhood meeting was held on the 27th, day of August, 2018.
- 2) The zone change application is based on materials presented at the meeting.

Owner (s): MYK Enterprises, LLC Telephone: 406-860-1967
Address: 218 Brookshire Blvd, Unit 2 Email: kramerpatsy@gmail.com
Billings, MT 59102

Agent (s): Scott Aspenlieder Telephone: 406-384-0080
Address: 7100 Commercial Ave., Suite #4 Email: scott@performance-ec.com
Billings, MT 59101



August 27th 2018 6:00pm
Grace Montessori Academy

Meeting Notes
MYK Enterprises, LLC Development of Block 1 of Lot 4

Representative: Scott Aspenlieder

Points of Discussion

Brief review of Project Development
Requesting comments from Home / Property owners
Addressed Comments/ Concerns from Home/ Property owners
Review Timeline for Planned Development of Project

Project Development

Microbrewery/Tap Room and one cabaret license
Hours of operation: Microbrewery /Tap Stops selling liquor by 8:00pm and closed by 9:00pm. Cabaret 10:00pm closure time.

Home / Property Owners Comments

1. How many buildings
2. Difference between Brewery and Full liquor licenses
3. Limited Licenses
4. Serving of Food
5. City Council member brought up the " Creeping of Liquor"
6. Zoning future changes – and the 60 acres of land developed by the school
7. What happens if this doesn't pass – What can go through
 - Offsite liquor sales
 - Restaurants without beer and wine license
 - Fast foods restaurant
 - Chiropractor offices
 - Insurance offices
8. What is Law enforcement view – speculation of better together

406-384-0080

7100 Commercial Ave. #4
Billings, Montana 59101

performance-ec.com



Home / Property Owners Guidance of Suggestions

1. Restrictions of the business
2. Lighting
3. Parking
4. Patio Area Location
5. Building Height
6. Deck Side operations
7. Landscaping - Trees, Shrubbery

Home / Property Owners Concerns

1. Having a bar/ Brewery in their back yard
2. Property Values
3. Peace and Quiet place to live
4. Wanted to feel like living in the country but close to city services
5. Drunk Drivers and DUI's in this State
6. Close to School
7. What does task force think
8. Not Happy with The Den moving into the area

Comment from The Den owners

They are not a fan of the microbreweries- they take away from the bar business.

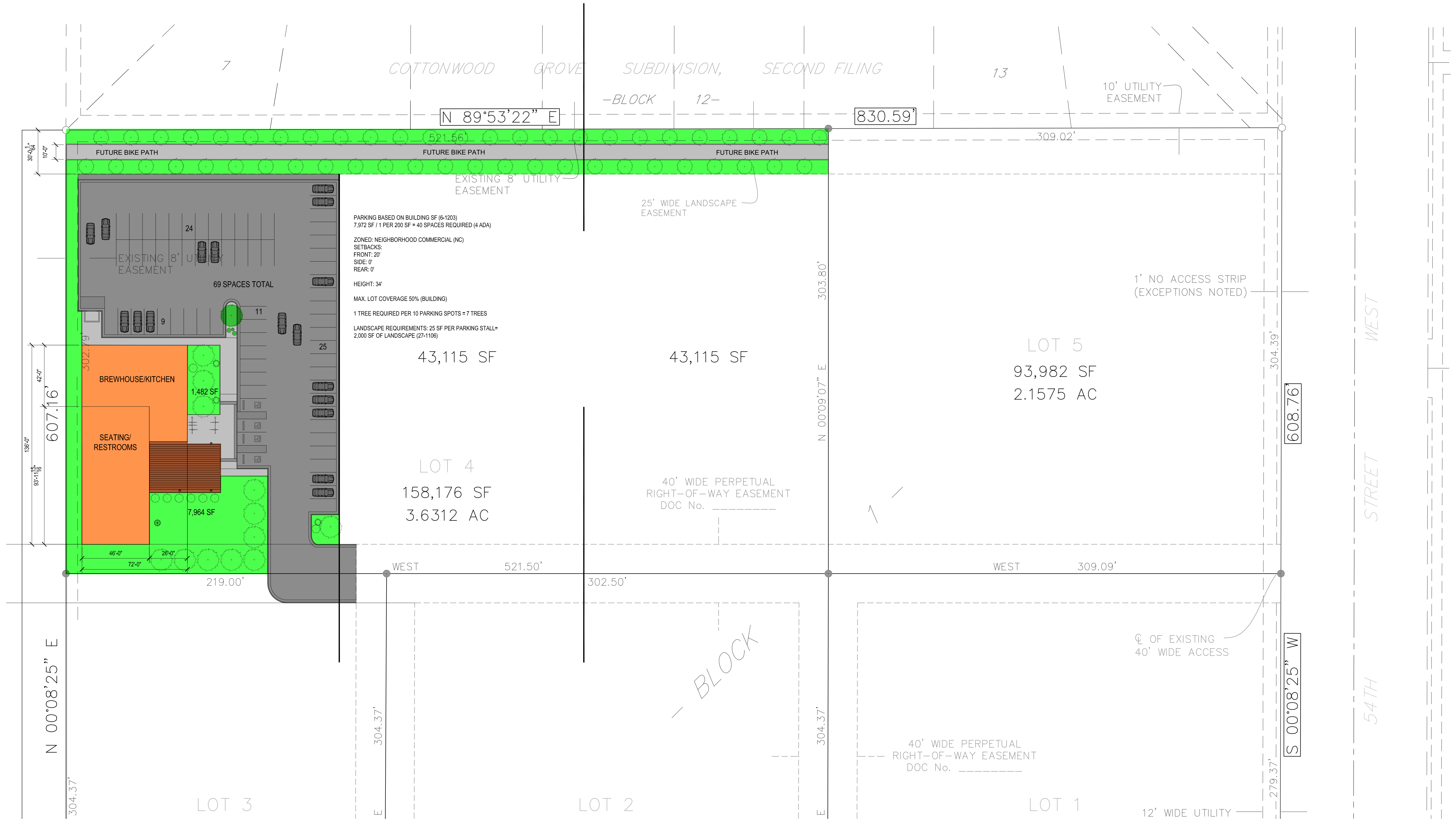
Timeline for Planned Development

1. Application - Home/Property owners need to get all requests in as soon as possible before the first application goes in Tuesday. Send all Letters to Scott and/or Nicole Cromwell.
2. Working Session with Planning Board and Public - To be held at the Library End of September
3. City Council - Voting process -Public Welcome - November

All three timeline options are for people to express comments and concerns.

Meeting Adjourned 6:35pm.

P:\18074\00\Drawings & Models\AutoCAD\Barn Brewery_A2.1.dwg Sep 17, 2018 - 3:40pm



9 FLOOR PLAN
 A2.1 : A2.1 SCALE: 1/32" = 1'-0"

FLOOR PLAN
 project **BARN BREWERY**
 owner

project #	18049.00
revision	date
phase	



issue date
06.01.2018
A2.1

Return to:
City Clerk
City of Billings
PO Box 1178
Billings, MT 59101

PLANNED DEVELOPMENT AGREEMENT
LOT 4, BLOCK 1, MK SUBDIVISION IN THE CITY OF
BILLINGS, MONTANA

THIS AGREEMENT is made and entered into this ____ day of _____, 2018, by and between **MYK Enterprises, LLC**, whose address for the purpose of this agreement is 218 Brookshire Blvd Unit 2, Billings, MT 59102, hereinafter referred to as “Owner,” and **City of Billings**, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the Owner owns approximately 3.6 acres of real property in Billings, Montana specifically described as Lot 4, Block 1 of the MK Subdivision. The foregoing property shall be known as “Hawk Creek Planned Development,” or a related name that may be assigned later.

WHEREAS, the Hawk Creek Planned Development will consist of a mixture of commercial, retail, professional, medical and related uses.

WHEREAS, the Owner desires to place certain building and use restrictions on the property, specify certain land uses, and create a pattern of development that promotes community service, economic activity, convenience, and amenity for the Hawk Creek Planned Development and surrounding neighborhoods.

WHEREAS, the aforesaid Owner and the County desire to ensure the Hawk Creek Planned Development will be developed and maintained consistent with the standards described in this agreement.

THEREFORE, the undersigned hereby establish and declare the following plan for the Hawk Creek Planned Development as set forth herein, which shall apply to all of the real estate described hereinabove, shall bind all of the present and future property owners to such real estate, and shall run with the land.

AGREEMENT

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT

All persons, corporations, or other entities, who shall hereafter acquire any interest in and to the above described property, in whole, or in part, shall be taken and held to agree, to conform to, and observe the following land uses, restrictions, and other stipulations as to the use thereof, and as the construction of improvements thereon.

II. LAND USES AND BUILDING RESTRICTIONS

Unless expressly designated below, all other standards or requirements of the Zoning Regulations for the City of Billings shall be followed for the type of use within each of the areas described herein.

A. Restricted Uses for Underlying City Zone: Neighborhood Commercial – NC

No land may be used for purposes that include gaming (casinos) or adult entertainment or sexually oriented businesses. No variances or special review approvals may be requested or granted for those businesses.

All allowed land uses as outlined within the City of Billings Zoning regulations for the underlying zone shall be allowed within the Planned Development, with the following exceptions:

Exceptions (uses not allowed):

Division A: Agriculture, Forestry, and Fishing

Group 07 – Agricultural Services

- Veterinary services for Animal specialties – Outpatient Only

Division B: Mining

- Construction sand and gravel mining (1442)

Division D: Manufacturing

Group 20 – Food and Kindred Products

- All sub-groups except offices

Division E: Transportation, Communications, Electric, Gas and Sanitary Sewer

Group 46 – Pipelines, except natural gas

Group 48 – Communications

- All uses except offices

- Group 48 – Commercial Antenna Support Structures
- Group 49 – Electric, Gas, and Sanitary Services
 - Transmission and distribution, electric and gas

Division G: Retail Trade

- Group 54 – Food Stores
 - Convenience Store with Gas Pump Islands
- Group 55 – Automotive Dealers and Gasoline Service Stations
 - All uses

Division I: Services

- Group 70 – Hotels, Rooming Houses, Camps, and Other Lodging Places
 - Rooming, boarding houses; organization hotels and lodging houses, on a membership basis (702, 704)
- Group 72 – Personal Services
 - Coin-operated laundries and dry cleaning (7215)
 - Funeral service and crematories (726)
- Group 75 – Automotive Repair, Services, & Parking
 - Automobile parking (752)

Division K: Non-Classifiable Establishments

- Dwellings – Modular Homes

Allowances:

The subject property shall be allowed use of one (1) cabaret license and one (1) brewing/taproom license. Subsequent subdivision of the subject parcel shall not increase the number of licenses allow for use within the Planned Development.

III. OPERATIONAL RESTRICTIONS – Alcoholic Beverage Manufacturing and Cabaret License

The Developer and City recognize the sensitive location of the Hawk Creek Planned Development and the need to include specific operational restrictions and site requirements not normally required for the uses listed above.

A. Developer Agrees to the Following:

- a. Any outdoor seating areas associated with the brewing/taproom or cabaret operations shall be located on either the east, west or south elevations of the structures. Under no circumstances shall seating areas with either taproom or cabaret operation be located off of the north elevation of the structure(s).
- b. Any seating area outside of any enclosed building for use by the patrons of the alcoholic beverage manufacturer or cabaret operation shall have a fence

installed at least 42-inches in height enclosing the outdoor area. There shall be no entry to the outdoor seating area for patrons except through the operating building.

- c. Any music or entertainment, including any permanent or temporary speakers, outside of an enclosed building shall only be installed/located along the western or southern elevations of the structure.
- d. Any outdoor activities associated with operation of the facilities shall cease by 9 pm.
- e. Operating hours for the taproom and cabaret license shall be dictated by Montana State Law outlined in the MCA 16.3.2 and MCA 16.4.1, respectively.

IV. SIGNAGE AND LIGHTING

The intent of signage and lighting design regulation is to encourage the use of signage and lighting as a design component to enhance buildings, landscaping, or other site features while not detracting from the aesthetics of adjacent neighborhoods. Developers should encourage night sky's visibility to reduce the general illumination of the sky in the surrounding area. Design elements should reduce horizontal light glare and vertical light trespass from a development site onto adjacent parcels. Developers should encourage the judicious use of lighting in conjunction with other security methods to increase site safety.

A. Signage

- a. Signage should be provided in accordance with the PDA, with the intent to compliment the pedestrian-oriented environment. The signage requirements included in Article 27-700 of the United Zoning Regulations and any subsequent amendments thereto shall govern the regulation of signage in Hawk Creek Planned Development so far as they are not inconsistent with the Planned Development Agreement and the below standards.
- b. All signs shall comply with the design guidelines below:
 - i. All signs, except for neighborhood identification signs, shall be placed flat against a building or designed as part of an architectural feature thereof.
 - ii. No electronic message displays or signs are allowed.
 - iii. No neon signs are allowed.
 - iv. No balloon signs as defined by the City of Billings Code are allowed.
 - v. No string of pennants, flags, or other similar types of non-informative non-holiday decorations are allowed.
 - vi. One (1) free-standing sign is allowed indicating the name and/or nature of the occupancy for each developed parcel/tenant. Signs may not exceed fifteen (15) feet in height and fifteen (15) feet in width.

vii. No rooftop signs are allowed.

B. Exterior Lighting

- a.** Developers shall provide adequate lighting levels in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, and circulations areas.
- b.** All exterior lighting must be installed or shielded to minimize light intrusion into residential units in adjacent neighborhoods.
 - i.** All outdoor pole lighting shall be fully shielded and mounted at heights no greater than fifteen (15) feet above grade.
 - ii.** All outdoor lighting, except street lighting, shall be aimed or shielded so as to minimize stray light trespassing across property boundaries.

V. LANDSCAPING REQUIREMENTS

All landscaping and performance standards as outlined within section 27-1101 of the City of Billings Zoning ordinance shall be followed as required within the underlying City zone. Additionally, all development must comply with the requirements outlined in this Section of the Planned Development.

A. General Landscape Area Requirements

- a.** A palette of regionally appropriate drought and climate tolerant plant materials is required to be used.
- b.** The use of drip irrigation and/or other irrigation systems is required.
- c.** All development should create a pedestrian-friendly environment on the street and connect to adjacent developments as identified in the conceptual master plan.
- d.** A variation of elements should be provided along public frontage; no less than two (2) types of trees may be used in a single development lot.
- e.** One (1) 2-inch tree is required per 2,000 sf of total landscape area per development lot or parcel.
- f.** One (1) large shrub (mature height over three feet) is required for every 500 sf of total landscape area per development lot or parcel.
- g.** Trees and shrubs should be grouped for aesthetic and irrigation purposes.
- h.** Lawn must have a minimum width of six (6) feet.
- i.** Plant materials must be maintained and dead plants must be replaced in a timely manner.

B. Landscaped Green Belt Improvements

- a.** A minimum 25-foot landscaped green belt, which may be incorporated into any required building setbacks, shall be landscaped and maintained along the northern property boundary.
- b.** Developers shall be responsible for installation and maintenance of the landscaped green belts in accordance with Section V.A of this document.

- c. Landscaped green belts and required setbacks may overlap so that the total area of the two is the greater of either the green belt or the setback.
- d. All improvements shall comply with The City of Billings and Yellowstone County's clear vision standards.

C. Parking Lot Landscaping

- a. All parking lot landscaping may be included as part of the landscaped area as calculated in Section V.A of this document.
- b. Trees shall be planted and incorporated into parking lot layouts at a density of one (1) 2-inch tree for every sixteen (16) parking spots.

VI. SITE LAYOUT AND ORIENTATION

All development must comply with the site layout and orientation requirements outlined in this Section of the Planned Development.

A. Building Requirements

- a. Buildings shall be located in the south two-thirds of the lot allowing for parking or green space on the north third of the lot.
- b. Buildings can be located directly against sidewalk with no front lot setback requirements.
- c. Sidewalks shall be a minimum of 5-feet wide and a minimum of 7-feet wide when directly adjacent to parking areas.
- d. Building height shall be no greater than 34-feet from grade.
- e. No more than fifty (50) percent lot coverage is allowed by the building.
- f. Buildings containing the use of either a brewery/taproom or cabaret license shall be designed with a likeness to traditional agricultural structures in both elevation and profile views.
- g. All dumpsters shall be contained within a privacy fence that aligns the architecture features of the building.
- h. All development shall provide for bike parking and non-motorized accessibility.

B. Parking Requirements

- a. Parking shall be provided at a one (1) parking spot for every 200-square-foot of building.
- b. Reciprocal parking access shall be provided for all businesses within the development.
- c. Parking lots must be a minimum of 30-feet from the northern boundary with the landscaped green belt counting towards the setback requirement.
- d. Bike parking shall be provided at a one (1) parking spot for every 2,000-square-foot of building with a minimum of two (2) spaces for each building.

VII. MODIFICATION OF THE APPROVED PLANNED DEVELOPMENT

Any modification of the approved development plan shall be processed using the same procedures for a new application, as set forth in the City of Billings Zoning regulations. However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings:

No change in the overall character of the development;

No increase in the number of residential units greater than two (2) percent;

No additional allowed uses;

No reduction in open space greater than two (2) percent; and

No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20__.

“CITY”

CITY OF BILLINGS, MONTANA

Mayor

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the Mayor of the City of Billings, Montana, whose name are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

Zone Change 971 – Hawk Creek PD

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

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

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

Community Fabric:

- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity
- Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods
- Outdoor public spaces provide casual and relaxing gathering areas for people
- Planning and construction of interconnected sidewalks and trails are important to the livability of Billings

The proposed zoning will allow the owner to sell the property to the buyer who is interested in creating 2 new businesses with enhanced site development requirements to encourage pedestrian activity, enjoyment of outdoor spaces in a casual and relaxing atmosphere. The proposed PD will restrict uses that do not contribute or enhance these place-making activities.

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

The proposed zoning requires provisions for all modes of travel to and from the property and site development requirements to increase outdoor activity.

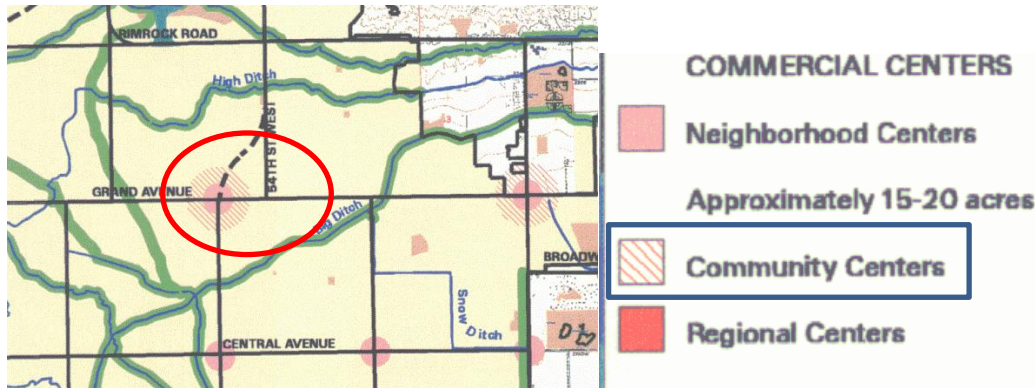
Prosperity:

- A diversity of available jobs can ensure a strong Billings' economy;
- Retaining and supporting existing businesses helps sustain a healthy economy
- Successful businesses that provide local jobs benefit the community

The proposed zoning will allow the new owners, Michael and Tyler Schmechel, to locate within the city limits in order to sustain and grow their business. Craft brewing and family oriented restaurants that offer outdoor casual dining and activities are a growth business in Montana. The local economy benefits from a diverse offering of community and neighborhood services.

The proposed zone change is consistent with the following guidelines of the 2001 West Billings Neighborhood Plan:

- Promote efficient utilization of land within the West Billings planning area by promoting well designed, more pedestrian friendly, urban development patterns with a mix of uses and an efficient, creative use of land.
- Shorten automobile trips by locating non-industrial commercial development in close proximity to residential areas.
- Limit “community” commercial centers to appropriate intersections of arterial streets and spaced no less than approximately two miles apart. Community commercial centers should be compatible with the surrounding area and designed to serve the overall West Billings community unless otherwise approved by the governing bodies.



Future Land Use Map – West Billings Neighborhood Plan 2001

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

The new zoning, as do all standard zoning districts, requires separation between buildings and setbacks from property lines. This should provide security from fire and other dangers.

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

Public health and public safety will be promoted by the proposed zoning. The PD provides for limitations on potentially incompatible uses – auto supply stores, gas stations, convenience stores and similar uses currently allowed by the NC zoning district.

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

- Transportation: The proposed zoning should not have any effect on the existing transportation system. An update of the existing TAS for the subdivision may be required by the City Traffic Engineer at the time a building permit is submitted.
- 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 should have no effect on transportation systems. The PD provides for an off system bike trail along the northern property line and requires bicycle parking facilities for each development within the PD.

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

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to be developed with an in-demand type of dining and relaxation experience. Additional development within the 3-acre parcel will include other compatible uses.

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 tailors the underlying zoning of NC to provide 2 additional uses but prohibits many other uses normally allowed in the NC zone. The PD also has operational restrictions to respect and protect the adjacent neighborhood.

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

There are no buildings on the subject parcel. The value of surrounding buildings (north and south) may be improved by the proposed development. Marketability of adjacent property is not included within this review criteria.

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

The proposed zoning will encourage an appropriate use of land in this part of Billings.

EXECUTIVE SUMMARY

The West End Multi-Modal Planning Study is the result of a collaborative effort between the Billings-Yellowstone County Metropolitan Planning Organization (MPO), the City of Billings, Yellowstone County and the consultant Project Team (Sanderson Stewart and Fehr & Peers). The purpose statement for the study is as follows:

To evaluate the cumulative effect of ongoing and projected future land development and population growth on the multi-modal transportation system for the area of Billings west of Shiloh Road

This document provides guidance in terms of cost and prioritization for multi-modal transportation system projects in the study area based on a pair of land development projection scenarios for the 20-year period leading up to the study Horizon Year of 2035.

Study Area

The study area for the West End Multi-Modal Planning Study is depicted at right in **Figure ES1**. The areas shown in light blue are in the City of Billings, while all other areas have not yet been annexed. The areas shaded in red have been identified for potential annexation by 2018, while the areas in yellow-orange have been identified for potential longer-term annexation. The orange dotted line represents the MPO planning jurisdictional boundary.

Methodology

The Project Team inventoried existing multi-modal transportation system features within the study area, collected traffic counts and crash history data and performed a comprehensive analysis of existing conditions to utilize as a baseline for the study. In addition to evaluating operations and safety for vehicular travel, the team evaluated conditions for the bicycle and pedestrian environment using latent demand and level of traffic stress (LTS) metrics.

Two (2) Horizon Year (2035) land development projection scenarios were calculated; one that approximated a continuation of recent historical development in the area, including a mixture of City and County subdivisions; and a second scenario that projected more aggressive annexation of study area property, thereby resulting in denser development and growth.

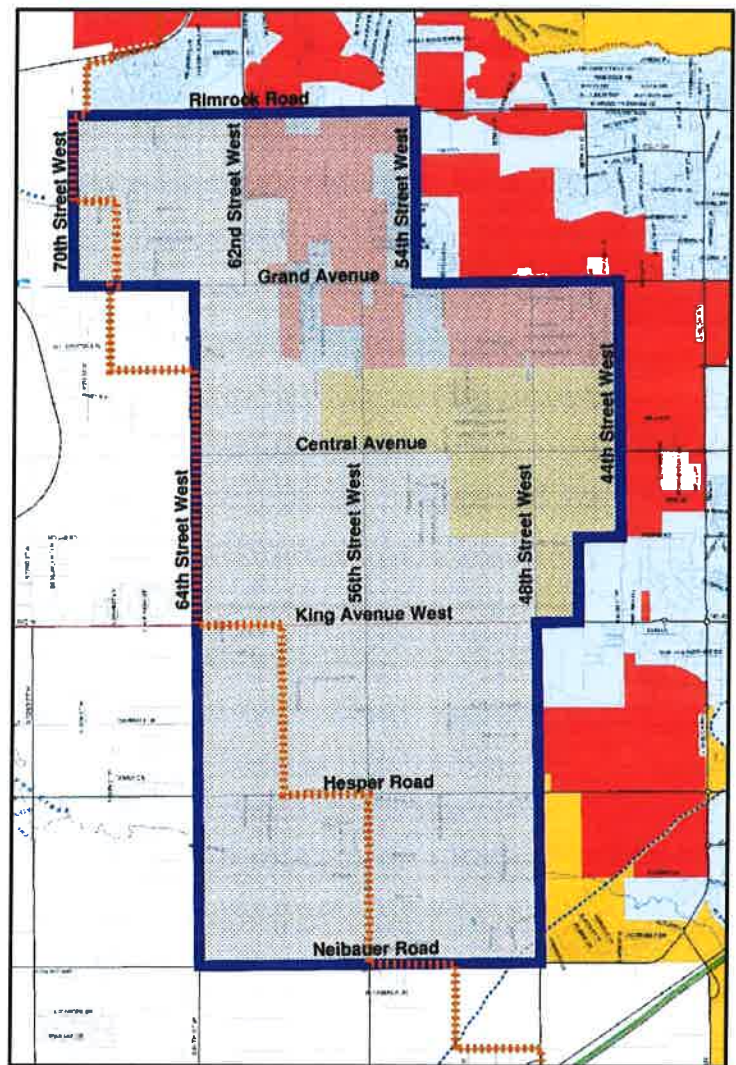


FIGURE ES1. STUDY AREA

The parameters for the two growth scenarios were provided to the Montana Department of Transportation (MDT) for analysis in the Transcad transportation model for Yellowstone County. MDT returned link-specific average daily traffic (ADT) volume projections for both scenarios to be utilized for the Horizon Year (2035) analyses.

The Project Team analyzed future multi-modal operations for both of the growth scenarios. Based on the results of those efforts and the crash history analysis for the study area, the team developed a series of prioritized short-term and long-term project recommendations with high-level approximate construction cost ranges estimates.

Analysis Results

Existing Conditions

For the Existing Conditions (2015) scenario, all of the study area intersections and street corridor segments were found to operate at acceptable levels of service (LOS) during all periods of a typical day. However, an evaluation of crash history for study area intersections for the 5-year period from 2010-2014 revealed that there are seven (7) intersections with crash rates higher than 1.0 crashes/million vehicles entering (MVE), which is a threshold number that MDT uses to determine when an intersection may be of concern. The following three (3) of those intersections exhibited crash rates greater than 1.50 crashes/MVE:

- Rimrock Road & 62nd Street West
- Neibauer Road & 48th Street West
- Neibauer Road & 56th Street West

There were no fatalities reported as a result of any of the crashes during the 5-year analysis period. However, crash severity, which takes into account how many injuries and/or fatalities have occurred as a result of a sample of crashes, was found to be elevated for six (6) intersections. The two Neibauer Road intersections listed above had the highest crash severity rates.

From an active transportation (bicycle/pedestrian) standpoint, the availability of sidewalks, side paths, trails, or bike lanes in the study area is very limited with the exception of sidewalks internal to masterplanned communities. In general, the study area lacks connectivity to low stress bike/pedestrian facilities. A level of traffic stress (LTS) analysis showed that all of the major streets in the study area exhibit the highest LTS scores, thereby making them uninviting to typical bicyclists and pedestrians. This is generally due to the high speeds and narrow or non-existent shoulders in the study area.

Future Conditions (2035)

Under land use growth Scenario 1 (typical growth), most roadways in the study area continue to experience a LOS D or better. However, three of the primary east-west arterials (Rimrock Road, Grand Avenue, King Avenue West) are not projected to meet that standard. Of the north-south arterials, only 62nd Street West, north of Rimrock Road, is projected to operate below LOS D. **Figure ES2** on the following page provides a graphical illustration of the corridor LOS conditions for Scenario 1. Figure ES2 also shows the intersections that are projected to operate below an acceptable LOS C during one or both peak hour periods for Scenario 1.

Under the higher-growth Scenario 2 (aggressive growth), Central Avenue joins Rimrock Road, Grand Avenue and King Avenue West in having one or more segments exhibiting LOS E or worse conditions. For the north-south corridors, 62nd Street West, north of Rimrock Road degrades to LOS F, while 54th Street West is projected at LOS D north of Rimrock Road and LOS E south of Rimrock Road. **Figure ES3**, also on the following page, illustrates the corridor LOS analysis results for Scenario 2 and also shows graphically which intersections are projected to fail under that scenario.

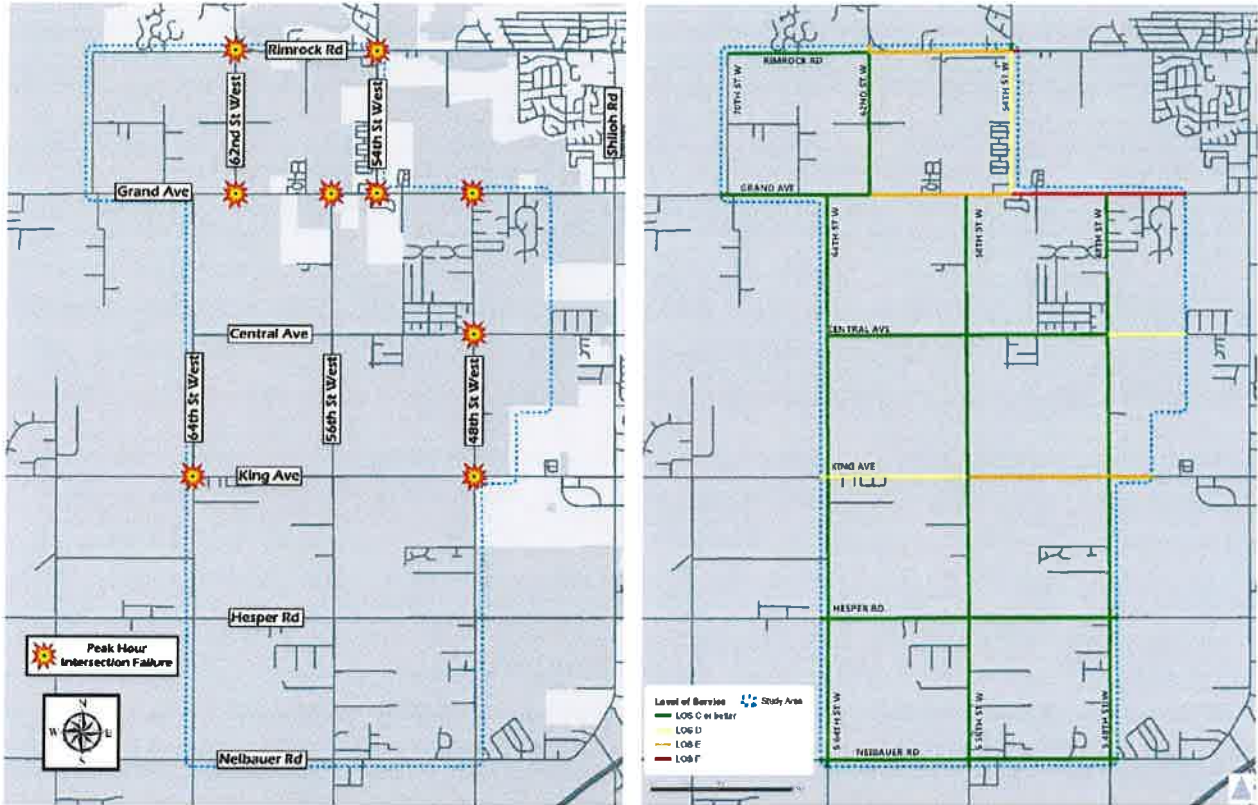


FIGURE ES2. SCENARIO 1 (2035) INTERSECTION AND CORRIDOR LOS ANALYSIS RESULTS

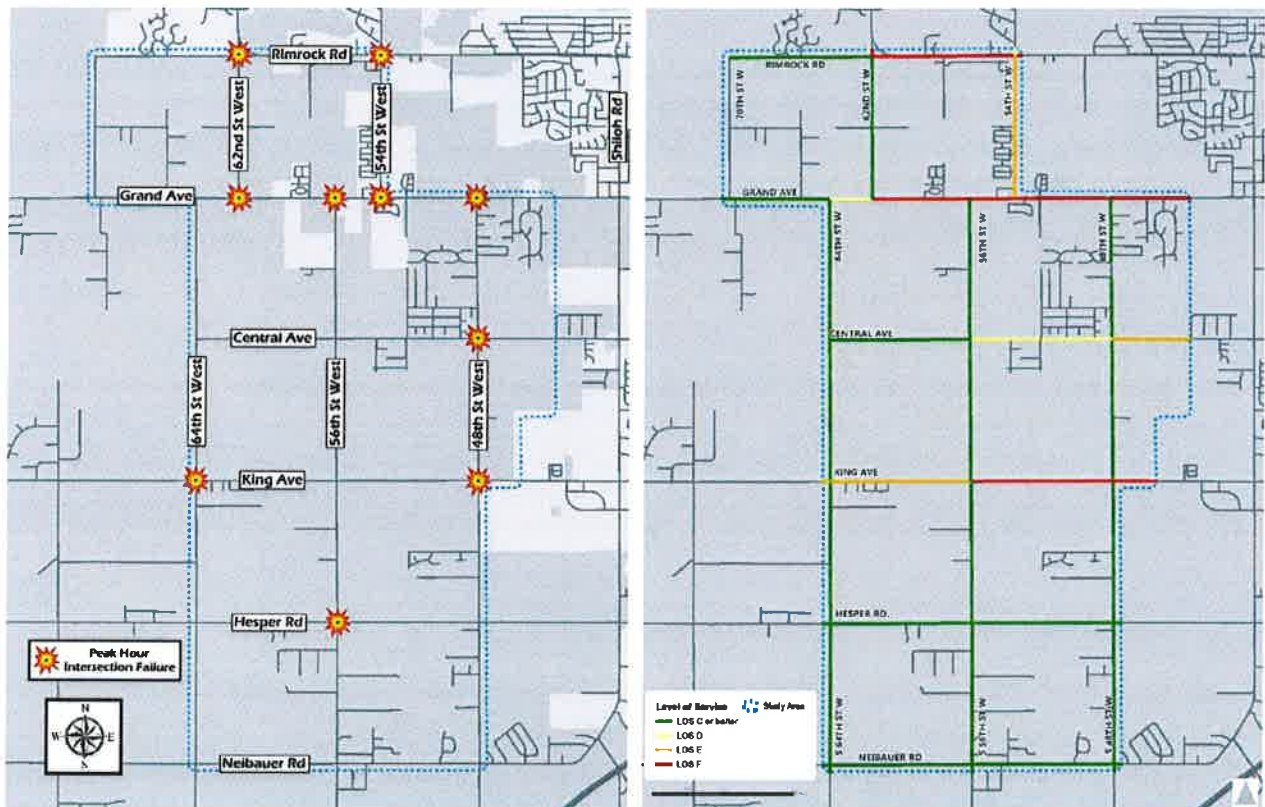


FIGURE ES3. SCENARIO 2 (2035) INTERSECTION AND CORRIDOR LOS ANALYSIS RESULTS

A Latent Demand Model was used to provide a logical analysis framework to prioritize attention and investment for active transportation. Based on the growth projections, demand for active transportation is expected to increase significantly. Most of the study area north of King Avenue and east of 56th Street will generate demand, with the highest concentrations along 54th Street and Grand Avenue. **Figure ES4** below illustrates the projected change in active transportation demand from Existing Conditions (2015) to Scenario 2 (2035)

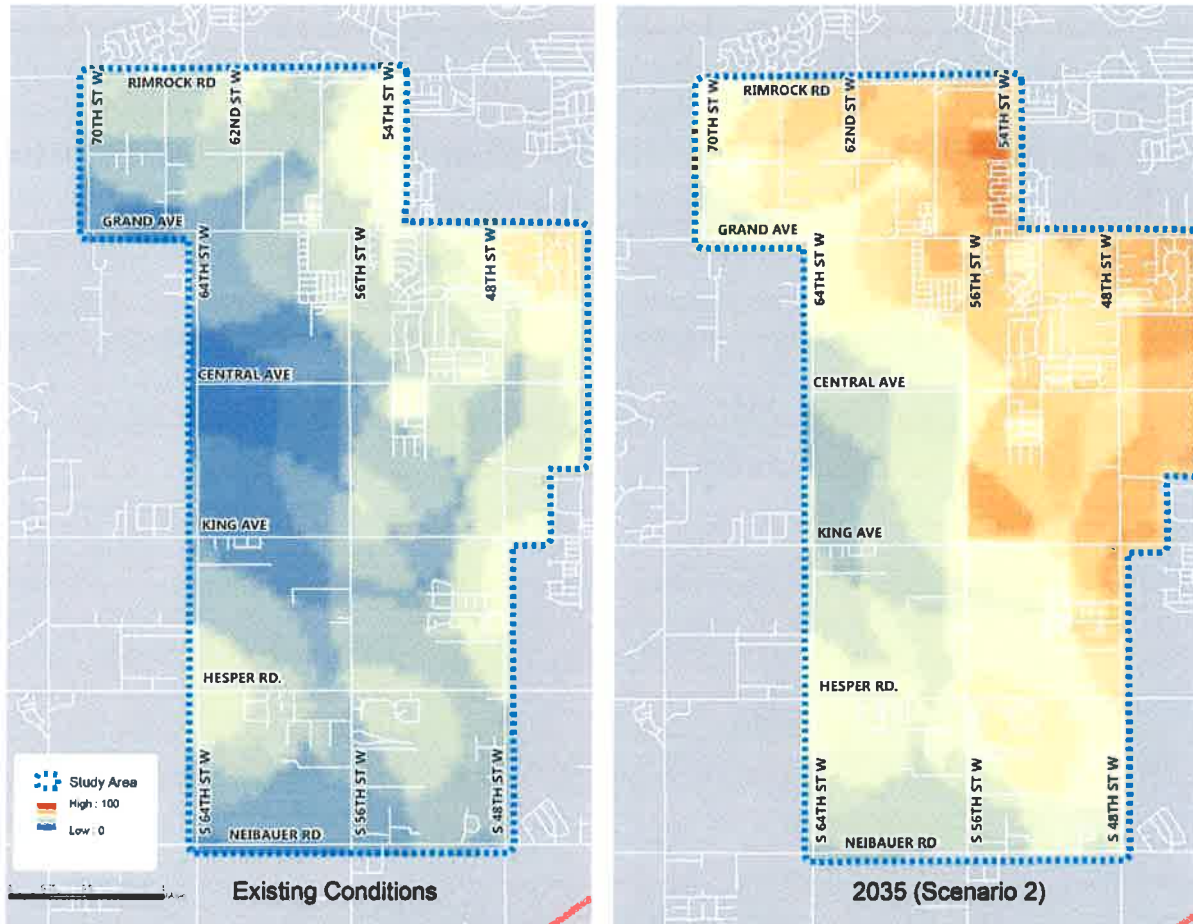


FIGURE ES4. LATENT DEMAND MODEL ANALYSIS RESULTS

Study Recommendations

Streets & Intersections

The priority project recommendations for this study were broken down into short-term and long-term categories. Short-term priority projects are those that could be necessary in order to maintain safe and efficient operations during the first half of the 20-year study period. Long-term priority projects are more likely to be needed during the second half of that period. However, it should be noted that there are many factors related to land development that could change the priority, location and cost considerations that are summarized in these recommendations. As such, the recommendations are to be utilized as a guideline for planning and not as a hard and fast committed projects list.

Tables ES1-ES4 and **Figure ES5-ES6** on the following pages list and illustrate the short term and long-term priority project recommendations for street and intersection improvements. In addition to details about each recommended project, the tables provide estimated construction cost ranges. The estimated costs do not consider right-of-way, irrigation systems modifications or street lighting other than as associated directly with traffic signals or roundabouts.

TABLE ES1. SHORT-TERM INTERSECTION PROJECT RECOMMENDATIONS

Priority Ranking	Project Location	Project Type	Estimated Cost
1	Neibauer Rd. & 56th St. West	All-Way Stop Control/OH Flashing Beacons/Transverse Rumble Strips	\$120,000-\$200,000
2	Neibauer Rd. & 48th St. West	OH Flashing Beacons/Transverse Rumble Strips	\$120,000-\$200,000
3	Rimrock Rd. & 54th St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000
4	King Ave. West & 64th St. West	Auxiliary Turn Lanes	\$400,000-\$600,000
5	Grand Ave. & 48th St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000
6	Molt Rd./Rimrock Rd./62nd St. West	Design Study	\$20,000-\$30,000
7	Grand Ave. & 56th St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000

TABLE ES2. SHORT-TERM CORRIDOR PROJECT RECOMMENDATIONS

Priority Ranking	Project Location	Project Type	Estimated Cost
1	Grand Ave. - Shiloh Rd. to 52nd St. West	Widening/Reconstruction (3-lane section)	\$2,800,000-\$4,500,000
2	Rimrock Rd. - 50th St. West to 54th St. West	Widening/Reconstruction (3-lane section)	\$1,000,000-\$1,600,000
3	King Ave. West - MT Sapphire Dr. to 48th St. West	Widening/Reconstruction (3-lane section)	\$1,300,000-\$2,000,000
4	Grand Ave. - Wilderness Dr. to 62nd St. West	Widening/Reconstruction (3-lane section)	\$900,000-\$1,400,000

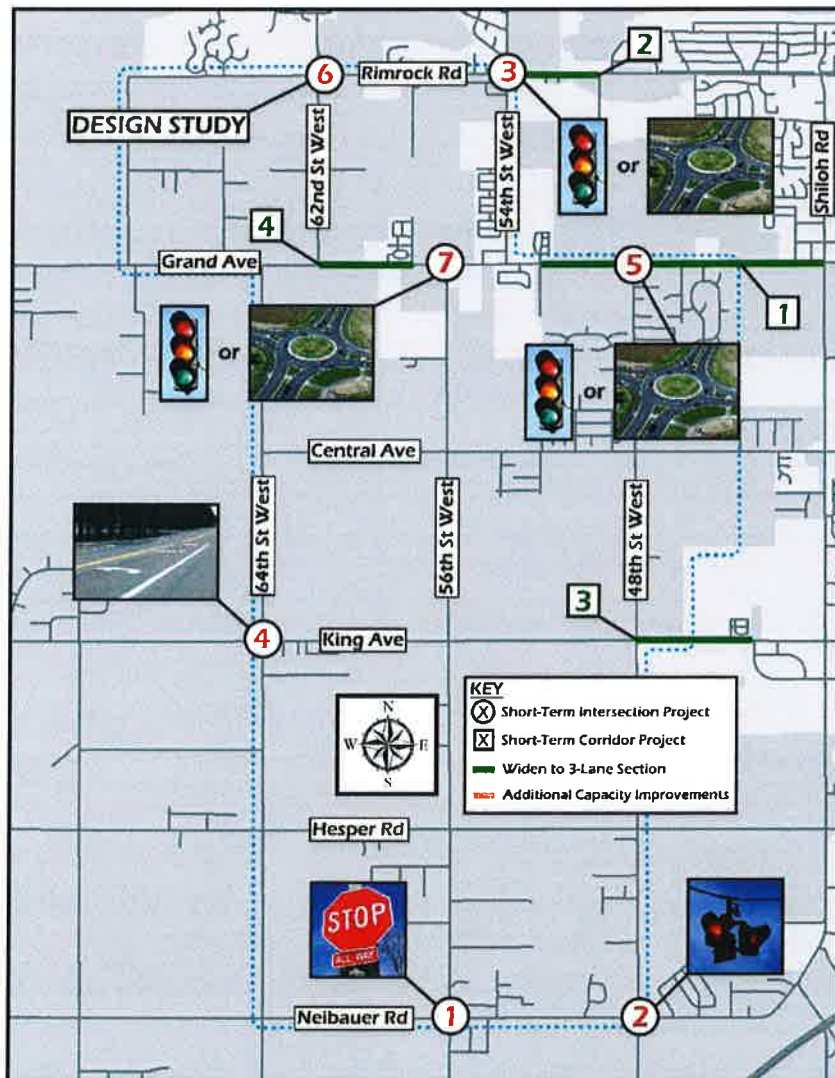


FIGURE ES5. SHORT-TERM INTERSECTION & CORRIDOR PROJECT RECOMMENDATIONS

TABLE ES3. LONG-TERM INTERSECTION PROJECT RECOMMENDATIONS

Priority Ranking	Project Location	Project Type	Estimated Cost
1	Molt Rd./Rimrock Rd./62nd St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000
2	King Ave. West & 48th St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000
3	Central Ave. & 48th St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000
4	King Ave. West & 64th St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000
5	Grand Ave. & 62nd St. West	Traffic Signal or Roundabout	\$400,000-\$1,500,000
6	Hesper Rd. & 56th St. West	All-Way Stop	\$4,000-\$200,000

TABLE ES4. LONG-TERM CORRIDOR PROJECT RECOMMENDATIONS

Priority Ranking	Project Location	Project Type	Estimated Cost
1	Grand Ave. - Shiloh Rd. to 62nd St. West	Widening/Reconstruction (5-lane section)	\$7,500,000-\$11,000,000
2	Rimrock Rd. - Shiloh Rd. to 62nd St. West	Widening/Reconstruction (5-lane section/3-lane section)	\$6,900,000-\$10,300,000
3	King Ave. West - MT' Sapphire Dr. to 64th St. West	Widening/Reconstruction (5-lane section/3-lane section)	\$6,100,000-\$9,300,000
4	54th St. West - Grand Ave. to Rimrock Rd.	Widening/Reconstruction (3-lane section)	\$2,100,000-\$3,300,000
5	Central Ave. - Shiloh Rd. to 48th St. West	Widening/Reconstruction (3-lane section)	\$2,000,000-\$3,100,000
6	62nd St. West - Rimrock Rd. to Western Bluffs Dr.	Widening/Reconstruction (3-lane section)	\$700,000-\$1,100,000

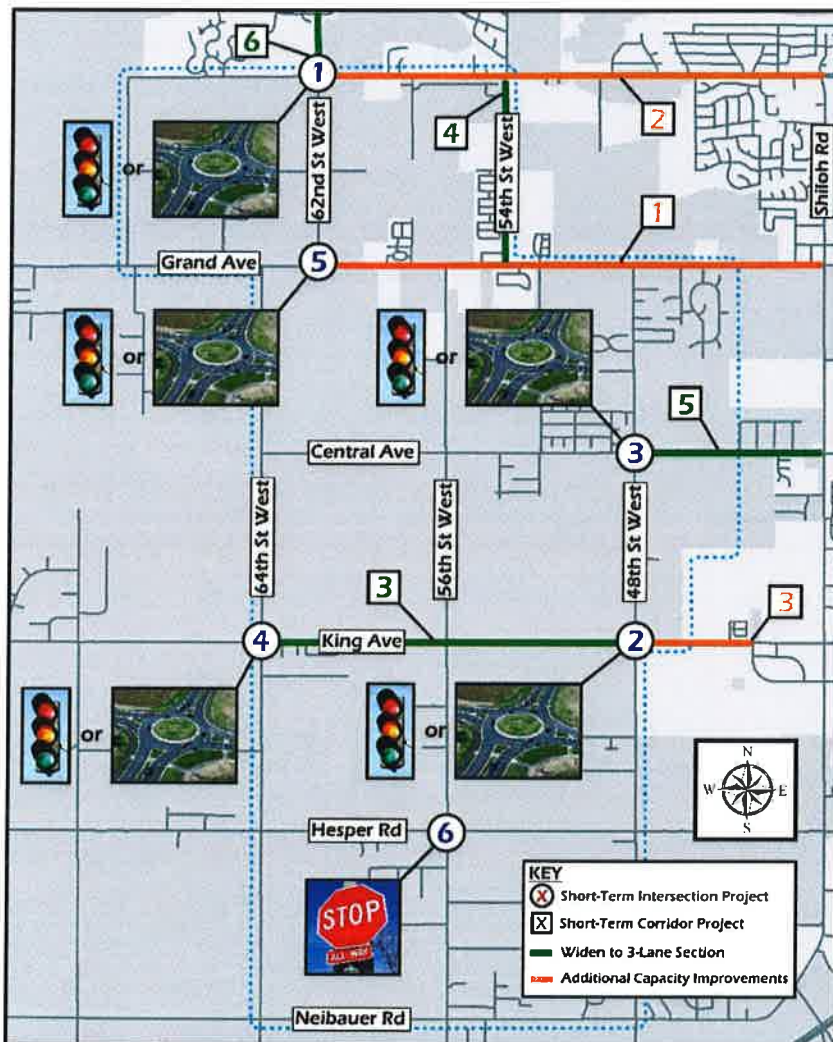


FIGURE ES6. LONG-TERM INTERSECTION & CORRIDOR PROJECT RECOMMENDATIONS

The City and County should also strongly consider the implementation of access control as a tool for extending the life (in terms of capacity) for roadway corridors in this area. Closely spaced driveways with no restrictions on turning movements can greatly degrade the throughput capacity for an arterial. A well-conceived access control plan can improve arterial capacity and also provide safety benefits by reducing conflict points in high-mobility corridors.

Active Transportation Systems

The Project Team recommends the implantation of short-term bicycle facility improvements in the following locations:

- 54th Street from Rimrock Road to Grand Avenue
- 48th Street from Central Avenue to Grand Avenue
- Grand Avenue from 58th Street to Shiloh Road
- Central Avenue from 56th Street to Shiloh Road

Specific improvements could include shoulder widening to provide rideable space (5-8 ft of pavement outside of the shoulder stripe), protected bike lanes (“cycletrack”), and sidewalks or sidepaths. The provision of parallel multi-use pathways designed to serve both pedestrians and bicycles should also be a focus to better accommodate the needs of multiple user groups.

Near-term improvements for pedestrian facilities should focus on improving sidewalk connectivity with neighborhoods and providing crosswalks and related signage to make drivers aware of crossing locations. The following locations should be considered in the short-term for crossing improvements:

- Grand Ave/54th St: crosswalk enhancements, possibly a traffic signal, to improve pedestrian safety near school zone
- Grand Avenue midway between 56th Street West and 58th Street West: pedestrian actuated mid-block beacon, possibly a pedestrian hybrid beacon (“HAWK signal”) or rectangular rapid flashing beacon (RRFB)
- 54th Street West at terminus of multi-use path (north end of Cottonwood Park): pedestrian actuated mid-block beacon, possibly a pedestrian hybrid beacon (“HAWK signal”) or rectangular rapid flashing beacon (RRFB)
- Rimrock Road/54th St: crosswalk enhancements, possibly a traffic signal, to connect multi-use paths

The following corridors should be considered in the short-term for sidewalk or multi-use path improvements:

- Multi-use path on Grand Ave from 52nd Street West to west boundary of Trails West Subdivision
- Sidewalk on Grand Ave from west boundary of Foxtail Subdivision to HAWK signal
- Multi-use path from Grand Avenue to north boundary of Cottonwood Park along west side of 54th Street West
- Sidewalk along east side of 54th Street West from Grand Avenue to north boundary of Grand Peaks Subdivision

Figure ES7 on the following page illustrates the recommended locations for short-term active transportation system improvements.

Longer-term, it is recommended that a “layered network” principle be implemented as a way as to provide comfortable and efficient bike and pedestrian connectivity via lower-stress streets instead of force-fitting all modes onto the arterial corridors. Since many of these future collector corridors are platted but not built, it is an ideal time to establish the roadway standards that incorporate bike lanes, sidewalks and modest speed limits. A key consideration regarding this concept is cooperation between the City of Billings and Yellowstone County in terms of developing and implanting development requirements that will require construction of well-planned and consistent facilities as property develops in the study area. In the event that some of the major arterials become more urbanized over time, with speed limit reductions and bike facilities they could also become useful low-stress bikeways.

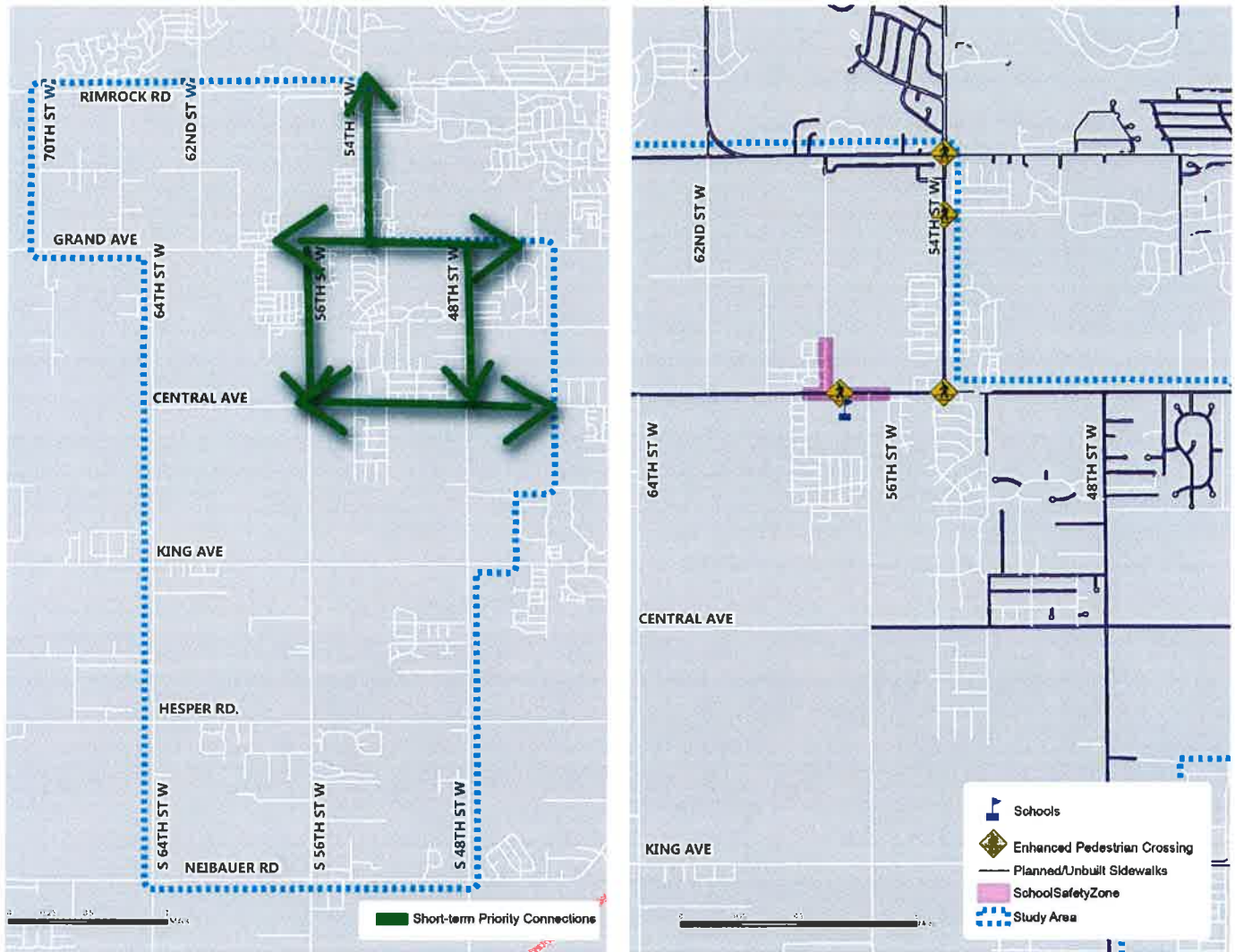


FIGURE ES7. SHORT-TERM IMPROVEMENTS FOR ON-STREET BICYCLE AND PEDESTRIAN FACILITIES

Recommended long-term low-stress corridors include:

- 58th Street West - Rimrock Road to Grand Avenue
- 66th Street West - Rimrock Road to Grand Avenue
- 60th Street West
- 52nd Street West
- Monad Road
- Broadwater Avenue
- Colton Boulevard

Future pathway segments should be prioritized based on the proximity to high demand areas and the ability of the segment to provide connectivity through barriers and gaps in the street system. **Figure ES8** on the following page illustrates the locations for recommended long-term active transportation projects. For more detail on all of the project conclusions and recommendations, please see the report body.

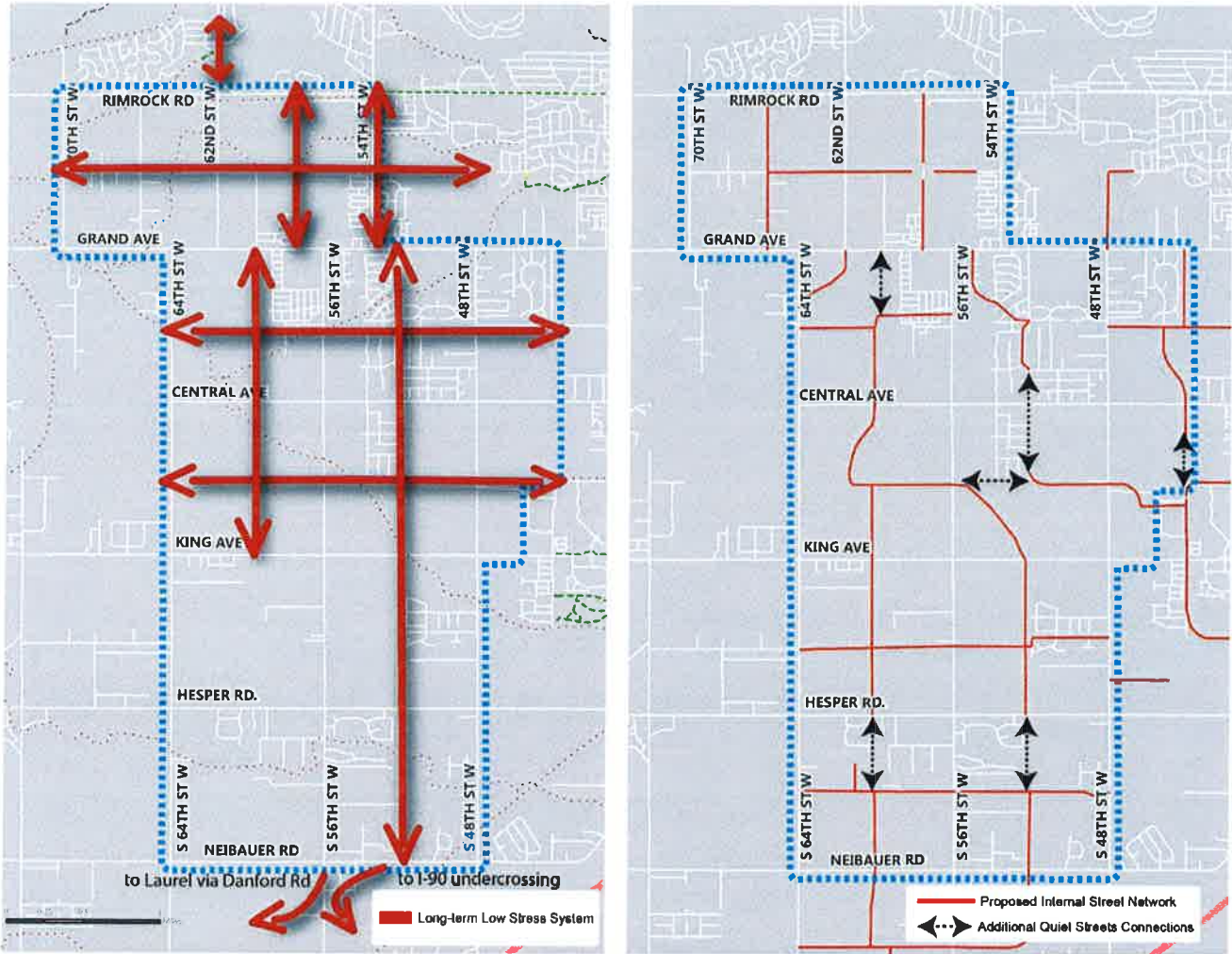


FIGURE ES8. LONG-TERM ACTIVE TRANSPORTATION STRATEGIES



LIQUOR CONTROL DIVISION

Frequently Asked Questions

Brewery Licensees

Types of Breweries

Domestic Nano Breweries are very small brewery operations, located in Montana, producing less than 100 barrels.

Domestic Small Breweries or “Microbreweries” are breweries, located in Montana, that produce over 100 but less than 10,000 barrels.

Domestic Breweries are breweries, located in Montana, that produce over 10,000 barrels.

Foreign Breweries are breweries located outside the State of Montana.

Production Levels, by barrels, will determine what you are permitted to do as a licensee:

Less than 100	100 – 10,000	10,001 or more	60, 000
Provide samples without charge between 8 a.m. and 2 a.m. No limit.	Provide samples with or without charge between 10 a.m. and 8 p.m. No more than 48 oz.	Provide samples without charge between 8 a.m. and 2 a.m. No limit.	May not provide samples.
Sell for off-premises consumption between the hours of 8 a.m. and 2 a.m.	Sell for off-premises consumption between the hours of 8 a.m. and 2 a.m.	Sell for off-premises consumption between the hours of 8 a.m. and 2 a.m.	May not sell for off-premises consumption.
Sell and deliver beer to wholesalers, licensed retailers (using own trucks, equipment, employees), or the public.	Sell and deliver beer to wholesalers, licensed retailers (using own trucks, equipment, employees), or the public.	Sell and deliver beer to wholesalers, licensed retailers (using own trucks/equipment/ employees), or the public.	Must sell and deliver only to a licensed beer wholesaler.
May not use a common carrier for delivery to the public or retailers.	May not use a common carrier for delivery to the public or retailers.	May not use a common carrier for delivery to the public or retailers.	May not use a common carrier.

Sample Room, Hours of Operation and Off-Premises Sales

Q. *Where can a brewery provide samples?*

A. A brewery can provide product samples only in the sample room as shown on the floor plan which has been submitted and approved by the department.

Q. Are there restrictions on when a brewery may provide samples?

A. Yes and No. There is a restriction for a “small brewery” that may only provide samples with or without charge between 10 a.m. and 8 p.m. Patrons may consume their samples until 9 p.m.(16-3-213, MCA) All other domestic breweries must adhere to the statutory requirements of only providing alcohol between the hours of 8 a.m. and 2 a.m.

Q. Are there limits on how much beer can be sold or served in a sample room for on-premises consumption?

A. Yes. A “small brewery” is limited to no more than 48 ounces to each individual customer during a business day (16-3-213, MCA). All breweries must be aware of the laws and rules relating to service of alcohol to intoxicated persons.

Q. Can a brewery add a deck or patio to their sample room?

A. Yes, as long as the deck or patio is immediately adjacent to the brewery sample room and can only be accessed from the sample room. The deck or patio must be enclosed in such a manner as to restrict its access and view from the general public on the street or sidewalk.

Q. Can a brewery sell beer it produces for off-premises consumption in their sample room?

A. Yes. A brewery may sell beer in produces in the original packages to the public for off-premises consumption. This could include 6-packs, individual servings, growlers, kegs. (16-3-214, MCA)

Q. What is a growler?

A. A growler is any refillable, resealable container that a brewer fills on the brewery premises for off-premises consumption.

Q. What hours can a brewery sell for off-premises consumption?

A. A brewery must adhere to the statutory requirement that all establishments licensed to sell alcohol be closed between the hours of 2 a.m. and 8 a.m.

Q. Can a brewery utilize self-service open shelving or reach-in coolers for off-premises sales?

A. Yes, if they have a separate off-premises sales area that is contiguous with the sample room, but is physically separated with walls.

Donations, Special Events and Tastings

Q. [What is the difference between a tasting and a sampling?](#)

A. A tasting is an event where products are sold or given away to the public by a licensed manufacturer or retailer. A sampling is an event where products are provided by the manufacturer of the products to a licensed wholesaler or retailer solely for the purpose of soliciting sales of the product.

Q. [Can a brewery hold a beer tasting at a licensed retail location or catered event?](#)

A. Yes. However, the brewery must sell the product to the retail licensee and only the retail licensee or the licensee's employees are authorized to sell and serve the alcoholic beverages on their premises. (ARM 42.12.128 & 42.12.313)

Q. [Can a brewer donate product to a public non-profit event?](#)

A. Yes. If the non-profit organization has a Special Permit issued by the Department of Revenue.

Q. [How can a special permittee obtain product from a brewery for a special event?](#)

A. The brewer can deliver directly to the event or they can pick up the product directly at the brewery by producing a copy of the Special Permit.

Q. [Can a brewer donate or give away product to the public?](#)

A. Yes.

Q. [Can a Beer Wholesaler donate a brewer's product to a non-profit event?](#)

A. Yes and No. The wholesaler may not sell the product to the special permittee for less than what the brewer charges the wholesaler and the wholesaler must SELL the product to the special permittee for some consideration. This could be for \$1. If agreed upon, the brewer can reimburse or credit the wholesaler for the product already in inventory.

Trade Events and Industry Samples

Q. [What is the difference between a tasting and a sampling?](#)

A. A tasting is an event where products are sold or given away to the public by a licensed manufacturer or retailer. A sampling is an event where products are provided by the manufacturer of the products to a licensed wholesaler or retailer solely for the purpose of soliciting sales of the product.

Q. [Can a brewer host a trade event?](#)

A. Yes. Brewers are allowed to host trade events where they pour and serve beer

samples to licensed retailers and their employees only. These events must be held either at a licensed on-premises retail location or at a location not otherwise licensed that is catered by an on-premises retail licensee. The brewer is allowed to provide all products for this event from their inventory if the product falls into the category of a sample (not purchased by the retailer within the last 12 months, in limited quantities: 3 gallons of beer). However, all product samples must be removed from the retail premises at the conclusion of the event. If the brewer wishes to have samples of products available at the event that do not fall into the category of a sample (products that are regularly available at that retail establishment), they must purchase the product from the retailer at the ordinary retail price.

Q. [Can a brewer provide licensed retailers with beer samples for no consideration?](#)

A. Yes. Brewers may provide licensed retailers with beer samples for no consideration if the product has not been purchased by the retailer within the last 12 months, in limited quantities: 3 gallons of beer. These samples are intended for business purposes only between industry members and may not be sold. Business purposes include negotiating a sale, promoting the product and determining the quality and character of the product.

Q. [Can brewers pour and serve samples at a retail location for the purpose of promoting beverages?](#)

A. Yes and No. Brewers may pour and serve in de minimis quantities samples of beer to on-premises retail licensees and their employees for the purpose of promoting the beverages. Brewers may not pour and serve samples at an off-premises licensed premises.

Labeling

Q. [Are brewers required to obtain label approval before selling beer?](#)

A. Yes unless it is not required under TTB. A brewery is required to provide labels for each brand to the department for approval prior to selling or distributing within the state. All label changes must be preapproved for both in-state and out-of-state brewers or importers. (ARM 42.13.203)

Q. [How can brewers provide labels to the department for approval?](#)

A. Brewers can request approval for labels by registering for Taxpayer Access Point (TAP). Once registered for TAP, brewers can manage their existing labels, request approval for new labels, file and pay taxes, as well as file and pay their annual renewal.

Q. [When are label approvals not required?](#)

A. When the products are not involved in interstate commerce or when a brewer or importer of malt beverages is not subject to the labeling provisions in the regulations of the Tobacco Tax and Trade Bureau (TTB), United States Department of Treasury as

set forth in 27 CFR, as revised on April 1, 2009.

Production Threshold and Taxes

Q. [Is the 10,000 barrel limit calculated on a calendar or fiscal year?](#)

A. The 10,000 barrel limit is calculated on the state's fiscal year, July 1 through June 30.

Q. [Who tracks the production threshold for each brewery in the state?](#)

A. The Department of Revenue tracks production thresholds through information provided by the brewers, either through tax returns, renewal applications or written notification. Ultimately the brewer is responsible for notifying the department and its wholesalers in writing by the end of the month in which it exceeds a production threshold. (ARM 42.13.701)

Q. [What if a "small brewery" exceeds 10,000 barrels in nationwide production?](#)

A. If a "small brewery" exceeds 10,000 barrels in nationwide production, they are no longer allowed to charge for samples of beer in a sample room. (16-3-214, MCA)

Q. [If production either drops below 100 barrels or goes over 10,000 barrels, at what point would the brewery have to stop charging for samples?](#)

A. The brewer must stop charging for samples by the end of the month in which the production threshold changed.

Q. [Who pays the tax on products distributed in the State of Montana?](#)

A. Any licensed Montana beer wholesaler or licensed brewery who delivers products to licensed retailers or sells to the public is required to pay the tax on such products.

Delivery and Distribution

Q. [Can a brewery sell to retailers?](#)

A. Yes. A brewery may sell and deliver beer produced by the brewery from its storage depot or brewery to licensed retailers if the brewery uses its own equipment, trucks and employees to deliver the beer and the beer does not exceed 8 barrels to each retailer a day and total amount per year delivered to retailers does not exceed 10,000 barrels. (16-3-214, MCA)

Q. [Can a brewery use a common carrier to deliver beer to the public or to licensed retailers?](#)

A. No. (16-3-214, MCA)

Q. Can a brewery use a licensed beer wholesaler to deliver beer to a licensed retailer?

A. Yes. The brewery and beer wholesaler must have a written agreement of which complies with 16-3-222, MCA on file with the department prior to shipment.

Q. Can a brewer conduct a dock sale at their licensed premises to a wholesaler or a retailer?

A. No. A brewer must sell and deliver to the wholesaler and retailer using their own equipment, trucks and employees.

Q. Could you please clarify the wording in 16-3-214, MCA in regard to selling to "(iii) the public"?

A. This means the brewer, under the sample room exception, can sell products they manufacture to the public for on-premises consumption at the brewery. The brewer can also sell and deliver to the public for the purchaser to consume at the purchaser's location, a place which is not under control of the brewer or the brewer is not in charge of the event. (ie. their home, wedding, etc.)

Brew-On Premises

Q. Can a brewery operate a brew-on-premises business?

A. Yes. All beer produced at a brew-on-premises business located at a qualified brewery premises is taxable, must be labeled with all information required by 27 CFR part 25, including the government warning and is subject to record keeping and other requirements.

Miscellaneous Questions

Q. Can a brewery sell its product label and recipe to another brewery and the purchasing brewery pay the selling brewery a royalty based on sales?

A. Yes. If the purchasing brewer actually produces the beer, bottles and retails the product under their brewery, counting towards the purchasing brewers 10,000 barrel limit.

Q. Can a brewery bring beer they manufacture to a "Brew Fest" off the licensed premises and serve and sell samples?

A. Yes. A brewery may sell and deliver beer to the public. (16-3-214, MCA)

Q. Can a brewery contract with another brewery to brew their products?

A. Yes, however, the contracting brewery may not serve those products manufactured at another facility in their sample room.

Q. In a contract brewing situation, can the contracted brewer offer those products in their sample room and distribute those products?

A. Yes.

Q. Can a brewer bottle or can another brewer's product for them?

A. Yes.

THE RESTAURANT BEER & WINE LICENSE



What is it?
How do I get one?
What can I do with it?



Liquor Control Division

WHAT IS A RESTAURANT BEER AND WINE (RBW) LICENSE?

An RBW license allows a restaurant to serve beer and wine to customers who order food. Gambling is not allowed in conjunction with an RBW license.

Restaurants with an RBW license can request a catering endorsement that allows the licensee to provide food, beer and wine at special events within 100 miles of the licensed premises.

The following definitions apply:

Restaurant: means a public eating place where:

- the staff prepares and serves individually priced meals that customers eat on the premises.
- at least 65% of the establishment's annual gross income is from the sale of food.
- the space includes a dining room and a kitchen.
- there is a sufficient number and variety of employees needed to prepare, cook and serve meals and to satisfy the department that the space is intended as a full-service restaurant.
- dinner is served four days a week for at least two hours, between 5 p.m. and 11 p.m.

Fast-food restaurant: means an establishment that serves a majority of its food and drink in throw-away containers and does not qualify as a restaurant for the purpose of this license.

WHERE DO I START?

The Department of Revenue issues a limited number (quota) of RBW licenses which is determined by the population of the city or town in which the license operates. An RBW license is issued inside or within five miles of the limits of an incorporated city or town. To see RBW licenses that are available, contact the Department of Revenue toll free at (866) 859-2254 or in Helena at (406) 444-6900 or visit <http://revenue.mt.gov/home/liquor/resources#Useful%20Links> to view the quota sheet.

If a license is available, you can begin the application process. If a license is not available, you may be able to purchase an existing license. Check with a local real estate agent or the Montana Tavern Association.

You can file your application electronically at <https://revenue.mt.gov/apply-electronically>.



WHAT ARE THE ASSOCIATED COSTS?

- One-time RBW license processing fee: \$400.
- Annual RBW license fee: \$400.
- Annual catering endorsement fee (if applicable): \$200.
- Fingerprint card fee for each individual with 10% or more interest in the business. Price subject to change.
- One-time seating fee for restaurants with seating for 60 people or less: \$5,000 (20% = \$1,000).
- One-time seating fee for restaurants with seating between 61 and 100 people: \$10,000 (20% = \$2,000).
- One-time seating fee for restaurants with seating for 101 people or more: \$20,000 (20% = \$4,000).

Applicants have to pay 20% of the seating fee at the time they submit an RBW application. The remaining balance is due before approval of the application. Seating fees apply only to newly-issued licenses. The other fees apply when buying an existing license and are in addition to the cost of buying the license from a third party.

HOW DO I APPLY?

When applying for an RBW license, you need to provide the following:

- A completed alcoholic beverage/gambling operator combined license application.
- A completed liquor authorization to disclose tax information form.

- A floor plan that includes the business name, physical address, areas where you intend to serve or store alcoholic beverages, seating areas, service bar, external dimensions, entry ways and any patio area. Do not send in the original blueprints, only a copy of the floor plan.
- A certified survey affidavit from the local county or city surveyor identifying the exact location, the address and quota area (city or county), of the premises.



Financial records showing the purchase of the license and/or building, including:

- Copies of loan agreements, contracts, notes and all related security agreements. If you didn't take out a loan, please provide copies of your bank statements.

Note: You must file the non-institutional loan (NIL) form with the application if any lenders or other sources of financing are not state or federally regulated financial institutions, including gifting statements.

- Authorization for examination and release of information for each NIL.
- Personal criminal history statement form for each NIL.
- Two fingerprint cards and fees for each NIL.
- Copies of lease, rent, purchase options, financing agreements or other evidence showing possessory interest in the building.
- Financial statements, such as a balance sheet, income statement or tax return for the business.
- Franchise agreement.
- Purchase/transfer documents for the license, (a buy/sell agreement, contract for deed, warranty deed, bill of sale).
- Copy of business's bank signature card.

Ownership information (if applicable), including:

- Copy of partnership agreement documentation.
- Copy of Articles of Incorporation and amendments or addenda.
- Copy of Bylaws and amendments or addenda.
- Copy of Certificate of Fact (for LLCs and LLPs).
- LLC organizational information.
- Copy of stock certificates and corporate minutes.
- Stock ledger or register.

- Copy of Certificate of Existence (for instate corporations)
- Copy of authority to conduct business in Montana (for out-of-state corporations).
- Copy of documentation from the Secretary of State verifying that the assumed business name (ABN) has been approved.
- Copy of federal employer identification number (FEIN) verification from IRS.
- Completed personal history statement form for each individual with 10% or more interest in the business.
- Two fingerprint cards and fees for each individual with 10% or more interest in the business.



Management information, including:

- Personal criminal history statement form for each location manager.
- Two fingerprint cards and fees for each location manager.

Miscellaneous information, including:

- A copy of the restaurant's menu showing that the restaurant serves an evening meal.
- A document stating the restaurant's hours of operation.

WHAT ARE THE STEPS IN THE APPLICATION PROCESS?

- The application process takes about 90 days and begins when the Department of Justice, Gambling Control Division (GCD), receives a complete application package and all supporting documents.
- The application is reviewed by the Department of Revenue, Liquor Control Division (LCD).



- GCD sends a letter to the applicant requesting any additional documents needed.
- After GCD receives all documents, LCD publishes a legal notice in a newspaper circulated in the city, town or county in which the license would be issued. The notice informs readers of the applicant's intent to acquire a license and where readers can send any objections to the license issuance.
- LCD notifies local agencies with jurisdiction over the area (e.g. law enforcement, fire department, health department, etc.) of any deficiencies in the application.
- After the objection deadline and the completion of the audit review, LCD and GCD conduct a final review of the application. If necessary, any additional documents will be requested.
- If one or more people filed an objection, LCD schedules a hearing with the applicant and the person(s) who filed the objection.
- The application process is paused until the hearing examiner makes a ruling on the application.
- Once the hearing examiner makes a ruling, LCD promptly issues a final decision.

WHAT ARE THE RULES FOR AN RBW LICENSE?

- All licensees, their agents, and employees must conduct the licensed premises in compliance with all:
 - alcohol-related provisions of the laws of Montana and the United States.
 - county and city or town ordinances.

- o Indian alcohol beverage laws applicable within the areas of Indian country.
- o rules of the department.

An RBW license can:

- serve beer and wine on your patio, deck or lawn if:
 - o it was designated on the floor plan you submitted with your application.
 - o it is immediately accessible from the interior premises.
 - o building, health and fire approval is obtained.
 - o it has a perimeter barrier.

A perimeter barrier is a barricade that encloses the perimeter of a patio/deck. The barrier shall be constructed in a manner that impedes foot traffic and clearly defines the boundary of the exterior portion of the premises. The barrier shall be a solid structure that is at least three feet high. The barrier may have a single six-foot entrance permitting public access from an unlicensed area to the patio/deck. The barrier may be constructed of materials such as lattice or wrought iron that do not form a solid structure, have a portion of it be water and have additional entrances permitting public access to the patio/deck.

- serve or provide samples, with or without charge, of beer and wine to customers who are seated for table service.
- serve beer and wine from 11 a.m. to 11 p.m. You may stay open after 11 p.m. or open before 11 a.m. as long as you do not serve beer and wine during that time.



- allow customers to consume beer and wine in a “smoking hut” if the hut is part of the approved premises on file with the department. Check local laws regarding open containers.

An RBW license cannot:

- allow anyone (licensee, employee, customer) to consume any alcoholic beverage on the licensed premises between 11 p.m. and 11 a.m.
- allow customers to bring their own beer or wine onto the premises.
- cook with distilled spirits, since you can only receive, accept or store those alcoholic beverages for which your establishment is specifically licensed for.

An RBW license must:

- serve dinner four days a week for at least two hours, between 5 p.m. and 11 p.m.

- ensure that all employees serving alcoholic beverages are 18 years or older.
- include all beer and wine purchases on the food bill. Beer or wine may not be purchased separately.
- notify the department when there is a change in manager for the location.
- ensure that all employees who serve or sell alcoholic beverages and their immediate supervisors:
 - o obtain state-approved training within 60 days of hire.
 - o complete renewal training every three years.

You can find a list of approved training providers at www.AlcoholServerTraining.mt.gov.

Miscellaneous:

- If you decide to remodel your establishment, you will need to send an alteration request form to the department along with a copy of the existing floor plan and a proposed floor plan showing the alterations. Once the department reviews and approves the request, you may begin the alteration without it affecting your license.
- An establishment—such as a dude ranch, resort, park hotel, tourist facility or similar seasonal business, who would like to operate its license on a seasonal basis, must send a written request that includes the type of business, justification for operating seasonally and the general dates of operation.

If approved, the license closure is effective from the date of the authorization letter through the end of the specified period. Once approved, the licensee must notify the department before changing general dates of operation.



Department of Revenue

Liquor Control Division
2517 Airport Road
P.O. Box 1712
Helena, MT 59624

Phone: (406) 444-6900
Fax: (406) 444-0718
Website: revenue.mt.gov

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Scott Aspenlieder

From: Greta Bailey <gretajbailey@gmail.com>
Sent: Tuesday, August 28, 2018 10:36 AM
To: Scott Aspenlieder
Subject: Fwd: ZONING

----- Forwarded message -----

From: Greta Bailey <gretajbailey@gmail.com>
Date: Tue, Aug 28, 2018 at 10:32 AM
Subject: ZONING
To: <Scott@performance-wc.com>

Hello,

I am just writing to inform you that I am definitely opposed to the proposed Zoning Change to BLOCK 1 OF LOT 4 OF THE MK SUBDIVISION IN SECTION 31, TOWNSHIP 1 NORTH, RANGE 25 EAST IN YELLOWSTONE COUNTY TOTALING 3.6 ACRES. My husband and I purchased our home off of 54th and Grand 3 years ago and paid a higher dollar amount for the main reason of living close to the city but still having the country feel. If I wanted to live near Casino's, bars, restaurants then I would of paid less and bought in town. I do not feel it is necessary to put more establishments in the middle of a very nice subdivision that serve alcohol and promote gambling. Billings has enough of that already. This only increases the risk for drunk drivers and with this being right smack in the middle of a subdivision and near a middle school increases risk for accidents, theft etc.

Thank you for your time,
Greta Parkins

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Scott Aspenlieder

From: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Sent: Tuesday, August 28, 2018 1:23 PM
To: Scott Aspenlieder
Subject: FW: Brew Pub on West End

From: brian parkins [mailto:brianfkparkins@yahoo.com]
Sent: Tuesday, August 28, 2018 10:56 AM
To: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Subject: Brew Pub on West End

Good morning,

I just wanted to point out that I was one of the individual that spent my Saturday gathering signatures against the Den at the time. I think I personally got 100 signatures myself from the homes that I went too. We did a rough calculation and it was about 98% of property owners didn't want the Den so I pretty sure that the same would be for the brew pub. **We bought our homes on the west end to get away from all this stuff.** Why can't they keep all this commercial building on Shilo???? There is way to much traffic with just the school being built out there. Safety should be a main concern with all the drinking and driving and the schools on the west end. Please don't allow anymore casinos and liquor on the 54th and Grand. I can drive 2.5 miles and be at 5 casinos and I live right off of 54th and Grand. (5309 Sundance Mountain Circle to be exact) The owners of the Den are pushing really hard to not have this come in also but that is because they don't want any competition for their business and they were at a meeting that I was at and I told them that they are hypocritical because **98%** of the homeowners **didn't** want their business out there as well.

Brian Parkins
406 321 0518

Please no more casinos or liquor on Grand past Shilo!!!! We can drive 2.5 miles to get to them if we want them!!!!

Scott Aspenlieder

From: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Sent: Thursday, August 30, 2018 8:22 AM
To: Scott Aspenlieder
Cc: Plecker, Monica; Vieg, Jeannette; Husman, Karen
Subject: FW: Proposed Zoning Change at 54th and Grand

Hello Scott,
In preparation for our meeting at 11 am.
Thanks,
Nicole

From: Patrick B [mailto:brunsvoldpr@gmail.com]
Sent: Thursday, August 30, 2018 8:16 AM
To: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Subject: Proposed Zoning Change at 54th and Grand

Council member Cromwell,
I am writing this message to express my concerns about the proposed zone change at 54th and Grand. This is especially concerning given the close proximity to our new middle school, as well as the close proximity to homes and walking/bike paths. As you are aware, this proposal is to change the zoning in the area to allow for two businesses, in addition to the casino under construction, to be built in this area with beer/wine licenses (Taproom/Cabaret). Let me first state I am against this zoning change. Please take my reasons into consideration.

Billings, as a city, is continuing to experience growth. There is considerable growth on the West end of Billings. Many residents are buying/building houses in this part of town to escape some of the noise and problems in other parts of Billings. There are many families and children that are investing in property in this part of town. I am concerned about their safety as well as the property values of these families. People who frequent establishments that serve alcohol are consuming alcohol and then driving their vehicles. People who use walking paths, children who are walking home from school, and any other traffic in and around the area are immediately put at risk. With the addition of two more business to the eyesore that will be the Den Casino, we are increasing this risk exponentially.

I am also against the construction because of the potential reductions of property values. The surrounding residents who live near this area will be dealing with increased traffic as well as potentially loud, intoxicated, individuals at all hours of the night. With the potential for patios etc. this issue only gets worse. The potential of 3 alcohol serving establishments within walking distance of each other will cause many issues to surrounding homeowners. Bright signs and neon lights will only compound the issues. There are many residents that are against the construction of the "Den Casino". Many residents reached out to the council and expressed their concerns. The council still allowed construction of the casino. I have witnessed firsthand how a parking lot near a casino or a bar is a perfect place to exchange cash for drugs. Neighborhoods around casinos and bars become targets for robbery's and theft. Not to mention the number of people who leave the casino after having too many drinks putting pedestrians at risk of being hit by a drunk driver. The city of Billings has far too many casinos as it is. They become nothing but an eyesore to surrounding neighborhoods and communities. Why would we want to tarnish this prospering part of town with yet another bar/bars?

I would ask you to consider our impressionable middle school students if additional bars are erected right across

the street from their school. I would also ask you to consider the families who have built homes and started families in a part of town that is, for the most part, free of the problems that bars bring with them.

The council has a real chance to set the tone for the future of Billings. Do we want to be a city of bars and casinos? Do we want to plop a bar on every street corner? Please consider the concerns of the residents of this area above any "promised" benefits from the potential tenants and keep the zoning as it is. These residents, after all, make our city great.

Thank you,
Patrick Brunsvold

Scott Aspenlieder

From: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Sent: Thursday, August 30, 2018 3:32 PM
To: Scott Aspenlieder
Subject: FW: 54th Street Brew Pub proposal

Another

From: SHARON SCHAROSCH [mailto:scharosch_4@msn.com]
Sent: Thursday, August 30, 2018 3:23 PM
To: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Cc: SHARON SCHAROSCH <scharosch_4@msn.com>
Subject: 54th Street Brew Pub proposal

Nicole Cromwell,

I would like to say that I am very much opposed to the plan to allow a pub/patio to be built to the north of the Den structure on 54th and Grand. I live in the neighborhood and I feel the increase of traffic would be prohibitive. Also the noise to the neighborhood environment would be totally disruptive.

Thank you for registering my comments against this proposal.

Sharon Scharosch
1503 Granite Peak Trail
Billings, 59106

Scott Aspenlieder

From: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Sent: Friday, August 31, 2018 6:53 AM
To: 'DeAnn Cates'; Scott Aspenlieder
Subject: RE: possible Zoning change 54th and Grand

Thank you for your letter of comment. It will be added to the public record if/when a zone change is presented to the Planning Division for consideration.

Sincerely yours,

*Nicole Cromwell
Zoning Coordinator
Code Enforcement Supervisor
Planning & Community Services
2825 3rd Ave N, 4th Floor
Billings, MT 59101
(406)247-8676 –phone
(406)247-8662- phone
(406)657-8327 - FAX*

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<https://www.facebook.com/Billings-City-County-Planning-Division-1738982159659260/>



From: DeAnn Cates [mailto:deanntofte@msn.com]
Sent: Thursday, August 30, 2018 9:02 PM
To: Cromwell, Nicole <CromwellN@ci.billings.mt.us>; scott@performance-ec.com
Subject: possible Zoning change 54th and Grand

Hello-

I attended the neighborhood informational meeting regarding the Zoning petition for Neighborhood Commercial at 54th and Grand Ave.

First of all, tap rooms and restaurants with a cabaret license are NOT neighborhood commercial, and should not be considered as neighborhood commercial. The corner of 54th and Grand is 3 Subdivisions (Vintage Estates, Grand Peaks, and Cottonwood).. unfortunately, the 4th corner is the Den. We as neighbors are not happy with the placement of bar in our neighborhood, but we know there is nothing we can do about that establishment at this point.

When we chose to move the far west end of Billings, we were attracted by the fact we were moving to a safer, quieter, and more tranquil area of Billings. We understand Commercial will be built on the front lots of 54th and Grand, and we are not trying to stop progress. But, we chose to not live next door to casinos, bars and restaurants like we did when we lived in town. We lived near 16th and Yellowstone Avenue, and had lots of

foot traffic, vandalism, theft, sirens, casino robberies, wrecks, and a drunk driver that drove into our front yard and not stopping until hitting a 100 year old tree head on. Not that crime can't happen where we live now, but we knew by paying a higher dollar for our lot, and moving to a Subdivision, our property and our lives would be safer.

Please consider NOT allowing Tap Rooms and Restaurants be allowed to be built directly next door to Neighborhoods/Subdivisions. This should not happen in Billings. This should be regulated.

To us, when we were told the front lots on Grand and 54th were zoned commercial, we were told Neighborhood friendly commercial (dentist, chiropractor, ice cream shop, dry cleaner, car wash, coffee shop).. these are what we consider neighborhood commercial and the type and quality of neighborhood commercial we want as neighbors.

With this all being said, if there is no stopping this, these businesses need to have very strict Zoning requirements. Please consider the people who have invested their life savings into building their homes and have to live next to establishments that serve alcohol day in and day out.

1. 30 foot minimum buffer - concrete wall dividing business from Vinyl fence (Cottonwood homes closest to Grand Ave).
2. Outdoor seating only on West Side of building and not in the back, closest to Cottonwood homes or not near 54th Street West.
3. Parking lot lighting- minimum as possible. Only certain hours of operation should they be allowed on and not directly in line with homes where their windows will face these establishments.
4. Entire row of Trees next to Concrete wall dividing the businesses from houses and house vinyl fence.
5. Shrubbery, grass, rock borders, tall grasses .. upscale landscaping
6. 1 story building only (2 story not allowed).
7. NO dumpsters will be parked in back of building closest to the neighbor houses. Dumpsters must be near building, not at the back of the lot by the Cottonwood houses.
8. Colors of Business exterior blend into natural landscape. Rock exterior border. Upscale looking building .. Beige, Taupe, natural "rim colors" to match neighboring houses and area of Billings
9. 1 Building, not 2 separate building for 2 businesses. 1 parking lot
10. No outdoor concerts, contests, block/deck parties, etc .. ever on property.
11. Tap room must close business at 10pm if food is served. Must close at 8pm if full menu is not available at Tap room. Must not open before 11am.
12. Cabaret license. must close at 10pm. no later. no later hours on weekends, etc. Must not open before 11am.

Please, please consider and write in these suggestions when filing for this zoning. Better yet, please do not allow these type of businesses to be built next door to a neighborhood and across the street from 2 more subdivisions.

Thank you for your time.

DeAnn and Lorin Cates
5341 North Castle Stone Square

Billings, MT 59106

DeAnn Cates

deanntofte@msn.com

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Scott Aspenlieder

From: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Sent: Friday, August 31, 2018 6:53 AM
To: Scott Aspenlieder
Subject: FW: 54th and Grand

Another.

From: Kimberly [mailto:kchouinard@msn.com]
Sent: Thursday, August 30, 2018 4:13 PM
To: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Subject: 54th and Grand

Hi there,

My home is in the Grand Peaks subdivision. There has been many discussions about the zoning around our neighborhood. Thank you for rejecting the proposal on 50th and Grand near Grace Montessori Academy.

Please do not approve anymore Brew Pubs, casinos, commercial businesses on the land near 54th and Grand either. The Lion's Den is highly concerning as a parent and home owner.

We have one of the highest suicide rates, alcohol abuse rates, and vehicle death rates across the nation. Billings has a drug epidemic that has increased violence and home robberies.

This land is near our schools. Please protect our kids and our homes. We have a safe, family oriented neighborhood. Please help us keep it that way. Billings already does not have enough police manpower, lets not make their jobs that much more difficult.

Thank you for your consideration.

Kim Chouinard
(406)855-1135

Sent from my Verizon, Samsung Galaxy smartphone

7

Scott Aspenlieder

From: Judy fisher <judy1217@hotmail.com>
Sent: Friday, August 31, 2018 10:51 AM
To: Scott Aspenlieder
Subject: zoning

Scott -

I am writing in regard to the zone change on 54th and Grand Avenue. I am completely against the building of a tap room and a cabaret business near my neighborhood and a middle school and a church.

Thank you -

Judy Fisher

Scott Aspenlieder

From: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Sent: Friday, August 31, 2018 5:04 PM
To: Scott Aspenlieder
Subject: FW: 50th & Grand - Zoning Change

another

From: Whitney Kross [mailto:whitney.kross@gmail.com]
Sent: Friday, August 31, 2018 4:13 PM
To: Cromwell, Nicole <CromwellN@ci.billings.mt.us>
Subject: Fwd: 50th & Grand - Zoning Change

Nicole,

I was just informed that yet another bar/brew pub has put in an application to be located in my neighborhood just north of the Den. As with the proposal for a zoning change at 50th and Grand I am opposed to this with many of the same reasons from before (see below).

Please include my previous email with my vote in opposition of this development.

Thank you,

Whitney K.

Sent from my iPhone

Begin forwarded message:

From: Whitney Kross <whitney.kross@gmail.com>
Date: August 28, 2018 at 8:07:34 AM MDT
To: "Cromwell, Nicole" <cromwelln@ci.billings.mt.us>
Subject: 50th & Grand - Zoning Change

Nicole,

I strongly oppose the zoning change at 50th Grand. Though I would love to have my voice heard in person I work 8-5 Monday through Friday and this meeting is conveniently scheduled for 9 am. It was said at the last meeting by Scott Aspenleider with Performance Engineering that due to the small number of attendees the people in the area are in favor of the proposed zone change. That could not be more false. We "the people" have chose to move to the far west end to avoid all the commercial development. To get away from the casinos and bars that seem to run the development of this City. I am all for growing and bettering the City of Billings but this type of development, particularly when it is placed in the middle of residential homes, is not the type of growth this City needs or its communities want. We in this neighborhood are already having to deal with the Den being placed in our backyards, withing walking distance from our homes, a church and a school. We do not want this to happen again. The following are additional concerns:

1) Drainage - There is very poor drainage in this area. The detention ponds built for neighborhoods fill on a regular basis and do not drain down within the allotted 72 hours required by the City. By increasing the paved area, drainage is going to get worse and where does the City plan on this runoff going? Since the construction of The Den has began, runoff from the site has increased dramatically down grand avenue and to the surrounding area. For the first time in the four years that I have owned my home, there is standing water in the backyard and the field almost everyday. Even in the hottest parts of summer I could walk out in the afternoon and be stepping in sippy grass. I should add my backyard is not shaded at all and yet the grounds remained supersaturated.

2) Traffic - Being told traffic will not increase because of the zone change does not sit lightly. The zone change is a catalyst to commercial development which will 100% increase traffic. I have to make a left onto Grand Ave from 48th Street West everyday when returning from work. Prior to Ben Steele being built this was never more than few second wait per car. I now sit for multiple minutes everyday with traffic piling up behind me and people making unsafe right turns to avoid waiting behind those with the left. These planned developments will only continue to make this worse.

3) Appearance - This will completely change the look of the area, the reason the people already established out here moved here. If I wanted to live in a location near a casino or bar there are plenty of locations to choose from. But those of us who did not want that chose our neighborhoods because they were getting away from those types of establishments. With this change the City will be bringing them right to us.

4) Crime - There has already been a significant increase in crime in my neighborhood with vehicle break-ins and at least two known home break-ins. This too will undoubtedly increase when alcohol and gambling are added to the mix.

Please listen to the voices of the people this will directly effect and realize there would be a lot more voices of opposition if this was scheduled at a time not during the average Americans working hours.

Thank you,

Whitney Kross
1544 Silver Run Trail

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Scott Aspenlieder

From: Denise Morrison <brettnzdenise@hotmail.com>
Sent: Friday, August 31, 2018 8:53 PM
To: Scott Aspenlieder
Subject: Rezoning on Grand and 54th

Attention: Scott Aspenlieder

Re: Proposed Zoning Change

Block 1 of Lot 4 of the MK Subdivision in Section 31, Township 1 North, Range 25 East in Yellowstone County totaling 3.6 acres

I am emailing with the purpose of raising concerns with the application of intention for the above proposed change. I live in the Foxtail neighborhood. It was just recently that as neighbors we attended a Billings City Council meeting to express the same concerns as I do now for the Casino, The Den, which is now under construction. By the time many in the area were aware the Den had been approved to build on the current site it was already a done deal. However, a number of us attended and views were voiced. For the most part it seemed to me that the council members were uninterested in our concerns, and almost bored listening to their community members. One council member asked if we understood this would be a low key casino. Yet here we are again, having to detail the same concerns. A woman representing the owners spoke and announced that they have met all the requirements in terms of zoning and so forth and they wanted to be good neighbors. I have to state that good neighbors do not put establishments that allow patrons to drink and leave their premises when children are walking to school and home. We are all aware of the proximity of Ben Steele middle school. I also have a son who walks to school and home and am already concerned about an intoxicated driver in the area at any given time. There are children coming and going from adjoining neighborhoods and will have to pass The Den and any further approved establishments that serve alcohol. This is a huge safety concern. Behind the Den and the proposed microbrewery/taproom are a number of family homes. Has anyone considered these families? I have a very close friend who lives directly behind this property. She is a young widow. Her husband died of cancer and she is raising her children on her own. At the time the Den was up for debate, she informed me that she had only just started to sleep through the night and not be afraid she is on her own. Now that has changed. I like to walk in the evenings around the neighborhood but will now have to be concerned with drunk people roaming or driving and will no longer have the security I do now. These establishments also give those who may have unseemly intentions towards women or children, a reason to be hanging around our family neighborhoods. While the brewery may meet the required distance from properties in question, it still does not make this a responsible decision for those of us who live within proximity of these establishments. The woman who was representing the land owners for the Den appears to be the same woman who was at the meeting on August 27th. Did she not take into account any of our concerns as families? I arrived at the meeting when it had already concluded because I had other obligations and so was not present but others who had left the meeting advised me to come inside and sign the form which I did. I am not one to object strongly and from shyness did not speak at the aforementioned council meeting. However, there is a huge issue of feeling safe and being safe in our community. If these further establishments are approved I can only hope the police in the neighboring station on 54th will be waiting to pick up any intoxicated drivers or note any suspicious persons hanging around the neighborhoods. Submitted for your consideration.

Sincerely,

Denise Morrison
Brett Morrison

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Cromwell, Nicole

From: Kirstina Hedges <kirstinahedges@aol.com>
Sent: Friday, August 31, 2018 7:12 PM
To: Cromwell, Nicole
Subject: Zoning change 54th and Grand

Follow Up Flag: Follow up
Flag Status: Flagged

Hi, I am emailing you regarding the zoning application for the proposed businesses at 54th and Grand. I am against any businesses building or operating in this area. I would only like to see single family residents in this area. I moved out here to get away from businesses. Thank you for taking the time to read this email.

Kirstina Hedges

5245 S Thunder Mountain Square
Billings MT 59106
4068615479

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Scott Aspenlieder

From: Joyce Christensen <rejoyce@bresnan.net>
Sent: Monday, September 03, 2018 8:42 PM
To: Scott Aspenlieder
Subject: Zone Change

I have been informed that there is a zoning request for the area around the "DEN" at 54th and Grand to be changed to a category of commercial so that another two bars can be put in that location. As a resident near this area I am greatly against this changed zoning and I hope you will consider the West End Plan mission statement that responsible development be allowed. I don't believe changing it to commercial zoning would be best for the residents.

Cromwell, Nicole

From: renoton@aol.com
Sent: Monday, September 3, 2018 11:27 AM
To: scott@performance-ec.com
Cc: Cromwell, Nicole
Subject: Zoning Request Change at 54th & Grand

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Planning Commission:

We are homeowners in the Mont Vista subdivision on 54th Street on the West End. We bought our home in this location in 2017 believing we would be living in an excellent community and safe location.

We are very opposed to the Zoning Request Change at 54th & Grand for a change to Commercial because:

1. It can affect the safety of the children who attend Ben Steele Middle School, a very short distance west of 54th & Grand, and who walk or ride bikes to school. Would you like your children or grandchildren exposed to this environment?
2. It can have a negative affect on home prices in this largely residential area. Many of us also walk or ride bikes in this area regularly. This change will affect the safety of us and increase congestion in this beautiful area.

Please vote NO to this proposed Zoning Request Change.

Sincerely;

Ron & Mary Lou Noton
5238 Amherst Dr.
Billings, MT 59106
406-200-7235

Cromwell, Nicole

From: Scott McMillin <sscottm4@gmail.com>
Sent: Monday, September 3, 2018 10:54 AM
To: Cromwell, Nicole
Subject: Fwd: Zone change

Follow Up Flag: Follow up
Flag Status: Flagged

----- Forwarded message -----

From: **Scott McMillin** <sscottm4@gmail.com>
Date: Mon, Sep 3, 2018, 10:50 AM
Subject: Zone change
To: <scott@performance-ec.com>, <cromwelln@ci.mt.us>

I understand a new zoning change is being requested tomorrow for the area around the "DEN" which is currently being built on 54th and Grand that would allow additional bars in that same location. My first reaction when I knew the "DEN" was going in is how Billings Zoning board would ever allow in the first place being a new middle school just down the street. With the new school plus the one on around 48th and Grand no way should you allow additional liquor establishment to be placed in basically residential area. If you allow, it would be obvious that the zoning boards heads are somewhere other than on their shoulders . Scott McMillin resident of Mt Vista Sub Division

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Scott Aspenlieder

From: Nan McMillin <nanmcmill9@gmail.com>
Sent: Monday, September 03, 2018 10:26 AM
To: Scott Aspenlieder
Subject: 54th & Grand zoning

I think it would be detrimental to the neighborhoods in our area to allow three businesses to provide alcohol. There is a school in close proximity plus so many people walk, jog, bike ride along the path. They would be in jeopardy with impaired drivers in the area. I am a senior citizen that opposes this re zoning.

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Cromwell, Nicole

From: Karen Freeman <kafreeman2017@gmail.com>
Sent: Monday, September 3, 2018 10:18 AM
To: scott@performance-ec.com; Cromwell, Nicole
Subject: NO NO NO

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Scott and Nicole,

In case you aren't hearing the West End neighbors, we DO NOT want another zoning change that puts more alcohol near the Den. The West Billings Plan has the goal to "meet the community's SHARED vision for the future of the West End and for RESPONSIBLE development"

The majority of the community does NOT want more zoning changes that involve alcohol on the West End. It's not what we want.

Thanks

Karen Freeman
876-1931

From: Clark Johnson [<mailto:clark@videosoflife.com>]
Sent: Monday, September 10, 2018 11:00 AM
To: Scott Aspenlieder <scott@performance-ec.com>
Subject: 54th and Grand Pub

I personally am fine with having a bar and dining place there.

But don't let gaudy signage be placed there. A good business does not need that.

Absolutely NO casino signage, the blight of Billings.

Clark Johnson

--

Clark

Clark Johnson
clark@VideosOfLife.com

(504) 416-0954

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Cromwell, Nicole

From: Jessica Taylor <jestaylorcolorado@gmail.com>
Sent: Monday, September 17, 2018 3:09 PM
To: Cromwell, Nicole; scott@performance-ec.com
Subject: Block 1 of Lot 4 (North of The Den on Westend)

Good Afternoon,

You may or may not have heard that news of the plans for a microbrewery/tap room and cabaret license has been posted on NextDoor to the NW Billings area residents who are on that website/app.

Your email was posted by the chair of the West End Task Force as who to contact for objections and/or suggestions to make this business fit the character of the neighborhood.

I wanted to write to let you know I am in full support of additional businesses in this part of town. I trust in the city of Billings to be judicious in approving plans for these types of establishments in the more suburban areas of Billings. I have a child at Ben Steele Middle School and have no concerns about an establishment serving alcohol within walking distance. Heck, I'm just excited about a new craft brewery and food going up closer to us (I'm in the Copper Ridge neighborhood, for what it's worth). The only concern I would have is ensuring it is aesthetically pleasing to the area, as well as ensuring it doesn't add traffic congestion on that part of Grand; though we really don't need another casino, especially on Grand!

Thank you for your involvement in the continued growth of our great city.

Jessica Taylor

Cromwell, Nicole

From: John&Barb Mulvaney <jandbmul@gmail.com>
Sent: Thursday, September 20, 2018 11:40 AM
To: Cromwell, Nicole
Subject: 54th and Grand

Regarding the brewery/ cabaret , it seems to me it would be better located in The vicinity of Grand and Shiloh, rather than in the center of 8 family type Neighborhoods within the 6 block area that is being requested. We are really In need of a family style restaurant where we could enjoy family meals with Families and friends. I sincerely hope the purposed business request will
Be withdrawn. Thank you.

Sincerely, Barbara Mulvaney, West End Task Force

Sent from my iPad

Cromwell, Nicole

From: Janet Stearns <tregolily@yahoo.com>
Sent: Friday, September 21, 2018 9:26 AM
To: Cromwell, Nicole
Subject: zoning request by Wells on approx. 50th and Grand

Dear Nicole: I am not sure when you meet with the engineer on that project, but he asked for suggestions at one meeting I attended and I don't feel that a cabaret/brewery are appropriate use of that location smack in the middle of 6 - 8 neighborhood developments consisting of folks who chose that area for its family-friendly environment. Just a short distance away, at 54th and Grand, there are proposed businesses and would be a more appropriate location. Billings has an abundance of businesses geared to alcohol consumption, gambling, and other lifestyle choice services.....those are the types that I would suggest "fit" in a neighborhood.

Janet Stearns West End Task Force and sixty plus year resident of Billings/Yellowstone County

Cromwell, Nicole

From: Terra Pierce <t.pierce@bresnan.net>
Sent: Tuesday, September 25, 2018 12:27 PM
To: Cromwell, Nicole
Subject: City Zone Change 971

Good Afternoon,

I would like to express my opinion on the requested zone change from NC to Planned Development with underlying NC, to allow one microbrewery license and one beer and wine license on Lot4, Block 1 of MK Subdivision. My husband and I recently bought and are developing the lot directly south of the proposed zone change. The lot that we purchased is zoned community commercial, we had to submit a special review to allow gaming. We were met with a lot of opposition from surrounding neighbors concerned about both alcohol and gaming. Ultimately, we passed with the concession that we comply with several of the recommendations from the commission. One of which says, we can only occupy 5000sq ft. of our building.

If a brewery were to come in and purchase a 3 acre parcel of land, you know that their building would be larger than 5000sq. feet. And as a bar owner in Billings, I have watched these breweries creep into our industry over the last 10 years and continue to steal business during our peak hours of 4pm-8pm. If the neighbors were not happy about my business being located there, they should be really unhappy with a brewery right in their backyard.

This property is zoned NC to protect the neighbors, it literally back right up to several back yards. I am not opposed to the property being developed, I just feel that it should remain NC and be used for its intended purpose.

I might add, also that because it is NC is priced much lower per sq ft. than what we paid for CC. If the proposed developer is really interested than he should be shopping lots that are zoned community commercial.

Thank you,
Terra Pierce

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From: Tiffany Wardell [<mailto:wardelltiffany@gmail.com>]

Sent: Thursday, September 20, 2018 3:59 PM

To: Scott Aspenlieder <scott@performance-ec.com>

Subject: Re: West End Task Force Request

Scott:

I assume that what keeps some people from making suggestions for planned developments are two things. First, they think that if they add input, they are pleased, or at least un-opposed, to said development. Second, so many are new to planned developments that they are unsure what can or cannot be added to it. These are assumptions based on my own feelings. So, before I dive into my own suggestions for this particular planned development, I need to say, that I'm opposed to the possibility of there being all alcohol/liquor sales on this particular corner. I'm opposed to the businesses because they aren't family-friendly in an area that is more rural and suburbia. Also, I need to say that I'm new to planned developments and have therefore decided to look at the Canyon Creek PD you referenced as a starting point.

Now to my input for the Hawk Creek/Chy Rd. Planned Development.

Businesses I'd like to see exempted from the development:

- Automotive dealers/gas stations
- Hotels, camps, rooming houses
- Massage parlors/spas
- Multi-family dwellings
- Casinos/gaming
- Event Space/rental

Businesses I'd like to see included:

- Professional Offices
- Garden/lawn supply stores
- Florist
- Photography Studios
- Library
- Yogurt/ice cream shop
- Art studio/gallery
- Yoga/Pilates studio
- Book Stores
- Novelty/Gift shop
- Children's play-place/museum
- Drafting Services
- One (1) cabaret business with a restaurant

Operational Restrictions

Only one (1) brewery and one (1) cabaret business

No outdoor eating area for the brewery and one outdoor eating area allowed for the restaurant (cabaret business) on the East side of the building with a 6-ft-high fence along the North side as sound barrier.

No outdoor music or entertainment

Evergreens must be planted along the entire North and West sides of PD to act as visual separation between business and residences.

Lighting in parking area should be no higher than 15 ft and should be shielded to prevent light reaching neighboring homes. Outdoor lights should be off when the business closes.

Lighting on building should be architectural in design. No neon.

As to the rest of the PD, I'd like to mimic what is in the Canyon Creek PD.

Please email/call me with questions or clarifications.

Tiffany Wardell
406-690-6244