



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Wednesday, July 1, 2020 @ 6:00 p.m.**  
**VIRTUAL VIDEO CONFERENCE**

NOTICE TO THE PUBLIC

Public Comment:

Due to the COVID-19 health concerns, the format of the City Board of Adjustment meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1<sup>st</sup> Floor at 2825 3<sup>rd</sup> Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to **Board via email before 1:00 PM on Tuesday, June 30, 2020.** All emails received prior to this time will be read into the record for the public hearing. The Public may call in during specific Public Comment periods at **(406) 237-6165**. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed here

<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>.

**Call the meeting to order.**

**Introduction of City Board of Adjustment Members and Planning Department Staff.**

**Public Comment**

**Approval of Minutes: May 6, 2020**

The minutes of the Board meeting of May 6, 2020.

**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 Variance 1312 - 2605 Emerson Place** - The applicant is requesting a variance from 27-308 requiring an 8-foot side setback for a two-story structure, to allow a 3-foot side setback for a new attached garage in a Residential-9600 (R-96) zone, on Block 2, Lot 9, Highland Park Sub. 2<sup>nd</sup> Filing, a 12,046 square foot parcel of land. The purpose of the variance is to allow removal of an existing garage and shed to add an attached garage with added 2<sup>nd</sup> story (NOT an ADU). Presented by; Karen Husman, Planner I
- b. **City Variance 1313 - 521 Judith Lane** - This is a variance from 27-310(i) requiring a minimum of eight foot side setback when the structure is greater than 18 feet in height, to allow a three foot side setback; 27-310(i) requiring the side wall height of a detached structure be no greater than the side wall height of the existing residential structure to allow 14-foot side walls; and from 27-310(i) requiring a maximum detached structure footprint of 1,386 square feet to allow maximum footprint of 2,100 square feet in a Residential-7000 (R-70) zone, on Lot 10 and the East ½ of Lot 11, Block 2, Broadmoor Subdivision, a 36,124 square foot parcel of land. The purpose of the variance is to allow construction of a new detached garage. Presented by: Karen Husman, Planner 1.
- c. **Variance 1314 - High Sierra Sub, 16th Filing - Lot Coverage** – A variance from 27-308 requiring a maximum lot coverage of 40% to allow a maximum lot coverage of 50% in a proposed Residential-5000 (R-50) zone, on Block 31, Lots 17-25, High Sierra Sub., 16<sup>th</sup> Filing (proposed), a 2.4 acre parcel of land. The purpose of the variance is to allow the construction of duplex units on the land. Presented by Nicole Cromwell, Zoning Coordinator
- d. **City Variance 1315 – 1053 Lincoln Lane – Lot area** - A variance from 27-308 requiring a minimum lot size of 19,200 square feet to allow a minimum lot size of 18,290 square feet in a Residential-7000 (R-70), on Parcel F of Certificate of Survey 537 a 18,290 square foot parcel of land. The purpose of the variance is to allow two new duplex structures on the property. Presented by; Karen Husman, Planner I
- e. **City Variance 1316 - 2226 Virginia Lane** - A variance from 27-602 requiring a minimum 70-foot setback from the centerline of a minor arterial street to allow a 40 foot from center line setback; 27-308 requiring a minimum lot size of 9,600 square feet to allow a minimum lot size of 8,968 square feet, and 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 41%, in a Residential -9600 (R-96) zone, on Lots 1A-3A of O'Malley Farms Subdivision, a .839 acre parcel of land. The purpose of the variance is to allow redevelopment of the property into four single family parcels. Presented by: Karen Husman, Planner I
- f. **City Variance 1317 - 198 Mountainview Blvd** - The applicant is requesting a variance from 27-310(i) requiring a minimum front setback for a detached garage of 20 feet to allow 0 feet setback from the property line in a Residential-9600 (R-96) zone, on Parcel 39B of Certificate of Survey 575, a 10,790 square foot parcel of land. The purpose of the variance is to allow an existing garage to be reconstructed in the same location. Presented by: Karen Husman, Planner I

## **Other Business/Announcements**

### **Adjournment**

Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4<sup>th</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony. Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4<sup>h</sup> Floor of the Miller Building, 2825 3<sup>rd</sup> Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may call 406-237-6165 during the Public Comment period.

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@ci.billings.mt.us](mailto:bartleyr@ci.billings.mt.us)

**City Board of Adjustment**

**Meeting Date:** 07/01/2020

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**Information**

**Subject**

The minutes of the Board meeting of May 6, 2020.

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**Attachments**

2020\_07\_01\_BOA\_MIN

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**CITY BOARD OF ADJUSTMENT**

MINUTES May 6, 2020

Name	Title	01/01/2020	02/05/2020	03/04/2020	04/01/2020	05/06/2020	06/03/2020	07/01/2020	08/05/2020	09/02/2020	10/07/2020	11/05/2020	12/02/2020	
David Mitchell	Member	-	-	A	-	1								
Dave Hagstrom	Member	-	-	1	-	1								
Paul Hagen	Member	-	-	1	-	1								
Jeff Bollman	Member	-	-	E	-	1								
Oscar Heinrich	Member	-	-	E	-	1								
Martin Connell	Member	-	-	1	-	1								
Mark Noennig	Chair	-	-	1	-	1								
<b>TOTAL NUMBER OF APPLICATIONS 2020</b>		<b>01/01/2020</b>	<b>02/05/2020</b>	<b>03/04/2020</b>	<b>04/01/2020</b>	<b>05/06/2020</b>	<b>06/03/2020</b>	<b>07/01/2020</b>	<b>08/05/2020</b>	<b>09/02/2020</b>	<b>10/07/2020</b>	<b>11/05/2020</b>	<b>12/02/2020</b>	<b>TOTAL</b>
<b>Variance</b>		-	-	2	-	5								<b>7</b>

Chair Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met virtually thru Lifesize: <https://call.lifesizecloud.com/1855490>

Nicole Cromwell introduced the City Board of Adjustment members and Planning Department staff. Attending Staff members are Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; and Robbin Bartley, Administrative Assistant.

**Attending:**

**Public Comment**

Chair Noennig opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There was none.

## **Approval of Meeting Minutes**

Meeting minutes for March 4, 2020.

## **Motion**

Board Member Heinrich moved and Board Member Hagstrom seconded the motion to approve the March 4, 2019 minutes. The motion carried with a unanimous voice vote.

## **Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits**

A form has been implemented for disclosures. If any Member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here. There was none.

## **Public Hearings**

Nicole Cromwell reviewed the procedures for public hearings and stated the Board will open a public hearing and allow public comment this evening. She reviewed the hearing and presentation processes for the meeting and acting on each variance.

**City Variance 1307 – 2133 Fairview Place – Front Yard setback** - A variance from Section 27-308, requiring a 20-foot front setback to allow a 10-foot setback in a Residential-9600 (R-96) zone, on Lot 11A, Block 7, Country Club Heights Sub., a 22,491 square foot parcel of land. The purpose of the variance is to allow a dwelling to be constructed closer to the front property line. Tax ID: A05676

## **RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1307. Based on the Determinations for granting a variance.

1. For a front setback of 10 feet. No other variance is intended or implied with this approval.
2. Limited to Lot 11A, Block 7, Country Club Heights Subdivision, at 2133 Fairview Place.
3. Site shall be developed in conformance to the site plan presented
4. Approval for a building permit within 1 year of approval. Construction completed within 3 years
5. No construction activity before 7 am or after 8 pm.
6. Failure to begin or complete actions required shall void the variance.
7. All construction will require compliance with all other restrictions that apply at the time of construction.
8. Conditions shall run with the land.

## **Discussion**

Chair Noennig called for questions and discussion from the members of the Board

## **Questions for staff:**

Question 1, Does it not appear the house could be built back further and not require a variance?

Answer: Yes it could, more excavation would be required into the hillside creating other problems.

Question 2. Shouldn't the variance be granted because of a need and not for convenience?

Answer: Variances are granted based on the criteria for variances. The topography of the land is a hardship. The development of the land is not addressed thru a variance, this would be addressed at the time of permitting,

Oscar Heinrich: What is the required setback per zoning. THE 10FT IS THE CORRECT REQUIREMENT.

### **Public Hearing**

Chairman Noennig opened the public hearing at 6:16 PM and asked if there was anyone wishing to speak in favor or against City Variance #1307.

### **Applicant:** Aaron Langford,

It is safer for the area. Aaron feels the neighbors do not want the land developed and are not really in opposition of the setback variance.

### **Opposed**

#### **Lonnie White, 2146 Fairview Place**

Lives across the street from the proposed variance. I am very familiar with the area, rock and water run off etc. I was informed by Karen Husman there is no requirement for soil testing and the like in the variance process. He contends there needs to be 15 foot setbacks and 5 foot of grass to mitigate run off to adjoining properties. Given the risk of damage and liability to the City, the issues should be addressed prior to granting the variance. If the City grants a variance, he argues it should be conditioned on the mitigation of water. Neighboring properties should not have to worry about some man caused water issues and should not worry if the permitting process will take care of the issues. He objects to the granting of the variance. He contends the requested variance is for convenience and not hardship.

#### **Aaron Zimmer, 2140 Fairview Place**

I am opposed to the variance. I have been showed how the home could be placed on the property without the variance. We are not opposed to development, but would like to keep the integrity of the property.

### **Rebuttal**

The nature of the lot does not allow for 5 percent slope.

Mark Noennig asked Aaron Langford to address the water run off issue.

Josh and I built a very small footprint, because of the natural obstacles. The small footprint will allow more green space. The boulders are the natural water retention and should not be removed. Will the footprint fit between the boulders? No.

The nature of the topography of the lot is very steep. Moving the house back destabilizes the hillside. When we drafted the house, we wanted something that would fit between the existing obstacles.

Jeff Bollman: Have you considered the storm drainage?  
The existing boulders will make a natural collection of water.

At 6:39PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Hagstrom made a motion to and Board Member Heinrich seconded the motion to conditionally approve City Variance #1307 with the seven conditions of approval and Findings of Fact.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1307** passed with a unanimous roll call vote.

**City Variance 1308 – 3112, 3116 & 3120 Solar Blvd. – Lot size** – A variance from Section 27-308, requiring a minimum 8,000 square feet for a dwelling in a Residential 8,000 (R-80) zone, on Lots 1 and 2, Block 3, Terra West Subdivision, 3<sup>rd</sup> filing, in Villas on the Park Condominiums, a combined 20,012 square foot parcel of land. The purpose of the variance is to allow the existing three homes on Lots 1 and 2 to conform to zoning in order to dissolve the condominium and create three lots of not less than 6,650 square feet each. Tax IDs: A28722, A28722A, A28721, and A28721M (Lots 1 & 2 only).

**RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1308. Based on the Determinations for granting a variance.

1. To allow existing three homes & create 3 lots of not less than 6,650 square feet each.
2. Limited Lots 1 and 2, Block 3, Terra West Subdivision, 3<sup>rd</sup> filing, in Villas on the Park Condominiums, generally located at 3112, 3116, & 3120 Solar Blvd.
3. The applicants will submit app. for minor subd review within 6 months of variance approval.
4. The applicant shall meet all other city code requirements with the exception of this variance.
5. These conditions of variance approval shall run with the land described.

**Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

**Questions for staff:**

Oscar Heinrich: Any comments from the neighbors? NO

Jeff Bollman: The whole condo association will be dissolved? YES

Mark Noennig: The dash lines are the proposed lot lines? YES  
 Why are they doing this? IN ORDER TO SELL THEM AND GET FINANCING, SEPARATE LOTS ARE NECESSARY.

**Public Hearing**

Chairman Noennig opened the public hearing at 6:49 PM and asked if there was anyone wishing to speak in favor or against City Variance #1308.

**Karen Kohm, 3112 Solar Blvd**

There is no shared HOA, no shared common area. Because of the current zoning, we would have difficulty getting financing. That is the driving force for seeking a variance.

**Lynette Burrows, 13170 SW Forest Glen Court, 97008**

I am also part of the trust. I am in complet support of this. The reasons stated are true.

**Marlene Grim, 3116 Solar Blvd**

I am in favor, no HOA was ever formed. No property lines will change.

**Opposed**

NONE

At 6:56 pm, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion to and Board Member Mitchell seconded the motion to conditionally approve City Variance #1308 with the seven conditions of approval and Findings of Fact.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1308** passed with a unanimous roll call vote.

**City Variance 1309 – 1017 Wicks Lane – Arterial Setback to 60’** – A variance from Section 27-602 (a), requiring a minimum 80 foot setback from an arterial street in a Residential – 7000 (R-70) zone to allow 60 feet from the arterial street, on C. S. 1462 parcels 1 and 2, C.S. 1463, parcels 1 and 2, and C.S. 13, a combined 3.016 acre parcel of land. The purpose of the variance is to allow the construction of a new home at 60 feet from the arterial street. Tax IDs: D05160, D05165, D05157, D05158, D05159.

## **RECOMMENDATION**

Staff recommends conditional approval of the variance.

1. Variance is to allow a 60-foot setback to the centerline of Wicks Lane for the construction of residential dwellings on the property.
2. Limited to C. S. 1462 parcels 1 and 2, C.S. 1463, parcels 1 and 2, and C.S. 13, a combined 3.016 acre parcel of land generally located at 1017 Wicks Lane.
3. Shall be developed in substantial conformance to the drawings submitted to the Planning Division with this application.
4. No construction activity will be done before 7 a.m. or after 8 p.m.
5. Applicant will submit a Master Site Plan Review application within one year, building permit application within two years of Board approval for the structures that fall within the arterial setback, complete construction within five years.
6. Failure to begin or complete the actions will void the approved variance.
7. Construction will require compliance with all other regulations & ordinances that apply
8. Conditions run with the land described.

## **Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

## **Questions for staff:**

Jeff Bollman: How do the City Engineers feel about changing the setback? CHRIS HURTZ HAS NO PROBLEMS WITH THE ARTERIAL SETBACK BEING REDUCED IN THIS AREA ON THIS PARTICULAR PROPERTY.

In the new RE:Code is the arterial setback altered?

NICOLE CROMWELL RESPONDED STATING THE COMMERCIAL AND RESIDENTIAL ARTERIAL SETBACKS WILL BE NORMALIZED AT 60 FEET TO CENTERLINE FOR STRUCTURES AND 50 OR 40 FEET TO CENTERLINE FOR PARKING.

UNDER THE NEW CODE, A VARIANCE WOULD NOT HAVE BEEN REQUIRED.

Dave Hagstrom: Why was it set at 80 feet originally? NICOLE STATED THE CITY WAS REQUIRING WIDER RIGHTS OF WAY FOR PRINCIPLE ARTERIAL STREETS.

## **Public Hearing**

Chairman Noennig opened the public hearing at 7:06 PM and asked if there was anyone wishing to speak in favor or against City Variance #1309.

**Trent Parks, 2344 Gleneagles**

There are many other residences in this area with 50 or 60 foot setbacks.

At 7:07 PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion to and Board Member Hagen seconded the motion to conditionally approve City Variance #1309 with the seven conditions of approval and Findings of Fact

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1309** passed with a unanimous roll call vote.

**City Variance 1310 – 2604 Emerson Place – Side Setback** – A variance from Section 27-308 requiring a minimum 5 foot setback from the side property line in a Residential – 9600 (R-96) zone to allow 3 foot side setback, on Lot 4, Block 1, Highland Park Subdivision 2<sup>nd</sup> Filing, a 12,046 square foot parcel of land. The purpose of the variance is to allow the construction of a garage addition with attic living space. Tax ID: A08981.

**RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1310. Based on the Determinations for granting a variance.

1. A variance from Section 27-308 requiring a minimum 5’ setback from the side property line in R-96 to allow 3’ No other variance is intended or implied.
2. Limited to Lot 4, Block 1, Highland Park Subdivision 2nd Filing, 2604 Emerson Place.
3. Applicant will apply for & receive approval of a building permit within 1 year, complete construction within 2 years of approval. Failure to meet the conditions will void the variance.
4. No construction activities prior to 7:00am or after 8:00 PM daily.
5. Applicant shall meet all other code requirements.
6. Conditions run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

**Questions for staff:**

Oscar Heinrich: What is the current coverage and are there any comments from neighbors?  
THE INTENTION IS TO REBUILD A LARGER GARAGE IN THE SAME SPACE AND THERE HAS BEEN NO COMMENTS FROM THE NEIGHBORS.

Dave Hagstrom: The side set back would change? 2 FOOT 6 INCHES, IS 3 FEET. THE INTENT IS TO REINFORCE THE RETAINING WALL.

Is the new garage larger and sits forward? YES IT IS LARGER.

**Public Hearing**

Chairman Noennig opened the public hearing at 7:16 PM and asked if there was anyone wishing to speak in favor or against City Variance #1310.

**Jeff Wollschlager, 2204 Lyndale Lane, 59102**

We are replacing the current garage structure, we are increasing the depth to accommodate medium sized vehicle. The addition will be farther away from the property line. The existing retaining wall is failing and will be reconstructed. There is a gable end and all storm water will be adequately dispersed so as not to interfere with the neighboring lot.

At 7:21 PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Mitchell made a motion to and Board Member Bollman seconded the motion to conditionally approve City Variance #1310 with the seven conditions of approval and Findings of Fact

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1310** passed with a unanimous roll call vote.

**City Variance 1311 - 1836 Yellowstone Ave– Lot Coverage** – A variance from Section 27-308 requiring a maximum 30% lot coverage in a Residential – 7000 (R-70) zone to allow 31% on Lot 12, Block 5, Burg Subdivision 3<sup>rd</sup> Filing, an 8,400 square foot parcel of land. The purpose of the variance is to allow the construction of a detached garage of 960 square feet (108 sf over the maximum). Tax ID: A03866.

### **RECOMMENDATION**

Planning staff has reviewed this application & is recommending conditional approval of Variance #1311. Based on the Determinations for granting a variance.

1. Variance from 27-308 requiring a lot coverage of 30% to allow a maximum lot coverage of 31% No other variance is intended or implied with this approval.
2. Limited to Lot 12, Blk 5, Burg Sub., 1836 Yellowstone Ave.
3. Applicant will submit & obtain a building permit within 1 year completed within 2 years.
4. Construction or demolition activity will not occur prior to 7 am or after 8 pm.
5. Applicant shall meet all other code requirements
6. Failure to begin or complete actions void this variance.
7. Conditions 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.

### **Discussion**

Chair Noennig called for questions and discussion from the members of the Board.

### **Questions for staff:**

Oscar Heinrich: Would RE:Code have any effect on this request? NICOLE REPLIED, NEW CODE REQUIREMENTS IN THIS AREA WOULD INCREASE LOT COVERAGE TO 40 PERCENT.

Karen was asked if any neighbors had comments regarding the variance request. NO COMMENTS WERE RECEIVED.

### **Public Hearing**

Chairman Noennig opened the public hearing at 7:27 PM and asked if there was anyone wishing to speak in favor or against City Variance #1311.

### **Matt Lee, A-Team Contracting**

Karen covered it well, We are waiting on financing and would like to get started right away and not wait for RE:Code.

Oscar Heinrich: Do we need to document the requirement of the shed removal? MATT REPLIED IT IS IN THE APPLICATION, STATING IT WILL BE REMOVED.

Mark Noennig asked if this requirement needed to be in the conditions. KAREN REPLIED IT IS IN THE SITE PLAN SUBMITTED, THE SHED IS NOT INCLUDED IN THE SITE PLAN.

### **Opposed**

None

At 7:30 PM, Chairman Noennig closed the Public Hearing and called for a motion.

**Motion**

Board Member Heinrich made a motion to approve with an amendment that the shed be removed. Board Member Noennig seconded the motion to conditionally approve City Variance #1311 with the seven conditions of approval and Findings of Fact, adding the condition to remove the shed.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Not Present</b>
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		
Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig	X		

The motion to conditionally approve **City Variance #1311 passed** with a unanimous roll call vote.

**Other Business:**

No meeting in June.

**ADJOURNMENT: The meeting adjourned at 7:33 PM.**

**ATTEST: DRAFT. To be approved by a motion at the next regularly scheduled meeting.**  
*Robbin Bartley, Administrative Assistant.*



**City Board of Adjustment**

**Meeting Date:** 07/01/2020

**SUBJECT:** City Variance 1312 - 2605 Emerson Place

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Variance 1312 - 2605 Emerson Place** - The applicant is requesting a variance from 27-308 requiring an 8-foot side setback for a two-story structure, to allow a 3-foot side setback for a new attached garage in a Residential-9600 (R-96) zone, on Block 2, Lot 9, Highland Park Sub. 2nd Filing, a 12,046 square foot parcel of land. The purpose of the variance is to allow removal of an existing garage and shed to add an attached garage with added 2nd story (NOT an ADU). Presented by; Karen Husman, Planner I

**RECOMMENDATION**

Staff recommends conditional approval of the variance based on the review criteria detailed in the summary section of this memo.

**APPLICATION DATA**

OWNERS: Rocky & Christina Taylor

PURPOSE: Side setback of 3 feet for a new attached garage

LEGAL DESCRIPTION: Blk. 2, Lot 9, Highland Park Subd., 2nd Filing

ADDRESS: 2605 Emerson Place

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-96

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
2511 Emerson Place	872	7/2/02	Side SB 3'	Y	Attached garage addition
925 Jackson	1142	4/4/13	Side SB 3'	Y	New SFR
7 Alderson Ave	1143	4/4/13	Side SB 3'	Y	Existing structure
415 Cook Ave	1146	4/4/13	Side SB 3'	Y	Existing structures
1014 N. 32nd St.	1170	12/5/13	Side SB 1'	Y	Detached garage
2604 Emerson Pl.	1310	5/6/20	Side SB 3'	Y	Attached garage addition

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-96  
Land Use: Residential  
SOUTH: Zoning: R-96  
Land Use: Residential  
EAST: Zoning: R-96  
Land Use: Residential  
WEST: Zoning: R-96  
Land Use: Residential

## **BACKGROUND**

This variance is a request to allow a three foot setback from the side property line in an R-96 zone when an eight foot setback is required for a two story structure. The purpose of the variance is to allow the construction of a garage addition with an attic living space. The applicant is requesting the variance to allow removal of an existing attached garage and rebuilding a new larger garage.

There have been similar variances granted in the surrounding neighborhoods, granting the variance would not be out of character for the neighborhood. The BOA recently approved a similar variance directly across the street at 2604 Emerson Place.

## **SUMMARY**

### **DETERMINATIONS:**

#### **Variance 1312**

The Board of Adjustment shall make the following determinations prior to granting a variance:

**1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are not any special circumstances that exist in this situation. The property owner would like to remove the old garage and rebuild a new garage to allow for more storage of vehicles as well as added living space that will not be an ADU.

**2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

The subject property is in a subdivision where much of the development occurred in the 1950's. There have been similar variances granted in the surrounding neighborhoods, and in this neighborhood, directly across the street. Denying the variance would deprive the applicant of rights commonly enjoyed by other tracts in the same district.

**3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

The variance will not allow the applicant any special privileges. Similar variances have been granted in the area.

**4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

The variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy. Approval of this variance would allow the applicant to remove the existing garage and build a new larger garage.

**5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending the following conditions for the variance request:

1. This approval is to allow a variance from Section 27-308 requiring a minimum 8-foot setback from the side property line in a Residential – 9600 (R-96) zone to allow 3 foot side setback for a two story structure (NOT

AN ADU). No other variance is intended or implied.

2. The variance is limited to Lot 9, Block 2, Highland Park Subdivision 2<sup>nd</sup> Filing, 2605 Emerson Place.
3. The applicant will apply for and receive approval of a building permit within 1 year and complete construction within 2 years of BOA approval. Failure to meet the time limits of this condition will void the variance.
4. There will be no construction activities prior to 7:00 am or after 8:00 pm daily.
5. The owner will meet all required building codes, engineering codes and all other codes applicable at the time of Building Permit Application with the exception of this variance.
6. These conditions of variance 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.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance;**

Staff is proposing a time limit of one year to acquire building permit approval and two years to complete construction.

**7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**

The granting of this variance would not allow a use that is not allowed in the zoning district – single family dwellings with attached garages are allowed in the R-96 zone district.

**RECOMMENDATION**

Staff recommends conditional approval of the variance based on the review criteria detailed in the summary section of this memo.

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**Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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# Zoning Map and Site Photos







South



North

# APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # A08974 CITY ELECTION WARD # 4

Legal Description of Property: Highland Park Subd 2nd Filing  
S31, T01N, R20E, Block 2 Lot 9

Address or General Location (If unknown, contact City Engineering): 2605 Emerson Pl

Zoning Classification: R-15000

Size of Parcel (Area & Dimensions): 12076 sq. ft. .23 acre

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application

Variance(s) Requested: Build 2 story garage up to 3 ft of  
property line and possible lot coverage.

Facts of Hardship: Space, Hail, Theft, Aesthetics.  
See prepared statements

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

Owner(s): Rocky and Christina Taylor

(Recorded Owner) 2605 Emerson Pl

(Address) 801-915-1278 stinaleetaylor@hotmail.com

(Phone Number) (email)

Agent(s): NA

(Name) NA

(Address)

(Phone Number) (email)

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

Signature: [Signature] Date: 6-1-20  
(Recorded Owner)



Date Stamp

1 A. We would like to expand our garage to house both of our vehicles. There is not enough space on that side of our property to expand the garage in a functional and design conscious manner and adhere to the current zoning regulation requirements.

B. We need to build out our garage to house our vehicles. Our current garage does not fit even one of our vehicles and we need to expand it so that both of our vehicles fit and can be protected from the elements, specifically hail. We also hope to prevent theft and improve the aesthetics of our home by parking our vehicles within the new garage space.

2. Dear Chairperson of the Board of Adjustment,

We intend to build a new garage that can house both of our vehicles. Our current garage is not large enough to fit even one of our vehicles and both are parked in the driveway in front of the house. We would like to expand the garage to house both of our vehicles to protect them from the elements, namely hail, theft, and improve the aesthetics of our home. There is enough room on our property to do this if we build up to 3 ft from our property line. There is not a way to achieve this if we are limited to the 5 ft or 8 ft zoning regulations.

We currently have a space to the side and behind our garage that fits a parked trailer. We intend to absorb that space in the new footprint of the garage so we can park the trailer in the garage- in essentially the same spot. We plan to follow the current back line of the garage so as not to eat away at our backyard.

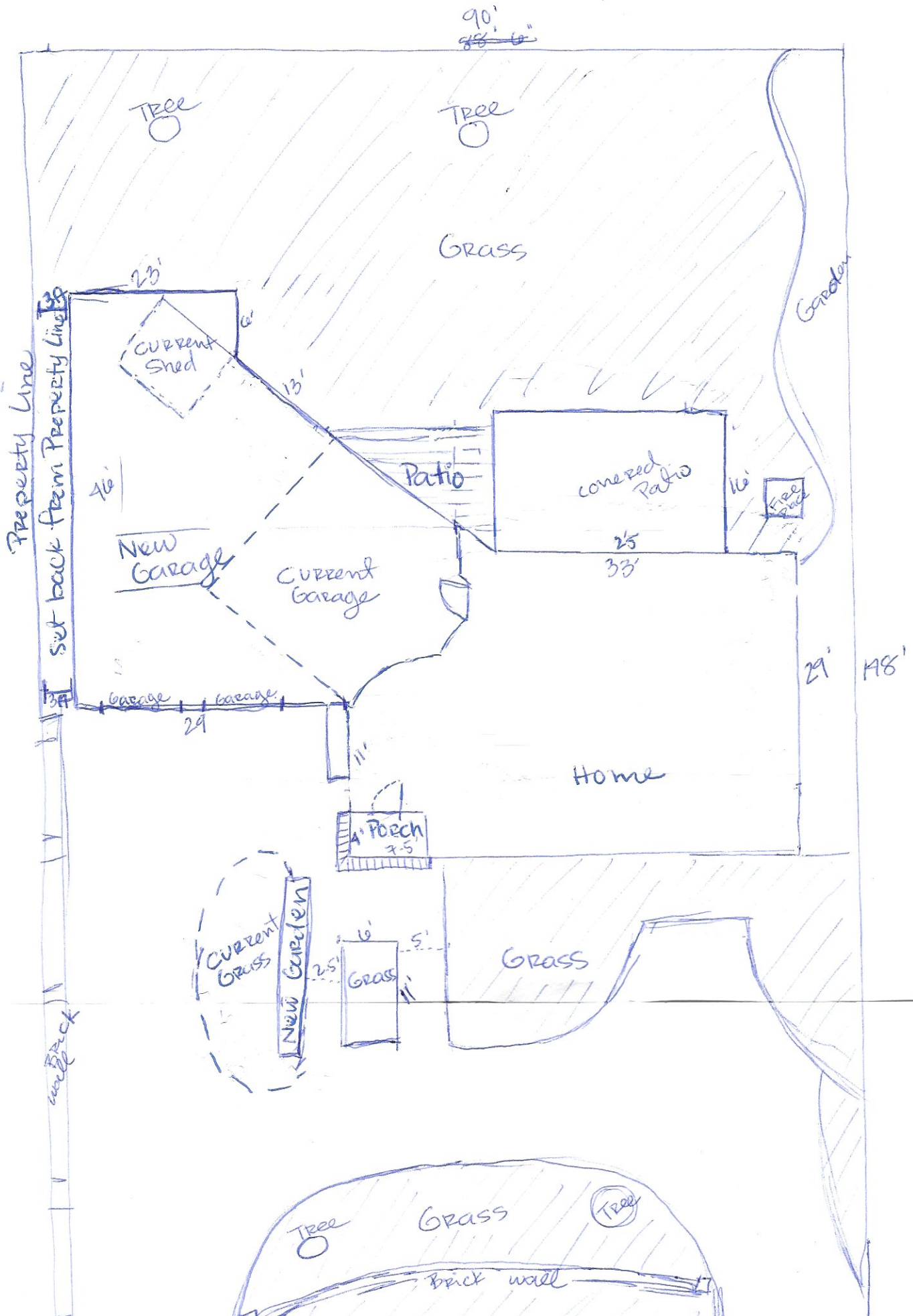
There is currently a living space on top of the garage and as our garage footprint is enlarged, we intend to expand the living space on the second level as well. The plan is to maximize the living space on the second level and follow the footprint of the new garage as closely as we can, roof lines allowing.

One of our main objectives is to honor the beautiful design of our 1950's home while adding functionality for modern vehicles and expanded living space on top for our family.

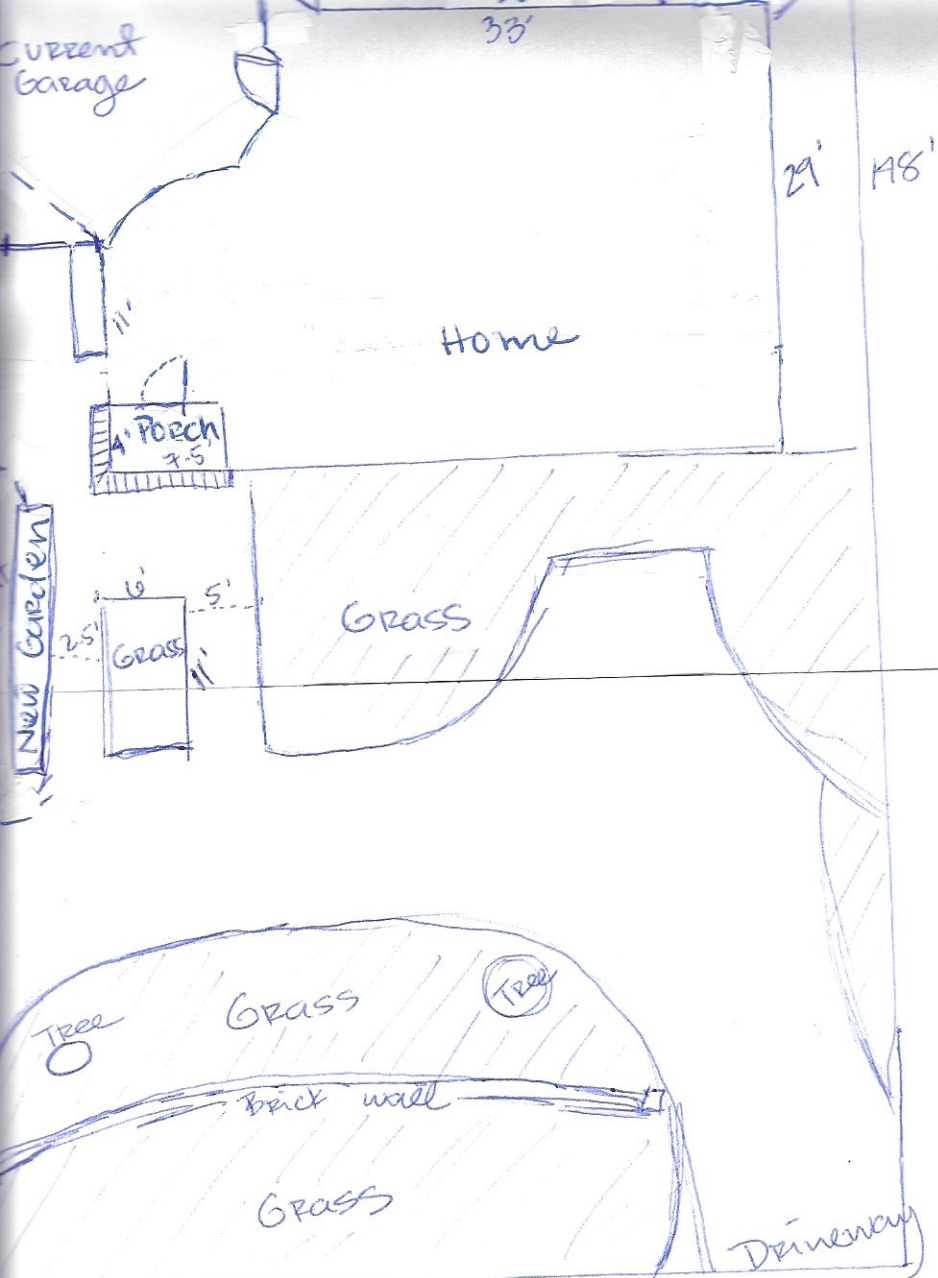
We are seeking a variance to build a two level structure up to 3 feet of our property line. We have received mixed feedback on the need to seek a variance on lot coverage. But, if we exceed the 30% lot coverage regulation then, we are seeking a variance for that as well.

Thank you,

Christina and Rocky Taylor



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 CUR  
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 ←



10 ft

Current footprint to be changed.  
 ← N



**City Board of Adjustment**

**Meeting Date:** 07/01/2020

**SUBJECT:** City Variance 1313 - 521 Judith Lane

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Variance 1313 - 521 Judith Lane** - This is a variance from 27-310(i) requiring a minimum of eight foot side setback when the structure is greater than 18 feet in height, to allow a three foot side setback; 27-310(i) requiring the side wall height of a detached structure be no greater than the side wall height of the existing residential structure to allow 14-foot side walls; and from 27-310(i) requiring a maximum detached structure footprint of 1,386 square feet to allow maximum footprint of 2,100 square feet in a Residential-7000 (R-70) zone, on Lot 10 and the East ½ of Lot 11, Block 2, Broadmoor Subdivision, a 36,124 square foot parcel of land. The purpose of the variance is to allow construction of a new detached garage. Presented by: Karen Husman, Planner 1.

**RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of denial for the variance based on the determinations for review provided within this report.

**APPLICATION DATA**

OWNERS: Robert Ybarra II

PURPOSE: To allow a 2,100 sf garage with 14 ft side wall and a 3 ft side setback

LEGAL DESCRIPTION: Lot 10, and east 1/2 of Lot 11, Blk 2 Broadmoor Sub.

ADDRESS: 521 Judith Lane

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-70

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
420 Judith Lane	912		Side SB from 8' to 5'	Y	Existing structure
1407 Lake Elmo	1005	5/2/2007	Sidewall 11'6"	Y	New Detached Garage

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-70

Land Use: Residential

SOUTH: Zoning: RMF & HC

Land Use: Residential

EAST: Zoning: R-70

Land Use: Residential

WEST: Zoning: R-70

Land Use: Residential

## **BACKGROUND**

The applicant is requesting a variance to allow a three foot side setback, a side wall of 14 feet in height and to allow a maximum footprint of 2,100 square feet for a new detached structure in a R-70 zone. The purpose of the variance is to allow construction of a new detached garage larger than the existing dwelling, with a higher side wall than the residential structure and closer to the property line than the 8 feet required for a structure of 18 feet or greater in height.

While the proposed height of the new garage will meet the height limitations in this zoning district, the height and mass of the proposed detached garage is significant compared to the homes and garages in the immediate area of the subject property. The code allows one 1,386 square foot detached accessory buildings on the lot. The detached garage could be built to meet the size, wall height and setbacks allowed by the zoning regulations. There are not any topographical or other reasons causing a hardship that would prevent the applicant from meeting the restrictions of the zoning regulations.

## **SUMMARY**

Variance 1313

## **STAFF DETERMINATIONS**

The Board of Adjustment shall make the following determinations prior to granting a variance:

**1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no special circumstances that exist which are peculiar to the land. The applicant has not stated a hardship with the property, other than they would like a larger garage than allowed, with taller sidewalls and closer to the property line. While the proposed height of the new garage will meet the height limitations in this zoning district, the height and mass of the proposed detached garage is significant compared to the homes and garages in the immediate area of the subject property. The code allows one 1,386 square foot detached accessory building on the lot. The detached garage could be built to meet the size, wall height and setbacks allowed by the zoning regulations. There are not any topographical or other reasons restricting the applicant from meeting the restrictions of the zoning regulations.

**2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

Allowing the variance would give the applicant rights not commonly enjoyed by other tracts in the same district. There have been two variances granted in the area or surrounding neighborhoods, however not as significant as this request. The literal interpretation of the provisions of this Chapter would not deprive the applicant of rights commonly enjoyed by other tracts in the same district; therefore, denying the applicant a variance for a garage larger than allowed would not deprive the applicant rights commonly enjoyed by other properties in the district. Other lots in this subdivision have developed as defined by the zoning code.

**3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

Granting this variance for a detached garage foot print of 2,100 square feet and a variance from the wall height restriction of no higher than the wall height of the existing single family dwelling at 10 feet, to a height of 14 feet for the proposed garage, and a variance from the setback restrictions for a structure over 18 feet in height from 8

feet side to 3 feet as proposed in a R-96 zone would confer a special privilege to this applicant as similar sized detached barns and garages are not apparent in this subdivision and in similar neighborhoods. Granting the variance requested will confer on the applicant a special privilege that is denied by this Chapter to other land in the same district.

**4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

The variance is not in harmony with the general purpose and intent of the zoning regulations and the growth policy.

**5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff has no conditions for a recommendation of denial.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

There would be no time limit with a recommendation of denial.

**7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**

Granting this variance will not approve a use that is not otherwise allowed in the R-70 zoning district. Detached garages and accessory buildings are allowed in the residential zoning districts, however the size, wall height and setback requested is inconsistent with limitations placed on property in the district.

**RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of denial for the variance based on the determinations for review provided within this report.

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**Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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Subject Property



Northwest



East



West



South

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # 516-02-8178 CITY ELECTION WARD # II

Legal Description of Property: Broadmoor SURD, S22 T01 N, R26 E, Block 2, Lot 10, & E2 LT 11

Address or General Location (If unknown, contact City Engineering): 521 Judith Lane Billings, MT 59105

Zoning Classification: R 7000

Size of Parcel (Area & Dimensions): 36,124 / 95'6" x 378'

Covenants or Deed Restrictions on Property: Yes  No

If yes, please attach to application

Variance(s) Requested: I would like build my garage bigger and taller than my primary residence.

Facts of Hardship: I am concerned about the safety and security of my investments.

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

Owner(s): Robert VBarra II  
(Recorded Owner) 521 Judith Lane Billings, MT 59105  
(Address) 406-598-2635 gvr4996@gmail.com  
(Phone Number) (email)

Agent(s): \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Phone Number) (email)

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

Signature: [Signature] Date: 5-28-20  
(Recorded Owner)

Date Stamp

Dear Chairperson of the Board of Adjustment,

I am writing this letter in hopes of building a new garage on my property. There will be no change in the use of this property as it is my permanent residence. The variance is being sought because I am concerned for the safety and security of my investments.. I intend to tear down my existing barn and shed so it can be replaced with a garage. I would like to build my garage bigger and taller than my principal building's first story square footage and height.

After a recent promotion with School District 2, I started shopping for a small home with a large lot. I am a third-generation concrete contractor. Having owned and operated a concrete construction company for many years I was aware of the "lot coverage" regulations and I checked the neighborhood covenants before the purchase of my new home. I did not, however, understand all of the "detached accessory structure" size regulations. Specifically not being able to build taller than your house and not being able to build bigger than your first story square footage. I bought my small house (1,765 sqft) and a large lot (.83 acres) that will accommodate my needs, but now I would like to build a 2,100 sqft. garage with 14 ft. tall walls to accommodate a 12'6" garage door.

Some of my investments include vehicles, recreational vehicles, trailers, boats, construction supplies and hobbyist interests that will not fit under a standard 8-foot garage door. As we all know, Billings is not as safe as it once was! The safety and security of these investments are paramount to me. Our neighborhood is consistently dealing with theft, break ins, robbery and mischief. Also, these items are not intended to be stored outside all the time and our seasonal weather takes a negative toll on them if they are. Our recent catastrophic hail storms have definitely not been helping things as I have incurred thousands of dollars in damages to many of these items. "I can not afford to buy new stuff all the time, but I can afford to store them properly and maintain them so they will last as long as possible". The overall goal of the garage that I want to build is to provide a safe and secure indoor space to properly store my investments and other personal belongings. This will also prevent any possible violations from improperly storing items insight on my property. In closing, I would like to add that I have had line locates done and no utilities are interfering with the proposed garage build. I also contacted Northwest energy and they have personally come out to make sure the proposed garage will not interfere with the existing power line and pole on my property.

Thank you for your time and consideration,

Robert Ybarra II

A.

The two reasons that are preventing me from using my property in conformance with the Zoning Regulation requirements are as follows:

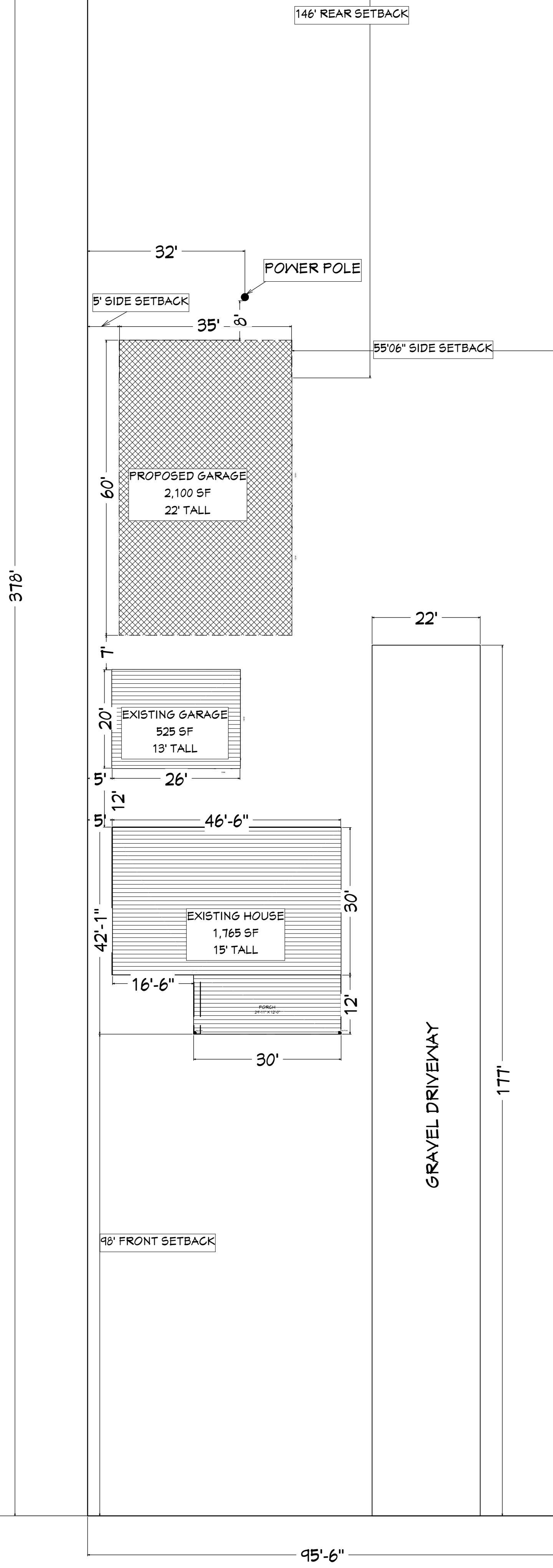
1. I would like to build a garage bigger than my principal building's first story square footage.
2. I would like to build the garage taller than my principal building's first story height.

In general, I would like to build my garage bigger and taller than my house.

B.

The need for the intended use of the property at this location is that it is my home. I am concerned for the safety and security of my investments/belongings. I own vehicles, recreational vehicles, trailers, and boats that will not fit under a standard 8-foot garage door. I also have construction supplies, hobbyist interests and various investments that require a large garage, large property, and proper secure storage. The weather is also a concern of mine as our two catastrophic storms we had last year cost me many thousands of dollars in damages to the items I intend to protect with my new garage.

NAVAJO DRIVE



PROPOSED LOT PLAN  
 LOT SIZE: 36,124 SF  
 EXISTING STRUCTURE: 2,290 SF  
 ADDITIONAL STRUCTURE: 2,100 SF  
 TOTAL STRUCTURE: 4,390 SF  
 LOT COVERAGE: 4,390 SF / 36,124 SF = 12.2% COVERAGE

JUDITH LANE

Owner: Robert Ybarra II  
 Property Address: 521 Judith Lane  
 Legal Description: BROADMOOR SUBD, S22, T01 N, R26E, BLOCK 2, Lot 10, & E2LT 11  
 SCALE: 3/8"=10'

P-1

SHEET:

1"=15'

SCALE:

4/29/2020

DATE:

Proposed Lot Plan

Robert Ybarra II  
 521 Judith Lane  
 New Garage

REVISION TABLE			
NUMBER	DATE	REVISED BY	DESCRIPTION



**City Board of Adjustment**

**Meeting Date:** 07/01/2020

**SUBJECT:** Variance 1314 - High Sierra Sub, 16th Filing - Lot Coverage

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**Variance 1314 - High Sierra Sub, 16th Filing - Lot Coverage** – A variance from 27-308 requiring a maximum lot coverage of 40% to allow a maximum lot coverage of 50% in a proposed Residential-5000 (R-50) zone, on Block 31, Lots 17-25, High Sierra Sub., 16th Filing (proposed), a 2.4 acre parcel of land. The purpose of the variance is to allow the construction of duplex units on the land. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

Planning staff recommends conditional approval of the variance.

**APPLICATION DATA**

OWNER: Gary Oakland, High Sierra II Inc.  
 AGENT: Sanderson Stewart, Gary Owen, P.E.  
 LEGAL DESCRIPTION: Lots 17-25, Block 31 of proposed High Sierra Sub., 16th Filing  
 ADDRESS: North side of Mission Oaks Dr west of Morocco Dr and east of Matador Dr  
 CURRENT ZONING: Residential 7,000-Restricted (R-70-R) - proposed Residential 5,000 (R-50)  
 EXISTING LAND USE: Vacant  
 PROPOSED USE: Duplex townhomes  
 SIZE OF PARCEL: 2.4 acres (104,544 square feet)

**CONCURRENT APPLICATIONS**

Zone Change 979 - A request to rezone from R-70-R to R-50. Zoning Commission hearing July 7, 2020.

**APPLICABLE ZONING HISTORY**

A comprehensive zoning history as been compiled and is included below. Many of these predevelopment variance requests are located in other parts of the City rather than the Heights. They are relevant and should be considered since they represent predevelopment requests. More details are included Summary portion of this report.

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
High Sierra Sub	<b>Zone Change 822</b>	11/13/2007	A-1 & R-96 to R-70-R	Y	400 acre Dover Ranch
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Suburban Sub lots along 5th St W	617	6/5/1990	Arterial setbacks to 10 ft side adjacent	Yes	5th St Corridor
Rimrock West Sub	775 781	8/4/1998 10/6/1998	Height to 40' Height to 36'	No/withdrawn No/denied	New construction
Lakeview Sub	786	12/1/1998	Rear setback to 10'	No	Withdrawn
Ironwood Sub	County 229 City 891	4/9/2002 2/4/2003	Height to 48' Height to 48'	Yes Yes	New construction
Skyline Townhomes 600 block N 26th St	933	6/1/2004	Garage setbacks, side setback, clear vision area	Yes	New construction
Goodman Sub Julaura Ln	955	12/7/2004	Lot coverage 38%	Yes	Duplex Townhomes New construction

Twin Oaks Sub	978	1/3/2006	Side setbacks	Yes	New construction
Executive Townhomes 800 Block Avenue E	987	6/7/2006	Lot coverage 65% Front setback	Yes	19 new attached townhomes
Falcon Ridge Sub	1013	9/5/2007	Lot coverage 38%	No	New duplex townhomes
3014 Shady Lane	1035	11/6/2008	Lot coverage 50%	Yes	Addition to existing home
Wyoming & 10th St W	1159	8/7/2013	Lot area reduced	Yes	Three new 4-unit townhomes
Castle east of Ironwood	1180	4/2/2014	Height to 50 ft	Yes	New 30,000 sf house
West Park/Avenue C Apts	1193	6/4/2014	Increase units from 108 to 150	Yes	New Apartment Building
Silver Creek Estates	1224	3/2/2016	Reduce Clear Vision at 3 intersections	Yes	New construction
Lenhardt Square	1282	5/2/2018	Height to 46 ft	Yes	Two new Apartment Buildings

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning: R-70-R Land Use: Vacant
SOUTH:	Zoning: Public & R-96 Land Use: Vacant School District land and vacant residential land
EAST:	Zoning: R-70-R Land Use: Vacant
WEST:	Zoning: R-70-R Land Use: Vacant

## BACKGROUND

This is a variance request to allow additional lot coverage for subdivision lots that are in the process of development. The owner has a prospective buyer, Trent Parks, who intends to construct several two-family townhomes on the property. Mr. Parks recently completed a similar development on the north end of Gleneagles Blvd. The property has also applied for a zone change from R-70-R, a district that only allows detached single family homes, to R-50, a district that allows detached or attached single family dwellings (duplex). The zone change will be heard by the Zoning Commission on July 7, 2020.

The applicant states the intention to build single-level townhomes with three bedrooms, three car garages and covered patios for each unit. It appears proposed lot 17 will accommodate only a two car garage for each unit. Planning staff calculated the proposed footprint on the lots as shown. It appears the planned footprints will cover 47% of the proposed lots and not 50%.

The city has processed several requests over the last two decades to apply variances ahead of new construction for multiple lots within a new development. Although most of these requests have been granted, each request is evaluated based on the criteria for granting variances including showing a hardship with the land, or similar variances have been granted in the area, or other parcels have developed in the same way without the benefit of a variance. In addition, the applicant should show how the proposed variance would not be out of character for the area. These are all difficult criteria to meet for an undeveloped parcel surrounded by other undeveloped land. The BOA granted a variance to allow 65% lot coverage for the Executive Townhomes on the 800 block of Avenue E in 2006. The multi-family zone district only allows 55% lot coverage. The lots were within an established neighborhood and there are specific hardship with the land, and there were several examples of similar lot coverage on surrounding parcels. Another pre-development variance was granted for Goodman Subdivision for the Julaura Lane townhomes in a R-70 zone. This application came forward due to an error by the agent who assumed the lot coverage would be 40%. Covenants and restrictions imposed required a larger first floor footprint than the 30% normally allowed in the R-70 zone district. The BOA granted the variance. In 2014, the BOA granted a lot area variance to allow 42 additional dwelling units (a 39% increase in density) for the Avenue C Apartments constructed to the north of West Park Plaza. The applicant considered a zone change to accommodate the additional density (CC to RMF) but the RMF zone has no height limit. The neighborhood was concerned about the lack of a height limit in the RMF zone. The owner instead applied for a lot area variance to achieve the higher density. A similar lot area variance was granted for the new apartments on 10th St West and Wyoming Avenue in 2013.

Planning staff has reviewed the requested variance and the proposed findings for the variance criteria and is recommending conditional approval. One of the conditions is to reduce the lot coverage requested from 50% to 47% maximum on each lot. It appears the footprint of the structures can meet this condition. Another proposed condition is the proposed zone change must be approved and that construction on the first units must begin within 18 months of the BOA approval. Other conditions concern landscaping and screening.

## **SUMMARY**

### **DETERMINATIONS FOR VARIANCE 1314**

The Board of Adjustment shall make the following determinations prior to granting a variance:

**1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no physical special circumstances existing on this property creating a hardship that is peculiar to these lots.

**2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

The BOA has granted similar subdivision-wide variances for height, lot coverage and setbacks. Of the 17 variance requests the BOA considered, four were denied or withdrawn. Rimrock West subdivision applied twice for a height variance in 1998, to allow either 40 feet or 36 feet for new homes. Planning staff recommended denial as the new homes would appear out of place with the surrounding developments and there was no hardship with the land. Another variance in 1998, for Lakeview Subdivision 2<sup>nd</sup> Filing (Katherine Ann and Lakeview Drive) in the Heights was to reduce the rear setback from 20 feet to 10 feet. Planning staff also recommended denial for this variance over concern about setting a precedent for the Residential Manufactured Home (RMH) zone. Planning staff had warned the developer during the subdivision process the lots were not deep enough to accommodate garage additions. In 2007, a lot coverage variance for several lots in Falcon Ridge Subdivision (West Billings) was also recommended for denial. The lots in the R-80 were large enough to accommodate the proposed single-level duplex townhomes so there was no apparent hardship with the lots and the proposed dwellings could be modified to accommodate the maximum 30% lot coverage.

Thirteen other similar variances have been granted. The approved variances all included new construction and the common factor for granting the variances was the ability for the proposed development to blend with the existing and surrounding developments. For example, the Ironwood Subdivision height variance to 48 feet was for a new suburban subdivision in a location far outside the existing urban development. The building heights would not impose or shadow any existing neighborhoods and although there was no hardship with the property at least one previous "blanket" variance had been granted. Similarly, a variance granted for the Twin Oaks Subdivision (Heights) to reduce a required side setback throughout the subdivision was in a newly developing area and the setback variance would not have any impact on surrounding developments.

The proposed variance shares similar characteristics to previously approved subdivision level variances. It is outside of the existing developed area of High Sierra and the closest developed lot is over 600 feet away. The additional lot coverage from 40% to 50% will be used to accommodate a patio cover and a 3<sup>rd</sup> parking stall for the attached garages. The proposed units from the street perspective will look very similar to the townhomes the buyer built on the 2300 block of Gleneagles Boulevard to the north and east of the subject property. Based on these factors, a literal interpretation of the zoning regulations for this zone would deprive this owner of similar rights enjoyed by others in the same district.

**3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

The variance will not allow the applicant any special privileges. Similar buildings are in the immediate vicinity and similar variances have been granted for new construction in similar situations. The applicant could have chosen a higher intensity zone district such as Residential Multi-family-Restricted (RMF-R) to accommodate the additional

lot coverage. The RMF-R zone district allows 55% lot coverage. There are RMF-R zones within the Lake Hills Subdivision on Clubhouse Way. The applicant does not intend to build more than two attached dwellings, so a zone change to RMF-R would not give predictability to the surrounding property owners. The proposed Residential 5,000 (R-50) allows single family and two-family dwellings but not multi-family dwellings. The R-50 zone is limited to 40% lot coverage. The proposed zoning of R-50 would translate to an N2 or NX1 zone district in the draft new zoning districts. The N2 zone allows 40% lot coverage and the NX1 zone district allows 60% lot coverage.

**4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

The variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy including the 2016 Growth Policy.

**5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending the following conditions for the lot coverage variance request:

1. The variance is from Section 27-308, requiring a maximum lot coverage of 40% to allow 47% in a proposed R-50 zone district.
2. The variance is limited to Lots 17 through 25 of Block 31, High Sierra Subdivision 16<sup>th</sup> Filing, a 2.4 acre parcel of land.
3. The variance approval is conditioned on approval of the proposed R-50 zone district request. If the zone change is not approved, the lot coverage variance is moot.
4. The owner will apply for the first building permit within 18 months of Board approval.
5. There will be no construction activity before 7 am or after 8 pm daily.
6. Completion of construction on all units on all lots will occur within four years of Board approval.
7. Each duplex townhome will require one street tree for each dwelling unit to be planted either in the boulevard between the sidewalk and the curb or in the front yard no more than seven feet behind the sidewalk. The trees will be continuously maintained and dead trees will be removed and replaced as needed.
8. The owner will meet all required building codes, engineering codes and other city codes applicable at the time of Building Permit application.
9. Failure to begin or complete the actions required by this variance approval will void the variance.
10. These conditions of variance 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.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

The Planning staff recommends the first building permit be submitted within 18 months of Board approval and the construction completed on all the lots within four years of Board approval.

**7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.** The granting of this variance would not allow a use that is not allowed in the proposed zoning district. Two-family dwellings and townhomes are allowed uses in the R-50 proposed zone.

## **RECOMMENDATION**

Staff recommends conditional approval of the variance based on the review criteria detailed in the summary section of this memo.

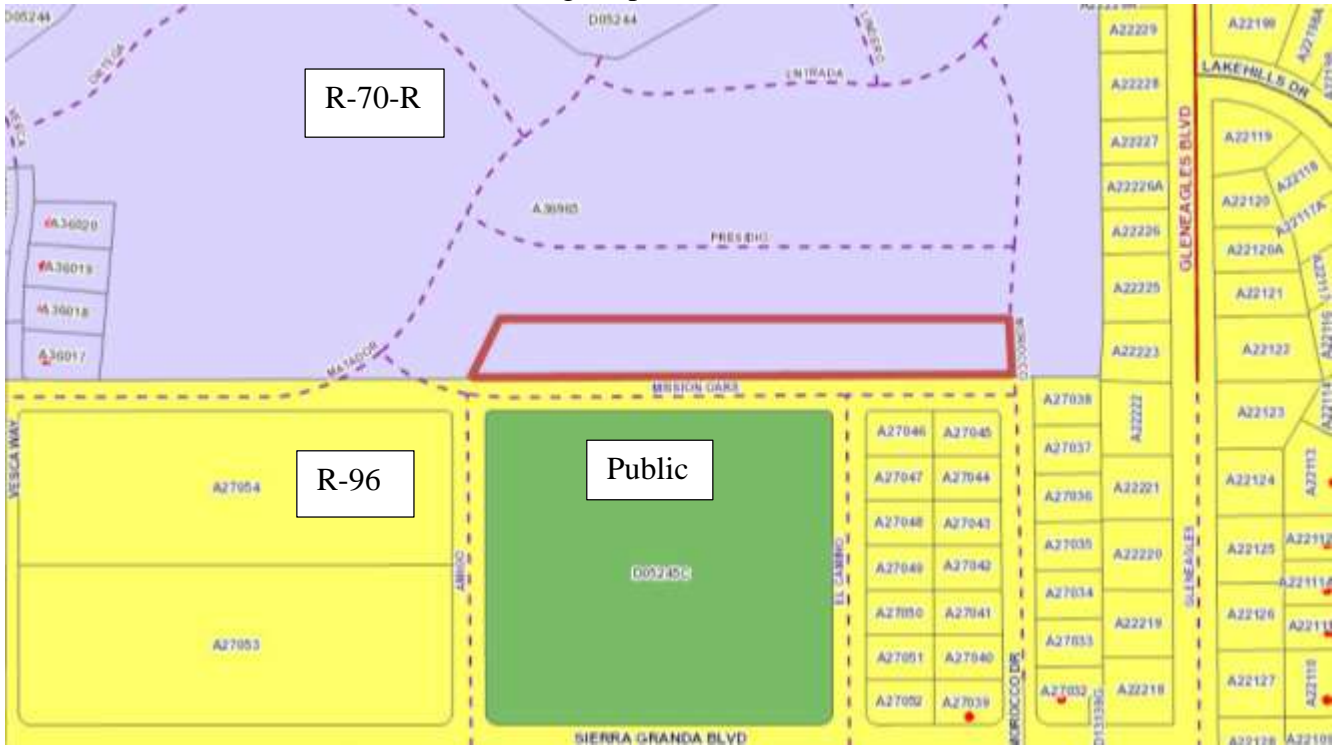
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## **Attachments**

Zoning Map and Site Photos



# Zoning Map and Site Photos





View east from current dead-end of Matador



View east to subject property



Development further east and north on Gleneagles Blvd



View south and east across subject property



View north and east



Builder's current townhome project on the north end of Gleneagles Blvd

# EXHIBIT A

LOT LAYOUT  
WITHIN

PROPOSED HIGH SIERRA SUBDIVISION, 16TH FILING

PREPARED FOR : HIGH SIERRA II INC.

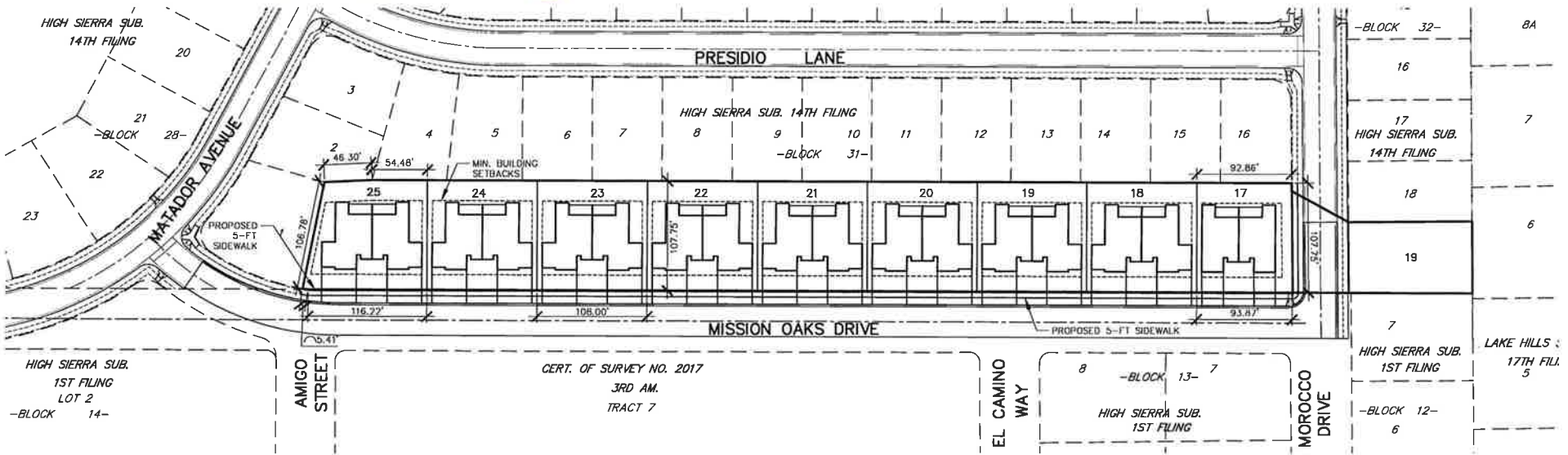
PREPARED BY : **SANDERSON STEWART**

JUNE, 2020

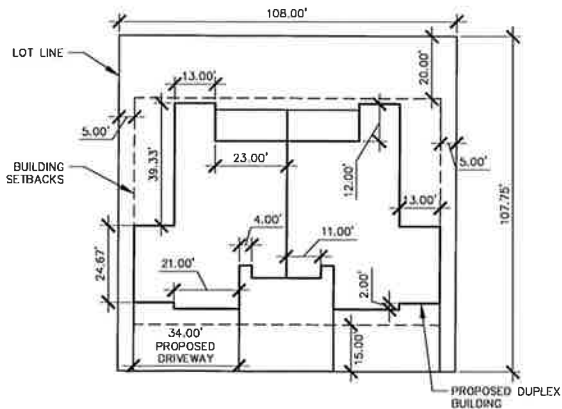
BILLINGS, MONTANA



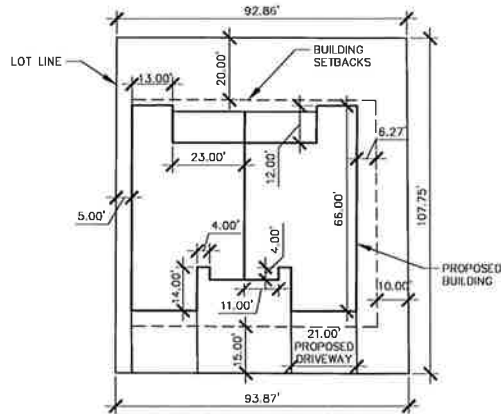
SCALE: 1" = 100'



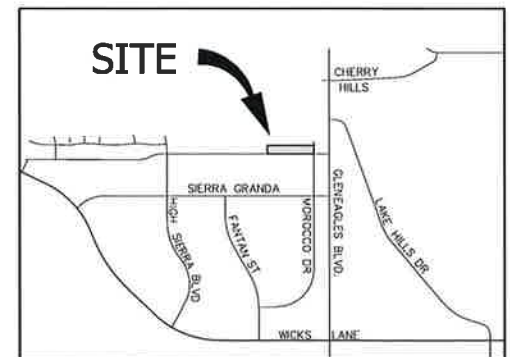
CERT. OF SURVEY NO. 2017  
3RD AM.  
TRACT 7



TYPICAL 3-CAR UNIT  
LOTS 18-25



TYPICAL 2-CAR UNIT  
LOT 17



VICINITY MAP  
NOT TO SCALE



# ZONING VARIANCE REQUEST



The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the Zoning Regulations.

Check one:  City of Billings Variance  Yellowstone County Variance

Address North of Mission Oaks Dr., between Morocco Dr. and Matador Ave.

Legal Description Lots 17-25, Block 31, of proposed High Sierra Subdivision 16th Filing

STATEMENT: Answer the following questions on a separate document and upload to the online project attachments.

1. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?
2. Why is there a need for the intended use of the property at this location?
3. Statement to Chairperson of the Board Adjustment. What is intended to be done with the property, including new construction or change in the use of the property and why the variance is being sought.

### Required Project Uploads

- [Site Plan](#) --Signed Application and Statement (Variance Questions)
- [Radius Map & Certified List of Property Owners](#) --[Typed Mailing Labels Certified Surrounding Property Owners](#)

Online Access: <https://services.billingsmt.gov/citizenaccess/>

*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 Request for a Variance. Also, I attest that all the information presented herein is factual and correct.*

Recorded Owner(s) Gary Oakland/High Sierra II, Inc.

Owner's Address 175 N. 27th Street, Suite 900, Billings, MT 59101

Owner's Phone Number 406-248-3641 (E-mail) goakland@oaklandcompanies.com

Applicant/Agent Sanderson Stewart c/o Gary Owen

Applicant/Agent's Address 1300 N. Transtech Way, Billings Mt 59102

Applicant/Agent's Phone Number 406-869-3342 (E-mail) gowen@sandersonstewart.com

Signature of Recorded Owner(s)  Date 6/01/2020

**AUTHORITIES: Procedures and review Criteria for Variance requests Billings Montana City Code (BMCC) 27-1506 et seq. (SEC. 27-1506. CITY VARIANCES, CITY BOARD OF ADJUSTMENT** a) Authority. The City Board of Adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to City Variance 2020-2021 updated Nov 8, 2019 the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

**AUTHORITIES: Procedures and Review Criteria for County Variance requests: Unified Zoning Regulations Section 27-1511 et seq. SEC. 27-1511. COUNTY VARIANCES, YELLOWSTONE COUNTY BOARD OF ADJUSTMENT** a) Authority. The County Board of Adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

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

June 1, 2020

Mr. Mark Noennig  
Chairperson of the Board of Adjustments  
2825 3rd Avenue North  
Billings, MT 59101

Reference: Zoning Variance for a Portion of High Sierra Subdivision, 16th  
Sanderson Stewart Project No. 82061.134

Dear Mr. Noennig:

**Statement of Proposal**

The owner, Mr. Gary Oakland/High Sierra II, Inc., is currently seeking a zone change and zoning variance for Lots 17 – 25, Block 31 of proposed High Sierra Subdivision, 16th Filing, which is located between Morocco Drive and Matador Avenue and north of Mission Oaks Drive in Billings Heights. The overall area requesting the zone change and variance is approximately 2.4 acres. The site is currently annexed in the City of Billings and has been used for agricultural purposes.

The property is currently zoned Residential 7000-Restricted. The applicant is requesting a zone change from Residential 7000-Restricted to Residential 5000. The applicant intends to construct new one level duplex homes on the property. However, the Residential 5000 zoning only allows up to 40% lot coverage. The owner is requesting a variance to allow up to 50% lot coverage which would provide a housing option with three bedrooms, three car garage, covered porches and patios all on one level. If allowed, the single level duplexes with up to 50% lot coverage would provide the community, senior citizens in particular, a much needed accessible and safe housing option for those looking to remain on one level.

The following are the answers to the questions required for the zoning variance:

**What reasons prevents you from using this property in conformance with the Zoning Regulation requirements?**

The zoning requirement states the maximum allowed lot coverage for Residential 5000 zoning is 40%. The developer wishes to construct single level duplexes on the lots. The square footage required for 3 bedrooms, 3-car garage units with covered porches and patios exceeds the allowable lot coverage.

**Why is there a need for the intended use of the property at this location?**

The intent of this development is to build one level duplex units that will provide the community with an accessible, safe and economical housing option. The units will be inclusive of all buyers but

Mr. Mark Noennig  
June 1, 2020  
Page 2

would allow senior citizens a housing option to remain all on one level. The one level duplex units have been successfully constructed in a subdivision adjacent to High Sierra Subdivision and have proved to be a sought-after housing option for the City of Billings.

If you have any questions, or need anything else from the applicant or me, please let me know at 406/656-5255.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary T. Owen", with a long horizontal flourish extending to the right.

Gary T. Owen, PE  
Senior Engineer

# EXHIBIT A

## LOT LAYOUT

WITHIN

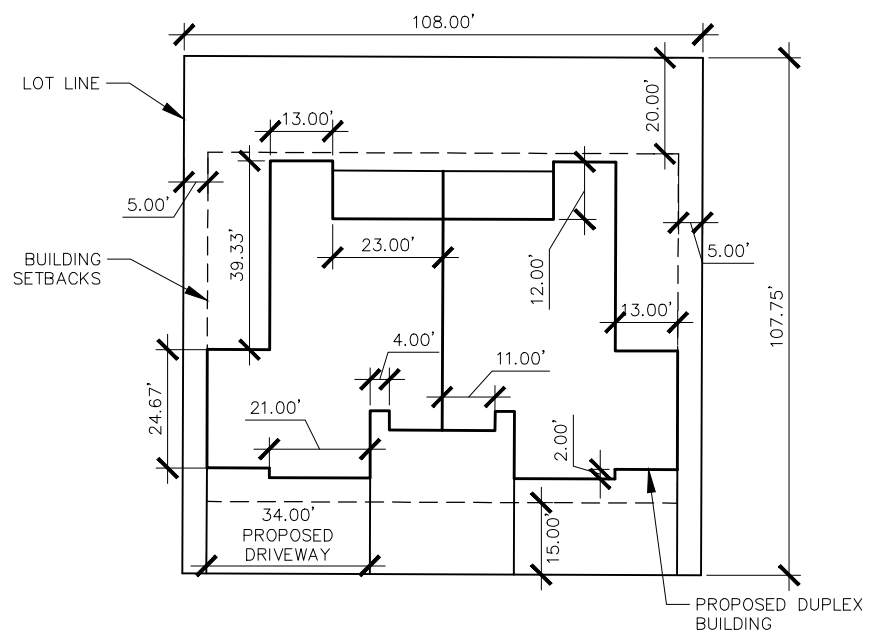
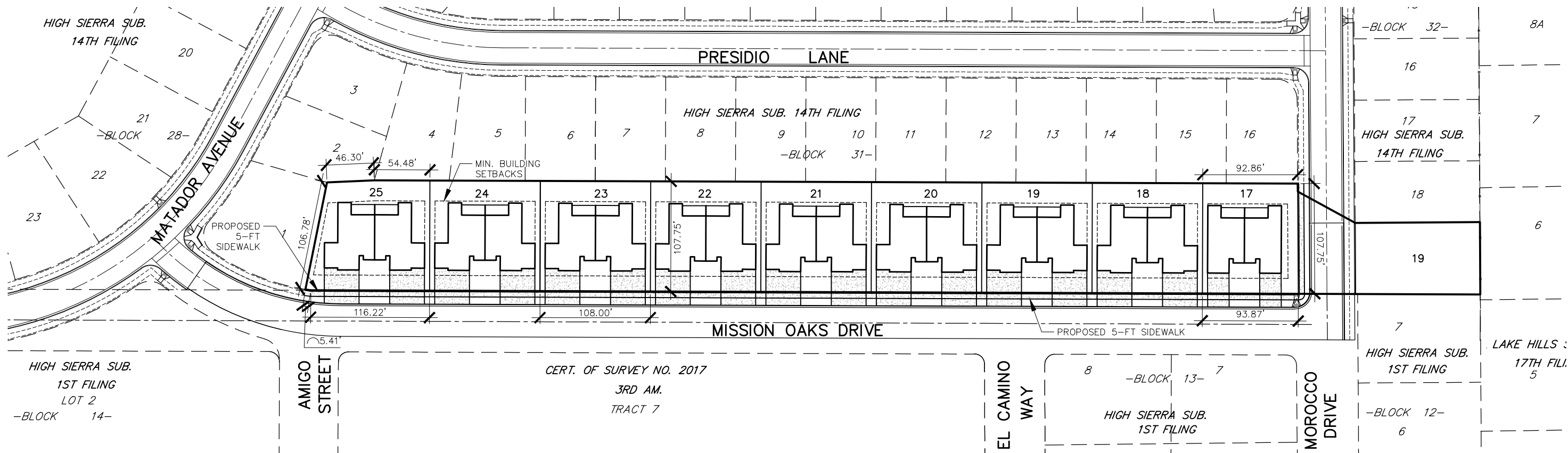
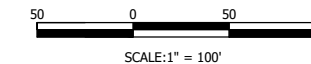
PROPOSED HIGH SIERRA SUBDIVISION, 16TH FILING

PREPARED FOR : HIGH SIERRA II INC.

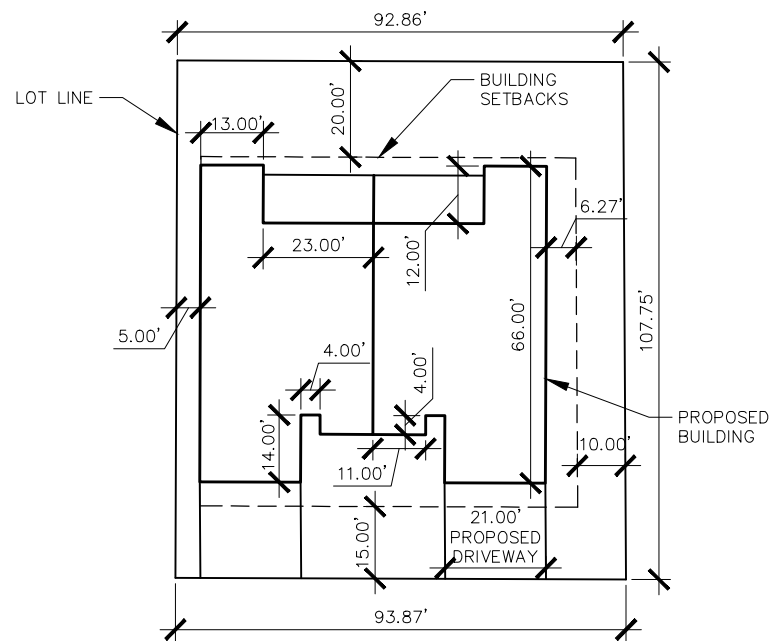
PREPARED BY : **SANDERSON STEWART**

JUNE, 2020

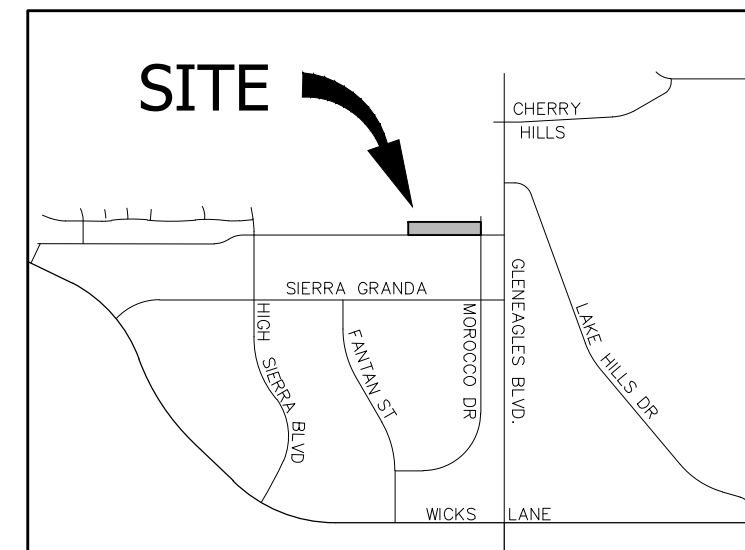
BILLINGS, MONTANA



**TYPICAL 3-CAR UNIT**  
LOTS 18-25



**TYPICAL 2-CAR UNIT**  
LOT 17



**VICINITY MAP**  
NOT TO SCALE

**STATE OF MONTANA  
COUNTY OF YELLOWSTONE**

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT I HAVE CHECKED THE RECORDS IN MY OFFICE FROM **02/07/20 TO 05/15/20** AND THE LISTED PEOPLE ARE THE OWNERS OF RECORD FOR THE ENCLOSED LISTED PROPERTY.

SIGNED AND SEALED THIS **15th Day of May**, 2020.

<b>20 NAMES</b>	<b>\$10.00</b>
<b>CERT</b>	<b><u>2.00</u></b>
<b>TOTAL</b>	<b>\$12.00</b>

JEFF MARTIN  
CLERK & RECORDER

BY

*Beverly Wiley*

Beverly Wiley / Recording Clerk

Date: 05/13/2020  
Time: 12:28:51  
Oper: mshafer

Yellowstone County  
TA Reports - Parcel Master List

Page: 1

RANGES: TAX YEAR: (R) 2020 - 2020  
PARCEL# : (L) A22221, A22222, A22223,  
A22225, A22226, A22226A, A22227,  
A27035, A27036, A27037, A27038,  
A27043, A27044, A27045, A27046,  
A27047, A27048, A27054, A36965, D05245C  
TAX TYPE: (A)  
LEVY DISTRICT: (A)  
SUB-LEVY DIST: (A)  
MISC CODE : (A)  
LIST CODE: (A)

Certified Thru  
5-7-2020  
Dept of Revenue  
*Uma Shey*

OPTIONS: SORT ORDER: N INCL RANGES/OPTIONS?: Y

Tax Code	Owner/Mailing Address	Legal Description	Levy Dist	Sub Dist	Tax Type
D05245C	BILLINGS SCHOOL DISTRICT # 2 ✓ 415 N 30TH ST BILLINGS MT 59101-1252	03-1033-17-1-05-01-0000 S17, T01 N, R26 E, C.O.S. 2017, PARCEL 7, 3RD AMD (84)	2		RE
A27054	BILLINGS SCHOOL DISTRICT #2 ✓ 415 N 30TH ST BILLINGS MT 59101-1252	03-1033-17-1-03-21-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 14, Lot 2	2		RE
A22221	HILL, RON S LIVING TRUST ✓ PO BOX 50636 BILLINGS MT 59105-0636	03-1033-16-2-01-04-0000 L17 LAKE HILLS SUBD 17TH FILING LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 4	2		RE
A22222	HILL, RON S LIVING TRUST ✓ PO BOX 50636 BILLINGS MT 59105-0636	03-1033-16-2-01-05-0000 L17 LAKE HILLS SUBD 17TH FILING LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 5	2		RE

Date: 05/13/2020  
Time: 12:31:29  
Oper: mshafer

Yellowstone County  
TA Reports - Parcel Master List

Page: 2

Tax Code	Owner/Mailing Address	Legal Description	Levy Dist	Sub Dist	Tax Type
A27036	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-09-11-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 5	2		RE

Date: 05/13/2020  
Time: 12:32:24  
Oper: mshafer

Yellowstone County  
TA Reports - Parcel Master List

Page: 3

Tax Code	Owner/Mailing Address	Legal Description	Levy Dist	Sub Tax Dist Type
A27038	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-09-15-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 7	2	RE
A27037	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-09-13-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 6	2	RE
A27043	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-07-09-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 5	2	RE
A27048	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-07-19-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 10	2	RE
A27035	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-09-09-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 4	2	RE
A27044	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-07-11-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 6	2	RE
A27046	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-07-15-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 8	2	RE
A27045	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-07-13-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 7	2	RE
A27047	LYNDES, JAY C ✓ PO BOX 31733 BILLINGS MT 59107-1733	03-1033-17-1-07-17-0000 HS1 HIGH SIERRA SUBD 1ST FILING HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 9	2	RE
A36965	OAKLAND, GARY ✓ 175 N 27TH ST STE 940 BILLINGS MT 59101-2048	03-1033-17-1-06-31-0000 S17, T01 N, R26 E, C.O.S. 3573, PARCEL A1-1, AMD (20)	2	RE
A22227	RON S HILL LIVING TRUST ✓ HILL, RON S TRUSTEE PO BOX 50636 BILLINGS MT 59105-0636	03-1033-16-2-01-09-0000 L36 SubDivision L36 LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 9A	2	RE

Date: 05/13/2020  
Time: 12:33:42  
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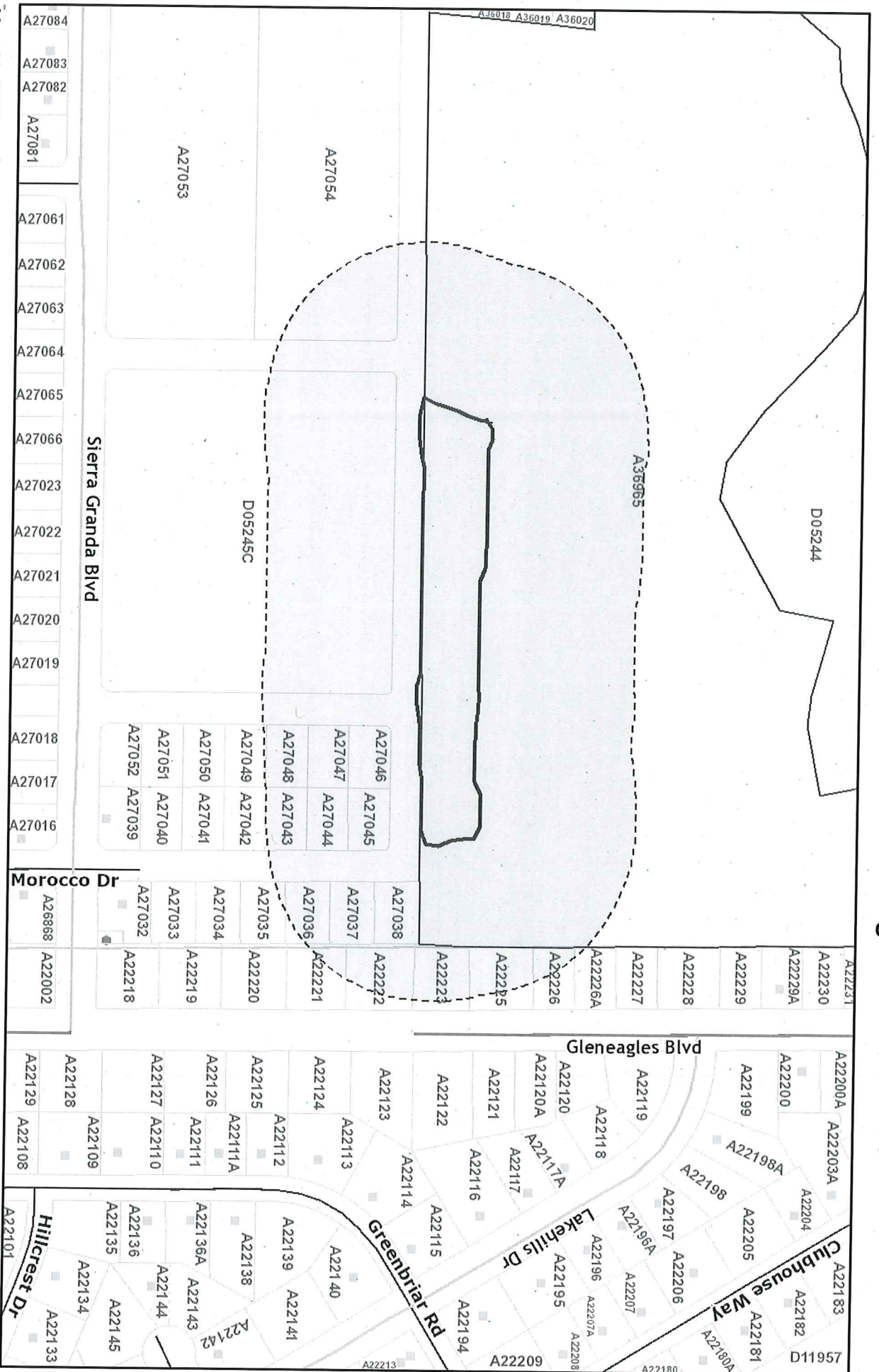
Yellowstone County  
TA Reports - Parcel Master List

Page: 4

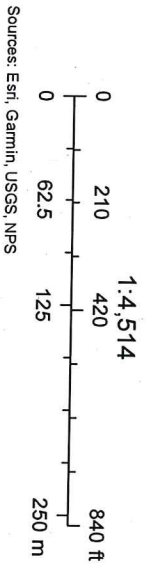
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A22226	RON S HILL LIVING TRUST ✓ HILL, RON S TRUSTEE PO BOX 50636 BILLINGS MT 59105-0636	03-1033-16-2-01-08-0000 L36 SubDivision L36 LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 8A	2		RE
A22223	RON S HILL LIVING TRUST ✓ HILL, RON S TRUSTEE PO BOX 50636 BILLINGS MT 59105-0636	03-1033-16-2-01-06-0000 L17 LAKE HILLS SUBD 17TH FILING LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 6, & LT 6A BLK 17 LAKE HILLS SUBD 16TH FILING	2		RE
A22225	RON S HILL LIVING TRUST ✓ HILL, RON S TRUSTEE PO BOX 50636 BILLINGS MT 59105-0636	03-1033-16-2-01-07-0000 L16 LAKE HILLS SUBD 16TH FILING LAKE HILLS SUBD 16TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 7	2		RE

TAX_ID	OwnerName	AddNum	Street	StrtSuffix	ShortLegalDescription
A22221	HILL, RON S LIVING TRUST		GLENEAGLES	BLVD	LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 4
A22222	HILL, RON S LIVING TRUST		GLENEAGLES	BLVD	LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 5
A22223	RON S HILL LIVING TRUST	2102	GLENEAGLES	BLVD	LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 6, & LT 6A BLK 17 LAKE HILLS SUBD 16TH FILING
A22225	RON S HILL LIVING TRUST	2112	GLENEAGLES	BLVD	LAKE HILLS SUBD 16TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 7
A22226	RON S HILL LIVING TRUST	2122	GLENEAGLES	BLVD	LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 8A
A22227	RON S HILL LIVING TRUST	2142	GLENEAGLES	BLVD	LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 9A
A22226A	RON S HILL LIVING TRUST	2132	GLENEAGLES	BLVD	LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 8B
A27054	BILLINGS SCHOOL DISTRICT #2		SIERRA GRANDA	BLVD	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 14, Lot 2
D05245C	BILLINGS SCHOOL DISTRICT #2		SIERRA GRANDA	BLVD	S17, T01 N, R26 E, C.O.S. 2017, PARCEL 7, 3RD AMD (84)
A36965	OAKLAND, GARY				C.O.S 3573 Parcel A1-1
A27043	LYNDES, JAY C	2064	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 5
A27044	LYNDES, JAY C	2076	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 6
A27045	LYNDES, JAY C	842	MATADOR	AVE	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 7
A27046	LYNDES, JAY C	2099	EL CAMINO	WAY	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 8
A27047	LYNDES, JAY C	2085	EL CAMINO	WAY	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 9
A27048	LYNDES, JAY C	2071	EL CAMINO	WAY	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 10
A27036	LYNDES, JAY C	2069	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 5
A27037	LYNDES, JAY C	2083	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 6
A27038	LYNDES, JAY C	2097	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 7
A27035	LYNDES, JAY C	2051	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 4

# High Sierra 16th Filing Lots 17-29 Zone Change from R-70-R



May 11, 2020



Sources: Esri, Garmin, USGS, NPS

**Billings School District #2  
415 N 30th St  
Billings, MT 59101-1252**

**Ron S. Hill Living Trust  
P.O. Box 50636  
Billings, MT 59105-0636**

**Jay C. Lyndes  
P.O. Box 31733  
Billings, MT 59107-1733**

**Gary Oakland  
175 N 27th St. Ste 940  
Billings, MT 59101-2048**

**Jennifer Owen – Heights TF  
906 Royal Ave.  
Billings, MT 59105**

TAX_ID	OwnerName	AddrNum	Street	StrtSuffix	ShortLegalDescription
A22221	HILL, RON S LIVING TRUST		GLENEAGLES	BLVD	LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 4
A22222	HILL, RON S LIVING TRUST		GLENEAGLES	BLVD	LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 5
A22223	RON S HILL LIVING TRUST	2102	GLENEAGLES	BLVD	LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 6, & LT 6A BLK 17 LAKE HILLS SUBD 16TH FILING
A22225	RON S HILL LIVING TRUST	2112	GLENEAGLES	BLVD	LAKE HILLS SUBD 16TH FILING, S16, T01 N, R26 E, BLOCK 17, Lot 7
A22226	RON S HILL LIVING TRUST	2122	GLENEAGLES	BLVD	LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 8A
A22227	RON S HILL LIVING TRUST	2142	GLENEAGLES	BLVD	LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 9A
A22226A	RON S HILL LIVING TRUST	2132	GLENEAGLES	BLVD	LAKE HILLS SUB 36TH FILING (19), S16, T01 N, R26 E, BLOCK 17, Lot 8B
A27054	BILLINGS SCHOOL DISTRICT #2				HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 14, Lot 2
D05245C	BILLINGS SCHOOL DISTRICT # 2		SIERRA GRANDA	BLVD	S17, T01 N, R26 E, C.O.S. 2017, PARCEL 7, 3RD AMD (84)
A36965	OAKLAND, GARY				C.O.S 3573 Parcel A1-1
A27043	LYNDES, JAY C	2064	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 5
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A27047	LYNDES, JAY C	2085	EL CAMINO	WAY	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 9
A27048	LYNDES, JAY C	2071	EL CAMINO	WAY	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 13, Lot 10
A27036	LYNDES, JAY C	2069	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 5
A27037	LYNDES, JAY C	2083	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 6
A27038	LYNDES, JAY C	2097	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 7
A27035	LYNDES, JAY C	2051	MOROCCO	DR	HIGH SIERRA SUBD 1ST FILING, S17, T01 N, R26 E, BLOCK 12, Lot 4



**City Board of Adjustment**

**Meeting Date:** 07/01/2020

**SUBJECT:** City Variance 1315 - 1053 Lincoln Lane

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Variance 1315 – 1053 Lincoln Lane – Lot area** - A variance from 27-308 requiring a minimum lot size of 19,200 square feet to allow a minimum lot size of 18,290 square feet in a Residential-7000 (R-70), on Parcel F of Certificate of Survey 537 a 18,290 square foot parcel of land. The purpose of the variance is to allow two new duplex structures on the property. Presented by; Karen Husman, Planner I

**RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report.

**APPLICATION DATA**

OWNERS: Propriedad, LLC

AGENT: Scott Aspenlieder, PE

PURPOSE: Lot size to allow 2 duplexes on a 18,290-sf lot

LEGAL DESCRIPTION: COS 537, Parcel F

ADDRESS: 1053 Lincoln Lane

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

EXISTING ZONING: R-70

**CONCURRENT APPLICATIONS**

Annexation 20-02 Petition Pending.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
2401 Sunnyview Lane	1253	3/1/2017	Lot size	Y	For 2 SFD in R96
109 S 35th St	1300	9/4/2019	Lot size	Y	
1048 N 23rd St.	1225	4/6/2016	Lot area for a new 4plex	N	
301 S 32nd St.	1114	3/7/2012	Lot area for existing duplex	Y	
711 N 15th St	1304	12/4/2019	Lot size for 3 units	Y	1 SFD & 1 duplex
1840 Poly Drive	782	10/6/1998	Lot size to split lot in two	Y	Split lot to add one unit
401/405 Terry	794	4/6/1999	Lot area for 3-units	Y	Rebuild letter
3042 Boulder Ave	798	5/4/1999	Lot area for 4-units	Y	New 4-unit building
Hampton Place Townhomes	818	7/5/2000	Lot area for new townhomes	Y	New 19-home development
<b>1338 and 1340 Cheryl Dr</b>	895	5/6/2003	two new duplexes	N	

<b>1503 Bitterroot Dr</b>	898	6/12/2003	to create two lots	N	two new single family lots <7K
2529 Arnold Ln	906	8/5/2003	new duplex	N - withdrawn	new duplex
811 5th St W	909	9/2/2003	split lot	Y	lot split to build 2nd dwelling
2529 Arnold Ln	913	9/2/2003	new duplex	Y	new duplex
411 S 31st St	916	12/2/2003	two existing duplexes	Y	rebuild letter
<b>1204 Hawthorne Lane</b>	1076	9/1/2010	duplex and sfr	Y	rebuild letter

## SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70

Land Use: Residential

SOUTH: Zoning: CC

Land Use: Residential

EAST: Zoning: R-70

Land Use: Residential

WEST: Zoning: HC

Land Use: Commercial

## BACKGROUND

This is a variance request from 27-308 requiring a minimum lot size of 19,200 square feet to allow a minimum lot size of 18,290 square feet in a R-70 zone. The purpose of the variance is to allow two duplex structures on the property. There have been similar variances granted in the surrounding neighborhoods, granting the variance would not be out of character for the neighborhood.

The proposed development plan is to construct a second duplex on the existing property. The project fits within the neighborhood, with multifamily located to the east, Community Commercial zoned property to the south and Highway Commercial zoned property to the west. This area of Lincoln Lane is a prime location for duplex and multifamily construction, with easy access to Main Street. Residential 7,000 zoning will allow this type of development, but the property does not meet the minimum lot area by 910 square feet to allow for the construction of the second duplex. Additionally, the development of the property would remove an older mobile home unit and clean up the property. This is considered an infill type of development that is supported by the Growth Policy.

## SUMMARY

### DETERMINATIONS

#### for Variance 1315;

The Board of Adjustment shall make the following determinations prior to granting a variance:

**1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are not any special circumstances that exist in this situation other than the lot is smaller than allowed under the zoning regulations. The lot is 910 square feet smaller than allowed for a second duplex and restricts development of the property.

**2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

The subject property is in an area where there have been several lot size variances. There have been similar variances granted in the surrounding neighborhoods. Denying the variance would deprive the applicant of rights commonly enjoyed by other tracts in the same district.

**3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

The variance will not allow the applicant any special privileges. Similar variances have been granted in the area.

**4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

The variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy. Approval of this variance would allow the applicant to bring the property into conformance with the current zoning code to accommodate two duplexes.

**5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending the following conditions for the variance request:

1. The variance is to allow a minimum lot area of 18,290 square feet to construct a second duplex. No other variance is intended or implied with this approval.
2. The variance is limited to Parcel F of Certificate of Survey 537, generally located at 1053 Lincoln Lane.
3. The applicant shall meet all other code requirements, including, but not limited to, Building Code, Engineering code, all state and federal regulations, with the exception of this variance.
4. The property will be developed in substantial conformance to the site plan submitted with this variance.
5. There will be no construction activity, or operation of equipment prior to 7 a.m. or after 8 p.m. daily.
6. The developer/owner/applicant must apply for and receive approval of a building permit within 1 year of approval, and complete construction within 2 years of BOA action. Failure to meet the time limits of this condition will void the variance.
7. The pending annexation petition must be completed prior to any construction activity on the property.
8. These conditions of variance 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.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

Approval of a building permit must be obtained within 6 months of approval, and construction completed within 18 months of BOA action

**7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**

The granting of this variance would not allow a use that is not allowed in the zoning district – duplex dwellings are allowed in the R-70 zone.

**RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance based on the determinations for review provided within this report.

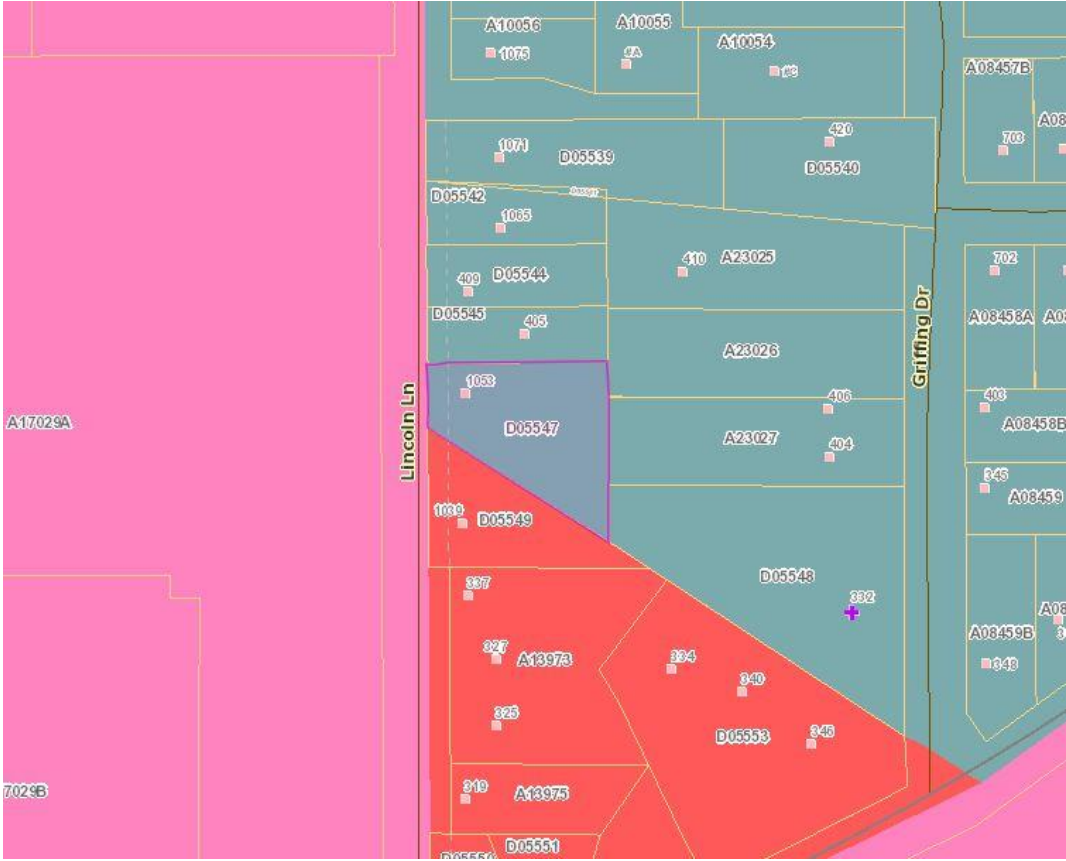
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**Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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Zoning Map and Site Photos





South



North



West



East

# APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # D05547 CITY ELECTION WARD # 1

Legal Description of Property: S 27, T 01 N, R 26 E, COS 537, Parcel F

Address or General Location (If unknown, contact City Engineering): 1053 Lincoln Lane

Zoning Classification: Residential 7000

Size of Parcel (Area & Dimensions): 18,290 sq. ft. (174' x 174' x 207' x 63')

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application

Variance(s) Requested: Allow for two (2) duplexes on property.

Facts of Hardship: See attached explanation.

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

Owner(s): Propriedad, LLC

(Recorded Owner) P.O. Box 20853, Billings, MT 59104

(Address) (406) 208-7691 rmorehead@bigskyed.com

(Phone Number) (email)

Agent(s): Scott Aspenlieder, PE

(Name) 608 N. 29th St., Billings, MT 59101

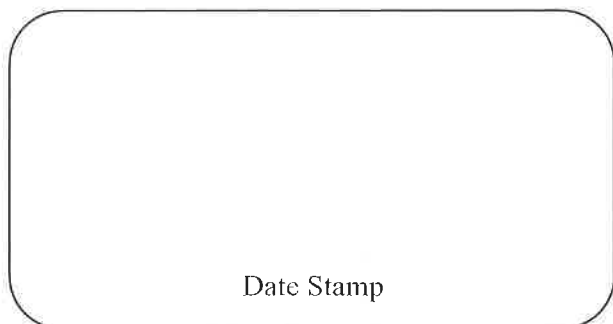
(Address) (406) 384-0080 scott@performance-ec.com

(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 Variance. Also, I attest that all the information presented herein is factual and correct.

Signature:  Date: 6/1/2020

(Recorded Owner)



**A. What reasons prevent you from using the property in conformance with the Zoning Regulation requirements?**

The tract of interest is zoned Residential 7,000 which requires a minimum of 19,200 sqft to allow two duplexes. The lot is 18,290 sqft with an existing duplex and outbuilding, which is just short of the minimum requirement under current zoning regulations. We are requesting a variance from the 19,200 sqft requirement to allow for a second duplex to be built on the existing lot. The property can be built out to meet the remaining criteria, along with ingress/egress and setbacks except for the minimum square footage requirement.

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

The proposed development plan is to construct a second duplex on the existing property. The project fits within the neighborhood, with multifamily located to the east and community commercial zoned property to the south and highway commercial zoned property to the west. This area of Lincoln Lane is a prime location for duplex and multifamily construction, with easy access to Main Street and the greater Billings area. Residential 7,000 zoning will allow this type of development, but the property does not meet the 19,200 sqft requirement to allow a second duplex to be constructed. Housing in the Heights market is at a premium with supply short of demand. The project allows the owner to meet that demand while increasing property values, resulting in increased tax revenue for the City of Billings.

June 1, 2020

Board of Adjustments  
2825 3<sup>rd</sup> Ave. North  
Billings, MT 59102

Dear Chairperson,

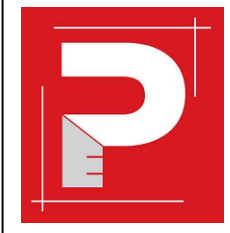
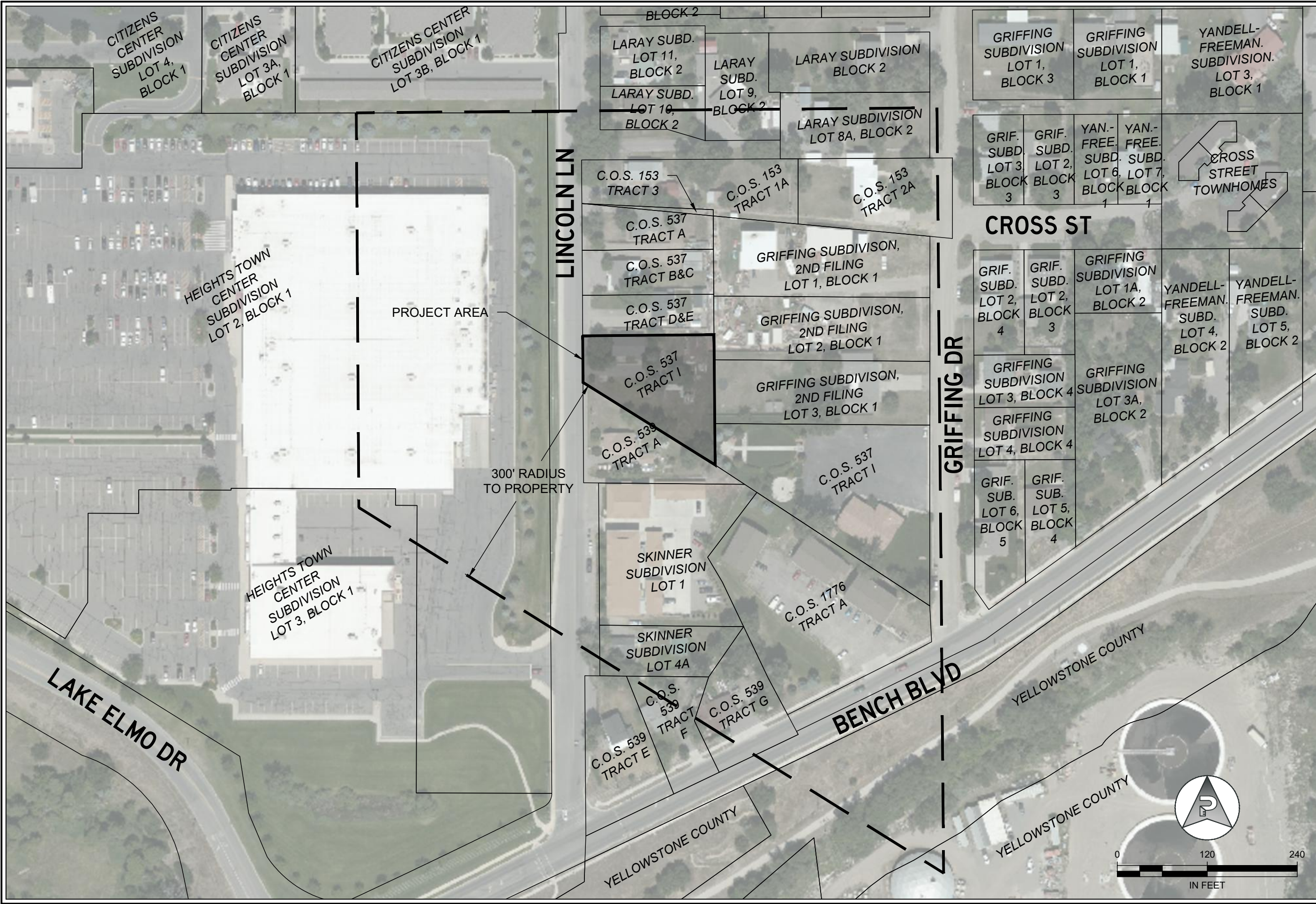
On behalf of Propriedad, LLC, Performance Engineering, LLC, is writing to request a formal variance from the City of Billings Zoning Code. The property in question is located at 1053 Lincoln Lane, Billings, MT 59105, currently zoned Residential 7000 (R7000) with one duplex located on the property. The Owner intends to remodel the existing structure and construct a second duplex structure on the east end of the lot as illustrated in the schematic. Current R7000 regulations require a lot to have a minimum of 19,200 square-feet to allow two duplexes. The current lot is 18,290 square-feet, just under the minimum requirement in the existing regulations. The variance would allow for construction of the second duplex on the property, while meeting the remainder of the R7000 regulations.

If you have any questions or concerns regarding the application please do not hesitate to contact Scott Aspenlieder by email at [scott@performance-ec.com](mailto:scott@performance-ec.com) or by phone at 406-384-0080. We look forward to discussing the proposed variance with you.

Sincerely,



Scott Aspenlieder, PE  
Principal



**PROPIEDAD, LLC**  
 1053 LINCOLN LANE  
 BILLINGS, MT

DSGN BY	DESIGNED BY	QUALITY ASSURANCE
DRWN BY	DRAWN BY	CHK BY
DATE	DATE	CHK DATE
REV BY	DATE	CHK BY

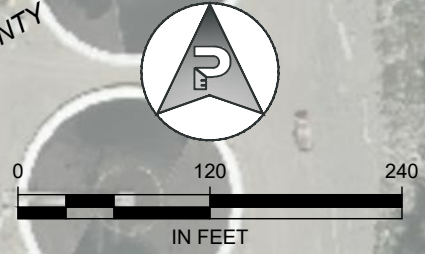
**SHEET TITLE**  
**LINCOLN LANE VARIANCE**  
**SITE MAP**

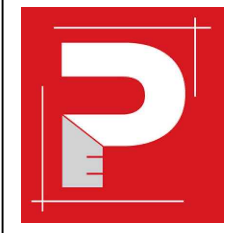
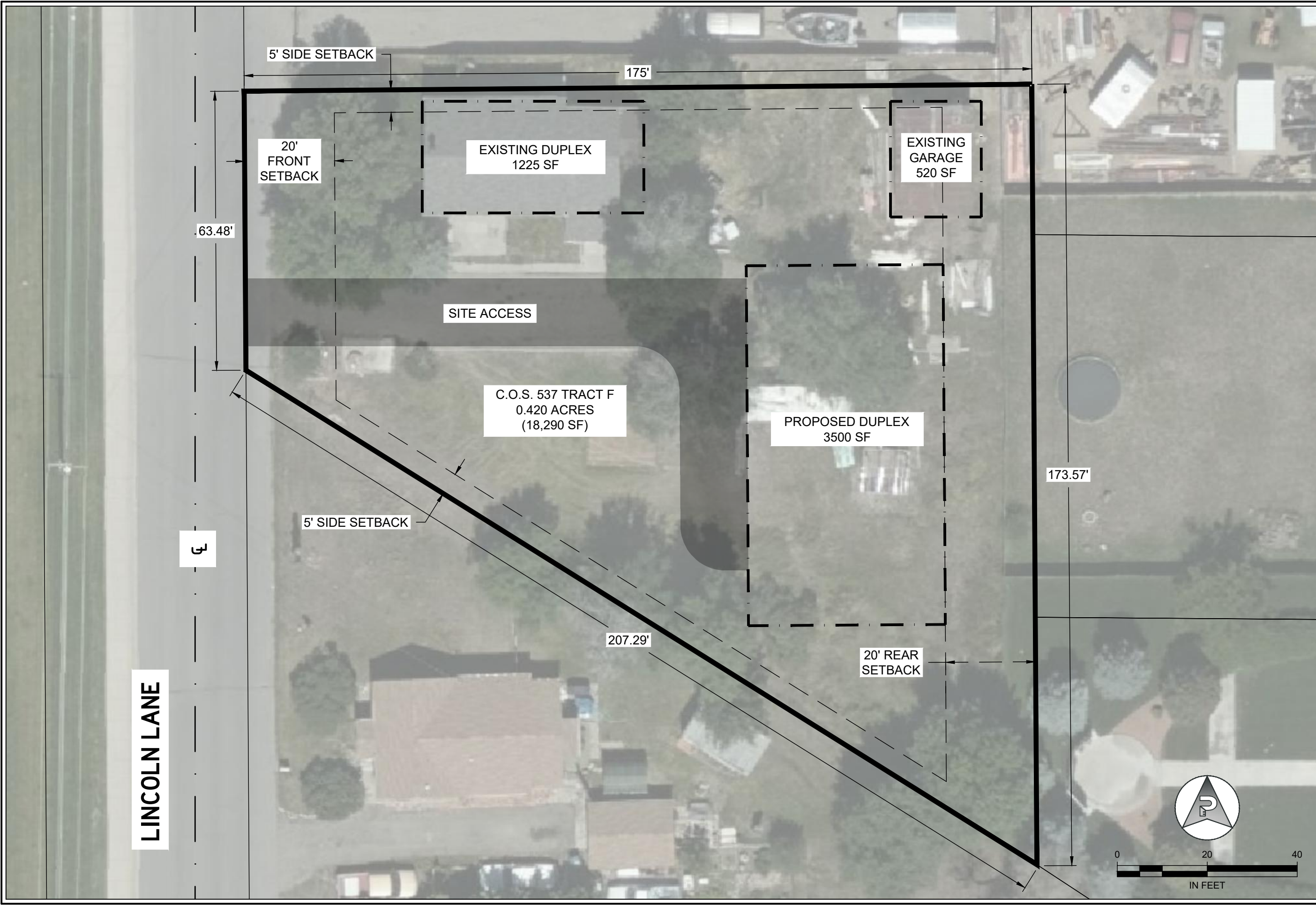
PROJECT NUMBER  
2020-046

SHEET NUMBER  
1 OF 2

DRAWING NUMBER  
**EX 1**

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PROPIEDAD, LLC

BILLINGS, MT

1053 LINCOLN LANE

DSGN BY	DESIGNED BY	QUALITY ASSURANCE
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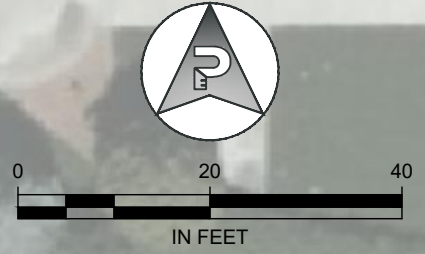
SHEET TITLE  
**LINCOLN LANE VARIANCE  
 DIMENSIONED LOT MAP**

PROJECT NUMBER  
20-046

SHEET NUMBER  
2 OF 2

DRAWING NUMBER  
**EX 2**

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**City Board of Adjustment**

**Meeting Date:** 07/01/2020

**SUBJECT:** City Variance 1316 - 2226 Virginia Lane

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Variance 1316 - 2226 Virginia Lane** - A variance from 27-602 requiring a minimum 70-foot setback from the centerline of a minor arterial street to allow a 40 foot from center line setback; 27-308 requiring a minimum lot size of 9,600 square feet to allow a minimum lot size of 8,968 square feet, and 27-308 requiring a maximum lot coverage of 30% to allow a maximum lot coverage of 41%, in a Residential -9600 (R-96) zone, on Lots 1A-3A of O'Malley Farms Subdivision, a .839 acre parcel of land. The purpose of the variance is to allow redevelopment of the property into four single family parcels. Presented by: Karen Husman, Planner I

**RECOMMENDATION**

Planning staff has reviewed this variance and is forwarding a recommendation of denial of the request to allow reduction in minimum lot size, increase lot coverage and reduce the arterial setback, based on the determinations detailed in the summary section of this memo.

**APPLICATION DATA**

OWNERS: Big Sky Endeavors, LLC

AGENT: Craig Dalton, Performance Engineering

PURPOSE: Lot size of 8,968 sf, 41% lot coverage and 40 feet from the centerline of an arterial street

LEGAL DESCRIPTION: Lots 1A-3A of O'Malley Farms Subdivision

ADDRESS: 2226 Virginia Lane

EXISTING LAND USE: Residential

PROPOSED LAND USE: Same

EXISTING ZONING: R-96

**CONCURRENT APPLICATIONS**

Subdivision application pending.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
<b>SIMILAR PROPERTY</b>					
1065 O'Malley Dr.	30 & 37	2/25/75 & 4/29/75	Lot 7,200sf & 0 side sb	Y	Duplex
Reimers Park Sub	40	9/9/77	Art. SB 30'to 15'	Y	
Grandview sub. Bk16, Lts6-8	200	1/30/97	Art SB to 35'		Existing structure
Grandview Sub, Blk3,	291	8/25/81	Art SB 38'6"	Y	Existing structures
2222 Virginia Lane	1118	4/12/12	Lot size	Y	For 2 sfr on 15,500 - one new
2222 Virginia Lane	1206	1/7/15	7' rear sb & 34% LC	Y	Approved for 14' rear sb and 32.5% LC to accommodate existing structures
501 Chancery Ln & 2220 Virginia Lane	1276	3/7/18	Art Sb 43' and garage sb 13'	N	New structures

2202 Locust St	1075	9/1/10	Lot cov 32% & side sb	Y	Garage addition at existing setback
903 Princeton	1065	11/4/09	Lot 7,000 sf for 2 sfd	Y	For 2 existing structures

## SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96

Land Use: Residential

SOUTH: Zoning: R-96

Land Use: Residential

EAST: Zoning: R-96

Land Use: Residential

WEST: Zoning: R-96

Land Use: Residential

## BACKGROUND

The applicant is requesting a variance from a 70-foot setback from the centerline of a minor arterial street to allow a 40 foot from center line, to allow a minimum lot size of 8,968 square feet, and to allow a maximum lot coverage of 41%, in a Residential -9600 (R-96) zone. The purpose of the variance is to allow redevelopment of the property into four single family parcels.

Although infill development is supported by the Growth Policy, this property is developable as it is and increasing the density in this case would not fit in with the existing neighborhood. There is a development, Shadow Lawn to the north, where large homes are currently being built. The large homes in the area are also on larger lots as compared to this property or have similar sized lots with smaller homes. Some of the larger homes are on very large lots, some nearly one half acre. There are also some smaller homes in the neighborhood on lots that were created and developed in the mid 1900's (prior to zoning). As with many older neighborhoods there is a good mix of home sizes, as well as, lot sizes. Staff finds that the proposed variance request does not meet the criteria for a variance. There is no hardship other than one created by the owner and developer. The property can be developed in conformity to the current zoning regulations, there are three sufficient sized lots that can be developed as single family homes suited to the neighborhood.

Staff did receive emails from two neighboring property owners with concerns about the variance and expressed an opinion of opposition. Their email letters of opposition to the variance are included as an attachment.

## SUMMARY

### DETERMINATIONS FOR VARIANCE #1316

The Board of Adjustment shall make the following determinations prior to granting a variance:

**1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no special conditions or circumstances that exist which are peculiar to the land, the lot or something inherent in the land which causes a hardship. The hardship is stated by the applicant as the desire to design the existing 3 lots into four nonconforming lot sizes and build 4 single family homes.

**2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

The subject property is in a subdivision where most homes were built in the early to mid 1900's. Denying the variance would only deprive the applicant the ability to build 4 homes on smaller lots rather than 3 homes that meet zoning restrictions, the arterial setback required, lot size and lot coverage maximum set by the zoning code.

**3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

The variance would allow the applicant to overbuild the lots according to the zoning regulations of the City of

Billings a special privilege not generally enjoyed in this neighborhood. There are large homes in the neighborhood that are on larger lots that do not exceed lot coverage. There are smaller lots in surrounding subdivisions that were created prior to zoning regulations, creating smaller lots to build more new houses in this historic area would be out of character for the neighborhood. The variance would allow the applicant to build into the arterial setback according to the zoning regulations of the City of Billings a special privilege not generally enjoyed in this neighborhood. There have been variances granted in the surrounding neighborhoods for setbacks, lot coverage and lot size, all that were approved were for existing structures, the one denied was for new structures.

**4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

Staff is recommending denial of the variance, granting the variance does conflict with the general purpose and intent of the zoning regulations and the growth policy.

**5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

Staff is recommending denial for this variance no conditions have been prepared.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

Staff is recommending denial of the variance so a time limit to complete the construction is not applicable.

**7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.** The granting of this variance would not allow a use that is not allowed in the zoning district – single-family dwellings are allowed in the R-96 zone.

**RECOMMENDATION**

Planning staff has reviewed this variance and is forwarding a recommendation of denial of the request to allow reduction in minimum lot size, increase lot coverage and reduce the arterial setback, based on the determinations detailed in the summary section of this memo.

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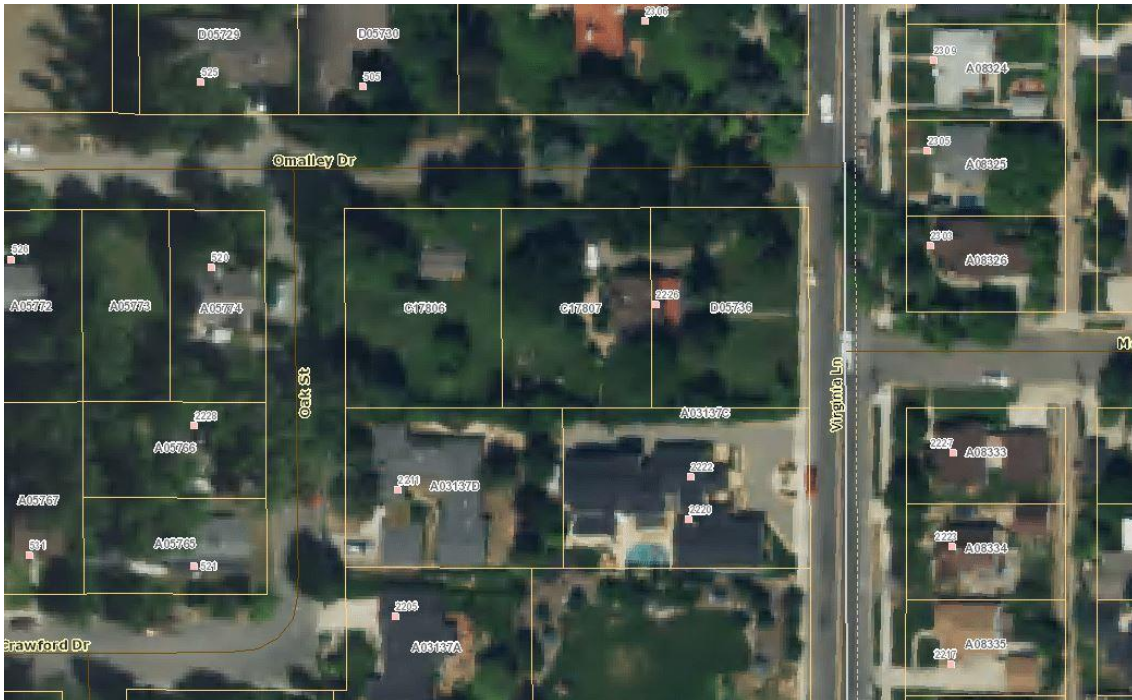
**Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan  
Opposition letter 1  
Opposition letter 2

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# Zoning Map & Site Photos





Subject Property



South



North



West



East

Application & Applicant Letter

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings Zoning Regulations.

TAX ID # C17806, C17807, D05736 CITY ELECTION WARD # Ward 3

Legal Description of Property: Lots 1A-3A of The Amended Plat of Lots 1-3 of the O'Malley Farms Subdivision

Located in the NE 1/4 of Section 31, T. 01 N., R. 26 E., P.M.M., City of Billings, Montana

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

2226 Virginia Lane

Zoning Classification: R9,600

Size of Parcel (Area & Dimensions): 0.839 acres (292 ft by 125 ft)

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No

If yes, please attach to application

Variance(s) Requested: Minimum lot size of 8,968 sf. Maximum lot coverage of 41%. Minimum setback requirement from centerline of a minor arterial road of 40-ft.

Facts of Hardship: See attached memorandum.

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

Owner(s): Big Sky Endeavors, LLC

(Recorded Owner) 2222 Virginia Lane, Billings MT, 59102

(Address) 406-860-3004 eisenbarthj@yahoo.com

(Phone Number) (email)

Agent(s): Craig Dalton, Performance Engineering

(Name) 608 N. 29th Street, Billings, MT 59101

(Address) 406-384-0080 craig@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 Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: \_\_\_\_\_ Date: 6/1/20

(Recorded Owner)



## MEMO

To: City of Billings - Planning Department  
From: Craig Dalton, PE - Principal  
Date: June 1, 2020  
Re: O'Malley Farms - Zoning Variance Request

---

This memo has been provided to accompany the zoning variance application submitted by Performance Engineering, LLC's (PE) on behalf of Big Sky Endeavors, LLC (Developer). Per the variance application requirements, the following two questions are addressed

1. *What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?*

**Lot Size:** The property currently falls under the R9,600 zoning use. Current zoning regulations for R9,600 require a minimum lot size of 9,600 sf. Upon adoption of the new zoning regulations (anticipated in September 2020), the property will be re-classified under "N3" zoning. The new N3 zoning will no longer have a minimum lot size, rather it will require a minimum lot frontage of 65' (which this project would meet). **The Developer is requesting a variance from the minimum lot size requirements to 8,968 sf.**

**Lot Coverage:** Current zoning (R9,600) allows for a maximum lot coverage of 30%. Under the new N3 zoning maximum lot coverages are being increased to 40%. **The Developer is requesting a variance for 41% lot coverage for this project.**

**Arterial Setback:** Current zoning regulations require a minimum setback from the centerline of a minor arterial street of 70 feet. Virginia Lane is classified as a minor arterial road; however, numerous structures along the road corridor fall within the 70-ft setback. Furthermore, the new zoning regulations will require a 50-ft setback from arterial roads. **The Developer is requesting a variance to a 40-ft setback from the centerline of Virginia Lane.** This setback request maintains the standard 10-ft side setback from an adjacent road.

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

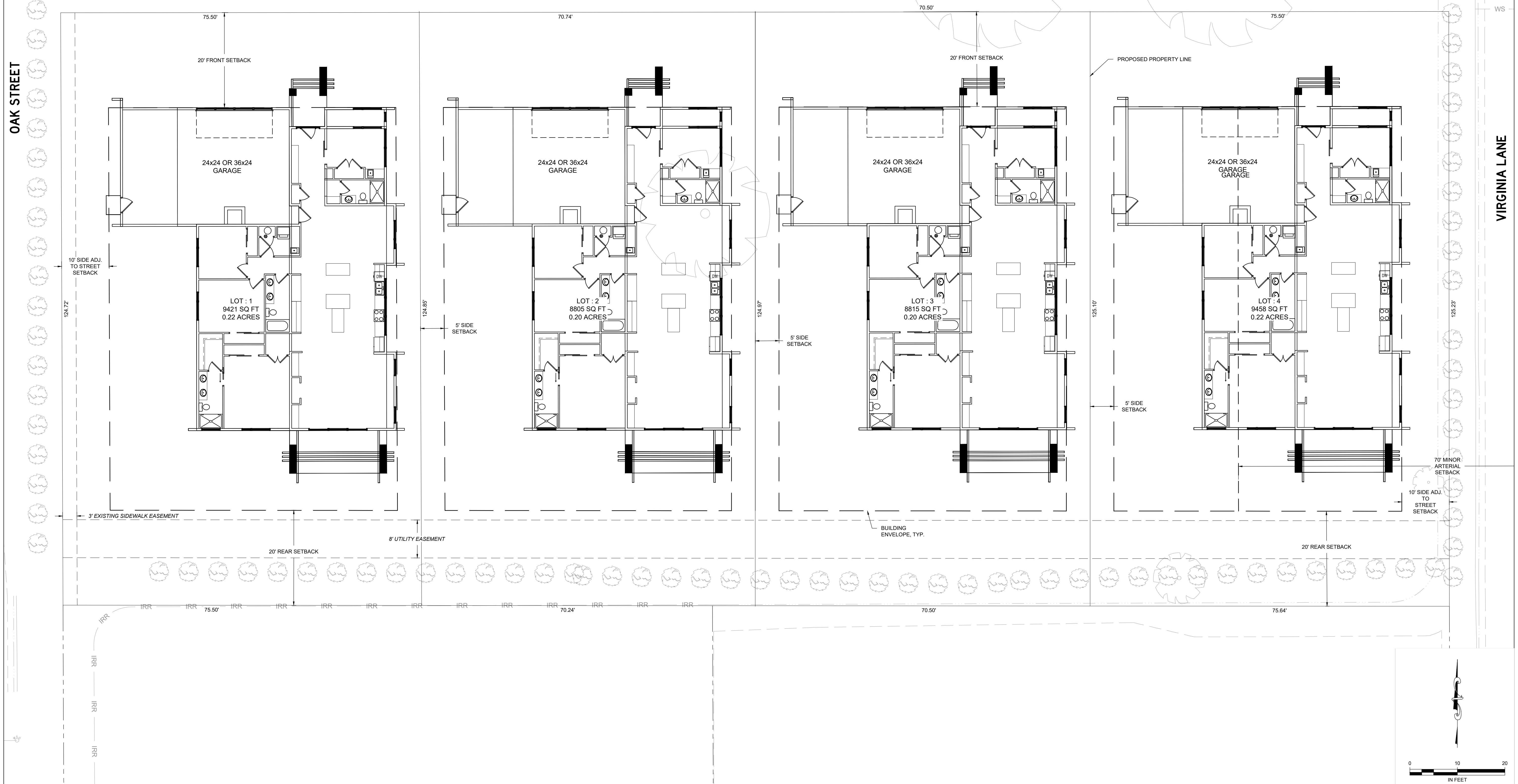
This variance request is one of the milestones needed in achieving the long-term goal of redevelopment of this property. The parent property was originally one of the few unplatted parcels remaining in the City limits. The property was originally nearly an acre in size, overgrown, and contained an old house that was in disrepair. Over the past two years, the Developer has removed the old home and cleared out the vegetative overgrowth in preparation for redevelopment. The Developer sees a need for in this neighborhood for single-family homes on smaller, more maintainable properties. This strategy aligns with that of City Planning as it takes large, underutilized property within the City to maximize land use efficiency and provide additional tax revenues to maintain our City infrastructure.

We appreciate your consideration of our variance request. Should you have any questions please contact Craig Dalton, Principal, at (406) 384-0080 or by email at [craig@performance-ec.com](mailto:craig@performance-ec.com).

O'MALLEY DRIVE

OAK STREET

VIRGINIA LANE



REVISIONS				
NO.	DESCRIPTION	DATE	BY	CHECKED BY
1				
2				
3				
4				
5				
6				

**PERFORMANCE ENGINEERING**  
 608 NORTH 29TH STREET BILLINGS, MT 59101 (406) 384-0080 performance-ec.com

**PRELIMINARY NOT FOR CONSTRUCTION**

KQH DESIGNED BY  
 KQH DRAWN BY  
 12/19/2019 DATE  
 QUALITY ASSURANCE  
 CPD CHECKED BY  
 12/19/2019 DATE

**O'MALLEY FARMS**  
 2226 VIRGINIA LANE BILLINGS, MT 59102  
**HOUSE LAYOUTS**

PROJECT NUMBER 18-025  
 SHEET NUMBER 1 OF 1  
 DRAWING NUMBER **EX-1**  
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## Husman, Karen

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**From:** Amy Drought <amy.lakejulia@gmail.com>  
**Sent:** Wednesday, June 17, 2020 3:20 AM  
**To:** Husman, Karen; Cromwell, Nicole  
**Cc:** Jeffrey Griffin; Amy Drought-Griffin  
**Subject:** [EXTERNAL] City Variance 1316 - O'Malley and Virginia Lane  
**Attachments:** Griffin Findings City Variance 1316.docx

**ATTENTION:** This email originated from outside of the City of Billings. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents.

Dear Ms. Husman,

We own property at 2211 Oak Street directly south of the subject property. We are writing to object to the three variance requests. As detailed below and in the attached, we don't believe that the request meets the required approval criteria and therefore should not be approved. We kindly ask that this email and attachment be included for the record.

### Summary of our argument

Variances should only be granted in those unique cases where an applicant cannot develop a piece of property according to the existing standards without incurring a hardship, due to unique conditions that set them apart from other properties in the same district.

This is stated in city code Sec 27-1506 (a) Authority: The city board of adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship"

These variances are not necessary for the applicant to develop his property. Currently, the property is divided into three separate lots with more than enough area to support three single-family residences. There is nothing unique or particular about this property that prevents the applicant from doing this. This is a large flat piece of land of regular shape with no restrictions such as steep slopes or floodplains which would prevent the applicant from meeting the required regulations. It has access to public streets, sewer, and water. It is no different than the surrounding properties. It faces no unique development challenges.

Instead of building three residences that would comply with all required standards, the applicant now wants to build four single-family residences which he unable to do unless he receives these variances. These are not insignificant requests: the four lots do not meet the minimum lot area and the townhomes exceed the maximum building coverage and also encroach into the required setback from the centerline of Virginia Lane.

The applicant previously requested and received variances for his property on Virginia Lane to build a large garage and master bedroom above. This proposal, which abuts our back property line, exceeded the required maximum building coverage, and encroached into the required rear yard setback. Again, in this situation, there was nothing unique about his property which prevented him from meeting the existing standards - he could have reduced the size of his addition or planned more creatively to meet the standards. However, we did not submit any formal objection at the time.

Two important reasons for lot coverage and building setback standards are to promote open space and prevent encroachment of structural bulk on surrounding properties. If the current variances are approved, we will be affected by

encroaching development on *both* our north and east property lines. In addition, the public, including the large walking and biking community, will be impacted by the reduced setback from Virginia Lane.

The applicant asserts that his request should be evaluated according to the proposed new N3 zoning standards, which are more lenient. We acknowledge that although this is the direction the City is moving, these standards have not yet been adopted; he is legally bound to comply with the standards that are in place when he submits his application. Further, even if the application could use these proposed standards as the benchmark, his proposal as designed would still not meet the required setback from Virginia Lane, and it would still exceed the maximum building coverage.

## **Conclusion**

Zoning regulations protect the property rights and values of not only owners but also neighbors and the larger community. As further detailed in our attached findings, these three standards: minimum lot area, maximum lot coverage and required setback from the centerline of Virginia Lane help protect the public safety and welfare of the neighborhood, promote the vision for the existing R-96 zoning district and the proposed new N3 zoning district, and also uphold the vision of the Highland Neighborhood Plan.

We fully support the applicant's right to develop his property but believe that no hardship situation exists to warrant relief from the standards. In fact, the applicant has a unique opportunity to redevelop one of the last large infill pieces of property close to the city center, within walking distance to schools, parks, and businesses.

Thank you for the opportunity to comment.

Jeff Griffin and Amy Drought

**Findings addressing Variance Approval Criteria  
City Variance 1316**

Sec. 27-1506 (d) City board of adjustment, before it grants a variance it shall determine:

1. *That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;*

**Findings:** There is nothing peculiar about this property which sets it apart from any of the other properties in the same district causing a hardship for the applicant. The property is currently divided into three separate lots with more than enough area to support three single family residences. This is a large flat piece of land with a regular shape with no restrictions such as steep slopes, floodplains or unstable soils which would prevent the applicant from meeting the required regulations. It has access to public streets, sewer and water.

2. *That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other tracts in the same district;*

**Findings:** The applicant does not need these variances to enjoy the same rights as other property owners in the same zoning district. The applicant is easily able to develop this property with three single family residences in the way that all the surrounding properties in the same zoning district have done. The existing three lots are of similar size and shape as surrounding properties in the same zoning district.

3. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other land in the same district;*

**Findings:** The applicant should not be granted relief from all of the development standards that everyone else has to meet. The applicant has already received a variance for his master bedroom and garage directly behind us on Virginia Lane. If these new variances are granted, the applicant would again receive a special privilege at the expense of surrounding properties and the neighborhood.

4. *That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;*

**Findings:** The granting of these variances will be in conflict with the general purpose and intent of this chapter and with the comprehensive plan as stated in Section 27 -102 Purpose. The purpose of the zoning code speaks to the importance of these standards for maintaining the character of each zoning district, stabilizing property values and promoting the public's health, safety and general welfare. Further, Section 27-103 Scope states that these standards should be regarded as the *minimum* requirements for the protection of the public health, safety and welfare.

Minimum lot area and maximum building coverage. Minimum lot area and building coverage standards are important for maintaining open space, creating a buffer between properties, and reducing structural bulk and impervious surfaces. The City has determined that these standards are important for maintaining the character of the R-96 and proposed N3 zoning districts as well as protecting property values in the neighborhood. As stated in our email, we have been negatively impacted by the applicant's earlier development which abuts our back property line. If approved, these variances will continue to chip away those development standards which uphold the vision and intent of the R-96 zoning district and supported by the Highland Neighborhood Plan which designates this property and surrounding properties single family residential.

Discussion of existing zoning standards of R-96 zoning district vs. proposed zoning district N3. The applicant asserts that because the proposed new zoning district N3 does not have a minimum lot area requirement and proposes a more lenient building coverage requirement, he should not have to meet the existing R-96 zoning standards which are more stringent. However, since the applicant submitted his variance application in June, he is legally bound by the existing standards.

The City cannot approve relief to existing standards based on future standards that may or may not be adopted. Besides not being legally possible, this reasoning is simply not fair to the neighboring properties. There is no absolute security that these new zoning standards will be adopted, despite the momentum in that direction. If the applicant wants his application to be reviewed under these new standards, then he needs to wait until the new zoning code is adopted.

Further, even under the provisions of the new zoning ordinance, the applicant's proposal as designed would still exceed lot coverage requirements, and would still not meet the required centerline setback from Virginia Lane – see below.

Centerline setback requirements from Minor Arterial streets. Street centerline setbacks are important for creating buffers to enhance visibility and safety between structures and busy streets for the protection of not only vehicular traffic, but also pedestrian and bicycle traffic. In addition, since minor arterial streets are often improved and expanded, centerline setback requirements ensure that there will be adequate space to allow that to happen if needed in the future.

O'Malley and Virginia Lanes have high walking and biking populations and are a main route to our neighborhood schools, Highland Elementary and Senior High School. The setback from the centerline of Virginia Lane is important to ensure the continued safety of this route to school and for the neighborhood biking and walking community.

The applicant asserts that they should not have to comply as there are several non-conforming structures nearby that already encroach into the setback. This is not a valid argument for granting relief. If an applicant could receive relief from any standard based on the presence of a pre-existing non-conforming structure or use, there would never be a need to meet a regulation and the City would be forever granting variances. This is a slippery slope and delegitimizes the City's planning process.

## Husman, Karen

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**From:** Bartley, Robbin  
**Sent:** Monday, June 15, 2020 6:47 PM  
**To:** Husman, Karen  
**Subject:** Fwd: [EXTERNAL] Planning Division Board regarding 2226 Virginia Ln.

Sent from my remote location

Begin forwarded message:

**From:** Lisa Galvin  
**Date:** June 15, 2020 at 4:01:23 PM MST  
**To:** "Bartley, Robbin"  
**Subject:** [EXTERNAL] Planning Division Board regarding 2226 Virginia Ln.

**ATTENTION:** This email originated from outside of the City of Billings. Use caution when clicking links or opening attachments unless you recognize the sender and are expecting the contents.

Dear Planning Division,

First I have to completely disagree with the paragraph #2 "Why is there a need for the intended use of the property...to be a.... goal of redevelopment." The 2226 Virginia Lane House, albiet dated, was a premier example of historical houses of the area. It was fully possible, like I did with my house and so many others of this area have done, that someone could have loved it and made it an up-dated home. Further, over a dozen properties (lots or dated houses) of similar size in this area have been bought and then successfully maintained as some of the most valueable houses in the city. Finally, I have been in that "'overgrown, house that was in disrepair;" it was always is good condition until the current owners took it over and let vegetation grow. The current owners insult us when they sell the plan as a way of doing us and the city a favor.

I chose to buy my house in specifically in this neighborhood for the historical value and enjoyable streets to walk. I cannot deny that my house's lot is

Thanks,  
Lisa Galvin  
2315 Virginia Ln.

PS Please acknowledge that this email was the correct place to send my comments.



**City Board of Adjustment**

**Meeting Date:** 07/01/2020

**SUBJECT:** City Variance 1317 - 198 Mountain View Blvd.

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Variance 1317 - 198 Mountainview Blvd** - The applicant is requesting a variance from 27-310(i) requiring a minimum front setback for a detached garage of 20 feet to allow 0 feet setback from the property line in a Residential-9600 (R-96) zone, on Parcel 39B of Certificate of Survey 575, a 10,790 square foot parcel of land. The purpose of the variance is to allow an existing garage to be reconstructed in the same location. Presented by: Karen Husman, Planner I

**RECOMMENDATION**

Planning staff has reviewed this variance and is forwarding a recommendation of conditional approval based on the determinations provided in the summary section of this memo.

**APPLICATION DATA**

OWNERS: Lisa Lavinder

AGENT: Cory Hess, Studio 4 Architects

PURPOSE: Detached garage on 0' property line for existing structure

LEGAL DESCRIPTION: COS 575 parcel 39B

ADDRESS: 198 Mountain View Blvd.

EXISTING LAND USE: Residential

PROPOSED LAND USE: Same

EXISTING ZONING: R-96

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
115 Mountain View Blvd	848	9/2001	10' front yard sb	Yes	
194 Mountain View Blvd	908	8/2003	5' front yard sb	Yes	Detached Garage
190 Mountain View Blvd	949	9/2004	10' front yard sb	Yes	
78 Mountain View	1286	10/4/18	14' front SB	No	Shed placed in front yard with no permit.
200 Mountain View	None				Attached garage over front sb in ROW
218 Mountain View	None				Detached garage half in ROW

## **SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-96

Land Use: Residential

SOUTH: Zoning: R-96

Land Use: Residential

EAST: Zoning: Public

Land Use: Parkland

WEST: Zoning: R-96

Land Use: Residential

## **BACKGROUND**

The applicant is requesting a variance for a detached garage of 20 feet to allow 0 feet setback from the property line in an R-96 zone. The purpose of the variance is to allow an existing garage to be reconstructed in the same location. The physical limitations of this property include some extremely steep slopes on portions of the property.

The Planning Division has reviewed this variance and determined that because of the physical limitations of the subject property these conditions were unique to this site and warranted approval. In addition, there are other structures in this subdivision that do not meet the front yard setback, but are presumed to be grandfathered in. Also, there have been similar variances granted in this neighborhood and surrounding subdivisions.

## **SUMMARY**

### **DETERMINATIONS**

Variance 1317

The Board of Adjustment, before it grants a variance shall determine:

**1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

The subject property does have unique topographic features or circumstances that are relevant in the review of this variance request.

**2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;**

There have been other variances applied for within the area surrounding and including Panoramic Heights Subdivision (adjacent to Certificate of Survey 575) ; therefore, the granting of this variance would be consistent with limitations placed on other lots in the same zoning district.

**3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;**

The granting of this variance will not confer a special privilege since similar variances have been granted in the vicinity of this applicant. There are also at least two other properties on the same street that have garages built over the front property line without the benefit of a variance.

**4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;**

Granting of this variance application is compatible with the goals of the City of Billings-Growth Policy as it is supporting a use that is compatible with the neighborhood. Granting this variance should also be in harmony with the general purpose and intent of the Zoning Regulations.

**5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;**

**Staff is recommending the following conditions;**

1. This approval is to allow a front setback of 0' for an existing detached structure to remain and to be reconstructed in the same location with an additional space. No other variance is intended or implied.
2. The variance is limited to Parcel 29B of COS 575, generally located at 198 Mountain View Blvd.
3. The applicant will apply for and receive approval for a building permit within 1 year and complete construction within 2 years of BOA approval. Failure to meet the time limits of this condition will void the variance.
4. There will be no construction activities before 7 a.m. or after 8 p.m. daily.
5. The applicant shall meet all other city code requirements in place at the time of construction with the exception of this variance.
6. These conditions of variance 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.

**6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**

That a building permit shall be applied for within one (1) year of Board of Adjustment approval and complete construction within two (2) years of approval.

**7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**

The variance does not grant a use that is not permitted in the district, detached accessory structures are allowed in the R-96 zone.

## **RECOMMENDATION**

Planning staff has reviewed this variance and is forwarding a recommendation a recommendation of approval based on the determinations provided in the summary section of this memo.

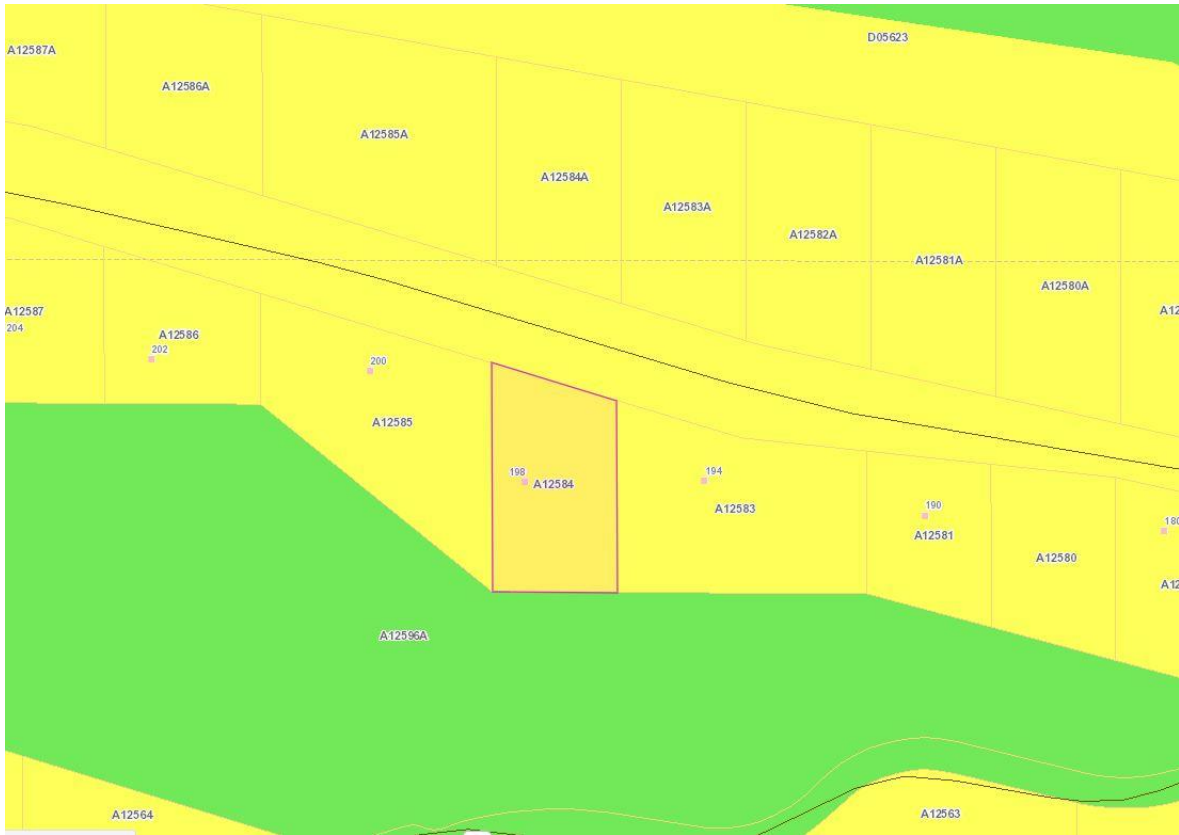
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## **Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

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# Zoning Map & Site Photos







East



West



North



South



### ZONING VARIANCE REQUEST



The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the Zoning Regulations.

Check one:  City of Billings Variance  Yellowstone County Variance

Address 198 Mountain View Blvd

Legal Description S32,T 01 N, R 26 E, C.O.S. 575, PARCEL 39B

STATEMENT: Answer the following questions on a separate document and upload to the online project attachments.

1. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?
2. Why is there a need for the intended use of the property at this location?
3. Statement to Chairperson of the Board Adjustment. What is intended to be done with the property, including new construction or change in the use of the property and why the variance is being sought.

#### Required Project Uploads

- Site Plan
- Signed Application and Statement (Variance Questions)
- Radius Map & Certified List of Property Owners
- Typed Mailing Labels Certified Surrounding Property Owners

Online Access: <https://services.billingsmt.gov/citizenaccess/>

*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 Request for a Variance. Also, I attest that all the information presented herein is factual and correct.*

Recorded Owner(s) Lisa Lavinder

Owner's Address 198 Mountain View Blvd.

Owner's Phone Number 406-249-2488 (E-mail) LisaLavinder62@yahoo.com

Applicant/Agent Cory Hess

Applicant/Agent's Address 27 Shiloh Road, Suite 8

Applicant/Agent's Phone Number 406-656-1714 (E-mail) cory@studio4architects.com

Signature of Recorded Owner(s)

Date

6/11/20

**AUTHORITIES: Procedures and review Criteria for Variance requests Billings Montana City Code (BMCC) 27-1506 et seq. (SEC. 27-1506. CITY VARIANCES, CITY BOARD OF ADJUSTMENT** a) Authority. The City Board of Adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to City Variance 2020-2021 updated Nov 8, 2019 the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

**AUTHORITIES: Procedures and Review Criteria for County Variance requests: Unified Zoning Regulations Section 27-1511 et seq. SEC. 27-1511. COUNTY VARIANCES, YELLOWSTONE COUNTY BOARD OF ADJUSTMENT** a) Authority. The County Board of Adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

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

198 Mountain View Blvd  
Zoning Variance Request.

1. What reasons prevent you from using this property in conformance with the zoning Regulation requirements.

The current garage located on this property does not conform with the required front setback and is currently in a state of decay, prompting reconstruction.

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

The steep topography of the lot limits where a garage can sit on the property. The proposed location for the garage is the only flat area adjacent to Mountain View Blvd and will encroach no more than the existing garage.

June 1, 2020

Attention Chairperson of the Board of Adjustment:

Currently the garage located at 198 Mountain View Blvd above MSU Billings sits in a state of disrepair. The structure is beginning to separate from the foundation and is going to need to be demolished. The Current Garage sits over the front property line and encroaches on Tract 51, a portion of the Mountain View Blvd right of way. Due to the slope of the lot, a newly constructed garage would not be feasible built further South on the lot.

The City of Billings Engineering Dept. was contacted concerning this encroachment and how we should proceed to construct a new garage in it's place. The engineering department stated that we would be able to obtain an encroachment permit as long as the new garage will not encroach more than the existing. Please see supplied photos for reference.

Additionally, a number of other properties along this stretch of Mountain View Blvd have garage structures that encroach on the street right of way due to similar lot topography restrictions. Thank you for taking the time to review this zoning variance request.

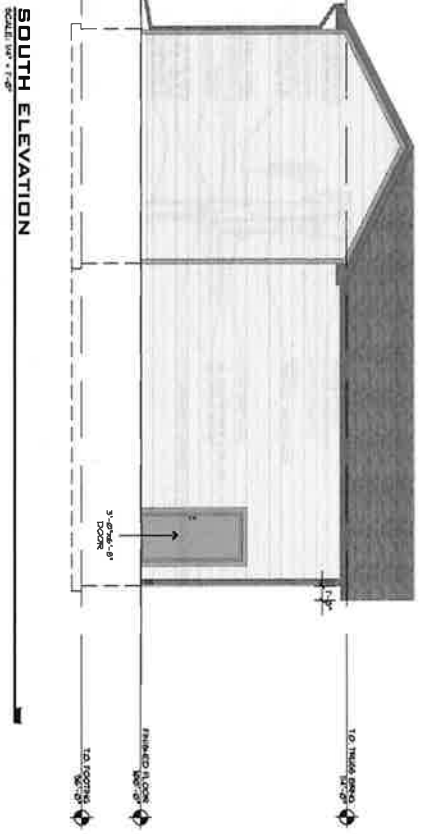
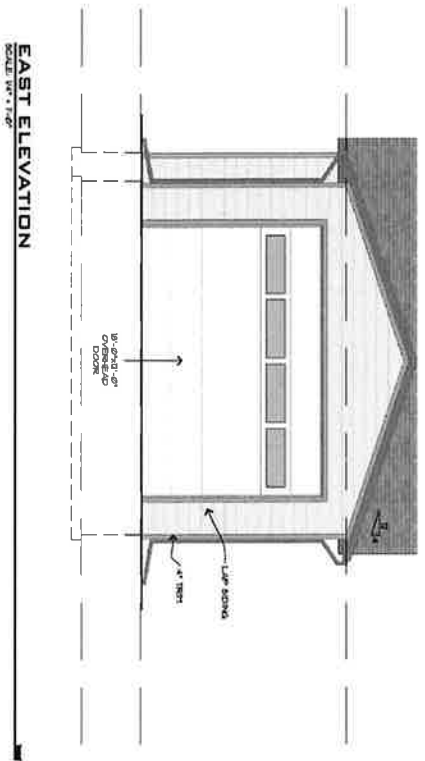
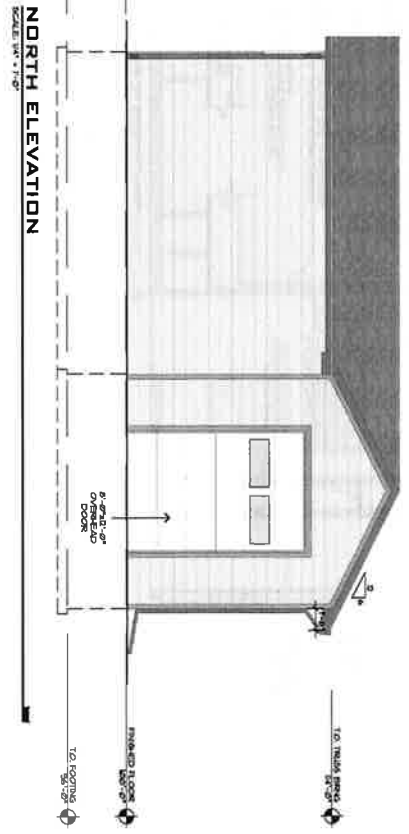
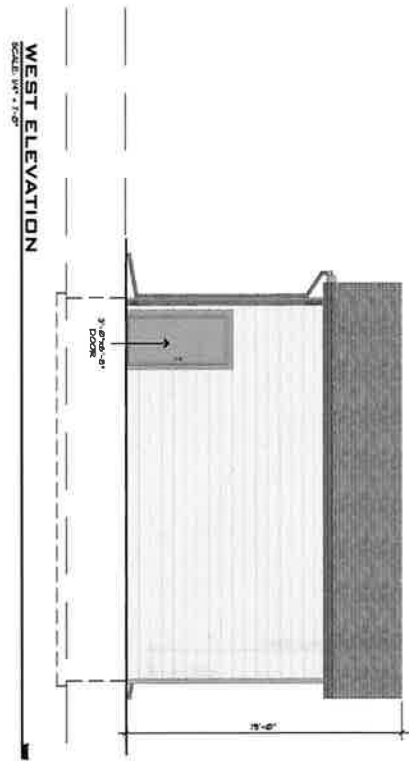
Sincerely,

A handwritten signature in blue ink that reads "Lisa Dawn Lavinder". The signature is written in a cursive, flowing style.

Lisa Dawn Lavinder

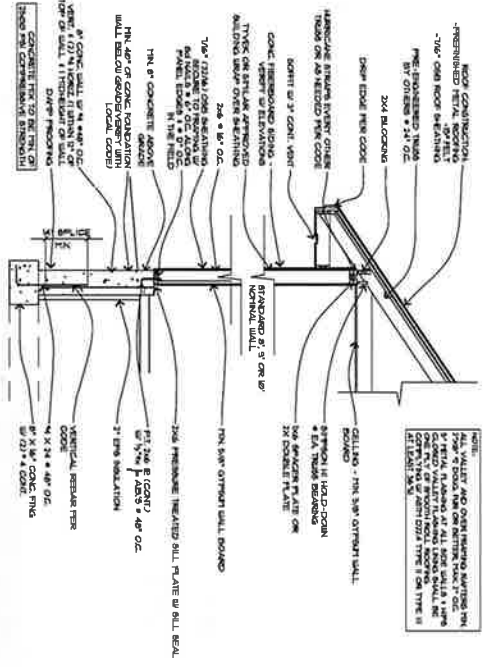




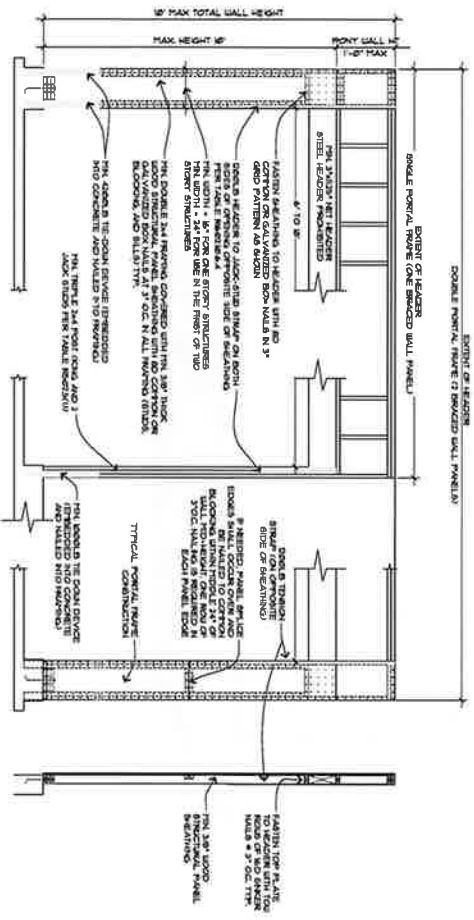


# Beebe Garage

198 Mountain View BLVD  
Billings, Montana 59101



1.1 TYPICAL UNCONDITIONED GARAGE WALL SECTION  
 ALL SCALE: 1/2" = 1'-0"



2. BRACED WALL PANEL  
 ALL SCALE: 1/2" = 1'-0"

NOTE:  
 ALL WALLS AND OVER HANGING RAFTERS ON  
 1/2\"/>