

CITY BOARD OF ADJUSTMENT

MINUTES July 1, 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	-	1						
Dave Hagstrom	Member	-	-	1	-	1	-	1						
Paul Hagen	Member	-	-	1	-	1	-	1						
Jeff Bollman	Vice Chair	-	-	E	-	1	-	1						
Oscar Heinrich	Member	-	-	E	-	1	-	1						
Martin Connell	Member	-	-	1	-	1	-	1						
Mark Noennig	Chair	-	-	1	-	1	-	1						
TOTAL NUMBER OF APPLICATIONS 2020		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	TOTAL
Variance		-	-	2	-	5	-	5						12

Chair Noennig called the meeting to order at 6:00 p.m. The City Board of Adjustment met virtually thru Zoom <https://zoom.us/j/95905224215>.

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: Scott Aspenlieder, Mac Fogelsong, Robert Ybarrar, Landy Leep, Trent Parks, Gary Owen, Christina Taylor

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 May 6, 2020.

Motion

Board Member Heinrich moved and Board Member Hagstrom seconded the motion to approve the May 6, 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.

Vice Chair Bollman visited 1316, Member Connell visited 1316, Member Hagen visited all, Member Heinrich visited all, Member Mitchell visited all but 1314, Member Hagstrom visited 1312, 1314, and 1315. Chairman Noennig wishes to recuse himself from Variance 1314 as he has a conflict and requests Vice Chair Bollman direct this hearing.

Streaming to FaceBook Live caused a short delay.

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 1312 – 2605 Emerson Place – Garage setbacks - 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), 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).

One neighbor to the north, contacted staff and requested no windows on the north side of the building. Staff is unsure if this request is legal and therefore did not include it in the conditions.

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance #1312. Based on the Determinations for granting a variance.

1. This approval is to allow a variance to allow 3 foot side setback. No other variance is intended or implied.
2. The variance is limited to Lot 9, Block 2, Highland Park Subdivision 2nd Filing, 2605 Emerson Place.
3. The applicant will receive approval of a building permit within 1 year & complete construction in 2 years of approval. Failure to meet the time limits will void the variance.
4. No construction activities prior to 7:00am or after 8:00 PM daily.
5. Shall meet all other code requirements with the exception of this variance.
6. These conditions shall run with the land described...

Questions for staff: .

Vice Chair Bollman asked staff to refresh memory on a variance approved across the street last month. Was that structure 1 or 2 stories? Staff replied it was not a 2 story but the truss construction allowed for added living space above the garage and the request was for a 3 foot setback. Vice Chair Bollman asked if an elevation plan was submitted. Staff replied a hand drawn was submitted, and apologized if it was not included in the staff report. The applicant is here for further questions.

Public Hearing

Chairman Noennig opened the public hearing at 6:20PM and asked if there was anyone wishing to speak in favor or against City Variance #1312.

Applicant: Christina Taylor, 2605 Emerson Pl

She is excited about the possibility of a new garage to protect vehicles from the recurring hail storms. She has spoken with the neighbor to the north and it is a shared concern and will work with him.

Chairman Noennig asked what it means to “work with him”. Ms. Taylor explained no architectural plans have been drawn yet as they are waiting for this variance approval. Therefore, she is relatively certain the window concerns can be addressed, it should not be difficult to eliminate windows on that side. Those recommendations would be given to the architect.

Chairman Noennig asked Ms. Taylor if making no windows on the northside a condition of the variance approval would be a problem. Ms. Taylor does not believe it should be a problem, however, she is unsure if there could be code issues at building permit submission.

Chairman Noennig asked why a 3 foot variance is needed. Ms. Taylor explained her driveway is a problem for access.

Opposed

Rebuttal

Discussion

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

At 6:25PM, 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 #1312 with the seven conditions of approval and Findings of Fact.

Vice Chair Bollman amended the motion to include prohibiting windows on the north side, Commissioner Mitchell seconded the motion.

Board member Connell wishes to revise no windows to frosted glass windows being allowed to allow light.

A discussion ensues on the process of amending motions and it is agreed the amendment as proposed by Vice Chair Bollman, must be voted on.

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

The motion to amend the motion failed with a 4-3 vote.

Board Member Heinrich made a motion to and Board Member Mitchell seconded the motion to conditionally approve City Variance #1312 with the seven conditions of approval and Findings of Fact.

Member	Yes	No	Not Present
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 #1312 passed** with a unanimous roll call vote.

City Variance 1313 - A variance from Section 27-310(i) variance to allow 3-foot side setback, a side wall of 14 feet in height and to allow 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 , on Lot 11, Block 2, Broadmoor Sub., a 36,124 square foot parcel of land.

RECOMMENDATION

Planning staff has reviewed this application & is recommending denial of Variance #1313. Based on the Determinations for granting a variance.

- ✓ There are no special circumstances that exist which are peculiar to the land.
- ✓ Allowing the variance would give the applicant rights not commonly enjoyed by other tracts in the same district.
- ✓ This variance will confer on the applicant a special privilege that is denied by this Chapter to other land in the same district.
- ✓ Not in harmony with the general purpose and intent of the zoning regulations and the growth policy.

Questions for staff:

Board member Heinrich asked if the new zoning will effect this property in any way. Staff replies the same basic garage requirements will remain the same in neighborhood zone districts. Attached garages do not have the same restrictions as detached garages.

Chairman Noennig asked if the proposal would meet the new zoning requirements. Staff replied it would not.

Public Hearing

Chairman Noennig opened the public hearing at 6:36PM and asked if there was anyone wishing to speak in favor or against City Variance #1313.

Applicant: Robert Ybarra II, 521 Judith Lane

Mr. Ybarra is hoping the recommendation to deny is not based on the original 3 foot setback. This was a miscommunication. I have multiple vehicles that will not fit under a standard 8 foot door. I have had thousands of dollars of hail damage in the last few years to vehicles, campers, rafts and equipment. I would like to protect my investments. I would like to present a clean yard, and increase the values in my neighborhood. Mr. Ybarra is 100 percent ready to propose something more agreeable to the Board. He wants and needs this structure and is willing to adjust size and placement. The size proposed is his dream garage but is willing to compromise. The wall height is important to accommodate taller trucks.

Board member Hagstrom stated 12 foot 6 inches is tall enough to put a semi-tractor in. We would be concerned about this proposed garage being turned into a commercial use. What are the chances you could bring the wall height down to accommodate an 11 foot door? Mr. Ybarra replied he is 100 percent open to that. Board member Hagstrom stated this is just a suggestion as Mr. Ybarra could sell the place using the commercial possibility as a selling point. This would not be agreeable in a residential neighborhood.

Vice Chair Bollman reminded Mr. Ybarra about his willingness to reduce the size of the garage and then asked the applicant what the him minimum building size might be. Mr. Ybarra replied 1500 square feet would be the minimum.

Board member Mitchell asked if the garage could not meet an 8 foot setback rather than 3 foot. Mr. Ybarra replied there was a miscommunication and he would be meeting the 8 foot setback requirement and not needing that portion of the variance. The height and size is the larger concern. I bought a small house as a single man and need a larger garage for all my outdoor recreation equipment.

Board member Heinrich asked Staff for clarification regarding the process and time of reapplication if this variance is denied. Staff replies if denied the applicant would have to wait 1 year to reapply.

Board member Heinrich then asked the process if the applicant were to withdraw the application. Staff replied there are no requirements to wait if he withdraws.

Board member Heinrich then addresses Chairman Noennig stating the applicant has now heard the Board's concerns and the possibility exists the Board will deny this and then the applicant will have to wait a year whereas if he were to withdraw now, he would be able to come back with a more agreeable proposal.

Chairman Noennig states to Mr. Ybarra he is in agreement with Board member Heinrich. However, the Board is not in the business of negotiating the terms of approval. He has now heard our concerns and although there are no guarantees of approval upon redesign, if it is denied tonight you are unable to reapply for a year. He then asks Staff to explain to Mr. Ybarra his options in this regard.

Staff reminds the Board they are not required to grant the entire variance requested. You may grant a lesser variance. If the applicant does withdraw there would be a new reapplication fee. But there is no waiting period in the Code. Zone Change withdrawals require a 4 month waiting period for reapplication.

Chairman Noennig states it is within the Board's power to impose conditions or a lesser variance than requested however he does not feel it is appropriate for the Board to negotiate the many dimensions that are of issue. This is his personal opinion.

Board member Connell agrees with the Chair completely. If the applicant would like to return with new drawings and proper setbacks the Board could then react to it. The Board is not in the position to micromanage.

Vice Chair Bollman suggests the possibility of continuing this Public Hearing until next month's meeting to allow the applicant to submit revised drawings with proper setbacks being met and proposed building dimensions. This would alleviate the need for withdrawal and having to reapply with fees.

Chairman Noennig and Staff agree this is a fair point and agreeable. Chairman Noennig then asks Mr. Ybarra if this option, to continue for 1 month, is something he would consider. Mr. Ybarra is ready to submit revised plans immediately and asks if there is a specific height, the Board will require. Chairman Noennig stated there is no consensus only a smattering of opinions.

Vice Chair Bollman suggests he present building elevations as well showing the reduced door opening size.

Mr. Ybarra requests a continuance until August 5, 2020.

The Public Hearing **was not closed**, the Applicant requested a continuance.

Motion

Board Member Heinrich made a motion to continue and Board Member Bollman seconded the motion to continue **City Variance #1313** to August 5, 2020.

Member	Yes	No	Not Present
David Mitchell	x		
Dave Hagstrom	x		
Paul Hagen	x		
Jeff Bollman	x		
Oscar Heinrich	x		
Martin Connell	x		
Mark Noennig	x		

The motion to continue **City Variance #1313 passed** with a unanimous vote.

Chairman Noennig recuses himself for the hearing of Variance 1314. Vice Chair Bollman chairs this item.

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 th 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.

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of a variance for up to 47% lot coverage

- BOA has approved Development-wide zoning variances for new construction
- Not out of character for similar development in the area
- Conditions are recommended that will mitigate any potential impact to surrounding properties

Planning staff has received and transmitted to you three letters of opposition:

- Susan Pogue of 1980 Morroco Drive
- Crystal Hellier of 2000 Greenbriar Rd
- Ed Hellier of 2000 Greenbriar Rd

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 16th 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. 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.

Questions for staff:

Board member Heinrich asks if Re:Code effects this variance in any way. Staff replies if the zone change would be approved, the applicant would then be asked what zoning he would be comfortable with under the new zone districts. The lot coverage in the new zone districts vary from 40 to 60 percent.

Board member Mitchell asks why the applicant did not request residential multifamily zoning. Staff replies the applicant is present and typically the multifamily zoning is unpredictable. They are only building 2 family residences, not multifamily. They are choosing a zone allowing single family or duplex but no larger. Board member Mitchell asks which lots are being proposed at 43 percent and which at 47 percent lot coverage. Staff replies the 43 percent lot coverage was submitted just a few days ago and may reflect new design and suggests asking the applicant.

Vice Chair Bollman asks regarding condition 7 being imposed. Whereas he is not opposed to street tree planting, he has not seen this recommendation before. Staff replies as we move forward into the City rezoning, street frontage landscaping is being required everywhere, not just on commercial development. This is to set up the new street scape. This project is progressing under the current code, but is on the cusp of the new code being adopted. He then asked about a possible error in notification to the surrounding property owners. Staff is unsure but reiterated the process of a 300 foot radius map.

Board member Hagstrom asked how many townhomes would be allowed in this parcel without a lot coverage variance. Staff replied a few more if the lot lines were eliminated. It is the size of the townhomes that requires this variance, not the number of homes. It is the 3rd car garage and the covered patio. Board member asked if there has been discussion about changing the size of the townhome thereby eliminating the need for this variance.

Public Hearing

Vice Chair Bollman opened the public hearing at 7:10 PM and asked if there was anyone wishing to speak in favor or against City Variance #1314.

Applicant, Gary Owen, Sanderson Stewart, 1300 N Transtech Way

Mac Fogelsong, Landy Leep and Trent Parks are also here. R5000 zoning was selected to allow only 2 family units.

Slide presentation.

Trent Parks, 2344 Glen Eagles Blvd

We would like to continue building high quality homes with 3rd car garages and covered patio areas. A large portion of the clientel are retirees and request these options.

Landy Leep, High Sierra II

Here to entertain any questions from the land developemtn side.

Opposed

Ron Hill, 142 Annandale Road

He contends he was not late in submitting his letter of objection. Vice Chair stated the late was only to say it was not received in time to go out with the packet one week ago, the Board has received a copy of the letter.

He then reads his letter into the Minutes for the record.

Rebuttal

Landy Leep

The project is not multifamily, but single level townhomes, duplexes. This does fit into the neighborhood, the builder lives in his own project. We own and will be building the lots neighboring.

Vice Chair Bollman asks Mr. Leep if he is comfortable with the Staff recommendations. Mr. Leep replies in the affirmative.

At 7:39 PM, Vice Chair Bollman closed the Public Hearing and called for a motion.

Discussion

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

Motion

Board Member Heinrich made a motion to and Board Member Connell seconded the motion to conditionally approve City Variance #1314 with the ten conditions of approval and Findings of Fact.

Member	Yes	No	Not Present
David Mitchell	X		
Dave Hagstrom	X		
Paul Hagen	X		
Jeff Bollman	X		

Oscar Heinrich	X		
Martin Connell	X		
Mark Noennig			Recused

The motion to conditionally approve **City Variance #1314** passed with a 6-0-1 roll call vote.

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 duplex structures on the property, on Parcel F, COS 537, a 18,290 square foot parcel of land.

RECOMMENDATION

This Variance request will not be heard at this time as the Board does not have jurisdiction. Continued until August 5, 2020.

Public Hearing

A public hearing will not be held at this time.

City Variance 1316 - 1836 2226 Virginia Lane – Arterial Lot Area and Lot Coverage - A variance from Section 27-602 to allow a 40 foot from center line setback; 27-308 to allow a minimum lot size of 8,968 square feet, & to allow a maximum lot coverage of 41%, in a 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.

RECOMMENDATION

Planning staff has reviewed this application & is recommending denial of Variance #1316. Based on the Determinations for granting a variance.

- ✓ There are no special circumstances that exist which are peculiar to the land.
- ✓ Allowing the variance would give the applicant rights not commonly enjoyed by other tracts in the same district.
- ✓ This variance will confer on the applicant a special privilege that is denied by this Chapter to other land in the same district.
- ✓ Not in harmony with the general purpose and intent of the zoning regulations and the growth policy.

Staff has forwarded to you 13 letters in opposition.

Questions for staff:NONE

Public Hearing

Chairman Noennig opened the public hearing at 7:56PM and asked if there was anyone wishing to speak in favor or against City Variance #1316.

Applicant, Scott Aspenlieder, 608 N 29th Street

He is the agent for Big Sky Endeavors. When Re:Code is adopted the new zoning will be N3. This project would meet the conditions and restrictions of the new zoning. Under the new code, a variance would still be necessary for the arterial setback. We are surprised at the denial recommendation. We are wanting to start this project this year and not wait for RE:Code.

Board member Connell asked who are the principals of Big Sky Endeavors. Mr. Aspenlieder replied it is Jamie Eisenbark. Board member Connell asks if he is certain Project RE:Code is going to be adopted. Mr. Aspenlieder states this is the consensus he has taken from Staff comments.

Opposed

Amy Drought, 2211 Oak Street

My husband and I own property directly to the south of this. We are strongly opposed to this project and believe it does not meet the requirements to grant a variance. The applicant is legally bond to the current zoning code and cannot depend on the new code adoption. In the absence of any hardship, it would be against the process to approve this variance.

Rebuttal

He does not believe this is an exceptional request. They want a jump start on the project rather than wait for the adoption of RE:Code.

Chair man Noennig is asking for any flexibility. Would 40 percent lot coverage be enough and will you be able to meet a 50 foot setback. Mr. Aspenlieder stated this is possible.

At 8:03 PM, Chairman Noennig closed the Public Hearing and called for a motion.

Discussion

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

Board member Heinrich asked Staff if the comparison between what staff said and N3 is correct. Staff replied it is essentially correct. The proposed N3 is the only district that restricts to single family dwelling. The lots must be wider. The lot area will be dropped off. The 40 percent lot coverage has been suggested as a good fix. The arterial setback will be a standard of 50 feet from center line to all new buildings. This will be an N3 zoning under the new code.

There is no average to lot coverage in the area, there is a large variety.

Vice Chair Bollman asked about the new zoning in the surrounding areas.

Board member Heinrich asked Staff if there are other lots in the neighborhood with this footprint. He is looking for consistency in the neighborhood. He had difficulty finding conformity.

Board member Connell stated his take on the 13 letters of opposition were not in agreeance with the building style or density. Their complaints are about the change in appearance.

Chairman Noennig asked the applicant what kind of project it would be without the variance.

Mr. Aspenlieder explains the houses will be larger, same look, same lot coverage, only 3 of them. He believes the developer will wait on RE:Code.

Motion

Board Member Hagstrom made a motion to approve City Variance 1316 with an additional condition of a 50 foot setback and maximum 40 percent lot coverage and Chairman Noennig seconded the motion to approve, with conditions, City Variance #1316.

Board members Connell and Heinrich do not believe there are Findings of Fact that can be used to approve this variance. Board member Connell further stated RE:Code cannot be used as a determining factor in this decision as there are no guarantees to it's adoption. Board member Hagen agrees and thinks the Board should stick with the current zoning and staff recommendations.

Chair Noennig states #3 and #4 of the Finding of Fact may be used to substantiate this motion. Board member Hagstrom states in the spirit of higher density, 40 percent makes good sense. Chairman Noennig agrees and is sensitive to the neighborhood objections, but believes this is good. Board member Connell believes special treatment is being given to the developer and special treatment is not allowable.

1. The variance is to increase the minimum lot coverage from 30% to 40%, 50 feet from centerline from Virginia Lane. No other variance is intended or implied with this approval.
2. The variance is limited to Lots 1A through 3A of O'Malley Farms Subdivision. Generally located at 2226 Virginia Lane.
3. The owner will submit a building permit application within 1.5 years of Board of Adjustment approval and complete the construction within 3 years of Board of Adjustment approval.
4. Failure to begin or complete the approved actions on the variance will void the approved variance.
5. 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.

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

The motion to approve **City Variance #1316 with amended conditions fails with a 5-2 vote..**

Board member Heinrich made a motion to deny City Variance 1316 and Vice Chair Bollman seconded the motion to deny with Staff Recommendations and Findings of Fact.

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

The motion to deny passed with a 6-1 roll call vote.

City Variance 1317 – 198 Mountain View Blvd – Setback - A variance from 7-310(i) to allow 0 feet setback from the property line in a 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.

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance 1317. Based on the Determinations for granting a variance.

1. This approval is to allow a front setback of 0’ for an existing detached structure to remain, be reconstructed with an additional space. No other variance is intended or implied.
2. Limited to Parcel 29B of COS 575, at 198 Mountain View Blvd.
3. Will receive approval of a building permit in 1 year, 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.

Questions for staff:

Vice Chair Bollman asked Staff if the garage is over the property line, will they be able to meet building code with firewall restrictions. Staff does not have the answer.

Public Hearing

Chairman Noennig opened the public hearing at 8:45PM and asked if there was anyone wishing to speak in favor or against City Variance #1317.

Applicant: NONE

Opposed
NONE

At 8:45 PM, Chairman Noennig closed the Public Hearing and called for a motion.

Discussion

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

Motion

Board Member Heinrich made a motion to approve and Board Member Hagen seconded the motion to approve City Variance 1317 with the Staff recommendations and Findings of Fact.

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

The motion to approve **City Variance #1317 passed** with a unanimous roll call vote.

Other Business:

We will be meeting on August 5, 2020 with at least 2 items.

ADJOURNMENT: The meeting adjourned at 8:47 PM.

ATTEST: APPROVED by a motion August 5, 2020..

Robbin Bartley, Administrative Assistant.



Variance 1312

None

Variance 1313



June 29, 2020

Broadmoor Trailer Court
531 Judith Lane
Billings, MT 59105

RE: City Variance #1313
Robert Ybarra II
521 Judith Lane

We do not see a problem with building a detached garage which is higher and larger than the existing house on the property.

As you will notice, across the street at 528 Judith Lane there is a detached garage which is higher and more square footage than the existing house. Also, across the alley there are several several shops which are higher and larger than the houses next to them.

Ever since Robert purchased the property at 521 Judith Lane, he has maintained it in a neat and orderly manner.

We hope you will grant him the variance #1313 for Project Number: 20-124.

Sincerely,

Edward D Bare
Marlene Bare

Edward and Marlene Bare
807 Radford Square West
Billings, MT 59105
(406) 254-1053

Variance 1314

From: [Susan Pogue](#)
To: [Cromwell, Nicole](#)
Subject: [EXTERNAL] Proposed zone change 979
Date: Friday, June 26, 2020 12:12:35 PM

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.

Hello,

I recently learned of proposed zone change 979 which would allow multi-family duplexes and 40% lot coverage. I am NOT in favor of this proposed change. I have lived in Billings Heights for 28 years and it has always had lower property values than some other areas of town. Being a homeowner with new, high priced homes being built around me, I believe putting additional duplexes in this area will decrease the value of my home. I am NOT in favor of increasing the density of this area. Thank you for hearing my opinion and concerns on this matter.

Susan Pogue
406-850-3241
1980 Morocco Drive
Billings MT, 59105

From: [Ed Hellier](#)
To: [Cromwell, Nicole](#); [Bartley, Robbin](#)
Subject: [EXTERNAL] Zone change 979 and Variance 1314 Mission Oaks Property
Date: Friday, June 26, 2020 12:56:05 PM

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.

Planning Division,

I am sending you this email with great concern with the upcoming request for Zone change 979 project PZX-20-00121 and Variance 1314 project PZX-20-00122. We believe that these requests will have a negative impact on our property and our value of our home which is very close to the proposed Project location. We searched for quite some time to find a home that had a larger lot than most single family homes around it when we moved to Billings. We have enjoyed the community here in the Heights and the privacy that the current zoning provides us for our property. We believe if this request is granted it won't be long that more variances and zone changes will be granted and the homes will be stacked on top of each other reducing our privacy and effecting the current feel of the neighborhood.

The Zone Change 979 is requesting a 10% increase in lot coverage and switching to multi family homes. We believe this would decrease our current property value and create a busier environment to the neighborhood. The more homes and families, the more hustle and bustle. The added Variance 1314 requesting an additional 10 percent lot coverage is not acceptable. In the proposed Exhibit A lot layout there is 5'-0" from garage building line to property line. I'm sure most people, when they want to buy their home, do not want to be looking out the window to another home 10 feet away. The building size compared to the lot size for this project is totally unacceptable for our neighborhood.

In the proposed filing from Sanderson Stewart they state that the Infrastructure services are currently being worked on. With this work is there any plan to address the water issue that accumulates at the corner of Gleneagles and Black Diamond Roads? During large rainfalls the drain near the corner of this intersection plugs up and floods the area. In the past this has flooded basements in the area. The current construction will add a major amount of water going into the current Storm Sewer system. Will this new system drain into this area? How will this be addressed? It also suggests these homes will be intended for first time home buyers and families with small children. How is a home with such a small lot size suitable for a family with small children? Where is room for them to play in their own yard (instead of the very busy streets)?

Recently you had negative feedback for a zone change for property on Clubhouse Way. Why should this location be any different? If there is a need for these types of homes they need to set up a development away from other homes for this - not in the middle of an existing housing community.

We are not opposed to the building of new homes in the community but there needs to be better planning to keep from stacking these homes on top of each other. We think the best use for these properties would be to keep them as single family homes with the current lot zoning for 30% lot coverage.

We hope that you will respect our views on this matter in your decisions moving forward in this project and other future projects in Billings Heights.

Thank you

Ed Hellier
2000 Greenbriar Road
Billings MT 59105

From: [crystal.hellier](#)
To: [Cromwell, Nicole](#); [Bartley, Robbin](#)
Subject: [EXTERNAL] Zone Change 979 and Variance 1314 Mission Oaks Project
Date: Friday, June 26, 2020 12:43:24 PM

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.

Planning Division,

Our single family home at 2000 Greenbriar Road greatly oppose the proposed R5000 zone changes regarding Mission Oaks property. We purchased our home in September 2017. One of the main reasons we purchased our home in this area is due to the spacious areas between houses. Just because we live and want to live in the “city” of Billings (Heights), doesn’t mean we prefer neighbors in very close proximity. If we wanted to be able to peer into our neighbor’s windows and yards and not have privacy, we would have purchased elsewhere in Billings. The current zoning is single family. We oppose this zone being changed to multi family homes.

Another reason we oppose this zone change is by increasing lot area coverage by 20% as proposed will decrease our property value. Our property value has been increasing since we purchased our home in 2017. We are hard working, tax paying citizens and do not appreciate our home value decreasing secondary to these proposed changes. A home is an investment! We take pride in our home, property and neighborhood. Therefore, we oppose this zone being changed to increase lot area coverage.

It is well known by neighbors that Glen Eagles Blvd has issues with storm sewer and water already. Increasing ground coverage by 50% will only exacerbate the issues already present. Increasing density will most likely cause other problems also, requiring further service by law enforcement, fire station, etc.

It is sad and depressing watching land “where the antelope roam” (which we see daily) being replaced with infrastructure. In our opinion, the proposed zone changes to multi family homes, increasing lot area coverage by 20%, increasing storm sewer water issues already present is not welcome or acceptable. Therefore, as stated above, we greatly oppose these proposed zone changes.

We hope our concerns are sincerely reviewed by the Zoning Commission.

Thank you.

Crystal Hellier

2000 Greenbriar Road

Billings, MT 59105

RON S. HILL

P O BOX 50636
BILLINGS MT 59105-0636

Phone & Fax: (406) 256-8844
E-mail: scihill@gmail.com

June 30, 2020

Board of Adjustments
Attn: Mr. Mark Noening, Chairperson
2825 3rd Ave. North
Billings, MT 59101

Re: City Variance 1314, Project Number PZX-20-00122, High Sierra Subdivision

Dear Board of Adjustments Chairperson and members,

The current Variance 1314 correspondence, Zone Change 979 correspondence and City Council correspondence has NOT recognized the 2007 Master Planned 402 acres that includes this variance request area. I believe the 2007 Master Plan and City Council minutes from that time should be recognized. In 2007, there was a zone change request from the then existing R9600 to R7000R. There was considerable opposition. I did not oppose the zone change at the time due to the proposed change remaining single family residences and the lots only being slightly smaller than R9600. Additionally, I understood and noted that there would be buffer zones with the intent to be larger single family lots around the border of the Master Planned subdivision with an average lot around 8,200 feet. Allowing this variance on the south border along Mission Oaks is extremely contradictory and not in accordance to the Master Plan.

I oppose the City Variance 1314 request to increase the density of lot area maximum coverage from the current R700R, which would be 30% to 50%. That would be a 67% total increase if the proposed Zone Change 979 is approved on July 7, 2020 for Mission Oaks Drive. It would then get a 10% increased density for lot coverage area for just the zone change. Even a 33% increase to 40% is too much and not in accordance with the Master Plan intentions.

Item #7 (pages 10-18) of the attached October 22, 2007 City Council Minutes explain some history and Mr. Oakland shared his intent at the bottom of Page 15 and top of 16. All 9 pages have some applicability to the Mission Oaks proposed zone change.

Coincidentally, I had a proposed zone change 'neighborhood meeting' the same day as the neighborhood meeting for the Mission Oaks zone change. I was looking for a market for my single family lots on Clubhouse Way that back up to R5000 duplexes on Gleneagles Blvd.

These R5000 duplexes are the ones referenced in the Mission Oak proposal. For quick reference I have attached an aerial zone change exhibit from my Clubhouse Way zone change proposal. It shows the duplexes and single-family residences in the 300' dashed line required notification area outside of the bold solid line zone changes area. Much to my surprise, we received an excessive amount of negative feedback regarding density and values from nearby single-family residential properties. We did not receive any comment from the adjacent duplex residents. From this it seems that for the neighbors who pay extra for and enjoy single family residences, the R5000 zoning is not welcome as they believe it decreases the values of their homes and that it brings added problems from increased density. We withdrew the proposed zone change and just reduced the cost of the 10,800 sq. ft. single family lots by an average of \$11,000 to an average of \$52,500. I have also attached the list of neighbors opposing that zone change. Of the opposed, 9 out of 15 were in the notification area and 6 were next door to that area. Some complained for working neighbors about the 2:00 pm zoom meeting time and the neighbors not being able to attend. The point of this paragraph is that public sentiment 13 years after the 2007 zone change proposal is very much the same.

The High Sierra zone change and variance requests repeated the popularity of what the existing duplexes have done adjacent to High Sierra with R5000 zoning. My attached Clubhouse Way Zone Change exhibit shows the R5000 zoning in the notification area including the duplexes adjacent to Oakland Properties. The proposed zone change is 1,200 feet to the South. The attached certified ownership list, dated May 11, 2020, shows in the highlighted column one real estate group located at 2344 Gleneagles Blvd owning 14 of the 28 total units. Maybe they can explain why this sounds like a rental operation. I do not think these units are as popular as the High Sierra zone change request states. It is the same real estate group looking to Oakland Companies this past April for what appears to be a place to expand their growing rental operation with sprawling single level duplexes with 3 bedrooms and 3 car garages in the middle of surrounding single-family zoning and residences.

Whether the proposed ReCode (re-zoning) is passed or not by City Council, we have or will have learned an abundance regarding Billings Neighborhoods. I was active and attended ReCode weekly and monthly public hearings regarding Neighborhoods for most of 2019. The proposed ReCode zoning is intended to be similar to existing zoning. The proposed zoning intent for the Mission Oaks proposal is to bring on 2 family structures where it is surrounded by hundreds of single-family residences and single-family lots. That is similar to neighborhoods in the early part of the 20th century that were done in downtown Billings and adjacent to downtown. That is where this added density belongs and would be harmonious with other neighborhoods, not in an area established with an established or master planned suburban neighborhood. As the 2007 master plan and City Council minutes indicate along with the neighborhood, this is not the right place to create a short row of multi-family units.

The Mission Oaks proposal does not have any property owners that actually live within the required notification area. There are 4 owners with multiple lots, narrowed down to 3 with the School District being neutral. Also, I have not seen any posted notices. There is not a periphery 300' required notification area noted on the Mission Oaks maps, but I believe I own 6 lots in the 300' required notification area.

My responses to the conditions in ORD. NO. 97-5048, 13, 12-22-97 are as follows:

(d) *City Board of Adjustment action. The city board of adjustment, before it grants 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. Response: There are no special conditions or circumstances existing that are peculiar to the land, the lot or anything inherent in the land which causes hardship. This is applicable to most land in the area.*
- (2) *That the literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district; Response: There are no verbatim provisions of this chapter that would deprive the applicant of rights commonly enjoyed by other tracts in the 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. Response: The application is privileged with no neighbors living in the required notification area. Surrounding land in the area will remain at 30% maximum lot area coverage and to increase Mission Oaks density by 67% without more notices is not neighborly. The nearest neighbors are the real neighborhood.*
- (4) *That granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan. Response: The comprehensive plan is represented in the 402-acre master plan as single-family residences and changing 2.4 acres to a 67% increase in lot area coverage is not in harmony with the current or intended surrounding neighborhoods.*
- (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. Response: This variance would be a grant of special privilege inconsistent with other properties in the area with limitations on multi-family housing.*

Please deny Variance Request 1314 for the reasons above and keep the integrity of the 2007 Master Plan and the City Council minutes from October 22, 2007.

Sincerely,

Ron Hill
142 Annandale Road
Billings, MT 59105
scihill@gmail.com

Ron Hill
142 Annandale
Billings, MT 59105

June 30,2020

Mr. Mark Noening, Chair of the Board of Adjustments, and Board Members.
2825 3rd Ave. North
Billings, MT 59101

Re: City Variance 1314, project number PZX-20-00122

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I oppose the July 1st variance request to increase the density of lot area maximum coverage from current R7000R 30% to 50%. That 67% increase would be if the proposed Zone Change is approved on July 7th, 2020 for Mission Oaks Drive. It would then get a 10% increased density for the lot coverage area for just the zone change. Even a 33% increase to 40% lot area coverage is too much and not in accordance with the Master Plan intentions.

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Coincidentally I had a proposed zone change 'neighborhood meeting' the same day as the neighborhood meeting for Mission Oak proposed zone change. I was looking for a market for my single family lots on Clubhouse Way and currently backing up to R5000 on Gleneagles. The R5000 duplexes back up to my single family lots and are the ones referenced in the Mission Oak proposal. For quick reference I have attached an aerial zone change exhibit from my Clubhouse Way zone change proposal. It shows the duplexes and single family residences in the 300' dashed line required notification area outside of the bold solid line zone change area.

Page 1 of 3

Much to my surprise, we received an excessive amount of negative feedback regarding density and values from nearby single family residential properties. We did not receive any comment from the adjacent duplex residents. From this it seems that for the neighbors who pay extra for and enjoy single family residences, the R5000 zoning is not a welcome addition to their single family zoning as they believe it decreases the values of their property and that it brings added problems from increased density. We withdrew the proposed zone change and just reduced the cost of the 10,800sf single family lots by an average of \$11,000 to an average of \$52,500. I also attached the list of neighbors opposing that zone change. 9 out of 15 opposed were in the notification area and 6 were next door to the area. Some complained that working neighbors had a difficult time attending the 2pm zoom meeting. The point of this paragraph is that public sentiment 13 years after the 2007 zone change is very much the same.

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My responses to the conditions in ORD. NO. 97-5048, 13, 12-22-97 are as follows:

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- (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. Response: There are no special conditions or circumstances existing that are peculiar to the land, the lot or anything inherent in the land which causes hardship. This is applicable to most land in the area.*
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Please deny Variance Request 1314 for the reasons above and keep the integrity of the 2007 Master Plan and the City Council minutes from October 22, 2007.

Sincerely,

Ron Hill
142 Annandale Road
Billings, MT 59105
scihill@gmail.com .

Date: 05/11/2020
Time: 11:08:07
Oper: mshafer

*Certified
Ownership
As of*

Yellowstone County
TA Reports - Parcel Master List

Page: 4

May 11, 2020

Tax Code	Owner/Mailing Address	Legal Description	Levy Dist	Sub Dist	Tax Type
	BILLINGS MT 59105-3686	LAKE HILLS SUBD 15TH FILING, S16, T01 N, R26 E, BLOCK 46, Lot 15			
A22238B	✓ ✓ PARKS, JAYSON R & KIMBERLY R 3625 DRURY LN BILLINGS MT 59105-5120	03-1033-16-2-16-04-5002 GLENEAGLES TOWNHOMES (19), S16, T01 N, R26 E, UNIT 2, 50% COMMON AREA INTEREST, LOC @ LT 4 BLK 1 LAKE HILLS SUB 35TH FIL	2		RE
A22238A	✓ ✓ PARKS, JAYSON R & KIMBERLY R 3625 DRURY LN BILLINGS MT 59105-5120	03-1033-16-2-16-04-5001 GLENEAGLES TOWNHOMES (19), S16, T01 N, R26 E, UNIT 1, 50% COMMON AREA INTEREST, LOC @ LT 4 BLK 1 LAKE HILLS SUB 35TH FIL	2		RE
A22235D	✓ ① PARKS, TRENT 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001	03-1033-16-2-16-01-5004 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2351, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235E	✓ ② PARKS, TRENT 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001	03-1033-16-2-16-01-5005 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2345, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235F	✓ ③ PARKS, TRENT 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001	03-1033-16-2-16-01-5006 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2343, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235C	✓ ④ PARKS, TRENT 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001	03-1033-16-2-16-01-5003 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2353, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22236A	✓ ⑤ PARKS, TRENTON 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-16-02-5001 GRANLUND TOWNHOMES (19), S16, T01 N, R26 E, UNIT 1, 50% COMMON AREA INTEREST, MASTER CARD LOC @ LT 2 BLK 1 LAKE HILLS SUB 35TH FIL	2		RE
A22235L	✓ ⑥ PARKS, TRENTON PAUL 2344 GLENEAGLES BLVD BILLINGS MT 59105-2001	03-1033-16-2-16-01-5012 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2321, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235K	✓ ⑦ PARKS, TRENTON PAUL 2344 GLENEAGLES BLVD	03-1033-16-2-16-01-5011 NEST AT LAKE HILLS (19), S16, T01 N,	2		RE

Date: 05/11/2020
Time: 11:10:11
Oper: mshafer

Yellowstone County
TA Reports - Parcel Master List

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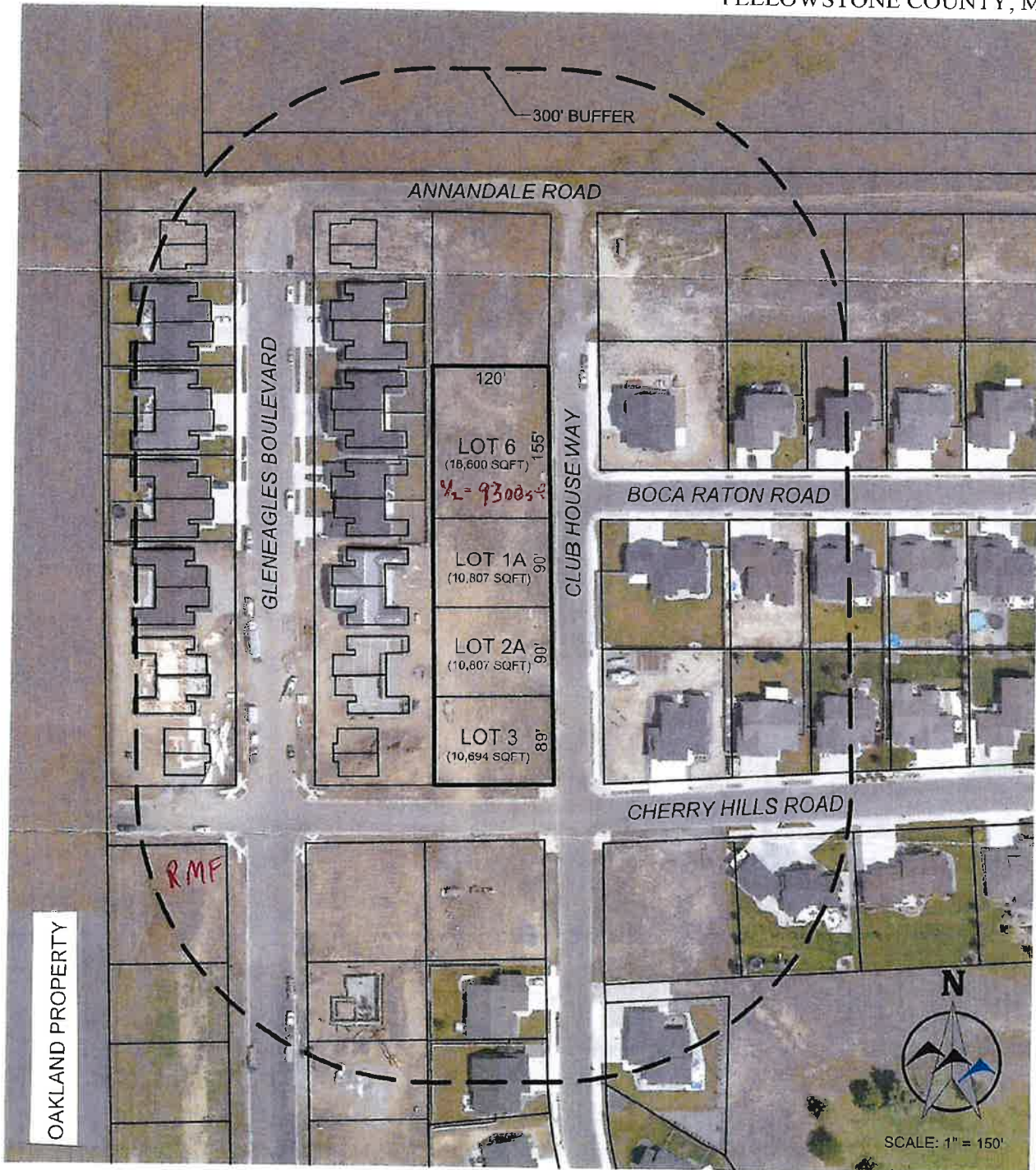
Tax Code	Owner/Mailing Address	Legal Description	Levy Dist	Sub Dist	Tax Type
	2313 GLENEAGLES BLVD BILLINGS MT 59105-2034	R26 E, UNIT 2315, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2			
A22235Q	8 STARKS REAL ESTATE GROUP LLC 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-16-01-5016 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2305, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22191	9 STARKS REAL ESTATE GROUP LLC 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-09-11-0000 L15 LAKE HILLS SUBD 15TH FILING LAKE HILLS SUBD 15TH FILING, S16, T01 N, R26 E, BLOCK 16, Lot 11	2		RE
A22235A	10 STARKS REAL ESTATE GROUP LLC 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-16-01-5001 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2352, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235P	11 STARKS REAL ESTATE GROUP LLC 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-16-01-5015 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2307, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235S	12 STARKS REAL ESTATE GROUP LLC 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-16-01-5018 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2306, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235R	13 STARKS REAL ESTATE GROUP LLC 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-16-01-5017 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2304, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235B	14 STARKS REAL ESTATE GROUP LLC 2344 GLENEAGLES DR BILLINGS MT 59105-3793	03-1033-16-2-16-01-5002 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2354, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22235T	STEVENSON, EDWARD O & CONSTANCE A 2312 GLENEAGLES BLVD BILLINGS MT 59105-2001	03-1033-16-2-16-01-5019 NEST AT LAKE HILLS (19), S16, T01 N, R26 E, UNIT 2312, 4.545 % COM ELE INT LOC @ LAKE HILLS SUB 35TH FIL LTS 1, 5-7 BLK 1 & LTS 1-7 BLK 2	2		RE
A22236B	TAYLOR, RONALD DEAN 2346 GLENEAGLES BLVD	03-1033-16-2-16-02-5002 GRANLUND TOWNHOMES (19), S16, T01 N,	2		RE

Jami G Sloan
2306 Gleneagle Blvd
Billings, mt 59105

Lance J Felchle
2304 Gleneagles Blvd
Billings, mt 59105

ZONE CHANGE EXHIBIT

LOT 6, BLOCK 19 OF LAKE HILLS SUBDIVISION, 15TH FILING
 LOTS 1A, 2A, & 3, BLOCK 5 OF LAKE HILLS SUBDIVISION, 33RD FILING
 WITHIN NW1/4 SECTION 16, T01N, R26E
 YELLOWSTONE COUNTY, MONTANA



ZONE CHANGE EXHIBIT

LOT 6, BLOCK 19 OF LAKE HILLS SUB., 15TH FILING
 LOTS 1A, 2A, & 3, BLOCK 5 OF
 LAKE HILLS SUB., 33RD FILING
 WITHIN NW1/4 SECTION 16, T01N, R26E
 YELLOWSTONE COUNTY, MONTANA

DSGN	DATE	CKD
AMR	5/2020	TJK
REV	DATE	CKD

RON HILL

WWCENGINEERING
 550 S. 24TH STREET W., SUITE 201
 BILLINGS, MT 59102
 (406) 894-2210

EXHIBIT
 1 OF 1

JOB # 2020132

PLOT STYLE: WWC_v1-0.sxd
 13/05/2020 FILE DATE: K:\BIBING\RON HILL\2020132 Lake Hills 33rd Filing Zone Change\CSCAD\Sheet\Pre-App Neighborhood Mtg Exhibit.dwg

9 of 15 protesters were in 300' area w/6 next door.
Clubhouse Way Zone Change withdrawn

5.26.20

List of protesters;

✓ Sam & Kristy Brammer
636 Boca Raton Rd
Billings MT 59105

Kristy Brammer
406-861-5008 (Kristy)
406-861-5006 (Sam)

✓ Colton + Shelby Eckman
627 Boca Raton Rd
Billings MT 59105

Colton Eckman
406-690-4557

✓ Steven & Lauren Riehl
622 Boca Raton Rd
Billings, MT 59105

Lauren Riehl
406-670-9768

Britt + Megan Hungen
611 Boca Raton Rd
Billings, MT 59105

Megan Hungen
672-0608 Britt
406-2636 Megan

Dan & Breanna Jones
560 Boca Raton Rd
Billings MT 59105
Breanna Jones

406-670-1551 Bre

✓ GREG Hartsfield
Michelle Hartsfield
2337 Clubhouse Way
Billings MT 59105

406-749-0418

Bobby and Melissa Faudias
✓ 631 Cherry Hills Rd
Billings MT 59105

Against

Robert T. Dougherty
604 Cherry Hills Road
Billings, Mont. 59105

Brady Hoiness
✓ 626 Cherry Hills Rd
Billings, MT 59105
406-860-2365

Harold & Rebecca Anderson
607 Cherry Hills Rd
Billings, MT 59105
406-860-1733

Garrett & Kaylie Anderson
563 Boca Baton Rd
Billings, MT 59105
406-671-4089

✓ Sandy Craighill
2242 Clubhouse Way
59105

656-2810
Sandy of Craighillville

Kerry + Paula Nelson 2234 Clubhouse

✓ 390-6928

Kop & Mrs


Kopsbra@gmail.com

Dick Kramer - Dick Kramer
Mona Kramer - Mona Kramer

✓ 2253 Gleneagles Blvd.

371-5173

3/4

LARRY + LINDA SMITH
SAMANTHA KAUFMAN
635 BOCA RATON RD
 406-855-5090

15 Total
9 within 300' Notification area
6 next door to " "

4/4

Oct. 22, 2007
City Council minutes

annexation complied with the City's annexation policy. Ms. Spalding advised any improvements within the proposed development would need to be up to City standards, and the owners would be required to sign a Development Agreement or Subdivision Improvements Agreement with a waiver of right to protest any future SIDs. She said the existing zoning of Residential 7000 would accommodate urban density development with five units per acre. Ms. Spalding said staff was recommending approval of the annexation request conditional upon a Development Agreement between the owner and the City stipulating specific infrastructure improvements and providing guarantees for such improvements; or a Subdivision Improvements Agreement and waiver of right to protest creation of an SID stipulating specific infrastructure improvements and providing guarantees for such improvements. Ms. Spalding stated the developer would like to construct condominium developments, which would preclude going through subdivision reviews.

Councilmember Stevens asked if R7000 residential was considered medium density. Ms. Spalding said it was, allowing one single family unit per 7,000 feet. Councilmember Stevens asked if the land was currently zoned R7000 or R7000 Restricted. Ms. Spalding said it was currently zoned R7000.

The public hearing was opened. There were no speakers, and the public hearing was closed.

Councilmember Boyer moved for approval of Agenda Item 6, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND 1ST READING ORDINANCE FOR ZONE CHANGE #822: A zone change from Residential 9,600 to Residential 7,000 Restricted on a 400-acre property located north and west of the High Sierra Subdivision and Lake Hills Subdivision. Dover Ranch, owner; Oakland Companies, developer; and Engineering, Inc., representing agent. Zoning Commission recommends approval except for a 100-foot strip of land that borders Lake Hills Subdivision and adoption of the determination of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II, Juliet Spalding, began her PowerPoint presentation showing the location of the subject property. She said the developer was requesting the zone change to restrict the lots to single family dwellings only. She said the Zoning Commission was recommending a 100-foot buffer zone adjacent to the R9600 lots. Ms. Spalding referenced the Master Plan and advised the project would be done in a number of phases over a 10 to 15-year period. She commented a large number of major intersections would be alleviated from high volume traffic with the proposed development.

Councilmember Veis asked where the R9600 zoning was located. Ms. Spalding pointed out the location of all R9600 zoning and identified the buffer zone. Mayor Tussing asked if Matador was currently zoned R7000, and Ms. Spalding replied it was.

Ms. Spalding said there was a protest petition signed by approximately 30 property owners in the area; but only 8% of the signatures made up property owners within 150 feet of the subject property. She said a valid protest required 25%.

Ms. Spalding said the developer presented the Master Plan to the Planning Staff and they concurred. Mayor Tussing asked if the developer was obligated to stick with the Master Plan. Ms. Spalding said the Master Plan was reviewed at a very detailed

level on the first filing and recorded; and at that point, the developer could not deviate from the Master Plan without considerable review.

Councilmember Stevens asked if there had been any neighborhood meetings. Ms. Spalding said she believed the developer had held a number of meetings with adjacent neighbors. Councilmember Stevens asked if Councilmembers were automatically included in the mailing for neighborhood meetings in their Ward; and if not, could they be included. Ms. Spalding advised they could be.

Councilmember Gaghen said Mr. Oakland's correspondence to the Zoning Commission and City Council indicated there had been good meetings held with the community. Ms. Spalding reported there were a number of proponents of the development that spoke at the Zoning Commission public hearing. She said there were a number of positive comments, as well as concerns, regarding lot size.

Ms. Spalding said the Zoning Commission's recommendation of approval was based on the following 12 criteria.

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

The proposed development is consistent with the following goals and objectives of the 2003 Growth Policy:

- *New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. (Land Use Element #2, pg. 6)*

The proposed zone change would enable a single-family subdivision with similar lot sizes and residential densities to those existing developments to the south and east.

- *More housing and business choices within each neighborhood. (Land Use Element #6, pg. 6)*

The developer proposes to offer an affordable housing supply similar to what they have been successfully offering in adjacent lots within High Sierra Subdivision.

- *Safe and efficient traffic circulation around and through the City. (Transportation Element #2, pg. 9)*

Once this development is fully built out, several key street connections to the south and east will have been completed allowing additional traffic circulation options in this part of the Heights.

- *Increased circulation connections for improved traffic flow. (Transportation Element #10, pg. 10)*

2. *Is the new zoning designed to lessen congestion in the streets?*

Any change of use of the ranch property will add additional traffic to the network, regardless of the zoning. However, with the opportunity to review the entire 400-acre property, existing and future traffic concerns in this area can be mitigated. There are several existing dead end streets that will be connected to offer more traffic flow options into and out of the entire area. For example, Annandale Rd., a proposed minor arterial, would be connected to Gleneagles Blvd., a principal arterial street, and eventually connected to Wicks Lane, another principal arterial. Also, High Sierra Blvd. would be connected to the north and Matador Ave. to the east.

3. Will the new zoning secure safety from fire, panic and other dangers?

The nearest fire station is located nearby at 1601 St. Andrew's Drive. The property will also be served by City water and sewer services when development occurs. No public health or safety issues have been raised with this application.

4. *Will the new zoning promote health and general welfare?*

The new zoning would allow single-family residences to be built with City services. No public health or safety issues have been raised with this application.

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

The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The new zoning would allow the development of single family homes on lots that are a minimum of 7,000 square feet. The master plan submitted with the zoning application indicates a variety of lots sizes with parkland intermixed. It also indicates that the average lot size would be approximately 8,200 square feet. At the time of development, setbacks, lot coverage, height, and other requirements will help to prevent overcrowding of the land.

7. *Will the new zoning avoid undue concentration of population?*

The new zoning would allow the development of single family homes on lots that are a minimum of 7,000 square feet. The master plan submitted indicates that the average lot size would be approximately 8,200 square feet. It also proposes over 36 acres of parkland intermixed throughout, which would make up 11% of the net lot area. The R-70R zoning is set up to avoid undue concentrations of population.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

As noted above in #2, there are a number of transportation connections proposed that will facilitate more efficient traffic flow throughout the entire area. Additionally, there are existing sewer and water mains that will be extended and looped throughout the development.

The southern portion of the subject property is within School District #2 for all ages of school children, while the northern part is within Independent School District #52

for elementary school, and School District #2 for middle and high school students. Given the projected 10-15 year build-out for the property, the schools should have time plan for the gradual addition of students. Also, SD#2 owns a parcel of land adjacent to the south of the subject property that could eventually be developed with an additional elementary school if needed.

Parkland will be dedicated as the property is platted. The master plan indicates that approximately 11% of the net area is proposed for parkland that will connect linearly throughout the blocks and to the existing school-owned property to the south.

Police and fire provisions are to be provided by the City. These public services are always of special concern as properties develop. The nearest fire station is located nearby at 1601 St. Andrew's Drive. Access and service availability to the proposed development will be reviewed with the subdivision, however, given the 10-15 year build-out time frame, the police and fire departments may be adequately equipped over time to handle additional roof tops.

9. *Does the new zoning give reasonable consideration to the character of the district?*
Staff is comfortable that the new zoning does give reasonable consideration to the character of the surrounding community in that it would allow development of similarly-sized single-family lots. The developer reports that they have had conversations with adjacent property owners, particularly to the east in the Lake Hills Subdivision, who have concern over the potential smaller lot sizes. The developer has offered to maintain larger lot sizes within the vicinity of these existing R-96 zoned lots through the platting process. In order to solidify this agreement, the Zoning Commission voted to recommend approval of the zone change with the exception of a 100-foot wide portion of land that fronts the existing R-96 development on the far eastern segment of the subject property (see Attachment B). This 100-foot wide buffer would remain R-96 zoning, requiring a minimum lot size of 9,600 square feet.
10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*
The subject property is dryland pasture land that is adjacent to the existing City limits. It would seem to be a suitable location for expanding the existing residential neighborhood, and continuing a number of proposed street connections throughout the area. The proposed zoning would make this use physically and economically viable.
11. *Was the new zoning adopted with a view to conserving the value of buildings?*
As noted in #9 above, the new zoning would seem to conserve the value of the similarly priced residences to the south of the subject property. The developer intends to use a "coved" layout to design a variety of lot sizes while preserving neighborhood views and parkland connections. This design concept has been utilized in other parts of town and has successfully maintained and protected

property values. The proposed R-96 buffer would further help to formalize conserving of lot sizes similar to those adjacent properties to the east.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

The subject property is currently dryland pasture adjacent to the City limits on the south and east. The developer indicates that properties to the south in the High Sierra Subdivision (3rd and 4th Filings) are quickly being sold for entry to mid-level homes, and that there is demand for more similar lots. Expanding this residential use and adding community amenities such as parks, trails and transportation connections would seem to be an appropriate use of this non-irrigated land.

Ms. Spalding advised, in addition to the 12 criteria, the traffic flow would improve as the critical connections were made; there would be a variety of lots sizes for middle-income families; and the 10 to 15-year build-out would allow the City services to be phased in and properly installed. She advised the Zoning Commission was also recommending approval with the exception of the 100 foot buffer area on the east side of the property.

Councilmember Veis asked if any lot that touched the 100-foot buffer had to be zoned R9600. Ms. Spalding said, according to the Zoning Commission, if the majority (51% or more) of the lot was within the Residential 9600, it would need to follow the R9600 standards. Ms. Spalding stated the developer was willing to comply with the recommendation.

The public hearing was opened.

- KERRY ASHMENT, 2435 LAKE HEIGHTS DRIVE, said he owned one of the lots that bordered the 100-foot buffer zone. Mr. Ashment stated he would like to have the buffer zone increased to 200 feet. He stated there would also be a traffic issue with only two exits, and he recommended there be at least three exits from the area.
- LYNN MURPHY, 2441 LAKE HEIGHTS DRIVE, said he would like the 100-foot buffer zone increased, and he was concerned about property value.

Councilmember Veis asked Mr. Murphy if he had attended the Zoning Commission Public Hearing. Mr. Murphy replied he had not, but his wife had attended. Mr. Veis asked if Ms. Murphy had requested a 200-foot buffer at the public hearing. Mr. Murphy said his wife actually wanted a 400-foot buffer zone. Councilmember Boyer asked Mr. Murphy if he had met with the developer. Mr. Murphy stated he was out of town, and his wife would testify regarding the issue.

- MARGARET MURPHY, 2441 LAKE HEIGHTS DRIVE, said she attended the Zoning Commission Public Hearing, and would like to challenge the claim that Mr. Oakland met with the neighborhoods. She said she had contacted his office to schedule a neighborhood meeting and was told they did not want to meet with the neighborhood, but would meet with her. Ms. Murphy said the time of the

scheduled meeting did not work out for her, and there was no attempt to reschedule. Ms. Murphy stated she was concerned about the traffic, especially around the school.

Councilmember Ruegamer asked Ms. Murphy if she tried to reschedule the meeting with Mr. Oakland. Ms. Murphy said she contacted his office to advise she could not make the scheduled meeting, and there was no further communication regarding rescheduling the meeting.

- STUART BRIGGS, 2430 GREENBRIAR ROAD, said his concerns were traffic flow; the building of smaller homes, which would reduce his property value; and the 100-foot buffer zone. Mr. Briggs said he would like the 100-foot buffer zone increased to 200 feet, and he would like some assurance from the builder as to a minimum square footage requirement per house.

Councilmember Gaghen asked Mr. Briggs if he wanted the increased buffer zone around the whole subdivision or just the area that was crosshatched. Mr. Briggs stated he would like the buffer zone increased from 100 feet to 200 feet along the eastern and southern borders.

- ANTHONY (last name inaudible), 2436 GREENBRIAR ROAD, said he opposed the annexation, and he was opposing the zone change. He said the 100-foot buffer zone was a joke, and he was concerned with the increase in traffic flow, the school zones, the police, fire, sewer, and water that would come with building a large subdivision.
- NANCY DOERR, 2417 GREENBRIAR ROAD, said her main concern was with the traffic, and she would like the subdivision to be done in an orderly fashion. Ms. Doerr said she was concerned about her property value and wanted the neighborhood to remain nice.
- GARY OAKLAND, 900 WELLS FARGO CENTER, advised he was the CEO of the Oakland Company, and said the company had made efforts to meet with all neighborhood members in smaller groups. He said approving the 100-foot buffer zone was reasonable, and he was proposing a wide variety of lot sizes. Mr. Oakland stated the R7000 was a minimum, not a maximum, and not even the average. He advised one of the first examples of R7000-R zoning within the City of Billings was Copper Ridge. He said the lots averaged 8,900 square feet, and the subdivision had received national attention for its visionary design. He stated the Oakland Company planned to do a similar project, but with smaller lots. Mr. Oakland said there was a huge demand on lots priced in the low \$40,000 price range. He said when the lot size increased, so did the price, and when the price of the lot went up, it forced the price of the house to go up.

Councilmember Veis asked Mr. Oakland which lots would be affected by the 100-foot buffer zone. Mr. Oakland said the drawing was only a schematic. He said a full blown design would cost several hundred thousand dollars in design work, and there was no established zoning to date. He stated his intention was to have large lots

around the border of the subdivision, averaging the lot sizes down to approximately 8,200 feet. He said the intent was to offer smaller lots and homes that the average family could afford. He noted there was a big difference between density and space; density referenced the number of houses per acre, and space referenced the design of a house.

Councilmember Veis asked Mr. Oakland if the 100-foot buffer zone and R9600 would fit into what the subdivision was trying to accomplish. Mr. Oakland said they would. Mr. Oakland said they embraced buffer zones and felt they were making the necessary compromises.

Councilmember Brewster asked Mr. Oakland if the strips of open land would be dedicated to a park. Mr. Oakland said they were proposing 36 acres of park in the subdivision and an elementary school in the future.

Mayor Tussing asked Mr. Oakland for the average cost of a home on an R7000 lot compared to a home on an R9600 lot. Mr. Oakland advised the average cost of an R7000 lot was between \$38,000 and \$45,000, with the average price of the home being \$180,000 to \$225,000. He said the average price of an R9600 lot would be at least \$10,000 more, and the average price of a home would be at least \$40,000 more.

Councilmember Boyer stated she had concerns with a 400-acre development, because of traffic and school issues. She asked the developer to address issues such as traffic, number of people, and the density of the plan. Mr. Oakland said traffic would increase with the subdivision development; however, the Master Plan would provide connectivity to major intersections, which would alleviate some of the traffic concerns. Ms. Boyer asked how long it would take to do some of the connectivity. Mr. Oakland said that was more of a planning question instead of a zoning question, because water and sewer connections would have to be analyzed.

Councilmember Veis asked Mr. Oakland what the depth of the lots would be. Mr. Oakland responded they would be over 100 feet. Mr. Veis asked Mr. Oakland if the lots bordering the 100-foot buffer zone would be zoned 9600. Mr. Oakland said they would.

Councilmember Ulledalen asked if the subdivision was similar to the boundary between Gregory Hills and Wilshire Heights in terms of lot size and home values. Mr. Oakland stated a development could have a wide variety of lot sizes, and he did not feel property values were compromised by the difference. He said there was a wide variety of lot sizes all over town.

Councilmember Stevens asked Mr. Oakland if he was familiar with the DNRC property to the west of Castle Rock Middle School that had been recently approved. Mr. Oakland said he was somewhat familiar. Ms. Stevens advised the zoning was included with the master plan when it was brought before Council. She asked Mr. Oakland if he would be opposed to going back out and working with the neighbors and developing a master plan to be presented to Council. Mr. Oakland said he would not be able to do so, because he felt he could not please everyone, and it would be almost impossible to develop a master plan at the current stage.

- DJ SMITH, 2520 LAKE HEIGHTS DR., stated he felt the buffer zone should be increased and would like Council to address his concern.
- MILES EGAN, 2690 S. RIDGE DRIVE, stated he was a friendly competitor of Mr. Oakland and was there to speak for the entry level home buyer. He

complimented the Oakland Company for their state-of-the-art design and development within the community. Mr. Egan requested the Council's support of the zone change.

Mayor Tussing asked Mr. Egan what the average price of a home was in the City of Billings. Mr. Egan said the overall average would be between \$176,000 and \$178,000. Councilmember Stevens stated she agreed the City needed affordable housing for everyone, and said she wondered why the Heights was always referred to and not the west end for affordable housing. Mr. Egan said the affordable housing market was spread across the entire city, not just in the Heights.

- JUSTIN LEMON, 2220 ST. JOHNS AVENUE, said he was a mortgage lender for American Mortgage of Montana; and said if lot sizes were increased, the price of the house would go up and make it more difficult for a middle-income family to obtain affordable housing. Mr. Lemon asked Council to approve the zoning request.
- JASON (last name inaudible), 234 SHARRON LANE, stated he was a realtor and a part-time homebuilder. He said having access to smaller lots was essential not only to his business, but also to middle-income families.
- MARTHA RIDGEWAY, 1215 CAROLINE STREET, said she was the owner of Martha's Homes, and she marketed homes with a contractor in the High Sierra Subdivision. Ms. Ridgeway stated her company offered four types of ranch-style homes in the \$175,000 to \$265,000 range. She said she tried to make a variety of homes and lot sizes available to the consumer. Ms. Ridgeway encouraged Council to approve the zone change.

There were no other speakers, and the public hearing was closed.

Mayor Tussing called for a brief recess at 8:40 p.m. The meeting was called back to order at 8:47 p.m.

Councilmember Ulledalen moved for conditional approval of Item #7, seconded by Councilmember Ruegamer.

Councilmember Veis asked how it was determined if the lots would be zoned 9600. Planning Director Candi Beaudry said the determination was based on if the majority of lot was covered by 9600 zoning. Councilmember Clark asked if the 100-foot barrier was incorporated into the lot and not included in the street. Ms. Beaudry said that was correct, and the district boundary would go to the center line of the street. Councilmember Jones asked Ms. Beaudry if the buffer zone for Fox Tail Subdivision on Grand Avenue was similar. Ms. Beaudry said it was, and the zoning was consistent with previous subdivision approvals.

Councilmember Veis asked if Planning would re-zone after the subdivision process had been completed and the lots were more defined. Ms. Beaudry said that would be the best solution, and Council could initiate a zone change at that time.

Councilmember Ulledalen asked Ms. Beaudry what the merit was in getting the subdivision underway. Ms. Beaudry said it was not only for the traffic connections, but

also for the sewer and water connections. She said looping the water would provide more water pressure, and the overall water quality would improve.

Councilmember Brewster asked if approval of the zone change would trigger the need for a traffic light at St. Andrews. Ms. Beaudry said it could, and Mr. Oakland would be required to do a Traffic Accessibility Study to document the need for a traffic signal. Mr. Brewster asked if it would be advantageous to structure the 100-foot buffer zone to include adjacent lots. Ms. Beaudry reminded Council the current issue was a zone change, and a zone change could not be "conditioned".

Councilmember Brewster made an amended motion to extend the buffer zone on the east end of the subdivision to 200 feet, seconded by Councilmember Boyer.

Councilmember Stevens asked if the proposal was consistent with the neighborhood plan. Planner II, Juliet Spalding, said the goals and objectives fit into the neighborhood plan. Councilmember Boyer asked Ms. Spalding if anyone had made a presentation to the neighborhood task force regarding the development and how it impacted the neighborhood plan. Ms. Spalding said she was not aware of any meetings; however, notice of the proposed zone change was mailed.

Councilmember Stevens stated she would not support the motion or the amended motion because she felt the development was too broad, not planned well, and she was concerned about succession planning. Ms. Stevens said she thought Mr. Oakland's attitude was elitist in regard to the neighbors, as he stated they would never understand the master plan. Ms. Stevens said it was possible to educate people and said there was no attempt to do that.

On a voice vote, the amended motion to expand the buffer zone on the east side of the property from 100 feet to 200 feet passed 7 to 3. Councilmembers Stevens, Veis, and Ulledalen voted 'no'.

On a voice vote, the original motion, as amended, passed 9 to 1. Councilmember Stevens voted 'no'.

13. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.
(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

- **MICHAEL BÜTZ, 349 FUTURE CIRCLE**, said he lived in Terra West Subdivision, 4th Filing, and had been in contact with the City since February 2006 concerning landscaping the frontage along Monad Road; installing sidewalks at Monad and 32nd Street West; installing speed bumps on Energy Boulevard; installing stop signs at Daystar and Energy Boulevard; and developing Lampman Park. He said nothing had been done despite promises the City had made. He said he was also concerned how the recent zone change on Brookshire Boulevard was changing the complexion of his neighborhood. He said he wrote a letter to the Zoning Commission that Ms. Volek hand-carried to a meeting, yet he heard nothing back.

Councilmember Boyer asked Mr. Bütz if there was a neighborhood task force in his area. Mr. Bütz said he was not aware of one. Mr. Bütz was advised of the West End Task Force. Mr. Bütz said he had been in discussions with Ms. Volek and Councilmembers Jones and Clark since February 2006.

Variance 1315

Husman, Karen

From: Jim VonOlnhausen <jviron@gmail.com>
Sent: Tuesday, June 30, 2020 12:15 PM
To: Husman, Karen
Subject: [EXTERNAL] Regard to variance 1315- 1053 lincoln lane

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.

From Jim Von Olnhausen property owner that borders this lot on the east. I am opposed to this variance and any zone change that would allow multiplex rental housing overlooking my yard. I have had many problems in the past with people climbing over my fence from this area and the mean dogs that were continually turned loose to roam. More people means more trouble and pets. I dislike looking at large multiplex housing and when I chose this place to live I thought I would be protected by R-70 zoning. I do not think what you are doing is legal even with the variance. When I called Performance Engineering I was told this new structure was going to be as high as the existing house that was to be upgraded and used. If this new structure has a 3500 square foot foundation approx. 80x44 to scale and its 2 stories that makes it a 4-plex. How do you put 4-plex on R-70 zoning and where do they park? How many families are to be in existing house?
Concerned property owner Jim Von Olnhausen. I bid on this property several months ago just to prevent something like this from happening.

Variance 1316

Husman, Karen

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

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.
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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.

Bob and Becky Muller

406 East Park Ave • Bridger, MT 59014 • Phone: 406-672-7000 • Fax: 406-662-3669
E-Mail: bobmuller216@msn.com



June 20, 20220

Planning Division

Planning & Community Services Department

2825 3rd Avenue North 4th Floor

Billings, MT. 59101



RE: City Variance #1316 – 2226 Virginia Lane, Project #20-123

Letter for denial of variances requested

To: City/County Planning Division, Board of Adjustment, Ms. Husman and Ms. Cromwell:

Greetings,

We are writing regarding the request for city variance #1316, Project # 20-123, after reviewing the notice and other documents that we received in the mail. We would ask that the requests for the variance of arterial setback, lot size, and lot coverage made by Performance Engineering, LLC, on behalf of Big Sky Endeavors. LLC be denied. We are opposed to the requested change of the lot size down from 9,600 sq. Ft. and the increase in size of maximum lot coverage to 41%, this seems to crowd as much as you can into a small lot space. The current regulations for the R-96 zoning work very well for our neighborhood and help maintain the community feel and uniqueness that was adopted in the **Highland Neighborhood Plan**. The request for the 40 ft setback from Virginia Lane should not be approved. The requirements of the setbacks in place should be kept and enforced. This arterial variance request to 40 ft is 30 ft less than the current zoning regulations of 70 ft per Performance Engineering's variance request, and 10 ft less than the 50 ft setback required if new regulations are adopted in September of 2020. Traffic flows (both vehicle and pedestrian) on Virginia lane and O'Malley Drive seem to have increased in the past few years, and safety should be a prime concern for all that use the intersection at Virginia Lane and O'Malley Drive. We vote for keeping the zoning regulations in place, whether they are the current regulations or the proposed changes for September 2020.

Thank you for the opportunity to hear our concerns on the denial of this request.

Sincerely,

Robert "Bob" Muller

Rebecca "Becky" Wolfe-Muller

Owners of 2305 Virginia Lane.

Husman, Karen

From: phone@vcn.com
Sent: Tuesday, June 23, 2020 3:07 PM
To: Husman, Karen
Cc: Cromwell, Nicole
Subject: [EXTERNAL] Re: Variance 1316

Importance: High

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.

Tuesday, 6/23/20

Dear Karen,

Thank you for your prompt response. We appreciate your assistance.

Although we appreciate constructive investment into our neighborhood, we are deeply concerned that this type of dense housing will have a negative impact on our neighborhood. Car traffic number #1 - coming from the west off of Rimrock into our neighborhood - is already a major concern to those of us already living in this neighborhood.

And after you and staff have done your thorough study of this request, we appreciate your stated position of 'denial' concerning this requested variance.

Sincerely,

Bill and Nancy Boyer

505 Woodland Drive

Billings, MT 59102

Phone: Res - 406-248-9096; Work - 406-245-8810

Email: phone@vcn.com

On 2020/06/23 14:46, Husman, Karen wrote:

Mr. Boyer,

I appreciate your second voice mail, the first message was broken and unclear, I was unable to get information to respond to you. Thank you for supplying your email address.

I have attached a copy of the staff report to the Board of Adjustment. As the staff member researching this application, I am recommending denial.

Let me know if you have any questions, or concerns. If you would like to supply them via email, I will forward them to the board.

Sincerely,

Karen Husman

Planner I

City of Billings & Yellowstone County

Planning Division

2825 3rd Avenue North, 4th Floor

Billings, MT 59101

(406) 247-8684

husmank@billingsmt.gov

***COVID-19 has changed the way the Planning Division is conducting business. We will continue to serve our customers electronically and by phone, however, the office is closed to the public. Email inquiries are best during this time and instructions for permit and application submittals can be found at this link: <https://www.ci.billings.mt.us/184/Planning>**

Husman, Karen

From: Laurence R. Martin <lrms9102lrms@mac.com>
Sent: Tuesday, June 23, 2020 9:00 PM
To: Husman, Karen; Cromwell, Nicole
Subject: [EXTERNAL] City Variance 1316 objection

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,

Please register this as the objection by Laurence and Ruth Martin who live at and own the property at 505 O'Malley Drive directly across the street from the subject property. We object to the three variance requests being considered under the request for City Variance 1316.

We are in receipt of the objection filed on June 17 by Jeff Griffin and Amy Drought who own the property at 2211 Oak Street directly south of the subject property. We endorse the objection filed by them and incorporate it into our objection so that those arguments need not be repeated.

You are probably aware that this developer has gone through several development schemes for the subject property. We have no objection to him meeting current zoning requirements and current setback requirements which would permit the construction of three single family houses on the property on three separate lots. We see no need to change the character of the neighborhood by cramming an additional house onto the property nor do we see that there is any "need" for the intended use of the property at the current location as set forth in the memo from performance engineering dated June 1, 2020. While the developer may see a need for smaller single family homes on smaller pieces of property, the neighbors do not. The current neighborhood is based on single family homes on designated lot sizes with appropriate setbacks.

Moreover, City Ordinances No. 97-5048, Section 13, 12-22-97, includes the issues which the Board Of Adjustment uses to evaluate a variance. The current request for variances meets none of those conditions. For example:

- There are no special conditions or circumstances which are peculiar to the property which causes a hardship not applicable to the other property in the same district. The property is a rectangular piece of flat land similar to other properties in the neighborhood. It can accommodate 3 house on 3 separate lots. Please note that we believe the neighborhood should be defined as properties lying West of Virginia Lane which is a busy arterial which creates a different neighborhood on the East side of the street.
- The provisions of the ordinance do not deprive the applicant of any right enjoyed by other tracks in the same district.
- The variance requested does confer upon the applicant special privilege which we think should be rejected since the land can be developed, as indicated, by adhering to current zoning and setback requirements which would limit it to three single family residences.
- The variance will not be in harmony with the intent of any currently adopted comprehensive plan as we understand it. To cram one more house on the property is not harmonious with the character of the neighborhood.

Since we bought our house in 1979, we enjoyed being part of a neighborhood of mixed single family residences, each of which are on separate lots. We see no need for four patio homes on the subject property contrary to the character of the neighborhood simply for development purposes.

There is another issue to be considered. Virginia Lane is a busy street. Reducing the setback on the corner of Virginia and O' Malley reduces the ability to see traffic coming and going on Virginia. The more visibility the safer it is.

Thank you for your consideration and for the consideration of the Board Of Adjustment. Please confirm receipt of this objection.

Laurence & Ruth Martin

6/24/20

Dear Ms. Husman and the Billings Board of Adjustment,

I appreciate the chance to respond to city variance #1316. Please know that our household is in opposition to the requested variance for the reasons listed below.

First, this is not a small variance request. The property owners seek to override the setback from centerline of Virginia, not by 10 or 15%, but by a whopping 43%! Additionally, they seek to develop the lots with dwellings that encompass more developed space than is currently allowed. As a mother with 2 small children who bikes to work at the hospital daily, I oppose the variance for reasons of safety. Oak and O'Malley are narrow streets. Adding 4 homes to a lot that previously only housed 1 increases traffic by 400% on these streets. The lot is zoned for 3 dwellings and adding a 4th home on this lot means even more traffic. Building so close to Virginia lane (a highly traveled street) reduces sight lines for those turning out of the neighborhood. Both of these are safety concerns.

The property owners have repeatedly requested exceptions to city zoning and ordinances and continue to do so, despite knowing full well what the current property restrictions were before buying. A couple years ago, they sought to re-zone this area and build 6 dwellings. All of the surrounding neighbors voiced strong opposition to this and the owners subsequently withdrew their zoning request. The property owners are now seeking to put up 4 dwellings on a lot zoned for 3. Furthermore, they seek to build homes that will exceed the maximum building coverage and encroach into the required setbacks.

The owners had knowledge of and clear access to the current property restrictions when they purchased the property with plans to develop it. Instead of trying to change them repeatedly, they need to adhere to the rules that existed at time of purchase.

Per current City Ordinances No. 97-5048, Section 13, 12-22-97 they do not qualify for rezoning or variance authorization:

- There are no special conditions or circumstances which are peculiar to the property which causes a hardship not applicable to the other property in the same district. The property is a rectangular piece of flat land similar to other properties in the neighborhood. It can accommodate 3 houses on 3 separate lots.
- The provisions of the ordinance do not deprive the applicant of any right enjoyed by other tracks in the same district.
- The variance requested does confer upon the applicant special privilege which we think should be rejected since the land can be developed, as indicated, by adhering to *current zoning and setback requirements* which would limit it to three single family residences. These same zoning and setback requirements were in effect when they bought the property.

- The variance will not be in harmony with the intent of any currently adopted comprehensive plan as we understand it. To cram one more house on the property is not harmonious with the character of the neighborhood.

In the past, these property owners have hosted open houses and private parties for city council candidates. We would strongly disapprove of a *qui pro quo* situation in which they are given certain favors because they are chummy with members of city council. Thus far it seems they are shown favor when they are allowed a variance for their own home and neighboring homeowners are not. At their own property south of this lot (2222 Virginia), they were allowed the variance of 40 feet from center of Virginia Lane, while their neighbors directly south were not allowed the same variance request.

We do not oppose the property owners developing this property within *current city code* guidelines and building 3 dwellings on this lot. We do, however, oppose the multiple requested special variances for them to build *more* dwellings than currently allowed, take up a larger footprint with this development than currently allowed, and obtain a special setback variance than is currently allowed.

Thank you for your consideration. The current variance request is opposed by all of the neighbors that I know of. We support the letters submitted by the neighbors most directly affected (Griffin-Droughts, Martins, and Harringtons).

I welcome the chance to talk more if you have questions.

Yours,

Jordan and Douglas Teller
528 Beverly Hill Blvd

Matthew Hamlin
2304 Spruce St
Billings, MT 59101

Robbin Bartley
Administrative Assistant
Planning Division
City of Billings
2825 3rd Ave North
Billings, MT 59101

406-247-8676
bartleyr@ci.billings.mt.us

Robbin

This letter is written to address the proposal of a variance. Specifically, this is in regard to City Variance 1316, Project No 20-123, address 2226 Virginia Lane.

Although my schedule will not allow me to be present, I did want to comment on the proposed variance. I live less than a block from one side of the project site and consequently feel it will affect myself and my property directly.

I would start with saying that the older neighborhoods of our city....tree streets, poet streets, and the streets directly west of downtown, hold a certain reverence for most of the Billings residents. People come to simply stroll, or jog, or bicycle through these streets. It is undeniable, they simply feed good to people.

One of the primary differences between these historic neighborhoods and newer neighborhoods that we see going up on the west end of Billings has to do with spacing between houses. Before I moved to the Tree Streets, I lived in Rehberg Ranch....a new, modern neighborhood. I lived in a bigger and newer house. Yet it didn't feel as good...I could hear my neighbors talking in their dining room. When I sat on my deck, I felt as though I was sharing the space with my neighbors that were also out in their yards or decks.

If we allow this variance to move forward, we threaten that feeling, that historic city design of our past. We will have closely packed houses, shoe horned into a well preserved historic neighborhood. It is like putting fat racing tires and a lift kit on well preserved classic car.

The property in question was originally meant to have 1 or 2 houses (don't know exact details), certainly not 4 houses spaced less than 20' apart – wow.

My primary concern is for the overall neighborhood and preserving the original integrity of this area. Yet, it is also a monetary concern for me. By making changes to the original neighborhood planning, I truly believe there will be a negative impact to how people value the area. If that is true, it will potentially hurt resale value.

Additionally, brand new houses that may or may not match or blend with the original architectural styles of the houses in the surrounding neighborhoods could also lead to a negative perception, again affecting property values in the neighborhood. Hopefully, whether the variance passes or not, the houses that get built there will pay homage to the local neighborhood rather than simply building modern houses in a historic neighborhood.

Please contact me with any questions or comments, or if I need to do anything other than submit this letter.

Sincerely

A handwritten signature in black ink, appearing to read "Matthew Hamlin". The signature is written in a cursive, flowing style with a large initial "M" and a long, sweeping underline.

Matthew Hamlin

Husman, Karen

From: Aimee Brown <browndoggle1@msn.com>
Sent: Friday, June 26, 2020 11:06 AM
To: Husman, Karen
Subject: [EXTERNAL] City variance 1316 objection

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.

To whom it may concern:

This email is in regards to the proposed variance #1316 for the property at 2226 Virginia Lane, on the corner of Virginia Lane and O'Malley in Billings.

Please note, We oppose the variance as proposed.

We respectfully agree with the email and it's wording that has been submitted by Jeff and Amy Griffin. We share the same concerns about the proposed variance.

Please also note our additional concerns:

1-The city zoning rules are in place for a reason and should be observed. We do understand that variance requests are sometimes granted for hardships but this property in our neighborhood poses no hardship.

2-The lot size is zoned for a maximum of 3 homes. We have no objection to building homes within the current zoning laws. The building of 3 homes on the current lot seems plenty adequate for the size of the lot. In our opinion, the addition of more homes to the property seems excessive and takes away from the charm of the neighborhood.

3-In addition to the concerns about altering the character of the neighborhood, we are also very concerned about increased traffic and safety along O'Malley.

Thank you for your time and consideration in this matter.

Sincerely,

Michael and Aimee Brown
2312 Virginia Lane.

Nicole Cromwell

cromwelln@billingsmt.gov

RE: Letter of Protest for Variance 1316

for Three (3) Variances Being Requested for Property Located at 2226 Virginia Lane

Dear Ms. Cromwell and Ms. Husman,

My husband and I are writing this letter to protest the three (3) variances requested for property located at 2226 Virginia Lane, which is situated at the corner of O'Malley & Virginia Lane. We incorporate with our objection the responses filed by Amy Drought and Jeff Griffin, Laurence and Ruth Martin, and Molly and Brian Harrington.

We believe the applicants' request is excessive and does not meet the criteria established by the Highland Neighborhood Plan. Also, the variance change grants special privileges to the current owners and should be considered "spot" zoning. More importantly, zoning of this nature was never contemplated nor intended as evidenced by the Highland Neighborhood Plan. It significantly alters the essential character of the neighborhood and creates a safety hazard for those living in the neighborhood. The owner(s) can develop this property without the variance changes being requested. The current zoning regulations do not create any hardships for the development of this property. The three (3) variances being requested deviate from current zoning requirements, therefore, we request the current zoning designation remain the same and deny applicants request for three (3) variance changes on this property.

Applicants assert that there is a need in this neighborhood for single-family homes on smaller, more maintainable properties. That is a completely overbroad statement not supported by a feasibility study or expert real estate analysis. Current zoning regulations and the Highland

Neighborhood Plan will still allow applicants to develop their lot for single-family homes on smaller, more maintainable properties. For example, requiring the applicants to follow current zoning regulations and the Highland Neighborhood Plan would allow them to develop said property with three (3) homes on the lot. Applicants can fulfill their desire to develop their lot and still meet the current standards prescribed by zoning regulations and the Highland Neighborhood Plan without the three (3) variance changes. No special condition or circumstance exists which are peculiar to this lot that causes hardship not applicable to other lots in the district. The lot in question is a standard rectangular lot which under current regulations and the Highland Neighborhood Plan can still be developed with three (3) single-family homes.

Violates Highland Neighborhood Plan and Creates "Spot Zoning"

Applicants allege that their proposed variance change is consistent with the goals and policies of the adopted "Growth Policy." Their allegations are not correct. This request is an example of "spot zoning" which gives the applicants special privileges above and beyond what are given to other residents of the neighborhood. Not to mention this type of "spot zoning" destroys the character of this historic neighborhood and threatens the health and safety of its residents. The Highland Neighborhood Plan is the adopted "Growth Policy" for this neighborhood. This Plan was adopted in 2007, at a time when the neighborhood was experiencing growth and development pressure from the University and Hospital corridors. When the Highland Neighborhood Plan was written and adopted the main goal was to help keep the character of this historic neighborhood and ensure that land use patterns stayed consistent with the housing tracts already there in an effort to prevent this type of "spot zoning." By no means does the applicants' request accomplish this goal. Applicants' propose to put four (4) single family homes on this lot. Yes, the lot is a larger lot, but it is not large enough for the four (4) homes that are proposed by the applicant. Instead, the applicants' request is in direct conflict with the Highland Neighborhood Plan. It will destroy the character of this well established neighborhood by 1) adding additional traffic that was not planned for, 2) veering away from the larger lot concept of the neighborhood, and 3) tearing down stately trees that might be close to 100 years old, most of which have already been destroyed by said applicants. The Highland Neighborhood Plan was adopted to prevent exactly what the applicants are proposing.

Applicants allege that their development 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 the City's infrastructure. Applicants' variance request does not align with the goals and objectives of City Planning. In fact, applicants' request does the exact opposite. First, this lot is not a large, underutilized property where development would maximize land use efficiency. Yes, the property is large because most of the properties in the Highland Neighborhood are large. Large lots are the original intent of the development and the character of the neighborhood that has existed for many years. Additionally, the property is not underutilized. Underutilized property is property that is not developed at all, but has been a vacant lot from inception and development has grown up around it. The property is not being used (underutilized) due to the actions of the applicants themselves. They chose not to sell the property as a single-family home on the original lot. The applicants attempted to get a zone change in 2018 for this lot to build six (6) single-family homes, which was withdrawn by said applicants. The applicants chose to tear down the home that existed on the lot, instead of updating in order to sell with the one home on the lot. Applicants by their own choice and actions have willingly left this lot to sit unoccupied because their efforts to develop the property the way they want has been stymied. It appears that the applicants do not care for trying to develop their property in keeping with the character of the neighborhood, preserving the historic trees and landscaping, or following the Highland Neighborhood Plan. If they were truly interested in land use efficiency they could develop their lot under the current Highland Neighborhood Plan which allows for three (3) single-family homes. Instead, they chose to wait.

Applicants assert that their proposal will provide for additional tax revenues. However, this assertion is not established by any feasibility study or any other credible expert report. Standard real estate practices suggest that the tax base is the same whether the lot has three (3) single-family homes verses four (4) single-family homes. For example, the price of four single-family homes on smaller lots will bring the same revenue as three (3) single-family homes on a larger lot size. Thus the tax base remains the same for the City of Billings. The unspoken elephant in the room is that crowding in four (4) single-family homes on the proposed lot may increase costs for the City of Billings. Costs associated with neighborhood complaints due to parking, egress/ingress on narrow streets, garbage pickup and snow removal just to name a few issues that could develop.

Creates Health and Safety Risks for Residents

Another concern with the proposed variance change is the health and safety of the Highland Neighborhood. This lot is adjacent to Oak Street and O'Malley. Oak Street is a narrow street

intersecting about ½ block (300 feet) where these three (3) variance changes are being proposed. On this area of O'Malley, the street is twenty-one (21) feet wide, which I measured asphalt to asphalt North to South. The proposed variance changes would create a change in traffic consisting of at least eight (8) vehicles possibly more depending on the number of individuals residing on this lot. This, more likely than not, will create a demand on-street parking on these narrow streets. Vehicles are approximately eight (8) feet wide and parking on both sides of the street would take up sixteen (16) feet leaving five (5) feet of street use which does not accommodate vehicles to use the street simultaneously. Adding to the lack of safety is the factor that children use this street going to and from the neighborhood elementary school. Increased traffic on O'Malley and Oak Street is a safety concern for anyone walking or riding bicycles. The variance changes would not provide a safe route for pedestrians to travel between schools, parks, and neighborhoods as stated in the goals for Highland Neighborhood. Additionally, creating this narrow corridor will impede city activities such as waste and snow removal. The applicants' request will make it impossible, if not dangerous, for personal vehicles to drive down these streets. Snow plows and garbage trucks are significantly larger than personal vehicles and their ability to service this area will clearly be impeded, not to mention increase the City's liability for property damage.

For the reasons listed above we oppose the proposed variance changes on the corner of O'Malley & Virginia Lane.

Respectfully,

Jo Ann & William McNeill

2324 Virginia Lane

Husman, Karen

From: Stan Everson <everstan@bresnan.net>
Sent: Monday, June 29, 2020 10:15 PM
To: Husman, Karen
Subject: [EXTERNAL] Project Number: 20-118 - Variance Comment to be read into the record

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.

Please replace my previous submission sent earlier today in favor of the following:

June 29, 2020

RE: Comment of nearby property owner re Project Number: 20118.

Dear City Planning Dept.

Regarding the request for the granting of three special variances required to allow for building of four units as described.

I am decidedly NOT IN FAVOR as reducing buildable area down to that proposed to accommodate their four units request clearly does not meet Highest & Best Use criteria for the immediate area and as such is detrimental to nearby property values compared to what potentially would be a far greater per unit value as well as the cumulative value of each lot's improvements if larger lot sizes were available.

I would also point out that less congestion on narrow O'Malley and superior building and landscaping designs of higher value properties would certainly benefit not only each of the petitioners units but those within the immediate neighborhood as a whole.

This is a highly unique premier location exactly because it was derived from a location which was never subdivided into the more common typical single family homes back into the later part of the 1930's to the East of Virginia Land that now sale on average in the \$225-\$300K price range with 6-7K sf lot sizes.

The City would be negligent in not considering the additional potential of maintaining similar larger lots sizes found adjacent to the subject property to the North, South & West.

As evidenced by those homes that have not been subdivided so drastically into small parcels, the recently built exclusive \$3.2 million Shadow Lawn Estate single family home built on 2.4 acres only a few houses away, as well the 1940 built home located to the north just across the street from the proposed project @ 2306 Virginia Lane valued by the city at over \$600K on a 22K sf lot size, as well as the duplex property bordering on the south valued @ \$1.5 million even with primary frontage on busy Virginia Lane. It should be painfully evident this highly unique location requires larger lot sizes to maximize values for all concerned.

Please reject.

Thank you for your consideration,

Stan Everson
545 Crawford Dr.
Billings, MT 59102

June 29, 2020

Dear Ms. Husman:

This letter is our objection to variances requested at 2226 Virginia Lane (#1316), bordered by Virginia Lane, O'Malley Drive, and Oak Street, to allow denser development than permitted by current and proposed city regulations. We agree with and incorporate the comments submitted by our neighbors Amy Drought, Jeff Griffin, and Larry and Ruth Martin. We're grateful to Amy for bringing the matter to our attention, because we've had no communication from the developer or the city about it.

We've owned a four bedroom home at 525 O'Malley Drive, at the corner of Oak, since 2010. The leafy character of this stretch of O'Malley has diminished significantly since we've lived here, with the destruction of dozens of mature trees for the Shadow Lawn development and the clearing of 2226 Virginia. The "developers" of these properties have not preserved the canopied charm of the historical tree streets. Billings has many new developments without mature trees but fewer and fewer streets with this valuable, slow-growing amenity.

Now this developer requests a variance not only from current maximum lot coverage restrictions but also from the proposed more lenient N3 lot coverage limit of 40%. More impermeable surfaces mean a greater heat effect as the sun hits asphalt roofs and heat-reflecting surfaces rather than cooling trees, making our street less pleasant for everyone. They also increase flooding risks. The neighborhood already has a problem with streets not draining properly and many houses have regular flooding issues. Both have significantly worsened with the Shadowlawn development.

The developer also requests a variance not only from the current minimum setback from the centerline of a minor arterial but from the more lenient proposed N3 minimum setback, which will decrease sight lines and make the corner of Virginia and O'Malley more dangerous for the many kids, walkers, and cyclists who use this street. The developer's property to the south on Virginia has already exploited zoning variances to build closer to the street centerline and lot lines than would otherwise be allowed, building noticeably more densely than on neighboring properties, with a tiny strip of grass and no surviving mature trees.

We don't object in principle to dense development, but the city has spent taxpayer money to make consultative, deliberative decisions about what the standards should be for building in existing neighborhoods. Residents should be able to rely on these standards, which are intended to protect property values, quality of life, and the character of neighborhoods that buyers chose

when they purchased houses. The developer has shown no reason why the property is exceptional or why there is any hardship in respecting the zoning code.

There were many development options for this property, including renovating a lovely farmhouse and tending the lush landscaping. Many families would have been delighted to make that home theirs. Similar properties nearby have been restored to add to the character of the neighborhood. Instead, the developer demolished the house and clear cut and bulldozed trees, shrubs, and perennials - which is his right. But there was no need for this property to be "underutilized". There were, and still are, plenty of options that would have fully utilized the property without a variance.

The requested variances would further undermine the quiet, walkable, leafy appeal that O'Malley Drive has had for generations of homeowners, are not justified by the plain language of the code, and should be denied.

Sincerely yours,

Carrie La Seur and Andrew Wildenberg
525 O'Malley Drive

Husman, Karen

From: Molly Harrington <free4all@bresnan.net>
Sent: Tuesday, June 30, 2020 9:39 AM
To: Husman, Karen
Cc: Molly Harrington; Brian Harrington
Subject: [EXTERNAL] City Variance #1316 Objection
Attachments: O'Malley Farms.docx; ATT00001.htm

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.

June 22, 2020

To Whom It May Concern:

First of all, thank you for the opportunity to comment on proposed CITY Variance #1316.

Actually, a total of 3 variances have been requested (arterial setback, lot size, and lot coverage). We oppose each of these but will restrict our detailed comments below to the request for decreasing the arterial setback from 70 feet to 40 feet from the centerline of Virginia Lane.

It should be noted that the owners requesting this variance reside at 2222 Virginia Lane, immediately to the south of the of the property under consideration (O'Malley Farms at 2226 Virginia Lane). At 2222 Virginia Lane, building variances were granted to allow increased maximum lot coverage and decreased property setbacks (resulting in a structure situated 40 feet from the centerline of Virginia Lane). The property immediately south of 2222 Virginia Lane (2220 Virginia Lane) constitutes the back yard of our home at 501 Chancery Lane.

Adjacent to our home is a storage shed situated less than 40 feet from the centerline of Virginia Lane. In 2018, we felt that our storage needs would be better served with a single car garage. We made plans to replace the shed with a garage that would be located 40 feet from the centerline (the same as had been granted at 2222 Virginia Lane).

At a public meeting before the Board of Adjustment of the City of Billings (on March 7, 2018), our request for an arterial setback variance was flatly (and frankly, somewhat rudely) denied. The primary reasoning given was that we had plenty of room at 2220 Virginia Lane to build in compliance with the 70-foot setback. The empty property at 2226 Virginia similarly has plenty of room to follow the current 70-foot setback (as well as any 50 foot "new zoning regulation").

We hope that our comments will be taken in a constructive manner. We have always been on good terms with our neighbors and even expressed our support for prior variances at 2222 Virginia Lane. However, all cities need zoning regulations that have been thoughtfully developed by city planners. Although variances should be granted in exceptional circumstances, the failure to consistently apply adopted regulations is certainly asking for trouble.

Sincerely,

Brian & Molly Harrington

501 Chancery Lane, Billings, MT 59102

Telephone: (406) 256-8570 (home)

E-mail: bhbillings@aol.com

Husman, Karen

From: Doug Teller <dtellermt@hotmail.com>
Sent: Tuesday, June 30, 2020 11:17 AM
To: Husman, Karen; Cromwell, Nicole
Subject: [EXTERNAL] Variance requested at 2226 Virginia Lane

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 -

I would like to comment on City Variance 1316. As a nearby property owner and resident of the neighborhood, I oppose the requested variances based on safety concerns.

I understand the requested variance at 2226 Virginia seeks to allow setback of 40' from centerline of Virginia Lane, compared to the standard condition of a 70' setback. I feel this change will make the intersection of Virginia and O'Malley inherently more dangerous.

Intersections are designed with a "triangle" of sight lines so there is a clear unobstructed view. Allowing development closer to the street decreases the sight lines for vehicles to see pedestrians and approaching vehicles. Remember that siting the house closer to the street then brings fencing and landscaping improvements out even closer to the street – further exacerbating the dangerous sight lines. Remember too that long term growth (and overgrowth) of bushes, hedges, trees, etc. just continues to make drivers hedge farther and farther out into traffic to see clearly, then make split-second decisions, and all while their attention is diverted away from pedestrian traffic on the Virginia sidewalk and the nearby mid-block pedestrian crosswalk.

One doesn't have to look far away to see how sight distances create dangerous conditions – just north on Virginia at the intersection with Rimrock, one of the most precarious intersections in the city has been created due to poor sight distance. The culprit there, similar to 2226 Virginia, is a privacy wall and related landscaping.

The property can be developed by adhering to current zoning and setback requirements which would limit it to three single family residences. Big Sky Endeavors LLC has no special needs or circumstances keeping them from developing the property. The requested variance will create unsafe conditions at the adjacent intersection – I urge you to decline the request.

Respectfully,

Doug Teller
526 Beverly Hill Blvd

670-3087

Variance 1317

None