



**CITY ZONING COMMISSION**  
**AGENDA-Tuesday, July 7, 2020, 4:30 p.m.**  
**Virtual Meeting**

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less. These comments will be heard by calling 406-237-6165.

**Call the meeting to order.**

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

**Public Comment**

**Approval of Minutes:**

1. The minutes of the Board meeting June 2, 2020.

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

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

**Regular Business:**

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

**Public Hearings:**

- a. **City Special Review 982- 2244 Grand Ave - Expansion of bar and casino**– A special review request to allow expansion of an existing bar and casino, Gordy’s at 2244 Grand Avenue, to expand by 2,160 square feet for a total area of 4,520 square feet, on Block 2, Lot 8, Arnold Sub. 1<sup>st</sup> Filing, a 12,280 square foot parcel of land. Presented by Nicole Cromwell, Zoning Coordinator
- b. **Special Review 983 - 926 Grand Avenue** - This is a special review to allow the location of an all beverage liquor license with gambling and for a waiver of the 600 foot separation from a church (Church of Christ of Billings, 1016 Alderson Ave) to allow the remodel of an existing restaurant into a restaurant, bar and casino, on Block 2, Lot 11A-12A Amd., a 21,976 square foot parcel of land. Presented by Nicole Cromwell, Zoning Coordinator.
- c. **City Zone Change 978 – 4160 King Ave. West- ELI to HC** - A zone change request from Entryway Light Industrial (ELI) to Highway Commercial (HC), on Block 1, Lot 2, Montana Sapphire Subdivision, an 8.536 acre parcel of land. A pre-application neighborhood meeting was held on May 26, 2020 at 6:00 PM, in a virtual format. Presented by Nicole Cromwell, Zoning Coordinator.
- d. **City Zone Change 979 – North of Mission Oaks Dr., between Morocco Dr. and Matador Ave. – R-70-R to R-50** - A zone change request from Residential-7000- Restricted (R-70-R) to Residential-5000 (R-50), on Block 31, Lots 17-25, High Sierra Sub 16<sup>th</sup> Filing (proposed), a 2.4 acre parcel of land. A pre-application neighborhood meeting was held on May 26, 2020 at 5:30 PM, in a virtual format. Presented by Nicole Cromwell, Zoning Coordinator.

## Other Business/Announcements

### Adjournment

**The City Council has designated Monday, July 27, 2020, at 5:30 p.m.** as the date and time to receive the Zoning Commission recommendation on each **special review** and **zone change** request.

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

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

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

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

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

**City Zoning Commission**

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

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**Information**

**Subject**

The minutes of the Board meeting June 2, 2020.

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**Attachments**

2020\_06\_02\_BZC\_MIN

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## City of Billings Zoning Commission Meeting Minutes June 2, 2020

The City of Billings Zoning Commission met on Tuesday, June 2, 2020 in the Virtual Zoom meeting,

Chairman Pro Tem Larson called the meeting to order at 4:30 p.m. The City Council has designated **Monday, June 22, 2020** at **5:30** p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		0	0	0	0	0	0	0	0	0	0	1	1	1
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Mike Larson	Commissioner	1	1	-	-	-	1							
Daniel J. Brooks	Commissioner	E	1	-	-	-	1							
Jack King	Commissioner	1	1	-	-	-	1							
Greg McCall	Commissioner	1	E	-	-	-	1							
Trina White	Commissioner		-	-	-	-	1							
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	-	-	-	-	-	
Nicole Cromwell	Planner Zoning Coordinator	1	1	-	-	-	1							
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-	-	-	-	-	
Dave Green	Planner II	-	-	-	-	-	-	-	-	-	-	-	-	
Karen Husman	Planner I	1	1	-	-	-	1							
Robbin Bartley	Administrative Support	1	1	-	-	-	1							

<b>Total Number of 2019 Applications</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>T O T A L</b>
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<b>Zone Change</b>	2	0	-	-	-	1							3
<b>Special Review</b>	0	1	-	-	-	0							1

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

**In Attendance** : Bill Morgan, Tracy Haag, Preston Lees

**Public Comment**

**Chairman Pro Tem Larson** called for public comments. There were no public comments. **Chairman Pro Tem Larson** closed the public comment portion of the meeting.

**Approval of Minutes:**

**Chairman Pro Tem Larson** called for approval of the February 4, 2020 meeting minutes.

**Motion**

Commissioner Brooks made a motion and Commissioner King seconded the motion to approve the February 4, 2020 meeting minutes with changes as noted.

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson	X			
Daniel J. Brooks	X			
Jack King	X			
Greg McCall	X			
Trina White	X			

**The motion for approval then carried with a unanimous voice vote 5-0.**

**Disclosure of Conflict of Interest**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson		X		
Daniel J. Brooks		X		
Jack King		X		
Greg McCall		X		
Trina White		X		

**Disclosure of Outside Communication**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson		X		
Daniel J. Brooks		X		
Jack King		X		
Greg McCall		X		
Trina White		X		

**Public Hearings:**

Chairman Pro Tem Larson reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience this would be heard by the City Council on June 22, 2020.

**Item #1**

Nicole Cromwell read aloud the legal notice for this application:

**City Zone Change 977** - Modification to the Zone District Boundaries of Western Sky Planned Development - A zone change request to amend the zone district boundary lines within the Planned Development Agreement (PDA) for Western Sky Subdivision, more specifically increase the acres of underlying Community Commercial (CC) zoning from 8.5 acres to 11.5 acres; increase the acres of Neighborhood Commercial (NC) from 10.2 to 10.3 acres; decrease the acres of Residential Multi-family (RMF) from 15.3 acres to 15.2 acres and decrease the acres of Residential Manufactured Home (RMH) from 31.1 acres to 28.2 acres. The map amendment applies to all lots within Western Sky Subdivision. A pre-application neighborhood meeting was held on a virtual format on April 27, 2020, by the agent Sanderson Stewart, Billings MT.

**Recommendation**

Planning staff recommends approval of the zone change request based on the findings of the 10 review criteria

- Proposed amendment is in conformance with 2016 Growth Policy and 2001 West Billings Neighborhood Plan
  - The proposed amendment will realign the underlying zoning with boundary line adjustments

**Questions for staff:** None

**Public Hearing** Chairman Pro Tem Larson opened the public hearing at 4:42PM and asked for anyone wishing to speak in favor or against **City Zone Change 977**.

**Applicant, Bill Morgan, 1300 Transtech Way**

This is a map amendment, there were no questions from the neighborhood and there are no adjustments to the set backs or land use.

**Favor:**

NONE

**Opposed:**

NONE

Public Hearing CLOSED AT 4:46PM

**Discussion**

Chairman Pro Tem Larson called for questions and discussion from the Board.

**Motion**

**Commissioner King made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 977 with conditions proposed.**

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	X			
Daniel J. Brooks	X			
Jack King	X			
Greg McCall	X			
Trina White	X			

**The Motion carried with a 5- 0 vote.**

**Other Business**

Election of Chair and Vice Chair.

Nominations: Commission King nominated Mike Larson for Chair, Commissioner White seconded the nomination.

Commissioner White asked Mike Larson if he would accept the nomination. Mike Larson replied he would accept the position, with the understanding there may be times he needs to be absent due to his wife’s current needs.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	X			
Daniel J. Brooks	X			
Jack King	X			
Greg McCall	X			
Trina White	X			

**Commissioner Larson was elected Chairman with a 5-0 vote.**

Commissioner Brooks nominated Greg McCall for Vice Chair, Mike Larson seconded the nomination. Mike Larson asked Commissioner McCall would except the nomination, Greg McCall replied in the affirmative.

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson	X			
Daniel J. Brooks	X			
Jack King	X			
Greg McCall	X			
Trina White	X			

**Commissioner McCall was elected as Vice Chair with a 5-0 vote.**

**Our next meeting will be held virtually on July 7, 2020. There are 2 Special Reviews and 2 Zone Changes.**

**Adjournment: The meeting adjourned at 4:58PM.**

**ATTEST: To be Approved by a motion at the next scheduled meeting.**



**City Zoning Commission**

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

**SUBJECT:** Special Review 982 - 2244 Grand Avenue - Expansion of Gordy's All Beverage License with Gambli

**THROUGH:** Monica Plecker

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Special Review 982- 2244 Grand Ave - Expansion of bar and casino**– A special review request to allow expansion of an existing bar and casino, Gordy’s at 2244 Grand Avenue, to expand by 2,160 square feet for a total area of 4,520 square feet, on Block 2, Lot 8, Arnold Sub. 1st Filing, a 12,280 square foot parcel of land. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

Planning staff is recommending conditional approval of the special review request. The recommendation is based on the findings for the review criteria presented in the Summary section of this report.

**APPLICATION DATA**

OWNER: G Rock Building LLC

AGENT: Gordy Roma

LEGAL DESCRIPTION: ARNOLD SUBD 1ST FILING, S06, T01 S, R26 E, BLOCK 2, Lot 8, LTS 10-12 & PT 9 (LESS N 6.5' FOR ST) AMND (90)

ADDRESS: 2244 Grand Avenue

CURRENT ZONING: Community Commercial (CC)

EXISTING LAND USE: Two-tenant building - Gordy's Casino at 2248 Grand

PROPOSED USE: Remodel to expand Gordy's Casino into the vacant tenant space at 2244 Grand (2,160 sf)

SIZE OF PARCEL: 12,280 square feet

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2248 Grand Ave	City SR 777	Feb 28, 2005	All Bev with gambling	Yes	Grand Boomtown Casino
SURROUNDING PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1918 Grand Ave	City SR 174	Jan 9, 1984	All Bev – no gambling	Y	Sizzlin’ Sara’s
2646 Grand Ave	City SR 329	Oct 26, 2987	All Bev & Gambling	Y	Nickel Ante Casino
2150 Grand Ave	City SR 350	May 23, 1988	All Bev & Gambling	N	Montana Nugget Casino
2150 Grand Ave	City SR 359	Aug 22, 1988	All Bev & Gambling	Y	Montana Nugget Casino
1918 Grand Ave	City SR 379	Mar 27, 1989	All Bev & Gambling	Y	Rio Grand Casino
1744 Grand Ave	City SR 391	Oct 23, 1989	All Bev & Gambling	Y	High Stakes Casino

2349 Grand Ave	City SR 495	Aug 2, 1993	All Bev & Gambling	Y	Former 4Bs – now Montana Lil’s
1711 Grand Ave	City SR 547	Mar 27, 1995	All Bev & Gambling	Y	TC’s Casino
2658 Grand Ave	City SR 606	May 27, 1997	All Bev & Gambling	Y	Lucky Diamond Casino
1502 Rehberg Ln	City SR 618	Nov 24, 1997	Beer & Wine – no gambling	Y	Enzo’s
2501 Grand Ave	City SR 635	Aug 24, 1998	All Bev & Gambling	Y	Winner’s Circle
2228 Grand Ave	City SR 672	Mar 27, 2000	All Bev – no gambling	Y	Former City Vineyard
1720 Grand Ave	City SR 704	July 23, 2001	Beer & Wine – no gambling	Y	Mayflower of China
1720 Grand Ave	City SR 793	Oct 27, 2005	All Bev & Gambling	Y	Warden’s Casino

**SURROUNDING LAND USE & ZONING**

- NORTH: Zoning: Neighborhood Commercial (NC)  
Land Use: Offices/Retail
- SOUTH: Zoning: Residential 6,000 (R-60)  
Land Use: One and two-family dwellings
- EAST: Zoning: CC  
Land Use: Steve's Hot Dogs & Pita Pit Sandwich Shop
- WEST: Zoning: CC  
Land Use: Parking Lot and Pet Store

**BACKGROUND**

This is a special review request to expand Gordy's Casino currently in one of the two tenant spaces in an existing building at 2244/2248 Grand Avenue. Gordy's Casino received conditional approval from the City Council for its current tenant space in 2005. The expansion floor area is about 2,160 square feet. The applicant would like to have the space for private events and catering. There are ample parking spaces on the east and west sides of the building. The location is not within 600 feet of any church, school, or park with a playground.

The zoning history in this area of Grand includes 14 special review requests since 1984 to allow alcohol service with and without gambling. Most of these were approved. Most of these special review requests were not for restaurant venues but for bars and casinos. Some locations may also serve made-to-order meals such as The Winner's Circle Sports Bar. Enzo's at 1502 Rehberg Lane does not have gambling and is only a restaurant that serves alcohol with meals.

The Council has expressed concern with the number of alcohol and gaming locations within the city and how to better regulate these uses to protect neighborhoods, and improve the community character along its commercial corridors. Project ReCode has proposed major changes to how these uses will be regulated including adoption of casino, bar and restaurant definitions, making separation distances non-waivable, changing how those separations are measured, and allowing some alcohol service businesses without special review approval. For example, if this application were submitted after the adoption of the new code, it might not be feasible to approve the expansion due to the residential zone to the south. New casinos with 10 or more gambling machines would not be an allowed use in this location due to the proximity of residential zoning.

The property is directly north of the residential neighborhood along Alderson Avenue and is about 500 feet east of the major arterial intersection with 24th Street West. Grand Avenue in this location is a 5-lane principal arterial street that sustains about 18,500+ vehicle trips per day on an average weekday. Grand Avenue has a posted speed limit of 35 mph, and has a center turn lane to allow turning movements to the businesses along the corridor. The property currently has vehicle access from three driveways off Grand Avenue - one east of the building and two west of the building.

Police reports for this general area (1/4-mile radius of 2244 Grand) for the last six months indicate 139 reported

incidents including five DUI, five assaults, three burglaries and 22 larcenies. The largest category of reports are disturbing the peace (83), which includes suspicious activity and noise complaints. This is not an unusually high number of incidents along the Grand Avenue corridor.

Planning staff has reviewed the criteria for special review for the proposed use and is recommending conditional approval based on these findings. The use meets the first criteria - the use is an allowed special review use in the CC zone. There are only three other casino locations within 1/4-mile of this location (a 10 minute walk). There are six locations serving food or alcohol (or both) and three locations for gambling. The zoning code does not specify a required separation or spacing requirement for alcohol licenses or gambling activities, but consideration of the number of outlets within a market area has relevance to the economic viability of the corridor. There does not appear to be an over-abundance of locations for food and alcohol service in this area of Grand Avenue so an expansion of this location can be sustained. The second criteria is whether the location meets the goals and objectives of the zoning code. The zoning code and growth policy have a primary goal of ensuring compatibility between uses and reducing conflicts between adjacent properties. The site made some improvements required in 2005 when Gordy's Casino was approved by special review. The proposed expansion will not have any impact on the adjacent residential area to the south. There is no proposed outdoor seating and the screening and landscape buffer installed in 2005 is a significant barrier for the adjacent neighbors. The third review criteria is whether the location and use is sufficiently screened or buffered from adjacent sensitive land uses. There is no direct connection to the residential neighbors and the property has sufficient access from Grand Avenue. No additional conditions are recommended to mitigate potential negative impacts.

## **SUMMARY**

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Zoning Regulations and the 2016 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that the zoning regulations adopted by the City Council has designated all CC zones can have a liquor license with gaming as long as they go through the special review process. The proposed location and site development complies with the zoning requirements. There is no access to the residential area to the south and there is a mature and significant landscaped buffer along the south property line. The solid waste dumpster is not enclosed but it is shared with the adjacent business (Steve's Hot Dogs) and is located at the back of the property. The remaining landscaping on the site appears to meet the code requirements in Section 27-1100.

The application does meet the second criteria, as it is consistent with some of the objectives of the 2016 Growth Policy:

Strong Neighborhoods:

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

Neighborhoods sharing a boundary with intense commercial uses can experience conditions detrimental to the quiet enjoyment of the area. The substantial buffer between this property and the residential area to the south ensures the potential negative impacts are mitigated.

Prosperity:

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

The proposed expansion would support a local and successful business and help retain this business in Billings. The COVID-19, Phase II re-opening guidelines for bars, restaurants and casinos will require more indoor space. Allowing this expansion will improve the sustainability of this business at this location.

The third criteria for special review is whether the proposed use is screened and separated for the adjacent uses to

minimize adverse impacts. The site has sufficient landscaping and buffering for the adjacent residential area. The only recommended condition is to maintain this landscape buffer and to continue the previous conditions from SR 777 concerning the parking lot lighting and the prohibition on outdoor service or music.

### **PROPOSED CONDITIONS**

1. The special review approval is for the proposed expansion of the all beverage liquor license and gambling into 2,160 square feet of vacant interior tenant space in the existing building located at 2244 Grand Avenue, on Block 2, Lot 8, Arnold Sub. 1<sup>st</sup> Filing, a 12,280 square foot parcel of land. No other use is intended or implied.
2. The applicant and owner shall continue to maintain the existing landscape buffer along the south property line.
3. No outdoor seating, outdoor music or outdoor public announcement systems will be allowed with this application.
4. Any new lighting on the building or within the parking lot shall have full cut-off shields so light is directed to the ground and not onto adjacent property. Lighting of signs shall be as allowed within the City Sign Code (Section 27-701 BMCC).
5. The applicant will comply with all other city codes including building, engineering and fire codes that may apply to the proposed expansion and use of the building.
6. All other limitations on expansion shall apply in accordance with Section 27-613 of the Billings Montana City Code.

### **RECOMMENDATION**

Planning staff is recommending conditional approval of the special review request.

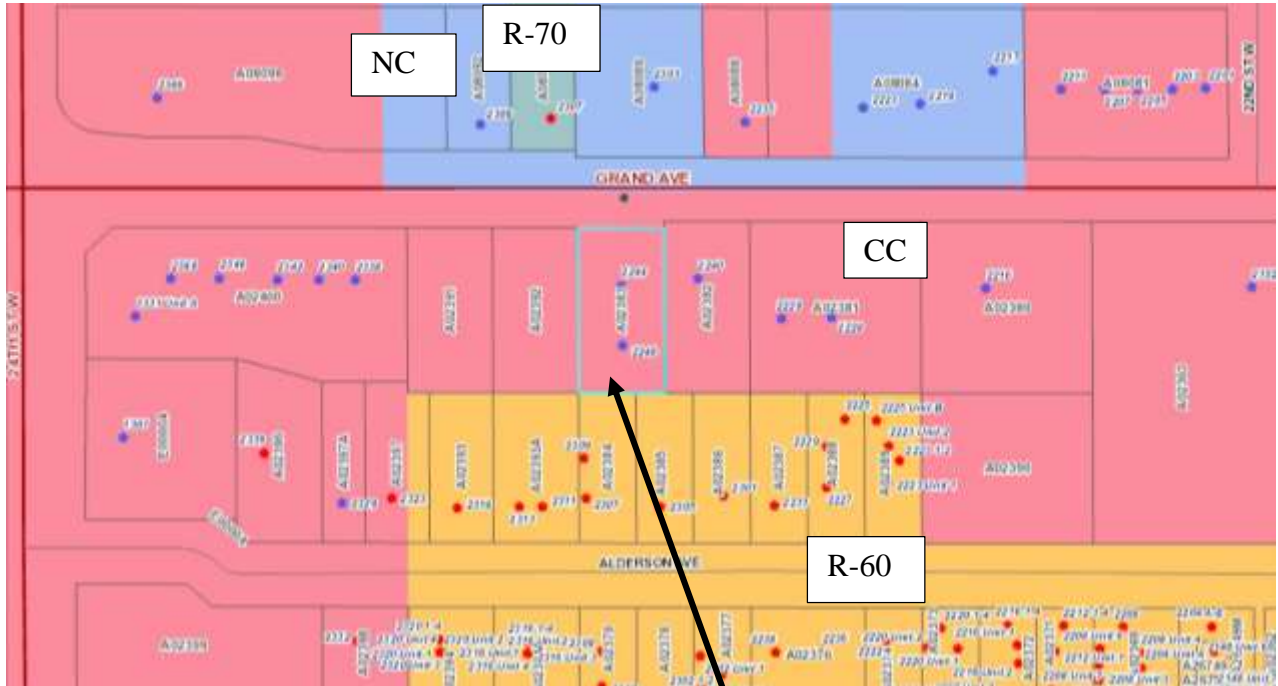
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### **Attachments**

Zoning Map and Site Photos  
Site Plan  
Application and Letter

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# Zoning Map and Site Photos



Subject Property



Aerial



2244 Grand - Subject Property



Front façade at 2244 Grand – subject property



View west to multi-tenant property – pet store



View north and west across Grand Ave



View north and east across Grand Ave



View east down Grand Ave



Physical Address: 2248 Grand Avenue  
 Billings, MT 59102  
 County: Yellowstone (3)



Expansion Area Address 2244 Grand Avenue  
 Billings MT 59102

Establishment Name: Gordy's  
 Operator Name: G Rock LLC  
 EIN: 46-2760600  
 Liquor License: 03-101-9142-001  
 Account ID: 6045863-002-GOA

1/4"=1'  
 May 2020  
 Existing

Application, Applicant Letter

APPLICATION FORM

CITY SPECIAL REVIEW Billings Special Review# \_\_\_\_\_ - Project # \_\_\_\_\_

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

Present Zoning: Community Commercial (CC)

Special Review Requested: Expansion of current business.

TAX ID# A02383 CITY ELECTION WARD # Ward 5

Legal Description of Property: ARNOLD SUBD 1ST FILING, S06, T01 S, R26 E, BLOCK 2, Lot 8, LTS 10 - 12 & PT 9 (LESS N 6.5' FOR ST) AMND (90)

Address or General Location (If unknown, contact City Engineering): 2244 GRAND AVENUE, BILLINGS, MT. 59102

Size of Parcel (Area & Dimensions): 53' X 40' Approximately 2160 SQ FT.

Present Land-Use: Private Events/Catering

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

If yes, please attach to application

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

Owner(s): G ROCK BUILDING LLC

(Recorded Owner) 2244 GRAND AVENUE, BILLINGS, MT. 59102

(Address)

(Phone Number) 406-861-2727 (email) g-roma@live.com

Agent(s): Gordy Roma

(Name) 2244 GRAND AVENUE, BILLINGS, MT 59102

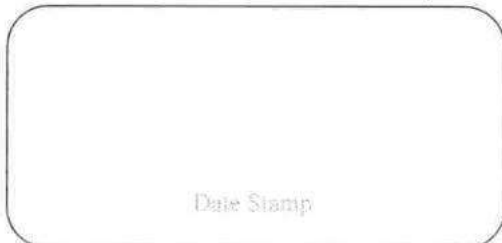
(Address) 406-861-2727 g-roma@live.com

(Phone Number) (Email)

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

Signature: \_\_\_\_\_ Date: 5/20/20

(Recorded Owner)



Date Stamp

1. Answer the following questions:

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

**Land Use Element**

**1. ISSUE:** *Neighborhoods are experiencing pressures from new development and land use changes. This proposal would allow expansion into an existing business.*

**2. ISSUE:** *The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites. The use of the space would be consistent with its current business model.*

**3. ISSUE:** *Rural townsites are not prepared to handle increased growth. N/A*

**4. ISSUE:** *Urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services, and threatens the vitality of the city core and downtown area. This proposal would allow for expansion into an existing commercial space.*

**5. ISSUE:** *There is a serious lack of affordable housing for low to moderate income households. N/A*

**6. ISSUE:** *There is a desire for more mixed-use neighborhoods. N/A*

**Economic Development Element**

**1. ISSUE:** *We need to continue a cohesive focus in economic development.*

**2. ISSUE:** *Lack of living-wage jobs*

**This proposal will create living wage jobs for multiple employees and suppliers of the services.**

**3. ISSUE:** *Entryways to our communities should be attractive and not present physical barriers discouraging economic development. This proposal would expand a viable business in an area that is frequented by newcomers to Billings and those from surrounding communities.*

**4. ISSUE:** *Government supported programs and improvements are not sufficiently funded. N/A*

**5. ISSUE:** *Like many other Montana cities, the economic viability of Downtown Billings is uncertain. N/A*

**6. ISSUE:** *Safety in the Downtown Billings is an important element. N/A*

**7. ISSUE:** *Surrounding communities in the County need economic development to sustain them. N/A*

**8. ISSUE:** *Billings needs to attract businesses that pay higher wages. This proposal will meet the objectives of improving the quality of life for residents, strengthening the local economy and creating living wage jobs.*

**9. ISSUE:** *The economic development of Billings Heights is overlooked. N/A*

10. **ISSUE:** *The quality of our schools is a determining factor for whether businesses locate in Billings. N/A*

11. **ISSUE:** *Neighborhoods provide the character and strength of the community and the quality of neighborhoods should be preserved. N/A*

12. **ISSUE:** *The Billings economy faces a severe shortage of skilled workers in a number of sectors (a problem that will worsen as the population ages). N/A*

#### **Aesthetics Element**

1. **ISSUE:** *There are areas in the City and County that are unattractive and present a poor image of the community. **The property is landscaped and very well maintained to improve the general areas image.***

2. **ISSUE:** *New development and signs, cell towers, power lines and other structures could reduce the visual quality of the rims. N/A*

3. **ISSUE:** *Urban interstate corridors through the County are unattractive. N/A*

#### **Natural Resources Element**

1. **ISSUE:** *The quality of the Yellowstone River and the associated riparian habitat is threatened. N/A*

2. **ISSUE:** *Water is an important resource and it is becoming scarcer. N/A*

3. **ISSUE:** *Due in part to the arid nature of our environment and the remoteness of some developments, there is an increased risk to human life and property from wildfires. N/A.*

4. **ISSUE:** *Weeds detract from the beauty of an area, pose a fire danger, and reduce the productivity of agricultural land. N/A*

5. **ISSUE:** *Human encounters with wildlife often result in a painful consequence for wildlife, pets, and humans. N/A*

6. **ISSUE:** *Certain development is damaging our natural resources. N/A*

#### **Open Space and Recreation Element**

**This proposal will have no negative impact on the open space and recreation elements addressed in the Growth Policy Statement.**

1. **ISSUE:** *Some neighborhood parks appear to receive more funding for improvements than other neighborhood parks. N/A*

2. **ISSUE:** *Billings and Yellowstone County need more major recreation facilities and need to improve those we already have. N/A*

3. **ISSUE:** *Private land development sometimes restricts access to public land. N/A*

4. ISSUE: *Billings and surrounding County townsites need more multiple use trails.* N/A

**Transportation Element**

1. ISSUE: *Speeding in City neighborhoods and outlying communities.* N/A

2. ISSUE: *Safe and efficient traffic circulation around and through the City.*  
**The property is on established and controlled thoroughfares.**

3. ISSUE: *Lack of adequate traffic control.*

**This property is situated where traffic flow has been already established and safely monitored.**

4. ISSUE: *The design of roads, streets, and pedestrian facilities can be more attractive and functional.* **This property is situated where traffic flow has been already established and safely monitored.**

5. ISSUE: *Obstacles to efficient and safe traffic flow.* **This property is situated where traffic flow has been already established and safely monitored**

6. ISSUE: *Deteriorated conditions of City streets and County roads.*  
**This property is on a street that is in good condition.**

7. ISSUE: *Resources for transportation improvements should be rationally allocated throughout City neighborhoods and County townsites.* N/A

8. ISSUE: *More convenient bus schedules are needed to attract MET ridership.* N/A

9. ISSUE: *The sidewalk system in the City needs upgrading; many sidewalks are cracked and broken, several critical sections are missing, and important sidewalk routes are not adequately maintained.* **Sidewalks in this area are in good condition.**

10. ISSUE: *Lack of adequate bicycle facilities.*

**The property is in an area that is conducive to bicycle transportation.**

11. ISSUE: *MET Transit is underfunded.*

**The property is in an area that can be accessed by MET Ridership.**

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12. ISSUE: *Deterioration of air quality due to vehicle emissions.* **The property is in an area that is conducive to bicycle transportation and in area that can be accessed by MET Ridership.**

**Public Facilities and Services Element**

1. ISSUE: *Residents are not adequately informed of County and City projects.* N/A

2. ISSUE: *Dilapidated and unsafe properties in City neighborhoods and County townsites.*  
**This proposal will decrease the amount of area that is vacant, unused and subject to vandalism.**

3. ISSUE: *Safety is a concern in neighborhoods and outlying County townsites.* N/A

4. ISSUE: *There are safety and functionality issues with City streets.*  
**The street at the proposed location is in good condition with normal traffic flow and safety items present.**

5. ISSUE: *Funding for community facilities and infrastructure is very limited.* N/A

6. ISSUE: *Public funds are not distributed rationally throughout City neighborhoods and County townsites.* N/A

7. ISSUE: *There are vacant structures around Billings and in the County that could be reused.*  
N/A

8. ISSUE: *Community services are not always available to everyone.* N/A

9. ISSUE: *Subdivision review, zoning applications, and other development permit review are not always conducted in a streamlined and timely manner.* N/A

10. ISSUE: *Maintenance of existing K-12 school facilities and planning for new schools is critically important to maintaining existing communities built around the neighborhood school concept and fostering new communities surrounding school sites.* N/A

11. ISSUE: *Multiple community interests (including local government, arts organizations, and social organizations) are competing for tax dollars for facility development and maintenance, resulting in taxpayer fatigue and overall declining support for capital and maintenance projects.* N/A

#### **Cultural and Historic Resources Element**

**Because this proposal is situated in an established retail area, it will have no negative impact on the cultural and historic resources elements addressed in the Growth Policy Statement.**

#### **Community Health Element**

**This proposal will have no negative impact on the community health elements addressed in the Growth Policy Statement.**

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

**Expanding into this location will reduce the amount of vacant commercial lots in the City of Billings.**

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

**This would allow the location to adhere to any social distancing requirements in the future for customers and employee's safety.**

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

G Rock LLC owns the property next to the current established business. Due to demands on space requirements in regards to Covid19, G Rock LLC would like to expand the licensed premise to include 2244 Grand. The current licensed premise is 2248 Grand.



**City Zoning Commission**

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

**SUBJECT:** Special Review 983 - 926 Grand Avenue - All Beverage License with Gambling

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**Special Review 983 - 926 Grand Avenue** - This is a special review to allow the location of an all beverage liquor license with gambling and for a waiver of the 600 foot separation from a church (Church of Christ of Billings, 1016 Alderson Ave) to allow the remodel of an existing restaurant into a restaurant, bar and casino, on Block 2, Lot 11A-12A Amd., a 21,976 square foot parcel of land. Presented by Nicole Cromwell, Zoning Coordinator.

**RECOMMENDATION**

Planning staff is recommending denial of the special review request and denial of the waiver of the 600-foot separation distance to the church at 1016 Alderson Avenue. The recommendation is based on the findings of the review criteria presented in the Summary section of this report.

**APPLICATION DATA**

OWNER: Raise The Bar Investments, LLC  
 AGENT: Janelle Crowley  
 LEGAL DESCRIPTION: Subset Sub, Block 2, Lots 11A & 12A  
 ADDRESS: 926 Grand Avenue  
 CURRENT ZONING: Community Commercial  
 EXISTING LAND USE: Vacant restaurant  
 PROPOSED USE: Remodeled for new restaurant, bar and casino  
 SIZE OF PARCEL: 21,796 square feet

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
926 Grand Ave	City SR 773	Nov 22, 2004	Beer & Wine No gambling	Yes	Grains of Montana
SURROUNDING PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1411 13th St W	City SR 65	Aug 27, 1979	All Bev	Y	Lucky's Grand Casino
905 Grand Ave	City SR 81	July 28, 1980	All Bev	N	Grand Stand Casino
905 Grand Ave	City SR 112	Nov 2, 1981	All Bev	Y	Grand Stand Casino
1413 13th St W	City SR 303	Jan 26, 1987	All Bev & Gambling	Y	Jackpot Nevada Casino
1116 Grand Ave	City SR 336	Jan 25, 1988	All Bev & Gambling	Y	
1112 Grand Ave	City SR 342	Feb 1, 1988	Beer & Wine & Gambling	Y	The Palms Grand Casino

1411 13th St W	City SR 347	April 25, 1988	Beer & Wine & Gambling	Y	Lucky's Grand Casino
1112 Grand Ave	City SR 358	Aug 22, 1988	Add Outdoor Patio	Y	
905 Grand Ave	City SR 361	Aug 22, 1988	Add Gambling	Y	Grand Stand Casino
1307 12th St W	City SR 367	Oct 24, 1988	Beer & Wine	N	Big B Bingo & Casino
825 Grand Ave	City SR 458	April 13, 1992	All Bev & Gambling	Y	Nickels Casino & Liquor Store
1005 Grand	City SR 486	June 14, 1993	Beer & Wine	N	Four Seas Restaurant
1223 Grand Ave	City SR 581	June 10, 1996	All Bev & Gambling & Outdoor Patio	Y	Guadalajara's
1005 Grand Ave	City SR 608	July 28, 1997	Beer & Wine	Y	Four Seas Restaurant
1102 Grand Ave	City SR 845	May 29, 2007	All Bev & Gambling	Y	Tarantino's Pizza

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning: Community Commercial (CC) Land Use: Offices/Retail
SOUTH:	Zoning: Residential 7,000 (R-70) Land Use: Single family homes
EAST:	Zoning: CC Land Use: Music Store
WEST:	Zoning: CC Land Use: Bank

## BACKGROUND

This is a special review request to locate an all beverage liquor license with gambling in an existing 3,772 square foot building in a Community Commercial zone at 926 Grand Avenue. This is the former location of the Grains of Montana restaurant. This restaurant had a beer and wine license approved in 2004. This license had no gambling attached to the license. The current property boundary (adjusted after the 2004 alcohol license approval) is within 600 feet of a church, Church of Christ Billings, at 1016 Alderson Avenue. A waiver from the required separation distance - measured property line to property line - will be required as well. The separation distance measures approximately 285 feet.

The applicant and new owner would like to remodel the property for an "upscale" bar, casino and restaurant. The applicant proposes a waiver of the 600-foot separation to a church be granted since there is no direct line-of-sight between the two buildings. There is also no direct sidewalk path between the two uses. The applicant's letter also states an intent to create an outdoor patio space and to provide a small venue for local musicians and artists. The planned renovations of the property include increasing the building height.

The zoning history in this area of Grand includes 16 special review requests since 1979 to allow alcohol service with and without gambling. Most of these were approved. Most of these special review requests were not for restaurant venues but for bars and casinos. Some locations may also serve made-to-order meals such as Tarantino's Pizza and Guadalajara's but for the most part, these approved locations were for bars and casinos: Lucky's Grand Casino, Nickels Casino, The Palms Grand Casino, Grand Stand Casino, Jackpot Casino and the Big B Bingo and Casino.

The Council has expressed concern with the number of alcohol and gaming locations within the city and how to better regulate these uses to protect neighborhoods, and improve the community character along its commercial corridors. Project Re:Code has proposed major changes to how these uses will be regulated including adoption of casino, bar and restaurant definitions, making separation distances non-waivable, changing how those separations are measured, and allowing some alcohol service businesses without special review approval. For example, if this application were submitted after the adoption of the new code, it would be required to demonstrate its primary use

as a restaurant - a place that sells more food than alcohol. In addition, any casino would be limited to no more than nine gambling machines. A bar - a place that sells more alcohol than food, or a casino with ten or more gambling machines would not be an allowed use in this location due to the location of the church property within 600 feet of the subject property.

The property is across a 20-foot alley from a residential neighborhood and is a mid-block location between the stop-controlled intersections of 9th St W and 10th St W. Grand Avenue is a 5-lane principal arterial street that sustains about 22,000+ vehicle trips per day on an average weekday. Grand Avenue has a posted speed limit of 35 mph, and has a center turn lane to allow turning movements to the businesses along the corridor. The property currently has vehicle access to the adjacent alley and has two driveways off of Grand Avenue.

Police reports for this general area (1/4-mile radius of 926 Grand) for the last six months indicate 208 reported incidents including 16 DUI, eight assaults, three burglaries and two robberies. The largest category of reports are disturbing the peace (138), which includes suspicious activity and noise complaints. This is not an unusually high number of incidents along the Grand Avenue.

Planning staff has reviewed the criteria for special review for the proposed use and is recommending denial based on these findings. Although the use meets the first criteria - the use is an allowed special review use in the CC zone - the number of existing locations for alcohol service and gambling within 1/4-mile of this location (a 10 minute walk) is sufficient for the area. There are 14 locations serving food or alcohol (or both) and eight locations for gambling. The zoning code does not specify a required separation or spacing requirement for alcohol licenses or gambling activities, but consideration of the number of outlets within a small market area has relevance to the economic viability of the corridor.

The second criteria is whether the location meets the goals and objectives of the zoning code. The zoning code and growth policy have a primary goal of ensuring compatibility between uses and reducing conflicts between adjacent properties. The site made some improvements required in 2004 when the beer and wine license was approved for Grains of Montana. Grains of Montana was a successful lunch and early dinner location but was never open later than 8 pm and was not open on weekends. The proposed use would have customer activity on the property much later each night and on weekends. The adjacent businesses - a bank and a music store - do not have late night time hours, so activity after 8 pm is currently unusual on this block of Grand Avenue. The proposed use may not be compatible with the adjacent residential uses or the adjacent businesses on Grand Avenue. The applicant has not proposed any mitigation of the potential impacts from the remodeling or new uses to the adjacent properties. The third review criteria is whether the location and use is sufficiently screened or buffered from adjacent sensitive land uses. The customer access to the alley is not a condition that is sensitive to the adjacent residential uses on Alderson Avenue. In addition, the proposal to increase the building height is also not sensitive to the adjacent neighborhood where most homes are single story dwellings.

## **SUMMARY**

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Zoning Regulations and the 2016 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that the zoning regulations adopted by the City Council has designated all CC zones can have a liquor license with gaming as long as they go through the special review process. The proposed location and site development mostly complies with the zoning requirements. The customer access to the alley is noncompliant with the zoning code requirements (BMCC Section 27-612(e) and Section 27-1105), the solid waste dumpster is not enclosed, and the landscaping on the site does not meet the minimum requirements (BMCC Sec. 27-1100).

The location has requested a waiver of the required 600-foot separation distance to the church at 1016 Alderson Avenue. There is no line of sight between the two locations and there is no direct sidewalk access. While these two conditions can be considered in favor of a waiver, the City Council is not required to grant any waiver of the

separation distance. The City Council last granted a separation distance waiver to a location at 149 Shiloh Road (May 2019) for a new business with a beer and wine (no gambling) license in the Shiloh Commons development. The Council granted the waiver after receiving a letter of support from the church in question - Faith Chapel. Prior to this waiver, the Council granted a waiver to Blaze Pizza (2018) in front of the Rimrock Mall for separation from Central Heights Elementary (east across 24th St W and behind the Rimrock Mini Mall) and Stewart Park (west and behind the Rimrock Mall). Blaze Pizza also was requesting a beer and wine license without gambling. An all beverage license with gambling requested a waiver for a location on Shiloh Road (2018) near the United Methodist Church. This request was denied. The City Council granted a waiver of the 600 foot separation distance for a relocation of a casino (Copper Creek Casino) from 1731 King Ave W to 545 18th St West. The existing location was next door to the church and the relocation site was about 300 feet north and west. Another location at 1524 Main St in the Heights was also approved for a waiver of the 600-foot separation to Arrowhead Park in 2016.

The application does not meet the second criteria, as it is not consistent with some of the objectives of the 2016 Growth Policy:

Strong Neighborhoods:

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

Neighborhoods sharing a boundary with intense commercial uses can experience conditions detrimental to the quiet enjoyment of the area. The impacts include increased traffic and noise late at night from evening-oriented businesses such as bars and casinos. Typical commercial food and beverage service requires frequent solid waste collection that may add to noise. It may not be possible to screen or buffer the adjoining neighborhood from these potential impacts.

Home Base:

- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.

A restaurant, bar and casino may have an unpredictable impact on the neighborhood. This is mostly dependent on the proposed business model and management. It is not possible under our current code requirements to impose conditions that dictate how a location approved for an all beverage license can be structured or managed. For example, if the current proposal were to be unsuccessful, the license and premises could be sold to a new owner who might run the business strictly as a casino and bar without any made-to-order food service. This level of unpredictability does not create a healthy or safe neighborhood.

The third criteria for special review is whether the proposed use is screened and separated for the adjacent uses to minimize adverse impacts. Planning staff is not certain whether blocking vehicle access to the alley is possible given the small number of existing parking spaces and maneuverability within the existing lot. Access to the alley has always existed on this parcel even prior to the building remodel for Grains of Montana in 2004. The applicant also mentioned the installation of an outdoor patio where potential live music could be offered. Outdoor patios approved through special review in close proximity to residential neighborhoods have proven to be problematic due to noise complaints from outdoor amplified music. Conditions of approval can be imposed on the uses allowed or prohibited on outdoor patios but are difficult to enforce over time. Planning staff is not recommending any conditions of approval for this location and denial of the special review and waiver of the 600-foot separation distance.

## **RECOMMENDATION**

Planning staff is recommending denial of the special review request and denial of the waiver of the 600-foot separation distance to the church at 1016 Alderson Avenue.

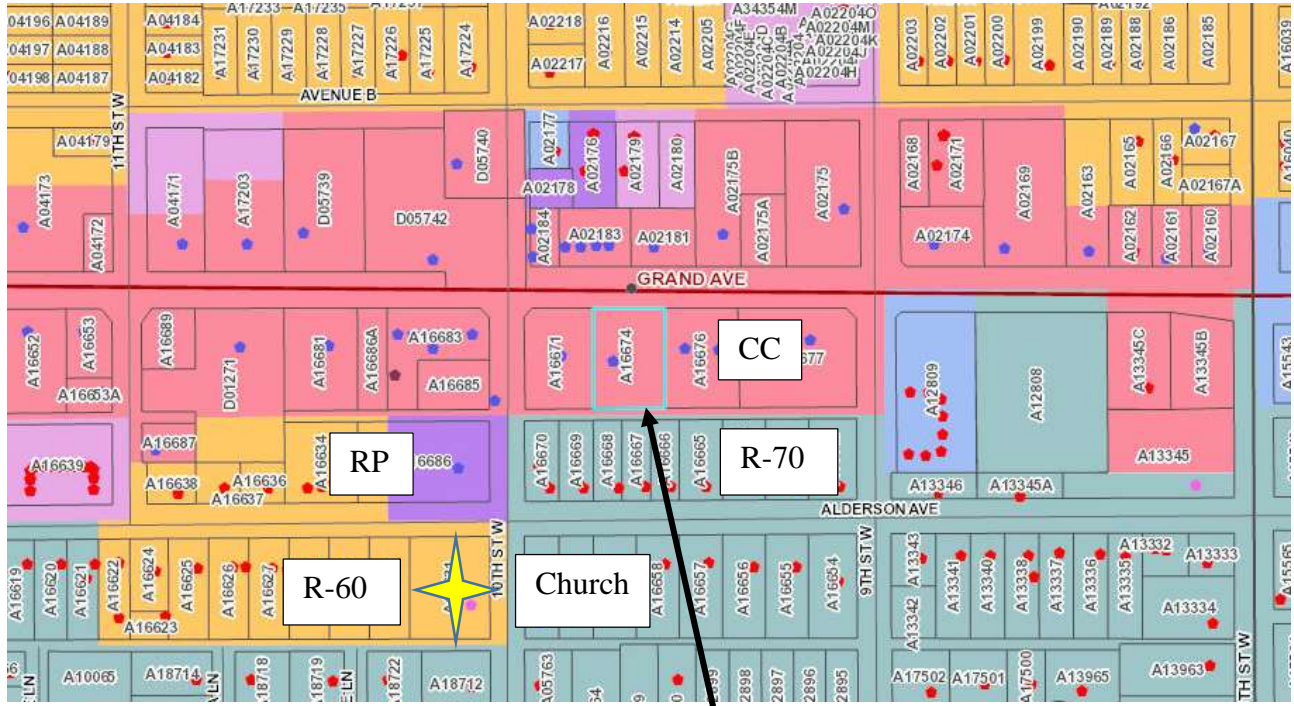
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## **Attachments**

Zoning Map and Site Photos  
Application and Letter



# Zoning Map and Site Photos



Subject Property



Aerial



926 Grand - Subject Property



Front façade at 926 Grand – subject property



View west to bank



View north and west across Grand Ave



View north and east across Grand Ave



View east down Grand Ave



View south across subject property to open alley access

Application, Applicant Letter

APPLICATION FORM

CITY SPECIAL REVIEW Billings Special Review# \_\_\_\_\_ - Project # PZX-20-00117

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

Present Zoning: Community Commercial

Special Review Requested: Waiver from the 600 foot separation required in Subsection 1

TAX ID# 85-1047946 CITY ELECTION WARD # 3

Legal Description of Property: Sunset subd 2nd filing, S05 T01 S, R26 E, Block 2, Lot 11A-12A, AMD 21716 sq ft (06)

Address or General Location (If unknown, contact City Engineering): 926 Grand Ave, Billings, MT 59102

Size of Parcel (Area & Dimensions): 21716 sq ft.

Present Land-Use: Restaurant - Commercial

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

If yes, please attach to application

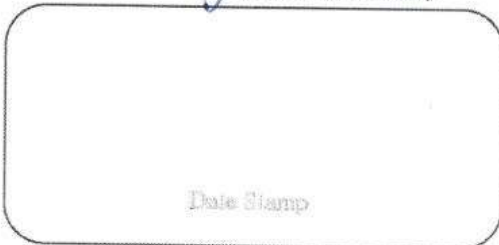
\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Raise the Bar Investments LLC
(Recorded Owner) 2001 Rosebud Dr. Ste C, Billings MT 59102
(Address) 406-811-4463 (Phone Number) s0stax@gmail.com (email)

Agent(s): Janelle Crowley
(Name) 2001 Rosebud Dr. Ste C Billings MT 59102
(Address) 406-811-4463 (Phone Number) s0stax@gmail.com (Email)

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

Signature: [Signature] Date: 10/1/2020
(Recorded Owner)



# RAISE THE BAR INVESTMENTS LLC.

June 1, 2020

To Whom it May Concern:

I am writing this letter as part of a Special Review Application for 926 Grand Ave, Project #PZX-20-00117. We are asking that the property at 926 Grand Ave be approved for use as a Restaurant, Bar, and Casino. The property was the former location of Grains of Montana, a restaurant with a cabaret beer and wine license. They closed their business and we purchased the building in hopes of opening an upscale bar and casino with a restaurant.

The building is within 600 feet of a church but we are asking for a waiver from the 600 foot separation because a physical barrier exists between the building and the church. Several buildings entirely obstruct the view, and no direct physical access exists between the separated uses.

Our proposal is consistent with the goals and policies of the Growth Policy in the following ways:

- We are planning an extensive interior and exterior remodel of the building which will add value to Grand Avenue. We would like to create a nice outdoor patio space for customers to enjoy. The interior and exterior will be designed in true upscale Montana fashion.
- We will generate increased property tax value and also gaming revenue.
- We intend to provide a safe, attractive, and clean environment for customers and employees.
- We will create at least ten to fifteen jobs for the community.
- We will showcase and promote local artists and musicians.
- This will be a successful and long standing business for the community to enjoy.

There is a need for the intended use of this property at this location to provide a restaurant in the Midtown area and also an entertainment facility close to home for many residents. Our promotion of small live music events with local musicians will provide the area with entertainment not currently available close by.

The public interest will be served if our application is approved by offering another option for dining and entertainment in the area. Our newly remodeled location will provide a clean and friendly environment for customers to eat and relax.

We intend to remodel the interior and exterior of the building. We are awaiting a bid from Hardy Construction regarding raising the entire roof of the building several feet. We feel that increasing the building height will add a modern look and improve the structure in general. We intend to upgrade the façade of the exterior and completely remodel the interior. We are waiting on the details of those plans until we see if raising the entire building is feasible.

Thank you for considering our request. If you have any other questions please feel free to contact us.

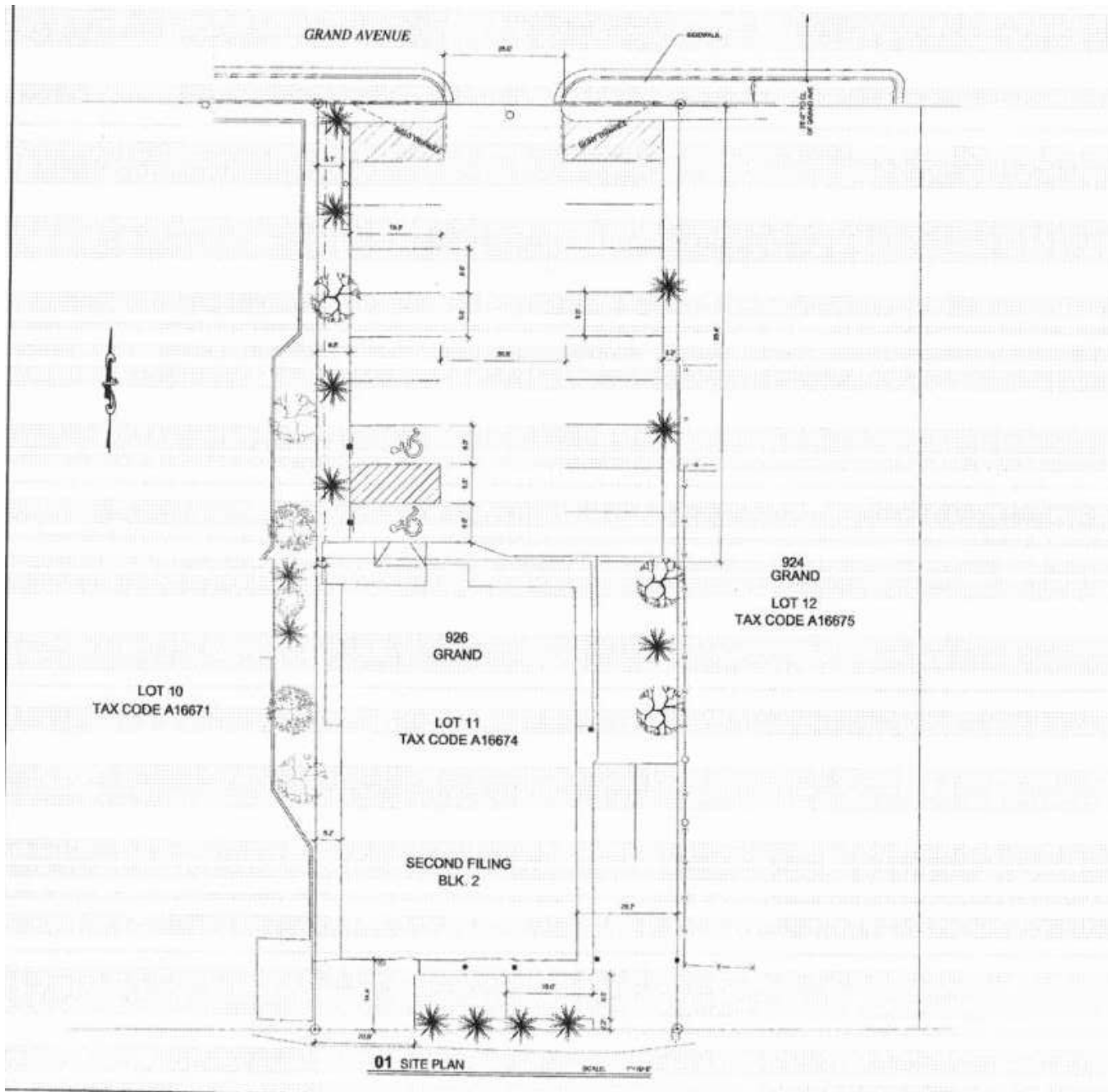
Sincerely,



Janelle Crowley and Dave Hoiness  
Owners

2001 Rosebud Dr  
Suite C  
Billings, MT 59102

PHONE (406) 861-4463  
FAX (406) 651-0128  
E-MAIL sastax@gmail.com



**01 SITE PLAN** SCALE: 1/8" = 1'-0"



**City Zoning Commission**

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

**SUBJECT:** Zone Change 978 - 4160 King Ave W - ELI to HC

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Zone Change 978 – 4160 King Ave. West- ELI to HC** - A zone change request from Entryway Light Industrial (ELI) to Highway Commercial (HC), on Block 1, Lot 2, Montana Sapphire Subdivision, an 8.536 acre parcel of land. A pre-application neighborhood meeting was held on May 26, 2020 at 6:00 PM, in a virtual format. Presented by Nicole Cromwell, Zoning Coordinator.

**RECOMMENDATION**

Planning staff is recommending approval based on the findings of the 10 criteria for Zone Change 978.

**APPLICATION DATA**

OWNER: MT Sapphire LLC, Bert Arnlund  
 AGENT: Scott Aspenlieder, Performance Engineering  
 LEGAL DESCRIPTION: Lot 12, Block 1, Montana Sapphire Subdivision  
 ADDRESS: 4160 King Ave West  
 CURRENT ZONING: Entryway Light Industrial (ELI)  
 EXISTING LAND USE: Vacant  
 PROPOSED USE: Residential dwellings - apartments  
 SIZE OF PARCEL: 8.536 acres

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
4160 King Ave W	673	July 9, 2001	A-1 (County) to ELI	Y	ZC with annexation
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Shiloh Crossing	672	July 9, 2001	A-1 to ELI	Y	
St Vs Healthcare	722	May 24, 2004	A-1 to PD	Y	New medical campus
Lenhardt Square	829	Feb 25, 2008	A-1 to PD	Y	
Shiloh Crossing	835	Mar 10, 2008	ELI to CI	Y	
St. V's Healthcare	870	Feb 14, 2011	PD to PD-ELI	Y	
4300 Montana Sapphire Dr	878	Sept 12, 2011	ELI to HC	Y	Long Beach Apartments
Western Sky	900	July 23, 2012	R-50 to RMF-R	Y	Hoop Dreams Apartments

4215, 4020 & 4110 Montana Sapphire Dr	903	Oct 9, 2012	ELI to HC	Y	Affinity in Billings (4215) Divide Bar & Grill (4020) Full Fitness (4110)
Western Sky	912	July 8, 2013	P & R-50 to RMF-R	Y	Hoop Dreams Apartments
Shiloh Conservation Area	923	Oct 14, 2014	A-1 (County) to Public	Y	
Western Sky Lts 3 & 4	957	Aug 28, 2017	CC, RMF-R, R-50, R-70, R-96 & Public to PD	Y	
Western Sky Lot 2A-1	972	Jan 14, 2019	RMF-R, R-70 & Public to RMF-R, RMH & Public	N	Withdrawn by App
Western Sky PD	975	Jan 27, 2020	Add uses to PD-NC	Y	
Western Sky PD	977	June 22, 2020	Adjust zone boundaries	Y	

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning: ELI Land Use: Beartooth Bank, Multi-tenant retail
SOUTH:	Zoning: HC Land Use: The Divide Bar & Grill, Fuel Fitness
EAST:	Zoning: ELI Land Use: Jimmy John's, Rimrock GMC
WEST:	Zoning: HC Land Use: Affinity in Billings

## BACKGROUND

This is a zone change request from Entryway Light Industrial (ELI) to Highway Commercial (HC) on a parcel in Montana Sapphire Subdivision to facilitate the construction of a new apartment complex. The development will be similar to the Long Beach apartments south and west of the property. The entryway zoning does not allow residential uses by right. A zone change to the HC zone will allow all types of residential uses including single family, two-family and multi-family residences. The applicant states there might be 70 to 100 units on this 8.5 acre parcel of land. The maximum density allowed in the HC zone would be about 28 units per acre. The average development density for multi-family apartments in Billings is much lower usually around 12 to 18 units per acre. The proposed development is in line with the average density in the area. The property is the largest undeveloped lot remaining in the subdivision.

The property has good access to local streets that connect to the north, east and west to King Avenue West and Shiloh Road. The area is developing as a mixed use area with retail, service businesses, medical services, and residential. The Shiloh Conservation Area to the south is a significant outdoor amenity for the area. The City has recently purchased additional acres for water conservation and development of a new open water reservoir.

The Western Sky Subdivision to the west, and the two subdivisions to the north are also developing in a mixed use pattern allowing for residential, commercial and office uses in an urban environment. Development of both arterial streets is progressing as property adds traffic and infill to the area. Traffic on Shiloh Road averages about 17,250 vehicle trips per week day while King Ave West in this area averages about 10,500 vehicle trips per day. MET Transit operates a fixed route bus line that runs through Montana Sapphire subdivision making transportation options convenient. There is a multi-use trail along the west side of Shiloh Road that also connects to nearby open space and retail areas.

The property can be served by all city utilities and services. It is within a developed area of West Billings and is in conformance with the goals, policies and guidance of the 2001 West Billings Neighborhood Plan, the 2016 City Growth Policy and the 2011 Infill Policy. The proposed zoning will allow more residents in an area with existing services and with a high demand for housing choices. Planning staff has reviewed the application and is recommending approval based on the proposed findings of the ten criteria for zone changes. Staff finds the proposal is compatible and conforming to the Growth Policy.

## SUMMARY

Prior to any recommendation to the City Council, the Zoning Commission shall consider these proposed findings:

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the West Billings Neighborhood Plan (2001).

The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed zone change is consistent with the following adopted Policies of Planned Growth Goal 1: Establish Development Patterns that Use Land More Efficiently Policy R "Encourage innovative land-use planning techniques to be used in building higher density and mixed-use developments as well as infill developments." The proposed zone is compatible with goals of the West Billings Neighborhood Plan. The proposed zone change will accommodate uses that are compatible in a mixed-use environment and will fulfill a growing market for a variety of housing choices. The proposed development will also have good access to outdoor activities and is in close proximity to commercial centers and transportation options.

The proposed zone change is also in line with the adopted 2016 Growth Policy goals for:

### **Home Base:**

- 1) A mix of housing types that meet the needs of a diverse population is important
- 2) Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

### **Strong Neighborhoods:**

- 1) Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- 2) Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction
- 3) Neighborhoods that are safe and attractive and provide essential services are much desired
- 4) Implementation of the Infill Policy is important to encourage development of underutilized properties

The proposed zoning would accommodate a variety of housing choices and bring more residents into the area. Additional residents will help make this area a complete "neighborhood" where activity is not just during business hours. A mixture of uses can encourage a safer place by having more "eyes" on the street. The diverse housing choices and other commercial services in the area will help create a solid neighborhood in this area of West Billings.

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

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

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

Public health and public safety will be promoted by the proposed zoning. The proposed amendment will allow new residential uses in an area with high demand for housing choices.

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

**Transportation:** The proposed amendment will have a measurable effect on the transportation system. The city has reviewed a traffic study for the entire subdivision and proposed uses. Initially, the subdivision was intended for all commercial uses with some light industrial uses as well. The addition of residential uses has changed the original anticipated traffic impact and updates to the original study have been done whenever a new proposal is brought forward through the Master Site Plan approval process. Any changes needed to mitigate the new type of traffic will be implemented through the City Engineering Division.

**Water and Sewer:** The City will provide water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.

**Schools and Parks:** Schools and parks may be effected by the proposed amendment. Residential dwellings typically include school-age children so this may increase the student population in the Elysian Elementary and Billings West High School districts. The closest community park to this location is Centennial Park (north of Central on 32nd St West). Although this is some miles from the subject property there are recreational trails and activities in the immediate area.

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

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

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

The proposed zone change and development for residential uses will have an impact on the functioning of the local intersections with King Ave W and Shiloh Road. Prior traffic studies for Montana Sapphire Subdivision may need to be updated to consider this new type of traffic. The City Traffic Engineer will make this determination when a proposal is submitted for construction as part of the Master Site Plan Process. Traffic counts in the area on King Ave West and Shiloh Rd are not exceptionally high for these multi-lane arterial streets. MDT retains jurisdiction over the management of King Avenue West.

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

The new zoning does promote compatible urban growth in this area. The proposed will allow a mixed use urban neighborhood in an area with this existing pattern in place.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area between Shiloh Road and 48 th St West is an area undergoing rapid growth population growth. The proposed amendment will allow additional housing choices in the area. The property is suitable for the proposed use given its location in the area.

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

The property is currently undeveloped. Approval of the zone change will provide more certainty to surrounding land owners and may help to stabilize property values of adjacent buildings.

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

The proposed zoning may encourage the most appropriate use of this land in Billings. This specific location and use is appropriate.

## **RECOMMENDATION**

Staff recommends approval and adoption of the findings of the twn criteria for Zone Change 978.

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## **Attachments**

Zoning Map & Site Photos  
Application and Letter

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**Subject Property Photos**



Subject Property – view north from Montana Sapphire Dr



View north west from Montana Sapphire Dr

**Subject Property Photos**



View east along Montana Sapphire Drive



View south and east across Montana Sapphire Dr

**Subject Property Photos**



View south and west across Montana Sapphire Dr

# APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # \_\_\_\_\_ - Project # \_\_\_\_\_

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

Present Zoning: Entryway Light Industrial

Proposed Zoning: Highway Commercial

TAX ID# C13965 CITY ELECTION WARD # 5

Legal Description of Property: Montana Sapphire Subdivision, S15, T01 S, R25 E, Block 1, Lot 12, Acres 8.536

Address or General Location (If unknown, contact City Engineering): 4160 King AVE W

Size of Parcel (Area & Dimensions): 8.536 Acres

Present Land-Use: Agricultural

Proposed Land-Use: Residential complex

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

If yes, please attach to application

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

Owner(s): MT Sapphire, LLC - Bert Arnlund

(Recorded Owner) 4160 King AVE W

(Address) (702) 682 - 9782 bertarnlund1943@icloud.com

(Phone Number) (email)

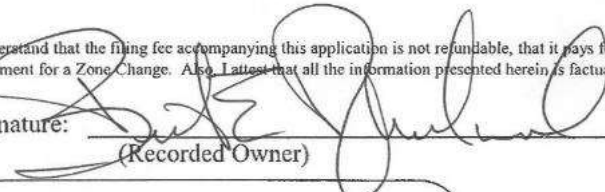
Agent(s): Performance Engineering, LLC - Scott Aspenlieder

(Name) 608 N 29th ST Billings, MT 59101

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

(Phone Number) (email)

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

Signature:   
(Recorded Owner)

Date: 5-29-20





May 26<sup>th</sup> 2020 6:00pm  
ZOOM Conference Meeting

Meeting Notes  
*MT Sapphire, LLC*

Representatives: Scott Aspenlieder (PE)

Attendees

Allen McCormick (Beartooth Bank, CEO) - 4130 King AVE W - 406-294-6505

Points of Discussion

Brief review of Project Development  
Requesting comments from Home/Property owners  
Addressed Comments/Concerns from Home/Property owners

Project Development

Development of a residential complex in the West End of the City of Billings.

Home/Property Owners Comments, Concerns, & Questions

1. "How many units are going into the development?"  
*We cannot say for certain now, but our guess would be around 70-100 home units.*
2. "Is the only access to the property off of Daniel Street?"  
*No, there is access off of MT Sapphire Drive as well.*
3. "Does this meeting involve anything to do with street corrections or is it strictly regarding rezoning?"  
*This meeting is strictly regarding the rezoning of the property and what potentially expect in the future.*
4. "We would be very hesitant on the construction of another casino or bank facility, but the development of a residential area causes no concern for us."

Meeting Adjourned 6:20 pm.

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

The lot of interest is currently zoned Entryway Light Industrial. The land surrounding the property is Highway Commercial to the south and west, and Entryway Light Industrial to the north and east. The Growth Policy has several goals that would be met by changing the zoning of the property from Entryway Light Industrial to Highway Commercial.

First, existing site use is incompatible with the current zoning under the current zoning ordinances and subdivision regulations. The existing site is currently undeveloped. The owner is looking into building a residential complex where construction is not allowed in Entryway Light Industrial zones. This issue would be resolved by changing the zoning to Highway Commercial which would match the Highway Commercial directly to the south and west and have little to no impact on the surrounding Entryway Light Industrial zones.

Second, neighborhoods experiencing pressures from new development and land use changes also cause issues. The surrounding land is zoned Highway Commercial and Entryway Light Industrial. The goal is to have predictable land use decisions that are consistent with neighborhood character and preferred land use patterns. Having the land zoned Highway Commercial will accomplish these goals and provide continuity and consistency.

Third, the proposed zone change will further develop an infill property in the West End, which is a priority in the Growth Policy. The existing zoning has prohibited the lot owner from further developing his property. Rezoning will continue the expansion of the Shiloh area and further grow in the West End.

**2. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.**

The proposed development plan is to develop several multi-purpose family home units located on the lot. Entryway Light Industrial zoning will not allow this type of development. The Highway Commercial zone will allow the development of the lot. The land surrounding the property is Highway Commercial and Entryway Light Industrial. The proposed land use will match the existing land use, having an insignificant impact on the surrounding community.



**City Zoning Commission**

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

**SUBJECT:** Zone Change 979 - High Sierra 16th Filing - R-70-R to R-50

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Zone Change 979 – North of Mission Oaks Dr., between Morocco Dr. and Matador Ave. – R-70-R to R-50** - A zone change request from Residential-7000- Restricted (R-70-R) to Residential-5000 (R-50), on Block 31, Lots 17-25, High Sierra Sub 16<sup>th</sup> Filing (proposed), a 2.4 acre parcel of land. A pre-application neighborhood meeting was held on May 26, 2020 at 5:30 PM, in a virtual format. Presented by Nicole Cromwell, Zoning Coordinator.

**RECOMMENDATION**

Planning staff recommends approval and adoption of the findings of the 10 criteria for Zone Change 979.

**APPLICATION DATA**

OWNER: High Sierra II, Inc. Gary Oakland  
 AGENT: Sanderson Stewart, Gary Owen, P.E.  
 LEGAL DESCRIPTION: Lots 17-25 of Block 31, High Sierra Sub, 16th Filing (preliminary plat approved)  
 ADDRESS: Mission Oaks Dr between Morocco Dr and Matador Ave  
 CURRENT ZONING: R-70-R  
 EXISTING LAND USE: Vacant  
 PROPOSED USE: Two-family townhomes  
 SIZE OF PARCEL: 2.4 acres

**CONCURRENT APPLICATIONS**

Zoning Variance 1314 to increase lot coverage from 40% to 50% (BOA hearing July 1, 2020).

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
High Sierra Sub	<b>Zone Change 822</b>	11/13/2007	A-1 & R-96 to R-70-R	Yes	400 acre Dover Ranch
SURROUNDING PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
High Sierra 1st Filing	420	Feb, 1984	A-1 to R-96, Public & CC	Yes	Skyview HS, W Wicks to Matador Ave
High Sierra 1st Filing	516	Aug 24, 1987	R-96 to NC	No	Picador Place
High Sierra 2nd Filing	712	April 14, 2003	R-96 to R-70	Yes	Matador to El Rancho Dr (High Sierra 3 <sup>rd</sup> Filing)
High Sierra 2nd Filing	719	Sept 8, 2003	R-96 to R-70	Yes	Siesta to Sierra Granda (High Sierra 4 <sup>th</sup> Filing)
Lake Hills 14th, 15th, 16th	875	April 25, 2011	R-96 to R-60-R	Yes	Clubhouse Way & Cherry Hills rd
Lake Hills 35th Filing	949	Nov 14, 2016	R-60-R to R-50	Yes	Two-family townhomes on Gleneagles Blvd

Lake Hills 15th Filing	16 (County)	July 9, 1974	R-96 & R-60 to RMF & CC	Yes	2260 Gleneagles (RMF) 2 lots on north end of Clubhouse Way (CC)
2107 Clubhouse Way	95 (County)	July 6, 1976	R-96 to R-60	Yes	4-plex
2108 Clubhouse Way	780	June 26, 2006	R-96 to RMF	No	Proposed 4-plex
East side of Lake Hills Dr – south of Black Diamond Rd	687	Jan 14, 2002	RMF to R-96	Yes	Proposed SFRs
209 to 219 Wicks Lane	680	July 9, 2001	R-70 to RMF-R	Yes	New multi-family
Covert Ln & Cody Dr	955	May 22, 2017	R-70 to R-60	No	Existing 4-plexes
323 & 323 ½ Covert Ln	97 (County)	June 23, 1976	R-70 to R-60	No	Proposed 4 plex
215-233 Wicks Lane	555	Dec 9, 1991	R-70 to CC	No	

## SURROUNDING LAND USE & ZONING

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

## BACKGROUND

This is a zone change request from R-70-R, a single family only zone district, to R-50 to allow the development of two-family dwellings. The proposed zone change would allow the prospective buyer, Trent Parks, to develop townhomes similar to the dwellings on the north end of Gleneagles Blvd. Those unit ownership developments - The Nest, Stewart, Granlund and Gleneagles - consist of one and two-level townhomes with attached garages. These townhome units are selling at above the median home price for Billings (>\$250,000/unit). The proposed two-family townhomes on these lots would include a 3-car attached garage and a covered patio space. These would likely be at higher price point than the townhomes on Gleneagles Blvd.

The proposed lot layout would include nine two-family dwellings (18 total dwelling units) on the 2.4 acres of land. The maximum density of single family dwellings on this size of parcel with an R-50 zone is 20, while up to 13 two-family dwellings could be constructed (26 total dwelling units). The existing zoning of R-70-R could allow 14 to 15 single family dwellings. The proposed townhomes have a proposed main floor living area of ~1,450 square feet and about 870 square feet of attached garage space. The proposed townhomes include 3 bedrooms and a 230 square foot covered patio for each unit. The applicant has proposed a lot coverage variance to allow the 3-car attached garages and the covered patios. The Board of Adjustment will hear this variance prior to the Zoning Commission hearing on the zone change. If approved, the variance would be conditioned on approval of the zone change.

The lots are within the High Sierra Subdivision, 16th Filing, a subdivision that received preliminary plat approval from the City Council in March 2020. Each of the proposed lots is equal to or greater than 10,000 square feet, the minimum lot area required for a two-family dwelling. Mission Oaks Drive, the access road for this subdivision, is a proposed local street and will be constructed to the required minimum standards for a local street. The road connects to Morocco Drive on the east and Matador Avenue on the west. The three parcels directly south of the subject property are owned by School District #2 and is the likely location of a new elementary school for this growing area of Billings Heights.

Traffic in the area is between 5,000 and 6,000 vehicle trips per average weekday on Wicks Lane and Governors Boulevard. Traffic to the high school and middle school is not included in these traffic counts but likely adds a considerable number of trips to both arterial streets. There are no traffic counts available for Gleneagles north of Wicks Lane. The addition of a few extra dwelling units (R-70-R compared to R-50) would not add any significant number of additional daily trips to this area of High Sierra. Every preliminary and final subdivision plat submits a traffic analysis to the City Traffic Engineer to ensure new vehicle trips can be accommodated and any mitigation or improvements required can be paid for by the developer in advance. The current three filings of High Sierra - 14th, 15th, & 16th Filings - are required to make contributions to off-site intersection improvements. These contributions are part of the signed Subdivision Improvement Agreement (SIA) with the city.

The city adopted the Billings Heights Neighborhood Plan in 2006 and the new Growth Policy for the entire city in 2016. The Billings Heights Neighborhood Plan did not indicate any major changes for this area other than to keep the lower density residential development in place. Lake Hills Subdivision to the east and south has a variety of zoning districts that has allowed a complete range of housing choices from multi-family apartments, to townhomes to half-million dollar+ homes along the golf course, while keeping the overall neighborhood density on the low end of the development scale. A sustainable neighborhood allows this range of housing choices. For example, along Cherry Hills Rd, a newer section of Lake Hills, homes with back yards on the golf course are selling for \$500,000+ while more modest homes on the north side of Cherry Hills Rd are selling for \$100,000 to \$200,000 less. To the west on Gleneagles Blvd are duplex townhomes for sale in the \$250,000 to \$290,000 price range (each unit). Further west in the R-70-R zone district of High Sierra prices range from \$175,000 up to \$370,000 for new homes. The R-70-R does not allow a variety of housing choices and the price ranges reflect the square footage of living space and off street parking as well as the finish materials.

The 2016 Growth Policy adopted several guidelines to help the city in an efficient and cost effective way. The Growth Policy adopted statement of purpose is: "*In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe, and provide a choice of housing and transportation options.*" As Billings continues to grow land use decisions should be based on the adopted growth policy statement and the guidelines with the policy. These guidelines encourage housing choices throughout the city's neighborhoods, providing safe and affordable housing while observing the unique character of each area as the city grows. The proposed zoning is supported by several growth guidelines including Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods) and Home Base (healthy, safe and diverse housing options).

Planning staff received several letters opposed to the zone change and the zoning variance for the property. These are attached to the staff report. The primary objection concern value of property and the potential for a 2-family townhome to negatively effect single family home property values.

## **SUMMARY**

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

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

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

#### **Strong Neighborhoods:**

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Neighborhoods that are safe and attractive and provide essential services are much desired

#### **Home Base:**

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

The proposed zone change is consistent with the following goals of the 2006 Billings Heights Neighborhood Plan:

- To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Encourage high density multi-family development along arterial routes. Maintain similar housing in established neighborhoods.

The proposed zoning will allow another housing choice in an area with primarily only one housing choice. The

Lake Hills Subdivision to the east has allowed similar housing choices by allowing zoning to vary within the subdivision. Existing demand for housing choice is going up for all ages of buyers including “boomers” and millennials just buying a first home. The proposed zoning would allow a townhome choice in an area where the only choice right now is a detached single family residence on a larger lot. The overall density will remain essentially the same throughout the High Sierra Subdivision.

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

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

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

Public health and public safety will be promoted by the proposed zoning. The additional dwelling units will help increase the number of rate payers to the city utility systems and increase the taxable value of the property.

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

**Transportation:** The proposed zoning will not significantly increase post-development traffic volume. The applicant is paying assessments to the city for off-site traffic management at surrounding intersections.

**Water and Sewer:** The City provides water and sewer to the property.

**Schools and Parks:** Schools and parks should not be affected by the proposed zoning.

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

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

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

Traffic generation from 18 dwelling units will be between 180 and 250 vehicle trips per day. This trip counts includes trips to the new residences for services such as mail, deliveries, solid waste and similar as well as the trips by the occupants. The new subdivision will have sidewalks and will connect to other sidewalks and pedestrian facilities in the neighborhood. The new zoning will not have any increase effect on the transportation system.

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

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to provide new housing compatible with the existing neighborhood.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning will allow a housing choice that is in demand in the area. The property is directly across the street for a potential new school and between two developing single family districts.

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

There are no existing buildings on the property and the closest existing residence is about 600 feet to the west on Vesca Way or 600 feet to the south on Sierra Granda Blvd.

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

The proposed zoning will allow the development of another housing choice in this area of Billings Heights. This is the most appropriate use of the land.

**RECOMMENDATION**

Staff recommends

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**Attachments**

Zoning Map & Site Photos

Application and Letter

Letters opposed

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**Surrounding Zoning**  
Zone Change 979 – High Sierra Sub 16<sup>th</sup> Filing





Subject Property

# EXHIBIT A

HIGH SIERRA SUBDIVISION, 14TH, 15TH AND 16TH FILINGS - CONCEPT  
WITHIN  
TRACT A1-1 OF AMENDED TRACT A1 CERTIFICATE OF SURVEY 3573

PREPARED FOR : HIGH SIERRA I, INC.  
PREPARED BY : SANDERSON STEWART 

DECEMBER, 2019  
BILLINGS, MONTANA



**Subject Property Photos**



Subject Property -view east from current dead-end of Matador



View east to subject property



Development further east and north on Gleneagles Blvd



View south and east across subject property



View north and east



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



**ZONE CHANGE PRE-APPLICATION MEETING AFFIRMATION**



The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a zone change application.

Check one:  City of Billings Zone Change  Yellowstone County Zone Change

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

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

Present Zoning R-70R Residential 7,000 Restricted

Proposed Zoning R-50 Residential 5,000

Neighborhood Task Force Area? Heights Task Force

Task Force Chairperson Jennifer Owen

Task Force Chairperson Mailing Address jennifer@designing-trust.com

**Required Uploads to Online Project Attachments:**

- o Zone Change Pre-application Meeting Affirmation Form
- o STATEMENT:  
Written description of the Zone Change Plan including square footage or acres of proposed new zoning.
- o Subject Property Map
- o Roster of persons who attended the pre-application neighborhood meeting
- o Meeting Notice and a brief synopsis of the meeting results

**Affirmation:**

1) The pre-application neighborhood meeting was held on: 05/26/2020

2) The zone change application is based on materials presented at the meeting.

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

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

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

Applicant/Agent Sanderson Stewart c/o Gary Owen

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

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

Date 06/01/2020

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



**ZONE CHANGE REQUEST**



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

Check one:  **City of Billings Zone Change**       **Yellowstone County Zone Change**

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

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

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

1. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?
2. Explain your need for the intended zone change and why the property cannot be used under the existing zoning.
3. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.

**REQUIRED UPLOADS Online Applications: <https://services.billingsmt.gov/citizenaccess/>**

--Pre-Application Statement of Owner(s) or Agent(s) affirming pre-application meeting was held, and include the following: 1) the pre-application neighborhood meeting was held, and 2) the zone change application is based on materials presented at the meeting. Include a copy of the meeting notice, written materials mailed or provided at the meeting, the sign-in sheet of attendees, and a brief synopsis of the meeting results.

--Signed Application and Zone Change Statement (Zone Change questions)

--Site Plan

--Typed Mailing Labels Certified Surrounding Property Owners

--Radius Map & Certified List of Property Owners

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

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

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

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

Applicant/Agent Sanderson Stewart c/o Gary Owen

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

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

Signature of Recorded Owner(s)

Date 06/01/2020

**AUTHORITIES: Procedures and Review Criteria for Zone Change requests Billings Montana City Code (BMCC) Section 27-1502 et seq. SEC. 27-1502. AMENDMENTS TO CHAPTER.** (a) General. This chapter, including the official zoning map, may be amended only by the city council but no amendment shall be finally approved by the city council unless it has been submitted to the city zoning commission for review and recommendation. Proposals to amend this chapter, including the official zoning map, may be initiated by the city council or by the board of planning. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the city zoning commission. Before enacting an amendment to this chapter, the city council shall give public notice and hold a public hearing thereon. Before enacting on its own motion an amendment to the official zoning map, the city council shall provide written notification by mail of such amendment to each property owner whose name appears on the last tax record of the property subject to the amendment. The notification shall include what the proposed amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made no less than fifteen (15) days nor more than thirty (30) days in advance of the date of public hearing.

**AUTHORITIES: Procedures and Review Criteria for Zone Change requests Unified Zoning Regulations Section 27-1508 et seq. SEC. 27-1508. AMENDMENTS TO CHAPTER.** (a) General. Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan. **\*\*Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.**

## MEETING MINUTES

<b>PROJECT: Zone Change Amendment - High Sierra Subdivision, 16<sup>th</sup> Filing</b>			
Project No: 82061.134			
Meeting Location: Virtual Video/Call meeting via Microsoft Teams		Meeting Date: 05/26/20 5:30 P.M.	
Meeting Subject: Neighborhood Meeting/Zone Change Amendment		Prepared by: Teri Tritz	
Attending:	(see attached sign-in sheet)	Gary Owen	Sanderson Stewart
Mac Fogelsong	Sanderson Stewart	Landy Leep	High Sierra II Inc
Jennifer Owen	Heights Task Force	Teri Tritz	Sanderson Stewart
Carol Johnson	Ron Hill Representative	Trent Parks	Developer
Date of Issue: 05/29/20			

**Minutes:**

- In addition to Gary Owen, the other parties attended the meeting are listed below:
  - Landy Leep, representing the ownership, High Sierra II, Inc.
  - Trent Parks, Developer
  - Jennifer Owen, with the Billings Heights Task Force.
  - Carol Johnson, on behalf of Ron Hill
  - Mac Fogelsong, with Sanderson Stewart.
  - Teri Tritz, with Sanderson Stewart taking notes.
- Mr. Owen gave a general overview of the purpose for this neighborhood meeting, which is that the City of Billings requires a pre-application neighborhood meeting for any zone change request on property located within the city. He further clarified that the proposed zone change request for this property involves a zone change from the current R-7000 Restricted to the proposed R-5000 with a variance to allow up to 50% lot coverage. The proposed zone change would allow for duplex homes on the 2.4 acres of land with 18 units compared to the current zoning with only 13 units. The proposed R-5000 zoning allows for single family and duplexes, but does not allow larger multi-family units.
- Jennifer Owen posed the question on why the higher density living units is becoming more prevalent in the Heights. It was discussed that while these lots would house duplexes, the rest of the High Sierra Development has been single-family homes and the new 14<sup>th</sup> Filing

was adding 88 single-family lots, currently. The duplexes themselves would be a single level home intended for the retirement community market.

- Jennifer Owen also asked if the Heights water would be impacted by the new development. The lots within High Sierra Subdivision, 16<sup>th</sup> Filing are served by the City of Billings and therefore will not be affected by the Heights Water District.
- No other questions regarding the Zone Change were received or brought up by anyone else on the mailing invitation list.
- The meeting adjourned at 5:55pm.

June 1, 2020  
Project No. 82061.134

## PROPOSED HIGH SIERRA SUBDIVISION, 16th FILING ZONING MAP AMENDMENT

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### Statement of Proposal

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

The property is currently zoned Residential 7000-Restricted. The applicant is requesting a zone change from Residential 7000-Restricted to Residential 5000. It is the intent of the applicant to construct one level duplex homes on the property. Please note, because the owner intends to construct single level duplexes on the lots, a variance to allow up to 50% lot coverage is also being requested with this zone change. The variance request is a separate process and is running concurrent with the zone change request.

### Accompanying Responses to Questions in Zoning Application Form

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

##### *Goal 1. ESSENTIAL INVESTMENTS (relating public and private expenditures to public values)*

The adjacent properties include a mix of zoning and uses. This proposed development will provide another housing type within the existing High Sierra Subdivision, located immediately north and west of the subject property. The intent of the zone change is to allow the construction of duplex homes on the lots. This housing type has been very well received in developments adjacent to High Sierra Subdivision. The location of the High Sierra Subdivision, and the product type offered in this project, is also expected to be very well received by the market. It is anticipated the demand for housing in the Billings Heights will continue to be strong.

City of Billings infrastructure serves this portion of High Sierra Subdivision and services are currently being extended to the subject parcel with the construction of High Sierra Subdivision, 14th Filing. The services will be extended into this property at the time of development. The costs associated with providing on-site infrastructure and utility services to the project will be the responsibility of the developer.

Main water and sewer distribution lines will be sized to handle current and future needs to eliminate costly future replacement and/or upgrade costs. All plans will be required to design and construct improvements in accordance with City of Billings standards.

***Goal 2: PLACE MAKERS (Enhance, maintain, preserve, and improve public places)***

The proposed development plan of High Sierra Subdivision includes a neighborhood park area that would be the public gathering spot within the neighborhood. The proposed neighborhood park will be dedicated with High Sierra Subdivision, 14th Filing and is approximately 5.3 acres in size.

Also, School District No. 2 owns large tracts of land on the south side of Mission Oaks Drive that are planned for a future school site. Once a school is constructed and the property is developed, it is anticipated there will be recreational fields and potentially play equipment would be located on the property. The construction of the school would directly benefit the proposed development.

In addition, the City of Billings Heights Dog Park is located within 1-mile of the property. This would allow the proposed residents of the property another valuable opportunity to utilize existing City of Billings facilities and improve the quality of life of the residents.

***Goal 3: COMMUNITY FABRIC (attractive, aesthetically pleasing, uniquely Billings)***

The proposed zoning will provide multiple housing types and provide a very walkable community. The development would provide rental and ownership housing options for the city's diverse workforce. The property is already in an area influenced by growth and development within the City of Billings. As the City expands, this area will become increasingly urbanized.

***Goal 4: STRONG NEIGHBORHOODS (livable, safe, sociable and resilient neighborhoods)***

The zone change will provide for development of the property in a logical manner, fitting with the existing surrounding zoning. The intent is to provide a diversity of housing types within walking distance of schools and future commercial amenities (along Gleneagles Boulevard and Wicks Lane). A neighborhood park, existing and future schools, connected by a network of sidewalks, will provide a public gathering spots from children to grandparents.

***Goal 5: HOME BASE (healthy, safe and diverse housing options)***

The proposed development is intended to provide the City of Billings with affordable and safe housing option. The development will receive police protection from the City of Billings Police Department and fire protection from the Billings Fire Department. Services provided include: fire suppression, emergency medical response, dispatch and communication services for local fire, police and ambulance services, hazardous materials response and vehicle accident extrication. The Billings

Fire Department Fire Station No. 6, located at Wicks Lane and St. Andrews Drive, is the closest station to the subject property being approximately 1.6 miles from the property.

***Goal 6: MOBILITY AND ACCESS (transportation choices in places where goods and services are accessible to all)***

The adjacent improvements will be constructed to City of Billings standards, which will include the construction of 5-foot boulevard sidewalks. These sidewalks will promote safety by allowing the residents the ability to safely travel to adjacent parks and schools. The proposed development has also been evaluated for traffic impacts which will promote safety.

***Goal 7: PROSPERITY (promoting equal opportunity and economic advancement) - enable "a diverse, welcoming community where people prosper, and business succeeds."***

The intent of this development is to build 1-story duplex units that will provide the community with an accessible and economical housing option. The units will be inclusive of first-time home buyers with small children to senior citizens looking for a single level housing option. The development is anticipated to complement existing choices and for residents to have access to reasonable housing choices, thus helping to stabilize the employment base and provide better jobs to households. The intention is for this neighborhood to provide highly sought-after housing opportunities.

***1B. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses in the immediate area.***

The existing zoning does not allow for the construction of duplex units. Duplex units have been constructed in subdivisions adjacent to the High Sierra Subdivision. It is anticipated the proposed zoning should complement the existing neighborhood, meet a demonstrated market demand for residential development, provide a variety of housing options, and provide an attractive overall development plan of which the applicant and the community can be proud.

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

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**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

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**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

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**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