



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

NOTICE TO THE PUBLIC

Public Comment:

Notice is hereby given that the **Zoning Commission of the City of Billings, Montana will hold a public hearing on Tuesday, August 4, 2020, at 4:30 p.m.** Due to the COVID-19 health concerns, the format of the City Zoning Commission meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1<sup>st</sup> Floor at 2825 3<sup>rd</sup> Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to **Board via email before 1:00 PM on Tuesday, August 4, 2020.** All emails received prior to this time will be read into the record for the public hearing. The Public may call in during specific Public Comment periods at **(406) 237-6165.** All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed on the City of Billings Facebook page here;  
<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

**Call the meeting to order.**

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

**Public Comment**

**Approval of Minutes:**

The minutes of the Board meeting of July 7, 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 984– 1804 Grand Avenue - New Billboard** – A special review request to allow placement of a 372 square foot billboard sign, using a single sign face credit for a billboard removed at 1943 Main Street, but less than 200 feet from a residential zone in a Community Commercial (CC) zone, on Block 1, Lots 19-24, Tietz Sub., a 21,267 sf parcel of land. Applicant has requested withdrawal of City Special Review 984.

- b. **City Special Review 985 - 446 Grand Ave** - A special review request to allow a drive through service for a new 860 square foot coffee shop, in a Neighborhood Commercial (NC) zone, on Block 35, Lot 24A, & Lt 25-28 & the W ½ of Lot 29 Suburban Homes Addition, a 17,837 sf parcel of land. Presented by Karen Husman, Planner I.
- c. **City Zone Change 980 – 759 Newman Lane & 766 Calhoun Lane - from EGC to NC** - A zone change request from Entryway General Commercial (EGC) to Neighborhood Commercial (NC), on Block 5, Lot 1, (less N 110 ft & less 7,847.3 ft for King Ave.), Pinnick Sub., 3<sup>rd</sup> Filing, and Lot 24 (S 310 ft) of Sugar Subdivision, a 4.418 acre parcel of land. A pre-application neighborhood meeting was held on Monday, June 29, 2020 at 7:00 pm, at 759 Newman Lane. Presented by Karen Husman, Planner I.
- d. **City Zone Change 981 – 750 Broadwater Ave. – Yellowstone PD-NC – add auto sales** - A zone change request to add auto sales as an allowed use in the Yellowstone Planned Development - Neighborhood Commercial zone, on Block 4, Lot 27-31 & 26A, 26B (1<sup>st</sup> Add to Blk 4)(Less 50 SF Street) of the Yellowstone Addition Subdivision, a 24,450 sf parcel of land. A pre-application neighborhood meeting was held on Monday, June 29, 2020 at 5:30 pm at 750 Broadwater. Presented by Nicole Cromwell, Zoning Coordinator

## Other Business/Announcements

## Adjournment

**The City Council has designated Monday, August 24, 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:** 08/04/2020

---

**Information**

**Subject**

The minutes of the Board meeting of July 7, 2020.

---

**Attachments**

2020\_07\_07\_BZC\_MIN

---

## City of Billings Zoning Commission Meeting Minutes July 7, 2020

The City of Billings Zoning Commission met on Tuesday, July 7, 2020 in the Virtual Zoom meeting,

Chairman Larson called the meeting to order at 4:30 p.m. The City Council has designated **Monday, July 27, 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
		1	2	3	4	5	6	7	8	9	0	1	2	
		/	/	/	/	/	/	/	/	/	/	/	/	
		0	0	0	0	0	0	0	0	0	0	0	0	
		7	4	3	7	5	2	7	4	1	6	4	1	
		/	/	/	/	/	/	/	/	/	/	/	/	
		2	2	2	2	2	2	2	2	2	2	2	2	
		0	0	0	0	0	0	0	0	0	0	0	0	
		2	2	2	2	2	2	2	2	2	2	2	2	
		0	0	0	0	0	0	0	0	0	0	0	0	
Mike Larson	Commissioner	1	1	-	-	-	1	1						
Daniel J. Brooks	Commissioner	E	1	-	-	-	1	1						
Jack King	Commissioner	1	1	-	-	-	1	1						
Greg McCall	Commissioner	1	E	-	-	-	1	1						
Trina White	Commissioner		-	-	-	-	1	1						
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	-	-	-	-	-	
Nicole Cromwell	Planner Zoning Coordinator	1	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	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>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>0</b>	<b>1</b>	<b>2</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>0</b>	<b>0</b>	<b>0</b>	
	<b>7</b>	<b>4</b>	<b>3</b>	<b>7</b>	<b>5</b>	<b>2</b>	<b>7</b>	<b>4</b>	<b>1</b>	<b>6</b>	<b>4</b>	<b>1</b>	
	/	/	/	/	/	/	/	/	/	/	/	/	
	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</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>0</b>	<b>0</b>	<b>0</b>	
	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</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>0</b>	<b>0</b>	<b>0</b>	
<b>Zone Change</b>	2	0	-	-	-	1	2						5
<b>Special Review</b>	0	1	-	-	-	0	2						3

Chairman Larson introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator, and Robbin Bartley, Administrative Assistant.

**In Attendance :**

**Public Comment**

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

**Approval of Minutes:**

**Chairman Larson** called for approval of the June 2, 2020 meeting minutes.

**Motion**

Commissioner Brooks made a motion and Commissioner King seconded the motion to approve the June 2, 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 4-0.**

**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 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 July 27, 2020.

**Item #1**

Nicole Cromwell read aloud the legal notice for this application:

**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.

**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 with proposed conditions.

- ✓ In a zone district that allow all beverage service and gaming by special review approval
  - ✓ Consistent with the 2016 Growth Policy:
    - Safe and attractive neighborhoods
    - Retaining and supporting local businesses that sustain a healthy economy
  - ✓ Screen and separated from adjacent uses
    - Proposing to continue previous conditions of approval
  - ✓ No letters of objection or concern received from surrounding property owners
- 
1. Limited to expansion of 2,160 sf existing interior space at this location
  2. Continuous maintenance of buffer along south property line.
  3. No outdoor seating, music or public announcement system.
  4. Any new lighting will have full cut-off shields
  5. The proposed development shall comply with all other city codes that apply
  6. Limitations on expansion in 27-613 apply.

**Questions for staff:**

None

Commissioner McCall rejoined the virtual meeting at 4:38pm.

**Public Hearing**

Chairman Larson opened the public hearing at 4:43PM and asked for anyone wishing to speak in favor or against **City Special Review 982**.

**Applicant,** G Rock Building LLC

**Gordy Roma, Agent, 2248 Grand Ave**

He is requesting expansion because of the COVID19 scare.

Commissioner King asked if he is planning any upgrades on the exterior. Mr. Roma said he would enjoy that and would like to repaint as it has been 8 years. Commissioner King indicated trees or the like would help with the entire street appearance.

**Favor:**

NONE

**Opposed:**

NONE

Public Hearing CLOSED AT 4:46PM.

**Discussion**

Chairman Larson called for questions and discussion from the Board.

**Motion**

**Commissioner King made a motion and Commissioner White seconded the motion to approve City Special Review 982 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.**

**Item #2**

Nicole Cromwell read aloud the legal notice for this application:

**City Special Review 983– 926 Grand Avenue – To allow an All Beverage Liquor License with gaming, including a waiver of the 600 foot separation distance to a church** – 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.

**Recommendation**

The Planning Division recommends denial based on the criteria for Special Review and recommends denial of waiver for 600 ft separation to church

- ✓ In a zone district that allow all beverage service and gaming by special review approval
- ✓ 14 existing locations for food and alcohol within walking distance
- ✓ Six casinos within walking distance
- ✓ Sustainability of another location in this corridor is tenuous
- ✓ Not consistent with the 2016 Growth Policy:
  - Access to alley shared with residential neighborhood will cause conflict
  - Previous cabaret beer & wine license for restaurant had limited conflict
  - Proposal includes increasing height of building and use of an outdoor patio space with music – may impact adjacent residential homes
- ✓ Screened and separated from adjacent uses
  - No proposal to close customer access to alley

- No proposal to improve site development – landscaping, screening
- ✓ Three letters of objection or concern received from surrounding property owners
  - Eckroth Music – 922 Grand Avenue
  - Dr. Ken Brown (Animal Clinic of Billings) – 1414 10<sup>th</sup> St W
  - Fred & Tara Barthel – 929 Alderson Avenue
- ✓ 600 ft separation to church
  - No direct line of site, no direct sidewalk connection
  - Waiver is discretionary

Staff informed the Commission of the applicants desire to withdraw the application for City Special Review 983.

**Motion**

**Commissioner McCall made a motion and Commissioner White seconded the motion to allow withdrawal of City Special Review 983.**

<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 carried with a 5-0 vote. City Special Review 983 is withdrawn.**

**Item #3**

Nicole Cromwell read aloud the legal notice for this application:

**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.

- ✓ Proposed zoning would allow residential uses – single family, two-family and multi-family – in an area close to services, retail and employment centers.
- ✓ Proposed development is similar to Long Beach Apartments to the south west and Hoop Dreams to the west of 44<sup>th</sup> St West

**Recommendation**

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

- ✓ Proposed zone is in conformance with 2016 Growth Policy and 2001 West Billings Neighborhood Plan.
- ✓ Developing mixed use neighborhood with access to transportation options, open space, housing and employment opportunities.
- ✓ Existing city services to the area can accommodate the proposed use.

### **Questions for staff:**

Commissioner White asked if there are any known traffic issues. Staff replied there have been some on street parking, City police cannot enforce parking as it is a private road. This road was originally developed for heavy truck usage and is very wide. Additional residential usage should not have an impact.

Commissioner King asked if this has been discussed with the Zoning Commission before. Is there enough parking? Staff replied the Affinity of Billings and the Longbeach Apartments both had Zone Changes in order for those projects to proceed. The proposal was to zone Highway Commercial because it allows multi-family uses whereas Entryway does not. Every new multi-family development has to provide off street parking. The parking code is enforced thru the City Engineering office. Currently it is 1 parking space for a 1 bedroom or studio and 1.5 parking spaces for 2 or more bedrooms. Visitor spaces are lacking in the area.

Commissioner McCall asked if the new zoning by RE:Code will be NX3. When the project begins, they are locked into the current code.

**Public Hearing** Chairman Larson opened the public hearing at 5:03PM and asked for anyone wishing to speak in favor or against **City Zone Change 978**.

### **Applicant**

#### **Scott Aspenlieder, Performance Engineering, 608 N 29<sup>th</sup>, Billings, MT**

The applicant is looking to matchup the residency of Montana Sapphire Subdivision. In answer to Commissioner McCall the applicant will likely request NX3 zoning. Very similar to the west and south.

### **Favor:**

NONE

### **Opposed:**

NONE

Public Hearing CLOSED AT 5:05PM

### **Discussion**

Chairman Larson called for questions and discussion from the Board.

**Motion**

Commissioner McCall made a motion and Commissioner Wite seconded the motion to approve City Zone Change 978 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 to approve City Zone Change 978 with conditions proposed carried with a 5-0 vote.

**Item #4**

Nicole Cromwell read aloud the legal notice for this application:

**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.

**Recommendation**

Planning staff recommends approval of the zone change to CC based on the findings of the 10 review criteria.

- ✓ The proposed zoning is conforming to the 2016 Growth Policy and the 2006 Billings Heights Neighborhood Plan
- ✓ The existing zoning is restricted to single family only housing choice on lots of at least 7,000 square feet
- ✓ The proposed zoning will allow a two-family townhome on lots of at least 8,000 square feet. Increase from allowed units (14 SFR) to proposed 18 townhome units is a small increase in density.
- ✓ Letters of opposition or objection were received from:
  - Ron Hill, 142 Annadale Road (Specialized Construction, Lake Hills)
  - Susan Pogue, 1980 Morocco Drive
  - Ed & Crystal Hellier, 2000 Greenbriar Rd
  - Lauren & Barb Scholten, 2050 Vesca Way

In making its recommendation to the city council for an amendment to the official map or text of this chapter, the **city zoning commission shall consider**, among other things, the following:

- (1) Whether the new zoning is designed in accordance with the growth policy;
- (2) Whether the new zoning is designed to secure from fire and other dangers;
- (3) Whether the new zoning will promote public health, public safety and general welfare;
- (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (5) Whether the new zoning will provide adequate light and air;
- (6) Whether the new zoning will effect motorized and non-motorized transportation;
- (7) Whether the new zoning will promote compatible urban growth;
- (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
- (9) Whether the new zoning will conserve the value of buildings; and
- (10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

**THE LETTER FROM RON HILL IS NOT APPLICABLE TO THIS ZONE CHANGE, PLEASE DISREGARD THIS LETTER.**

**Questions for staff:**

Commissioner King asked who “we” is regarding encouragement of different options. Staff replied “we” is the Growth Policy adopted in 2016 which made a guidance statement indicating housing choices should be available in all parts of the City. Citizens should have options. “We” refers to the City of Billings and the adopted Growth Policy.

Commissioner King asked if the new zoning has the same criteria and expectations. Staff replied the Growth Policy was used as a guide.

Commisioner White asked about R9600 on Glen Eagles Blvd. How big are the lots? Staff replied there is R8000 zoning to the south, multi-family areas.

**Public Hearing** Chairman Larson opened the public hearing at 5:18PM and asked for anyone wishing to speak in favor or against **City Zone Change 979**.

**Applicant, High Sierra II**

**Gary Owen, Sanderson Stewart, 1300 N Transtech Way, Billings, MT**

Wishes to limit the area to 2 family units, not multi-family. There are other 2 family units in the area. All storm water is directed to the north and will not impact anything to the south.

**Favor:**

**Trent Parks, developer, 2344 Glen Eagle Blvd**

Building homes since 2012. He wishes to continue building high quality homes to retirees who are looking to downsize.

Commissioner King asked if the current single family residents would be opposed to these new 2 family units. Mr. Parks replied the units being constructed will be Townhomes with a 3 car garage and covered patio.

Commissioner White asks what the price range will be for the new units being the school district area is unpredictable for usage in the future. Mr. Parks replied the recommended price for the new units is \$285,000.

Staff shared the floor plans and elevations of the proposed units.

Commissioner White asked the distance between each unit. Mr Aspenlieder replied 10 feet between each garage unit. 5 foot the property line.

**Landy Leep, 175 N 27<sup>th</sup> Suite 900, Billings, MT**

We have contracted with Trent Parks. I am very happy with the quality of the project. A variance was approved recently to increase lot coverage. These units sell quickly. This will be a nice addition to the High Sierra II. It is about a 400 acre project. We are also building many single family homes. Full disclosure will be available to all regarding 2 family units being built in the area.

Commissioner King commented on an excellent presentation, and stated his opinion had been swayed favorably.

**Opposed:**

NONE

Public Hearing CLOSED AT 5:35PM

**Discussion**

Chairman Larson called for questions and discussion from the Board.

**Motion**

**Commissioner McCall made a motion and Commissioner White seconded the motion to approve City Zone Change 979 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.**

Commissioner McCall wished to state for the record, an opinion on mixed uses and housing choices. Commissioner McCall stated the fear of mixed use and housing choice is greater than the reality. He said the Commission should not continue to allow the “nimby” attitude (not in my back yard). Duplexes and other housing choices in the same area statistically do not radically reduce the value of others properties as feared. There are statistics that show mixtures of housing availability actually amplifies the values. Commissioner McCall stated as a commission we should expect to see more mixture of housing types and housing choices. It is important we have developers and builders who are making these considerations. Commissioner McCall stated monochromatic zoning with only single family is not the best way to build a neighborhood. He is very pleased to see others coming out with mixed housing options.

Commissioner White stated it will be a good development.

Chairman Larson stated his neighborhood is a direct reflection of the advantages of mixed housing.

Commissioner King stated Commissioner McCall’s opinions should have been given with the presentation and although he appreciated the comments, the rebuke is not appreciated.

**Other Business:**

July Public Re:Code will be held 7/21, 7/22, 7/23 in hybrid fashion. Zoom, FaceBook and public attendance will be used.

Chairman Larson will not be present at the July 21, 2020 meeting. He will be present 7/22 and 7/23. He may also miss the August 4, 2020 meeting.

The August 4 meeting will include 2 Zone Changes and 1 or 2 Special Review applications.

**Adjournment: The meeting adjourned at 5:47PM.**

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



**City Zoning Commission**

**Meeting Date:** 08/04/2020

**SUBJECT:** Special Review 984 - 1804 Grand Ave - New Billboard Sign

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Special Review 984– 1804 Grand Avenue - New Billboard** – A special review request to allow placement of a 372 square foot billboard sign, using a single sign face credit for a billboard removed at 1943 Main Street, but less than 200 feet from a residential zone, in a Community Commercial (CC) zone, on Block 1, Lots 19-24, Tietz Sub., a 21,267 sf parcel of land. Applicant has requested withdrawal of City Special Review 984.

**RECOMMENDATION**

Staff recommends approval of the applicant request for withdrawal of City Special Review 984.

**APPLICATION DATA**

Application withdrawn by applicant.

**CONCURRENT APPLICATIONS**

None. Withdrawn.

**APPLICABLE ZONING HISTORY**

Application withdrawn.

**SURROUNDING LAND USE & ZONING**

Not Applicable.

**BACKGROUND**

Application withdrawn.

**SUMMARY**

Not applicable

**RECOMMENDATION**

Not applicable

**Attachments**

Request to Withdraw

Jerry T. Ray  
2646 Grand Avenue Suite #1  
Billings, MT 59102

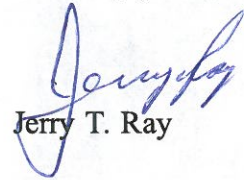
July 29, 2020

RE: Request to withdraw Special Review application for 1804 Grand Avenue

Dear Zoning Commission members,

I wish to withdraw my application for a special review to consturct a new billboard sign at 1804 Grand Avenue. I have found a different location for the new sign that does not require a special review.

Sincerely yours,



Jerry T. Ray



**City Zoning Commission**

**Meeting Date:** 08/04/2020

**SUBJECT:** City Special Review 985 - 446 Grand Ave

**THROUGH:** Karen Husman

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Special Review 985 - 446 Grand Ave** - A special review request to allow a drive through service for a new 860 square foot coffee shop, in a Neighborhood Commercial (NC) zone, on Block 35, Lot 24A, & Lt 25-28 & the W ½ of Lot 29 Suburban Homes Addition, a 17,837 sf parcel of land. Presented by Karen Husman, Planner I.

**RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the three criteria for Special Review 985.

**APPLICATION DATA**

OWNERS: Lawrence A. Smith

PURPOSE: Locate a drive through food service across an alley from a residential zone

LEGAL DESCRIPTION: Block 35, Lot 24A, & Lt 25-28 & the W ½ of Lot 29 Suburban Homes Addition

ADDRESS: 446 Grand Avenue

EXISTING LAND USE: Commercial

PROPOSED LAND USE: Commercial

EXISTING ZONING: NC

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	SPECIAL REVIEW #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
446 Grand	SR 130	July 26, 1982	Gas Station in NC zone	Yes	
SURROUNDING PROPERTY	Special Review #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1045 Grand	803	2/27/06	Drive thru	Y	Dairy Queen
1026 Grand	161	1/1980	Drive thru	Y	Taco Bell
2156 Central	876	5/25/09	Drive Thru	Y	Proposed Coffee shop
910 Grand	915	1/27/14	Drive thru	Y	Starbucks

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: Public

Land Use: Billings Senior High School

SOUTH: Zoning: Residential-7000

Land Use: Residential

EAST: Zoning: NC

Land Use: Commercial & Residential

WEST: Zoning: NC

## BACKGROUND

This is a special review request to allow a drive through service across an alley from a residential zone for a new 860 square foot coffee shop at 446 Grand Avenue. This is the former location of the Mcfinny's gas station and convenience store. The property is in a Neighborhood Commercial (NC) zone. The special review is required whenever a drive through service is located adjacent to a residential zone.

This is a request to allow the demolition of an existing building and construction of a new building for a drive-through café. The property to the south across the alley is zoned R-70 and is developed for residential uses. A special review is required when a drive-through service is proposed adjacent to or across an alley from a residential zone. The surrounding zoning is primarily commercial except for the zoning south of the alley. South of the alley is a developed single-family and two-family neighborhood. Drive-through uses adjacent to or across the alley from a residential zone can create conflicts such as noise, traffic, litter and other impacts not compatible with residential uses. All of these potential impacts can be mitigated through application of conditions of approval and adherence to an approved site plan through the special review process.

Grand Avenue is a principal arterial street that carries up to 23,000 vehicle trips per day with a posted speed limit of 35 mph. There are curb-walk sidewalks on both sides of Grand Avenue and both sides of 5th Street West. The intersection is a 4 way signalized controlled intersection. This is a very busy intersection and any interruptions in the existing flow of traffic may have a significant impact during peak hours. In addition to vehicular traffic, the intersection is also very busy with pedestrian traffic to and from Senior High.

The Planning staff is recommending several conditions related to noise, lighting, solid waste management, traffic and site control. The Engineering Division has concerns about the traffic impact at this intersection and will be requiring a queue analysis for the drive through. The analysis will be completed and will include the egress and ingress to the site before approving the site plan.

## SUMMARY

This application conforms to the *first* criteria in so far that the zoning regulations adopted by the City Council have designated all NC zoning districts can have a drive through service adjacent to a residential zone as long as they go through the special review process. There are requirements for landscaping and screening from residential uses next to commercial uses within the zoning regulations. The proposed facility meets all the requirements of the zoning regulations.

The application meets criteria from the *second* requirement as it is consistent with objectives of the 2016 Growth Policy:

- **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective.

The proposed special review will promote redevelopment of a commercial service area on a currently vacant parcel. The property is zoned appropriately for this commercial use and has easy access to City services and infrastructure. This will remove an older structure and replace it with a new updated building with a similar use.

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

The proposed redevelopment of this land will provide walkable services to the immediately adjacent neighbors. Conditions of approval will be proposed to ensure this development does not impact these same neighbors with excessive noise, light and other intrusions.

- **Prosperity:** A diversity of available jobs can ensure a strong Billings' economy.

Successful businesses that provide local jobs benefit the community.

The proposed special review will support a new business, provide employment opportunities at this location, and benefit the community with needed local services.

The application also meets the *third* criteria in that it is compatible with surrounding land uses in the area. This site is in an area of Billings with residential zoning and residential uses to the south and commercial zoning with commercial uses to the east and west, and a school to the north. There are minimal impacts from the proposed use that need to be mitigated. The conditions recommended with the special review should mitigate impacts on the site and the surrounding properties.

## **PROPOSED CONDITIONS**

1. The special review approval is limited to on Block 35, Lot 24A, & Lt 25-28 & the W ½ of Lot 29 Suburban Homes Addition, generally located at 446 Grand Avenue.
2. The special review is for the construction and operation of a drive through service window on the east side of a coffee shop restaurant. No other use is intended or implied.
3. The drive through service window will not be open 24-hours a day. Hours of operation will be submitted for approval at the time of building permit application. Hours of operation should not occur before 6 am or after 10 pm on a daily basis.
4. Any outdoor announcement system associated with the drive through service window shall not be audible at any property line.
5. No internally illuminated signage will be placed on any wall parallel to the south property line.
6. A sight obscuring fence shall be placed on the south property line to buffer the residentially zoned property across the alley.
7. The proposed development shall comply with all other limitations of Section 27-613 of the Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.
8. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

## **Zoning Commission Action**

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before recommending approval of a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;

4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

**RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the three criteria for Special Review 985.

---

**Attachments**

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan

---

# Zoning map & site photos





Subject property



East



South



West



West



South West



North



North West

Application & Applicant Letter

DocuSign Envelope ID: 6A743C37-E86C-4F14-964A-1A7C2A29EA7C

APPLICATION FORM

CITY SPECIAL REVIEW Billings Special Review# \_\_\_\_\_ - Project # P2-20-00156

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: Neighborhood Commercial

Special Review Requested: The construction of a drive-through for a coffee retailer a show in the enclosed site plan.

TAX ID# A15200 CITY ELECTION WARD # 1

Legal Description of Property: Suburban Homes Addition, Block 35, Lot 24A + Lots 25-28 + W2 LT 29

Address or General Location (If unknown, contact City Engineering): 446 Grand Avenue (5th + Grand)

Size of Parcel (Area & Dimensions): 17837 SF  
129' 7' E-W by 137' N-S

Present Land-Use: Abandoned Convenience Store

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

If yes, please attach to application

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

Owner(s): Mag Tag, LLC

(Recorded Owner) 3125 Ave E. Billings MT, 59102

(Address) 406-680-8720 greenie410@gmail.com

(Phone Number) (cell)

Agent(s): Lawrence A. Smith

(Name) 435 Clark Ave Billings MT 59101

(Address) 406 672 2678 dsmithevaibusinessproperties.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: Linda Rutherford Date: 7/6/2020  
DocuSigned by: 15FCEFAA76A0498 (Recorded Owner)



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

The project is an in-fill redevelopment of an aging commercial property. The project is an enhancement to the area that focuses on a clean safe environment with a use that benefits the surrounding residential community. The subject site will be improved with the latest landscaping and architectural requirements required under the new growth policy.

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

The intended use provides an ecofriendly use to the property instead of what the property has been used for over the last 30 plus years which has been gasoline/convenience. Site remediation for contaminants has been completed and monitoring is under supervision by DEQ. Because of the limited size of the parcel, this project fits the limited site size and will have pedestrian friendly access for both residents and kids from Billings Senior High School.

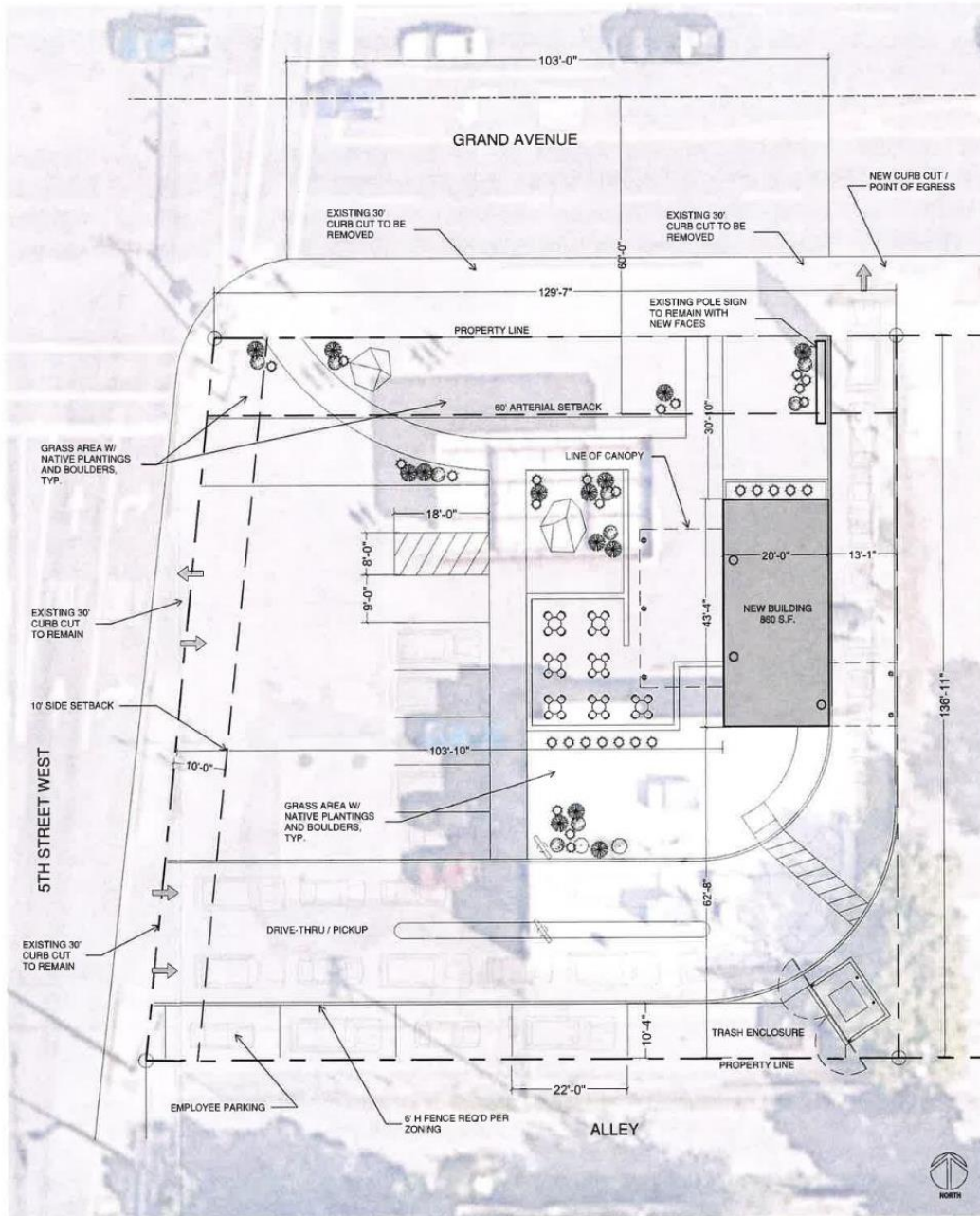
**How will the public interest be served if this application is approved?**

The public will benefit by in-fill redevelopment to today's standards. Access and safety will be updated based on today's requirements. New construction with desirable architecture will create an inviting, friendly atmosphere and create additional tax revenue vs. current taxable value. New construction/architecture will also benefit the immediate area.

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

The existing vacated convenience store will be demolished. Fencing will remain erected during this time and after until new construction is mostly completed or the need to have it removed for parking lot and landscape construction requires it so that safety is not an issue. New construction will then begin of a permanent 860-1,000 SF coffee shop with a drive-through lane and outdoor seating. The use will change from gasoline/convenience sales to coffee, assorted drinks, and food items commonly found in this type of business. The special review is being sought to approve a drive-In service.

# Site Plan



PROPOSED SITE PLAN - 3/32" = 1'-0"

sheet: SPECIAL REVIEW SUBMITTAL  
 project: CITY BREW 5TH AND GRAND  
 owner: WAG TAG, LLC

project # 15144.00  
 revision: \_\_\_\_\_  
 date: \_\_\_\_\_

phase: SPECIAL REVIEW



issue date: 7/6/20

A1.1



CITY BREW 5TH AND GRAND - PROPOSED CONCEPT DESIGN



**City Zoning Commission**

**Meeting Date:** 08/04/2020

**SUBJECT:** Zone Change 980- 759 Newman Lane & 766 Calhoun Lane

**THROUGH:** Monica Plecker

**PRESENTED BY:** Karen Husman

**Information**

**REQUEST**

**City Zone Change 980 – 759 Newman Lane & 766 Calhoun Lane - from EGC to NC** - A zone change request from Entryway General Commercial (EGC) to Neighborhood Commercial (NC), on Block 5, Lot 1, (less N 110 ft & less 7,847.3 ft for King Ave.), Pinnick Sub., 3rd Filing, and Lot 24 (S 310 ft) of Sugar Subdivision, a 4.418 acre parcel of land. A pre-application neighborhood meeting was held on Monday, June 29, 2020 at 7:00 pm, at 759 Newman Lane. Presented by Karen Husman, Planner I.

**RECOMMENDATION**

Planning staff is recommending approval based on the findings of the 10 criteria for Zone Change 980.

**APPLICATION DATA**

OWNER: Christ the King Lutheran Church

AGENT: Collaborative Design Architects

LEGAL DESCRIPTION: Block 5, Lot 1, (less N 110 ft & less 7,847.3 ft for King Ave.), Pinnick Sub. 3rd Filing, and Lot 24 (S 310 ft) of Sugar Subdivision

ADDRESS: 759 Newman Lane & 766 Calhoun Lane

CURRENT ZONING: EGC

PROPOSED ZONING: NC

EXISTING LAND USE: Church

PROPOSED USE: Church

PARCEL: 4.418 acres

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
759 Newman Lane	841	6/2008	From R-70 to EGC	Y	
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
4300 Montana Sapphire Dr	878	Sept 12, 2011	ELI to HC	Y	Long Beach 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)
Star Sub, lt 2,blk 1	575	11/15/93	RMH to ELI	Y	
CS 2655 & 2244	614	5/12/97	R-150 to EGC	Y	
SW Corner of King Av. E & Orchard Ln	806	6/11/07	R-150 & RMH to EGC	y	

4517 King Ave E	842	6/12/08	R-96 to EGC	Y	
766 Calhoun	871	2/14/2011	R-96 to EGC	Y	

**SURROUNDING LAND USE & ZONING**

NORTH: Zoning: R-70  
 Land Use: Residential  
 SOUTH: Zoning: EGC  
 Land Use: Commercial Retail  
 EAST: Zoning: EGC  
 Land Use: Residential  
 WEST: Zoning: RMH  
 Land Use: Residential Manufactured Home Park

**BACKGROUND**

This property is generally located on the northeast corner of the intersection of King Avenue East and Newman Lane. It is on the north side of King Avenue East across from the location of the Cabela’s store. This neighborhood has experienced changes that have impacted them with increased traffic being the most significant change. The adjacent commercial development has created more traffic on King Avenue East and makes the property north of the commercial development less appealing for residential development. In 2008 the property owner, Christ the King Lutheran Church, received approval of Zone Change 841, changing the zoning from Residential-7000 (R-70) to EGC zoning. This zoning is the same zoning as the Foursquare Property to the south of King Avenue East.

The intent of the previous zone change to EGC was to encourage a diversity of growth in the entryway corridor and have redevelopment occur on the church property, and the church was considering relocating. However, additional development has not occurred since the zone change and the property owner would now like to expand and upgrade the existing church where it is. However, in the EGC district churches are not allowed, therefore the expansion can not be completed without the zone change to a district that would allow a church.

Entryway zoning requires a greater amount of site improvements and building aesthetics than other commercial zoning such as Community Commercial (CC) or Highway Commercial (HC). Entryway zoning requires larger landscaped bufferyards with a minimum number of trees per 100 lineal feet of bufferyard. Entryway zoning also requires a minimum of a 10-foot-wide bufferyard and a 6 foot tall solid fence along the property line that is adjacent to residential property. The Entryway zoning was a good fit for this area to both promote high quality commercial development as well as transition to the residential development in the area with a higher level of landscape buffering. However, EGC zoning also allows more intense uses. The purpose of the EGC zone is to provide a specialized classification for hotels, restaurants and other tourist-related facilities near major highway interchanges. EGC zoning would also allow automobile sales, rental, and service stations, car washes, commercial recreation uses, retail nurseries, indoor theaters, and tire sales.

The intent of the requested zone change is to maintain the current church use and allow rebuilding, expansion and upgrading of the property. The NC zone district also is an appropriate district for transitioning from the EGC across King Avenue East to the residential neighborhoods to the north. The NC district has more limited uses that would have less impact on the adjacent neighbors. There will be no significant changes to impact the adjacent residential properties with the existing church remaining at this location.

**SUMMARY**

Determinations

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 generally consistent with the following guidelines of the 2016 Growth Policy:

**Essential Investments:**

- Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.
- Infill development and development near existing City infrastructure may be the most cost effective.
- Neighborhoods that are safe and attractive and provide essential services are much desired;

The proposed zoning requires any development to install landscaping with a preference for it to be along the street frontage. New buildings, sidewalks, landscaping and fencing would make this area of Billings more visually appealing to residents and visitors. The current use as a church is not allowed under the EGC zoning, approval of this zone change would promote redevelopment of the parcel by allowing the existing church to be upgraded and expanded.

### **Community Fabric:**

- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity.
- Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.
- Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.

The proposed zoning will require the developer to install new landscaping which will be more visually appealing to residents and visitors.

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

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

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

Public health and public safety will be promoted by the proposed zoning. The property has an existing structure used as a church, that will be replaced with a new church building

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

**Transportation:** The proposed zoning will not have any effect on the existing transportation system.  
**Water and Sewer:** The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.  
**Schools and Parks:** Schools and parks should not be affected by the proposed zoning.  
**Fire and Police:** The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

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

The proposed zoning provides for sufficient 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 new zoning will have little effect on the transportation systems during peak hours.

#### *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 re-develop into a neighborhood service area that is 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 the existing use of the land as a church use and improve the area with an

updated building and new landscaping.

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

Approval of the zone change will conserve the value of the property by allowing redevelopment/improvement and expansion of the existing structure potentially increasing the value of the existing church building.

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

The proposed zoning will allow re-development of the land and upgrade the current use. Residential development on this corner is not the most appropriate use of the land at this location. Commercial zoning to buffer residential from high traffic is the best use of the land.

**RECOMMENDATION**

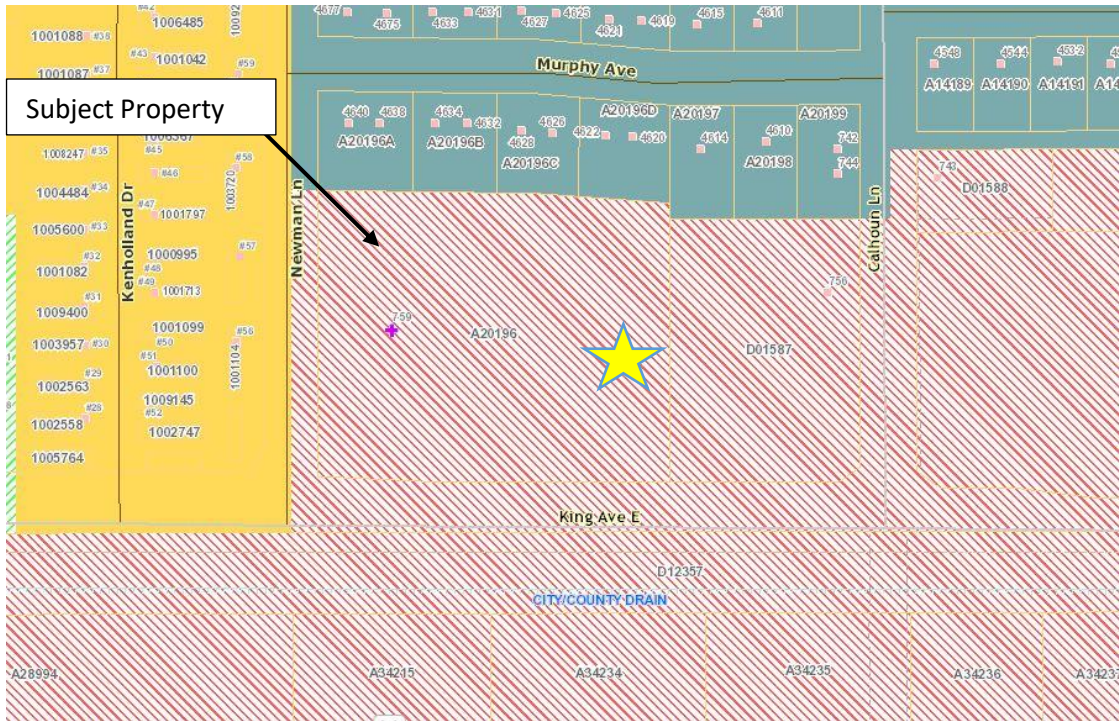
The Planning Division has reviewed this application and is recommending approval based on the ten criteria for zone changes. The subject property is adjacent to an arterial street and is appropriate for NC uses and re-use. The zone change will not alter the character of the adjacent neighborhood because of site development requirements. The proposed zoning is compatible with the surrounding zoning and neighborhood character.

---

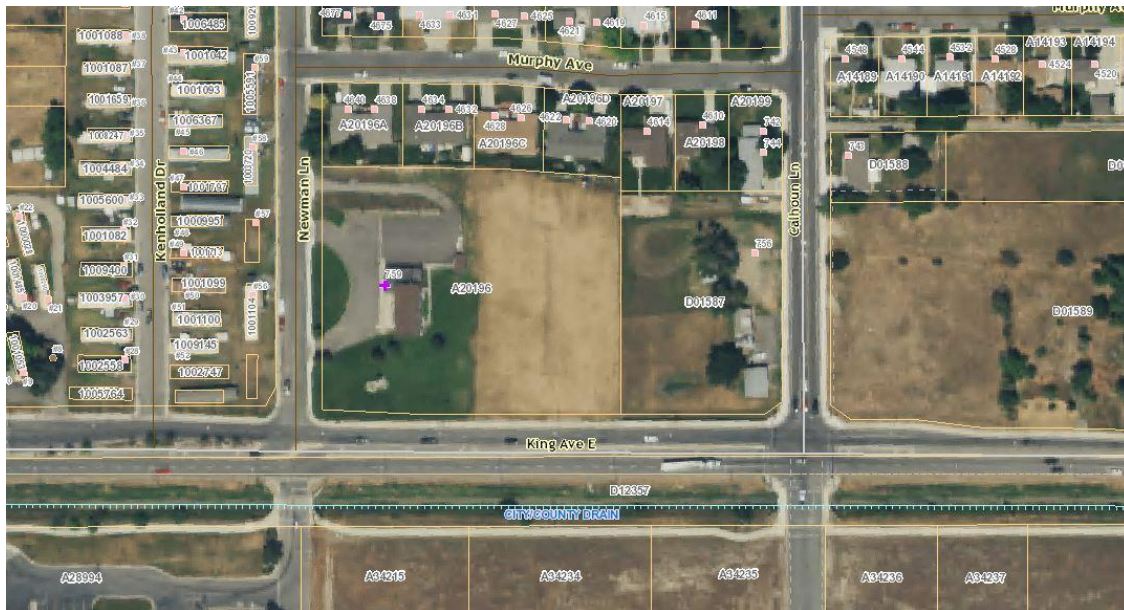
**Attachments**

- Zoning Map & Site Photos
  - Application App. Letter, Neighborhood Mtg info
  - Site Plan
-

# Zoning Map



# Site Photos





Subject Property



East



West



South



North



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 **ZC-980**  
759 Newman Ln

Legal Description **Pinnick subd 3rd Filing, S09, T01 S, R26 E, block 5, lot 1, Less N110FT & Less 7847.3' for King Ave (09)**

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.

Pz x-20-137

**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) **Christ the King Lutheran Church**

Owner's Address **759 Newman Ln**

Owner's Phone Number **406-252-9250** E-mail **michael@ldinc.net**

Applicant/Agent **Collaborative Design Architects**

Applicant/Agent's Address **2280 Grant Rd. , Ste. C**

Applicant/Agent's Phone Number **406-248-3443** E-mail **keith@cd-mt.com**

Signature of Recorded Owner(s)

Date **7/2/2020**

**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**



Applicant Letter

**COLLABORATIVE DESIGN**

ARCHITECTS

2280 Grant Road Suite C Billings, MT

T. 406.248.3443 F. 406.248.3765

collaborativedesignarchitects.com

**CHRIST THE KING LUTHERAN CHURCH  
759 Newman Ln  
Billings, MT 59101**

**ZONE CHANGE APPLICATION:**

**Pre-Application Meeting;**

Date: June 29<sup>th</sup>, 2020  
Time: 7:00pm  
Location: Christ the King Lutheran Church  
759 Newman Ln.  
Billings, Montana

Meeting Notice: See attached letter (s)

Letter to property owners – per verified property owner 300feet radius list.

Letter to Neighbors

Hand out information at meeting: See attached.

Sign in Sheet: See attached

**Brief Synopsis of meeting;**

Three property owners came to the meeting.

In addition to the three property owners 5 church members attended the meeting along with the Architect.

The meeting started at approximately 7:05pm. Keith Myhre explained, briefly, the church's desire to build a new facility on their existing property.

However, due to the current zoning, the church would not be allowed to build the new facility. So a zone change will be required.

Copies of the site plan showing the proposed new building along with basic information about the zone change application and schedule were handed out to those attending.

The property owners who attended were, overall, supportive of the church remaining and improving their property. There were several questions the property owners had that were answered at the meeting.

Those questions were as follows;

1. Property owner wanted to know if there would still be room on the church's side of her fence to allow tree trimmers to come and trim her trees. The church answered by saying the existing utility easement which separates the two properties will be maintained and that the church would make sure access to these areas would not be blocked.

2. Property owner asked about the parking lot lighting and voiced her concern with the possibility of lights shining into her house at night. The church answered by saying the new parking lot lights would meet the current night sky and will be full cutoff shielded fixtures.
3. Property owner asked about the cell phone tower and if the church knew when the tower would be switched to 5G. He voiced his concern about being exposed to the 5G and possible health problems it could cause. The church answered by saying they have no say or ownership in the cell tower.
4. Property owner asked about the location of the new church building and parking lot on the existing site. The architect explained the location in relation to the existing building and Newman.
5. Property owner asked "Will Newman Lane be widened or impacted?" A: No, no curb cuts will be changed, the road will not be widened.

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

Answer: This project meets the goals of the Adopted Growth Policy by performing improvements to a property within the existing City Limits where City infrastructure exists. The proposed improvements to the property will also strengthen the neighborhood. The new facility will improve the aesthetics of the current property. These are stated goals of the adopted Growth Policy.

**B. 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.**

Answer: The current zoning does not allow the property to be improved upon in its current use. The current use is a church. The current zoning does not allow church's (a non-conforming use) and therefore does not allow improvements to the existing facilities.

The new zoning will fit in with the existing land use by allowing and existing use (church) to continue and allowing that continued use to improve their property.



## COLLABORATIVE DESIGN

A R C H I T E C T S

2280 Grant Road Suite C Billings, MT

T. 406.248.3443 F. 406.248.3765

collaborativedesignarchitects.com

### CHRIST THE KING LUTHERAN CHURCH 759 Newman Ln Billings, MT 59101

**TO; Property Owner**

Date; June 19, 2020

Re; Zone Change Application - Pre-application Neighborhood meeting.

Dear Property Owner,

This letter is to inform you of an upcoming pre-application neighborhood meeting that you are invited to attend.

The meeting will occur on Monday June 29, 2020 at 7:00pm.

The location of the meeting will be at Christ the King Lutheran Church. 759 Newman Ln, Billings, MT.

CDC Covid 19 protocols will be observed.

Sincerely,

Keith Myhre, AIA

EXISTING ZONING: ENTRYWAY GENERAL COMMERCIAL

PROPOSED ZONING: RESIDENTIAL COMMERCIAL or NEIGHBORHOOD COMMERCIAL



CHRIST THE KING LUTHERAN CHURCH (LCMS)

759 Newman Lane • Billings, MT 59101  
406.252.9250 [www.ctkbillings.org](http://www.ctkbillings.org)

Rev. Ryan D. Wendt

Adult Bible Class and Children's Sunday School 8:45AM  
Sunday Divine Service 10:00AM, Advent and Lent Midweek Services 7:00PM



6-23-2020

Dear Neighbors,

By now you have received a letter from Collaborative Design Architects regarding a zone change application and announcing a public meeting at Christ the King on Monday June 29<sup>th</sup> at 7pm.

We thought that it might be beneficial to give you some additional information about our plans. Some time ago the leadership of Christ the King sat down to consider our future at this location. We looked carefully at our needs and also seriously considered the well-being of our neighbors. We all agreed that it was good for us and for our neighbors that we remain on this site and work to add beauty and value to our neighborhood.

Now, we are in the fortunate position to build a new building on our current site that will meet our growing needs. Our plan is a modest expansion coupled with landscaping and an overall beautification of the site. To this end, we are seeking a zone change that is more neighborhood friendly and that better fits the actual use of the property by a church.

The city had planned a zone Re-Code at the beginning of this year that would have made a zone change unnecessary, however, the zone Re-Code was delayed until 2021 due to budget constraints and Covid-19. We have decided not to wait for the zone Re-Code to be completed by the City so we have taken steps to make this zone change now. This new zoning will only be in place until the zone Re-Code occurs, at which point, the zoning will be rewritten for all properties within the city, including ours. The bottom line is that there will continue to be a church at this location. Seeking a zone change now allows us to break ground on our new project and not be tied to the City's uncertain schedule.

We want you to know that we are fully committed to being part of this neighborhood and sincerely hope that we can count on your support for this zone change. Please come to our public meeting to learn more about our plans.

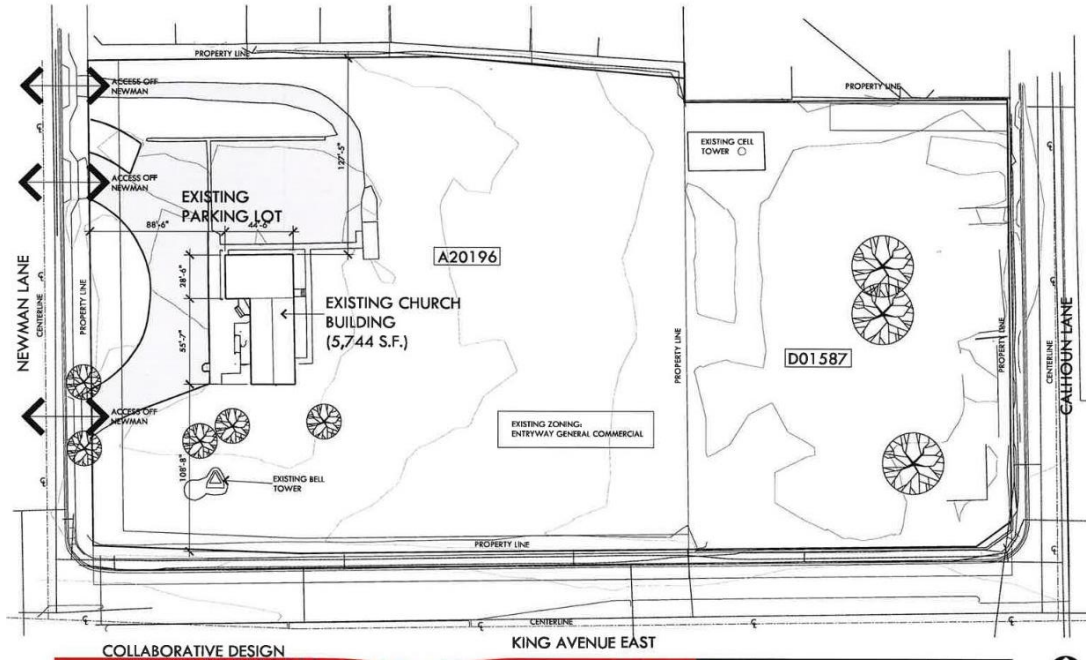
In Christ,

Pastor Wendt and the members of the Christ the King Building Committee.

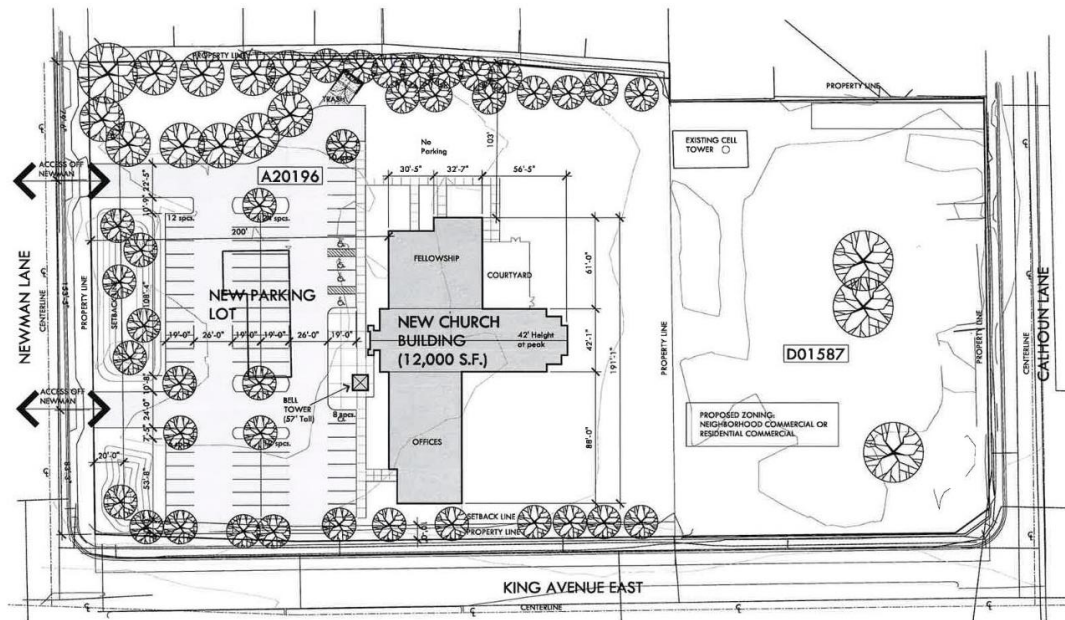
---

BE FAITHFUL UNTO DEATH, AND I WILL GIVE YOU THE CROWN OF LIFE. – Revelation 2:10

# Site Plan



## Existing



## Proposed



Collaborative Design Architects  
 1000 West 10th Street, Suite 100  
 Minneapolis, MN 55408  
 Phone: 612.338.1111  
 Website: www.collaborativedesign.com

Collaborative Design Architects  
 1000 West 10th Street, Suite 100  
 Minneapolis, MN 55408  
 Phone: 612.338.1111  
 Website: www.collaborativedesign.com

SPRINT CONSTRUCTION DOCUMENTS  
**CHRIST THE KING LUTHERAN CHURCH**  
 4525 KENNETH AVENUE NW, NEAR 26TH AVENUE  
 MINNEAPOLIS, MN 55412  
**A201**  
 EXTERIOR ELEVATIONS

**1 WEST ELEVATION**  
 Scale: 1/8" = 1'-0"

**2 NORTH ELEVATION**  
 Scale: 1/8" = 1'-0"

**3 SOUTH ELEVATION**  
 Scale: 1/8" = 1'-0"

**4 EAST ELEVATION**  
 Scale: 1/8" = 1'-0"

**5 BUTTRESS DETAIL**  
 Scale: 1/4" = 1'-0"

**6 STEEPLE DETAIL**  
 Scale: 1/4" = 1'-0"

**EXTERIOR MATERIALS and GENERAL NOTES**

NO.	DESCRIPTION	MANUFACTURER/TYPE	FINISH
1	CONCRETE	CONCRETE	CONCRETE
2	BRICK	BRICK	BRICK
3	GLASS	GLASS	GLASS
4	WOOD	WOOD	WOOD
5	ROOFING	ROOFING	ROOFING
6	PAINT	PAINT	PAINT
7	STAINLESS STEEL	STAINLESS STEEL	STAINLESS STEEL
8	ALUMINUM	ALUMINUM	ALUMINUM
9	COPPER	COPPER	COPPER
10	IRON	IRON	IRON
11	STEEL	STEEL	STEEL
12	BRASS	BRASS	BRASS
13	LEAD	LEAD	LEAD
14	ZINC	ZINC	ZINC
15	CERAMIC	CERAMIC	CERAMIC
16	STONE	STONE	STONE
17	PLASTER	PLASTER	PLASTER
18	EIFS	EIFS	EIFS
19	INSULATION	INSULATION	INSULATION
20	MEMBRANE	MEMBRANE	MEMBRANE
21	MECHANICAL	MECHANICAL	MECHANICAL
22	ELECTRICAL	ELECTRICAL	ELECTRICAL
23	PLUMBING	PLUMBING	PLUMBING
24	HVAC	HVAC	HVAC
25	FOUNDATION	FOUNDATION	FOUNDATION
26	STRUCTURE	STRUCTURE	STRUCTURE
27	CLADDING	CLADDING	CLADDING
28	SCREENING	SCREENING	SCREENING
29	GLAZING	GLAZING	GLAZING
30	FIXTURES	FIXTURES	FIXTURES
31	EQUIPMENT	EQUIPMENT	EQUIPMENT
32	ACCESSORIES	ACCESSORIES	ACCESSORIES
33	DETAILS	DETAILS	DETAILS
34	CONNECTIONS	CONNECTIONS	CONNECTIONS
35	TRANSITIONS	TRANSITIONS	TRANSITIONS
36	TERMINATIONS	TERMINATIONS	TERMINATIONS
37	ANCHORS	ANCHORS	ANCHORS
38	FASTENERS	FASTENERS	FASTENERS
39	ADHESIVES	ADHESIVES	ADHESIVES
40	SEALANTS	SEALANTS	SEALANTS
41	COATINGS	COATINGS	COATINGS
42	FINISHES	FINISHES	FINISHES
43	TEXTURES	TEXTURES	TEXTURES
44	PATTERNS	PATTERNS	PATTERNS
45	COLORS	COLORS	COLORS
46	SHADES	SHADES	SHADES
47	TONES	TONES	TONES
48	VALUES	VALUES	VALUES
49	CONTRASTS	CONTRASTS	CONTRASTS
50	HARMONIES	HARMONIES	HARMONIES
51	BALANCES	BALANCES	BALANCES
52	RHYTHMS	RHYTHMS	RHYTHMS
53	MOVEMENTS	MOVEMENTS	MOVEMENTS
54	TRANSITIONS	TRANSITIONS	TRANSITIONS
55	TRANSITIONS	TRANSITIONS	TRANSITIONS
56	TRANSITIONS	TRANSITIONS	TRANSITIONS
57	TRANSITIONS	TRANSITIONS	TRANSITIONS
58	TRANSITIONS	TRANSITIONS	TRANSITIONS
59	TRANSITIONS	TRANSITIONS	TRANSITIONS
60	TRANSITIONS	TRANSITIONS	TRANSITIONS

**GENERAL NOTES:**  
 1. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 2. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 3. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 4. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 5. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 6. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 7. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 8. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 9. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 10. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 11. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 12. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 13. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 14. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 15. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 16. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 17. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 18. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 19. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 20. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 21. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 22. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 23. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 24. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 25. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 26. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 27. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 28. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 29. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 30. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 31. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 32. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 33. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 34. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 35. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 36. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 37. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 38. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 39. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 40. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 41. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 42. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 43. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 44. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 45. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 46. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 47. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 48. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 49. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 50. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 51. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 52. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 53. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 54. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 55. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 56. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 57. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 58. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 59. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.  
 60. ALL MATERIALS TO BE USED AS SHOWN OR APPROVED BY THE ARCHITECT OR CONTRACTOR.



**City Zoning Commission**

**Meeting Date:** 08/04/2020

**SUBJECT:** Zone Change 981 - 750 Broadwater - PD Amendment

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**City Zone Change 981 – 750 Broadwater Ave. – Yellowstone PD-NC – add auto sales** - A zone change request to add auto sales as an allowed use in the Yellowstone Planned Development - Neighborhood Commercial zone, on Block 4, Lot 27-31 & 26A, 26B (1st Add to Blk 4)(Less 50 SF Street) of the Yellowstone Addition Subdivision, a 24,450 sf parcel of land. A pre-application neighborhood meeting was held on Monday, June 29, 2020 at 5:30 pm at 750 Broadwater. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

Planning staff recommends approval of the requested amendment to the Planned Development - Neighborhood Commercial zone to allow auto sales at 750 Broadwater Avenue and adoption of the findings of the 10 criteria.

**APPLICATION DATA**

OWNER: Russell and Colleen Cherry  
 AGENT: Dusty Sims, Auto Outlet of Montana  
 LEGAL DESCRIPTION: Yellowstone Addition, Block 4, Lots 26A, 26B & 27 through 31  
 ADDRESS: 750 Broadwater  
 CURRENT ZONING: PD-NC  
 EXISTING LAND USE: Vacant auto repair garage and car wash facility  
 PROPOSED USE: Auto sales with minor repairs in garage area  
 SIZE OF PARCEL: 24,450 square feet

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
750 Broadwater	<b>Zone Change 636</b>	Sept 8, 1998	NC to PD-NC	Y	To allow car rental
	<b>Special Review 528</b>	July 27, 1994	Allow car wash	Y	
	<b>Special Review 730</b>	Nov 25, 2002	Allow auto repair	Y	
SURROUNDING PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
708 Broadwater	SR 363	Sept 26, 1988	Business >3,000 sf	Yes	
708 Broadwater	SR 426	Jan 28, 1991	Allow furniture store	Yes	Lay-Z-Boy
109 5th St W	SR 247	Nov 4, 1985	Allow beer & wine with gaming	Yes	Gabby's Tavern
750 Terry	ZC 194	March 6, 1978	R-60 to NC	Withdrawn	
750 Terry	ZC 260	July 23, 1979	R-60 to NC	No	
613 7th St W (aka 645 Custer)	ZC 236	Nov 27, 1978	R-60 to NC	No	Peddler's Station
644 Broadwater	ZC 274	Nov 26, 1979	R-60 to NC	Yes	

312 8th St W	ZC 417	Dec 12, 1983	R-60 to NC	No	Greenleaf Jewelry
2039 Broadwater	ZC 621	Aug 25, 1997	NC to PD-CC	Yes	Mini-storage
2395 Rosebud Dr	ZC 561	Feb 8, 1993	Public to PD-NC	Yes	Pier One Imports
350 Calhoun	ZC 577	Jan 3, 1994	R-60 to PD-CI	Yes	Alsco Laundry Plant

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning: R-70 Land Use: Single family and two family dwellings
SOUTH:	Zoning: NC Land Use: Laundry, office and two family dwellings
EAST:	Zoning: NC Land Use: Single family dwelling
WEST:	Zoning: NC Land Use: Locksmith

## BACKGROUND

This is a request to add a use to an existing Planned Development zone at the corner of Broadwater Avenue and 8th St West. The property has been developed for auto related uses since at least 1970, just prior to the current zoning code adoption. In 1994, the owner was approved to change the use to a car wash through special review approval. Subsequently, a zone change was approved in 1998 to make this parcel a Planned Development with underlying NC zoning to allow a car rental lot. In 2002, an application to allow an auto repair business was approved by the City Council.

The applicant intends to keep the major site improvements in place with some refreshing and updating. Due to the age of the existing recorded Planned Development, the agreement has been re-written from the original to include standard language for the PD and to include the previous special review approvals. The proposed amendment will allow a small auto sales business. There are restrictions written in the PD agreement that will ensure site improvements meet city code in place when the improvements are done. These include items such as storm water management, landscaping, and parking. The PD agreement specifies no changes in the site can make it less conforming to current city codes.

The current site is at a major intersection in the Central Terry neighborhood west of downtown. A vacant and unused property at this corner is proposed to be renovated for a use similar to the prior uses of the property. This is intersection of Broadwater handles 15,000 to 18,000 vehicle trips per day and 8th St West handles about 7,000 trips per day, both of which are appropriate volumes given the designations located on the city's Functional Classification Map. The applicant is not proposing to change any of the existing driveways or access points on the property. A small auto sales lot may generate some additional "destination" traffic but may rely on drive-by trips for customer traffic on to the property.

Auto sales are not an allowed use in the standard NC zone district. The PD was created to allow uses not normally allowed in the NC zone related to automobiles. The PD will continue to allow uses that are allowed by special review approval and will prohibit uses not normally allowed in the NC zone except for the uses listed in the PD agreement.

Planning staff conducted a preliminary review meeting with the applicant and the surrounding owners via Zoom on July 24, 2020. One owner Casey Lujan, 820 Broadwater, provided comment to the applicant concerning signs, advertising and site security. Mr. Sims, the purchaser of the property, explained his business model is not like other car lots that use flags and distracting advertising on the lot to attract business. Mr. Sims stated he intends to add security cameras and systems. Carlos Davey, real estate agent for the property, explained that a vacant and unused property is more likely to bring down property values. Planning staff has attached the pre-application meeting notes and attendance sheet to the staff report.

Planning staff is recommending approval of the amendment to the PD agreement for 750 Broadwater. Staff finds the re-use of the building and property complies with several goals and guidelines of the 2016 Growth Policy and the Central Terry Neighborhood Plan (1999). Both planning documents encourage the re-use of existing buildings, limiting the intrusion commercial uses further into neighborhoods except for daily service needs of the

neighborhood, encourage local businesses and job creation and support the use of existing infrastructure for infill development.

## 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 Central Terry Neighborhood Plan (1999).

Strong Neighborhoods:

- 1) Implementation of the Infill Policy is important to encourage development of underutilized properties

Prosperity:

- 1) Successful businesses that provide local jobs benefit the community
- 2) Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
- 3) Retaining and supporting existing businesses helps sustain a healthy economy

The Central Terry Neighborhood Plan goals:

- 1) To encourage rehabilitation of structures throughout the neighborhood
- 2) Maintain existing "core" residential areas, while strongly discouraging commercial intrusion into existing neighborhoods

The proposed re-use of a vacant building and site developed for auto-centric uses will help stabilize this area, allow a local business to continue and helps implement the infill policy to use existing infrastructure whenever possible.

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. Vacant buildings and property tend to attract vandalism and trespassing. Vacant buildings also tend to bring down surrounding market values. Reuse of the property will reduce these effect and benefit the health, safety and welfare of the surrounding neighbors.

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

Transportation: There should be little impact from the proposed new use of the property. Prior uses - a carwash, car rental, and aut repair all generate more customer and employee traffic than a small auto sales lot. All driveways and access to the property will remain the same.

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. The NC building and site development requirement will apply to the property.

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

The proposed zoning and new uses should have limited effect on transportation. A special condition was placed in the amended PD to restrict parking of vehicles along the street front so they do not hang over the public sidewalk. This has been a issue with other small auto sales lots in the community.

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

A corner lot at a high traffic intersection such as Broadwater and 8th St W is an ideal location for businesses and commercial activity. The property has been used for auto-related uses for the last 50 years. It is a compatible and predictable use of the property.

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.

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

The proposed zoning will conserve the value of the existing building. The building is designed for auto related uses and customers services. Conversion to a different use - such as retail or personal services - would require a large investment in the building. Due to specialized nature of some service businesses, it may not be possible to renovate to a non-auto related use and the building would have to be torn down.

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 of Zone Change 981 and the amendment to the Planned Development for 750 Broadwater and adoption of the findings of the 10 criteria.

---

---

### **Attachments**

Yellowstone PD Amended 2020 750 Broadwater Avenue  
Zoning Map & Site Photos  
Application and Letter

---

---

After Recording Return to:  
Dusty & Tiffany Sims  
3514 Stone Brook Dr  
Billings, MT 59101

Planned Development Agreement  
Amendment to  
**Yellowstone Planned Development (PD)**  
Lots 26A, 26B, 27, 28, 29, 30 and 31, Block 4  
Yellowstone Addition in the  
City of Billings, MT

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between RUSSELL and COLLEEN CHERRY, whose address for the purpose of this agreement is 750 Broadwater Avenue, Billings, MT 59101, hereinafter referred to as the “Owner” and the **City of Billings**, Montana, hereinafter referred to as the “City”.

**WITNESSETH:**

**WHEREAS**, the owner owns the property described as Lots 26A, 26B, 27, 28, 29, 30 and 31 of Block 4 of Yellowstone Addition a 24,450 square foot parcel of land general located at 750 Broadwater.

**WHEREAS**, the property is currently zoned Planned Development (PD) with an underlying zone district of Neighborhood Commercial (NC).

**WHEREAS**, the Planned Development agreement allows uses in addition to those uses allowed by right or special review approval for the NC zone district including Auto Rental.

**WHEREAS**, the property has received special review approval in the past to conduct Auto Repair and a Car Wash.

**WHEREAS**, the owner desires to continue to allow auto oriented uses compatible with the neighborhood.

**THEREFORE**, the undersigned hereby amend, re-establish and declare the following plan of the Yellowstone PD with an underlying zone district of Neighborhood Commercial (NC). All requirements set forth shall apply to all of the real estate described hereinabove, shall bind all of the present and future property owners to such real estate, and shall run with the land.

**AGREEMENT**

**I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT**

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

## **II. LAND USES AND BUILDING RESTRICTIONS**

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

**A.** All land in the PD is designated as: Neighborhood Commercial – NC. All allowed land uses as outlined within the City of Billings Zoning regulations for the underlying zone shall be allowed within the Planned Development as follows:

1. All uses permitted by right in the Neighborhood Commercial (NC) zone;
2. All uses requiring Special Review approval in the NC zone; and
3. The following additional uses:
  - a. Auto Rental/without drivers – 1987 SIC Manual Code 7514
  - b. Automotive Dealers – 1987 SIC Manual Code 5511 (New and Used), 5521 (Used Only), and 5571 (Motorcycles, Scooters etc.)

**B.** Supplemental Area, Yard and Height Requirements:

1. All NC zone district standards apply including height, setbacks and lot coverage.

**C.** Special Review 528 granted on July 27, 1994 for a car wash is still in effect for the property including all conditions of approval.

**D.** Special Review 730 granted on November 25, 2002 for an auto service station is still in effect for the property including all conditions of approval.

**E.** Site Development:

1. All existing site improvements will be continuously maintained until removed and replaced.
2. Replaced site improvements including but not limited to landscaping, signage, storm water management systems, pavement, buildings shall meet any current City of Billings code requirements for such improvements at the time of replacement, remodel or upgrade.
3. No site changes will be allowed that make the site less conforming to City of Billings code requirements.
4. No vehicles parked on the property may extend out over the public sidewalks along any street frontage.
5. When outdoor parking lot lights are replaced the fixture shall be a full cut off shield fixture and the total height of the light pole shall not exceed 15 feet.

## **III. MODIFICATION OF THE APPROVED PLANNED DEVELOPMENT**

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

1. No change in the overall character of the development;
2. No increase in the number of residential units greater than two (2) percent;
3. No additional allowed uses;
4. No reduction in open space greater than two (2) percent; and
5. No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

“OWNER”

RUSSELL CHERRY

\_\_\_\_\_

COLEEN CHERRY

\_\_\_\_\_

Notary  
STATE OF MONTANA  
County of Yellowstone

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, AND \_\_\_\_\_ known to me and who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

This agreement is hereby approved and accepted by the City of Billings, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

“CITY”

**CITY OF BILLINGS, MONTANA**

By: \_\_\_\_\_  
Mayor, William A Cole

Attest: \_\_\_\_\_  
Denise Bohlman, City Clerk

Notary  
STATE OF MONTANA  
County of Yellowstone

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

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





Subject Property

BROADWATER AVE

8TH ST W

750

A18912

733

A18914

732

A18915

604

A03289

A03288

612

A03267

A18911

A18910

A18909

739

A18908

735

729

A18907

A18906

### Subject Property Photos



Subject Property



View east along Broadwater Ave



View west along Broadwater Ave



View south and east across subject property



View south along 8<sup>th</sup> St West



View east along Broadwater from signalized intersection

Zone Change 981 – 750 Broadwater Ave – Amending PD-NC

Authentication ID: 427499BB-C80D-4241-9C4B-A81548C2CABB

One (1) of the following described property hereby request a



Zone Change as outlined in the Yellowstone County Regulations.

981

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

Address 750 BROADWATER AVE, BILLINGS, MT 59102

PZ-20-00155

Legal Description YELLOWSTONE ADD, S04, T01 S, R26 E, BLOCK 4, Lot 27 - 31, & 26A 26B (1ST ADD TO BLK 4) / LESS

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.

--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) CHERRY, RUSSELL C & M COLLEEN

Owner's Address 601 LUTHER CIR, BILLINGS, MT 59102

Owner's Phone Number 504-756-9372 E-mail russcherry@me.com

Applicant/Agent DUSTY AND TIFFANY SIMS

Applicant/Agent's Address 3514 STONE BROOK DR, BILLINGS, MT 59101

Applicant/Agent's Phone Number 406-671-6091 E-mail autooutletmt@gmail.com

Signature of Recorded Owner(s)

Authentication

Russell C. Colleen Cherry

Date

07/02/2020

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.

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.

Hello,

My name is Dusty Sims and my wife's name is Tiffany Sims and we own Auto Outlet Inc at 4750 Underpass Ave in Billings. The reason for this letter is because we are looking to purchase the property at 750 Broadwater Ave, Billings, MT 59102 that is currently owned by Russell and Colleen Cherry (601 Luther Circle, Billings, 59102) which is currently listed with Carlos Davey with UBARS Real Estate. Unfortunately, the property is currently not zoned to allow used car sales, although it does allow for car rentals, car washes and car repair shops. I am requesting a zone change to add the before mentioned use of used car sales to the current zoning, I believe that this change will have no negative effect on the surrounding neighborhood and actually will have the same or less impact than the uses that are currently allowed there. I will be making improvements to the look of the building and generally cleaning up the property which will only add positively to the neighborhood. Thank you for your consideration of this matter.

Sincerely,

Dusty and Tiffany Sims

Cell # 406-671-6091

[autooutletmt@gmail.com](mailto:autooutletmt@gmail.com)

Carlos Davey

UBARS Real Estate

406-690-2564

[cadavey@ubars.net](mailto:cadavey@ubars.net)

Legal Description: Yellowstone Addition, Block 4, Lots 26a, 26B and Lots 27 through 31


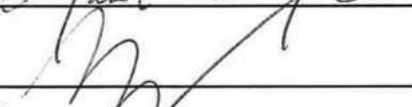
Lot area = 24,450 square feet

Tax ID: A18912

ZONE CHANGE - 750 BROADWATER

SIGN-IN SHEET

29-Jun-20

- 1  - Howard Ave
- 2  Broadwater Ave
- 3 Jerry & Leona 743 Broadwater
- 4 Nancy Peterson 744 Yellowstone
- 5 Karen McDonald 813 Broadwater Ave
- 6 Wayne Williams 750 Wyoming
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15

Pre-app Meeting Notes – 6/29/2020 5:30 p.m.

Q. Are you going to be open on weekends?

D. Only by appointments on the weekends.

Q. Are you going to have two locations?

D. No, we are just moving our car lot here if approved.

Q. Are you going to have junk cars parked in the front?

D. No, we try to keep nice cars. Wanting to put up a fence around the back of building for cars that need repairs

Neighbor: She lives a few houses down on Broadwater on the opposite side of the street. Currently, she has a lot of people walking thru and her yard. Worried the people walking down the street will stop to look at the vehicles on the lot and stay between the vehicles.

Realtor: The owners have had calls people living in a parked vehicle in the back because it's vacant.

D: Read the email from Lisa

Neighbor: Objects to car lot. He said it doesn't bring value to the neighborhood. Will bring values down. He thinks there are too many car lots and casinos in Billings. Wants a mom and pop business to go in.

Realtor: This building is specific for Automotive. We just want to add the Auto Sales to the list of approved automotive businesses.

Neighbor 2: Lives across the street all lights are working. Worried if there is a problem with people during the night there isn't enough police force to come check it out unless the person is actually breaking into building.

All neighbors agree there is a lot of foot traffic down the allies.

Neighbor 2: Live here for 20+ years and the building has always been used for an automotive business of some type.

Neighbor 3: What are your plans for the garage?

D: Maybe lease part of it to a person who does tint or something like that. Plan on using the wash bay and part of the garage for our vehicles.

Neighbor 2: Last time a repair shop was there it had wreckers and broken down cars everywhere he would rather have a car lot than a mechanic shop.

Neighbors: Would like a 8-5 person here to look after the property.

Dusty explained that we don't have any other employees at this time although that could change after we move into the building. In the meantime, he might not be physically at the building 8-5 during the day while buying vehicles, running vehicles to repair shops and other misc. work, but that he is there several times throughout the day always.

Neighbor 4: What does this vacant lot do to the values at its current state?

Realtor: Explains the area is considered a business section and it depends on the owner and how the property is being taken care of. Mentioned that the Sims' are buying this for an investment so they will be taking care of it because it's a huge personal investment. They are more likely to take care of the property than someone who is leasing it.

Neighbor 1: Has it been for sale long?

Realtor: for a month at \$500,000

Neighbor 3: Are you going to have mock ups of what the building going to look like?

D: No, we plan on painting the building and doing the landscaping. We want to add a fence but we have to still have to check into whether that would be allowed.

Neighbor 1: Hope if it goes thru, Dusty will keep his word.

Neighbor: Who was concerned about it creating more walking traffic at the end of the meeting said that she was now ok with the idea of a car lot there.