



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, December 1, 2021 6:00 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

Call the meeting to order.

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

Public Comment

Approval of Minutes:

The minutes of the Board meeting of August 4, 2021.

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 Exparte Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

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

Public Hearings:

- a. City Variance 1337-Cardwell Ranch, Grand Ave & Zimmerman Trl - increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards

Other Business/Announcements

Adjournment

The City Board of Adjustment will hold its public hearing in the 1st Floor Conference Room at 2825 3rd Avenue North (Miller Building). All interested persons are invited to attend in person or view the meeting on-line on the Billings-Planning & Community Services Facebook Page here; <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks> .

A public comment phone line is available for on-line viewers to provide testimony during the specific Public Comment periods announced by the Chairman during the hearings. The call in phone number is (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. Written comments may also be sent to Board via email before 1:00 PM on Wednesday December 1, 2021. All emails received prior to this time will become part of the record for the public hearings.

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@billingsmt.gov

City Board of Adjustment
Meeting Date: 12/01/2021

Information

Subject

The minutes of the Board meeting of August 4, 2021.

Attachments

CityBOA_2021_0804

CITY BOARD OF ADJUSTMENT

MINUTES August 4, 2021

Name	Title	Applications												
		01/06/2021	02/03/2021	03/03/2021	04/07/2021	05/05/2021	06/02/2021	07/07/2021	08/04/2021	09/01/2021	10/06/2021	11/03/2021	12/01/2021	
David Mitchell	Member	1	E	1	-	1	-	E	1					
Dave Hagstrom	Member	1		1	-	1	-	1	E					
Paul Hagen	Member	1	1	1	-	1	-	1	1					
Jeff Bollman	Vice Chair	1	1	1	-	1	-	1	E					
Oscar Heinrich	Member	1	1	E	-	1	-	E	1					
Martin Connell	Member	1	1	E	-	1	-	1	1					
Mark Noennig	Chair	1	1	1	-	1	-	1	1					
TOTAL NUMBER OF APPLICATIONS 2021		01/06/2021	02/03/2021	03/03/2021	04/07/2021	05/05/2021	06/02/2021	07/07/2021	08/04/2021	09/01/2021	10/06/2021	11/03/2021	12/01/2021	TOTAL
Variance		4	5*	1	-	1	-	2	2					15

One return Variance from January 6, 2021 meeting.

Chair Noennig called the meeting to order at 6:01 p.m.

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

Attending:

Public Comment

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

Approval of Meeting Minutes

Meeting minutes for July 7, 2021.

Board member Heinrich motioned for approval of the July 7, 2021 minutes, Board member Connell seconded. Approved by unanimous voice vote.

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

Board member Mitchell had no ex parte communications, has no conflicts of interest and visited 2 sites.

Board member Hagen had no ex parte communications, has no conflicts of interest and visited 0 sites.

Board member Heinrich had no ex parte communications, has no conflicts of interest and visited 2 sites.

Board member Connell had no ex parte communications, has no conflicts of interest and visited 0 sites.

Chairman Noennig had no ex parte communications, has no conflicts of interest and visited 0 sites.

Public Hearings

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

City Variance – 1335 – 3803 Central Ave (MSUB) – Land use contrary to zoning - A public forum to gather comment on a proposed sign contrary to the City Sign Code (Section 27-1408.E) *The City Board of Adjustment has no power to approve, deny or attach conditions to the proposed use. State law (MCA 76-2-402) requires a forum before the Board of Adjustment to receive public comment.* To allow temporary banner signs attached to a fence on Parcel 1, Certificate of Survey 3340, a 33.075 acre parcel of land. Tax ID: D00324

Questions for staff:

Public Hearing

Chair Noennig opened the public hearing at 6:11PM and asked if there was anyone wishing to speak in favor or against **City Variance 1335**.

Favor

Mike Bazemore, Athletic Director, MSU Billings

Mr. Bazemore feels denying the variance would damage the relationship with financial supporters, providing \$68,700 per year at \$2500.00 for on field signs.

Provost Vice Chancellor stated this money supports the students first, the athletics second.

Opposed- NONE

Discussion-NONE

At 6:14PM, Chair Noennig closed the Public Hearing.

City Variance –1336 — Glynn Abby – Detached garage size - A variance from 27-1008.D requiring a maximum accessory structure of 1,500 square feet to allow 1,654 square feet in a Suburban Neighborhood (N3) zone, on Lots 5 & 6, Glynn Abby Subdivision, an 45,519 square foot parcel of land. The purpose of the variance is to allow a detached garage of 1,654 square feet. Tax ID: A36709 & A36710

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance 1336 based on the proposed findings of the review criteria.

Recommended Conditions;

1. The variance is for a maximum accessory building footprint of 1,654 square feet and no other variance is intended or implied by this approval.
2. The variance applies to on Lots 5 & 6, Glynn Abbey Subdivision generally located at 2925 Glynn Abby.
3. The proposed building will be located and oriented in substantial conformance with the submitted site plan.
4. The applicant will receive building permit approval within 6 months. will NOT be completed prior primary residential structure. accessory building will be completed within 18 months of approval.
5. Failure to begin or complete actions shall void this variance.
6. These conditions of variance approval shall run with the land described

Questions for staff:

Public Hearing

Chair Noennig opened the public hearing at 6:20 PM and asked if there was anyone wishing to speak in favor or against **City Variance 1336**.

Applicant:

Kyle Huss stated these are two large lots, a small exceedance. It makes sense the owner can build two 1000 square foot garags.

Favor

NONE

Opposed

NONE

Discussion-NONE

At 6:22PM, Chair Noennig closed the Public Hearing and called for a motion.

Motion

Board Member Heinrich made a motion and Board Member Mitchell seconded the motion to approve **City Variance 1336**, with staff recommendations & conditions.

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	X			
Dave Hagstrom				X
Paul Hagen	X			
Jeff Bollman				X
Oscar Heinrich	X			
Martin Connell	X			
Mark Noennig	X			

The motion to approve City Variance 1336 passed with a 5-0 vote.

Other Business: NO SEPTEMBER MEETING

ADJOURNMENT: The meeting adjourned at 6:23PM.

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

Board of Adjustment

Date: 12/01/2021
Title: City Variance 1337-Cardwell Ranch
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

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

REQUEST

A variance from the Cardwell Ranch east 80 Planned Development zone Article IV.C.3 requiring a 45-foot maximum height to allow 50 feet on Lots 2, 3A, 4A, 5, 6A, & 7A, Block 2 Cardwell Ranch Subdivision 1st Filing, a 16.05-acre parcel of land. The purpose of the variance is to allow an increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards.

APPLICATION DATA

OWNER: Yegen Grand Ave Farm, LLC
AGENT: Norris Design, Kelley Savage
PURPOSE: increase maximum allowed building height
LEGAL DESCRIPTION: Lots 2, 3A, 4A, 5, 6A, & 7A, Block 2 Cardwell Ranch Subdivision 1st Filing
ADDRESS: South East of Grand Ave and Zimmerman Trail
SIZE OF PARCEL: 16.05 Acres
ZONING: PD
EXISTING LAND USE: Vacant
PROPOSED LAND USE: Residential Multi Family

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

See attached.

SURROUNDING ZONING & LAND USE

NORTH: Zoning: PD
Land Use: Vacant
SOUTH: Zoning: P1
Land Use: Golf Course
EAST: Zoning: P2
Land Use: School
WEST: Zoning: P1
Land Use: Golf Course

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The purpose of the variance is to allow an increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards. In 2008, the property was zoned to a Planned Development. Adjacent properties to the north and east are also parcels within the Planned Development. The maximum allowed height in the East 80 Cardwell Ranch PD for all buildings is 45 feet. The reason for the request is to provide a roof design that complies with the aesthetic intent of the Cardwell Ranch Commercial Design Guidelines. A lower height requirement would create rooflines that are not in proportion with the overall architectural design and less compatible with surrounding development.

The Cardwell Ranch Design Review Committee has reviewed the proposed building designs, including building heights and is in support of the variance for building height adjustment (letter stating support attached). The request is consistent with the intent of the PD and will allow flexibility in architectural design. The multifamily housing units being proposed will include higher ceiling levels and increased interior daylight, intending to fill a need for high quality and cost-effective housing within the City of Billings. Staff did not receive any comments from other City of Billings departments.

FISCAL EFFECTS

Approval or disapproval of the proposed variance should not have an impact of the Planning Division budget.

SUMMARY

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

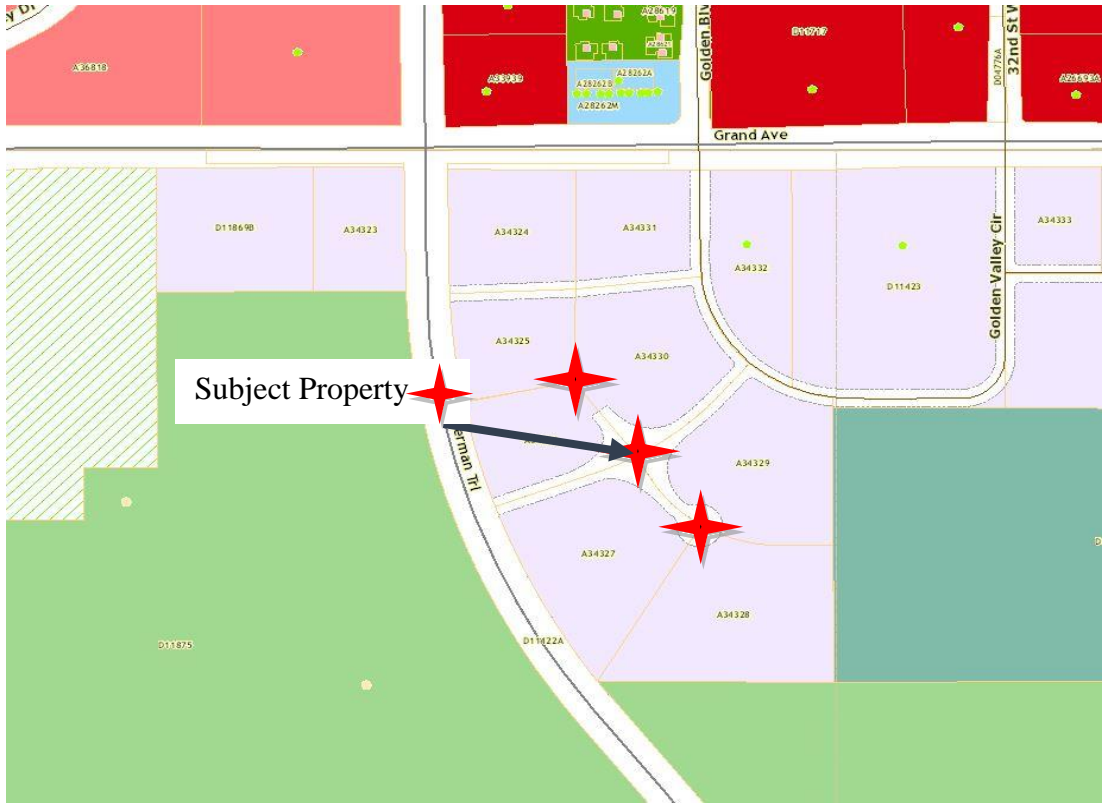
1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
There are not any special circumstances that exist in this situation other than the Planned Development agreement restricts building height to 45 feet. The PD agreement in this case makes allowances for building height and design with a variance approval.
2. That a literal interpretation of the provisions of the Zoning Code would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
There are no other buildings or structures within the East 80 Cardwell PD that have or are able to exceed the 45' maximum height requirements. Granting this variance allows the applicant to develop at an increased height not commonly enjoyed by others, however, outside of the Planned Development the Board of Adjustment has granted height variances in other commercial or multifamily districts where multi family uses are present.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;
The variance will not allow the applicant any special privileges. The development is compatible with surrounding land uses. The property is located within an already approved PD which contemplates a variety of housing choices including multi-family as well as commercial development. Parcels to the northeast are currently developed as a medical office and commercial retail with similar architectural design. Granting this variance will not confer on the applicant a special privilege because the Board of Adjustment has granted variances to the maximum building height to other land in the same or similar district.
4. That the granting of the variance will be in harmony with the general purpose and intent of the Zoning Code and with the Growth Policy;
The variance is in harmony with the general purpose and intent of the zoning regulations and the growth policy. Approval of this variance would allow the applicant to complete the design of the planned development.
5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the Zoning Code. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of the Zoning Code.
Staff is recommending the following conditions for the reduction in minimum lot size variance request:
 1. The approval is for a variance from Cardwell Ranch PD C.3 as amended increasing the maximum height from 45 feet to 50 feet. No other variance is intended or implied with this approval.
 2. The variance is limited to Lots 2, 3A, 4, 5, 6A, and 7A, Block 2, Cardwell Ranch Subdivision.
 3. The applicant shall meet all other city code requirements as well as Cardwell Ranch Planned Development requirements with the exception of this variance.
 4. The applicant will submit a building permit within 3 years of Board approval and complete construction within 5 years of the first building permit approval.
 5. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and Staff has proposed a 3-year time limit for submitting a building permit and completion of the entire project within 5 years of the first building permit approval.
7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.
The granting of this variance would not allow a use that is not allowed in the zoning district -- multi-family dwellings are

allowed in the PD.

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Zoning History
Letter in support
Site Plan

Zoning Map & Site Photos





East



East



North



West



South

Application & Applicant
Letter

CITY VARIANCE

APPLICATION FORM
ID: Billings Variance # 1337 - Project # P2x-21-00271

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

A343250, A343300, A343260,
PROPERTY TAX ID # A343270, A343280, A343290 CITY ELECTION WARD # 5

Legal Description of Property: LOTS 2, 3A, 4A, 5, 6A, 7A, BLOCK 2
WITHIN CARDWELL RANCH SUBDIVISION, FIRST FILING.

Address or General Location (If unknown, contact City Engineering): SOUTH EAST OF GRAND AVENUE
AND ZIMMERMAN TRAIL

Zoning Classification: PUD/PD

Size of Parcel (Area & Dimensions): 699,384.21 sf

Covenants or Deed Restrictions on Property: Yes x No

If yes, please attach to application Cardwell Ranch Commercial Design Guidelines

Variance(s) Requested: Increase in maximum allowable building height.

Facts of Hardship: See attached written request.

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

Owner(s): Yegen Grand Ave Farm Inc

(Recorded Owner) Charlie Yegen

(Address) PO Box 959, Billings, MT 59103

(Phone Number) 406-252-0163 (email) chas@pyegen.com

Agent(s): Norris Design

(Name) Kelley Savage

(Address) 244 North College Ave, #130, Fort Collins, CO 80524

(Phone Number) 970-222-5407 (email) ksavage@norris-design.com

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

Signature: Charlie Yegen, President Date: 11-01-2021

(Recorded Owner)



November 1st, 2021

Ms. Nicole Cromwell
City of Billings, Zoning Coordinator/Code Enforcement Supervisor
2825 3rd Avenue North
Billings, MT 59101

RE: Building Height Variance Request for Icon at Cardwell Ranch Apartment Homes

Dear Ms. Cromwell:

We are requesting a variance on the allowable maximum building height for the Icon at Cardwell Ranch Apartment Homes, located within the Planned Development for The East 80 at Cardwell Ranch. The Cardwell Ranch Commercial Design Guidelines.

The requested height adjustment is to allow for 3 story buildings with a peaked roof, proposing a maximum height change from 40 feet to 50 feet. All other applicable code related to architecture shall remain unchanged.

Current PUD requirements:

PUD C. 3, Building Design, Building Height Limits

"Structures in the East 80 at Cardwell Ranch shall not exceed a height limit of forty-five (45) feet from ground level. This height limitation applies to the uppermost, enclosed portion of the structure. Antennae, satellite receivers, mechanical equipment and other non-enclosed portions of a structure that otherwise comply with this Agreement shall be appropriately screened and may extend no more than ten (10) feet above the uppermost, enclosed portion of the structure. The enclosed portion of a structure is the portion that is contained on all sides and overhead."

Current Design Guidelines requirements:

"The maximum height for multifamily residential buildings is forty (40) feet."

Reasons for adjustment:

- Provide a roof design that complies with the aesthetic intent of the Cardwell Ranch Commercial Design Guidelines. A lower height requirement would create rooflines that are not in proportion with the overall architectural design and less compatible with surrounding development.

The Cardwell Ranch DRC has reviewed the proposed building designs, including the increased building heights and is in support of the variance for a building height adjustment. (See attached letter of support).

The intent of the Planned Development Agreement for The East 80 at Cardwell Ranch is to establish a "minimum level of quality for the physical settings within the East 80 at Cardwell Ranch and for basic architectural design of the structures while allowing flexibility to adjust and evolve with changes in technology and architectural standards."

This request is consistent with the intent of the PD and will allow flexibility in architectural design. The multi-family housing units being proposed will include higher ceiling levels and increased interior daylight that is expected by today's multi-family residents, filling a need for high-quality and cost-effective housing within the City of Billings.

The Cardwell Ranch Commercial Design Guidelines include the following architectural requirements:

- Cohesive building massing and articulation
- Allowing latitude for unique, individual expressions of the architectural requirements and image of each building development.
- Compatibility with Existing Development in Cardwell Ranch
- All buildings are to be designed, constructed, and maintained so that exterior appearance, including design, color, materials, architectural theme, and elevations, is architecturally and aesthetically compatible with adjacent buildings.
- Long, straight unbroken rooflines are highly discouraged.
- Pitched roofs are encouraged wherever possible
- Roof slopes should be between 4:12 and 9:12.

Compliance with City of Billings growth guidelines:

The variance will be in harmony with the general purpose and intent of the Zoning Code and growth policies for the City of Billings based on the following:

- **Community Fabric**
The height adjustment will allow a roofline that is attractive, aesthetically pleasing, uniquely Billings and compatible with the surrounding neighborhood
- **Strong Neighborhoods**
The layout of the community will continue to provide walkable social gathering spaces, surrounded by aesthetically pleasing architecture. Higher interior ceiling heights in residences will increase the quality of life within each residence. The project will also provide increased pedestrian circulation and connectivity to the surrounding neighborhood.
- **Home Base**
The Icon Apartments at Cardwell Ranch will provide healthy, safe and diverse housing options within this growing part of the City of Billings.
- **Essential Investments**
The project will create a safe and attractive neighborhood that provides essential services to residents. The interior and exterior amenities on the project will contribute to improved property values within the adjacent community.

Sincerely,
Norris Design



Kelley Savage,
Senior Associate

Attachments:
Application Form
Exhibit A: Radius Map
Exhibit B: Dimensioned site plan
Exhibit C: Building Elevations
Exhibit D: Letter of support from the Cardwell Ranch DRC
Certified property owner names and mailing addresses
Cardwell Ranch Commercial Design Guidelines

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2225 Overland Ave	1306	3/4/2020	Height 55'	Y	Marriott Hotel height from 45' to 55'
Lenhardt Square COS 2063	1282	5/2/2018	Height 46'	Y	Apartment height from 34' to 46'
3933 Central Ave	1254	3/1/2017	Height 50'	Y	Shiloh Commons (apts/+commercial) building height from 45' to 50'
5650 Canyonwood Dr	1180	4/2/2014	Height 48'	Y	Residential Home from 34' to 48' in R9600
5720 South Frontage Rd	1148	5/1/2013	Height 49'	Y	LaQuinta Inn, from 45' to 49'
1101 Shiloh Crossing Blvd-Scheels	1112	12/7/2011	Height 87' and Wall Sign Size 544 sq ft	Y	Building height from 70' to 87' and wall sign size from 250 sq ft to 544 sq ft
C/S 3030, Ironwood Subdivision	891	2/4/2003	Height 48'	Y	Residential homes from 30' to 48' in R9600
342 Morningside N	821	8/1/2000	Height 35'	Y	Condo unit height from 30' to 35'
COS 2505, south of Hi-Line Ditch, north of Big Ditch, between 43 rd & 46 th St	781	10/7/1998	Height 36'	N	Structure height from 30' to 36'

CARDWELL RANCH

October 29, 2021

To Whom it May Concern,

On behalf of the Design Review Committee for Cardwell Ranch, we would like to formally approve the height variance requested by Braxton Development, LLC for their multifamily housing Development located on lots 2, 3A, 4A, 5, 6A and 7A of Block two at Cardwell Ranch. This would allow for the maximum building height to be increased from 40 feet to 49 feet. It is understood that such exception relates only to the highest peak portions of any construction thereon.

It is our belief that allowing the additional height will provide for an aesthetically superior project by allowing the architectural form to embrace gabled roofs with pitches that are visually appealing. After speaking with other landowners at Cardwell Ranch, we are of the opinion that this variance will benefit rather than negatively impact other lot owners and end users.

This agreement does not apply to any other parcels within Cardwell Ranch Subdivision, nor does it apply to any other owner within Cardwell Ranch.

Sincerely,



Charles G. Yegen

President, Yegen Grand Avenue Farm

P.O. Box 959 Billings, MT 59103

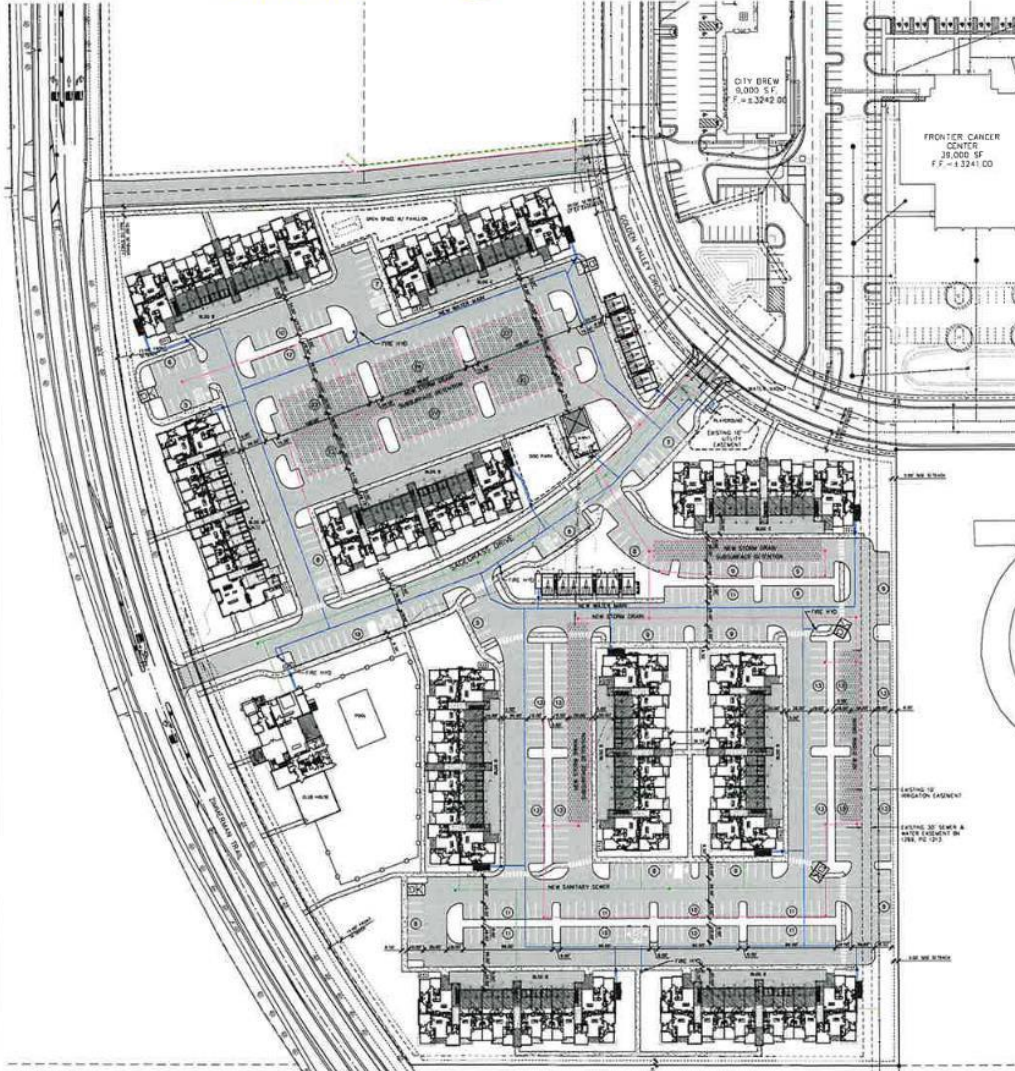
ICON @ CARDWELL RANCH APARTMENT HOMES

LOTS 2, 3A, 4A, 5, 6A, 7A, BLOCK 2
 WITHIN
 CARDWELL RANCH SUBDIVISION, FIRST FILING



PREPARED FOR : BRAXTON DEVELOPMENT, LLC
 PREPARED BY : SANDERSON STEWART

OCTOBER, 2021
 BILLINGS, MONTANA



Parking Calculations

TOTAL UNITS = 222 UNITS
 NUMBER OF GARAGES = 55 SPACES
 OWNER PREFERENCE = 3 PER UNIT (INCLUDES GARAGE) = 3 SPACES/UNIT x 222 UNITS = 657 SPACES
 PLANNED DEVELOPMENT MINIMUM SPACES = 1.5 PER UNIT x 222 UNITS = 333 SPACES
 MINIMUM SPACES PER PLANNED DEVELOPMENT REQUIREMENTS = 624, AND EXCEEDS THE OWNER PREFERENCE PARKING REQUIREMENT
 MINIMUM SPACES WITH GARAGES = 374 = 102 = 272 SPACES (112 = 374 SPACES (NOT INCLUDING GARAGES))
 PARKING LOT SPACES PROVIDED = 517 SPACES
 GARAGE SPACES PROVIDED = 102 SPACES
 TOTAL WITH GARAGES = 619 SPACES (203 SPACES PER UNIT)

NOTE: THE ABOVE PARKING SPACE QUANTY OF 619 SPACES (WITH GARAGES) IS ABOVE THE MINIMUM OF 624 AND LESS THAN THE MINIMUM OF 624 SPACES (WITH GARAGES) THEREFORE THE ABOVE IS DEEMED TO MEET THE CODE.

LOT FOOTPRINT

TOTAL LOT AREA = 310,000 SF
 TOTAL BUILDING AREA = 148,670 SF OF
 LOT FOOTPRINT = 161,330 SF / 485,000 SF = 33.2%

BUILDING LEGEND

BUILDING A = 4 UNITS
 BUILDING B = 236 UNITS
 BUILDING C = 64 UNITS
 BUILDING D = 1
 BUILDING E = 1